

**For discussion
On 14 June 2005**

LegCo Panel on Food Safety and Environmental Hygiene

**Policy on
Fixed-Pitch (Cooked Food or Light Refreshment) Hawker Licences
Issued for On-Street Cooked Food Stalls**

PURPOSE

This paper briefs members on the existing policy for renewal/succession/transfer of fixed-pitch (cooked food or light refreshment) hawker licences issued for on-street cooked food stalls (CFSs).

BACKGROUND

2. While on-street CFSs operating under fixed-pitch (cooked food or light refreshment) hawker licences have a long history in Hong Kong, there have been complaints from residents against environmental nuisances caused by these CFSs, such as excessive noise levels; cooking fumes; soiling of buildings; blocking of underground drains with grease, oil and waste water; and obstruction to pedestrians and vehicles. Furthermore, given the environment under which these CFSs operate, there has also been concern for the food safety standards. In response to community demand for appropriate control and also for overall containment of hawkers, the former Urban Council (UC) passed a resolution in 1973 to cease to issue any new hawker licences, including CFS hawker licence.

3. To expedite the phasing out of CFSs, the former UC introduced an ex-gratia payment (EGP) scheme in 1983 to encourage the voluntary surrender of CFS hawker licences. Under the UC scheme, urban CFS licensees would be given an EGP upon surrender of their licences. While the former Regional Council did not adopt similar practice in the New Territories, with the endorsement of the Legislative Council Panel on Food Safety and Environmental Hygiene, the EGP scheme was extended to the New Territories in 2002. A licensed CFS hawker may surrender the licence for cancellation in exchange for a one-off EGP of \$60,000 from 1 December 2002 to 30 November 2007 inclusive.

This arrangement does not apply to CFSs in public housing estates¹. Since then and as at 30 April 2005, 21 CFS licensees have surrendered their licences for EGP.

4. Besides the EGP scheme, the two former Municipal Councils (MCs) have built a number of off-street cooked food hawker bazaars and provided accommodation for CFSs in the new markets. The objective was to facilitate the removal of the on-street CFSs to off-street sites. From the environmental and food hygiene angle, it was far easier to control standards in off-street facilities. At present, there are 103 off-street CFS licensees operating in 13 hawker bazaars, excluding those in public housing estates. Only 29 licensed CFSs remain on the street (28 in the urban area and one in the New Territories).

EXISTING POLICY FOR RENEWAL/SUCCESSION/TRANSFER

5. The aim of the former MCs' hawker policies was to seek a gradual reduction in street trading as circumstances permit. Our existing policy on renewal/succession/transfer of fixed pitch (cooked food or light refreshment) hawker licences for on-street CFSs as set out in the following paragraphs represents a continuation of the policies of the two former MCs.

Renewal

6. Similar to other types of hawker licences, existing on-street CFS licensees may in normal circumstances have their licences renewed annually on or before the expiry date.

Succession and Transfer

7. Under the Hawker Regulation (Cap. 132 sub. leg.), except with the consent in writing of the Director of Food and Environmental Hygiene (DFEH), no hawker shall transfer his licence to any other person and a licence is deemed to be cancelled on the death of the licensee. Our existing policy regarding succession and transfer of on-street CFS licences is as follows -

- (i) An on-street CFS licence could only be succeeded by the spouse of a late licensee, provided that the spouse agrees to operate the stall personally; and

¹ The Food and Environmental Hygiene Department continues to issue fixed pitch (cooked food or light refreshment) hawker licences to tenants of purpose-built cooked food kiosks inside public housing estates.

- (ii) In the case of an application for transfer of an on-street CFS licence to the spouse, the licensee must provide justifications acceptable to DFEH (e.g. old age or ill health).

PRESENT POSITION

8. We do not intend to revise the existing policy on on-street CFS licences because -

- (a) The rationale underlying the hawker policies adopted by the two former MCs remain valid. Because of the many physical constraints CFSs face, they may give rise to many environmental problems to nearby residents and there is cause for concern for food safety;
- (b) In the past year (from 1 May 2004 to 30 April 2005), we received 38 complaints against nuisances created by on-street CFSs and issued 222 summonses. In other words, the problems described in paragraph 2 above persist; and
- (c) We need to implement the policy of gradual reduction of CFS licences in a fair and consistent manner. Many on-street CFSs have been resited over the years into off-street public cooked food bazaars or public markets as a result of redevelopment or resiting exercises for environmental improvement. Other CFS operators have on their own accord moved their business to private premises or surrender their licences under the EGP scheme on a voluntary basis. DFEH has so far not exercised his discretionary power to grant approval for succession or transfer of an on-street CFS licence to a person other than the spouse of the licensee.

RECENT CASE OF AN ON-STREET COOKED FOOD STALL

9. The licensee of an on-street CFS (subject stall) passed away in early May 2005. As explained in paragraph 7, legally the licence is deemed to be cancelled on the death of the licensee. According to information provided, the late licensee did not have a surviving spouse. Under the existing policy, the operator of the subject CFS should wind up business and vacate the pitch as soon as possible.

10. There has been some public concern and press interest about the requirement for the subject stall to cease business upon the death of the

licensee. Views have been expressed that CFSs have historical value and form part of the Hong Kong heritage; they are conducive to the promotion of tourism and that DFEH should give special consideration to this case.

11. We have carefully considered the case and found that there are no justifications to support a departure from the existing hawker policy.

12. Our staff have explained clearly to the relative of the late licensee/operator of the subject stall that under existing hawker policy, they are not eligible for succession to the licence. To facilitate them to continue business in an off-street site, we have provided a list of vacant stalls in public cooked food centers nearby. Should they opt to continue business in private premises, we have offered to provide assistance as far as possible in their application for a restaurant licence.

ADVICE SOUGHT

13. Members are invited to take note of our existing policy on on-street CFS licences as set out in the paper.

Health, Welfare and Food Bureau
Food and Environmental Hygiene Department
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