

**For discussion on
20 November 2002**

LegCo Panel on Food Safety and Environmental Hygiene

**REGULATORY CONTROL OF “PRIVATE KITCHENS”
PROGRESS REPORT**

PURPOSE

This paper reports on the progress of the Administration’s consideration on the control of “private kitchens”.

BACKGROUND

2. The LegCo Panel on Food Safety and Environmental Hygiene (the Panel) discussed the issue of “private kitchens” at its meeting held on 15 July 2002. Members generally were not opposed to putting these kitchens on a proper footing, provided that suitable safeguards would be put in place to protect food and public safety. The Food and Environmental Hygiene Department (FEHD) was asked to look into the feasibility of regularizing “private kitchens” and report back to the Panel.

CONSIDERATIONS

3. In considering the regularization of “private kitchens”, we have taken into account the following factors -

(a) Economic and consumer benefits

The regularization of “private kitchens” would bring several economic and consumer benefits. First, “private kitchens” are in the main small and easy-to-set-up businesses. Their regularization will not only allow existing operations to continue with their businesses, but will also enable newcomers to enter the trade, providing more business and employment opportunities. Second, dining in “private kitchens” is gaining in popularity. Suitably regulated “private kitchens” will provide customers with more choices of dining places. Third, regularization will help foster the growth of this form of dining experience and enhance Hong Kong’s status as a gourmet centre, contributing in turn to the promotion of tourism.

(b) Food hygiene

At present, operators of food premises are required to meet certain hygiene requirements relating to food preparation area and storage space, sanitary fitments, grease trap and ventilation system. In the interest of public health, we must ensure that the health risk to the community posed by private kitchens is no higher than that by other food business premises.

(c) Public safety

While recognizing that building and fire requirements may be suitably adjusted to take account of the lesser scale of operation of “private kitchens”, public safety must be ensured in devising any proposed regularization scheme. Proper requirements in respect of floor loading, means of escape (MOE) and fire safety measures must be in place to protect the patrons as well as the neighbours.

(d) Possible nuisances to neighbours

FEHD has so far received very few complaints relating to nuisances caused by “private kitchens”. Nevertheless, it is noted that the operation of a food business within a multi-storey building can potentially give rise to environmental nuisances such as smell, fume and noise to the displeasure of the neighbours. This would be more so if, after regularization, several more “private kitchens” are set up in the same building. Any proposed scheme should take this concern into account and keep possible nuisances to a minimum.

(e) Planning and land use issues

Commercial activities, including the operation of “private kitchens”, are unless with the approval of the Town Planning Board normally not allowed in domestic portion of buildings located in areas designated for residential use under the outline zoning plan. Likewise, the land lease and the deed of mutual covenant (DMC) of the building concerned may not allow the operation of “private kitchens”. While there are advantages in facilitating the operation of “private kitchens”, planning/land lease requirements and the rights of the property owners concerned should also be respected and catered for in any regularizing scheme.

4. We are of the view that there are clear economic benefits for facilitating the operation of “private kitchens”. To cater for the interests of different sectors of the community, we consider that “private kitchens” should be allowed to operate as a restricted practice provided they observe essential hygiene, building, planning and fire safety requirements. Given the small scale of business of these kitchens, it would not be necessary to impose on them the full licensing requirements applicable to the operation of a general restaurant.

PROPOSED REGULATORY FRAMEWORK

5. We propose that the operation of “private kitchens” should be regulated by the following requirements -

(a) Location

- The “private kitchen” should be located in a residential or the domestic portion of a composite commercial/residential building. (“Private kitchens” operating in pure commercial buildings or in the commercial portion of composite buildings should apply for a proper restaurant licence.)
- No more than one “private kitchen” should be accommodated on the same floor and not more than two on every five floors of the same building.

(b) Seating capacity

- Since “private kitchens” would be housed in a residential flat, the seating capacity should be limited to, say, 12-18 at any one time, depending on the size of the premises.

(c) Mode of operation

- The operation of “private kitchens” shall be confined to provision of dinner and the business hours shall not be more than three hours per day.
- No take-away business should be allowed otherwise the relaxation would be abused for the operation of food factories.

(d) Building requirement

- The layout of the premises should conform to the approved building plans or a layout plan approved by the relevant Authority.
- Walk-in freezer and other heavy equipment would not be

allowed on the premises to avoid overloading.

(e) Fire safety

- ☛ “Private kitchens” should not be located in single-staircase building or cockloft with single escape route.
- ☛ The kitchen should be separated from the rest of the premises by fire resisting walls and fire resisting door.
- ☛ In addition to those already provided for the building, suitable and appropriate fire service installation and equipment, such as fire extinguishers, fire blankets, self-contained luminaries emergency lighting, may be required to be provided inside the “private kitchen”.
- ☛ Electricity, Towngas or LPGas may be used in kitchen of the food premises. If LPGas in cylinder is used, the total quantity shall not exceed 130 litres in capacity.

(f) Land/Planning/DMC

- ☛ Depending on the zoning, the operator of a ‘private kitchen’ has to obtain the approval of the Town Planning Board for change of use of the premises.
- ☛ Where the land lease concerned does not permit the operation of “restaurants”, the operator has to apply for a No Objection Letter or Waiver from the Lands Department. The latter will consider each application on its own merit.
- ☛ The operator has also to seek the consent of the Owners’ Incorporation (OI) or (other co-owners where there is no OI) of the building concerned for the proposed use of the premises as a “private kitchen”.

6. We propose to exempt the private kitchens from food business licensing whilst requiring them to register with FEHD to ensure compliance with the requirements set out in paragraph 5. Those who fail to comply will be prosecuted as operating an unlicensed food business. In addition, FEHD will inspect the registered “private kitchens” regularly and take out prosecution under the Public Health and Municipal Services Ordinance (Cap 132) if they are found to have served unfit or unsafe food.

WAY FORWARD

7. In the light of Members’ comments, we will further discuss with the departments concerned on the detailed requirements and fine-tune the proposals for consultation with parties concerned.

ADVICE SOUGHT

8. Members are invited to comment on the proposed regulatory framework for private kitchens.

**Health, Welfare and Food Bureau
Food and Environmental Hygiene Department
November 2002**