

# 立法會

## *Legislative Council*

LC Paper No. CB(2)2285/11-12(05)

Ref : CB2/PL/FE

### **Panel on Food Safety and Environmental Hygiene**

**Background brief prepared by the Legislative Council Secretariat  
for the meeting on 12 June 2012**

### **Public consultation on the management of fixed pitch hawker areas**

#### **Purpose**

This paper gives an account of the past discussions by the Panel on Food Safety and Environmental Hygiene ("the Panel") on the Administration's proposals in its public consultation document on the management of fixed pitch hawker areas and related matters.

#### **Background**

2. A No. 3 alarm fire broke out at Fa Yuen Street on 6 December 2010 had damaged a number of single-storey tin-sheeted and wooden hawker stalls. The Food and Health Bureau immediately convened a cross-bureaux and departmental meeting with representatives of the Security Bureau, the Food and Environmental Hygiene Department ("FEHD"), the Fire Services Department, the Electrical and Mechanical Services Department, the Buildings Department and the Home Affairs Department to discuss the measures to enhance the fire safety and the management of the Fa Yuen Street Hawker Permitted Area.

3. On 30 November 2011, a fatal No. 4 alarm fire broke out at the same location, resulting in nine deaths and 34 injuries. The Chief Executive announced on the same day that he had directed the Chief Secretary for Administration to convene and chair an inter-departmental working group to ensure and coordinate services available to the victims and families, as well as to consider various options in order to minimize the potential threat posed by open-air hawker stalls to the fire safety of the adjoining buildings. The Administration has launched a three-month public consultation starting from 8 February to 7 May 2012 on the relevant options, which include -

- (a) overnight storage of commodities only inside enclosed metal stall structures;
- (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.

4. The Administration considers that, subject to the outcomes of the consultation, improvement measures should be implemented at Fa Yuen Street first and then their effectiveness should be reviewed, before the relevant measures are suitably extended to other hawker areas. When devising improvement measures on the basis of individual hawker areas, the views of local stall hawkers, residents and the relevant District Councils will be taken into account. Besides, with a view to combating the blatant violations of regulations by some stall hawkers despite repeated prosecutions, the Administration has also carried out a consultation with relevant stakeholders and hawker representatives on the proposed mechanism for cancellation of hawker licences. Under the proposed mechanism, 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, i.e. the Hawker Regulation (Cap. 132AI), the Director of Food and Environmental Hygiene may consider cancelling his hawker licence in accordance with the mechanism. The consultation period ended in March 2012.

### **Deliberations of the Panel**

5. At its meeting on 14 February 2012, the Panel was briefed on the Administration's public consultation document on the management of fixed pitch hawker areas. The Panel also held a special meeting on 11 April 2012 to receive views from deputations.

#### Proposals in the public consultation document

6. There was a view that the proposed measure of dismantling of stalls and removal of all commodities after the close of business was unlikely viable and might be inapplicable to certain hawker areas. Members urged the Administration to further enhance the communication with the hawking trade and consider site-specific measures for different fixed pitch hawker areas. According to the Administration, there would not be a one-size-fits-all package of measures which could be implemented across the board in all hawker areas. Different situations of fixed pitch hawker areas in the 18 districts and views of stakeholders would be taken into account in considering ways to reinforce the local characteristics and facilitate the business of the hawker areas.

7. On the suggestion of building standardized pitches with fire resisting materials at a larger size instead of installing sprinkler system as proposed in the public consultation document, the Administration responded that the increase in pitch size depended on the availability of space. The number of stalls might be reduced to allow more space for other hawkers. The Administration pointed out that another option was to develop new hawker areas to accommodate the existing hawkers in order to create room for bigger stalls at their original hawker areas for other hawkers. The Administration would consider building standardized stalls and hawkers would be requested to pay the construction cost by instalments. However, flexibility should be given to hawkers of different merchandizes who might need different stall designs.

8. Members considered the three feet times four feet stall too small for the diversified commodities nowadays, and called for an increase in stall size to improve hawkers' business environment. The Administration explained that the specification of three feet times four feet was set to accommodate itinerant hawkers who usually sold unique commodities in those days. The stall could be enlarged only if space was available by extending thehawker areas or reducing the number of stalls. Discussion with the relevant District Councils and stakeholders on the details was needed.

9. Deputations of the hawking trade also commented that the Hawker Regulation was obsolete that the size of fixed pitch approved by FEHD (i.e. 3 feet × 4 feet or 4 feet × 6 feet) was too small and trading outside the permitted hawker area was unavoidable. They urged the Administration to review the existing requirements for stall size.

10. Some members were disappointed that the public consultation document did not include a proposal to facilitate the development of hawking trade, and pointed out that the proposed voluntary licence surrender scheme was throttling fixed pitch hawkers. The Administration stressed that it had no intention to phase out fixed pitch hawkers. The low hawker licence fee was already an aid to the development of hawking trade. Besides, the Administration had been encouraging hawking trade by re-issuing Itinerant (Frozen Confectionary) Hawker Licences and new bootblack hawker licences in recent years. The Administration would examine the appropriate number of stalls, subject to the space available, residents' support and public safety. The Panel urged the Administration to review the hawker policy from an angle of revitalizing hawking trade and consider increasing the size of fixed pitches.

#### Proposed mechanism for cancellation of hawker licences

11. Members noted that the hawking trade strongly opposed the proposed mechanism for cancellation of hawker licences. Deputations of hawking trade pointed out that a hawker would not be able to obtain his hawker licence again once it was cancelled. This would severely affect the livelihood of hawkers, especially the aged ones. Members criticized that the proposed mechanism for cancellation of hawker licence was harsh, and called on the Administration to immediately withdraw the proposal. The Administration emphasized that the

proposed mechanism was targeted at those fixed pitch hawkers who persisted in blatantly violating the law despite repeated prosecutions. For those who complied with the law and licence conditions, they would not face any risk of cancellation of their licences.

### Motion

12. At its special meeting on 11 April 2012, the Panel passed a motion urging the Government to withdraw its proposal to introduce the mechanism for cancellation of hawker licences and to formulate as early as possible a comprehensive and consummate hawker policy.

### **Latest development**

13. The Administration will report to the Panel at the meeting on 12 June 2012 on the outcomes of the public consultation on hawker management.

### **Relevant papers**

14. A list of the relevant papers on the Legislative Council website is in the **Appendix**.

## Appendix

### Relevant papers on management of fixed-pitch hawkers

Meeting	Date of meeting	Paper
Panel on Food Safety and Environmental Hygiene	14.12.2010 (Item VI)	<a href="#">Agenda</a> <a href="#">Minutes</a> <a href="#">CB(2)553/10-11(04)</a>
	13.12.2011 (Item V)	<a href="#">Agenda</a> <a href="#">CB(2)510/11-12(05)</a> <a href="#">CB(2)510/11-12(06)</a>
	14.2.2012 (Item IV)	<a href="#">Agenda</a> <a href="#">Minutes</a> <a href="#">CB(2)993/11-12(03)</a> <a href="#">CB(2)993/11-12(04)</a>
	11.4.2012 (Meeting with deputations)	<a href="#">Agenda</a>
Legislative Council	12.1.2011	<a href="#">Official Record of Proceedings</a> Pages 67 - 71 (Question raised by Dr Hon Priscilla LEUNG on the assistance for victims of fire at Fa Yuen Street)
	7.12.2011	<a href="#">Official Record of Proceedings</a> Pages 7 - 62 (Five urgent questions raised under Rule 24(4) of Rules of Procedures ("RoP") relating to Fa Yuen Street fire)

<b>Meeting</b>	<b>Date of meeting</b>	<b>Paper</b>
	8.12.2011	<a href="#">Official Record of Proceedings</a> Pages 27 - 77 (Motion for the adjournment of the Council under Rule 16(4) of RoP moved by Hon James TO relating to Fa Yuen Street fire)

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6 June 2012