

For information
on 29 October 2001

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LegCo Panel on Food Safety and Environmental Hygiene The Liquor Licensing Board (LLB) and its Work

Purpose

This paper sets out for Members' information the establishment, jurisdiction and operation of the Liquor Licensing Board ("LLB").

Establishment and Composition of the LLB

2. The LLB is established under regulation 2A of the *Dutiable Commodities (Liquor) Regulations (Cap. 109 sub leg. B)* as an independent statutory body to consider the applications for liquor licences. The Board consists of a Chairman, a Vice-Chairman and nine other members appointed by the Chief Executive. The Food and Environmental Hygiene Department performs executive functions to support the Board and provides secretariat support to LLB meetings.

Powers of the LLB

3. The LLB is constituted for the purpose of issuing liquor licences in accordance with the *Dutiable Commodities (Liquor) Regulations*. This includes deliberation on any application, renewal, transfer and amendments to the licences.

4. Applications for liquor licence fall into two broad categories, namely, straightforward non-contested cases and contested cases. Non-contested cases are those on which no objections are received from Government departments or other interested parties, including the general public and the District Council. For non-contested cases, the LLB has delegated in accordance with regulation 13A of the *Dutiable Commodities (Liquor) Regulations* the power of approval to the Director of Food and Environmental Hygiene, the Deputy Director (Environmental Hygiene),

Assistant Directors (Operations) and the Secretary of the Liquor Licensing Board. For these cases, a 12-month licence is normally issued.

5. Contested cases are applications to which objections have been received from Government departments and/or other affected parties. These cases will be considered by the LLB. To consider these applications, the LLB will conduct public hearings and invite the applicant and the objector(s) to present their views before the Board. The parties at the public hearing may appear in person or be assisted/represented by a legal representative, or he may choose not to attend. In contested cases, the Board may set the validity of the licence for between 3 to 12 months.

6. A flowchart setting out the key procedural steps in processing applications for liquor licence is at Appendix.

Criteria for Considering Applications

7. Under regulation 17(2), the Board shall not grant or renew a liquor licence unless it is satisfied that -

- (a) the applicant is a fit and proper person to hold a liquor licence;
- (b) the premises to which the application relates are suitable for selling or supplying intoxicating liquor, having regard to –
 - (i) the location and structure of the premises; and
 - (ii) the fire safety and hygienic conditions in the premises;and
- (c) in all the circumstances the grant of the licence is not contrary to the public interest.

8. Liquor licences for clubs will be issued if the premises concerned are issued by the Home Affairs Department with a Certificate of Compliance or an Exclusion Order under the *Clubs (Safety of Premises) Ordinance (Cap. 376)*. Applications for

a club liquor licence must be made by the secretary of the club. The licence will be issued to the secretary of the club or a person nominated by the club.

9. As a general principle, the LLB considers each and every application for a liquor licence on its own merit, taking into consideration the environment of the location where the premises are situated and the mode of its business operation. The Board will also consider other relevant criteria which have been applied in previous contested cases. These considerations are –

- (a) the applicant should be held responsible to personally supervise the liquor premises and be present during the busiest part of the operating hours;
- (b) the past record and experience of the applicant which will help assess his personal background and character and capability to manage the liquor premises. In this regard, the Board will take into full account the information provided by the Police;
- (c) the premises should be suitable to be frequented by members of the public. A liquor licence can only be issued or renewed when the premises are covered by a restaurant licence or a light refreshment restaurant licence issued by the Director of Food and Environmental Hygiene. In complying with the requirements imposed for the issue of a restaurant licence, the operator should have done sufficiently regarding the structural, fire and food safety of the premises;
- (d) the place should not be a gathering point for undesirable elements, nor should it be a venue for criminal activities. Past records of offences committed on the premises which may be caused by patrons attributable to the improper management of the premises, as well as other useful information provided by the Police, should be duly considered;
- (e) it is necessary to carefully assess the objections presented by the affected parties and the Police. The comments made by the District Officers are also relevant; and

- (f) under regulation 19, when an application is refused or a liquor licence is revoked, the Board shall refuse to consider any further or other licence application in respect of the premises concerned within a period of 12 months by the former applicant/licensee **or** by any other person unless he can satisfy the Board that he is not acting on behalf of the former applicant/licensee.

How Objections are dealt with by the LLB

10. Public objections raised by local residents and District Council members are usually based on the following grounds –

- (a) noise nuisance caused by the subject premises;
- (b) disturbance by drunken customers of liquor selling establishments; and
- (c) problems of dangerous drugs.

11. In considering objections raised on the ground of the subject premises causing nuisance, the Board will consider all factors relevant to the case before any decision is made. Evidence to substantiate objections is required. Based on all useful information collected, the Board may reject the application, or exercise its power to impose suitable licensing conditions with a view to balancing carefully the commercial interest of the operator with the desired peace and order in the district. For instance, in a predominantly residential area which is relatively quiet in the evening and night time, licensing conditions restricting the liquor selling hours and requiring the close of front doors at specific hours may be invoked for the purpose of minimizing nuisances caused to nearby residents.

12. As regards cases involving problems of dangerous drugs found in the liquor selling establishments, the Board may exercise its discretion to reject the renewal or consider imposing additional conditions requiring the licensee to be on duty during the business hours to personally manage the premises, and to carry out effective control measures including, inter alia, deployment of more staff to tighten supervision, change of the mode of business operation to discourage patronage of bad elements, etc.

The Police, as the enforcement agent, will also be requested by the Board to keep a closer watch on these premises.

13. Normally, for contested cases, the Board will issue a short term licence for a period of three or six months to enable further observation and monitoring of the operation, as well as to allow time for the licensee to make improvements.

Additional Endorsements

14. Liquor licence applicants operating the following types of business may also apply for the relevant endorsement on their liquor licences –

- bar - if the premises are exclusively or mainly used for the sale and consumption of intoxicating liquor;
- hotel - if the premises are used as a hotel and liquors are served to rooms;
and
- dancing - if permission for dancing at the premises is required.

Approval for dancing endorsement is subject to compliance with building and fire safety standards required by the Buildings Department and the Fire Services Department respectively.

Appeal System

15. Under regulation 17(5), the applicant of a liquor licence or 20 or more persons residing within a radius of 400 metres from the subject premises, if not satisfied with the Board's decision, may within 28 days after the date of notice of the decision appeal to the Municipal Services Appeals Board.

Applications Processed

16. In 2000, the LLB processed a total of 4,400 applications with 3,987 licences issued/renewed without conditions, 384 issued/renewed with additional conditions, and 29 applications rejected. For the first nine months of 2001, the number of applications processed was 4,046 with 3,725 licences issued/renewed without conditions, 297 issued/renewed with additional conditions, and 24 applications rejected.

Food and Environmental Hygiene Department
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Procedure for Processing Application of Liquor Licences

