

立法會

Legislative Council

LC Paper No. LS83/09-10

Paper for the House Committee Meeting on 2 July 2010

Legal Service Division Report on Subsidiary Legislation Gazetted on 25 June 2010

Date of tabling in LegCo : 30 June 2010

Amendment to be made by : 20 October 2010 (or 10 November 2010 if extended by resolution)

Public Health and Municipal Services Ordinance (Cap. 132) Hawker (Permitted Places) Declaration 2010 (L.N. 88)

The Declaration is made under section 83B(4) of the Public Health and Municipal Services Ordinance (Cap. 132) by the Commissioner for Transport after consultation with the Director of Food and Environmental Hygiene and the Commissioner of Police. It declares eight places specified in the Table in the Declaration to the extent demarcated by road markings into a pitch or pitches as places to be used for hawking purposes and makes corresponding amendments to the Second Schedule to the Hawker (Permitted Places) Declaration (Cap. 132 sub. leg. AG).

2. Prior to August 1989, the Customs and Excise Department (C&ED) issued Tobacco Hawker's Licence (THL) or Tobacco Retailer's Licence (TRL) under the Dutiable Commodities Ordinance (Cap. 109) (DCO) to licence holders to sell cigarettes and tobacco in urban areas. Subsequent to certain amendments to DCO, such licences were no longer required and C&ED ceased to issue new licences. Some licence holders continued to carry out tobacco trade after the expiry of their licences. However, as they were not holding any hawker licence, they were regarded as unlicensed hawkers. According to the Administration, in 2000, the Food and Environmental Hygiene Department (FEHD) had invited those former licence holders to apply for fixed pitch hawker licences but there were only two applications. In 2008, a Member conveyed the request of tobacco traders and suggested that the Administration should consider issuing hawker licences to tobacco traders.

3. The Declaration would allow licences for fixed pitch hawker to be issued by FEHD to eight tobacco hawkers operating at the places specified in the Declaration. The Administration will waive the fees for the hawker licence as well as a pitch fee (in the total sum of \$4,620 to \$7,070, depending on the size of the pitch) for a total of 12 months if the licences are issued on or before 30 June 2010. Members may refer to the LegCo Brief (no reference number indicated) issued by the Food and Health Bureau in June 2010 for further information.

4. At the meeting on 20 January 2009, the Panel on Food Safety and Environmental Hygiene was briefed by the Administration on the proposal to issue fixed pitch hawker licences to former holders of THL/TRL operating in the eight specified places and expressed unanimous support to the proposal. Members may refer to the minutes of the meeting (LC Paper No. CB(2)1487/08-09) for further information.

5. According to the LegCo Brief, in March 2009, the Central and Western District Council also supported the Administration's proposal.

6. No difficulties have been identified in the legal or drafting aspects of the Declaration.

Prepared by

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