

**For discussion
on 2 March 2005**

**LegCo Subcommittee
to Study the Streamlining of Food Business Licensing**

**Existing Food Business Licensing Procedures and
Measures Taken/to be Taken to Streamline the Licensing System**

Purpose

This paper informs Members of the existing licensing procedures for different types of food business and reports progress on the implementation of the recommendations in the two consultancy studies conducted in 1998 and 2000 on streamlining of restaurant and non-restaurant licensing respectively. The paper also sets out a number of improvement measures to be introduced by the Administration.

Background

2. Under the Food Business Regulation (Cap. 132X), a food business licence is required for trades or businesses engaging in manufacturing, storage, sale or preparation of food for human consumption. The Food and Environmental Hygiene Department (FEHD) co-ordinates and works together with the Buildings Department (BD), Fire Services Department (FSD) and other departments as necessary to process licence applications. Licences are issued when applicants have complied with all the licensing requirements mainly concerning health/hygiene, building, fire safety and ventilation.

3. To address the concerns of the food trade over the time required for granting a restaurant licence, the Business and Services Promotion Unit of the then Commerce and Industry Bureau commissioned PricewaterhouseCoopers in December 1998 to conduct a study with a view to revamping the restaurant licensing system and expediting the licensing process. In September 2000, KPMG

Consulting Asia Limited was commissioned to conduct another study to streamline the procedures and shorten the time for licensing of non-restaurant food premises. Both consultancy firms proposed recommendations for improvements. Follow-up actions taken by the Administration in response are set out in paragraphs 8 to 10.

Licensing Procedures

4. Food business licences can be grouped under two main categories, namely restaurant licences and non-restaurant food licences. Restaurant licences include general restaurant licence and light refreshment restaurant licence while non-restaurant food licences include bakery, cold store, factory canteen, food factory, fresh provision shop, frozen confection factory, milk factory and siu mei/lo mei shop.

Restaurant Licence

5. Under the existing licensing system for general restaurant and light refreshment restaurant, FEHD takes about 3 working days for preliminary screening of submitted plans and sending acceptable ones to BD and FSD for processing in parallel. BD and FSD require up to 17 working days for site inspections and providing comments on the plans to FEHD. On or before the 20th working day, staff of the three departments will jointly conduct an Application Vetting Panel (AVP) meeting to explain to the applicant details about the application. A Letter of Requirements for provisional licence and full licence will be handed to the applicant at the AVP meeting.

6. FEHD has pledged to issue a provisional licence within 1 working day upon receipt of the certificates of compliance on health/hygiene, building and fire safety, and ventilation certified by private sector professionals from the applicant. In other words, the shortest possible time for an applicant to be granted a provisional licence for restaurant is 21 working days. A flow chart showing the licensing procedures for processing restaurant licence is at **Annex I**. The same procedures also apply to factory canteen and cold store. In practice, the time for issue of a provisional/full restaurant licence depends primarily on

the time required by the applicant to meet the licensing requirements.

Non-restaurant Food Business Licence

7. Similar to restaurant licensing, FEHD takes about 3 working days for preliminary screening of layout plans and where necessary sending the acceptable ones to BD and FSD for processing in parallel. FEHD takes normally another 4 days to arrange for site inspection and BD and FSD require up to 24 working days to provide comments to FEHD. Upon receipt of no-objection replies from the two departments, FEHD will issue a Letter of Requirements in 3 working days. FEHD has pledged to issue a provisional licence within 1 working day to the applicant on receipt of the requisite certificates of compliance by private sector professionals. The shortest possible time for an applicant to be granted a provisional licence for non-restaurant food business can vary from 11 to 31 working days, depending on whether referrals to FSD and BD are necessary. This is because non-restaurant food business licence covers a wide range of food businesses, from convenience/fast food shops to large food factories supplying food on a wholesale basis or to restaurants. For example, for food factory licence, referrals to FSD for premises smaller than 100 sq metres and not using 'open fire' or 'deep frying', and referrals to BD for those with no major alteration works involved are not necessary. A flow chart showing the licensing procedures for processing non-restaurant licence is at **Annex II** (except for factory canteen and cold store, which follow the procedures at Annex I). The actual time in practice for the issue of a provisional/full non-restaurant food licence depends primarily on the time required by the applicant to comply with the licensing requirements.

Follow-up on Recommendations of Consultancy Studies

8. The PricewaterhouseCoopers consultancy report on restaurant licensing in January 2000 set out four major recommendations-

- (a) introducing a new licensing system which provides for a fast track process and a normal track process for licence applications;

- (b) introducing a Case Manager system to improve coordination between relevant departments and the applicant;
- (c) rendering more assistance to applicants to provide a more user-friendly service; and
- (d) fast retrieval of building plans in order to shorten the processing time of licence applications.

Details of the recommendations and the Administration's follow-up actions are set out in **Annex III**.

9. The KPMG consultancy report on non-restaurant licensing in May 2001 set out 24 recommendations in three broad areas-

- (a) simplifying the licensing system;
- (b) streamlining the application and renewal process; and
- (c) rationalizing enforcement activities.

10. Out of the 24 recommendations, 8 have been completed, 4 have not been adopted and 12 are being pursued. Out of the 12 recommendations being pursued, 5 will be completed in the first half of 2005, 1 will be completed upon amendment of legislation, 3 are under review and the preparation work of the remaining 3 is in progress for further consultation with the Legislative Council/trade. Details are at **Annex IV**.

Improvement Measures

Licensing Management Information System

11. A Licensing Management Information System (LMIS) will be launched by FEHD in May 2005. Following its implementation, we expect to bring forth improvement in the following areas-

- (a) more efficient utilization of manpower resources;
- (b) enhanced efficiency in the communication process with other government departments and the applicants;
- (c) creation of an integrated tracking database for continual monitoring of application status within the department; and
- (d) provision of e-option for payment for renewal of licences.

Hazard Analysis and Critical Control Point (HACCP)

12. FEHD is at present looking into the feasibility of implementing an HACCP inspection scheme for food premises on a voluntary basis. Food premises joining the scheme will be excluded from the risk-based inspection regime and subject to less frequency of inspection.

Land Lease and Outline Zoning Plan (OZP)

13. Compliance with land lease conditions and OZP restrictions are not required under the present licensing regime. Arising from a dispute between a restaurant licence applicant and nearby residents, the Ombudsman recommends that FEHD should only issue a food business licence to an applicant if the premises under application do not violate any land lease conditions and OZP restrictions. FEHD is considering the Ombudsman's recommendation in conjunction with the relevant departments including the Lands Department and Planning Department, and will consult the trade on the proposal once ready.

Not Issuing New Licences nor Permitting Transfer of Licence for Premises with Unauthorized Buildings Works (UBWs)

14. We obtained agreement in principle from the Panel on Food Safety and Environmental Hygiene at its meeting on 18 December 2003 on the proposal not to issue new licences or to permit transfer of existing licences if UBWs are found attached to or extended from the premises

under application. A licence will only be issued or transfer of licence allowed if an application can be supported by certification from an authorized person that the premises under application are free from UBWs. FEHD consulted the authorized persons on a set of draft guidelines in October 2004 and will consult the trade on the proposal soon.

Disallowing Transfer of Licence with Outstanding Demerit Points and Licensee to be Registered with Demerit Points for Hygiene Misconduct of Employees

15. The first proposal is to disallow the transfer of a licence if the premises concerned have outstanding demerit points unless the transferee is willing to take over all the demerit points and penalties incurred by the transferer. This is to plug the loophole to avoid suspension/cancellation of licence as a result of accumulation of sufficient number of demerit points by transferring the licence to a different operator. The second proposal is to hold the licensees responsible for the operation of their licensed premises including ensuring that their staff do not commit hygiene offences which cause problems for the community. FEHD will consult the trade on the details of the proposals in due course.

Deterrence of Abortive Applications

16. FEHD has recorded a large number of abandoned and withdrawn applications each year (1,425 cases in 2003 and 1,510 cases in 2004). Such applications result in a waste of valuable staff resources which should be used on applicants with genuine intention to apply for a full licence. To address this problem, FEHD will consider the feasibility of cost recovery for abandoned or withdrawn applications in the context of the fees and charges review which is in progress.

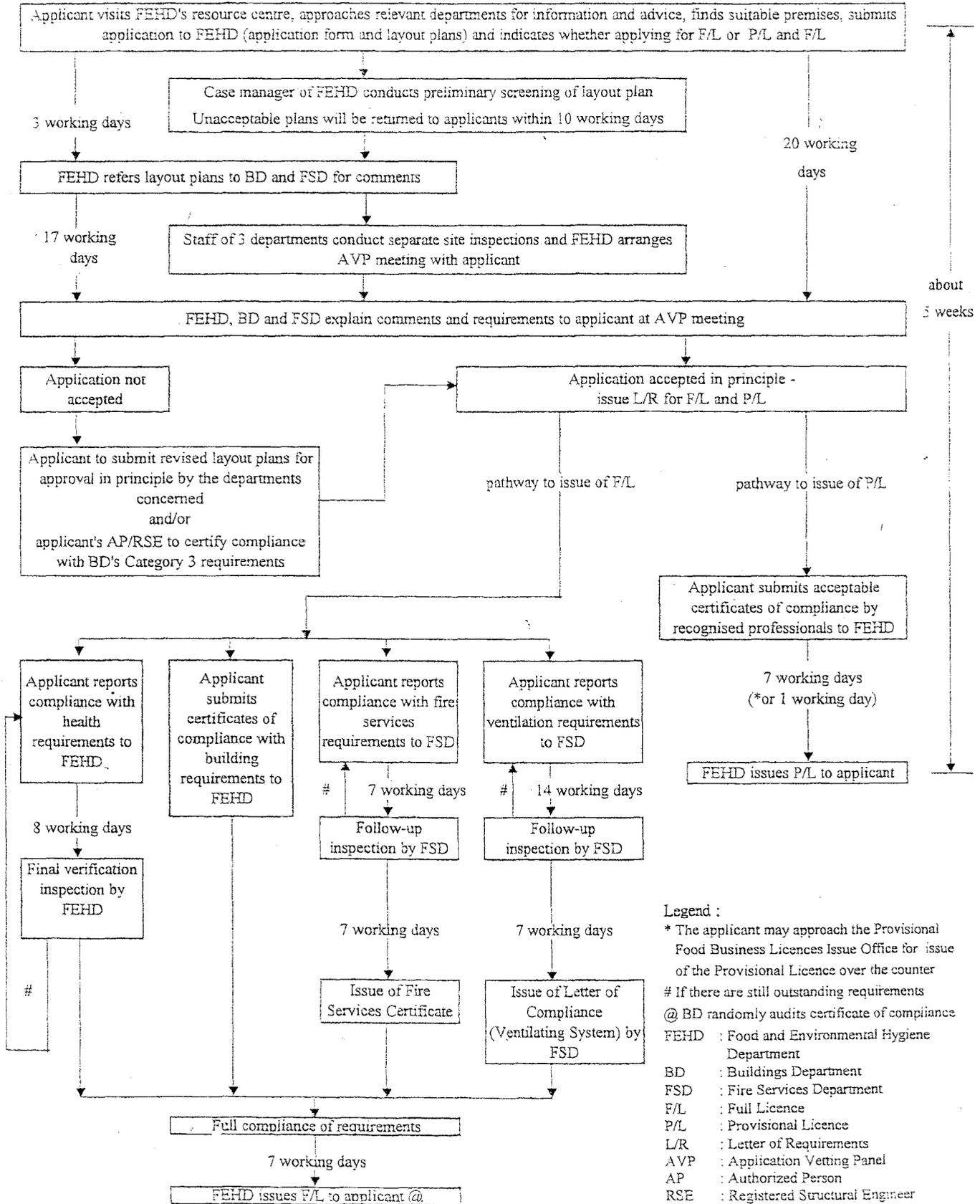
Advice Sought

17. Members are requested to note the existing licensing procedures for restaurants and non-restaurant food businesses and the

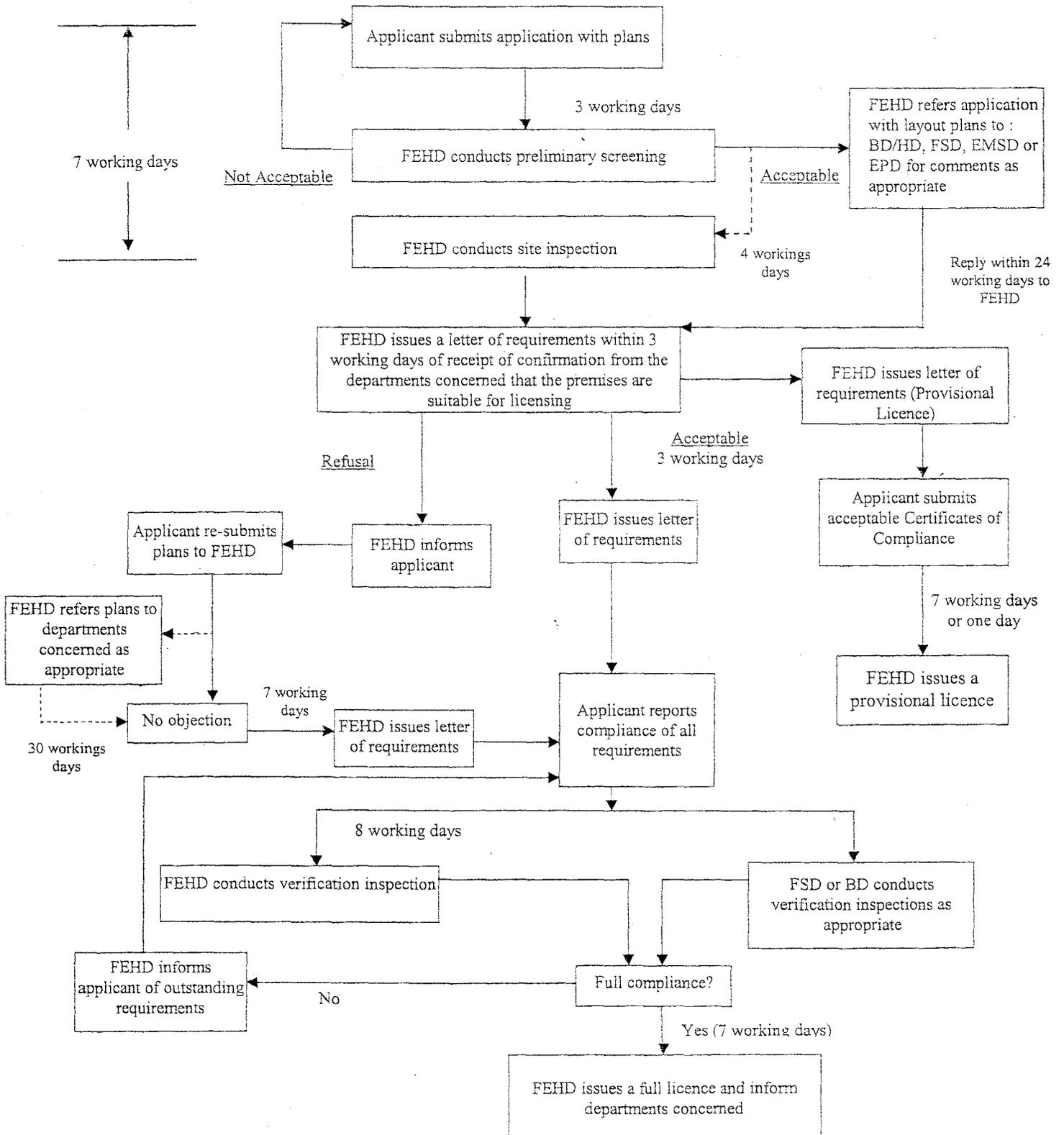
progress made in implementing a number of recommendations as set out in two consultancy studies conducted in 1998 and 2000 respectively. Members' views are invited on the improvement measures to be introduced as set out in paragraphs 11 to 16.

Food and Environmental Hygiene Department
February 2005

FLOW CHART SHOWING RESTAURANT LICENSING PROCEDURES



Flow Chart for Processing of
Application For Food Factory, Milk Factory
Fresh Provision Shop, Siu Mei & Lo Mei
Shop and Frozen Confection Factory Licence



Restaurant Licensing

Consultant's Recommendation	Progress of Implementation Work
<p>I. Licensing Process</p> <p>(a) To introduce a new licensing system which provides applicants with two options-</p> <p>Normal Track</p> <p>A streamlined version of the current process:</p> <p>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.</p> <p>FEHD should charge an application fee and a review fee for change of layouts.</p> <p>Fast Track</p> <p>Provide an option for the applicant to apply for an instant licence under Fast Track</p>	<p>FEHD has shortened the processing time for issuing a L/R from 26 to 20 working days for provisional licence since June 2000, and for full restaurant licence since November 2001.</p> <p>A review of licence fees is being conducted by this department. This item will be considered.</p> <p>The trade did not favour this option given the cost implications. They also found the arrangement of fitting out works before applying for a licence risky.</p>
<p>(b) FEHD to use "case manager" to improve co-ordination between licensing bodies and provide more support to applicants.</p>	<p>A "case manager" scheme has been implemented since April 2000.</p>
<p>(c) FEHD to provide more</p>	<p>User-friendly and technically</p>

<p>support to applicants through, e.g. proper guidance on the roles of related parties and interpretation of licensing requirements.</p>	<p>up-dated guidelines for application has been uploaded on FEHD's website since January 2000 in addition to the distribution of hard copies. Furthermore, a Restaurant Licensing Resource Centre providing assistance and up-to-date licensing-related information to applicants was set up in October 2000. Seminars with speakers from departments concerned are conducted on a bi-monthly basis to help potential restaurateurs understand licensing requirements.</p>
<p>(d) FEHD to automate generation of L/R through implementing an automatic workflow based on Local Area Network.</p>	<p>Fully implemented in November 2001 when L/R for both full and provisional restaurant licences were issued within 20 working days.</p>
<p>II. Building Plan Retrieval Process</p> <p>(a) BD to implement short term measures to reduce plan retrieval time from 28 days to less than 15 calendar days. Such measures include establishment of a database to centrally maintain building information, assignment of dedicated staff to despatch building plans and provision of office space for applicants to view building plans.</p>	<p>BD has shortened the target retrieval time for plan reviewing requests related to licence applications from 30 days to 4 working days since April 2000.</p>
<p>(b) BD to implement long term measures to expedite the building plan retrieval process by converting all building plans into electronic format.</p>	<p>BD has installed a computerized Building Records Management System to offer instant inspection services of building records of Mongkok, Yau Tsim Districts and the entire Hong Kong Island to public. The coverage will be extended to the rest of the Kowloon districts and the</p>

	<p>New Territories in the third quarter of 2005 and early 2006 respectively. Furthermore, a Web-based Retrieval of Building Records System is being developed which can enable BD to offer round the clock inspection service of building records through the internet.</p>
<p>III. Enforcement Procedures</p> <p>FEHD to clarify ambiguous criteria under the Demerit Points System (DPS).</p> <p>Criteria for Selective Inspection System (SIS) to be consistent with those used for DPS.</p> <p>FEHD to review frequency of SIS.</p>	<p>FEHD plans to submit proposals to LegCo Panel for discussion in mid 2005.</p> <p>SIS has been replaced by a risk-based inspection programme. All food premises are classified into high, medium and low risk subject to inspection frequency of 4, 8 and 12 weeks respectively.</p>
<p>IV. Licensing Requirements</p> <p>FEHD and EPD to reconcile the inconsistent requirement on discharge of exhaust air.</p>	<p>FEHD requires exhaust air from kitchen metal hood connected to food cooking equipment to be discharged to open air at a height of at least 2.5 metres above ground level. According to EPD's guidelines, exhaust air from kitchen metal hood connected to food cooking equipment to be discharged to open air should be at a height of 5 metres above ground level. Variation from this 5-metre rule will be considered only on individual case's merit but in no case should it be less than 2.5 metres above ground.</p>

<p>V. Liquor Licences</p> <p>To control the location through inspection and survey by Liquor Licensing Board (LLB).</p> <p>To control eligibility by restricting certain unsuitable persons from obtaining liquor licences.</p> <p>To control over renewal of licence by introducing a demerit points system and a mandatory server training programme.</p>	<p>At the special meeting on 6 December 2000, the LLB considered that the existing licensing arrangements/criteria were suitable, and did not accept the 3 recommendations.</p>
<p>VI. Club Licences</p> <p>To subject eating and drinking clubs to same hygiene requirements as restaurants.</p>	<p>HAB will take care of the building and fire safety aspects under the Clubs (Safety of Premises) Ordinance while FEHD will look after the hygiene and food safety aspects.</p>
<p>VII. Light Refreshment Restaurant Licences</p> <p>FEHD to regularly review the definition of light refreshment restaurants (LRR).</p>	<p>The consultant recommends FEHD to remove the restriction on food items and use total heat generation value (of 50 KW) as the sole criterion for classifying LRR. The trade was subsequently consulted and FEHD solicited the support of the trade to revamp the LRR regime in a meeting in January 2002. Thereafter, FEHD expanded the list of food items for the five groups of LRRs, and added a new group for selling one specialty. The proposal has been implemented since June 2002.</p>

Non-restaurant Licensing

Consultant's Recommendation	Progress of Implementation Work
(A) Recommendations completed	
No. 1 Review supermarket cold storage area loading requirements	Revised floor loading requirement (a minimum of 15 kPa relaxed to 5 kPa for each metre of storage height) was incorporated into the respective guides to application for licences in November 2001.
No. 2 Improve co-ordination between departments and agencies involved in the regulation of food premises	Courier service has been used in delivering referrals of applications to BD and FSD since September 2001. Referrals to BD and FSD are enclosed with layout plans of large size, which could only be done by hand delivery.
No. 3 Reduce reiteration of layout plans during application process	FEHD worked out with BD and FSD a list of scenarios that warranted re-submission of layout plans. Guidelines to applicants and staff were issued. No re-submission of layout plan is required until completion of works unless there are major changes.
No. 4 Improve training of FEHD licensing staff and food workers	On-going training programmes for licensing staff have been launched since December 2001. Staff members are kept abreast of current licensing issues to give more precise advice to applicants/ licensees. Training courses for hygiene supervisors have been provided. The attendees for hygiene supervisor courses are assessed on the knowledge gained

	before awarding certificates. This enhances the knowledge of food handlers in food safety and for adoption of good food hygiene practices.
No. 5 Target inspection to areas of greatest risk	New inspection arrangement started in early 2003. The new inspection frequency of food establishments is classified as Type I, Type II and Type III according to the potential risk factors. Inspection will be carried out at intervals of 12, 8 and 4 weeks respectively. This new system is more comprehensive, thorough and cost-effective as more resources are allocated to inspection of high-risk premises.
No. 6 Allow reasonable care as a defence in court actions	Reasonable care has already been accepted as a defence in court case. There are existing provisions in law which allow “reasonable care” to be used as defence in respect of food safety and hygiene at food premises.
No. 7 Replace the approved equipment supplier lists with a code of practice	The approval regime for most of the food service equipment has been removed. Approval for food service equipment that is required by law such as utensil washing machine is still needed. The code of practice for food service equipment like barbecue machine and non-bottled drink dispensing machine was issued in December 2003.
No. 8 Improve BD and FSD internal work methods	The streamlined building safety procedures have been put on trial in industrial buildings since

	January 2003. The scheme has been put into practice since October 2003.
(B) Recommendations being pursued	
No. 1 Revise the current system of demerit points	FEHD plans to submit proposals to LegCo Panel for discussion in mid 2005.
No. 2 Standardise and simplify the duplicated and outdated licensing requirements under different licences	FEHD plans to submit proposals to LegCo Panel for discussion in mid 2005.
No. 3 Change the scope and classification system for food licences	Legal advice on the proposed provision of a generic licence for food premises with multiple product lines was sought and Department of Justice pointed out that partial suspension of the licence is not legally workable.
No. 4 Remove less risky food from the current permit system	FEHD has completed a review and proposed to remove a food item Man Tau Lo from the current permit system. Amendment to legislation is necessary according to the priority of the legislative programme.
No. 5 Non-recovery of monitoring cost	The fees and charges review is in progress. It remains our goal to fully recover cost of delivering the service through the fees/charges as instructed by the Financial Services and the Treasury Bureau. Cost recovery for abandoned or withdrawn applications would be considered in the review.
No. 6 Adopt practices to support departmental objective of cost recovery	
No. 7 Reduce number of abandoned or withdrawn applications	

No. 8 Eliminate unnecessary steps in the opening of new files	The setting of up of the Licensing Management Information System in FEHD is expected to be completed in May 2005. The new system will bring about improvement to issues raised in Nos. 8 – 12.
No. 9 Streamline communication process with external parties	
No. 10 Enhance application status monitoring system	
No. 11 Improve inter-departmental referral process	
No. 12 Improve work mechanism in application submission and vetting, site inspection and payment	
(C) Recommendations not pursued	
No. 1 Change treatment of factory canteens and cold stores	It is not feasible to categorise factory canteens under the restaurant licensing system due to land use restriction and fire safety reason. The de-licensing of cold store is not supported as the licensing of such premises is to ensure that food is kept properly at appropriate temperature pending sale, especially food with high risk, as well as to achieve effective regulation of imported food.
No. 2 Provide an option for the applicant to apply for an instant provisional licence	The trade did not favour this option given the cost implications. They also found the arrangement of fitting out works before applying for a licence risky.
No. 3 Investigate scope for outsourcing the licensing process	Given the law enforcement requirements, it is not acceptable in principle to outsource the licensing process to the private

	sectors.
No. 4 Allow the option of licensing by food safety plan	<p>A working group on promoting Hazard Analysis and Critical Control Point (HACCP) practice in food trade was formed in August 2002 to examine the pros and cons of various options of HACCP-based inspection regime. FEHD concluded that the option of licensing by food safety plan is not feasible as the premises still have to be regulated to address fire and building safety concerns. FEHD at present is looking into the feasibility of implementing an HACCP inspection scheme for food premises on a voluntary basis. Food premises joining the scheme will be excluded from the risk-based inspection regime and subject to less frequency of inspection under the HACCP scheme.</p>