

**For discussion
on 15 April 2014**

**Legislative Council Panel on Food Safety and Environmental Hygiene
Subcommittee on Hawker Policy**

Issues relating to Hawkers and Hawking

PURPOSE

This paper sets out background information on the current hawker licensing and management arrangements and briefs Members on the existing hawker policy and issues of concern.

EVOLUTION OF HAWKER POLICY IN HONG KONG

2. Government's policy towards hawkers and hawking, which underpins the relevant licensing and management arrangements, has evolved over time in response to community needs and aspirations, which are changing and may be conflicting at times. The population in Hong Kong grew rapidly after the Second World War, mainly due to migration of people from the Mainland to settle here. Hawking activities proliferated in response to the rapid growth in the demand for daily supplies by the public as well as the demand by many people for means to make a living.

3. While on-street hawking became a feature of life in Hong Kong, the proliferation of hawkers was not without its problems because of the conflicting interests involved. On one hand, the hawkers met the needs of the community by providing a primary source of daily provisions for the general public, and many customers might also find on-street trading convenient. On the other hand, for the residents living nearby, on-street hawking activities might cause obstruction, environmental nuisance or even hazards relating to hygiene and fire risks. Furthermore, shopkeepers in commercial premises nearby might consider on-street hawking activities an unfair competition with their businesses because hawkers did not have to pay rent.

4. In 1959, the Administration proposed to build fixed-pitch bazaars off-street to accommodate peddler hawkers and fixed-pitch hawkers selling market commodities so as to relieve congestion in the streets near certain markets. It was considered that fixed-pitch hawker bazaars should be

constructed on suitable sites, initially in conjunction with new market projects. Besides, the bazaars should take in not only fixed-pitch stalls selling commodities not sold in the markets, but also, where practical, cooked food stalls and pedlars selling commodities not sold in markets. All those stalls in the bazaars were intended for existing licensed hawkers occupying on-street sites and were allocated by ballots. The proposals were approved by the former Urban Council (“UC”).

5. In 1973, a new Hawker Permitted Area Scheme was introduced, under which hawkers were allowed to trade freely within designated areas. In 1979, having considered the comments from relevant government departments, the former UC decided that on-street hawkers who were tolerated until re-sited off-street would be re-ordered area by area in a phased programme called the Hawker Permitted Places (“HPP”) Scheme. Eligible hawkers would be allocated fixed pitches not exceeding 1.1 square metres (900mm x 1 200mm) by balloting and would be issued with new fixed-pitch licences. These hawkers would not be allowed to erect permanent structures on their pitches; they were expected to use readily movable stalls which should be moved off their pitches after the specified hours of operation.

6. As can be seen from the above, it was the Administration’s basic policy since the early 1970s that no new hawker licences should be issued and on-street licensed hawkers should be put into off-street hawker bazaars or public markets. Nevertheless, experience showed that re-siting on-street hawkers into public markets was not always successful. For instance, there were difficulties in finding suitably located sites that were large enough to accommodate all hawkers to be cleared from the streets.

7. The Administration had therefore adopted a more pragmatic approach to address these concerns. Where streets were occupied by on-street hawkers, the situation should be brought under control and improved gradually by regulating and legalising some of these hawkers and allowing them to operate in properly allocated pitches. It was considered that priority should be given to moving on-street hawkers selling fresh produce or foodstuff into public markets for environmental hygiene considerations, while those selling dry goods would be accorded a lower priority. Meanwhile, additional on-street trading places were identified for designation of HPPs, which were accepted as a means for regularising on-street hawking activities.

8. With the above policy which is backed by enforcement actions against illegal hawking activities, the extent of on-street hawking has come under control on the whole. On the other hand, the changing shopping habits of the population and the growing competition from a variety of other retail

outlets have led to gradual reduction in the number of licensed hawkers. As at the end of 2013, the total number of licensed hawkers was about 6 000, compared with about 20 000 in the late 1980s.

9. Recently, some quarters in the community are attaching increasing cultural and heritage value on on-street hawking activities and ask for actions to preserve them.

HAWKER LICENSING

10. There are two main types of hawker licence, namely fixed-pitch hawker licence and itinerant hawker licence (“IHL”). As at 1 January 2014, there are about 6 000 fixed-pitch hawker licences and about 500 IHLs. Further breakdown is at **Annex**.

Fixed-pitch Hawker Licence

11. Among the 6 000 fixed hawker pitches, about 4 100 are on-street fixed-pitch stalls, such as the cabinet-type fixed pitches at Fa Yuen Street, with the majority of them located in 43 streets in six districts, i.e. Central & Western, Wan Chai, Eastern, Yau Tsim Mong, Sham Shui Po and Kowloon City.

12. About 1 700 on-street fixed-pitch stalls are HPP stalls, such as the fixed pitches at Tung Choi Street. The licensing conditions for HPP stalls are in general similar to those other on-street fixed-pitch hawker licences, though HPP stall licences contain additional conditions requiring the licensee to –

- (a) ensure that the structure erected on the pitch is readily movable;
- (b) hawk at the stall during the specified hours only; and
- (c) remove the stall from the pitch daily between the specified closing hour and the opening hour on the following day.

13. The remaining fixed-pitch stalls are mainly fixed pitches located inside hawker bazaars, fixed-pitch stalls for cooked food and newspaper stalls.

Permitted fixed-pitch stall sizes

14. On-street fixed hawker pitches are classified into three groups:

Stall area	Dimension
Not exceeding 1.1m ²	900mm x 1 200mm (3ft x 4ft)
1.1 m ² to 1.7 m ²	900mm x 1 800mm (3ft x 6ft)
1.7 m ² to 2.2 m ²	1 200mm x 1 800mm (4ft x 6ft)

Note: The majority of fixed pitches in all 43 hawker areas are 900mm x 1 200mm in dimension.

15. In practice, the Administration recognises that hawkers often require more space to trade and has been allowing fixed-pitch hawkers to display their goods outside the approved stall areas during their business hours, so long as they do not cause obstruction to passageways and emergency vehicular access, provided that their stalls are retracted to their prescribed sizes after business hours.

On-street fixed-pitch (cooked food or light refreshment) hawker licence

16. On-street fixed-pitch (cooked food or light refreshment) hawker licences (more commonly known as “Dai Pai Tong”) have a long history in Hong Kong. The number of cooked food stalls increased quickly after the Second World War and flourished in the 1950s and 1960s, and began to fall in the 1970s probably due to growing affluence and intense competition from a myriad of other eateries, many of which might in fact be started by former on-street hawkers. As at the end of 2013, there were 26 “Dai Pai Tong” across the territory.

Fixed-pitch (newspaper) hawker licence

17. Newspaper and magazines are the main commodities allowed to be sold by licensed fixed-pitch (newspaper) hawkers. Over the years, in response to the concern of the trade that printed media are facing enormous competition from other forms of media, notably the electronic media, and to facilitate shoppers of convenience goods, the Administration has relaxed the restriction on the types of additional commodities allowed to be sold at newspaper stalls. Fixed-pitch (newspaper) hawkers are now allowed to sell 12 additional commodities, mostly convenience goods, at their stalls, and the total space that can be used for the sale of these additional commodities has been enlarged to not exceeding 50% of the total pitch area.

18. In mid-2013, the trade proposed to install electronic display panel for promotion of the commodities being sold at the stalls; they also proposed to

install WiFi at newspaper stalls to provide free service to the public. The Administration has recently accepted the proposals. The participating newspaper stalls are required to comply with the relevant licensing requirements and conditions so as to ensure safety of the electrical installations and avoid causing obstruction or nuisance to the surroundings including pedestrians and road users.

Fixed-pitch hawker licence in hawker bazaars

19. By virtue of the Administration's policy of putting on-street licensed hawkers into off-street hawker bazaars or public markets, there are now around 680 fixed-pitch hawkers operating in 18 hawker bazaars, including 11 bazaars with stalls selling cooked food.

IHL

20. The holder of an IHL is allowed to hawk in either Hong Kong Island and Kowloon region, or the New Territories. Since itinerant hawkers usually gather at prime locations in the respective region during trading and their display of goods and trading activities at public places may cause obstruction and give rise to environmental hygiene concerns, they are often a subject of complaint, especially in built-up areas.

21. With regard to itinerant (frozen confectionery) hawker licence holders (commonly known as "small ice-cream vendors"), their mode of operation is different because they usually operate on motorcycle or bicycles and are scattered at different locations during their trading hours, sometimes at remote areas, they tend to cause less obstruction to public passageways and attract fewer complaints.

HAWKER MANAGEMENT AND CONTROL

22. Upon its establishment in 2000, the Food and Environmental Hygiene Department ("FEHD") took over hawker management and control work from the former Urban Services Department and Regional Services Department.

23. In response to the practical needs and preferences of the community, the direction of the Administration's hawker management and control work during the past few decades has been focusing on effective control of both licensed and unlicensed hawkers so as to –

- (a) reduce illegal hawking activities on the streets;
- (b) exercise proper control over the activities of licensed fixed-pitch hawkers and licensed itinerant hawkers to minimise obstruction and nuisance due to hawking; and
- (c) contain and reduce the scale of on-street hawking activities through re-siting existing on-street licensed hawkers and stop issuing new hawker licences.

24. The holders of hawker licence are required to attend to their stalls in person when their stalls are in operation. The fixed-pitch licensees may employ assistants to assist in operating their stalls and should register them with FEHD for record. On the other hand, if a licensee has to be absent from the stall for a period of time due to illness or travelling outside Hong Kong, they may apply to FEHD for appointment of a deputy to operate the stall during the specified period of absence.

Control of Unlicensed Hawkers

25. Unlicensed hawking activities often generate complaints from the public concerning obstructions to emergency services, motorists and pedestrians; hindrance to street cleansing operations; and, in the case of hawking of cooked food, environmental hygiene problems and even potential health hazard.

26. The aim of hawker control operations is to keep the streets and thoroughfares generally free of illegal hawkers and prevent illegal hawkers from taking root. To contain unlicensed hawking activities, the Hawker Control Teams of FEHD carry out sector patrols and raids at black spots in districts. Some Hawker Control Teams are working overnight shifts to tackle unlicensed hawking activities during late-night to early-morning hours.

27. In late 2001, in the wake of the economic difficulties caused by the Asian financial crisis, the Administration decided to take a more tolerant approach in its enforcement actions against unlicensed hawking activities so long as food and environmental hygiene would not be compromised. Nevertheless, the Administration will not concede on the following –

- (a) sale of prohibited or restricted goods, or cooked foods will be strictly forbidden and subject to stringent enforcement actions; and
- (b) hawker-free situations will be maintained in major thoroughfares, areas of high pedestrian flow (e.g. pedestrian precincts, Mass Transit

Railway exits, public transport terminals and concourses, heavily used footbridges, tourist spots) and places with repeated and substantiated complaints of illegal hawking activities.

28. Hawking activities falling outside the above scope, regardless of whether they are licensed or unlicensed, would be accorded a lower priority in enforcement. The hawkers involved would generally be given oral warnings and asked to disperse; enforcement actions, including seizure, will be taken if the warnings are unheeded.

29. In 2013, 26 294 convictions resulted from enforcement actions against unlicensed hawkers and their hawking-related offences. The number of unlicensed hawkers in the territory was estimated to be around 1 500.

Hawker Management Consultative Committees (“HMCCs”)

30. To establish collaborative partnership with the stakeholders, FEHD has established HMCCs covering all hawker areas. Members of HMCC include representatives of licensed hawkers, members of the relevant District Councils and District Fire Safety Committees. The HMCCs provide a platform for two-way communication so that FEHD’s district staff may discuss with the stakeholders day-to-day management of hawker areas as well as the relevant regulatory and safety issues. The consultative committees have generally been effective in encouraging self-discipline and good practices among hawkers.

Suspension and Cancellation of Hawker Licences

31. FEHD introduced on 1 November 2012 a mechanism for suspension or cancellation of hawker licences against repeat offenders and violation of serious offences. A major purpose of the licence suspension and cancellation mechanism is to help reduce the fire risks posed by on-street hawking activities in the 43 on-street hawker areas. Under this mechanism, a fixed-pitch hawker licence would be suspended for seven days for six breaches within three months of fire-risk related provisions under the Hawker Regulation (e.g. licensees absent from pitches, placing commodities and equipment outside pitches). In the subsequent 12 months, the licence would be suspended for 14 days if the hawker is convicted six further times within three months for breaching any related regulations. During the 12-month period following the last conviction, the licence would be suspended for 30 days if the same hawker is convicted six further times within three months.

32. Nevertheless, any hawker who violates any of the three serious offences, namely making false declaration to obtain a hawker licence, illegal connection of electricity and subletting of hawker stall, will be seriously dealt with. Any one of these three offences may result in immediate cancellation of the hawker licence.

HAWKER LICENCE SURRENDER SCHEMES

33. At a meeting of the Legislative Council (“LegCo”) Panel on Food Safety and Environmental Hygiene (“FSEH Panel”) held in April 2002, Member took note of an IHL Compulsory Deletion Policy introduced by the former UC since March 1993 with a view to phasing out all IHLs in the urban areas. Under this policy, IHL holders who surrendered their licences had the options of receiving an ex-gratia payment (“EGP”) of \$30,000, or selecting either a vacant fixed-pitch on the street or a stall in a public market with concessionary rental arrangements. Members noted that the former Regional Council (“RC”) did not adopt the same deletion policy. The scheme was subsequently extended to cover IHL holders in the New Territories as well, and the extended scheme was implemented until 31 December 2012, with 514 IHL voluntarily surrendered.

34. In June 2002, the FSEH Panel discussed an EGP scheme introduced by the former UC since 1983 to encourage voluntary surrender of cooked food stall hawker licences. Noting that the former RC did not offer a similar scheme for cooked food stall licensees in the New Territories, the FSEH Panel supported alignment of the policies for cooked food stalls in the urban areas and the New Territories. The extended surrender scheme for cooked food stalls was implemented until 30 November 2007, with 37 hawker licences voluntarily surrendered.

RECENT DEVELOPMENT

Review of Hawker Policy in 2008-09

35. In response to changing community needs and aspirations and the fact that the number of hawkers had declined considerably over time, the Administration reviewed the hawker licensing policy in 2008-2009. The scope of the review covered examination of the feasibility of re-issuing new hawker licences, relaxation of requirements for succession and transfer of hawker licences, and ways to strengthen the role of District Councils (“DCs”) in advising on hawker licensing and management matters at the district level.

36. The FSEH Panel discussed the Administration's proposals resulting from the hawker licensing policy review. Members also listened to the views of DCs, hawker associations and other stakeholders. In general, DCs had different views on the proposed measures, especially on the proposed issue of new hawker licences, and relaxation in the transfer or succession of licences.

37. The Administration subsequently decided to implement a package of measures, including reissuing certain types of hawker licences. The major measures include -

- (a) relaxing the succession and transfer requirements for hawker licence in respect of "Dai Pai Tong". If the relevant DC supports the continued operation of a "Dai Pai Tong" at its current location, the Administration may consider relaxing its succession and transfer requirements to align with that of other fixed-pitch hawker licences so that the licence can be succeeded by or transferred to the licensee's immediate family members (it used to be restricted to the spouse only). The Administration may also consider issuing new licences to other interested operators. As a result, nine "Dai Pai Tong" hawker licences in the Central & Western District have been successfully transferred. In processing the applications for transfer, additional licensing conditions will be imposed to improve the environmental hygiene of the stalls, including discharge of waste water, demarcation of seating area, construction materials of the stall and use of fuel;
- (b) issuing new itinerant (frozen confectionery) hawker licences to meet community needs. By April 2012, 61 such new licences had been issued. As at the end of 2013, 16 holders of these newly issued itinerant (frozen confectionery) hawker licence had decided to surrender or not to renew their licences;
- (c) allowing merging of vacant pitches in the back-row with existing front-row pitches in some districts to improve the operating environment of the hawker areas. The intention was to enhance the vibrancy of the hawker areas and prevent illegal occupation of vacant pitches. A total of 659 cases in Yau Tsim Mong, Sham Shui Po and Kowloon City have been approved; and
- (d) re-issuing fixed-pitch (other classes) hawker licences to take up the then vacant on-street fixed pitches in five districts, namely Sham Shui Po, Kowloon City, Yau Tsim Mong, Central & Western and Southern.

A total of 218 new licences were issued, and 139 of these newly issued licences were still in operation as at the end of 2013.

Improving Fire Safety in Fixed-pitch Hawker Areas

38. In response to two fire outbreaks at the Fa Yuen Street hawker area in 2010 and 2011, with the latter causing a considerable number of casualties in the adjoining buildings, the Administration implemented a series of measures over the past two years to reduce the fire risks as far as possible. These measures include: requiring hawkers to follow strictly the requirements on stall area, stall canopy and stall construction materials; and forbidding overnight on-street storage of commodities outside the stall after business hour.

39. To control effectively the potential fire risks in hawker areas, the Administration has established a Steering Committee on Hawker Management to formulate specific measures to improve management and oversee their implementation. Furthermore, recognising the importance of fostering a collaborative relationship with the stakeholders, FEHD has set up HMCCs covering all hawker areas to provide an effective communication platform on hawker management issues, including promotion of fire safety.

40. To promote compliance with fire safety requirements and good practices, FEHD has implemented a sanction mechanism, under which recalcitrant offenders would be subject to suspension or cancellation of their hawker licences.

Hawker Assistance Scheme

41. The Government is committed to enhancing the fire safety of hawker stalls and improving the layout of hawker areas by relocating hawker stalls situating in front of staircase discharge points of adjacent buildings and stalls that may obstruct fire-fighting operations during emergency.

42. In March 2013, the Finance Committee of the LegCo approved \$230 million for implementing a five-year scheme to provide financial assistance to some 4 300 hawkers in 43 hawker areas for expediting relocation of stalls or in-situ stall reconstruction to reduce fire risks. Besides, an EGP is offered for voluntary surrender of hawker licences to help release vacant pitches and hence facilitate the relocation of stalls posing higher fire risks.

43. With the co-operation of hawkers, hawker associations and relevant DCs, FEHD has now worked out feasible relocation plans with 30 of the 43 hawker areas. Another five hawker areas do not require stall relocation after

detailed assessment. So far, about 260 hawkers have surrendered their licences, and about 220 are applying for grants for relocation or in-situ reconstruction of their stalls. More specifically, 172 hawker stalls of higher fire risks have agreed to relocate, whilst another 50 stalls of higher fire risks have surrendered their licences voluntarily. In other words, we have tackled about 40% of the some 500 hawker stalls that have been identified as carrying higher fire risks.

44. We recognise that relocation work in some hawker areas with higher fire risks is slower than expected, although numerous relocation proposals have been produced and rounds of local consultations organised. FEHD is continuing its efforts to engage the affected hawkers. If there is no material progress within a reasonable period of time, the Director of Food and Environmental Hygiene will consider exercising her statutory power under the Hawker Regulation to serve notice on the licensees concerned and order them to vacate their pitches within a specified period of time to improve fire safety in the hawker areas concerned.

ADVICE SOUGHT

45. Members are invited to note the contents of this paper.

**Food and Health Bureau
Food and Environmental Hygiene Department
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Types and Number of Hawker Licences

Types	Number of fixed-pitch hawker licence	Number of IHL
“Cabinet-type” stall in 43 hawker areas	about 2 400	-
“HPP” stall in 43 hawker areas	about 1 700	-
Other “Cabinet-type” stall	38	-
Other “HPP” stall	108	-
Bootblack	7	-
Cooked food or light refreshment	211	-
Newspaper	481	2
Tradesman	180	-
Barber	34	-
Wall stall	325	-
Hawker bazaar	608	-
Itinerant (frozen confectionery)	-	70
Itinerant (mobile van)	-	15
Others	-	368
Total:	about 6 092	455