

**For discussion
on 20 January 2009**

**LegCo Panel on Food Safety and Environmental Hygiene
Licensing of Tobacco Hawkers**

PURPOSE

This paper seeks Members' views on the Administration's recommendation to issue fixed pitch hawker licences to former holders of Tobacco Hawker's Licence (THL) / Tobacco Retailer's Licence (TRL) issued by the Customs and Excise Department (C&ED).

BACKGROUND

2. Prior to August 1989, C&ED issued THLs / TRLs under the Dutiable Commodities Ordinance (DCO), Cap. 109, permitting holders to sell cigarettes and tobacco by way of retail in the urban areas. Following legislative amendments to the DCO, persons selling dutiable commodities (including retailers) were no longer required to obtain licences from C&ED. Since then, C&ED has ceased to issue new THLs / TRLs and stopped renewing licences already issued. According to records, a total of 28 THLs / TRLs were valid at that time. Some THL / TRL holders, after being de-licensed upon licence expiry, carried on with their business. Since they were not holding any hawker licence, they were regarded as unlicensed hawkers when hawking in public places.

3. In March 1999, a Legislative Councillor, on behalf of these cigarette and tobacco traders, suggested to the then Urban Services Department (USD) that a specific type of hawker licence should be issued to these traders given their special background. Site inspection by USD revealed that there were 13 tobacco trading sites (see **Annex 1**) and four of them were personally operated by former THL / TRL holders.

4. Having considered the special circumstances of these former holders of THL or TRL issued by C&ED, the then Provisional Urban Council (PUC) agreed to issue them with fixed pitch hawker licences, and decided that only former THL / TRL holders were eligible for in-situ operation. Those who were not former THL / TRL holders would not be eligible for licensing even if they had been operating for a long time.

5. The Food and Environmental Hygiene Department (FEHD) followed up on the issue upon its establishment in 2000, and invited eligible tobacco traders to apply for fixed pitch hawker licences. FEHD also considered creating fixed hawker pitches at the 13 trading locations listed in **Annex 1**, taking into account the wish of these traders. However, after considering the environmental hygiene factor, the need to maintain obstruction-free passageways as well as the views of the local community, only one site in Sham Shui Po District was considered suitable for the purpose. The trader operating at the site concerned was subsequently issued with a fixed pitch hawker licence for in-situ operation. Other sites were unsuitable for creating fixed hawker pitches and traders thereof had to move to vacant fixed pitches to carry on with their business. Subsequently, a trader opted for a vacant fixed hawker pitch and was issued with a fixed pitch hawker licence. None of the remaining traders have applied for hawker licence so far.

RECENT DEVELOPMENTS

6. In September and October 2008, a Legislative Councillor conveyed the tobacco traders' request, and suggested that the Administration should consider issuing them with hawker licences in order to retain this traditional trade of Hong Kong.

7. Site investigations by FEHD revealed that out of the 13 tobacco trading sites that remained in 1999, only eight are left and they are all located in Central and Western District (details at **Annex 2**). Two of these sites are operated by former THL / TRL holders, while three other sites are operated by persons who claim to be relatives of former licence holders. The remaining three sites which have been in business intermittently are now either non-existent or abandoned, and the identity of their operators, if any, have yet to be established.

CONSIDERATIONS AND RECOMMENDATION

8. In view of the special circumstances of the eight tobacco trading sites mentioned above, their limited numbers and the fact that their normal operation will not cause any environmental hygiene nuisance, FEHD agrees in principle to consider issuing fixed pitch hawker licences with endorsement to sell cigarettes and tobacco to traders of these sites who are former THL / TRL holders. Since the DCO was amended almost 20 years ago and some tobacco trading sites may no longer be operated by former licence holders, FEHD may consider exercising discretion to issue licences to current operators if they can prove

their relationship with the former licence holders. All applicants are subject to checks applicable to other licensed hawkers to ensure their immediate family members do not hold any hawker licence, and are required to pay relevant fees.

9. Tobacco traders generally wish to operate in situ. FEHD is now consulting other relevant departments on the proposed provision of fixed hawker pitches at the eight tobacco trading sites. Should there be no adverse comment, the proposal will be submitted to the District Council concerned for consideration. If the sites are not suitable to be used as fixed pitches, FEHD will consider allowing eligible traders to carry on with their business at vacant fixed hawker pitches. Eligible persons are required to submit their applications within six months after receiving the invitation from FEHD, or they will be deemed to have given up the opportunity to apply for licence.

ADVICE SOUGHT

10. Members are invited to note the content of this paper and offer views.

Food and Health Bureau
Food and Environmental Hygiene Department
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Tobacco Trading Sites in 1999

1. Pavement in front of Chater House, Chater Road, Central
2. Junction of Zetland Street and Queen's Road Central, Central
3. Pedder Lane at side of 12 Pedder Street, Central
4. Pavement in front of 10 Des Voeux Road Central, Central
5. Theatre Lane at side of 22 Des Voeux Road Central, Central
6. Chiu Lung Street at side of 26 Des Voeux Road Central, Central
7. In front of 18 D'Aguilar Street (at the corner with Wellington Street), Central
8. Chiu Lung Street at side of 35 Queen's Road Central, Central
9. Junction of Wellington Street and Staveley Street, Central
10. In front of 135A Pei Ho Street, Sham Shui Po
11. In front of 220 Nam Cheong Street, Sham Shui Po
12. In front of 60 Ma Tau Kok Road, Kowloon City
13. In front of 11 Tong Shui Road, North Point

**Existing Tobacco Trading Sites
(as at December 2008)**

1. Junction of Zetland Street and Queen's Road Central, Central
2. Pedder Lane at side of 12 Pedder Street, Central
3. Pavement in front of 10 Des Voeux Road Central, Central
4. Theatre Lane at side of 22 Des Voeux Road Central, Central
5. Chiu Lung Street at side of 26 Des Voeux Road Central, Central
6. In front of 18 D'Aguilar Street (at the corner with Wellington Street), Central
7. Chiu Lung Street at side of 35 Queen's Road Central, Central
8. Junction of Wellington Street and Staveley Street, Central