

**Extract from minutes of meeting of
Panel on Food Safety and Environmental Hygiene on 15 July 2002**

- Members Present** : Hon Fred LI Wah-ming, JP (Chairman)
Hon Tommy CHEUNG Yu-yan, JP (Deputy Chairman)
Dr Hon David CHU Yu-lin, JP
Hon James TO Kun-sun
Hon WONG Yung-kan
Hon Jasper TSANG Yok-sing, GBS, JP
Dr Hon YEUNG Sum
Hon CHOY So-yuk
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
- Member Attending** : Hon CHAN Yuen-han, JP
- Member Absent** : Hon CHEUNG Man-kwong
- Public Officers Attending** : Item IV
Mrs Stella HUNG
Deputy Secretary (Food and Environmental Hygiene)
Health, Welfare and Food Bureau
Miss Diane WONG
Principal Assistant Secretary (Food and Environmental Hygiene) 2
Health, Welfare and Food Bureau
Mr W H CHEUK
Deputy Director (Environmental Hygiene)
Food and Environmental Hygiene Department
Mr HUNG Chi-pai
Assistant Director (Operations) 1
Food and Environmental Hygiene Department
- Clerk in Attendance** : Mrs Constance LI
Chief Assistant Secretary (2)5
- Staff in Attendance** : Ms Joanne MAK
Senior Assistant Secretary (2)2
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IV. Regulatory control of unlicensed food establishments ("private kitchens")
(LC Paper No. CB(2) 2532/01-02(06))

39. Mr Tommy CHEUNG said that as the majority of private kitchens was unlicensed, it entailed a certain degree of risk to customers who patronised these premises which might not meet the necessary hygiene, building and fire safety requirements. He requested the Administration to explain its policy on private kitchens and why only two prosecutions had been taken against operators of private kitchens so far.

40. DD(EH) said that the Administration did not encourage the operation of these unlicensed food premises, as most of them were unlicensable because of the tenancy conditions and physical constraints of the premises concerned. He said that FEHD adopted the same enforcement approach in dealing with all unlicensed food premises including unlicensed private kitchens. As regards the low prosecution statistics in this respect, DD(EH) explained that as these private kitchens were not entirely open to the public, it was often difficult to gather evidence. FEHD had to rely on information provided by the public in locating these premises and conducting investigation. He said that unlicensed food premises on the ground floor were easier to be detected by health inspectors during routine inspections. He added that since the establishment of FEHD in 2000, seven complaints in respect of operation of private kitchens had been received and investigations conducted. In two of these cases, the operators concerned had been successfully prosecuted.

41. DD(EH) further said that while private kitchens were welcome by some customers, the Administration did not encourage food premises operating without a licence. FEHD had been discussing with relevant departments a regulatory framework for private kitchens. The Administration hoped that a proposal on how to regulate private kitchens would be worked out within two to three months for discussion by the Panel. In response to the Chairman, DS(FEH) said that the relevant recommendations should be ready for discussion in October 2002.

Adm

42. Mr Tommy CHEUNG commented that the Administration should look at all relevant safety requirements for private kitchens, and not only the number of tables in such premises, when drawing up a regulatory regime for private kitchens.

43. Miss CHAN Yuen-han said that as only a few tables were provided in private kitchens, their operation was much similar to holding a banquet at home. She said that private kitchens were also found in Taiwan and other places. She considered that the stringent licensing requirements for restaurants should not apply to private kitchens as their operation was of a much smaller scale. She was of the view that the Administration should assist the private kitchens to exist, provided that they complied with the general hygiene and food safety requirements.

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44. DD(EH) responded that the Administration did not intend to apply the existing licensing requirements for general restaurants to private kitchens, and a more flexible framework would be proposed for private kitchens. However, he stressed that private kitchens should still comply with fire safety and food hygiene requirements. Miss CHAN Yuen-han agreed that food safety should be the primary consideration. She hoped that the Administration should adopt a flexible approach in the licensing of private kitchens, so that there would be a greater variety of catering services for consumers to choose.

45. Mr Andrew CHENG commented that the premises should be called "私營菜館" but not "私房菜" in Chinese. He said that these premises were either licensed or unlicensed. For the unlicensed ones, they should be called "無牌私營菜館". DD(EH) said that the name "私房菜館" was put in quotation marks to show that it was not the proper name. He explained that these premises were not entirely open to the public, and new patrons had to be introduced by existing customers or acquaintances of the operator. The Chairman pointed out that many of these premises were not operated on the ground floor and they should more appropriately be referred to as "樓上無牌食肆" in Chinese. Mr Michael MAK expressed support that the Administration should review the Chinese name of private kitchens.

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46. Mr Andrew CHENG sought clarification as to whether private kitchens also provided delivery catering service ("包伙食") which was of demand in the Central District. DD(EH) said that he did not know of any private kitchens providing delivery catering service as they usually served dinner on the premises.

47. Mr David CHU took the view that it was not necessary to impose regulatory control on private kitchens. He said that their operation was of such a small scale that it was just like ordinary families inviting friends to dine at their homes. He said that the only difference was that private kitchens charged for the food and services. He said that if the food hygiene of a private kitchen was not up to standard, its patrons would stop patronising it sooner or later. He considered that private kitchens should be allowed to operate for the benefit of the tourist industry.

48. DD(EH) explained that it was required by law that a person had to obtain a licence to operate restaurant business in order to safeguard public health and to ensure the safety of patrons eating in the premises concerned. However, he agreed with Mr CHU that the Administration should exercise flexibility in introducing regulatory control for private kitchens given their small size of operation.

49. Mr WONG Yung-kan asked whether the Administration had found out why private kitchens were welcome by some customers and why they could survive in the market. DD(EH) said that the Administration had not conducted in-depth study in this area, but he believed that customers were attracted to private kitchens mainly for their special cuisines or dishes served. Moreover, the operating costs of private kitchens were lower than ground floor food premises because of the rental difference.

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50. Miss CHOY So-yuk considered that the control to be imposed on private kitchens should be reasonable and that food hygiene and the safety of patrons should not be compromised. However, she requested that the Administration to review whether the existing licensing requirements for small food premises were too stringent and whether the relevant licensing fees could be reduced.

51. Mr Michael MAK asked whether the Administration would explore ways to help customers identify that a food premise was actually an unlicensed private kitchen. Since private kitchens were seldom advertised in the media, he asked how the Administration could detect them and take actions to deal with them.

52. DD(EH) said that the Administration had detected several private kitchens based on complaints lodged by their ex-staff or ex-business partners. It had also detected one private kitchen which had widely advertised in the media, and another one which was involved in a food poisoning incident. He said that customers could easily know that the food premises were private kitchens given their unique mode of operation.

53. Dr LO Wing-lok suggested that the Administration might make reference to the regulatory framework for banquet catering service ("到會") when designing the regulatory control for private kitchens, as the former also involved food preparation in residential buildings. He also suggested that the Administration might consider extending the Health Manager Scheme to private kitchens to ensure their food hygiene standard. DD(EH) advised that banquet catering service was operated under a Food Factory Licence, and the food preparation process was subject to control under the relevant licensing conditions. However, the process of re-heating or cooking in the residential premises after the delivery of food was not subject to regulatory control. It was therefore not appropriate to apply the regulatory control scheme for banquet catering service to private kitchens as their modes of operation were different.

Adm 54. The Chairman advised that the Administration should revert to the Panel around October 2002 on the proposed licensing regime for private kitchens. The Administration noted the request.

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