

LEGISLATIVE COUNCIL BRIEF

The Secretary for Food and Health submits the following note for Members' information:

Title of the Note	Date of Gazette
Hawker (Permitted Places) Declaration 2010	25 June 2010

LEGISLATIVE COUNCIL BRIEF

Public Health and Municipal Services Ordinance (Cap. 132)

HAWKER (PERMITTED PLACES) DECLARATION 2010

INTRODUCTION

By virtue of section 83B(4) of the Public Health and Municipal Services Ordinance (PHMSO) (Cap. 132), the Commissioner for Transport is empowered to set aside streets to be used for hawking purposes by declaration in writing.

2. In exercise of this power, the Commissioner for Transport has made the Hawker (Permitted Places) Declaration 2010, at Annex, to declare places to be used for hawking purposes to facilitate the issue of fixed pitch hawker licences by the Food and Environmental Hygiene Department (FEHD) to relevant tobacco hawkers in the Central and Western (C&W) District.

BACKGROUND AND JUSTIFICATIONS

3. Prior to August 1989, the Customs and Excise Department (C&ED) issued Tobacco Hawker's Licence (THL) /Tobacco Retailer's Licence (TRL) 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. Some THL / TRL holders continued to carry on their business after the expiry of their licences. Since they were not holding any hawker licence, they were regarded as unlicensed hawkers hawking in public places.

4. To remedy the situation, FEHD has earlier identified those tobacco hawkers who have long been trading on government land. It was found that all of the remaining tobacco hawkers were located in the C&W District. The

Legislative Council Panel on Food Safety and Environmental Hygiene (the FSEH Panel) and the C&W District Council indicated support in January and March 2009 respectively for FEHD's in-principle agreement to consider issuing fixed pitch hawker licences to existing tobacco hawkers, subject to their compliance with necessary checks applicable to hawker licensing. FEHD has subsequently approached these hawkers and invited them to submit applications for hawker licence. Meanwhile, FEHD has sought comments from other relevant government departments on the proposed creation of fixed hawker pitches at the trading sites. These include Fire Services Department, Hong Kong Police Force, Transport Department, Lands Department, Highways Department, Buildings Department and Home Affairs Department.

5. With the agreement of the above-mentioned government departments, we propose to create fixed hawker pitches at the locations where the eight tobacco hawkers are operating to facilitate the issue of fixed pitch hawker licences by FEHD. To this end, it is necessary to make the declaration under section 83B(4) of the PHMSO (Cap.132) to declare the eight new places to be used for hawking purposes.

THE DECLARATION

6. The Declaration at **Annex** is intended to set aside the eight hawker sites as places to be used for hawking purposes and to amend the Hawker (Permitted Places) Declaration (Cap. 132AG) consequentially.

LEGISLATIVE TIMETABLE

7. The legislative timetable is as follows —

Publication in the Gazette	25 June 2010
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Tabling at the Legislative Council	30 June 2010
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IMPLICATIONS OF THE PROPOSAL

8. The Declaration is in conformity with the Basic Law, including the provisions concerning human rights. It does not affect the current binding effect of the PHMSO and Hawker (Permitted Places) Declaration. There is no economic, productivity, environmental or sustainability implication.

9. The tobacco hawkers will be issued with Fixed Pitch (Other Class) Hawker Licence after paying an annual licence as well as a pitch fee at an amount in the range of \$4,620 to \$7,070 depending on the size of the pitch occupied. The estimated annual revenue from licensing the tobacco hawkers is \$41,930. As part of the relief measures announced in May 2009 for sectors directly affected by the global financial crisis and the global outbreak of the human swine flu, the fees for the new issue or renewal of a fixed pitch hawker licence as well as the fees for the allocation and use of fixed pitches have been waived for a year with effect from 1 July 2009. In this connection, the relevant fees for the hawker licences concerned, if successfully issued, will be waived for a total of 12 months if the licences are issued on or before 30 June 2010.

10. The staff costs in licensing and management of the tobacco hawkers concerned will be absorbed by existing resources of FEHD and no additional funding and posts are required.

PUBLIC CONSULTATION

11. The FSEH Panel and the C&W District Council were consulted and they supported FEHD's in-principle agreement to consider issuing fixed pitch hawker licences to existing tobacco hawkers.

PUBLICITY

12. The Declaration will be published in the Gazette on 25 June 2010. A spokesperson will be available to answer enquiries on this subject.

ENQUIRIES

13. For enquiries relating to this brief, please contact Mr. LEE Kwok-hung, Damian, Assistant Secretary for Food and Health (Food)7, at telephone number 2973 8114.

Food and Health Bureau
June 2010

HAWKER (PERMITTED PLACES) DECLARATION 2010

(Made by the Commissioner for Transport under section 83B(4) of the Public Health and Municipal Services Ordinance (Cap. 132) after consultation with the Director of Food and Environmental Hygiene and the Commissioner of Police)

1. Declaration of places for hawking purposes

The streets specified in column 1 of the Table in this section are, to the extent specified in column 2 and demarcated by road markings into the number of pitches specified in column 3, set aside as places to be used for hawking purposes.

TABLE

HONG KONG

Name of Street	Extent	No. of Pitches
Chiu Lung Street (East side)	Portion facing Queen's Road Central	10
Unnamed lane connecting Pedder Street and Theatre Lane	Portion of the southern side of the road space of the unnamed lane	4
Zetland Street (East side)	Portion facing Queen's Road Central at the side of House Nos. 16-18, Queen's Road Central	1
Theatre Lane (West side)	Portion at the side of House No. 22, Des Voeux Road Central	1

Jubilee Street	Pavement in front of House Nos. 9-11, Jubilee Street	1
Queen's Road Central	Pavement in front of House No. 8, Queen's Road Central	1
Unnamed lane (West side) connecting Stanley Street and Wellington Street	Portion at the side of House Nos. 14-16, Stanley Street	1
Des Voeux Road Central	Pavement in front of House No. 10, Des Voeux Road Central	1

2. Relevant entries of previous Declarations repealed

(1) The Hawker (Permitted Place) Declaration 1999 (L.N. 128 of 1999) is amended, in section 1, in the Table, by repealing the entry concerning Chiu Lung Street (East side).

(2) The Hawker (Permitted Places) Declaration 2009 (L.N. 256 of 2009) is amended, in section 1, in the Table, by repealing the entry concerning the unnamed lane connecting Pedder Street and Theatre Lane.

3. Second Schedule amended

(1) The Second Schedule to the Hawker (Permitted Places) Declaration (Cap. 132 sub. leg. AG) is amended, under the heading "HONG KONG", by repealing –

“Chiu Lung Street (East side)	At portion facing Queen's Road Central	9”
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and substituting –

“Chiu Lung Street (East side)	Portion facing Queen’s Road Central	10”.
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(2) The Second Schedule is amended, under the heading “HONG KONG”, by repealing –

“Unnamed lane connecting Pedder Street and Theatre Lane	Portion of the southern side of the road space of the unnamed lane	3”
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and substituting –

“Unnamed lane connecting Pedder Street and Theatre Lane	Portion of the southern side of the road space of the unnamed lane	4”.
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(3) The Second Schedule is amended, under the heading “HONG KONG”, by adding at the end –

“Zetland Street (East side)	Portion facing Queen’s Road Central at the side of House Nos. 16-18, Queen’s Road Central	1
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Theatre Lane (West side)	Portion at the side of House No. 22, Des Voeux Road Central	1
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Jubilee Street	Pavement in front of House Nos. 9-11, Jubilee Street	1
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Queen’s Road Central	Pavement in front of	1
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	House No. 8, Queen's Road Central	
Unnamed lane (West side) connecting Stanley Street and Wellington Street	Portion at the side of House Nos. 14-16, Stanley Street	1
Des Voeux Road Central	Pavement in front of House No. 10, Des Voeux Road Central	1”.

Commissioner for Transport

2010

Explanatory Note

This Declaration adds an additional pitch to 2 existing hawker permitted places respectively and declares parts of 6 streets as hawker permitted places. The following consequential repeal and amendment are made –

- (a) repealing the relevant entries in the previous Declarations in respect of the 2 existing hawker permitted places;
- (b) amending the Hawker (Permitted Places) Declaration (Cap. 132 sub. leg. AG).