

*Licensing of Food Premises*

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## Executive Summary

1. This research report studies the licensing of food premises in Singapore, London of the United Kingdom, Sydney of Australia and New York City of the United States. In particular, the following issues are examined: regulatory authorities, application/registration procedures, application/registration requirements, time involved in processing application/registration, renewal process, system of appeal, and third party application and certification of compliance.
2. In Singapore, there is no central licensing authority to co-ordinate the application for licences, certificates and approvals among various government departments. The owner of the food premises has to go to multiple departments and agencies to obtain the required documentation. Nonetheless, the filing of the applications can be done concurrently. Although third party application and certification of compliance are not mandatory for all government departments, they are required for plans and services related to fire safety works.
3. London has the simplest procedure for starting up a food business among the four overseas places studied. The owner of the food premises can commence operation of the food business 28 days after registering with the relevant food authority. There is no requirement on food hygiene, building compliance or fire safety compliance which the owner needs to fulfil before he/she can commence operation. Nor is a licence of food premises required. However, once the food premise is registered and in operation, the owner has to ensure compliance with the regulations on food safety. Third party application and certification of compliance are not applicable in London.
4. In Sydney, the Local Council acts as the central licensing authority to co-ordinate the applications relating to the setting up of food businesses. A food licence is not required for the owner of the food premises to commence operation. Nonetheless, the owner must obtain an Occupation Certificate which is issued after he/she has filed a Development Application, received Development Consent and a Construction Certificate, and work inspected by a Principal Certifying Authority. While third party application is not required in Sydney, the owner has the choice of appointing either the Local Council or a third party Accredited Certifier for certification of compliance.
5. Among the selected places, New York has the most complicated procedure for setting up food premises. The city requires the most permits, certificates and approvals before the owner of the food premises can commence operation. The issue of a food licence is contingent upon the applicant successfully passing the inspection of the premises and having all relevant permits, approvals and certificates in place. While most of the applications related to the operation of food premises are done by third party professionals, certification of compliance is performed by the relevant government departments, rather than by a third party.

# Licensing of Food Premises

## Chapter 1 – Introduction

### 1. Background

1.1.1 The Panel on Food Safety and Environmental Hygiene, at its meeting on 14 December 2004, requested the Research and Library Services Division (RLSD) to update the research report on "Licensing of Food Premises" issued in July 1999.

1.1.2 At the Panel meeting, members suggested that Taiwan, South Korea, Japan, Singapore and Hong Kong be included in the research study. Our preliminary research revealed that information on the subject in respect of South Korea was primarily in Korean, and thus compilation of the relevant data might be difficult. In the circumstances, the Panel endorsed the proposal of RLSD to study the following overseas places:

- (a) Taiwan;
- (b) Tokyo, Japan;
- (c) Singapore;
- (d) London, the United Kingdom;
- (e) Sydney, Australia; and
- (f) New York City, the United States.

1.1.3 Since information on licensing of food premises for Tokyo and Taiwan is not readily available in secondary sources, RLSD has sought assistance from the corresponding Consulates and directly requested the authorities in the two places for related information. Nevertheless, as of the publication of this report, RLSD has not received any response from these two places. Accordingly, this research covers the other four places only.

## **1.2 Scope of research**

1.2.1 The scope of research covers:

- (a) regulatory authorities;
- (b) application/registration procedures;
- (c) application/registration requirements;
- (d) time involved in processing application/registration;
- (e) renewal process;
- (f) system of appeal; and
- (g) third party application and certification of compliance.

## **1.3 Methodology**

1.3.1 This research adopts a desk research method, which involves Internet research, literature review, documentation analysis and correspondence with relevant authorities.

## **Chapter 2 – Singapore**

### **2.1 Regulatory authorities**

2.1.1 In Singapore, to ensure compliance of local codes, the owner of a food business is required to obtain the relevant licences, certificates and approvals from the following three government departments:

- (a) the National Environment Agency (NEA), which plays a leading role in protecting the environment and focuses on the implementation of environmental policies. In particular, the Environmental Public Health Division of NEA monitors public health through comprehensive ground surveillance and appropriate preventive measures. The Division is also responsible for maintaining the overall cleanliness in Singapore and a high standard of hygiene in the food retail industry;
- (b) the Urban Redevelopment Authority (URA), which is the national land use planning authority responsible for the development of local area plans. In the case that a tenant or owner intends to change the use of any building or land, URA must be notified of such change; and
- (c) the Fire Safety and Shelter Department (FSSD) of the Singapore Civil Defence Force, which is responsible for approving the fire safety control in industrial and commercial premises.

2.1.2 There is no central licensing authority in Singapore to co-ordinate the application for licences, certificates and approvals among the three government departments.

2.1.3 The issue of "foodshop<sup>1</sup> licence" from NEA does not depend on obtaining relevant approvals and certificates from URA and FSSD. In other words, the filing of applications to the three departments can be done in parallel.

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<sup>1</sup> There is no legal definition for the term "foodshop". According to NEA, foodshops are food retail outlets, such as restaurants, food courts, etc.

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## 2.2 Application procedures

### Environmental Public Health Division of National Environment Agency

2.2.1 In Singapore, the control of food hygiene and safety is regulated under the Environmental Public Health Act. The Act contains a number of regulations which deal with the hygienic practices in handling, preparation and manufacturing of food. In particular, the Environmental Public Health (Food Hygiene) Regulations stipulate that a "foodshop licence" is required for starting up the operation of a food retail outlet where food and/or drink are sold wholly by retail. The purpose of licensing is to ensure cleanliness and food safety in food retail outlets and to prevent food-borne diseases. Examples of businesses that require a foodshop licence are restaurants, cake shops, eating houses, coffee shops, food courts, snack and drink counters, market produce shops, private markets and food caterers.

2.2.2 Application for a foodshop licence is handled by the Environmental Health Regional Office under the Environmental Public Health Division. Owners of food premises are required to comply with the requirements in the following paragraphs.

#### *Requirements*

##### General requirements

2.2.3 Only the following persons/organizations can apply for a licence:

- (a) Singapore citizens and permanent residents;
- (b) Companies registered with the Accounting and Corporate Regulatory Authority (ACRA)<sup>2</sup>; and
- (c) Associations or Societies registered with the Registrar of Societies<sup>3</sup>.

2.2.4 For self-employed persons, Medisave<sup>4</sup> contributions must be paid up to date before applying for a licence.

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<sup>2</sup> ACRA is a statutory board with the mission to provide a responsive and forward-looking regulatory environment for companies, businesses and public accountants, which is conducive to enterprise and growth in Singapore.

<sup>3</sup> Under the Societies Act, all societies, defined as a club, company, partnership or association of 10 or more persons, whatever its nature or object, shall register with the Registrar of Societies who is empowered to register a society, order a society to change its name or rules, or refuse registration of a society.

<sup>4</sup> Medisave is the national savings scheme which helps individuals put aside part of their income to meet their personal or immediate family's hospitalization expenses, especially after retirement.

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## Documentary requirements

- 2.2.5 An application should be submitted together with the following materials:
- (a) names of food handlers who have been inoculated against typhoid and documentary proof of such vaccination;
  - (b) chest X-ray reports of food handlers who are 45 years old and above;
  - (c) detailed plan of the premises showing the layout in the kitchen, preparation area, refreshment area, toilets, stores, etc<sup>5</sup>;
  - (d) detailed schedule on the cleaning programme for cleaning of premises and equipment used;
  - (e) copies of the Food Hygiene Course Certificate for food handlers who have attended and passed the Basic Food Hygiene Training Course;
  - (f) registration forms for the enrolment of the Basic Food Hygiene Training Course for food handlers who have not attended and passed the Course;
  - (g) copy of pest control contract;
  - (h) evidence indicating that at least one of the staff is trained as a Food Hygiene Officer (FHO). The staff should attend and pass the FHO course within three months upon obtaining the licence; and
  - (i) copy of the latest business profile of the company.

## Operational requirements

2.2.6 The Code of Practice on Environmental Health for Food Retail Outlet in Singapore provides guidelines that address environmental health concerns in the design of buildings. The Code spells out the objectives that should be met and stipulates the minimum basic design criteria. For details of the Code, please refer to Appendix I.

2.2.7 In addition to adhering to the Code, NEA requires the owners of foodshops to fulfil a list of operational requirements which cover various aspects relating to a foodshop. These aspects include the general set up of the foodshop, kitchen/preparation area, toilet, and hygiene requirement for food catering.

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<sup>5</sup> The layout plan serves as a record of the premises. It is an offence for any licensee to alter the approved layout of the licensed premises without prior permission from the Director General of Public Health.

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*Fees*

2.2.8 The licence fee for a foodshop is S\$120 (HK\$572)<sup>6</sup> and is valid for one year. The licence fee for operating a foodshop in a pub, bar, discotheque, cabaret, night club or karaoke lounge is S\$60 (HK\$286). For applications that are unsuccessful, applicants need not pay any fees.

*Time involved in processing application*

2.2.9 For each application filed, the applicant will receive a reply informing him/her of the result of the application. If the application and supporting documents are in order, an in-principle approval letter and a list of health requirements for compliance will be sent to the applicant. NEA advises the applicant to commence work on the food premises after receiving the approval letter; such compliance, however, is not mandatory. After the works on the premises have been completed, the applicant is required to inform the Licensing Unit of the Environmental Health Regional Office to arrange for a site inspection to verify the compliance of all the health requirements. Upon satisfactory verification of the health requirements, a foodshop licence will be issued to the premises.

2.2.10 According to NEA, the shortest time to issue an in-principle approval letter after all the required documents have been submitted is five working days, whereas the shortest time to issue a food licence after the final inspection has been completed is two working days. The exact duration of the application process depends on whether the documentation is complete or any re-inspection of the foodshop is required. Such information is not available as of the publication of this report.

*System of appeal*

2.2.11 Should the owner of the foodshop objects to the ruling of the Environmental Health Regional Office, he/she can request a review with the Office. Details of the appeal process are not available as of the publication of this report.

*Renewal process*

2.2.12 Foodshop licences are renewable on an annual basis. Depending on the types of foodshop, the renewal fee for a foodshop licence is S\$120 (HK\$572), and S\$60 (HK\$286) for a foodshop operating in a pub, bar, discotheque, cabaret, night club or karaoke lounge.

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<sup>6</sup> As of January 2005, the average exchange rate of Singapore dollar to Hong Kong dollar was S\$1=HK\$4.76.

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*Follow-up action for ensuring compliance with licensing conditions*

2.2.13 To enforce a high public health standard for food premises, NEA has established a Points Demerit System under which stallholders are given demerit points for each offence that runs foul of public health standards. If a licensee accumulates 12 points or more within 12 months, his/her licence will be suspended for two weeks. Licensees with a poor track record may run the risk of having their suspension period extended, and in more serious cases, having their licences revoked.

2.2.14 In 2000, the licences of 42 food establishments and food stalls were suspended under the Points Demerit System. In addition, 2 193 tickets/summonses were issued for poor housekeeping offences and other malpractices by food handlers.

Urban Redevelopment Agency

2.2.15 For a foodshop whose site has previously been used for another class of trade, approval from URA is required for any material change in the use of the site.

2.2.16 The application for approval of change of use can be made by either the tenant or owner of the premises. Consent from the owner is required if the application is submitted by the tenant. The applicant is required to submit an application form together with the floor plan/internal layout plan.

2.2.17 The application for approval of change of use is independent from the application for foodshop licence from NEA. In other words, the applicant can apply for approval of change of use and the foodshop licence simultaneously.

*Fees*

2.2.18 The application fee for the change of use is S\$800 (HK\$3,808) plus 5% Goods and Service Tax. The fee is payable regardless of whether the application is successful.

*Time involved in processing application*

2.2.19 According to URA, the shortest time required to process an application is 10 working days. The applicant will be notified of the result. The information on the average time required to process an application is not available as of the publication of this report.

*System of appeal*

2.2.20 Should the owner of a foodshop objects to the ruling of URA, he/she can appeal to the Ministry of National Development. The appeal is free of charge.

*Renewal process*

2.2.21 If URA decides that the change of use is permanent, there is no need for renewal. However, if URA decides that the change of use is temporary, URA will state a renewal date when the foodshop is required to renew the approval.

Fire Safety and Shelter Department of Singapore Civil Defence Force

2.2.22 The owner of the food premises is required to apply to FSSD for approval of the fire safety plans, which are prepared and submitted by a third party Qualified Person (QP)<sup>7</sup> or a Fire Safety Engineer. Only after the fire safety plans have been approved, can works on the site start. When the works have been fully completed, the QP will then file the application for the Fire Safety Certificate (FSC) on behalf of the owner.

2.2.23 Applications for approval of the fire safety plans and for FSC are required for both owners of food businesses who take over existing food premises and those who construct new food premises. Such requirements are not limited to owners of food premises, but for anyone who wishes to carry out fire safety works in any building.

*Approval of fire safety plans*

2.2.24 A QP or a Fire Safety Engineer is required to submit to FSSD an application for approval of the fire safety plans, on behalf of the owner of the food premises concerned. Together with the application is the submission of the building plan, fire protection plan and air-conditioning/mechanical ventilation plan of the premises. Fire safety works are not allowed prior to the approval of the fire safety plans.<sup>8</sup>

2.2.25 The application for approval of the fire safety plans is independent from the application for the foodshop licence from NEA, and the application for approval of change of use from URA. In other words, the owner of the premises, with the help of the QP, can apply for approval of the fire safety plans, the foodshop licence and change of use simultaneously.

*Fees*

2.2.26 The application fee is S\$75 (HK\$357) per storey of the premises. The fee is payable regardless of whether the application is successful.

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<sup>7</sup> A QP is a registered architect or professional engineer.

<sup>8</sup> Information provided by the Fire Safety and Shelter Department.

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### Time involved in processing application

2.2.27 According to FSSD, the Notice of Approval is issued within two working days when the fee payment is cleared and all the relevant documents are in place. The approved plans are ready for collection after a minimum of 14 calendar days from the date of issuing the Notice of Approval. The information on the average time required to process an application is not available as of the publication of this report.

### Renewal process

2.2.28 The application for approval of the fire safety plans is a one-off event. Renewal is not required.

### System of appeal

2.2.29 If the owner of the premises objects to the ruling of FSSD, he/she can submit a waiver via a QP. The submission involves filing a form stating why the owner considers the ruling unreasonable relative to the circumstances of the case. The fee for the waiver application is S\$100 (HK\$476) for each item of appeal. If the waiver application is unsuccessful, the QP can appeal against the decision by submitting a formal appeal to the Minister for Home Affairs within 28 days after notification of the decision is received.

### *Fire Safety Certificate*

2.2.30 An application for FSC should only be submitted after the plans for the fire safety works of the project have been approved and the works have been fully completed in accordance with FSSD requirements. FSC must be obtained before the premises are allowed to be used or occupied, and it is issued only after verification of the full completion of all fire safety works in the project. A QP is required to make an application for FSC on behalf of the owner of the premises. Any building owner who fails to obtain FSC is guilty of an offence under the Fire Safety Act and is liable to court action.

2.2.31 Prior to obtaining FSC, the owner of the food premises can apply for a Temporary Fire Permit (TFP) for a limited period to occupy or use the premises. TFP is issued only on condition that the fire safety works of the project have been satisfactorily completed with very minor outstanding issues left to be complied with. Both the owners of food businesses who take over existing food premises and those who construct new food premises are eligible to apply for TFP. The timeframe to obtain FSC after the issue of TFP depends on the size, type and complexity of the project. According to FSSD, FSC is normally granted within a maximum of six months.

### Procedure

2.2.32 Prior to the issue of FSC/TFP, the owner of the food premises is required to engage a Registered Inspector (RI)<sup>9</sup> to inspect and certify the fire safety works of his/her project before submitting the application for FSC/TFP to FSSD. An Inspection Certificate issued by an RI is a prerequisite for the issue of FSC/TFP.

2.2.33 Applications for FSC are subject to random inspection by FSSD. When selected, the inspection is normally carried out within 10 calendar days upon receipt of the application. If non-compliances or deviations are found during the inspection, the QP who has filed the application is required to make rectifications on the compliance of the outstanding items and re-submit the application for FSC.

### Fees

2.2.34 No fee is charged for the application for FSC/TFP.

### Time involved in processing application

2.2.35 If all the application materials are in order, it normally takes about three working days for FSSD to issue FSC/TFP, which is then posted to the owner of the premises. Should the application be rejected, both the owner and the QP would be informed and they could consider a re-submission.

### Renewal process

2.2.36 The application for FSC is a one-off event. Renewal is not required.

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<sup>9</sup> To become an RI, applicants who meet the requirements listed below are selected by the Singapore Civil Defence Force to attend an interview with the RI Selection Panel. Successful applicants who have been shortlisted by the Panel are required to attend a short course conducted by FSSD, after which they will be registered as RIs. Requirements for RI applicants are:

- (a) having at least a first degree qualification that is recognized and accepted by the Board of Architects (BOA) / Professional Engineers Board (PEB) for registration;
  - (b) being either a Registered Architect (RA) with BOA or a Professional Engineer (PE) with PEB;
  - (c) having at least 10 years of experience as an RA or a PE in the design and incorporation, as well as in the inspection and testing, of fire safety works in all types of projects covering commercial, industrial, residential and institutional buildings;
  - (d) having maintained a clean record as an RA or a PE and not been found guilty of an offence under the Fire Safety Act, Professional Engineers Act or Architects Act; and
  - (e) having a team of at least two technically qualified staff to assist in inspecting fire safety works. The staff must possess at least a recognized diploma qualification.
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### System of appeal

2.2.37 The system of appeal for FSC application, including waiver and fees, is the same as that for the application for approval of the fire safety plans. Please refer to paragraph 2.2.29 for details.

## **2.3 Third party application and certification of compliance**

### Third party application

2.3.1 In Singapore, a third party is not required for the application for a foodshop licence to NEA, or the application for approval of change of use to URA. Such filing can be done by the owner of the food premises. On the other hand, with regard to the submission of documents to FSSD, a QP is required to file the applications for the approval of the fire safety plans and for FSC on behalf of the owner.

### Third party certification of compliance

2.3.2 Third party certification of compliance is not required for the application for either the food licence or approval of change of use. However, the issue of Inspection Certificate, which is a prerequisite for the application for FSC/TFP, is conducted by an RI, a third party. The issue of FSC/TFP is performed by FSSD, a government agency.

**Table 1 – Renewal Process and Time Involved in Processing Licence, Certificate and Approval in Singapore**

<b>Responsible Department</b>	<b>Licence, Certificate and Approval</b>	<b>Renewal Period</b>	<b>Renewal Cost</b>	<b>Time involved in Processing Licence, Certificate and Approval</b>
Environmental Public Health Division of the National Environment Agency	Foodshop Licence	Annual.	Depending on the types of foodshop, the renewal cost can be either S\$60 (HK\$286) or S\$120 (HK\$572).	The shortest time to issue an in-principle approval letter after all the required documents have been submitted is five working days.  The shortest time to issue a food licence after the final inspection has been completed is two working days.
Urban Redevelopment Agency (URA)	Approval of Change of Use of Site	URA determines whether renewal is required for the site.		The shortest time to issue the approval of change of use of the site is 10 working days.
Fire Safety and Shelter Department of the Singapore Civil Defence Force	Approval of Fire Safety Plans	Renewal is not required.		The shortest time to issue the approval of fire safety plans is 14 calendar days from the date of the Notice of Approval, which is issued within two working days when the fee payment is cleared and all the relevant documents are in place.
	Fire Safety Certificate	Renewal is not required.		If selected, inspection is carried out within 10 calendar days upon receipt of the application, in addition to three working days to issue the Certificate upon successfully passing the inspection.

## Chapter 3 – London of the United Kingdom

### 3.1 Regulatory authorities

3.1.1 The Food Standards Agency (FSA) is a nationwide independent government agency, providing advice and information on food safety, nutrition and diet to the public and the United Kingdom (UK) government. FSA protects consumers through monitoring food regulations. It works independently from other government departments and is free to publish any advice.

3.1.2 On the local level, food authorities, i.e. the Environmental Health Departments of Local Authorities, are responsible for registration and inspection of food premises in their respective boroughs.

3.1.3 The primary legislation on food safety is the Food Safety Act 1990. The Act provides a flexible framework under which regulations are drafted to provide technical details on various related aspects, such as food hygiene, food safety and registration of food premises. For instance, the Food Premises (Registration) Regulations 1991 (Food Premises Regulations) provide for the registration of food premises by food authorities, and the Food Safety (General Food Hygiene) Regulations 1995 (Food Safety Regulations) set out the basic hygiene requirements for food businesses, covering hygiene of the premises and facilities, and personal hygiene of premises staff.

3.1.4 Under the Food Safety Regulations, "food businesses" means any undertaking, whether carried on for profit or not and whether public or private, carrying out any to all of the following operations, namely, preparation, processing, manufacturing, packaging, storing, transportation, distribution, handling or offering for sale or supply, of food. These businesses include restaurants, hotels, cafes, supermarkets, staff canteens, kitchens in offices, warehouses, guest houses, delivery vehicles, buffet cars on trains, market and other stalls, hot dog and ice cream vans, etc.<sup>10</sup>

### 3.2 Registration procedures and requirements

3.2.1 For individuals who are planning to start a new catering business, they must register the premises with the relevant food authority at least 28 days before opening. The purpose of registration is to provide information about food businesses in the area to the food authority so that it can carry out its enforcement duties effectively. In general, food authorities cannot refuse any request to register food premises.

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<sup>10</sup> Westminster City Council (2004).

3.2.2 Under the Food Premises Regulations, registration is required if the premises are used for the purpose of a food business for five or more days (whether consecutive or not) in any five consecutive weeks. The owner of the premises is responsible for ensuring that the registration form has been properly completed. If there is any change of activity at the food premises, the owner must inform the relevant food authority within 28 days of the change.

3.2.3 Certain premises are exempt from registration, such as some of the agricultural and domestic premises. For a detailed list of exempt premises, please refer to Appendix II.

3.2.4 According to the Environment Health Department of the Westminster Council House, there is no requirement on food hygiene<sup>11</sup>, building compliance or fire safety compliance which the owner of the premises needs to fulfil before he/she can commence operation. Nor is a licence of the food premises required for the owner to operate the business. As long as the registration of the food premises is submitted to the relevant food authority 28 days prior to opening, the food premises can be in operation. There is no regulation that requires the owner to obtain any certificate or approval from other government departments before registering the food premises.<sup>12</sup>

### **3.3 Fees**

3.3.1 There is no charge for the registration of food premises.

### **3.4 Time involved in processing registration**

3.4.1 Once the registration of the food premises is submitted to the food authority concerned, the owner of the premises can commence operation 28 days afterwards.

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<sup>11</sup> According to the Environment Health Department of the Westminster Council House and the British Consulate-General in Hong Kong, during the start-up phase of the food premises, compliance with the Food Safety Regulations is not a requisite for registration of the food premises. However, once the food premise is registered and in operation, the owner has to ensure compliance with the Food Safety Regulations.

<sup>12</sup> Information provided by the Environment Health Department of the Westminster Council House.

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### **3.5 Renewal process**

3.5.1 Registration of food premises is a one-off event. Renewal is not required.

### **3.6 System of appeal**

3.6.1 Since the owner of a food business can commence operation after submitting the registration of the food premises to the food authority, appeal is a non-issue and thus there is no system of appeal.

### **3.7 Follow-up action for ensuring compliance**

3.7.1 Both environmental health officers and trading standards officers from the Local Authority may inspect the food premises to make sure that the food hygiene regulations are followed. In general, the former officers check on food hygiene requirements stipulated by the Food Safety Regulations, while the latter officers check on food standards such as composition and labelling. They can come on a routine inspection, or visit because of a complaint. The frequency of inspection depends on the types of food businesses and the previous records of the premises.

3.7.2 When deemed necessary, both environmental health officers and trading standards officers can take enforcement actions to protect the public. For example, they can:

- (a) take samples and photographs of food, and inspect the records of the premises;
- (b) write to the owner of the premises and ask him/her to correct any problems;
- (c) serve the owner of the premises with an "improvement notice" to specify the criteria with which the owner must comply;
- (d) detain or seize suspect food;
- (e) serve an "emergency prohibition notice" which forbids the use of certain processes, premises or equipment (this notice must be confirmed by a court); or
- (f) recommend prosecution in serious cases.

3.7.3 If prosecution is successful, the court can prohibit the owner of the premises from using certain processes, premises or equipment, or ban the owner from managing the food business. It could also lead to fines or imprisonment.

### **3.8 Third party application and certification of compliance**

3.8.1 Third party application and certification of compliance are not required for the registration of food premises.

## Chapter 4 – Sydney of Australia

### 4.1 Regulatory authorities

4.1.1 In Australia, food businesses are required under the state and territory food legislations to use premises and equipment that comply with Standard 3.2.3, *Food Premises and Equipment*, of the Australia New Zealand Food Standards Code<sup>13</sup>. As such, the Standards Australia, a non-profit-making organization whose role is to facilitate standardizing solutions, has prepared a standard entitled *Design, Construction and Fit-out of Food Premises*. The objective is to provide criteria on design and construction to assist the compliance of food businesses with Standard 3.2.3 for new buildings and alterations to existing buildings. Specifically, the standard aims to ensure that food premises:

- (a) are easy to clean and maintain their cleanliness;
- (b) have sufficient space, facilities and suitable equipment to produce safe food;
- (c) are provided with services, such as potable water, effective sewage disposal and sufficient light and ventilation for the food handling operations;
- (d) provide facilities for staff to maintain standards of personal hygiene and equipment cleanliness to protect food from contamination; and
- (e) are proofed against entry by and harbourage of pests.

4.1.2 The New South Wales Food Authority (the Authority) is the state government agency responsible for food safety across the entire food industry, from primary production to point-of-sale, by working with local governments to define and support their role in food regulation within New South Wales (NSW). The Authority has adopted a streamlined approach to food regulation.

4.1.3 Under the NSW Food Act 2003, a "food business" means a business, enterprise or activity that involves the handling of food intended for sale, or the safety of food, regardless of whether the business, enterprise or activity concerned is of a commercial, charitable or community nature or whether it involves the handling or sale of food on one occasion only.

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<sup>13</sup> The Australia New Zealand Food Standards Code is a co-operative effort between Australia and New Zealand to develop and implement uniform food standards.

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4.1.4 On the local level, such as within Sydney, Local Councils are responsible for registration and inspection of food businesses in their respective council areas, as well as ensuring that food businesses within Sydney comply with the Australia New Zealand Food Standards Code and the NSW Food Act 2003. In Sydney, owners of food businesses are not required to obtain licences, but they need to submit a Development Application and obtain appropriate certificates prior to opening.

## **4.2 Application procedures**

### Development Application

4.2.1 In Sydney, under the NSW Environmental Planning and Assessment Act, both owners of food businesses who take over existing food premises and those who construct new food premises are required to obtain Development Consent by lodging a Development Application with the relevant Local Council.

4.2.2 In determining the approval of a Development Application, the Local Council takes into consideration matters such as the provisions of the relevant planning instruments and codes, the likely impacts of the development, the suitability of the site and the public interest. To apply for a Development Application, the following items are required:

- (a) Development Application form completed with:
  - (i) consent of all the registered owners of the premises; and
  - (ii) details of the proposed development, existing use, hours of operation, number of staff, details of goods to be made or stored, number of existing and proposed car spaces and loading facilities;
- (b) statement of environmental effects which details any expected impact of the development on the environment, adjoining premises or the public. The statement should also include a description of both the existing situation and the proposed development; and
- (c) at least three sets of drawings of the proposed development, including:
  - (i) site plan showing the location of the development within a building or within the locality. The site plan should also identify the site, streets and adjoining properties;
  - (ii) plans showing details of the proposed development in relation to adjoining premises and streets if applicable. If the proposal is for part of a floor of a building only, the floor plan of the whole floor must be provided;

- (iii) elevations showing the view of the development from all visible sides in relation to adjoining premises (not required where there is no new work proposed);
- (iv) sections through appropriate areas of the site (not required where there is no new work proposed);
- (v) new work must be coloured, with a clear distinction being made between alterations and additions;
- (vi) drawings must be to scale, normally at 1:100;
- (vii) drawings are to be suitably numbered and dated;
- (viii) drawings are to be folded to A4 size with the title block to the front; and
- (ix) sign applications require plan and elevation details of the location, size and width of the sign, height above ground, materials, colouring, text including size of lettering, graphics and logo, and illumination.

### Construction Certificate

4.2.3 After the Development Application has been approved and Development Consent granted, the owner of the food business who plans to undertake building or structural works needs to obtain a Construction Certificate which is required prior to commencing work. A Construction Certificate certifies that the detailed construction plans and specifications for the development are consistent with the Development Consent, and comply with the Building Code of Australia (BCA). The Construction Certificate can be obtained from either the Local Council or a third party Accredited Certifier.

### Occupation Certificate

4.2.4 Subsequent to the issue of the Construction Certificate, either the Local Council or an Accredited Certifier can be appointed as the Principal Certifying Authority (PCA) to take responsibility for all the relevant requirements under the NSW Environmental Planning and Assessment Act. A key role of the PCA is to oversee the construction phase of the development and certify that the building or work has been inspected and that construction meets all appropriate standards such as BCA.

4.2.5 When the PCA is satisfied that all work is finalized, the PCA will issue the Occupation Certificate, which indicates that the food business can commence operation.

*Fees*

4.2.6 In Sydney, the Development Application fee ranges from AUS\$110 (HK\$656)<sup>14</sup> to AUS\$9,475 (HK\$56,471), depending on the estimated cost of work. In addition, during the stage of Development Application, a separate notification fee, which ranges from AUS\$100 (HK\$596) to AUS\$500 (HK\$2,980), is also required.

4.2.7 As regards the Construction Certificate, in the case that the owner of the food business obtains the Certificate from the Local Council in Sydney, the fee ranges from hundreds to thousands of Australian dollars, depending on the estimated cost of work. In addition, the fee for employing the Local Council as the PCA is approximately AUS\$440 (HK\$2,623).

4.2.8 The information on the respective fee charged when an Accredited Certifier is employed for the Construction Certificate and/or as the PCA is not available as of the publication of this report.

Notification

4.2.9 In addition to lodging a Development Application with the Local Council, the NSW Food Act 2003 requires that all food businesses in NSW notify the Authority of their food activity details, except for certain businesses permitted by the Authority.<sup>15</sup>

*Fees*

4.2.10 The owner of a food business can notify the Authority in the following ways:

- (a) through Internet, which is free of charge; or
- (b) submitting a form to the Authority at a charge of AUS\$55 (HK\$328).

4.2.11 Since April 2004, food businesses that fail to notify the Authority can face fines of up to AUS\$55,000 (HK\$327,800) for individuals and AUS\$275,000 (HK\$1,639,000) for corporations.

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<sup>14</sup> As of January 2005, the average exchange rate of Australian dollar to Hong Kong dollar was AUS\$1=HK\$5.96.

<sup>15</sup> The following businesses do not need to notify the Authority: businesses that are licensed under the NSW Food Production (Meat Food Safety Scheme) Regulation 2000, Food Production (Seafood Safety Scheme) Regulation 2001 and Food Production (Dairy Food Safety Scheme) Regulation 1999.

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### **4.3 Time involved in processing application**

4.3.1 From the time that a Development Application is submitted, it generally takes six to eight weeks to process the application before the approval is granted and the food business can commence operation.<sup>16</sup>

### **4.4 Renewal process**

4.4.1 The notification to the Authority, the submission of Development Application, and the issue of Construction Certificate and Occupation Certificate are all one-off events. Renewal is not required.

### **4.5 System of appeal**

4.5.1 In the event that the Development Application of a food business is rejected by the Local Council, the owner of the food business can appeal to the Land and Environmental Court. Details of the appeal procedures are not available as of the publication of this report.

### **4.6 Follow-up action for ensuring compliance**

4.6.1 The Local Council in Sydney is responsible for ensuring that food premises within the City comply with the Australia New Zealand Food Standards Code and the NSW Food Act 2003. Inspectors from the Local Council carry out inspections of food premises without notice twice a year. The owners of food premises are charged AUS\$74 (HK\$441) per inspection.

4.6.2 Where violations discovered during inspections are deemed to be minor, verbal warnings are given to the owners of the premises. For serious violations, both the NSW Department of Health and the Local Council have the power to order the closure of any unsanitary premises that have not been adequately cleaned within a specified time after the service of a clean-up order.

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<sup>16</sup> Information provided by the City of Sydney Local Council.

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#### **4.7 Third party application and certification of compliance**

##### Third party application

4.7.1 In Sydney, both the Development Application and the Construction Certificate can be filed by the owner of a food business, and a third party is not required.

##### Third party certification of compliance

4.7.2 In Sydney, both the Construction Certificate and the Occupation Certificate can be issued by either the Local Council or a third party Accredited Certifier.

## Chapter 5 – New York City of the United States

### 5.1 Regulatory authorities

5.1.1 In New York City, food premises are known as "food service establishments" where food is served directly to the consumer, whether the food is sold or provided free of charge and whether the food is consumed on or off the premises. These establishments include restaurants, employee cafeterias, bakeries, takeouts, pizzerias, night clubs, cabarets and bars.<sup>17</sup>

5.1.2 To ensure compliance of local codes, the owners of food service establishments are required to register or apply for approvals, certificates and permits with the following state and city departments: the New York State Department of State (DOS), the New York State Department of Taxation and Finance (DoTF), the New York City Department of Health and Mental Hygiene (DoHMH), the New York City Fire Department (FD), the New York City Department of Buildings (DOB), the New York City Department of Environmental Protection (DEP) and the New York City Department of Transportation (DOT).

5.1.3 Above all, DoHMH is responsible for issuing the Operating Permit, which is mandatory for a food service establishment to commence operation. The issue of the Operating Permit is contingent upon satisfactory inspection by DoHMH inspectors and the owner of the establishment obtaining the appropriate approvals, certificates and permits from other city departments, such as FD, DOB, DEP and DOT. For details of the required documents, please refer to paragraph 5.2.4.

5.1.4 There is no central licensing authority in New York City to co-ordinate the application for approvals, certificates and permits among the state and city departments concerned.

### 5.2 Application procedures

5.2.1 For anyone planning to set up a new food service establishment, he/she must obtain relevant approvals, certificates and permits from the following state and city departments:

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<sup>17</sup> *New York City Department of Health.* (2001) Available from: <http://www.nyc.gov/html/doh/html/inspect/idefine.html> [Accessed May 2005].

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New York State Department of State

5.2.2 Corporations and limited partnerships are required to register with the Division of Corporations of DOS, while partnerships and sole proprietors doing business under a name other than their own are required to register at the County Clerk's Office of DOS in the borough<sup>18</sup> where the business is located.

New York State Department of Taxation and Finance

5.2.3 The owner of any business conducting business in the State is required to obtain a New York States Sales Tax Number from DoTF.

New York City Department of Health and Mental Hygiene*Operating Permit*

5.2.4 To commence operation in New York City, a food business has to obtain an Operating Permit as aforementioned. Prior to arranging an inspection with the Bureau of Food Safety and Community Sanitation (Bureau)<sup>19</sup> of DoHMH for the issue of the Operating Permit, the owner of the food service establishment must have the following approval, certificate and permits in place:

- (a) Work Permit from DOB which is required before commencement of any construction work;
- (b) approval of the fire protection system from FD;
- (c) Certificate of Occupancy (or Sign-Off Letter) from DOB;
- (d) Water Tap Permit, Sewer Connection Permit and Water Meter Permit from DEP; and
- (e) Street Opening Permit from DOT.

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<sup>18</sup> In New York City, there are five boroughs, namely Bronx, Brooklyn, Manhattan, Queens and Staten Island.

<sup>19</sup> The Bureau is responsible for setting policies and enforcing the New York City Health Code and the New York State Sanitary Code for a broad spectrum of environmental health concerns.

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5.2.5 DoHMH has published a *Suggested Guide to Food Establishment Design* for owners of food service establishments to follow, based upon the experience of various regulatory and food service operations. The guide is advisory in nature and is not binding. However, compliance with the guide enables an owner to make sure that his/her operation is in accordance with all relevant provisions of the law.

#### Fees

5.2.6 The fee for obtaining the Operating Permit is US\$280 (HK\$2,183)<sup>20</sup>. The fee is payable regardless of whether the application is successful.

#### Time involved in processing application

5.2.7 If the Bureau is satisfied with the inspection of the food service establishment and all the required permits, certificates and approvals are in place, an approval certificate will be issued and the owner of the food premises can commence business. An Operating Permit is normally sent out within four to six weeks after the inspection.

#### Renewal process

5.2.8 The Operating Permit is renewable on an annual basis. Cost of renewal is US\$280 (HK\$2,183).

#### Follow-up action for ensuring compliance

5.2.9 Inspectors from the Bureau perform periodic surveys in targeted areas of New York City to identify establishments operating without a permit and take enforcement actions. An establishment operating without an Operating Permit is illegal and may subject to immediate closure.

5.2.10 Failure to pass the routine inspection can result in the issue of a Notice of Violation (NOV) by the Bureau. Any food service establishment that fails two consecutive inspections is placed in the Accelerated Inspection Program run by the Bureau, under which the establishments are scheduled for twice as many sanitary inspections in a year. Once in the Accelerated Inspection Program, an establishment must pass two consecutive sanitary inspections within a year before being returned to the regular inspection program; failure to do so may result in suspension or revocation of the Operating Permit.

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<sup>20</sup> As of January 2005, the average exchange rate of US dollar to Hong Kong dollar was US\$1=HK\$7.795.

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### System of appeal

5.2.11 For those owners of food service establishments who want to dispute NOV's issued by the Bureau, they can appeal to the Administrative Tribunal under DoHMH. Details of the appeal procedures are not available as of the publication of this report.

### *Food Protection Certificate*

5.2.12 A person who is charged with supervising the food operation of a food service establishment is required to obtain a Food Protection Certificate issued by DoHMH. The issue of the Certificate is conditional upon successful completion of a course in food protection, and passage of an examination administered by DoHMH.

5.2.13 The food protection course covers conditions for preparing food, including cooking temperatures, storage temperatures, sources of food, and arrangement and cleanliness of surfaces and storage space. Other materials covered include regulations regarding the proper operation of equipment, employee hygiene, toilet facilities, dishwashing, plumbing, lighting, sewage and ventilation requirements. A person holding such Certificate must be on the premises and supervise all food preparation activities during all hours of operation. If he/she leaves the food service establishment permanently, another person from the establishment is required to apply for the Certificate.

### Fees

5.2.14 The fee for the food protection course, including examination, is US\$105 (HK\$819).

### Time involved in obtaining Food Protection Certificate

5.2.15 The duration of the food protection course is five days. Participants who have completed the course and passed the examination are issued the Food Protection Certificate immediately after the examination.

### Renewal process

5.2.16 The application for the Food Protection Certificate is a one-off event. Renewal is not required.

### New York City Fire Department

5.2.17 FD is responsible for inspecting the food service establishments before the premises are open for business to ensure that there is a proper fire protection system. Typical facilities and equipment required to be in place include sprinklers, fire alarms, emergency lighting, fire extinguishers and clearly marked exits. With regard to the fire-suppression system, installation must be approved by FD which also inspects the system on an annual basis. In addition, the system must be tested and serviced every six months by a contractor licensed by DOB. There is a requirement that the application for approval of the fire protection system be filed by a professional engineer (PE) licensed in New York State, instead of by the owner of the food service establishment.

#### *Fees*

5.2.18 The initial inspection fee charged by FD for new establishments is US\$285 (HK\$2,222). The fee for each subsequent annual inspection is US\$70 (HK\$546).

#### *Time involved in processing application for inspection*

5.2.19 The owner of the food service establishment needs to arrange for an inspection by FD, which normally takes place within a week. If inspection is satisfactory, an approval is issued on the same day.

#### *Renewal process*

5.2.20 The approval of the fire protection system is renewable on an annual basis.

#### *Follow-up action for ensuring compliance*

5.2.21 The Bureau of Fire Prevention of FD is responsible for conducting the inspections to ensure the continual compliance of the fire protection system of the food premises. For instance, the following systems are inspected for code compliance: range hoods, refrigeration and storage and use of fuel oil. Minor violation is subject to fines. FD allows the owner of the premises to self-certify the corrections of most of the minor violations and send the related documentation by mail. If the violation is remedied correctly, the fine will be cancelled.

## New York City Department of Buildings

### *Zoning compliance*

5.2.22 DOB is responsible for ensuring that the site selected for the food business is in compliance with zoning and construction regulations. In this regard, the owner of the food service establishment can contact the DOB borough office or the Department of City Planning for zoning information, and solicit the help of a registered architect (RA) or PE to assess the suitability of the premises.

### *Work Permit*

5.2.23 Construction of new food service establishments must comply with the New York City Building Code and the New York City Electrical Code. Applications and construction plans for new buildings and alterations must be prepared and filed at DOB by an RA or a PE. Upon the approval of an application and its associated plans and subject to the payment of the relevant fees, a Work Permit will be issued. No construction is allowed before the issue of a Work Permit.

### *Fees*

5.2.24 The fee for a Work Permit is calculated based on the square footage of the premises for new constructions and enlargements. For alteration works, the fee is calculated as a percentage of the project cost. The minimum filing fee is US\$100 (HK\$780).

### *Time involved in processing application*

5.2.25 Information is not available as of the publication of this report.

### *Renewal process*

5.2.26 The Work Permit is renewable annually or when the contractor's insurance expires, whichever is earlier.<sup>21</sup>

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<sup>21</sup> Information provided by DOB.

*Certificate of Occupancy*

5.2.27 Prior to obtaining an Operating Permit for operation, the food service establishment must obtain a Certificate of Occupancy (C of O) or a Sign-Off Letter to indicate satisfactory completion of construction. When taking over a space previously occupied by another food business, the owner of the food premises is only required to keep the previous C of O, which shows the legal use of the premises, and does not need to apply for a new C of O. Nevertheless, major constructions, enlargements, exit changes or changes of use require a new or amended C of O. An RA or a PE is required to file the application for a C of O on behalf of the owner of the premises, and the new C of O is issued by DOB after successful completion of construction, premises inspected and fees paid.

5.2.28 In the case that the owner of the premises does not need a new C of O, he/she must obtain a Sign-Off Letter from DOB. Any outstanding controlled inspection and test results on the premises, along with documentation attesting to the satisfactory completion of the work, must be submitted by an RA or a PE to DOB on behalf of the owner of the premises. At the same time, the applicant can request a Sign-Off Letter from DOB. If DOB is satisfied with the inspection and documentation, it will send the Sign-Off Letter to the owner of the premises. Food premises that operate without a C of O or Sign-Off Letter can be subject to legal action.

*Fees*

5.2.29 The issue of a C of O is free of charge.

*Time involved in processing application*

5.2.30 Information is not available as of the publication of this report.

*Renewal process*

5.2.31 Renewal is not required. The C of O is valid for the duration of the establishment, or until the premises require major renovation.

*System of appeal*

5.2.32 If the owner of the food service establishment objects to the ruling of DOB, he/she can request a re-consideration appointment with DOB to review the appeal.

*Follow-up action for ensuring compliance*

5.2.33 Once the C of O or Sign-Off Letter is issued, DOB will re-inspect if there is a complaint or subsequent work.

New York City Department of Environmental Protection and New York City  
Department of Transportation

*Water Tap Permit, Sewer Connection Permit and Water Meter Permit*

5.2.34 For a newly constructed food service establishment, the owner of the premises is required to obtain a Water Tap (or Wet Connection) Permit, a Sewer Connection Permit and a Water Meter Permit from DEP. On behalf of the owner, a plumber licensed by DOB submits the permit applications to DEP.

Fees

5.2.35 The fee for the Water Tap Permit, the Sewer Connection Permit and the Water Meter Permit is US\$460 (HK\$3,586), US\$200 (HK\$1,559) and US\$35 (HK\$273) respectively.

Time involved in processing application

5.2.36 It normally takes two to three days to process the application for each permit. Furthermore, the issue of the Water Meter Permit is contingent upon the approval of the Water Tap Permit.

Renewal process

5.2.37 All three permits are one-off permits. No renewal is required.

*Street Opening Permit*

5.2.38 In connection with the applications for the Water Tap Permit and the Sewer Connection Permit, a Street Opening Permit from DOT is required.

Fees

5.2.39 Information is not available as of the publication of this report.

Time involved in processing application

5.2.40 Information is not available as of the publication of this report.

Renewal process

5.2.41 The Street Opening Permit is a one-off permit. No renewal is required.

## Express Service

5.2.42 Under the Express Service programme provided by DOB, DOB works collectively with DOT and DEP to consolidate and simplify the approval process for the Work Permit to incorporate permits for sewer and drainage. According to DOB, the Express Service programme has significantly reduced the amount of time an applicant must wait to attain a Work Permit. Details on the Express Service are not available as of the publication of this report.

## 5.3 Third party application and certification of compliance

### Third party application

5.3.1 In New York City, most of the applications for approvals, certificates and permits related to the operation of a food service establishment are done by a licensed professional. To fulfil FD's requirements, the application for approval of the fire protection system should be filed by a PE. For DOB, the Work Permit and C of O (or Sign-Off Letter) should be filed by either an RA or a PE. In the case of DEP, a licensed plumber is required to file the applications for the Water Tap Permit, the Sewer Connection Permit and the Water Meter Permit. In contrast, DoHMH accepts application for the Operating Permit filed by the owner of a food service establishment, and a third party is not required. Information on third party application with regard to the Street Opening Permit issued by DOT is not available as of the publication of this report.

### Third party certification of compliance

5.3.2 The certification of compliance for approvals, certificates and permits related to the operation of a food service establishment is performed by the relevant government departments. A third party is not required.

**Table 2 – Renewal Process and Time Involved in Processing Permit, Certificate and Approval in New York City**

Responsible Department	Permit, Certificate and Approval	Renewal Period	Renewal Cost	Time involved in Processing Permit, Certificate and Approval
New York City Department of Health and Mental Hygiene	Operating Permit	Annual.	US\$280 (HK\$2,183).	If the Bureau of Food Safety and Community Sanitation is satisfied with the inspection results of the food service establishment, an approval certificate will be issued and the owner of the establishment can commence business. An Operating Permit is normally sent out within four to six weeks after the inspection.
	Food Protection Certificate	Renewal is not required.		Immediately after passing the food protection course.
New York City Fire Department (FD)	Approval of fire protection system	Annual.	US\$70 (HK\$546).	Owner of the establishment arranges inspection with FD, which normally takes place within a week. If FD is satisfied with inspection, an approval is issued on the same day.
New York City Department of Buildings	Work Permit	Work Permit is not renewable annually or when the contractor's insurance expires, whichever is earlier.	Information is not available as of the publication of this report.	Information is not available as of the publication of this report.
	Certificate of Occupancy	Renewal is not required. Certificate of Occupancy is valid for the duration of establishment, or until the premises require major renovation.		Information is not available as of the publication of this report.
New York City Department of Environmental Protection	Water Tap Permit	Renewal is not required.		Two to three days.
	Sewer Connection Permit	Renewal is not required.		Two to three days.
	Water Meter Permit	Renewal is not required.		Two to three days.
New York City Department of Transportation	Street Opening Permit	Renewal is not required.		Information is not available as of the publication of this report.

## Chapter 6 – Analysis

### 6.1 Introduction

6.1.1 Based on the findings in this study, the following issues are highlighted to facilitate Members' deliberation on the licensing procedures of restaurant licences<sup>22</sup> in Hong Kong, namely:

- (a) central licensing authority;
- (b) application/registration procedures;
- (c) courses on food protection/food hygiene;
- (d) commencement of work prior to issue of licence/permit;
- (e) issue of food licence/permit;
- (f) time involved in processing application/registration;
- (g) renewal process;
- (h) system of appeal; and
- (i) third party application and certification of compliance.

#### Central licensing authority

6.1.2 Among the four places studied, both Singapore and London do not have a central licensing authority that co-ordinates the application for licences, permits and certificates among the government departments and agencies concerned. In Singapore, the owner of the food premises has to go to multiple departments and agencies to obtain relevant licences, certificates and approvals required to operate the food premises.

6.1.3 In London, the procedure for opening a food business is relatively simple, with the only requirement that the owner of the business registers with the relevant food authority prior to opening. There is no regulation that requires the owner to obtain approval from other government departments before commencing business.

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<sup>22</sup> In Hong Kong, food business licences can be grouped under two main categories, namely restaurant licences and non-restaurant food licences. Restaurant licences include general restaurant licences and light refreshment restaurant licences, while non-restaurant food licences include bakeries, cold stores, factory canteens, food factories, fresh provision shops, frozen confection factories, milk factories and siu mei/lo mei shops. This research report focuses on the licensing procedures of restaurant licences in Hong Kong.

6.1.4 By comparison, the Local Council in Sydney acts as the central authority for food licensing. To operate the food premises, the owner of the premises needs to file a Development Application with the Local Council, which in addition to co-ordinating licensing activities, provides certification services as well. The owner also needs to separately notify the state government agency, i.e. the New South Wales Food Authority, about the establishment of the food business.

6.1.5 Similarly in New York City, there is an Express Service provided by the Department of Buildings (DOB), in collaboration with the Department of Environmental Protection (DEP) and the Department of Transportation (DOT), to consolidate and simplify the approval process for the relevant permits and certificates among these three departments. However, the owner of the food premises would still need to separately apply for the appropriate permit, certificate and approval from the Department of Health and Mental Hygiene (DoHMH) and the Fire Department (FD).

6.1.6 In Hong Kong, applicants for restaurant licences submit the licence application to the Food and Environmental Hygiene Department (FEHD) which co-ordinates and works together with the Buildings Department (BD), Fire Services Department (FSD) and other departments, if necessary, to process licence applications. FEHD performs preliminary screening of submitted plans and sending acceptable ones to BD and FSD for parallel processing. BD and FSD then perform site inspections and provide comments on the plans to FEHD. On or before the 20<sup>th</sup> day from the submission of application, staff of the three departments will jointly conduct an Application Vetting Panel (AVP) meeting to explain to the applicant details about the application. Letters of Requirements for both provisional and full licences are handed to the applicant at the AVP meeting.<sup>23</sup>

#### Application/registration procedures

6.1.7 Among the four places studied, New York City has the most complicated procedure for setting up food premises. The city requires the most permits, certificates and approvals before the owner of the premises can commence operation. In contrast, the rules for setting up a food premise in London are relatively lax — the owner only needs to register with the food authority concerned. Please refer to Appendices III to VII for flow charts illustrating licensing/registration procedures for food premises in the four places studied and Hong Kong.

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<sup>23</sup> Food and Environmental Hygiene Department (2005).

*Provisional and full licences*

6.1.8 Unlike the licensing systems in the four overseas places, Hong Kong has a unique provisional licence system. Such a system allows an operator, who is able to meet the basic requirements, to open for business while taking steps to comply with all the licensing requirements for the purpose of a full licence. The application for a provisional licence, which is valid for six months, is entirely optional. If one opts for a provisional licence, he/she must submit the application for a full licence as well, otherwise the application for the provisional licence will not be considered by the licensing authority.

6.1.9 The Fire Safety and Shelter Department (FSSD) of Singapore has a similar system but, unlike Hong Kong, the owner of the food premises does not need to simultaneously apply for temporary and permanent permits. Instead, the owner can obtain a Temporary Fire Permit (TFP) for a limited period to occupy the premises, prior to obtaining a Fire Safety Certificate (FSC). TFP is issued on condition that the fire safety works of the project have been satisfactorily completed with very minor outstanding issues left to be complied with. The timeframe to obtain FSC after the issue of TFP depends on the size, type and complexity of the project. FSC is normally granted within a maximum of six months.

Courses on food protection/food hygiene

6.1.10 Among the four places studied, both New York City and Singapore require food handlers to attend a course on food protection/food hygiene. Especially in New York City, a person having a Food Protection Certificate must be on premises and supervise all food preparation activities during all hours of operation. There is no requirement of attending such courses in London and Sydney.

6.1.11 In Hong Kong, FEHD has recently required that all food service establishments appoint a hygiene manager and/or hygiene supervisor in order to strengthen food safety supervision of food premises. Hygiene managers must have completed a formal course of training of 16 to 20 hours provided by an academic institute or vocational training centre recognized by FEHD and obtained a certificate of competence in food hygiene after passing a requisite test. Hygiene supervisors must have completed a training course of four to six hours organized or recognized by FEHD and awarded a certificate after passing a test. Food premises, which fail to comply with the new requirements on or after 30 May 2005, may have their licences cancelled.<sup>24</sup>

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<sup>24</sup> Hong Kong Government Press Release (2005).

### Commencement of work prior to issue of licence/permit

6.1.12 In both Sydney and New York City, either a certificate or permit is required from the relevant departments before commencing construction work on the food premises. In Sydney, prior to commencing construction work, the owner of the food premises is required to obtain a Construction Certificate from either the Local Council or an Accredited Certifier. In New York City, no construction is allowed prior to the issue of the Work Permit from DOB. In London, by contrast, no approval or permit is required before commencing work on the food premises.

6.1.13 In Singapore, the practice varies among government departments. FSSD requires the approval of the fire safety plans before any fire safety work commences, while the National Environment Agency (NEA) allows the owner of the food premises to commence renovation of the premises prior to the receipt of an in-principle approval letter. However, according to NEA, it is advisable for the owner to commence work on the food premises only after receiving the approval letter.

6.1.14 Similar to the advisory stance adopted by NEA in Singapore, applicants in Hong Kong are recommended not to commence work of the food premises before receiving the Letter of Requirements from AVP to avoid efforts wasted on works that do not comply with the Letter of Requirements. However, such compliance is not mandatory.<sup>25</sup>

### Issue of food licence/permit

6.1.15 In Singapore, the issue of a foodshop licence from NEA does not depend on whether the owner of the food premises has already obtained certificates and approvals from FSSD or the Urban Redevelopment Authority (URA). In fact, the filing of applications with the government departments concerned can be done concurrently.

6.1.16 In New York City, the issue of the Operating Permit from DoHMH is contingent upon the owner of the food premises receiving related permits, certificates and approvals from FD, DOB, DEP and DOT. Inspectors from DoHMH are responsible for conducting a final check on the food premises to ensure that all appropriate systems and documents are in place before issuing the Operating Permit. In Sydney, the owner is not required to obtain a food licence/permit. However, the receipt of an Occupation Certificate is mandatory before commencing operation of the food premises. The issue of the Occupation Certificate is contingent upon the owner filing a Development Application, receiving Development Consent and a Construction Certificate, and work inspection by a Principal Certifying Authority certifying that the construction meets all appropriate standards.

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<sup>25</sup> Information provided by the Hong Kong Licensing Office of the Food and Environmental Hygiene Department.

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6.1.17 Similar to Sydney, the owner of a food business is not required to obtain a food licence/permit in London. The owner can commence operation of the food premises 28 days after he/she has registered the food premises with the food authority concerned.

6.1.18 In Hong Kong, similar to the cases in Sydney and New York City, the issue of a full licence from FEHD is contingent upon receiving appropriate certificates and letters of compliance from BD and FSD, and a satisfactory inspection from FEHD.

#### Time involved in processing application/registration

6.1.19 Given different procedures being involved in the issue of food licences/permits, the time required in processing application/registration varies among the places studied. London requires the shortest amount of time since the owner of the food premises can commence operation 28 days after registering the food premises with the food authority.

6.1.20 In Singapore, NEA, FSSD and URA have different timeframes in processing applications, but the filings can be done concurrently. For NEA, it takes a minimum of five working days from the receipt of all the required documents to the issue of an in-principle approval letter and list of health requirements, in addition to a minimum of two working days from the final inspection to the issue of the foodshop licence. For URA, it takes a minimum of 10 working days to process the submitted application. With regard to FSSD, it takes two working days from the submission of application to issue a Notice of Approval, and a minimum of 14 calendar days immediately afterwards to process the fire safety plans, before the application for FSC can be filed. If the site is selected for inspection by FSSD, inspection is carried out within 10 calendar days from the receipt of application for FSC, in addition to another three working days to issue FSC. The information on the average time required to process an application at the government departments concerned is not available as of the publication of this report.

6.1.21 In Sydney, it generally takes six to eight weeks from the time that a Development Application is submitted to process the application before the food business can commence operation. As regards New York City, the information on the time required to process application for all the departments concerned is not available as of the publication of this report.

6.1.22 In Hong Kong, the shortest time to obtain a provisional licence for restaurants is 21 working days. According to FEHD, the average time taken to issue a provisional restaurant licence in 2002, 2003 and 2004 was 48, 49 and 44 working days respectively. The average time taken to issue a full restaurant licence in 2002, 2003 and 2004 was 185, 185 and 164 working days respectively.<sup>26</sup>

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<sup>26</sup> Health, Welfare and Food Bureau. Food and Environmental Hygiene Department (2005a).

### Renewal process

6.1.23 Both London and Sydney have no renewal requirements for application, registration and certification of food premises. In Singapore and New York City, while some departments have no renewal requirements, others require licences, permits and approvals to be renewed on an annual basis. For instance, the foodshop licence from NEA in Singapore, the Operating Permit from DoHMH in New York City, and the approval of the fire protection system from FD in New York City are renewable on an annual basis. As regards the Work Permit from DOB in New York City, it is renewable annually or when the contractor's insurance expires, whichever is earlier.

6.1.24 In Hong Kong, a full licence is renewable on an annual basis. However, a provisional licence is valid for six months and can only be renewed under exceptional circumstances for a further period not exceeding six months, if the licensing authority is satisfied that the non-compliance with the outstanding requirements for the issue of a full licence is due to factors beyond reasonable control of the licensee, his contractors and his agents. Examples of such circumstances are:

- (a) the processing of the full licence application being hindered by a cause which is not attributable to the act, default or omission of the licensee, his contractors and his agents; and
- (b) the occurrence of events, such as labour strikes, curfews and natural disasters.

### System of appeal

6.1.25 Three of the selected places studied, namely Singapore, Sydney and New York City, have a system of appeal to process complaints should the applicant objects to the ruling of the government departments. The applicant can either request a review with the relevant department or appeal to a judiciary court. In Singapore, the applicant can request a review with the Environmental Health Regional Office of NEA. If the applicant objects to the ruling of URA, he/she can appeal to the Ministry of National Development. As regards FSSD, the owner of the food premises can submit a waiver via a Qualified Person (QP) if he/she objects to the ruling of FSSD. If the waiver application is unsuccessful, the QP can appeal against the decision by submitting a formal appeal to the Minister for Home Affairs within 28 days after notification of the decision is received. In Sydney, the applicant can appeal to the Land and Environmental Court. In New York City, while the applicant can request a re-appointment with DOB to review the appeal under its jurisdiction, for cases related to DoHMH, the applicant can appeal to the Administration Tribunal of DoHMH.

6.1.26 In London, since the applicant can commence operation after submitting the registration of the food premises to the relevant food authority, appeal is a non-issue and thus there is no system of appeal.

6.1.27 In Hong Kong, under Section 125(8) of the Public Health and Municipal Services Ordinance (Cap.132), the Director of Food and Environmental Hygiene will inform the owner of the food premises of any decision made to reject the application for the grant or renewal of licence. If the owner is dissatisfied with the decision made by the Director, he/she can, within 14 days after the service of notice, declare the decision to appeal to the Licensing Appeals Board in accordance with Section 125(9) of the Ordinance.

### Third party application and certification of compliance

#### *Third party application*

6.1.28 In London and Sydney, registration and application are done by the owner of the food premises, and a third party professional is not required. By contrast, in both Singapore and New York City, certain government departments require a licensed professional to file the applications for approvals, certificates and permits related to the operation of the food premises. For instance, to fulfil the requirements of FSSD in Singapore, a QP is needed to file the applications for the approval of the fire safety plans and for FSC on behalf of the owner of the food premises. In New York City, the application for approval of the fire protection system submitted to FD must be filed by a professional engineer (PE); the applications for the Work Permit and the Certificate of Occupancy (or Sign-Off Letter) submitted to DOB can be filed by either a registered architect (RA) or PE; and the applications for the Water Tap Permit, the Sewer Connection Permit and the Water Meter Permit submitted to DEP must be filed by a licensed plumber.

6.1.29 In Hong Kong, the filing of both provisional and full licences is done by the owner of the food premises. A third party professional is not required.

#### *Third party certification of compliance*

6.1.30 The system of third party certification of compliance varies among the four places under study. In London, certification of compliance is a non-issue because it is not a requirement for operating the food premises. In New York City, certification of compliance is performed by the relevant government departments, rather than a third party professional. In Sydney, third party certification of compliance is not mandatory. The owner of the food premises has a choice to appoint either the Local Council or a third party Accredited Certifier to issue the Construction Certificate and the Occupation Certificate for the food premises. In Singapore, apart from the Inspection Certificate which is issued by the Registered Inspector, all other approvals, permits and certificates are issued by the relevant government departments.

6.1.31 In Hong Kong, FEHD accepts third party certification for compliance on health/hygiene, fire services, ventilation and building safety requirements for the issue of a provisional licence. For provisional restaurant licences, a total of four certificates are required, namely:

- (a) Certificate of Compliance A for health/hygiene requirements;
- (b) Certificate of Compliance B for building requirements;
- (c) Certificate of Compliance C for fire services requirements; and
- (d) Certificate of Compliance D for ventilation requirements.

6.1.32 Certificates A and B must be submitted by an Authorized Person (AP) or a registered structural engineer registered under the Buildings Ordinance. For Certificate C, it has to be certified by both an AP or a registered structural engineer registered under the Buildings Ordinance and a fire service installation contractor registered under the Fire Services Ordinance. As regards Certificate D, it should be signed by a registered specialist contractor (Ventilation Works Category) registered under the Buildings Ordinance.

6.1.33 On the other hand, for a full licence, the licensing authority, instead of a third party, carries out compliance checks of the food premises. FEHD is in the process of reviewing whether third party certification of compliance can be adopted for full licences as well.

**Appendix I****The Code of Practice on Environmental Health  
for Food Retail Outlets in Singapore**Objectives

A.I.1 Food retail outlets, such as restaurants, food courts, etc (also known as "foodshops"), shall be designed to ensure that the layout can support an efficient workflow. The sizes of kitchen and store to be provided shall be sufficient to meet the operator's needs. The floors shall be graded and drained to ensure that a dry kitchen is achievable. A good layout helps the operator attain a high standard of food hygiene.

Design Criteria

A.I.2 The design criteria for a food retail outlet (also referred to as "foodshop") shall be as follows:

- (a) The minimum kitchen area shall be eight square metres (excluding the servery area). If the operator wishes to do outdoor food catering, the minimum kitchen area shall be 16 square metres;
- (b) The floor of the kitchen shall be graded and washings drained to floor traps;
- (c) No grease interceptor or inspection chamber shall be sited inside the kitchen;
- (d) The walls of the kitchen shall be lined with glazed tiles or other impervious materials to facilitate cleaning;
- (e) Fumes, smoke, oil mist, grease, steam and odour from the cooking range shall be exhausted either by an air cleaning system or a hood and flue system. The air cleaning system shall be fitted with a fire retardant filter medium that is able to withstand high cooking heat and has high adsorption capacity even under humid conditions. In the case of the hood and flue system, it shall be fitted with a grease filter that is able to withstand high cooking heat, and an extractor fan. The flue shall discharge at a point above the roof and away from neighbouring premises;
- (f) No overhead drain pipes shall be sited in the area where food is prepared or cooked;

**Appendix I (cont'd)**

- (g) At least one sink with a draining board shall be provided in the kitchen or food preparation area. For a large kitchen, additional sinks may be required for the washing of soiled crockery. The number to be provided shall be according to the operator's needs;
- (h) At least one wash hand basin shall be provided for workers in the kitchen. The tap of the wash hand basin shall preferably be sensor-operated;
- (i) All stores and storage cabinets provided shall be pest and rodent proof;
- (j) A storage cabinet shall be provided for cleaning tools, brooms, cleaning materials, etc;
- (k) A storage room or cabinet shall be provided where necessary for the workers' personal belongings;
- (l) Where there are public toilets within the building where the foodshop is located, the provision of a toilet within the foodshop is not necessary. Otherwise, the number of toilets shall be in accordance with the requirements of the National Environment Agency;
- (m) For a foodshop with individual food stalls, each individual food stall shall have a minimum kitchen area of eight square metres and a servery area of five square metres. A wall or partition shall be provided between the kitchen and servery area; and
- (n) Every foodshop with individual food stalls shall have a centralized wash area for washing soiled crockery. The centralized wash area shall be located in a room or an enclosure, and the walls shall be lined with glazed tiles or other suitable impervious materials. The provision of a commercial dishwashing machine in the centralized wash area is encouraged.

**Appendix II****Premises Exempt from Registration under  
the Food Premises (Registration) Regulations 1991  
in the City of Westminster**

A.II.1 Places used only for the following activities and already registered or licensed for that purpose:

- (a) Slaughter houses;
- (b) Poultry meat slaughter houses and cutting premises;
- (c) Meat export cutting premises, cold stores and transshipment centres;
- (d) Meat product plants approved for export to another country in the European Economic Community;
- (e) Dairies or dairy farms; and
- (f) Premises used by milk distributors.

A.II.2 Premises used irregularly or only occasionally

Premises used for less than five days in any five consecutive weeks (this exempts village fetes, car boot sales, markets held only irregularly, some sporting events, etc). The five days do not have to be consecutive and thus any premises used regularly once a week are included.

A.II.3 Premises where only low risk activities take place unless the retail sale of food takes place:

- (a) Places where game is killed in sport (e.g. Grouse moors);
- (b) Places where fish is taken for food (but not processed);
- (c) Places only harvest, clean, store and pack crops (e.g. vineyards and arable farms) except where the crops are packed on those premises in the form in which they are to be sold to the ultimate consumer. Therefore, farms which harvest, clean and pack vegetables in cellophane wrapping in which they will ultimately be sold retail are included in the scope of registration;
- (d) Places where honey is harvested;
- (e) Places where eggs are produced or packed;
- (f) Livestock farms, livestock markets and shellfish harvesting areas; and
- (g) Places at which no food is kept (e.g. the administrative headquarters of a food business, or a kitchen used for washing up only).

**Appendix II (cont'd)**

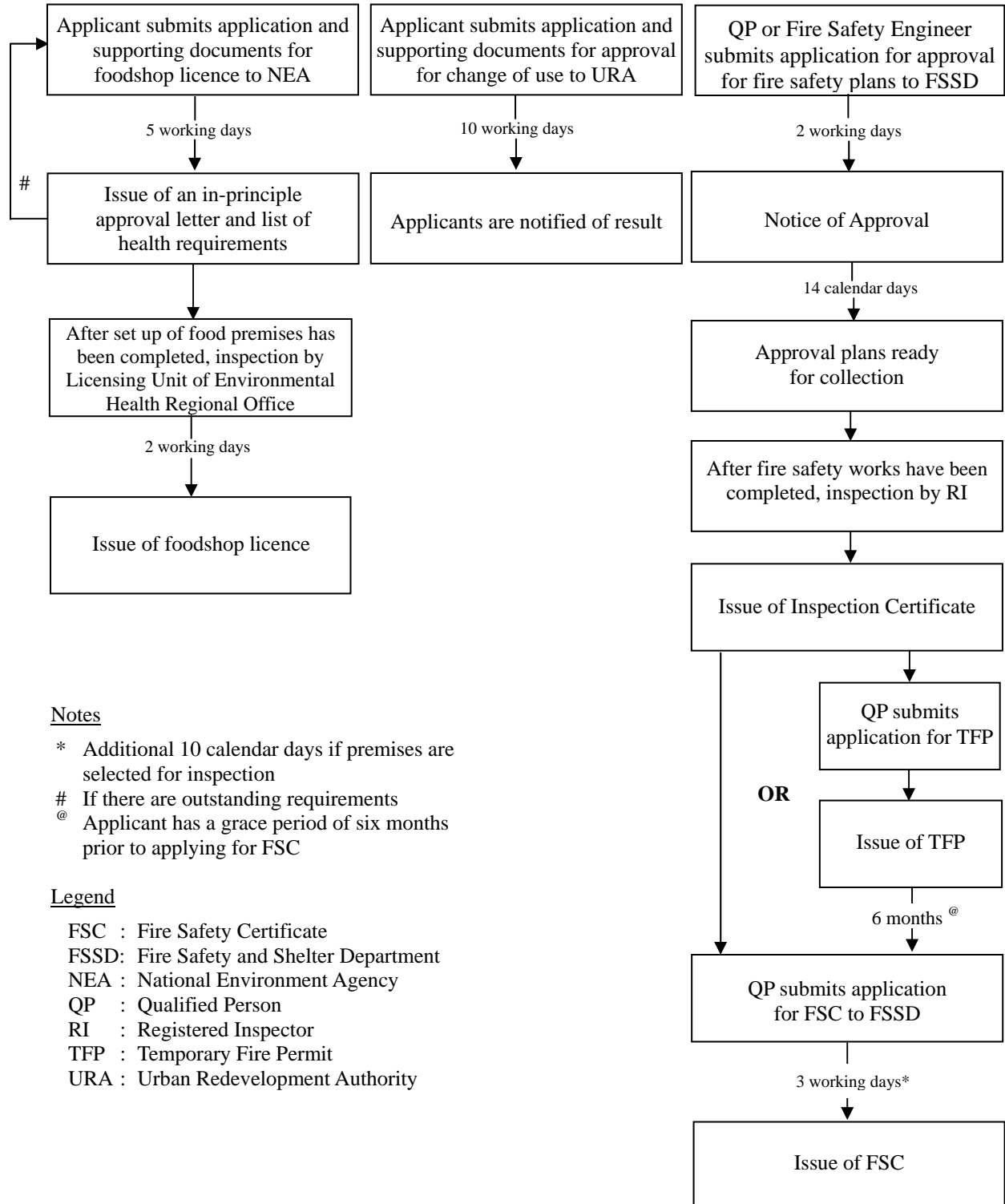
- A.II.4 Exemptions for some food businesses run from domestic premises:
- (a) Domestic premises where the person resident is not the owner of the food business (for example, where the resident is a volunteer preparing food for another business, such as for meals on wheels) except where the food business involves peeling shrimps or prawns;
  - (b) Domestic premises for the production of honey or subsequent preparation, storage, bottling of sale (whether wholesale or retail) of honey;
  - (c) Domestic premises where crops are produced, cleaned, stored, packed and sold (whether wholesale or retail); and
  - (d) Domestic premises where bed and breakfast accommodation is provided.
- A.II.5 Exemption for some vehicles and stalls, etc:
- (a) Private motor cars;
  - (b) Aircraft;
  - (c) Ships, unless they are permanently moored, used for pleasure excursions in inland or coastal waters only;
  - (d) Food vehicles normally based outside Great Britain;
  - (e) Vehicles and stalls kept at or used from premises which are themselves registered or which are exempt (e.g. food trolleys used within a hospital, forklift trucks in food warehouse, and delivery vans run from a registered baker's shop);
  - (f) Market stalls provided by the controller of the market (the market itself must be registered); and
  - (g) Tents and Marquees, awnings and similar structures (not including stalls).
- A.II.6 Other exemptions
- (a) Places where the main activity is not to do with food, but where biscuits, cakes and/or drinks are served to customers without charge (e.g. hairdressers);
  - (b) Places where the only food sold is through vending machines;
  - (c) Places run by voluntary or charitable organizations and used only by those types of organizations, if no food (except tea, coffee, sugar, biscuits or similar dry products) is stored on the premises (e.g. some village and church halls);
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**Appendix II (cont'd)**

- (d) Crown premises where a certificate of exemption has been issued for reasons of national security;
- (e) Places supplying food or drink in the course of religious ceremonies;  
and
- (f) Places where food is sold, stored or prepared for use in the event of an emergency or national disaster.

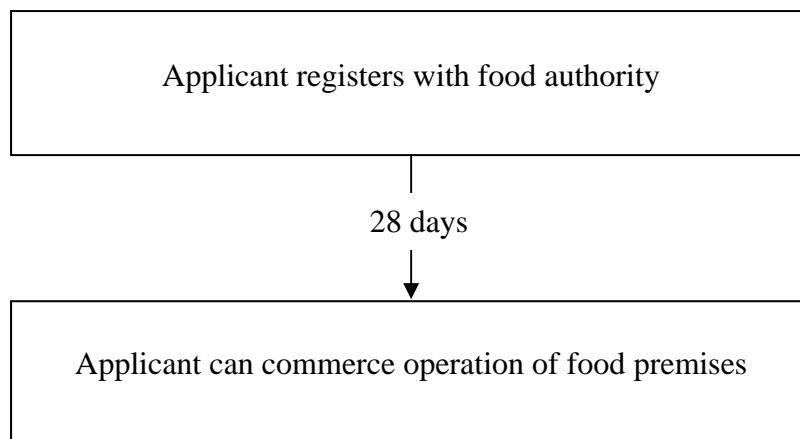
**Appendix III**

**Licensing Procedure for Food Premises in Singapore**



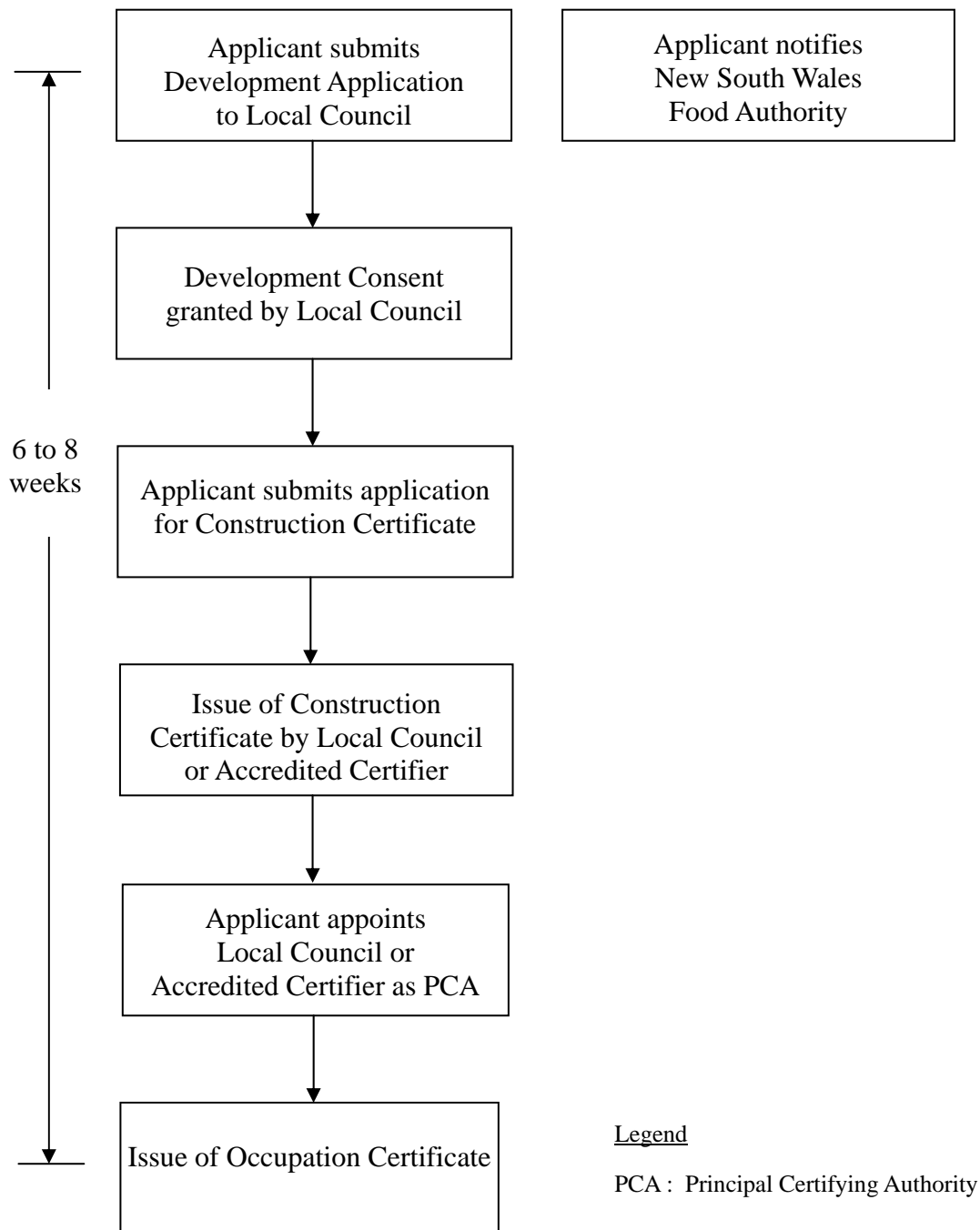
**Appendix IV**

**Registration Procedure for Food Premises in London**



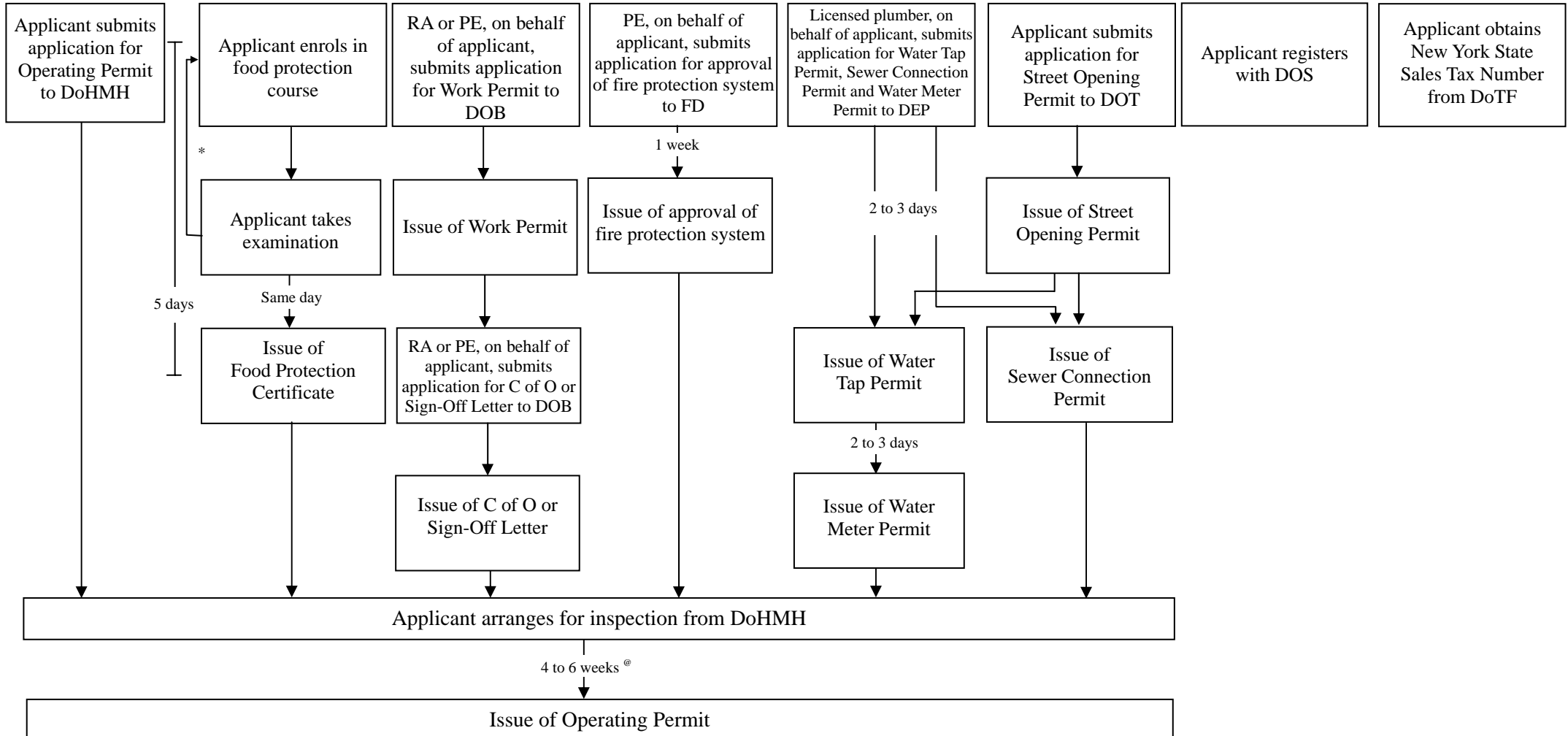
**Appendix V**

**Registration Procedure for Food Premises in Sydney**



**Appendix VI**

**Licensing Procedure for Food Premises in New York City**



Notes

- \* If applicant fails examination
- @ An approval certificate is issued immediately and the food premises can commence operation after applicant has passed inspection and has had all required documents in place.

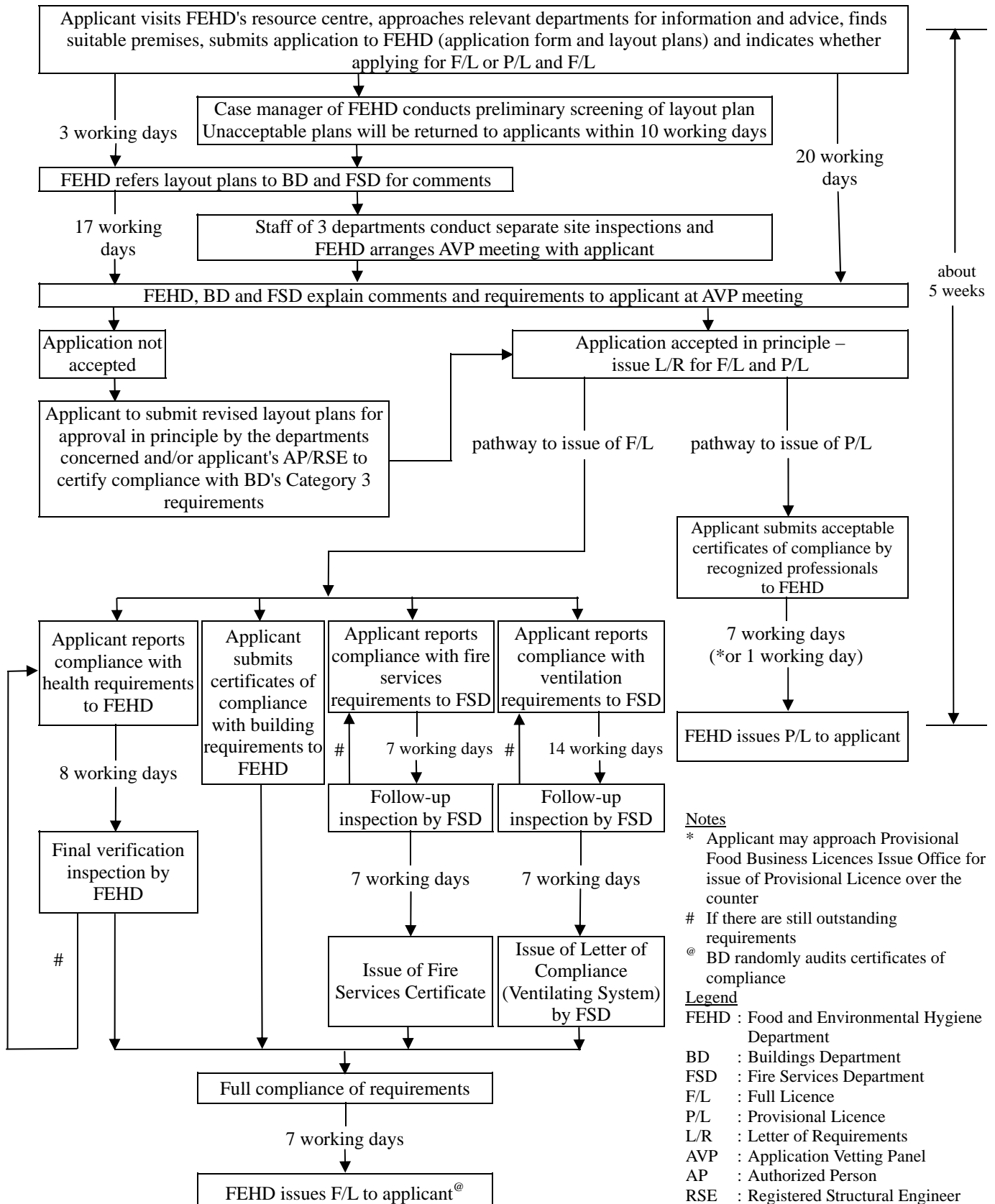
Legend

- C of O : Certificate of Occupancy
- DEP : New York City Department of Environmental Protection
- DOB : New York City Department of Buildings
- DoHMH : New York City Department of Health and Mental Hygiene
- DOS : New York State Department of State

- DOT : New York City Department of Transportation
- DoTF : New York State Department of Taxation and Finance
- FD : New York City Fire Department
- RA : Registered Architect
- PE : Professional Engineer

**Appendix VII**

**Licensing Procedure for Restaurants in Hong Kong**



**Notes**  
 \* Applicant may approach Provisional Food Business Licences Issue Office for issue of Provisional Licence over the counter  
 # If there are still outstanding requirements  
 ® BD randomly audits certificates of compliance

**Legend**  
 FEHD : Food and Environmental Hygiene Department  
 BD : Buildings Department  
 FSD : Fire Services Department  
 F/L : Full Licence  
 P/L : Provisional Licence  
 L/R : Letter of Requirements  
 AVP : Application Vetting Panel  
 AP : Authorized Person  
 RSE : Registered Structural Engineer

Source: Food and Environment Hygiene Department (2005).

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