

**For discussion
on 12 June 2012**

LegCo Panel on Food Safety and Environmental Hygiene

**Outcome of Consultation and Way Forward on
Mechanism for Cancellation of Hawker Licences and
Management of Fixed Pitch Hawker Areas**

Purpose

This paper briefs Members on the outcome of the public consultations conducted by the Administration on the proposed mechanism for cancellation of hawker licences and the management of fixed pitch hawker areas respectively, as well as the proposed way forward.

Background

2. Two major fires broke out at the hawker stalls at Fa Yuen Street in Mongkok in December 2010 and November 2011, with the fire last year unfortunately causing a considerable number of casualties in the adjoining buildings. As there are many similar hawker stalls which are close to residential buildings and located in densely populated streets, the Administration considers it necessary to draw on the experience of the fire and introduce measures to improve the management of fixed hawker pitches, so as to reduce the fire risks to nearby residents. At the respective meetings of this Panel on 13 December 2011 and 14 February 2012, the Administration briefed Members on the proposed mechanism for cancellation of hawker licences and the public consultation on the improvement of the management of fixed pitch hawker areas in order to enhance the fire safety of hawker stall areas. The consultation on mechanism for cancellation of hawker licences commenced on 13 December 2011 while the consultation on the improvement of the management of fixed pitch hawker areas began on 8 February 2012. The two consultations ended on 31 March 2012 and 7 May 2012 respectively.

I. Proposal on the Introduction of a Mechanism for Cancellation of Hawker Licences

3. Details of the Administration's proposal on the introduction of a mechanism for cancellation of hawker licences are set out in Annex I. During the consultation period, the Government received some 855 submissions from individuals and organisations. Besides, Government officials approached all District Councils (DCs) on the consultation, attended meetings of 16 DCs or their relevant committees. We also met with hawker associations and representatives and attended their forums, and met with deputations at the meeting of the Panel on Food Safety and Environmental Hygiene (the Panel) on 11 April 2012 to hear the views of the community, LegCo Members and the trade on the relevant proposals.

4. Separately, the Administration commissioned Consumer Search to conduct an opinion survey on the licensing system of hawker stalls between 2 February and 11 February 2012. A total of 1 002 persons aged 18 or above were interviewed.

Outcome of Public Consultation

5. In general, most of the DCs and hawker associations and some members of the public were against the introduction of a mechanism for cancellation of hawker licences or expressed reservation about the proposal. In their opinion, the introduction of such mechanism would be very unfair to hawkers as the cause of the Fa Yuen Street fire outbreak on 30 November last year is yet to be identified. It was noted that the proposed mechanism would pose a direct impact only on hawkers who commit offences repeatedly within a short period. Nevertheless, hawkers whose licence is cancelled would not be able to get a new one since the Government has stopped issuing new hawker licences. The proposal was considered too harsh, leaving little room for the survival of the hawkers, who might eventually be forced to discontinue their businesses, resulting in serious consequences. Some District Councillors and hawkers suggested the Government to consider proposals such as suspension of licence or introduction of a demerit point system, which in their view would be more reasonable. There were some District Councillors and hawkers who agreed that it would be reasonable for the Administration to immediately cancel the licence if the licensee violates any one of the offences, namely providing false declaration, illegal connection of electricity and stall subletting. In

addition, at the special meeting of the Panel on 11 April 2012, Members passed a motion to urge the Government to cancel its proposal on the mechanism for cancellation of hawker licences.

6. Some members of the public, on the contrary, supported the introduction of a mechanism for cancellation of hawker licences as they think it can achieve greater deterrent effect. They also supported the Food and Environmental Hygiene Department (FEHD) to take stringent enforcement action and impose heavy penalty on hawkers who repeatedly commit offences. However, some considered it more appropriate to adopt the approach of suspending the licence, or to first suspend and then cancel the licence.

7. Meanwhile, according to the opinion survey, over 70% of the respondents agreed that FEHD should step up regulation and enforcement efforts regarding on-street fixed hawker stalls in order to reduce fire risks. 58% of the respondents supported the introduction of a mechanism for cancellation of hawker licences, 63% supported the introduction of a mechanism for suspension of hawker licences, and 71% considered it more appropriate to suspend the licence first and cancel it as the last resort. Besides, about 78% of the respondents agreed that the hawker licence should be immediately cancelled if the offences are in connection with stall subletting, illegal connection of electricity and providing false information in an application for a hawker licence. A summary of the results of the opinion survey are set out in **Annex II**.

Way Forward on a Proposed Sanction Mechanism of Hawker Licence

8. Although the cause of the fire at Fa Yuen Street in late November 2011 is still under investigation, non-compliant activities of hawkers in hawker areas in busy streets close to residential buildings will increase fire risks and pose a threat to residents. Experience in enforcement indicates that prosecution against individual non-compliance cases on its own cannot effectively deter licensed hawkers from repeating the offences. Therefore, the Government considers that in addition to enhancing self-discipline of traders, it is also necessary to implement new measures to enhance the effectiveness of law enforcement so as to further reduce the fire risks brought about by hawker stalls.

9. The Government is well aware of the apprehension of the hawker associations on the proposed mechanism for cancellation of hawker licence. As a matter of fact, since the fire outbreak at Fa Yuen Street in November 2011, fixed pitch hawkers have already strengthened their self-discipline. Taking into consideration of the result of the consultation, the Administration has decided to modify the original proposal of licence cancellation by introducing a mechanism for suspension of hawker licences against repeated offenders. We propose that the mechanism for suspension of hawker licences can adopt the framework set out in the original consultation paper, i.e. if a licensed hawker is convicted for six times within three months for breaching any fire risk-related provisions under the Hawker Regulation (Cap. 132AI) (see **Annex III**), the Director of Food and Environmental Hygiene (DFEH) may consider suspending his/her hawker licence. If the licensed hawker is subsequently convicted again for six times within three months for breaching any related hawker regulations, the number of licence suspension days would increase so as to achieve a deterrent effect.

10. Taking into account the operation and livelihood of hawkers and that suspension of hawker licences would bring a considerable blow to them, it is proposed that on the first occasion when a licensed hawker is convicted six times within three months for breaching any related regulations, his/her licence would be suspended for seven days. If in the subsequent 12 months that licensed hawker is again convicted for six times within three months for breaching any related regulations, the licence would be suspended for 14 days; and if in the subsequent 12 months the same situation occurs for a third time, the licence would be suspended for 30 days. On the fourth occasion of the same situation in the subsequent 12 months, the licence would still be suspended for 30 days only; and so on. If a licensee has not breached any related regulations for six times within three months during the subsequent 12 months after a suspension, the previous licence suspension(s) would not be counted cumulatively and the Administration will adopt seven days as a starting point of licence suspension if the same licence were to be suspended again in future. We believe the revised mechanism will lessen the apprehension of the stall hawkers and sustain the improvement on the present management situation.

11. Making false declaration to obtain a hawker licence, illegal connection of electricity¹ and stall subletting are considered as serious offences and should be dealt with by a more stringent approach. Therefore, if the licensee violates any one of these three serious offences, the Administration may still consider immediate cancellation of his/her hawker licence.

12. The Administration also suggests that if the licensee is dissatisfied with the decision of DFEH, he/she may make representations in response to the decision within seven days. This will give the licensee an opportunity to express or submit his/her views or disagreement to the material facts of the case. DFEH will consider the representations and decide whether to affirm or to vary his original decision.

Appeal Mechanism

13. If DFEH affirms his decision to suspend or cancel the hawker licence and the licensee is dissatisfied with the decision, he/she may appeal to the Licensing Appeals Board (LIAB) within 14 days under Section 125(9) of the Public Health and Municipal Services Ordinance (Cap. 132). After hearing, the LIAB may affirm, vary or set aside the decision of DFEH. If the licensee is dissatisfied with the decision of the LIAB, he/she may appeal to the Municipal Services Appeals Board within 14 days under Section 125B(4) after receiving the decision of the LIAB.

Implementation Timetable

14. The Government hopes to put the hawker licence sanction mechanism into effect as soon as possible. Before the mechanism comes into effect, the Administration will explain the details to the hawkers and relevant organisations, and inform all hawkers concerned in writing. The Government will closely monitor the implementation and conduct a review of the mechanism in two years. The review will examine whether there is a need to revise the penalty and adjust the applicability of the sanction of licence cancellation.

¹ At present, some hawker areas are not provided with power connection by the power companies. FEHD and the power companies are discussing the power supply arrangement. The licence cancellation sanction will be imposed on the offenders only after completion of the works.

II. Management of fixed pitch hawker areas

15. The Administration issued a document entitled “Public Consultation on Management of Fixed Pitch Hawker Areas”² on 8 February 2012 to invite public views and comments. In gist, the consultation document set out six medium and long-term options to improvement management of these areas, namely –

- (a) overnight storage of commodities only inside enclosed metal stall structures (without the need to dismantle the stall);
- (b) dismantling of stalls and removal of all commodities after close of business at night;
- (c) resiting of hawker areas;
- (d) resiting of hawker stalls in front of staircase discharge points of buildings;
- (e) installation of fixed fire resisting structures to enclose stalls on three sides and the top cum installation of sprinkler system; and
- (f) voluntary licence surrender scheme for fixed pitch hawkers.

16. As the geographical and surrounding environment of each hawker area is different, the document pointed out that more time would be needed to study, analyse and discuss with stakeholders in individual areas in order to determine the most acceptable measures that can be implemented. As a practicable option in the medium term to reduce fire risks posed by hawker areas, the Government considers it practicable to first implement the arrangement of “overnight storage of commodities only inside enclosed metal stall structures” and then progressively require stall hawkers to use better fire resisting materials to construct their stalls and try as far as possible to resite the hawker stalls in front of staircase discharge points of buildings.

² The document is attached to LC Paper No. CB(2)993/11-12(03) and can be downloaded at <http://www.fehd.gov.hk/english/index.html> under “What’s New”

Outcome of Public Consultation

17. During the consultation period, the Government received about 42 submissions from individuals and organisations. Government officials attended meetings of all DCs or their relevant committee, had discussion with hawker associations, and met with deputations at the meeting of the Panel held on 11 April 2012. Separately, the Government commissioned Consumer Search to conduct an opinion survey between 10 and 19 April 2012. The survey interviewed a total of 1 001 respondents who are 18-year old or above.

18. Overall, the options of “resiting of hawker stalls in front of staircase discharge points of buildings”, “overnight storage of commodities only inside enclosed metal stall structures”, and a “voluntary licence surrender scheme for fixed pitch hawkers” received more support from DCs, hawker associations and members of the general public. Some hawker representatives proposed that storage of other equipment/metal cages/metal boxes outside the licensed stall areas after business hours should also be allowed. Many respondents expressed reservations on the options of “dismantling of stalls and removal of all commodities after close of business at night” and “installation of fixed fire resisting structures to enclose stalls on three sides and the top cum installation of sprinkler system”. There was strong support that the Government should not adopt a one-size-fits-all approach and that improvement measures should take into account the physical environment and the characteristics of the hawker areas concerned, as well as the views of the respective DCs, residents and hawkers. DCs requested the Government to revert to them for discussion when a more specific package of improvement measures has been formulated for individual hawker areas in their respective districts. In addition, at the special meeting of the Panel on 11 April 2012, Members passed a motion to urge the Government to formulate a comprehensive and sound hawker policy as soon as possible.

19. A summary of the results of the opinion survey are set out in **Annex IV**.

The Administration's Response

Preserving and Revitalising the Hawking Trade

20. The Government fully recognises that hawking has a long history. Many on-street hawker areas have evolved with the development of the districts and have contributed to the vibrant and diversified characteristics of Hong Kong. Hawker areas are very often conveniently located and offer cheaper goods for the public at large. The unique culture of street hawkers/hawker bazaar has become part of the everyday life of many Hong Kong residents and some hawker areas have become tourist attractions.

21. The Government appreciates the uniqueness of on-street hawking activities in Hong Kong and has adjusted its policy with time. The most recent review took place in 2008-09. A number of measures were implemented in response to calls to preserve and revitalise the hawking trade. They include:

- (a) over 600 back-row vacant pitches had been merged with front-row pitches to provide a larger trading area for licensees;
- (b) over 200 persons were issued new fixed pitch licences to trade in vacant pitches;
- (c) more than 60 new itinerant (frozen confectionery) hawker (commonly known as “small ice-cream vendors”) licences were issued;
- (d) new licences were issued to long-time bootblack and tobacco hawkers in Central and Western District as part of our efforts to preserve local district characteristics;
- (e) to preserve “Dai Pai Tongs”, we agreed to give greater flexibility to operators in Central and Western District to transfer their licences to their family members and embarked on a project with the licensees to improve environmental hygiene in the vicinity of the stalls (e.g. supply of town gas, better discharge of water and cooking fume, new canopies etc.); and
- (f) the Government has consulted and sought the agreement of the Panel to license hawkers who are conducting tradesman activities (the proposal

has been held in abeyance pending the outcome of this consultation exercise).

22. The Government believes that the best way to preserve the hawking trade tradition is to maintain the current flexible, low cost environment, so as to cultivate vitality. This enables hawker areas to operate, thrive and develop in an organic manner.

23. On the other hand, the Government has a duty to regulate on-street hawking activities to maintain proper order, to reduce environmental nuisance and to minimise fire risks to nearby residents. Our task is to strike a balance between providing enough room for hawkers to make a living while ensuring public hygiene and safety.

A District-based Approach

24. The views and comments collected during the consultation period provide useful insights on how we can strike this balance. There is general support that the Government should not pursue a one-size-fits-all solution as each on-street hawker area has its own physical conditions and business characteristics. The Government will adopt a district-based approach in considering the medium and long-term options to be implemented in each district. A Steering Committee on Hawker Management will be set up, chaired by the Director of Food and Environmental Hygiene and comprising officials of Fire Services Department (FSD), Buildings Department and Home Affairs Department (representatives of other departments will be co-opted on a need basis). The terms of reference of the Steering Committee are to formulate specific measures to improve management and to reduce fire risks at each hawker area, to steer the consultation process at the district level and to see through their implementation.

25. FEHD and FSD have already started the planning process and the Steering Committee on Hawker Management aims to start submitting the first batch of improvement proposals to the relevant DCs in the third quarter of this year.

Partnership and a Collaborative Relationship

26. While enforcement will always remain an important management tool, the Government considers that self-compliance is equally important in order to ensure sustained improvements on management of hawker areas. To establish a partnership and collaborative relationship with all stakeholders, FEHD will set up for each major hawker area a Hawker Management Consultative Committee (HMCC), comprising representatives of licensed hawkers, relevant DC and District Fire Safety Committee members. The HMCCs will provide a platform for two-way communication and for FEHD district staff to discuss day-to-day management, regulatory and safety issues, as well as to encourage self-compliance and good practices among hawkers.

Better Hawker Stall Design

27. There are views that the design of stalls commonly adopted by hawkers has remained unchanged over time and that it may not be able to fit well with the current operation of hawkers when improvement management measures are to be adopted. There should be room for bringing innovation and technology into the stall design so that hawkers could on the one hand comply with the Government's requirements to reduce fire risks, and on the other hand have a safer, more functional and user-friendly stall. To this end, FEHD has engaged the Hong Kong Polytechnic University (PolyU) to come up with a new stall design using better fire-resisting materials and which can cater for the hawkers' business needs (for example, one with retractable racks/frames/canopies and detachable/foldable metal boxes or carts in hawker areas where the option of "overnight storage of commodities only inside enclosed metal stall structures" is implemented).

Enforcement Standard and Stall Size

28. Since December last year, FEHD has strengthened law enforcement actions against the following irregularities to reduce the fire risks posed by hawker stalls:

- (a) stall canopies made of or covered with combustible materials;
- (b) overnight storage of goods outside the approved stall areas;

- (c) obstruction of passageways; and
- (d) stall subletting.

29. To further enhance transparency of its enforcement standard and to ensure that all hawkers are clearly aware of the legal requirements and the licensing conditions, FEHD issued a letter to all licensees in hawker areas in early March 2012 stating clearly, once again, the above enforcement priorities, as well as the requirements in respect of stall size, materials and construction. FEHD will continue to take firm actions against these violations.

30. During the public consultation, many hawker representatives commented that the stall size of 0.9 m x 1.2 m (i.e. 3 ft x 4 ft) is outdated and should be relaxed in order to provide hawkers more space to trade. There were also criticisms that enforcement standard against obstruction during operating hours is unclear and that increasing the stall size could ensure the hawkers would not be prosecuted and reduce the uncertainty arising from the discretion in enforcement.

31. Unlike other business activities, on-street hawking is intended for small scale business and on-street hawker stalls take up street space in high density areas which very often is also major passageways for other road users. Unless the number of streets that can be set aside to accommodate hawking activities can be increased (or the number of licensed hawkers can be substantially reduced), increasing the size of the licensed stall area will seriously aggravate the problem of obstruction and would have adverse fire safety and environmental hygiene implications. In practice, FEHD have exercised flexibility to allow hawkers to display their goods outside the approved stall areas during business hours, so long as there is no obstruction to passageways and emergency vehicular access and their stalls are retracted to their prescribed sizes after business hours. Balancing all factors, the Government does not consider it practicable to increase the licensed stall sizes and that the current arrangement provides an appropriate balance. Nevertheless, FEHD would consider any proposal from HMCCs on ways to enhance transparency in enforcement during trading hours provided that fire risks and other environmental nuisances can be satisfactorily managed.

Registered Assistants

32. There were suggestions during the public consultation that registered assistants (RAs) of hawker stalls should be allowed to conduct business without the presence of the licensees in order to allow more flexibility for them to trade and to cater for situations where licensees are away from their stalls temporarily.

33. The Hawker Regulation (Cap. 132 AI) requires that a hawker licensee shall, unless absent for some reasonable cause, be personally present at the pitch and conduct business there. RAs are allowed to operate in the absence of the licensee if reasonable cause can be adduced and a licensee may seek permission to appoint Deputies if the licensee is away from Hong Kong or is incapacitated by illness for a period of more than eight days. When enforcing the requirements, FEHD takes into account the business needs and circumstances of the hawking trade. Occasional absence of the licensee due to causes such as meal breaks, replenishing stock and attending to personal matters are accepted as reasonable explanations. The provision of the Hawker Regulation to require the licensee to be personally present at the hawker pitch is an important safeguard against subletting. Since FEHD will only target at prolonged absence without reasonable explanation and at suspected subletting cases, the Government does not consider that the legal requirement should be relaxed.

Voluntary Licence Surrender Scheme

34. There is general support of a voluntary licence surrender scheme, particularly for elderly licensees who are no longer able or willing to operate their stalls. The Government will give further thoughts to the details of a possible scheme.

Advice Sought

35. Members are invited to note and comment on the contents of this paper.

**Food and Health Bureau
Food and Environmental Hygiene Department
June 2012**

Consultation on the Mechanism for Cancellation of Hawker Licences

The Administration is consulting the relevant stakeholders, including the District Councils concerned and representatives of stall hawkers, on the proposed mechanism for cancellation of hawker licences. The consultation period will run until 12 February 2012, with a view to putting the mechanism into effect in April 2012.

Proposal on the Mechanism for Cancellation of Hawker Licences

All hawkers are subject to regulation under the Public Health and Municipal Services Ordinance (Cap. 132) and its subsidiary legislation, the Hawker Regulation (Cap. 132AI). They provide for the issue, renewal and cancellation of licences; the sale of specified commodities; application for permission to appoint assistants and deputies; the delineation, control and use of fixed pitches; and no obstruction caused by licensees, etc.

Stall hawkers are duty-bound to abide by the licensing conditions. However, according to past experience in stall management, reliance on the self-discipline of traders alone is not sufficient. There are stall hawkers who persist in blatantly violating regulations despite repeated prosecutions. According to Food and Environmental Hygiene Department (FEHD)'s records, there were about 7 000 convicted cases in 2010 involving licensed hawkers or their assistants, etc, 28% of whom were prosecuted four times or more. The Hawker Regulation has prescribed penalties for various offences, and FEHD has taken vigorous law enforcement actions and stepped up enforcement efforts as the circumstances may require. Despite all these, it is obvious that prosecution against individual non-compliance cases on its own cannot effectively deter repeated offences committed by licensed hawkers. In view of some hawkers' disregard for the existing penalties and to enhance the effectiveness of law enforcement, the Administration proposes to introduce a mechanism for the cancellation of hawker licences with a view to achieving a greater deterrent effect.

Under Section 125(1)(b) of the Public Health and Municipal Services Ordinance (Cap. 132), the Director of Food and Environmental Hygiene (DFEH) may exercise discretion to cancel any licence. Currently, FEHD has already put in place policies to suspend or cancel the licence / permit of a licensed food premises and to terminate the tenancy of a public market stall found to have breached the relevant regulations and tenancy regulations. Taking into account that the business nature of hawkers is similar to that of market stalls, we

propose to formulate a mechanism for cancellation of hawker licences with reference to the existing arrangements for the termination of tenancy for market stall tenants who have breached the Public Health and Municipal Services Ordinance (Cap. 132) or its subsidiary legislation (**Appendix I**).

Offences Under the Mechanism for Cancellation of Hawker Licences

Some irregularities relating to licensed hawkers, such as trading outside the permitted area, storage of goods outside the approved area after business hours, stall size exceeding the specified dimensions, stall subletting or illegal connection of electricity, etc, pose a much higher fire risk than others. We therefore propose that the conviction of offences relating to these irregularities should be included in the mechanism for cancellation of hawker licences. These irregularities are set out in **Appendix 2**.

Proposed Mechanism for Cancellation of Licences

The mechanism for cancellation of licences should be applied based on the number of prosecutions and convictions within a period of time. It is proposed that if a licensed hawker is convicted for six times within three months for breaching any hawker-related provisions under the Public Health and Municipal Services Ordinance (Cap. 132) or its subsidiary legislation, the Hawker Regulation (Cap. 132AI), DFEH may consider cancelling his/her hawker licence in accordance with the mechanism.

Serious offences, including stall subletting, illegal connection of electricity and providing false information to obtain a hawker licence, should be given harsher penalties. Stall subletting considerably increases the fire risks by aggravating the problem of unauthorised trading outside the approved area, and illegal connection of electricity can even cause fire. Providing false information in order to acquire a hawker licence is also a serious offence. Therefore, we suggest that if a licensee has committed any one of these three offences, DFEH may consider immediate cancellation of his/her hawker licence.

The Administration also suggests that if the licensee is dissatisfied with the decision of DFEH, he/she may make representations in response to the decision within seven days. This will give the licensee an opportunity to express or submit his/her views or disagreement to the material facts of the case. DFEH will consider the representations and decide whether to affirm or to vary his original decision.

Appeal Mechanism

If DFEH affirms his decision to cancel the hawker licence and the licensee is dissatisfied with the decision, he/she may appeal to the Licensing Appeals Board (LIAB) within 14 days under Section 125(9) of the Public Health and Municipal Services Ordinance (Cap. 132). After hearing, the LIAB may affirm, vary or set aside the decision of DFEH. Under Section 125B(4), if the licensee is dissatisfied with the decision of the LIAB, he/she may appeal to the Municipal Services Appeals Board (MSAB) within 14 days after receiving the decision of the LIAB.

**Arrangements for Termination of Tenancy Agreement of Public Market Stalls
due to Breaches of Public Health and Municipal Service Ordinance
(Cap.132)
or its Subsidiary Legislation**

- (a) If four offences resulting in conviction under the Public Health and Municipal Service Ordinance (Cap.132) or its subsidiary legislation are registered against the stall's tenant, agents or employees within a period of 12 months, the Director of Food and Environmental Hygiene (DFEH) will issue a "notice of intended termination of tenancy" (the Notice) to terminate the stall's tenancy agreement. If the offence committed is considered of a serious nature, only one conviction will warrant the issue of the Notice immediately by the Food and Environmental Hygiene Department;
- (b) If the tenant is dissatisfied with DFEH's decision, he/she may make representations in response to the intended termination decision in seven days (in case of serious offences where the Notice had been immediately issued by DFEH, representations should be made within four days). This would provide a useful opportunity for the tenant to submit his/her views or disagreement with the material facts of the case. DFEH will then consider the representation submitted and decide on whether to affirm or vary his original decision; and
- (c) If DFEH affirms the decision of terminating the tenancy, and the tenant is not satisfied with the decision, he/she may lodge an appeal with the Municipal Services Appeal Board (MSAB) within 30 days. After hearing, MSAB may affirm, vary or set aside the decision of DFEH.

Appendix II

Offences Under the Mechanism for Cancellation of Hawker Licences

Offences	Relevant Provisions	Maximum Penalty
Hawking unspecified commodity or service	Section 5(2) of Hawker Regulation	Liable to a fine of \$5,000 and to a further daily fine of \$100.
Employing an assistant without registration	Section 12(1A) of Hawker Regulation	Liable to a fine of \$5,000 and to a further daily fine of \$100.
*Subletting of stall	Section 13(1) of Hawker Regulation	Liable to a fine of \$5,000 and to a further daily fine of \$100.
Failing to comply with order to vacate allocated pitch either permanently or temporarily (only applicable to circumstances under which the vacating is necessary to improve fire safety)	Sections 34(1) and 34(4) of Hawker Regulation	Liable to a fine of \$5,000 and to a further daily fine of \$100.
Not being personally present at the pitch when business is being carried on	Section 38 of Hawker Regulation	Liable to a fine of \$5,000 and to a further daily fine of \$100.

Offences	Relevant Provisions	Maximum Penalty
Commodities being hawked and equipment or objects used in connection with hawking are placed outside the boundaries of the pitch	Section 48 of Hawker Regulation	Liable to a fine of \$5,000 and to a further daily fine of \$100.
Causing obstruction	Section 53 of Hawker Regulation	Liable to a fine of \$5,000 and imprisonment for one month, and to a further daily fine of \$100.
*Installing or connecting electrical appliances, electrical wiring, or other electrical equipment without approval	Section 54 of Hawker Regulation	Liable to a fine of \$5,000 and to a further daily fine of \$100.
Breaching of conditions of licence related to the size, height or construction materials of stall by a licensed hawker	Section 55 of Hawker Regulation	Liable to a fine of \$5,000 and to a further daily fine of \$100.
*Making false declaration for the purpose of obtaining a licence	Section 56(7) of Hawker Regulation	Liable to a fine of \$10,000 and to imprisonment for six months.

Note: * Serious offence. Upon conviction of a serious offence, DFEH may consider cancellation of the licence with immediate effect.

Summary of the Results of the Opinion Survey on the Licensing System of Hawker Stalls

The Administration commissioned Consumer Search to conduct an opinion survey on the licensing system of hawker stalls between 2 February and 11 February 2012. A total of 1 002 persons aged 18 or above were interviewed.

2. In general, over 70% of the respondents agreed that the Food and Environmental Hygiene Department (FEHD) should step up regulation and enforcement efforts regarding on-street fixed hawker stalls in order to reduce fire risks. Nearly 60% of the respondents supported the introduction of a mechanism for cancellation of hawker licences with a view to achieving a greater deterrent effect on frequent offenders. Over 60% of the respondents supported the introduction of a mechanism for suspension of hawker licences (i.e. suspending the licence for a period of time). When given options to choose, over 70% of the respondents considered it more appropriate to suspend the licence first and cancel it as the last resort. In this connection, over 80% of the respondents considered it appropriate to suspend the licence for 14 days on the first occasion, 30 days on the second occasion and cancel it only on the third occasion. Regarding the Government's proposal that if a licensed hawker is convicted for six times within three months for breaching any provisions under the Hawker Regulation, the Director of Food and Environmental Hygiene (DFEH) may consider cancelling his/her hawker licence, over 60% of the respondents considered such a measure appropriate. Over 70% of the respondents agreed that the hawker licence should be immediately cancelled if the offences were in connection with stall subletting, illegal connection of electricity and providing false information in an application for a hawker licence.

Summary of Survey Findings

3. Findings of the survey are summarised as follows:

- About 71% of the respondents agreed that FEHD should step up regulation and enforcement efforts regarding on-street fixed hawker stalls in order to reduce fire risks, while only about 7% of the respondents did not agree.

- About 58% of the respondents supported the introduction of a cancellation mechanism to achieve a greater deterrent effect on frequent offenders, while about 17% of the respondents did not support this idea.
- About 63% of the respondents supported the introduction of a mechanism for suspension of hawker licences, while about 12% of the respondents did not support this idea.
- When given the three options of “only cancellation but no suspension of hawker licence”, “only suspension but no cancellation of hawker licence” and “suspension first and then cancellation of hawker licence”, about 71% of the respondents considered the option of suspending the licence first and then cancelling it as the last resort more appropriate.
- Regarding the Government’s proposal that if a licensed hawker is convicted for six times within three months for breaching any provisions under the Hawker Regulation, DFEH may consider cancelling his/her hawker licence, about 68% of the respondents considered such a measure appropriate, about 10% considered it too lenient, and 19% considered it too harsh.
- About 78% of the respondents agreed that the hawker licence should be immediately cancelled if the offences were in connection with stall subletting, illegal connection of electricity and providing false information in an application for a hawker licence, while only 8% did not agree.
- If the Government decides to apply a suspension penalty before cancellation of a hawker licence:
 - About 83% of the respondents considered it would be appropriate to suspend the licence for 14 days on the first occasion, 30 days on the second occasion and cancel it only on the third occasion.
 - About 62% of the respondents considered it would be appropriate to suspend the licence for one month on the first occasion, three months on the second occasion and cancel it

only on the third occasion.

- About 41% of the respondents considered it would be appropriate to suspend the licence for three months on the first occasion, six months on the second occasion and cancel it only on the third occasion.

Offences leading to Suspension of Hawker Licences		
(a)	Hawking unspecified commodity or service	Section 5(2) of Hawker Regulation
(b)	Employing an assistant without registration	Section 12(1A) of Hawker Regulation
(c)	Failing to comply with order to vacate allocated pitch either permanently or temporarily (only applicable to circumstances under which the vacating is necessary to improve fire safety)	Sections 34(1) and 34(4) of Hawker Regulation
(d)	Not being personally present at the pitch when business is being carried on	Section 38 of Hawker Regulation
(e)	Commodities being hawked and equipment or objects used in connection with hawking are placed outside the boundaries of the pitch	Section 48 of Hawker Regulation
(f)	Causing obstruction	Section 53 of Hawker Regulation
(g)	Breaching of conditions of licence related to the size, height or construction materials of stall by a licensed hawker	Section 55 of Hawker Regulation
Blatant Offences leading to Cancellation of Hawker Licences		
(h)	Subletting of stall	Section 13(1) of Hawker Regulation
(i)	Installing or connecting electrical appliances, electrical wiring, or other electrical equipment without approval	Section 54 of Hawker Regulation
(j)	Making false declaration for the purpose of obtaining a licence	Section 56(7) of Hawker Regulation

**Summary of the Results of the Opinion Survey on
the Management of Fixed Pitch Hawker Areas**

The Administration commissioned Consumer Search to conduct an opinion survey on the management of fixed pitch hawker areas between 10 April and 19 April 2012. A total of 1 001 persons aged 18 or above were interviewed.

2. Among the five medium and long-term options to reduce fire risk, the option of “overnight storage of commodities only inside enclosed metal stall structures (without the need to dismantle the stall)” was considered the most appropriate. Over 60% of the respondents supported the idea and more than 50% of the respondents considered that stall hawkers could only keep the enclosed metal boxes (i.e. “cabinets”) which were built to the specified dimensions after business hours. The next two most favoured options were “dismantling of stalls and removal of all commodities after close of business at night” and “resiting of hawker stalls in front of staircase discharge points of buildings”. Both options were supported by over 50% of the respondents. As for “resiting of hawker areas” and “installation of fixed fire resisting structures to enclose stalls on three sides and the top cum installation of sprinkler system”, both options gained support from nearly 30% of the respondents. More than 50% of the respondents considered that the installation cost of fixed fire resisting structures and sprinkler system should be shouldered by the hawker stall owners themselves. Furthermore, over 60% of the respondents agreed that the Food and Environmental Hygiene Department (FEHD) should launch a voluntary licence surrender scheme for fixed pitch hawkers.

3. In general, over 70% of the respondents agreed that the Government should take forward the improvement measures in stages, starting with those which were easier to implement first. They thought that the Government should first implement the arrangement of “overnight storage of commodities only inside enclosed metal stall structures”, and then progressively require stall hawkers to use fire resisting materials to construct the stalls in order to enhance fire resistance, while at the same time trying as far as possible to resite hawker stalls in front of staircase discharge points of buildings to improve the management of hawker stalls.

Summary of Survey Findings

4. Findings of the survey are summarised as follows:

- About 67% of the respondents supported the arrangement of “overnight storage of commodities only inside enclosed metal stall structures”, while about 13% of the respondents did not support this idea. About 52% of the respondents considered that enclosed metal boxes (commonly known as “cabinets”) which were built to the specified dimensions should be kept. About 44% of the respondents considered that apart from the “cabinets”, other equipment such as metal frames and metal carts should also be kept.
- About 53% of the respondents supported the “overnight storage of commodities only inside enclosed metal stall structures”, while about 21% did not support this idea.
- About 51% of the respondents supported the “resiting of hawker stalls in front of staircase discharge points of buildings”, while about 22% did not support this idea.
- About 29% of the respondents supported the “resiting of hawker areas”, while about 44% did not support this idea.
- About 28% of the respondents supported the “installation of fixed fire resisting structures to enclose stalls on three sides and the top cum installation of sprinkler system”, while about 44% did not support this idea.
- Regarding the installation cost of the fire resisting enclosure and the sprinkler system, about 57% of the respondents considered that the cost should be shouldered by the hawker stall owners, while about 20% did not support this idea.
- If the number of hawker stalls had to be reduced for implementation of the above options, about 61% of the respondents supported that the Government should launch a

voluntary licence surrender scheme for fixed pitch hawkers, while about 16% did not support this idea.

- About 76% of the respondents agreed that FEHD should take forward the relevant measures in stages starting with those which were easier to implement. They thought that the Government should first implement the arrangement of “overnight storage of commodities only inside enclosed metal stall structures”, and then progressively require stall hawkers to construct the stalls with fire resisting materials in order to enhance fire resistance, while at the same time trying as far as possible to resite hawker stalls in front of staircase discharge points of buildings to reduce fire risk. About 8% of the respondents did not support this idea.