

**For discussion
on 18 December 2003**

LegCo Panel on Food Safety and Environmental Hygiene

Regulatory Control of “Private Kitchens”

PURPOSE

This paper seeks Members’ comments on the regulatory control of “private kitchens”.

BACKGROUND

2. The LegCo Panel on Food Safety and Environmental Hygiene discussed the issue of “private kitchens” at its meeting on 20 November 2002 and exchanged views with food trade representatives and “private kitchen” operators at its meeting on 25 February 2003. The Administration undertook to report back to the Panel on the way forward, having regard to the views expressed by all parties concerned and the need to protect food and public safety in regularising “private kitchens”.

VIEWS EXPRESSED

3. The views expressed so far on the regularisation of “private kitchens” are summarised as follows –

- (a) *Restaurant operators*: The restaurant trade felt strongly that “private kitchens” should not be exempted from licensing control. They considered that “private kitchens” were operating on a lower cost base and posing unfair competition to licensed food operators. These kitchens were taking business away from them. Some doubted if “private kitchens” had helped in promoting tourism as claimed.

- (b) *“Private kitchen” operators*: “Private kitchen” operators believed that their kitchens offered an alternative to consumers and contributed to the development of tourism in Hong Kong. Most operators agreed that private kitchens should also be subject to regulatory control. However, they pointed out that existing regulatory requirements had been designed with conventional restaurants in mind and did not suit the development of small-scale operations such as private kitchens. They considered the proposed seating capacity of 12-18 and business hours of 3 to be inadequate.
- (c) *LegCo Panel Members*: Panel Members expressed divergent views on the subject. Some Members observed that “private kitchens” were popularly received overseas and agreed that “private kitchens” would provide new business and employment opportunities and would offer consumers more choices. The Government should offer a conducive environment for the operation of “private kitchens” by providing a less stringent regulatory regime for such establishments. On the other hand, some Members were concerned that any regulatory regime for “private kitchens” should not compromise food hygiene and other safety standards, and that the Government should provide a level playing field for all food business operators.

THE ADMINISTRATION’S POSITION

4. The Administration has carefully considered the views expressed and has given further thoughts to addressing the concerns raised. We stand by the view that suitably regulated “private kitchens” will play a complementary role vis-à-vis conventional restaurants by providing more dining choices for consumers. The existence of properly regulated “private kitchens” will enrich the food culture of Hong Kong, and provide business and employment opportunities. On the other hand, we understand the trade’s objection to exempting “private kitchens” from food business licensing and the concerns of “private kitchen” operators over the proposed seating capacity and business hours.

PROPOSED REGULATORY FRAMEWORK

5. Taking the above factors into consideration, we have suitably revised our original regulatory framework. We previously proposed that “private kitchens” be exempted from food business licensing. To maintain a level playing field, we now propose that “private kitchens” be placed within a licensing regime under section 31 of the Food Business Regulation (Cap 132 sub. leg.), as with other food business operations such as restaurants, food factories and fresh provision shops. This will also allow “private kitchen” operators to apply for a liquor licence in respect of their premises.

6. Under the new licensing regime, we will require “private kitchens” to meet the following criteria –

- (a) to prevent “private kitchens” from causing nuisances to nearby residents, they will not be allowed to operate in pure residential premises as we originally proposed. The premises used for “private kitchens” shall be housed in commercial buildings or composite commercial/residential buildings;
- (b) the maximum seating capacity will be extended from 12-18 persons as originally proposed to 24 persons at any one time;
- (c) the operation of “private kitchens” shall be confined to the provision of dinner and the business hours shall be no more than three and a half hours per day; and
- (d) the operation of food factories, i.e. providing meals for consumption off the premises, shall not be allowed unless the food premises obtain the necessary food factory licences.

7. Fitting-out for food room and toilets are among the most important works involved in setting up a restaurant. Given the much smaller and confined scale of operation as set out in paragraph 6 (b) to (d), we consider it fair and reasonable to require “private kitchens” to provide smaller food rooms and fewer sanitary fitments and ablution facilities than traditional restaurants. This would help reduce the initial capital

investment of “private kitchen” operators, without compromising food safety and hygiene standards.

8. Operators of “private kitchens” should comply with building and fire safety requirements imposed by the relevant authorities, i.e. the Buildings Department and the Fire Services Department, as with applicants for other food business licences. The planning and land use issues involved would also be handled in a similar manner as that for restaurant licence applications.

WAY FORWARD

9. Subject to Members’ views, we will work out the detailed requirements mentioned in paragraphs 7 and 8 with relevant Government departments. We will then proceed to amend the law to effect the implementation of the new licensing scheme.

ADVICE SOUGHT

10. Members are invited to comment on the proposed regulatory framework for “private kitchens”.

Health, Welfare and Food Bureau
Food and Environmental Hygiene Department
December 2003