

**For discussion on
15 July 2002**

LegCo Panel on Food Safety and Environmental Hygiene

Regulatory Control of “Private Kitchens”

PURPOSE

This paper informs Members of the regulatory control of “private kitchens”.

BACKGROUND

2. The operation of “private kitchens” is growing in recent years. These kitchens are different from conventional restaurants in the following ways –

- (a) *Location* : usually located on the upper floors of residential buildings;
- (b) *Mode of operation* : usually open for business in the evening only and serve special cuisines or dishes;
- (c) *Size* : relatively small in size (50 – 70m²) and accommodate only a few tables of patrons; and
- (d) *Publicity* : seldom advertise in the media. New patrons are usually introduced by existing customers or acquaintances of the operator.

LICENSING REQUIREMENTS

3. Section 31 of the Food Business Regulation (Cap. 132 sub. leg.) requires a person to obtain a licence to operate restaurant business. The licensing regime aims to safeguard public health and to ensure the safety of patrons. Under the current system, operators of restaurants have to comply with licensing requirements in respect of the following –

- (a) *Health / hygiene requirements* : adequate ventilation, sufficient area for kitchen, food preparation and scullery purposes, sanitary fittings and ablution facilities, proper supply of mains water, etc;

- (b) Structural requirements : fire resistance construction for walls, floors, kitchen and food hatch, adequate means of escape, proper floor loading and the absence of unauthorized building works (UBWs); and
- (c) Fire services requirements : the premises concerned should be provided with proper fire services installations and equipment and certified gas fittings and equipment.

4. The majority of private kitchens are unlicensed because of restrictions on tenancy, physical constraints of the buildings concerned and unwillingness on the part of the operator to invest in the necessary facilities. They may fail to comply with the licensing requirements against the background that -

- (a) due to construction and size constraints, they cannot comply with the hygiene standards relating to food room and ventilation installations;
- (b) some of the establishments may be located at residential buildings with single staircase and cannot meet the requirement with regard to means of escape;
- (c) some of them may be located in residential apartments with unauthorized building works (UBW) and cannot meet the requirement on absence of UBWs; and
- (d) some of them do not use fire resistant materials for the interior construction of the premises and cannot meet the requirement on fire resistant wall.

FEHD'S POLICY AND ENFORCEMENT

5. Operating a restaurant without a valid licence is an offence under the Food Business Regulation. The maximum penalty is a fine of \$50,000 and imprisonment for 6 months. A daily penalty of \$900 is also applicable. The Food and Environmental Hygiene Department (FEHD) can also apply for a prohibition order/closure order from the Court under the Public Health and Municipal Services Ordinance (Cap. 132) if the unlicensed establishment continues to operate.

6. Operation of unlicensed "private kitchens" are not encouraged. FEHD will handle them in the same way as dealing with other unlicensed food businesses. The department will investigate into complaints against unlicensed operations and take enforcement actions if they are found breaching the law. Where necessary, agents provocateurs will be arranged to conduct the investigation. Since the

establishment of FEHD, only 7 complaints against the operation of “private kitchens” have been received. Two operators were successfully prosecuted. One was fined \$200 and the other \$7,000 plus cost of \$1,000. In both cases, the court issued a prohibition order.

Food and Environmental Hygiene Department
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