

立法會
Legislative Council

LC Paper No. CB(2) 706/01-02

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Administration)

Ref : CB2/PL/FE

LegCo Panel on Food Safety and Environmental Hygiene

Minutes of Meeting

**held on Monday, 29 October 2001 at 8:30 am
in Conference Room A of the Legislative Council Building**

Members Present : Hon Fred LI Wah-ming, JP (Chairman)
Hon Tommy CHEUNG Yu-yan, JP (Deputy Chairman)
Hon James TO Kun-sun
Hon CHEUNG Man-kwong
Hon WONG Yung-kan
Hon Jasper TSANG Yok-sing, JP
Hon Andrew CHENG Kar-foo
Hon Michael MAK Kwok-fung
Hon LEUNG Fu-wah, MH, JP
Dr Hon LO Wing-lok
Hon WONG Sing-chi

Members Absent : Dr Hon David CHU Yu-lin, JP
Dr Hon YEUNG Sum
Hon CHOY So-yuk

Public Officers Attending : Item IV

Mrs Stella HUNG
Deputy Secretary for the Environment and Food (A)

Mr David LAU
Principal Assistant Secretary for the Environment and Food (A) 2

Mr W H CHEUK
Deputy Director (Environmental Hygiene)
Food and Environmental Hygiene Department

Ms Winnie SO
Assistant Director (Headquarters)
Food and Environmental Hygiene Department

Mrs YUEN KWONG Wai-king
Secretary, Liquor Licensing Board
Food and Environmental Hygiene Department

Item V

Mrs Stella HUNG
Deputy Secretary for the Environment and Food (A)

Ms Priscilla TO
Principal Assistant Secretary for the Environment and Food (A) 1
(Atg)

Mr David LAU
Principal Assistant Secretary for the Environment and Food (A) 2

Mr W H CHEUK
Deputy Director (Environmental Hygiene)
Food and Environmental Hygiene Department

Dr Gloria TAM
Assistant Director (Food Surveillance & Control)
Food and Environmental Hygiene Department

Ms Rhonda LO
Assistant Director (Operations) 3
Food and Environmental Hygiene Department

Dr M H JAI
Veterinary Officer (Farm Inspection)
Food and Environmental Hygiene Department

Clerk in Attendance : Mrs Constance LI
Chief Assistant Secretary (2)5

Staff in Attendance : Miss Yvonne YU
Senior Assistant Secretary (2)7

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I. Confirmation of minutes of meeting

(LC Paper No.CB(2)186/01-02)

The minutes of the meeting held on 11 October 2001 were confirmed.

II. Date of next meeting and items for discussion

(LC Paper Nos. CB(2)167/01-02(01) and (02))

2. The Chairman proposed to re-schedule the next regular meeting to 30 November 2001, as he would not be in Hong Kong on 26 November 2001. Members agreed. Members also agreed to discuss the following items at the next meeting -

- (a) Fees and charges review;
- (b) Risk assessment studies on food and food surveillance programme; and
- (c) Current notification mechanism on food matters between the Hong Kong Special Administrative Region (HKSAR) and the Mainland.

The Chairman said that he proposed to add item (c) to the agenda because he was concerned about recent reports on the use of poisonous preservatives in food imported from the Mainland. He considered that the Administration should be requested to provide information on the notification system between HKSAR and the Mainland.

3. The Chairman also proposed that Mrs Lily YAM, Secretary for the Environment and Food (SEF), should be invited to brief the Panel on the work of the Environment and Food Bureau (EFB) in the coming year. As SEF had another meeting on 30 November 2001, she would be invited to the Panel meeting in December 2001.

(Post meeting note: SEF has been invited to the Panel meeting scheduled for 18 December 2001 to brief members on the work of EFB in the coming year.)

III. Information papers issued since last meeting

(LC Paper Nos. CB(2)2401/00-01 and CB(2)154/01-02)

4. Members noted that the Administration had provided supplementary information in response to members' concerns raised at the meetings on 26 March, 18 June and 10 July 2001, and on the illegal use of flushing water for keeping live seafood.

IV. The Liquor Licensing Board and its work

(LC Paper Nos. CB(2)167/01-02(03) and CB(2)167/01-02(05))

5. The Chairman said that at the meeting between Legislative Council (LegCo) Members and Kowloon City District Council (KCDC) members on 12 April 2001, KCDC members had raised concern about the opening of bars in residential areas, as this had caused much nuisance to the residents nearby. KCDC members had requested LegCo Members to review the existing legislation and the licensing criteria of the Liquor Licensing Board (LLB).

6. At the invitation of the Chairman, Assistant Director (Headquarters) of Food and Environmental Hygiene Department (AD(HQ)) briefed members on the Administration's paper (LC Paper No. CB(2)167/01-02(03)). She said that LLB was established as an independent statutory body under Regulation 2A of the Dutiable Commodities (Liquor) Regulations (Cap. 109, sub leg. B). The powers of LLB included issue of liquor licences and deliberation on any application, renewal, transfer and amendments to the licences. She stressed that as a general principle, LLB considered each and every application for a liquor licence on its own merits, taking into consideration the environment where the premises were located and the mode of operation. She further said that Food and Environmental Hygiene Department (FEHD) provided secretarial and executive support to LLB.

7. Mr Andrew CHENG pointed out that other districts also faced similar problems as KCDC concerning nuisances caused by the operation of bars especially in residential areas. Referring to the case cited by a KCDC member that a new liquor licence was issued for the same premises despite the termination of the former liquor licence, Mr CHENG asked whether there was any loophole in the existing legislation. He said that LLB should carefully balance the commercial interests with the need to maintain peace and order in residential areas.

8. The Chairman pointed out that according to paragraph 9(f) of the Administration's paper (LC Paper No. CB(2)167/00-01(03)), where an application was refused or a liquor licence was revoked, LLB would refuse to consider any further or other licence application in respect of the premises concerned within a period of 12 months, unless the applicant could satisfy LLB that he was not acting on behalf of the former applicant/licensee. He noted that KCDC members had suggested extending such period to 24 months and he requested the Administration to respond to the suggestion.

9. AD(HQ) said that if LLB could not find evidence that the applicant for a liquor licence was related to the former applicant/licensee, the application would have to be considered as a new application. She explained that the applicant had to satisfy LLB that he was a fit and proper person to hold a liquor licence and the premises were suitable for operation as a bar. In considering the application, LLB would have regard

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to the location and structure as well as the fire safety and hygienic conditions of the premises concerned. She stressed that in all the circumstances, LLB would not issue or renew a liquor licence contrary to the public interest.

10. Mr Andrew CHENG said that it appeared to him that a liquor licence would still be granted or renewed in most cases despite objections and complaints lodged against the premises. He enquired about the mechanism for the Administration or LLB to check the past records of the applicants and the considerations in processing such applications.

11. Secretary, Liquor Licensing Board (S/LLB) said that LLB was required to have regard to the "public interest" under Regulation 17(2) of the Dutiable Commodities (Liquor) Regulations, in addition to considerations such as the structural and fire safety of the premises. In assessing an application, LLB would consider whether the premises were located in a predominantly residential or commercial area, and whether the operation of the liquor premises would cause nuisance to the residents nearby. In some cases, LLB would impose additional licensing conditions such as restricting the liquor selling hours and requiring front doors which faced the streets to be closed during specific hours, in order to minimize the nuisance. In essence, LLB would adopt a fair attitude in making reasonable arrangements for both the operators and the residents in the vicinity.

12. On contested cases, S/LLB said that LLB would carefully consider all relevant factors and the reasons put forward by Government departments and affected parties. LLB would also conduct public hearings and invite the applicant and parties concerned to present their views to the Board. Normally, a short-term licence for a period of 3 or 6 months would be issued to enable further observation and monitoring of the operation of the premises, as well as to allow time for the licensee to make improvements.

13. In response to the Chairman, S/LLB said that in accordance with regulation 17(4) of the Dutiable Commodities (Liquor) Regulations, S/LLB had to give notice in writing of the Board's decision on an application, together with reasons, to the applicant and other person or body that had expressed an interest in the application. Currently the Board's decision together with detailed reasons were issued by the Secretary to parties concerned in about 10 working days.

14. The Chairman and Mr CHEUNG Man-kwong suggested that LLB should hold public hearings to hear objections. Mr CHEUNG added that LLB should also hear the views of the residents/tenants in the area concerned. He said that he had recently received complaints from schools about nuisances caused by the operation of bars nearby, for example, drunken customers might cause nuisance to pupils attending schools early in the morning. He asked whether there was a policy prohibiting the operation of bars in school areas, or restricting the opening hours of bars which were in close proximity to schools.

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15. S/LLB explained that the powers of LLB were limited by the relevant legislation, and LLB was primarily concerned with the granting and renewal of liquor licences. The responsibility for enforcing the licensing conditions rest with the Police. Nevertheless, she agreed that LLB had the responsibility to ensure that the liquor premises were properly managed and should not become a gathering point for undesirable elements or a venue for criminal activities. She pointed out that under the existing legislation, LLB was not empowered to determine the number of liquor premises in a particular location, or to decide whether liquor selling premises should be allowed in school area or residential area. She said that LLB considered each and every application for liquor licence on its own merit.

16. AD(HQ) informed members that in August 2000, LLB had revoked the liquor licence granted to a bar near a school in Tsimshatsui because of nuisances caused to the pupils. She said that Hong Kong was a relatively small place where commercial and residential buildings were constructed in close proximity, and it was not easy for the LLB to balance the commercial interests with the interests of the residents in the district when deliberating liquor applications. Nevertheless, the issue or renewal of a liquor licence was based on certain objective criteria, and a liquor licence would only be issued to premises which were granted a restaurant licence or a light refreshment restaurant licence by the Director of Food and Environmental Hygiene (DFEH). Moreover, LLB might also conduct public hearings to hear objections raised by residents nearby and the relevant DC. S/LLB added that objections on grounds of noise nuisance should be supported by evidence. She pointed out that there were cases where the Environmental Protection Department found that the noise level of the premises under complaint actually did not exceed the acceptable limit.

17. Mr CHEUNG Man-kwong said that the case cited by AD(HQ) was one of the complaints lodged to him. He remarked that not many schools had the resources to co-ordinate a submission from parents to appeal to the Municipal Services Appeal Board (MSAB). He considered that the Administration should consider formulating a policy not to issue liquor licences to premises which situated very near to schools, and imposing restrictions on the liquor selling hours of premises in the adjacent areas. S/LLB advised that proximity to schools was already one of the considerations although there was no specific policy in this respect. She stressed that each application had to be considered on its own merits, and there was no hard and fast rule that could apply to all situations.

18. Mr Tommy CHEUNG declared that he had been a member of LLB since 1997. Responding to concerns raised by some members, he said that LLB consisted of nine DC members, two former Regional Council members, and one member who was conversant with town planning. He advised that while the United States adopted a policy that prohibited the selling of liquor in school areas, Hong Kong did not have such policy at present. He added that there were cases where LLB did revoke a liquor licence before its expiration on grounds that the operation of such premises had caused

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nuisance to the schools nearby. He assured members that LLB did review each case on its merits and took objections seriously.

19. Mr Tommy CHEUNG also raised two concerns expressed by members of the trade -

- (a) The provision requiring the liquor licensee to be an individual had posed difficulties to the trade because if the licensee resigned or disappeared, the liquor premises would immediately become unlicensed and the processing of a new application would take at least two to three weeks even under the fast-track procedures.
- (b) Hearings of appeals against non-renewal of a liquor licence normally took as long as three months and the premises could not sell liquor in the meantime.

Mr Tommy CHEUNG considered that the Administration should consider ways to shorten the time for processing such applications or appeals.

20. AD(HQ) responded that in the circumstances described in paragraph 19(a) above, the application would be processed expeditiously and the Police would be requested to conduct checks on the applicant as soon as possible. Moreover, the application form for a liquor licence would also be revised so that the applicant could also appoint a nominee and provide his particulars for police checks at the same time. She hoped that with the streamlined procedures, the time for processing such applications could be shortened to two weeks. As regards the situation described in paragraph 19(b), AD/HQ said that the Administration had to discuss with LLB the best ways to deal with such problems.

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21. In response to Mr Tommy CHEUNG, AD(HQ) said that since January 2001, there were 19 liquor-related appeal cases put before MSAB. In three of these cases, the appeals against LLB's decisions were allowed, and LLB's decisions were upheld in five cases. Regarding Mr Tommy CHEUNG's request for shortening the time for appeals, she explained that MSAB had a heavy workload as it had to deal with other licensing appeals apart from liquor licensing. However, Secretary to LLB had agreed to consider shortening the time for notifying an applicant of LLB's decision.

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22. Dr LO Wing-lok asked whether the different licensing conditions imposed on different premises would pose problems to the enforcement agencies. He asked whether Police inspections on liquor premises were carried out on a regular basis or in response to complaints.

23. S/LLB advised that the licensing conditions such as restrictions on liquor selling hours or the requirement for the licensee to be on duty during certain business hours were clearly stated in the liquor licences. She said that the Police should not

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have difficulty in checking such conditions from the licences. She added that the frequency of inspections of liquor premises by the Police varied from district to district, and that inspections were conducted both as routine visits and in response to complaints.

24. The Chairman asked whether LLB would consider formulating objective standards or criteria for granting/renewing liquor licences for premises located in residential and school areas. S/LLB reiterated that LLB had to consider each application on its own merits. She said that LLB had previously attempted to devise standard requirements on the liquor premises in the "Soho" area in the Central. However, many operators in the "Soho" area had raised objection against such requirements and queried why these requirements were not applied to other liquor premises. She added that one of the liquor premises had not only lodged an appeal with MSAB but also applied for a judicial review and won the case. She said that a broad-brush approach in determining applications for liquor licences might lead to criticisms.

25. Mr Michael MAK noted from the Administration's paper that under the Dutiable Commodities (Liquor) Regulations, if 20 or more persons residing within a radius of 400 metres from the premises were not satisfied with LLB's decision, they could appeal to MSAB within 28 days after the date of the notice of the decision. He asked whether complaints and objections lodged after the approval of a liquor licence would still have any effect on the licence. AD/HQ said that if complaints were received against a liquor-selling establishment after the issue of a liquor licence and before the licence expired, the Police would investigate. If the complaint was justified, LLB could revoke or suspend the liquor licence of the subject premises. The case of the premises close to a school in Tsimshatsui was a case in point.

26. Dr LO Wing-lok reiterated that the Administration should review the whole liquor licensing mechanism and devise a policy setting out objective standards for the granting and renewal of liquor licences. The Administration noted the comment.

27. The Chairman sought clarification on whether food stalls providing seating-out accommodation inside public housing estates were prohibited from being granted a liquor licence. He said that such stalls were still selling liquor within a licence. Mr James TO was of the view that such a policy, if it really existed, would be overruled if the operator sought a judicial review.

28. AD(HQ) said that a liquor licence would normally be granted to premises which had already been issued a restaurant or light refreshment licence. She agreed to provide information on the policy on food stalls situated in public housing estates after the meeting.

IV. Import control and new licensing requirements for chilled meat
(LC Paper No. CB(2)167/01-02(04))

29. Veterinary Officer (Farm Inspection) (VO(FA)) and Assistant Director (Operations) 3 (AD(O)3) of Food and Environmental Hygiene Department gave a powerpoint presentation on the Administration's import control measures for chilled meat, and the new licensing requirements/conditions imposed on chilled meat retailers and the related enforcement actions. VO(FA) said that import control on chilled meat was governed by the Imported Game, Meat and Poultry Regulations (IGMPR) under the Public Health and Municipal Services Ordinance (Cap. 132). The control system followed international practices and standards. He explained that under the IGMPR, all imported meat had to be accompanied by an official health certificate issued by a competent authority recognised by the Director of Food and Environmental Hygiene (DFEH). FEHD would inspect import consignments and take samples for test whenever necessary before releasing the chilled meat for sale.

30. VO(FA) added that whenever there was a new source of imported meat, FEHD would assess the information of the exporting country before allowing imports of chilled meat in the form of trial shipments. The seven considerations in making the assessment were given in paragraph 3 of the Administration's paper.

31. VO(FA) also briefed members on a recent site inspection made by FEHD officers to the pig farms and slaughterhouses in Thailand. He said that the pig farms were well equipped with modern facilities to maintain the temperature and ventilation of the farms, and proper vaccination programme and control measures on feeding materials were in place. There were also monitoring measures such as urine tests and tattoo system for pigs. He added that the facilities and operation of the slaughterhouses were comparable to international standards, and that the whole process from slaughtering to exportation was subject to monitoring and surveillance by the Thai authorities.

32. AD(O)3 said that FEHD decided to enhance control on the sale of chilled meat at retail outlets after consulting the food trade in March 2001. She said that in June 2001, FEHD had written to about 2 500 licensed fresh provision shops (FPSs) and market stalls permitted to sell fresh meat, and advised them of the additional licensing requirements and conditions. About 30% of these shops and stalls reported that they did not sell chilled meat, and only 1 749 FPSs and market stalls selling chilled meat would need to comply with the new requirement and conditions.

33. AD(O)3 explained that the additional licensing conditions required that the chilled meat delivered to the FPSs and meat stalls for sale had to be stored or displayed in the refrigerator(s) at a temperature not exceeding 4°C at all times. A

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thermometer had to be provided in the refrigerator(s) to show the temperature inside the refrigerator. The chilled meat should only be taken from the refrigerator(s) when it was sold to customers. The additional licensing conditions also prohibited the display and sale of chilled meat as fresh meat. These requirement and conditions had been put into effect on 24 September 2001.

34. AD(O)3 further said that to ensure compliance with the additional licensing conditions, FEHD had conducted 2 700 inspections during the week of 24 September 2001. Verbal warnings and warning letters had been issued to those which failed to comply with the new conditions.

35. Mr WONG Sing-chi sought clarification on the number of sample tests conducted on pork imported from Thailand. He also asked whether there were tests on infectious diseases such as foot-and-mouth disease, in addition to tests conducted on traces of clenbuterol and veterinary chemicals.

36. Assistant Director (Food Surveillance and Control) of Food and Environmental Hygiene Department (AD(FS&C)) responded that samples had been drawn from 413 pigs imported from Thailand in 2000. She said that the sample tests were conducted to trace any chemical residues rather than the foot-and-mouth disease. She explained that unlike Anthrax, symptoms of foot-and-mouth disease could more easily be detected in live animals than in carcasses. Regarding Mr WONG Sing-chi's concern about replacing checked meat with illegal meat, AD(FS&C) advised that all imported meat had to be accompanied by an official certificate issued by a competent authority recognised by DFEH, and the reference number together with the relevant particulars of the chilled meat had to be shown on the containers which were sealed before exportation. She believed that the possibility for the checked meat to be replaced by those unchecked during transportation would be extremely low.

37. Mr WONG Yung-kan expressed appreciation that the Administration had paid a site visit to Thailand to observe the process from pig raising to exportation in order to allay public concerns about the safety of pork from Thailand. He further asked whether the Administration would consider banning the import of meat from places which were found to be infected with foot-and-mouth disease. He also sought clarification on the background which led to lifting the suspension of importation of meat from Thailand.

38. AD(FS&C) advised that The International Office of Epizootic Diseases had classified Anthrax and the foot-and-mouth disease as high-risk diseases. Since Anthrax was infectious to people, Hong Kong had not allowed the importation of animals or animals' produce from infected places. On the other hand, foot-and-mouth disease was not hazardous to human health, but would affect animals. The Administration was now considering introducing legislative amendments to Cap. 139 to empower the Director of Agriculture, Fisheries and Conservation to prohibit the import of animals and animal products from places which were infected by diseases

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which could affect animal health. She further said that the importation requirements given in paragraph 3 of the Administration's paper applied to all exporting countries. On the food surveillance system for trial shipments, she explained that FEHD would detain for examination the first three consignments of meat imported into Hong Kong on trial shipment. Such consignments could only be released to the market for sale if the test results were satisfactory. If FEHD was satisfied with the first three consignments, each of the subsequent three consignments would be sampled for testing. In response to the Chairman, she said that samples were selected on a random basis.

39. AD(O)3 added that under the Public Health and Municipal Services Ordinance (Cap. 132), any person who sold food that was unfit for human consumption was guilty of an offence and subject to a maximum penalty of HK\$50,000 and imprisonment of six months. The new licensing requirements and conditions for sale of chilled meat were only to provide further protection for consumers on food safety.

40. Mr WONG Yun-kan said that he would follow up separately with the Administration on the illegal importation of chilled meat. As regards the new licensing requirements for the storage and display of chilled meat at retail outlets, he asked whether there were similar requirements for the transportation of chilled meat.

41. AD(O)3 said that chilled meat was required to be transported in refrigerated vehicles at a temperature between 0°C-10°C.

42. Mr CHEUNG Man-kwong commented that according to paragraph 11 of the Administration's paper, more stringent enforcement action was taken against market stalls than FPSs. He said that the long time taken for FEHD to revoke or suspend a licence after repeated warnings might not have sufficient deterrence against non-compliance with the new licensing requirements. He considered that the enforcement in this respect was generally too lax. Mr Andrew CHENG shared similar concerns. He opined that the Administration should consider shortening the period of 12 months for the issue of an order for temporary suspension of a licence. He also considered that the Administration should adopt a consistent policy to enforce the new licensing requirements on FPSs and market stalls.

43. AD(O)3 emphasised that the new licensing requirements were only to provide double protection for consumers. She stressed that selling food that was unfit for human consumption was already punishable under the Public Health and Municipal Services Ordinance (Cap. 132). Moreover, there were other surveillance and control measures in place to ensure compliance of the legislation. She further explained that different enforcement actions were taken against FPS licensees and market stall lessees because they were subject to different terms and conditions as set out in the respective licences/tenancies. Nevertheless, she agreed that the Administration could review the enforcement actions to see what improvements could be made.

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44. Deputy Secretary for the Environment and Food (A) (DSEF(A)) added that EFB would further discuss with FEHD the enforcement aspects and provide a response later.

45. Dr LO Wing-lok said that the new licensing requirements on the storage and display of chilled meat at retail outlets aimed to better ensure the hygiene conditions of chilled meat, rather than to help consumers to differentiate chilled meat from fresh meat. He asked whether the same requirements and conditions would also be applied to the storage and display of fresh meat as well.

46. AD(O)3 agreed that all kinds of meat including fresh meat for sale at retail outlets should best be stored and displayed in refrigerator(s) at a suitable temperature to ensure food safety. However, as people in Hong Kong generally preferred to buy fresh meat stored at room temperature, there would be difficulties to pursue Dr LO's suggestion for the time being. Furthermore, from past experience, there was no evidence to show that fresh meat kept at room temperature for sale would deteriorate within a few hours.

47. Mr Tommy CHEUNG shared the view that most people in Hong Kong preferred to buy fresh meat which was not stored in the refrigerator. If this did not pose any health problem, he saw no reason why the practice should be changed. As regards the enforcement action on the compliance with the new licensing conditions for the storage and display of chilled meat, Mr CHEUNG disagreed with the view expressed by some members that the enforcement was too lax. He pointed out that some 2,700 inspections had been conducted during the week of 24 September 2001, and regular inspections were also made by Health Inspectors of FEHD.

48. The Chairman requested the Administration to take note of members' comments and provide a response.

VII. Any other business

49. There being no other business, the meeting ended at 10:20 am.

Legislative Council Secretariat

14 December 2001