

**立法會**  
**Legislative Council**

Ref : CB2/PL/FE

LC Paper No. CB(2) 1261/03-04  
(These minutes have been seen  
by the Administration)

**Panel on Food Safety and Environmental Hygiene**

**Minutes of Meeting**  
**held on Thursday, 18 December 2003 at 10:45 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 WONG Yung-kan  
Hon Andrew CHENG Kar-foo  
Hon Michael MAK Kwok-fung  
Dr Hon LO Wing-lok, JP

**Members attending** : Hon Cyd HO Sau-lan  
Hon CHAN Yuen-han, JP

**Members absent** : Hon YEUNG Yiu-chung, BBS  
Hon LEUNG Fu-wah, MH, JP

**Public officers attending** : Items IV to VI

Mr Eddy CHAN  
Deputy Secretary (Food & Environmental Hygiene)  
Health, Welfare and Food Bureau

Miss Shirley KWAN  
Assistant Secretary (Food & Environmental Hygiene) 4  
Health, Welfare and Food Bureau

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

Mr HUNG Chi-pai  
Assistant Director (Operations) 1  
Food and Environmental Hygiene Department

Mr MO Kim-ming  
Assistant Director (New Buildings) 1  
Buildings Department  
(For agenda item V only)

Item VII

Mr Eddy CHAN  
Deputy Secretary (Food & Environmental Hygiene)  
Health, Welfare and Food Bureau

Miss Vivian KO  
Principal Assistant Secretary (Food & Environmental Hygiene) 1  
Health, Welfare and Food Bureau

Dr David Burrows  
Senior Veterinary Officer (Animal Management)  
Agriculture, Fisheries and Conservation Department

**Attendance by invitation :** Dr Pauline TAYLOR  
Executive Director  
Society for Prevention of Cruelty to Animals (Hong Kong)

Ms Doris YIU  
Senior Manager, Marketing and Communication  
Society for Prevention of Cruelty to Animals (Hong Kong)

Ms Flora HO  
Chair  
Companion Animals Federation

Mr Peter HUI  
Executive Director  
Companion Animals Federation

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

**Staff in attendance** : Ms Elyssa WONG  
Deputy Head (Research and Library Services)

Mr Simon LI  
Research Officer 6

Ms Amy WONG  
Senior Assistant Secretary (2)1

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**I Confirmation of minutes of meetings**

[LC Paper No. CB(2) 553/03-04]

[LC Paper No. CB(2) 705/03-04]

The minutes of the meetings on 28 October 2003 and 12 November 2003 were confirmed.

**II Date of next meeting and items for discussion**

[LC Paper Nos. CB(2) 667/03-04(01) & (02)]

2. The Chairman said that the next regular meeting originally scheduled for 6 January 2004 would be re-scheduled to 9 January 2004 from 4:40 pm to 6:30 pm. He informed members that the Secretary for Health, Welfare and Food would give a briefing on the policy objectives and commitments in respect of the portfolios relating to food safety, environmental hygiene, and agriculture and fisheries for the year 2004.

3. Members agreed that, in addition to the policy briefing, the following items proposed by the Administration would also be discussed at the meeting on 9 January 2004 -

- (a) Incentive scheme for hygiene improvement in licensed food premises;  
and
- (b) Anti-rodent Campaign 2004.

**III Information paper(s) issued since last meeting**

[LC Paper Nos. CB(2) 453/03-04(01), CB(2) 695/03-04(01) & CB(2) 753/03-04(01)]

4. Members noted that the Administration had provided the following information papers since the last meeting -

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- (a) Follow-up actions arising from the meeting on 24 June 2003 [LC Paper No. CB(2) 453/03-04(01)];
- (b) Information note on "Extension of public market rental freeze" [LC Paper No. CB(2) 695/03-04(01)]; and
- (c) Information paper on "Regularization of the live fish wholesale market at the Aberdeen Promenade" [LC Paper No. CB(2) 753/03-04(01)]

**IV Regulatory control of 'private kitchens'**

[LC Paper Nos. CB(2) 667/03-04(03)]

5. Deputy Secretary (Food and Environmental Hygiene) (DS(FEH)) briefed members on the Administration's paper. He said that following the discussion at the Panel meetings on 20 November 2002 and 25 February 2003, the Administration had considered the views of the trade and other relevant parties. The Administration had now revised its position and proposed to place 'private kitchens' under the licensing regime as with other food business operations by requiring them to meet the following criteria -

- (a) 'private kitchens' should be housed in commercial buildings or composite commercial/residential buildings;
- (b) the maximum seating capacity would be limited to 24 persons;
- (c) the business hours should not exceed three and a half hours a day; and
- (d) operation of food factories would not be allowed on such premises unless the necessary licences were obtained.

Operating hours and other licences

6. Mr Tommy CHEUNG asked whether there would be flexibility to allow "private kitchens" to provide luncheons or to operate in the afternoon. Miss CHAN Yuen-han expressed support for providing flexibility in the operating hours of "private kitchens". She suggested limiting the operating hours of "private kitchens" to not later than a certain hour at night.

7. DS(FEH) responded that most "private kitchens" only operated at night, and providing too much flexibility in the operating hours of "private kitchens" could lead to enforcement problems. Deputy Director of Food and Environmental Hygiene (DD(FEHD)) supplemented that if "private kitchens" were also allowed to provide luncheons, FEHD officers would have to inspect the premises twice a day to ensure that the licensing conditions on operating hours were complied with.

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8. Responding to Mr. MAK Kwok-fung, DS(FEH) said that the operating hours of "private kitchens" would be specified in the relevant licence.

9. Mr Tommy CHEUNG asked whether provisional licences would be issued to "private kitchens" and whether they could also apply for liquor licences and permission for outside seating accommodation.

10. DS(FEH) responded that operators of "private kitchens" could apply for liquor licence and other licences subject to their meeting the relevant licensing requirements. Provisional licences could also be issued to "private kitchens". In reply to the Chairman, DD(FEHD) said that the licence fees for "private kitchens" would be set at a cost-recovery level.

Fitting-out and other requirements

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11. Mr Tommy CHEUNG requested the Administration to provide a comparison table to show the differences in fitting-out and other requirements between restaurants and "private kitchens".

12. DD(FEHD) explained that less stringent fitting-out requirements would be imposed on "private kitchens" as they operated on a smaller scale than traditional restaurants. He said that while traditional restaurants were required to have a food preparation room of not less than 9 square metres, a small food room of not less than 5 square metres would be required for "private kitchens". Moreover, fewer sanitary fittings and ablution facilities would be required for "private kitchens", for example, they would not be required to provide a urinal in toilets, and a basin both for washing hands and dishes would be acceptable. However, "private kitchens" would still have to meet the fire safety and building requirements for food businesses.

13. Dr LO Wing-lok asked whether there would be different building and fire safety requirements for "private kitchens" as some of them were operating in residential buildings. Mr MAK Kwok-fung also expressed concern about fire risks of "private kitchens" operating in residential buildings and asked how the proposed licensing system for "private kitchens" would be enforced.

14. DD(FEHD) explained that to prevent "private kitchens" from causing nuisances to nearby residents, they would not be allowed to operate in residential premises. Instead, they should operate in commercial buildings or composite commercial/residential buildings. The same building and fire safety requirements for food businesses would apply to "private kitchens", and only one exit would be required for eateries with a seating capacity of less than 30 persons. A sprinkler system was also not required if the area was less than 2 300 square feet.

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15. In reply to Mr MAK Kwok-fung, DD(FEHD) said that there were about 30 "private kitchens" currently operating without a food business licence and most of them were family-based operations. Except for a few which operated in purely residential buildings and those providing catering service for more than 24 persons, these premises could apply for the "private kitchen" licence under the revised proposal. He further said that FEHD staff would inspect these premises to ensure that they comply with the licensing conditions.

16. Ms Cyd HO asked whether "private kitchens" could operate at small houses in the New Territories and whether such buildings were considered residential buildings or composite commercial/residential buildings. She also asked about the present regulation of food businesses and "private kitchens" operating in these small houses.

17. DS(FEH) responded that applications for operation of "private kitchens" at small houses would be subject to the same licensing criteria. The licensing authority would check the approved land use of the small house in question. He added that as the landowner could apply to the Lands Department to change the land use, the licensing authority would check with the Lands Department the land status of the premises in question.

18. Ms Cyd HO pointed out that some food businesses and "private kitchens" were operating at small houses in the New Territories. She urged the Administration to look into the problem and take action against illegal operations at these premises. The Chairman requested the Administration to provide a report on the issue raised by Ms HO. The Administration noted the request.

Admin

19. Mr WONG Yung-kan said that some commercial buildings did not allow cooking on the premises. He asked whether the licensing framework for "private kitchens" would allow preparation of food in a different building.

20. DD(FEHD) said that the mode of operation described by Mr WONG was similar to banqueting/catering services, for which a different type of licence, i.e. food factory licence, would be required.

21. Dr LO Wing-lok sought clarification on whether the Administration was proposing a "private kitchen" licence for eateries serving not more than 24 patrons. DD(FEHD) responded that the "private kitchen" licence would be based on the operating hours and not the number of patrons.

22. Mr Tommy CHEUNG said that some "private kitchens" had already obtained licences for private clubs. He further said that the restaurant trade was previously concerned about the original proposed regulatory framework that "private kitchens" would not be allowed to operate in commercial buildings. Since the Administration's revised proposal had addressed this concern, he would support the policy direction of the revised framework, subject to the Administration providing further information on

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the differences in the licensing conditions between traditional restaurants and "private kitchens".

23. Mr WONG Yung-kan asked whether the Administration had consulted the trade on the revised proposal. DD(FEHD) responded that the Administration had considered the views of Members, the restaurant trade and operators of "private kitchens" expressed at the Panel meetings in November 2002 and February 2003, and had made adjustments to the original regulatory framework where appropriate. He explained that for those currently operating in purely residential buildings, they would have to change their premises under the revised proposal.

24. In reply to Dr LO Wing-lok, DD(FEHD) confirmed that for those "private kitchens" which could comply with the licensing conditions for restaurants or other types of food businesses, they could apply for such licences instead of "private kitchen licences".

25. In concluding the discussion, the Chairman said that Members generally supported the revised proposal for regulation of "private kitchens" and urged for providing some flexibility in the operating hours. He advised that the Administration should proceed with the necessary legislative amendments as soon as possible. He also requested the Administration to provide information on the issue of "private kitchens" operating in small houses in the New Territories, and a comparison of the licensing requirements among "private kitchens", restaurants and private clubs.

Admin

**V     Unauthorized building works found at licensed food premises**  
[LC Paper No. CB(2) 667/03-04(04)]

26. The Chairman said that Team Clean had proposed in its Final Report issued in August 2003 to tackle the problem of unauthorised building works (UBWs) found at licensed food premises. The Administration had now provided a paper on the proposed measures to be taken.

27. DS(FEH) said that the essence of the Administration's proposal was that the UBWs in existing licensed premises would be tolerated until the transfer of licence. However, for new applications, any UBWs found at the premises would have to be removed before the issue of a new licence.

Transfer of licence

28. Mr Tommy CHEUNG asked about the definition of "transfer of licence" and whether internal renovation would be considered a transfer of licence. He also expressed concern that food business operators would be required to remove any UBWs in the premises during renewal of licence.

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29. Assistant Director (FEHD) (AD/FEHD) explained that the issue of a new licence would primarily depend on whether the food premises concerned could meet the licensing requirements for a food business. FEHD would require the applicant to provide a recognised professional certification that the premises were free from UBWs. He explained that a transfer of licence would mean a change in the licensee and exclude situations such as internal renovation of the food premises or change in company personnel.

30. Mr Tommy CHEUNG expressed reservation about the Administration's proposal as the applicant might not be aware of the existence of UBWs at the food premises. Mr CHEUNG urged the Buildings Department (BD) to inform the licence applicant of any UBWs found in the premises so that the applicant could decide whether to proceed with his application or not. He also asked whether an applicant for food business licence would only be required to remove the UBWs attached to the premises under application and not those, such as water tank, which might be a communal facility and located outside the premises.

31. Assistant Director (Buildings Department) (AD(BD)) said that there would be guidelines on the removal of UBWs in food premises. Whether or not a water tank attached to the food premises would need to be removed would depend on the circumstances of each case, and BD would provide guidelines on this. AD(FEHD) supplemented that FEHD and BD would also examine the layout plan of the premises concerned in reaching a decision on doubtful cases.

32. Referring to paragraph 5(c) of the Administration's paper, Mr WONG Yung-kan asked why approval would be given for UBWs if such were shown in the layout plan or detected during site inspections. He also asked whether FEHD would conduct inspection of those food premises with professional certification that they were free from UBWs.

33. DD(FEHD) responded that while FEHD would not conduct special inspection to food premises to verify the professional certification, any UBWs found during regular inspections would be referred to BD for follow-up. If such UBWs posed serious environmental nuisance or danger to public safety, they would have to be removed or rectified immediately.

34. Mr MAK Kwok-fung asked about the number of prosecutions taken against UBWs. Referring to paragraph 10 (a) of the Administration's paper, he asked why the Administration tolerated the UBWs in existing food premises as they would pose threat to public safety.

35. AD(BD) said that the Administration did not maintain statistics on the number of prosecutions taken against UBWs on food premises. Referring to paragraph 5(c) of the Administration's paper, AD(BD) said that UBWs were not tolerated and they had to be removed before approval for new structures or works would be given. Should



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the UBWs pose high risk to public safety, they would be removed according to the removal procedure of BD.

Admin

36. DS(FEH) said that the Administration planned to implement the new measures in April 2004. He would further discuss with Mr Tommy CHEUNG his concerns about the proposal.

**VI Provisional food business licences**  
[LC Paper No. CB(2) 667/03-04(05)]

37. The Chairman said that Team Clean had made a recommendation in its final report concerning provisional licences for food businesses, and the Administration now provided a paper on its implementation.

38. Mr Tommy CHEUNG said that the trade was generally in support of the Administration's proposal although some food business operators did not agree that demerit points and consequential penalties incurred during the provisional licence period should be borne by the food premises concerned after a full licence had been issued. Mr CHEUNG considered it necessary to conduct an overall review of the licensing framework and the enforcement system, and the Administration should not target improvements only at certain areas.

39. AD(FEHD) responded that the Administration was conducting a review on food business licensing and improvements would be introduced by phases. He explained that the Administration's paper under discussion sought to plug the loophole that some operators had abused the provisional licence system to avoid complying with the licensing requirements for a full licence.

40. Mr Tommy CHEUNG said that the trade was more concerned about the long time taken to obtain a full licence than that for the issue of a provisional licence. The Administration noted Mr CHEUNG's view.

Requirements for provisional food business licence

41. Referring to paragraph 2 of the Administration's paper, Mr MAK Kwok-fung asked about the "less stringent requirements" for provisional licences. He was concerned about the fire and building safety of the premises concerned.

42. AD(FEHD) explained that for the issue of a provisional licence, the premises concerned would not need to comply with all the requirements for a full licence, such as the number of toilets and wash basins. He stressed that the Administration would not compromise on fire and building safety requirements.

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43. Mr MAK Kwok-fung said that the Administration should also not compromise on the hygiene requirements, as this would affect food safety if there were insufficient washing basins for the food preparation personnel.

44. DD(FEHD) stressed that the licensing authority would ensure that the premises complied with the requisite fire and building safety requirements. Recognised professional certification would be required for the issue of a provisional licence. In addition, the premises had to meet at least 50% of the sanitary requirements for the issue of a provisional licence, if the premises were to cater for more than 25 persons.

Cancellation of provisional food business licence

45. In reply to the Chairman, DD(FEHD) said that another warning would be issued if the premises was found to be in breach of another provisional licence requirement. DD(FEHD) further said that the provisional licence would be cancelled if the operator ignored the warning and did not take appropriate corrective measures.

46. As Mr W H CHEUK, DD(FEHD), would soon leave FEHD to take up a new appointment, the Chairman thanked Mr CHEUK for his contribution to the work of the Panel in past years.

**VII Control of import, sale and breeding of animals**

[LC Paper No. IN 05/03-04]

[LC Paper No. CB(2) 667/03-04(06)]

47. The Chairman welcomed representatives of the Society for Prevention of Cruelty to Animals (Hong Kong) (SPCA) and the Companion Animals Federation to the meeting. The Chairman informed members that the Research and Library Services Division (RLSD) had prepared an information paper on the import, sale, breeding, keeping and destruction of pets in Hong Kong and Singapore.

48. Upon invitation by the Chairman, Dr Pauline TAYLOR, Executive Director of SPCA, gave a power point presentation on the control of import, sale and breeding of animals in Hong Kong. In her presentation, Dr TAYLOR introduced the mission of the coalition of animal welfare groups, its views on the positive aspects of keeping pets and existing problems in Hong Kong, and its proposed solutions to prevent cruelty to and killing of animals. She said that the coalition wished to transform Hong Kong into a "No kill" city with the co-operation of concerned parties including the Agriculture, Fisheries and Conservation Department (AFCD), private veterinarians, animal shelters, the public and the legislature.

49. The Chairman informed members that according to RLSD's information paper, AFCD estimated that there were about 100 000 licensed dogs in Hong Kong. In response to the Chairman, Deputy Head of RLSD said that in 2002, the number of

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dogs and cats imported to Hong Kong under the Special Permit System of AFCD was 2 862 and 1 764 respectively. Currently, these animals were generally not required to be microchipped prior to the time of importation into Hong Kong.

[*Post-meeting note* : The Administration has subsequently explained that microchipping of imported dogs before their arrival is not currently required except for those which enter under a prior anti-rabies antibody blood test procedure to reduce their quarantine period in Hong Kong. Unmicrochipped imported dogs old enough to be licensed and vaccinated against rabies in Hong Kong are microchipped at the point of importation before release or are microchipped in quarantine in Hong Kong.]

50. DS(FEH) said that the Administration was reviewing the legislation on the licensing of animals and monitoring of pet shops. On the regulatory framework for animals, Senior Veterinary Officer of AFCD (SVO(AFCD)) agreed that there was a need to tighten the regulatory control of animal keeping in Hong Kong. He said that there were currently two exercises to review the legislation. In addition to legislative amendments to the Prevention of Cruelty to Animals Ordinance (Cap. 169), an overall review was being carried out for the Public Health (Animals and Birds) Ordinance Cap. 139.

51. In reply to the Chairman, DS(FEH) said that the legislative review was in progress. DS(FEH) explained that the review of Cap. 139 would take a longer time because it was very complicated and was also related to other ordinances such as the Dogs and Cats Ordinance (Cap. 167) and the Rabies Ordinance (Cap. 421). DS(FEH) agreed to consult the relevant animal welfare groups on the legislative review.

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Administration's response to the deputation's proposals

52. On the suggestion of requiring all animals to be micro-chipped before first-time sale and adoption, DS(FEH) said the Administration had to consider the justifications for extending the requirements to all animals because the present requirement of micro-chipping of dogs was primarily to prevent rabies. There was also the question of whether the private vet clinics had the microchip decoding/reading equipment. Regarding the suggestion of reducing the number of animals to be imported into Hong Kong and raising importation fee, DS(FEH) pointed out that there might be difficulties because Hong Kong practised free trade, and raising importation fee could lead to illegal importation of dogs and cats.

53. As regards the suggestion of requiring dogs and cats to be desexed, DS(FEH) said that there would be enforcement difficulties because it was not easy to tell whether a dog or a cat had been desexed unless examined by a veterinarian.

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54. SVO supplemented that while it was desirable for animals to be desexed or sterilized to prevent unwanted breeding, it was not routinely possible to ascertain by examination of a female animal whether or not she had been desexed or sterilized. He considered that there were no simple solution to the problems, and he was willing to work with SPCA and other animal welfare groups to formulate practical solutions. Differential licensing fees for entire dogs versus desexed dogs was not the solution, and other better solutions needed to be developed.

55. Dr LO Wing-lok thanked SPCA for the presentation and its views on animal welfare and the positive aspects of keeping pets. Dr LO commented that Hong Kong was a densely populated city, and he wondered whether it was suitable to keep pets in such a crowded environment. Dr LO also asked whether the existing legislation or regulation was adequate to prevent or control the transmission of animal diseases, such as monkey pox and SARS, from animals to humans.

56. Mr WONG Yung-kan pointed out that there were a lot of complaints from public housing tenants about pet-keeping in public housing. Mr WONG shared the concern about diseases transmitted by animals and birds. He said that the Administration and SPCA should educate the public on ways to prevent transmission of animal diseases.

57. Mr Tommy CHEUNG also expressed reservation about keeping pets in such a crowded environment as Hong Kong. Mr CHEUNG was in favour of desexing the dogs before importation to Hong Kong.

58. Dr Pauline TAYLOR agreed that there should be sensible guidelines and regulations on breeding animals in Hong Kong. She believed that diseases transmitted by the animals could be controlled with proper hygiene measures, and this could be achieved by promoting responsible pet ownership through education.

59. SVO agreed that with proper animal care, animals could be kept in a healthy condition and would not pose health risk to human beings.

60. DS(FEH) reiterated that a review was being carried out for Cap. 139 with a view to improving the existing regulatory framework. He said that the existing legislation provided the basic protection against transmission of animal diseases, for example, health certificates were required for all imported animals.

61. The Chairman thanked the deputation for attending the meeting. In concluding the discussion, the Chairman said that the discussion at this meeting served to stimulate further discussion on the subject. He further said that the Administration should review Cap. 139 and work with SPCA and other concerned parties to make improvements to the present regulatory framework. The Administration noted the comments.

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**VIII Any other business**

62. There being no other business, the meeting ended at 12:55 pm.

Council Business Division 2  
Legislative Council Secretariat  
16 February 2004