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**Meeting of Panel on Food Safety and Environmental Hygiene
on 14 December 2004**

Background Brief prepared by Legislative Council Secretariat

**Recent food poisoning incidents and regulatory control over food premises
issued with provisional licences**

Purpose

This paper provides background information on the application procedures for provisional food business licences and the regulatory control over food premises issued with provisional licences. This paper also provides the sequence of events on the recent food poisoning incidents relating to a restaurant in a shopping arcade in Mongkok.

Regulatory control over food premises issued with provisional licences

Application for provisional licences

2. Any person who wishes to operate a food business is required to obtain a licence from the Food and Environmental Hygiene Department (FEHD) and to comply with licensing requirements and conditions imposed by FEHD. To facilitate early start-up of business, FEHD allows a food business licence applicant to operate on a “provisional” basis provided that the applicant complies with some basic requirements on health, ventilation, building safety and fire safety. These requirements are less stringent than those for a full licence. The licensing requirements for food business licences are set out in the Food Business Regulation (Cap. 132, sub leg X).

3. As long as a recognised professional (e.g. an authorised person or a structural engineer registered under the Buildings Ordinance (Cap. 123)) certifies compliance with the essential requirements, a provisional licence will be issued, allowing the operator more time to complete the works for meeting the full set of licensing requirements. A provisional licence is valid for six months and may be renewed for another six months in exceptional circumstances.

4. Application for a provisional licence is entirely optional. However, application for a provisional licence without applying for a full licence will not be considered by the licensing authority. According to FEHD's website, the performance pledges for licence applications are as follows –

<u>Processing Steps</u>	<u>Standard Response Time</u>
(a) Holding Application Vetting Panel	20 working days from accepting the application for licence
(b) Issuance of Letter of Requirements (Provisional Licence)	Immediately after confirmation of the premises as being suitable for licensing at the Application Vetting Panel
(c) Issuance of Letter of Requirements (Full Licence)	Six working days after confirmation of the premises as being suitable for licensing at the Application Vetting Panel
(d) Final Verification Inspection	Eight working days from receipt of report of compliance by applicant
(e) Issuance of Full Licence	Seven working days from Final Verification Inspection
(f) Issuance of Provisional Licence	Seven working days from receipt of acceptable certificates of compliance

A flow chart showing the restaurant licensing procedures is in the **Appendix**.

Regulatory control over food premises

5. At present, FEHD issues warnings to provisional food business licensees for breaches of licensing requirements. For serious breaches (such as unauthorised reduction in food room size), FEHD may suspend the licence until rectification work is done.

6. Under section 35 of the Food Business Regulation, any person who operates food business without a licence shall be liable on summary conviction to a fine at level 5 (i.e. \$ \$50,000) and imprisonment for six months, and an additional fine of \$900 for each day where the offence is a continuing offence.

7. Under section 128B of the Public Health and Municipal Services Ordinance (Cap. 132), the Director for Food and Environmental Hygiene (DFEH) may apply to the court for a closure order to close premises for carrying out activities without the requisite licence or permit.

8. DFEH is empowered under section 128C of Cap. 132 to make a closure order to close immediately premises that pose immediate health hazard to the public. The food premises will remain closed until disinfection is completed to the satisfaction of DFEH. It may only be re-opened when DFEH is fully satisfied that the immediate health hazard on the premises has been eliminated.

Improvement measures to the provisional licence system

9. To prevent abuse of the provisional licence system by unscrupulous applicants, Team Clean proposed in its Final Report that –

- (a) a provisional licence be cancelled should there be non-compliance with any of the provisional licensing requirements. The application for a full licence would not be affected if the applicant eventually complies with all the relevant licensing requirements; and
- (b) demerit points and consequential penalties in the form of suspension or cancellation of licence during the provisional licence period be borne by the food premises concerned after a full licence has been issued.

Members' concerns

10. The Panel on Food Safety and Environmental Hygiene discussed Team Clean's recommendations above at the meeting on 18 December 2003. The Administration advised that the proposal sought to plug the loophole that some operators had abused the provisional licence system to avoid complying with the licensing requirements for a full licence. Members did not raise objection to the Administration's proposal. Hon Tommy CHEUNG advised the Panel that the trade was generally in support of the proposal although some food business operators did not agree that demerit points and consequential penalties incurred during the provisional licence period should be borne by the food premises concerned after a full licence had been issued. Moreover, the trade was concerned about the long time taken to obtain a full licence. Mr CHEUNG considered it necessary to conduct an overall review of the licensing framework and the enforcement system.

Sequence of events on the food poisoning incidents relating to a restaurant in a Mongkok shopping arcade

11. The following is the sequence of events based on media reports and press releases issued by the Government –

<u>Date</u>	<u>Event</u>
17 November 2004	According to newspaper reports, the restaurant concerned commenced business without a food business licence.
23 November 2004	According to newspaper reports, the restaurant was issued a provisional licence by FEHD.
24 November 2004	According to Government's press release, the Centre for Health Protection (CHP) of the Department of Health and FEHD received the first report of suspected food poisoning case after consuming food at the restaurant concerned on 20 November 2004. Investigation was carried out by the relevant departments.
27 November 2004	CHP informed the public of reports of suspected food poisoning incidents involving four groups of people (a total of 12 persons involved) who had consumed food at a restaurant in a Mongkok shopping arcade on 23 and 24 November 2004.
28 November 2004	According to Government's press release, a total of 22 persons were affected as at 28 November 2004. FEHD ordered the restaurant concerned to close in order to carry out disinfection and further investigation.
29 November 2004	According to Government's press release, CHP received another 17 reports of food poisoning incidents after consuming food at the same restaurant. As at 29 November 2004, a total of 60 persons in 25 groups were affected.
30 November 2004	According to Government's press release, CHP confirmed that another 42 persons in 18 groups (i.e. a total of 102 persons as at 30 November 2004) were affected after consuming food at the same restaurant.

- 1 December 2004 A stool sample of one of the persons affected in the food poisoning case yield a positive result for vibrio parahemolyticus.
- According to Government's press release, 34 more people in 14 groups reported to CHP that they were feeling unwell after having meals at the restaurant concerned. As at 1 December 2004, a total of **136** people were affected in the food poisoning outbreak.
- 2 December 2004 According to Government's press release, 18 more people felt unwell after consuming food at the restaurant concerned. As at 2 December 2004, a total of **154** persons were affected.
- 3 December 2004 According to newspaper reports, 13 more people felt unwell after consuming food at the restaurant concerned. As at 3 December 2004, a total of **167** persons were affected.
- 4 December 2004 According to newspaper reports, 12 more people felt unwell after consuming food at the restaurant concerned. As at 4 December 2004, a total of **179** persons were affected.

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FLOW CHART SHOWING RESTAURANT LICENSING PROCEDURES

