

**For discussion
on 14 December 2004**

LegCo Panel on Food Safety and Environmental Hygiene

**Regulatory Control of Food Businesses
Operated under Provisional Licences**

Purpose

This paper briefs Members on the regulatory control of food businesses operated under provisional licences and the proposed additional measures to be taken by the Food and Environmental Hygiene Department (FEHD) against food premises which are operated without licences.

Provisional Licensing System

2. According to the Food Business Regulation (Cap 132 sub. leg.), any person who sells food for consumption on the premises is required to obtain a restaurant licence from FEHD. Depending on the types of food being offered for sale in the premises, the operator may either apply for a general restaurant licence or light refreshment restaurant licence.

3. To facilitate the trade, an applicant can apply for a provisional licence at the same time as he applies for a full licence. The provisional licence is valid for six months only and may be renewed for another six months in exceptional circumstances. The applicant will be allowed to operate on a provisional basis provided that he has complied with the basic requirements on health, ventilation, and building and fire safety. The issue of a provisional licence is based primarily on certifications by Authorized Persons. As far as environmental hygiene requirements are concerned, FEHD will conduct a site inspection to check general compliance with the layout plan submitted by the applicant.

4. During the six month coverage under a provisional licence, the applicant should take steps to comply with the requirements of a full

licence. The time required for issue of a provisional or full licence hinges also on the responsiveness of the applicant in complying with the licensing requirements of FEHD, the Buildings Department (BD) and the Fire Services Department (FSD).

5. In accordance with existing procedures, upon receipt of an application, FEHD will refer the layout plan to BD and FSD for comments. Upon the 20th working day, and if the premises under application are confirmed to be licensable by all departments concerned, FEHD will issue the applicant with a letter specifying the requirements in respect of health, ventilation and building and fire safety. If the departments concerned raise objections to the application, FEHD will notify the applicant to address these issues prior to submission of a revised layout plan. When the applicant submits acceptable certificates of compliance in response to the letter of requirements, FEHD can issue the applicant with a provisional licence within one working day. In other words, the shortest possible time for an applicant to be granted a provisional licence for restaurant is 21 working days. In practice, the time for issue of a provisional licence will also depend on the time required by the applicant to meet the licensing requirements. In 2003, the average time for issue of a provisional licence for restaurant is 42 working days.

6. Premises under a provisional licence are subject to the same inspection regime as premises under a full licence. We adopt a Risk-based Inspection System (RBIS) for licensed food premises. The frequency of inspection is determined by a number of factors including the types of food served; the mode, scale and scope of operation; and previous track records. Under RBIS, there are three risk categories. For premises of low risk, the inspection is once every 12 weeks; for medium risk, once every 8 weeks; and for high risk, once every 4 weeks. Food premises newly issued with a provisional licence are classified as high risk and subject to inspection once every 4 weeks.

Recent Food Poisoning Incident

7. From 24 to 27 November 2004, we received notifications from the Department of Health (DH) of four food poisoning outbreaks related to meals consumed at Shanghai Mian (阿拉麵館) at Shop 7, Level

4, Langham Place (朗豪坊), Mong Kok. A total of 12 victims were involved and they developed symptoms of diarrhea and abdominal pain after having meals at the premises on 23 or 24 November 2004. FEHD staff visited the premises for investigation and control measures. Health advice was given and food samples were taken for bacteriological examination. The restaurant is about 180 m² with seating capacity for about 80 persons. It was issued with a provisional general restaurant licence on 23 November 2004. The premises are still under application for a full restaurant licence.

8. On 28 November 2004, DH notified us of four more cases involving 10 persons. In view of the epidemiological evidence of continuation of food poisoning outbreaks, the Director of Food and Environmental Hygiene (DFEH) ordered closure of the restaurant on that day under section 128C(1) of the Public Health and Municipal Services Ordinance (Cap 132) on grounds of the existence of an immediate health hazard. Subsequently, more persons came forward to report having symptoms of food poisoning after having meals at that food premises. *Vibrio parahaemolyticus* was isolated from the stools of three affected persons and a food sample. The possible cause of the outbreaks awaits further analysis.

9. Langham Place is a new shopping mall with 35 food premises located on different floors. Among the 35 premises, 25 have obtained valid food licences. The remaining 10 are under application for food licences. FEHD has instituted prosecution actions against 11 premises which started business before the issue of licence. FEHD will keep all the premises under application for licence under close scrutiny and take appropriate enforcement actions whenever illegal businesses are detected.

Measures to be Taken and Way Forward

10. FEHD will step up control over food business by taking a number of measures as described below.

Issue of Closure Order

11. By virtue of section 128C(1), DFEH is empowered to close

food premises which pose an immediate health hazard. In the recent food poisoning incident, DFEH exercised his power to close the restaurant concerned in the first instance on 28 November 2004 when there was indication of existence of an immediate health hazard. In future, DFEH will continue to exercise this power in appropriate circumstances and as necessary to protect public health.

First Inspection Within Three to Five Days

12. As explained in paragraph 6, food premises under a provisional licence are classified as high-risk and subject to inspection once every four weeks. To step up control over food premises, we intend to advance the first inspection to within three working days upon the issue of provisional licence for premises selling high-risk ready-to-eat food such as sashimi, sushi, foods to be eaten raw, siu mei and lo mei and buffet type foods; and within five working days for other premises. For premises which do not apply for a provisional licence, we will apply the same early inspection regime upon the issue of a full licence.

Enhancement of Food Safety Supervision

13. To strengthen supervision in food premises, we will impose an additional licensing requirement and condition for both provisional and full licences upon application or renewal through the implementation of a Hygiene Manager and Hygiene Supervisor Scheme.^{Note} We will require all large food premises and those producing and selling high-risk foods to appoint both a Hygiene Manager and a Hygiene Supervisor; and all other food premises to appoint a Hygiene Supervisor. To allow the food trade sufficient time to prepare for this new requirement, we will give a 90-day notice to the existing licensees before implementation. We plan to make the Hygiene Manager and Hygiene Supervisor Scheme a licensing requirement and condition for new applications as from February 2005, and for existing food business as from May 2005.

^{Note} Both Hygiene Manager (HM) and Hygiene Supervisor (HS) are responsible for the food safety and hygiene supervision of licensed food premises and act as focal points of contact with FEHD. HM has to identify key areas of risk in various food operations for early remedial action and provide in-house training to food handlers. HS advises food handlers on the proper handling practices and ensures their observance, and deputizes as HM in his absence. There are 12 academic institutions/vocational training centres offering HM training courses recognized by FEHD. In parallel, FEHD is providing HS training courses for food handlers and operators. Up to November 2004, 5 960 HM and 27 800 HS have undergone the required training.

Suspension of Issue of Licence to Food Premises Operated Without Licence

14. To deter operators from conducting business prior to obtaining a licence, we will consider suspending the issue of a provisional/full licence for a certain period to food premises which are found to have operated without licences upon conviction. We will seek legal advice on this.

Advice Sought

15. Members are invited to comment on the measures set out in paragraphs 11 to 14.

**Health, Welfare and Food Bureau
Food and Environmental Hygiene Department
December 2004**