

立法會 *Legislative Council*

LC Paper No. CB(2) 751/04-05(01)

Ref : CB2/PS/3/04

Meeting of Subcommittee to study the streamlining of food business licensing on 1 February 2005

Background brief prepared by the Legislative Council Secretariat

Food business licensing

Purpose

This paper provides a summary of the discussions held by Members of the Legislative Council (LegCo) since 2000 on food business licensing.

Background

Legislative requirements

2. Under section 56 of the Public Health and Municipal Services Ordinance (Cap.132) and the Food Business Regulation (subsidiary legislation X under Cap. 132), a food business licence is required for the manufacture, storage, sale or preparation of food for human consumption. Under the present licensing framework, a licence is required for the following categories of food businesses –

- (a) general restaurant;
- (b) light refreshment restaurant;
- (c) bakery;
- (d) cold store;
- (e) factory canteen;
- (f) food factory;
- (g) fresh provision shop;
- (h) frozen confection factory;
- (i) milk factory; and
- (j) siu mei (燒味)/lo mei (滷味) shop.

3. Section 30 of the Food Business Regulation also stipulates that the permission of the Director of Food and Environmental Hygiene is required for the sale, or possession for sale or use in food preparation, certain kinds of food such as sashimi, sushi, oysters or meat to be eaten in raw state, food to be sold by means of a vending machine, leung-fan (涼粉), non-bottled drinks, frozen confections or milk, etc.

4. The Food Business Regulation sets out in general the application procedures for licences/permits, the conditions for issue of licence, validity period and transfer of licence, offences and penalties, and other conditions for compliance by the licensees.

5. The Food and Environmental Hygiene Department (FEHD) issues guides on the application procedures for different types of licences and permits, and such guides are also available on FEHD's website.

Consultancy studies on food business licensing

Study on Restaurant Licensing

6. For many years, the slow process of granting a restaurant licence has been a major concern for the trade. Before 1998, the average processing time for a full licence for restaurant was more than 300 working days. The restaurant trade has criticized the licensing process as cumbersome, complicated and inflexible, and has urged for a simple, quick and user-friendly process and the adoption of a one-stop approach.

7. To address the concern of the restaurant trade, the Business Services Promotion Unit of the Financial Secretary's Office engaged PricewaterhouseCoopers in December 1998 to conduct a study with a view to revamping the restaurant licensing system and expediting the licensing process. The recommendations of the consultancy study were discussed by the then Provisional Urban Council and Provisional Regional Council in 1999, and also by LegCo Members in 2000 and 2001 (see paragraphs 10 to 15 below).

Study on Non-restaurant licensing

8. The non-restaurant food trade has also been calling for streamlining the licensing regime for the non-restaurant food businesses. Under the present framework, some food business (e.g. supermarkets) may require four to five different types of licences in order to sell a variety of food at the same premises. Moreover, the number of abandoned and unsuccessful applications was high (e.g. there were 554 abandoned/unsuccessful applications out of 1 349 applications in 2000). This not only frustrates the trade, but also takes up valuable resources in FEHD which can otherwise be used for shortening the

processing time. Some applicants also complain about the requirement to submit revised plans even for minor alteration works done during the application period, and such a requirement has caused delay.

9. To address the concern of the trade, the Administration engaged KPMG Consulting Asia Limited in September 2000 to conduct a study to streamline the procedures and shorten the time for licensing of the non-restaurant food premises. The consultancy report was delivered to the Government in May 2001. The LegCo Panel on Food Safety and Environmental Hygiene discussed the Consultant's recommendations in 2001 and 2002 (see paragraphs 16 to 20 below.)

Discussions on consultancy studies and improvements made

Restaurant licensing

10. In response to a request by the Bills Committee on Provision of Municipal Services (Reorganization) Bill in July 1999, the Administration provided an executive summary of the consultancy report prepared by PricewaterhouseCoopers on the study on restaurant licensing [Annex D to LC Paper No. CB(2) 2747/98-99(06)] which was then under consideration by the licensing authorities. The Consultant's recommendations and the Administration's response were discussed on 30 May 2000 by the Subcommittee on matters relating to environmental hygiene formed under the Panel on Environmental Affairs.

11. There were three main recommendations in the consultancy report –
- (a) introduction of a new licensing system which provides applicants with two options, i.e. the “normal track” and the “fast track”;
 - (b) introduction of a Case Manager system to improve coordination between relevant departments and the applicant; and
 - (c) provision of more support to applicants.

The report also recommended fast retrieval of building plans in order to shorten the processing time of licence applications.

12. In May 2000, the Administration informed Members that it welcomed the Consultant's study, and an inter-departmental working group led by FEHD had been set up to oversee the implementation of the recommendations. While the “fast track” approach would need further deliberations and legislative amendments were required to implement the “fit for purpose” certification system, the Administration had given priority to implement the “normal track” approach with a view to shortening the time for issuing the

Letter of Requirements for both the provisional and full licences to 20 working days (as compared to 35 working days before). The Buildings Department (BD) had also implemented improvement measures to shorten the time for retrieval of building plans from 30 working days to four working days.

13. In addition, FEHD had implemented the Case Manager system since April 2000, and a Resource Centre was planned to provide assistance and necessary information on restaurant licensing to applicants. With the above improvements, the time required for issuing a Provisional Licence can be shortened to about 28 days (as compared to six to eight weeks before), and a Full Licence to four to six months (as compared to 300 working days before).

14. The Administration's action plan in implementing the Consultant's recommendations in May 2000 is given in **Appendix I** for members' easy reference.

15. In January 2001, the Panel on Food Safety and Environmental Hygiene noted that the above improvement measures had been put in place, and a Provisional Licence could be issued in about five weeks and a Full Licence within four to six months.

Non-restaurant licensing

16. The Administration briefed the Panel on Food Safety and Environmental Hygiene on the consultancy study conducted by KPMG on non-restaurant licensing at the meeting on 18 June 2001. The Consultant's key recommendations fall under the following broad areas -

(a) simplifying the licensing system

- combining the eight different types of licences into two generic groups : i.e. "manufacturing" and "manufacturing/retailing", thereby allowing food premises with multiple aims to operate under one single licence
- simplifying and standardising the licensing requirements and conditions

(b) streamlining the application and renewal process

- requiring the submission of an accurate "as-built" plan (finalized plan) when construction works were completed, thereby reducing frequent submission of revised plans during the process

- improving coordination among various government departments in the vetting process and enhancing monitoring of application status by computer systems

(c) rationalising enforcement activities

- revising the current demerit point system and implementing a risk-based inspection system

Details of the Consultant's recommendations are in **Appendix II**.

17. At the Panel meeting in June 2001, members generally supported the direction of the Consultant's recommendations. Members also expressed support for the suggestion of an Application Vetting Panel to save processing time and resources. One member suggested that one composite licence should be issued to fresh provision shops for the sale of different types of food. Another member expressed concern that the proposed measures would only facilitate the operation of large-scale supermarkets and consolidate their monopoly over the market. The member urged the Administration to take into account also the interests of small and medium retail outlets when formulating its policy on the matter.

18. The Administration reported to the Panel on 22 April 2002 the progress of taking forward the Consultant's recommendations. The Administration informed the Panel that the food trade was consulted in February 2002. The trade generally considered it desirable to maintain the existing categories of non-restaurant food business licences, as many food businesses required only one type of licence. As the trade also welcomed the suggestion of introducing a new "manufacturing/retailing" licence, the Administration would further examine the proposal and the legislative amendments required.

19. The Panel noted that steps had been taken to simplify the licensing requirements, e.g. BD had adopted a pragmatic approach in respect of the loading requirement for cold storage rooms in food premises not rested on soil. The various requirements of different departments were also standardized and grouped into food hygiene, environmental hygiene, equipment hygiene and personal hygiene for easy comprehension.

20. The Panel welcomed the proposed pilot scheme to streamline the licensing process which would shorten the processing time from 44 to 30 working days. Panel members requested the Administration to further shorten the processing time for licence applications and specify the types of food which would be regarded as "high risk" and subject to more frequent inspection by FEHD. The Administration undertook to explore ways to further shorten the processing time, and to examine the categories of "high-risk" food and the removal of certain kinds of food from the list of restricted food in the Food Business Regulation.

Recent developments and concerns

21. Given the development of new forms of food businesses, such as “private kitchens” and “outside seating accommodation”, the Panel on Food Safety and Environmental Hygiene discussed in 2001 to 2003 whether these establishments should be subject to the normal licensing requirements for food businesses. While agreeing that safeguarding public health and safety was of primary importance, some members considered that more relaxed requirements should be applied to these establishments which would promote tourism.

22. A set of licensing criteria for outside seating accommodation for food businesses had been discussed by the Panel and adopted by the Administration since April 2002. As regards the licensing requirements for “private kitchens”, the Administration would revert to the Panel in 2005.

23. The Panel revisited the issue of the long processing time for food business licences in December 2004, as some food premises in Langham Place in Mongkok were found to be in operation before the issue of a Provisional Licence. Members were concerned that the long processing time for licence application was the cause of unlicensed operation of food premises, and this would put public health at risk.

24. The Panel has requested the Research and Library Services Division to update the research study on Licensing of Food Premises, and a subcommittee was formed under the Panel to study the streamlining of food business licensing.

Relevant papers

25. A list of the relevant papers and documents is in **Appendix III** for members' easy reference. The papers/documents are available on the Council's website at <http://www.legco.gov.hk>.

Council Business Division 2
Legislative Council Secretariat
26 January 2005

Appendix I

[Annex II to LC Paper No. CB(2)2107/99-00(01)]

Restaurant Licensing : Administration's Action Plan (As at May 2000)

Consultant's Recommendations	Administration's Action Plan
<p>I. Licensing Process</p> <p>(a) To introduce a new licensing system which provides applicants with two options:-</p> <p>Normal Track (Flow chart at Appendix A)</p> <ul style="list-style-type: none">◆ Streamlining the current process (the normal track process) by replacing the quality audit by preliminary screening of layout plans, and by conducting separate site inspections instead of a joint site inspection.◆ FEHD is expected to issue Letter of Requirements (L/R) for both full and provisional licences within 26 working days from the date of receiving application.◆ FEHD should charge an application fee and a review fee for change of layouts.	<p>The Administration accepts the recommendation and goes further to shorten the processing time from 26 working days to 20 working days. A flow chart incorporating the Consultant's recommendations is at Annex III. It will be implemented in two phases:-</p> <p>(a) First phase:-FEHD will issue L/R for provisional licences within 20 working days. This will be implemented in June 2000.</p> <p>(b) Second phase:- FEHD will issue L/R for full licence within <u>20 working days</u> after codifying health requirements and generating L/R by computers. This will be implemented by end 2000/early 2001.</p> <p>FEHD will examine the charging of application/review fee in the coming fees and charges alignment exercise.</p>

Fast Track (Flow chart at Appendix B)

- ◆ Applicants to obtain a licence within the same day of application on production of the "fit for purpose" certificate and 4 certificates of compliance from recognized professionals.
- ◆ To facilitate its implementation, BD and FSD will have to establish an administrative system to register the "fit for purpose" certificate.
- ◆ The fast track process is recommended to be implemented in two phases. In the first phase, FEHD is to issue a **provisional licence** to the applicant upon production of valid certification. After successful implementation of the first phase and upon amendments of relevant legislation, the Consultant recommends FEHD issue a **full licence** to the applicant upon production of valid certification.

The Administration accepts the recommendation as an improvement measure in the longer term. The fast track process will be implemented in two phases :-

- (a) The first phase will be implemented within 12 months from June 2000 allowing sufficient lead time for :-
- ◆ BD and FSD to seek additional resources, e.g. staff and IT support to implement the "fit for purpose" certification scheme.
 - ◆ FSD to amend the FSD (Reports and Certificates) Regulations in order to enable the Director of Fire Services to issue the certificate and to charge the applicant for the service.
 - ◆ FEHD to put in place a new accounting system to allow for the issue of licences over the counter.
- (b) The second phase will be implemented upon successful implementation of the first phase, amendments to the Food Business Regulation and evaluation of the performance of recognized professionals as suggested by the Consultant.

<p>(b) FEHD to use "case manager" to improve co-ordination between licensing bodies and provide more support to applicants.</p>	<p>FEHD accepts the recommendation. A "Case Manager" scheme has been implemented since April 2000. An officer at the rank of Senior Health Inspector is assigned as the case manager of each application and acts as a coordinator between the applicant and the departments concerned. The case manager is required to take a proactive approach in assisting the applicants.</p>
<p>(c) FEHD to provide more support to applicants through, e.g. proper guidance on the roles of related parties and interpretation of licensing requirements.</p>	<p>FEHD accepts the recommendation and has already placed user-friendly and technically updated guidelines on the department's website since 1 January this year. Seminars with speakers from departments concerned are conducted on a bi-monthly basis to help potential restaurateurs understand licensing requirements.</p> <p>In addition, a working group comprising members from core departments, i.e. FEHD, BD and FSD has been formed to draw up proposals and the implementation plan for setting up a resource centre to provide assistance and advice to potential applicants. Videos, photos, reference material, etc to assist applicants in understanding the licensing criteria and procedures will be made available at the centre. Photos of typical cases posing problems to restaurant licensing, e.g. unauthorized building works, will also be displayed.</p>

<p>(d) FEHD to automate generation of L/R through implementing an automatic workflow based on Local Area Network.</p>	<p>FEHD accepts the recommendation. Work is underway with a view to codifying health requirements and generating L/R by computers. The computerization project is expected to be completed by the end of this year subject to funds available.</p>
<p>II. Building Plan Retrieval Process</p> <p>(a) BD to implement short term measures such as establishment of a database to centrally maintain building information, assignment of dedicated staff to dispatch building plans and provision of office space for applicants to view building plans.</p>	<p>BD accepts the recommendation and has already implemented the following measures :-</p> <p>(a) Since October 1999, BD has provided additional accommodation for plan viewing and additional staff to handle requests for building plan retrieval.</p> <p>(b) With effect from November 1999, requests for plan viewing in connection with restaurant licensing have been processed within a new target of 14 days (instead of the previous average of 30 days). The time required will be further shortened to four working days by June this year.</p> <p>(c) Since August 1999, the Record Management Office has put into effect an arrangement to deliver requested file to BD direct within three working days. Therefore there is no further need to assign dedicated staff and vehicle for file collection from the Record</p>

	<p>Office.</p> <p>BD is also contemplating the establishment of a geographical information system (GIS) to link up the new information system of Lands Department and the old information in BD files. A feasibility study on the GIS will commence in mid-2000.</p>
(b) BD to implement long term measures to expedite the building plan retrieval process by converting all building plans into electronic format.	BD is actively studying the recommendation in BSPU's feasibility study and will conduct a pilot project in one district to test the idea prior to implementation.
<p>III. Enforcement Procedures</p> <p>(a) FEHD to clarify ambiguous criteria under the Demerit Points System (DPS).</p> <p>(b) Criteria for Selective Inspection System (SIS) to be consistent with those used for DPS.</p> <p>(c) FEHD to review frequency of SIS.</p>	FEHD accepts the recommendations and will review the criteria for the DPS and SIS, and the frequency of SIS. The review is expected to be completed by the end of this year.
<p>IV. Licensing Requirements</p> <p>FEHD and EPD to reconcile the inconsistent requirement on discharge of exhaust air.</p>	FEHD and EPD have considered the recommendation. EPD's 5m requirement might be applicable to certain food processes e.g. deep frying or roasting while the FEHD's 2.5m requirement could be applied

	to general applications. FEHD and EPD will conduct further discussions to formulate guidelines for applicants.
<p>V. Liquor Licences</p> <p>(a) To control the location through inspection and survey by Liquor Licensing Board (LLB).</p> <p>(b) To control eligibility by restricting certain unsuitable persons from obtaining liquor licences.</p> <p>(c) To control over renewal of licence by introducing a demerit points system and a mandatory server training programme.</p>	<p>The majority of the recommendations, except the demerit points system, is already in place in the existing liquor licensing system. The Consultant's recommendations will be referred to the LLB for its consideration.</p>
<p>VI. Club Licences</p> <p>To subject eating and drinking clubs to same hygiene requirements as restaurants.</p>	<p>HAD does not license clubs but is empowered under the Clubs (Safety of Premises) Ordinance to issue Certificate of Compliance in respect of building and fire safety. Clubs providing food and drinks, though exempted under the Food Business Regulation from licensing requirements, are subject to regular inspections by FEHD staff who will provide proper advice and hygiene guidelines to the operators. The Administration considers that the present control mechanism over these clubs is generally adequate. FEHD will keep this under review.</p>

<p>VII. Light Refreshment Restaurant Licences</p> <p>FEHD to regularly review the definition of light refreshment restaurants (LRR).</p>	<p>In December 1999, BSPU engaged PricewaterhouseCoopers to conduct a study on this subject. The Consultant delivered a final report in April. The main recommendation is to remove the restriction on food items for LRR and to establish a qualifying criterion based on the total heat generation. FEHD has studied the recommendations and is drawing up an action plan and aims to complete the task by end of July.</p>
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<p>Consultant's Recommended Implementation Schedule</p>	<p>Administration's Action Plan</p>
<p>The Consultant's recommended implementation tasks and schedule are at Appendix C</p>	<p>An inter-departmental working group chaired by DFEH has been set up to oversee the implementation of the above- mentioned tasks and monitor the progress.</p>

Recommendations of the consultancy study on streamlining the licensing system for non-restaurant food premises

(a) Simplifying the Licensing System

- (i) To combine the eight different types of licences into two generic groups: “manufacturing” and “manufacturing/retailing”, thereby allowing food premises with multiple lines to operate under one single licence (e.g. one “manufacturing/retailing” licence to cover the fresh provision shop, bakery, food factory and siu mei and lo mei shop licences for a supermarket); and
- (ii) To standardize and simplify the existing licensing requirements and conditions (e.g. elimination of outdated or duplicated requirements).

(b) Streamlining the Application and Renewal Process

- (i) To charge an application fee which amounted to about 50% of the full cost for issuing a license upon receiving an application (instead of charging the full amount upon issuing a licence) and to improve training for FEHD licensing staff so as to reduce the number of unsuccessful/abandoned/withdrawn cases;
- (ii) To require an accurate “as-built” plan (finalized plan) to be submitted only when construction works was completed, thereby reducing frequent submission of revised plans during the application process without compromising critical licensing requirements;
- (iii) To improve the co-ordination among various Government departments and parties involved regarding application submission and vetting, site inspection, payment procedures and inter-departmental referral process with a view to further cutting the average response time; and
- (iv) To enhance application status monitoring system by using computer systems to facilitate applicants and Government departments to keep track of application process.

(c) Rationalizing Enforcement Activities

- (i) To revise and improve the current demerit points system to give more incentives for the food establishments to improve their hygiene conditions; and
- (ii) To implement a risk-based inspection system to ensure that food establishments with the highest health risk (e.g. the manufacturing of sushi and sashimi) would be subject to more inspections.

Appendix III

Relevant Papers/Documents

<u>Meeting</u>	<u>Meeting Date</u>	<u>Papers/Motion Passed/Council Question</u>
Legislative Council	9 October 2002	Motion on “Solving the problem of unemployment” moved by Hon TAM Yiu-chung
	19 May 2004	Oral question on “Measures to facilitate the conduct of business” raised by Hon James TIEN Pei-chun
Subcommittee on matters relating to environmental hygiene under the Panel on Environmental Affairs	30 May 2000	Administration's paper [LC Paper No. CB(2) 2107/99-00(01)] Minutes of meeting [LC Paper No. CB(2) 2622/99-00]
LegCo Members' Meeting-cum-Luncheon with Wan Chai District Council members	5 July 2001	Information note provided by the Administration [LC Paper No. CB(2) 1629/01-02(01)] Extract of the minutes of meeting [LC Paper No. CB(2) 1629/01-02(02)]
Panel on Home Affairs	13 June 2003	Administration's paper [LC Paper No. CB(2) 2742/02-03(01)] Minutes of meeting [LC Paper No. CB(2) 3067/02-03]
Panel on Food Safety and Environmental Hygiene	26 March 2001	Administration's paper [LC Paper No. CB(2) 1148/00-01(05)] Minutes of meeting [LC Paper No. CB(2) 1567/00-01]
	18 June 2001	Administration's paper [LC Paper No. CB(2) 1846/00-01(03)] Minutes of meeting [LC Paper No. CB(2) 332/01-02]

	22 April 2002	Administration's paper [LC Paper No. CB(2) 1615/01-02(03)] Background information paper prepared by the LegCo Secretariat [LC Paper No. CB(2) 1615/01-02(04)] Minutes of meeting [LC Paper No. CB(2) 2030/01-02]
	15 July 2002	Administration's paper [LC Paper No. CB(2) 2532/01-02(06)] Minutes of meeting [LC Paper No. CB(2) 2863/01-02]
	25 February 2003	Minutes of meeting [LC Paper No. CB(2) 1513/02-03]
	18 December 2003	Administration's paper [LC Paper No. CB(2) 667/03-04(03)] Minutes of meeting [LC Paper No. CB(2) 1261/03-04]
	14 December 2004	Administration's paper [LC Paper No. CB(2) 362/04-05(03)] Background brief prepared by the LegCo Secretariat [LC Paper No. CB(2) 362/04-05(04)] Minutes of meeting [LC Paper No. CB(2) 564/04-05]