

For information

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

Management and Control of Hawkers in Selected Jurisdictions

PURPOSE

At the meetings of the Subcommittee held on 15 April 2014 and 16 June 2014, Members requested the Administration to provide, among other things, the following materials for Members' reference -

- (a) management and control experience of hawkers and hawking in the Mainland (viz. Shenzhen, Guangzhou and Zhuhai), Singapore, South Korea, Japan and Taiwan; and
- (b) the policy and management practice in the Mainland on hawking activities of hawkers who are known as individual operators / individual labourer / individual household (個體經營者 / 個體勞動者 / 個體戶), with reference to their contribution to the economic and societal development during the past decades since the late 1970s.

2. The Legislative Council Secretariat has already provided the relevant information for Taiwan in LC Paper no. FS09/13-14 and that for Singapore in LC Paper no. FS10/13-14 after the meeting held on 15 April 2014. This paper provides the requested information for the Mainland, South Korea and Japan.

MAINLAND

Background

3. The hawking activities of itinerant traders¹ (流動攤販) have long been a problem for city administration in Mainland China. In the new urbanisation process, those engaged in hawking are mostly laid-off workers in the city and farmers who come from other places to make a living, with low-income families as their major source of customers. In recent years, various levels of government and functional departments in the Mainland have reached a consensus on the control and management of hawking and adopted an orderly and regulatory mode of management.

The social impact of itinerant traders

4. For communities that are at the relatively lower end of the economic development scale, it is more often than not that itinerant traders would help play a role that eases the unemployment problem and provides supplement in areas where market facilities are inadequate. Nevertheless, as and when the economy develops and reaches higher levels of affluence, itinerant traders may become a source of adverse impact on the economic order of society, posing unfair competition to law-abiding shop owners. They may also affect the public order and administration, and cause environmental nuisance.

Industrial and commercial administrative registration

5. Under the State's current Regulations on Individual Industrial and Commercial Households (《個體工商戶條例》), citizens may engage in industrial and commercial business operations after registration with the industrial and commercial administrative departments and become individual industrial and commercial households (個體工商戶). The measures for managing traders without fixed business premises are made by the governments at the provincial, autonomous region and municipality level directly under the Central Government according to the local actual situation. We do not have authoritative information

¹ "Itinerant traders" refers to traders who operate indiscriminately without fixed business premises.

about the contribution of itinerant traders to the economic and societal development of the Mainland during the past decades.

6. Information on the policy, administration and legislation for the management of itinerant traders by the municipal governments of Guangzhou, Shenzhen and Zhuhai is set out below.

Guangzhou Municipality

Administrative authorities and relevant legislation

7. The Urban Management and Comprehensive Law Enforcement Bureau of the Guangzhou Municipality (廣州市城市管理綜合執法局) is the administrative and enforcement agency for urban management and comprehensive law enforcement under the City Administration Council of Guangzhou Municipality (廣州市城市管理委員會). Its main function is to enforce the Guangzhou Urban Management and Comprehensive Law Enforcement Regulations (《廣州市城市管理綜合執法條例》), including enforcement actions on illegal occupation of roads by itinerant traders.

8. The Urban Management and Comprehensive Law Enforcement Bureau will take the following enforcement action in accordance with the relevant legislation -

- (a) according to Article 22(3) of the Guangzhou Urban Management and Comprehensive Law Enforcement Regulations (《廣州市城市管理綜合執法條例》) (Public Notice No. 34 of Standing Committee of the Thirteenth Guangzhou Municipal People's Congress (2008), revised in 2009), persons violating the relevant provisions on city appearance and environmental hygiene administration by occupying public areas to operate stalls and sell goods shall be advised to make corrections. Persons who are subject to repeated complaints or occupy urban main thoroughfares and their two sides, city plazas, airports, railway stations, bus terminals, ferry terminals, convention centres, commercial pedestrian precincts, regions surrounding the offices of the Party and government at all levels for operating stalls and

selling goods shall be advised to make corrections, and their operating paraphernalia and commodities for sale shall be seized in case of refusal to make corrections; and

- (b) according to Article 24(1) and Item 4 of Article 58 of the Guangzhou City Appearance and Environmental Sanitation Administration Regulations (《廣州市市容環境衛生管理規定》) (Public Notice No. 17 of Standing Committee of the Twelfth Guangzhou Municipal People's Congress (2006), revised in 2012), persons who are occupying public areas such as roads, bridges, footbridges and subways for operating stalls, peddling goods or stacking / drying obsolete items and hence affecting the city appearance and sanitary conditions shall be ordered to make corrections. In case of refusal, a fine of more than RMB 50 but less than RMB 200 (equivalent to HK\$ 63 and HK\$ 252 respectively) shall be imposed.

Current administrative measures

9. In the past, as the Guangzhou Municipal Government focused its efforts on the remediation of itinerant traders, conflicts frequently arose between enforcement staff and itinerant traders. To promote social harmony, the City Administration Council of Guangzhou Municipality has made adjustments and introduced the Guangzhou Itinerant Traders Temporary Regulation Zones Management Pilot Scheme (《廣州市流動商販臨時疏導區管理試行辦法》) in 2011. The scheme designates itinerant traders temporary regulation zones (流動商販臨時疏導區) across the city and progressively directs itinerant traders to operate in fixed premises.

Itinerant traders temporary regulation zones (“regulation zones”)

10. To ensure regularisation and orderliness of the construction and management of the regulation zones, the various regulation zones across the city are coordinated by the two tiers of government (city and district), with the sub-district offices and town government responsible for administration and management of the areas. Itinerant traders management leadership groups are established at city, district, street (town) levels, under which itinerant traders management services centres

are set up in city administrative departments. In accordance with the mechanism of wide social participation, the government will, as a first step, fully consult the views of neighbouring units of the selected sites and their residents and formulate plans for the regulation zones. The planning process will be finalised through procedures made known to the public.

11. Before they are admitted into the regulation zones for hawking, itinerant traders need to apply to the itinerant traders management services centres by virtue of their household and residence certificates. After they have fulfilled the training requirements, they will be issued with identification signs to be borne during hawking and are required to submit an undertaking for admission to the regulation zones for hawking and pay a maintenance fee for use of the venue. Persons admitted to the venue for hawking must engage in the activities themselves. The transfer of stalls, change of types of good for sale and hawking beyond the designated zones are not allowed. On a yearly basis, those with an unblemished record may apply for renewal of their hawker identity. Serious offenders will be stripped of their eligibility for hawking.

Shenzhen Municipality

Administrative authorities and relevant legislation

12. The Urban Administration Bureau cum Urban Administration and Regulation Bureau of the Shenzhen Municipality (深圳市城市管理局暨深圳市城市管理行政執法局) is the working department in charge of the comprehensive management of city appearance as well as urban administration and law enforcement. The Bureau is responsible for investigating and prosecuting acts of unauthorised occupation of pedestrian streets for installing non-traffic facilities (including buildings and structures), setting up stalls and selling commodities that affect city appearance and sanitary conditions.

13. According to Article 22(1) of the Administrative Regulations of the Shenzhen Special Economic Zone on City Appearance and Environmental Sanitation (《深圳經濟特區市容和環境衛生管理條例》) (Tenth Meeting of the Standing Committee of the Fifth Shenzhen

Municipal People’s Congress on 30 August 2011, third revision), occupation of urban roads and their two sides, footbridges, subways and other public places without authorisation for stacking items, setting up stalls and selling commodities shall be prohibited. In case of violation, the responsible department shall order corrections to be made and also impose a fine of RMB 1,000 (equivalent to HK\$ 1,260) per square metre of the occupied area. For cases of serious violations, the goods for sale and instruments for unauthorised hawking shall be confiscated.

Current administrative measures

14. To better manage and relieve the problem of itinerant traders occupying roads for business operation, the city administrative departments attempt to set up “regulation points for city appearance management (市容管理疏導點)” in some streets and districts. The Yantian Flea Market located on Yantian Street and Xixiang Avenue in Bao’an District is one of the earliest “temporary regulation points” of Shenzhen. A simple overhead range hood is installed above the food racks of the stalls selling cooked and barbecued food which effectively contains the impact of oil and smoke to dwellers in surrounding residential areas. At the “Pingshan Village regulation point for city appearance management” in Pingshan Community, Taoyuan Street, Nanshan District, the management company erects rain sheds in all itinerant traders regulation zones as a standard provision and undertakes a whole range of management and services, thus ensuring an orderly operation of business and cleanliness of cityscape and sanitary conditions.

Zhuhai Municipality

Administrative authorities and relevant legislation

15. The Zhuhai Urban Administrative Enforcement Bureau (珠海市城市行政執法局) is the working department of the Municipal People’s Government.

16. Article 18 of the Administrative Regulations of the Zhuhai Special Economic Zone on City Appearance and Environmental Sanitation (《珠海經濟特區市容和環境衛生管理條例》) (promulgated by

Public Notice No. 2 of the Standing Committee of the Zhuhai Municipal People's Congress on 13 September 2002) prohibits the setting up of stalls at public areas, such as urban roads, footbridges and subways, for mobile business operations. In case of violation of the provisions, the administrative enforcement department may seize the commodities and facilities of the vendor business and impose a fine of more than RMB 50 but less than RMB 500 (equivalent to HK\$ 63 and HK\$ 630 respectively). The commodities and facilities may also be confiscated.

Future Development

17. To safeguard public health and safety, the Guangdong Province is enacting the Guangdong Provincial Food Production and Processing Small Workshops and Food Vendors Management Regulations (《廣東省食品生產加工小作坊和食品攤販管理條例》) to regulate the production and operation activities of food production and processing small workshops and food vendors, including imposing specific requirements on supervisory management and legal responsibilities. The provisions cover delineated zones for food vendors, planning for temporary designated zones and information disclosure, food vendor registration and management scheme, operating conditions on hygiene, food products prohibited from marketing, responsibilities for food safety and retention of purchase invoices, vendor management fees, operating obligations, promotional measures, supervisory management, and investigation and prosecution.

SOUTH KOREA

Background

18. In South Korea, though there is no licensing regime for hawkers, hawking activities are tolerated unless their occupation of roads for trading causes inconvenience or brings traffic obstruction, thus endangering pedestrian safety. Hawkers in South Korea are serving some social functions by providing means of making a living for some low-income households. Some hawker areas have become tourist attractions.

Management of street hawking

19. Street hawking management is performed by the local government at district level. Each district office regulates street hawking activities. In general, verbal warnings will be given to hawkers before resorting to prosecution and fine.

20. When public officers receive a complaint, the officers will visit these hawkers and give verbal warning several times; fines will be imposed only if their activities persist. Different levels of fine may be administered by different district offices. For example, the Jongro district office charges a fine of 100,000 won (equivalent to HK\$ 750) per square metre. If hawkers contravene other legislation, e.g. the Food Sanitation Act or the Road Traffic Act, other enforcement agencies may also take actions against the hawkers.

Street hawking in South Korea

21. Although there is not a licensing regime for hawkers in South Korea to regulate their activities, in some special tourist zones or traditional markets, hawkers have to show the photos and names of the stall owners on their carts or stalls. In special tourist zones like Myeong-dong, in order to promote tourism the district office has agreed that the hawker association should take up the management role and promote self-regulation. For example, the hawkers at Myeong-dong have agreed to contain the size of their hand-carts to not exceeding 2.5m in width and 1.2-1.4m in length so as to protect pedestrian safety. Furthermore, almost all food stalls are equipped with fire extinguisher, electricity generator and food storage cabinet, which are provided by the hawkers themselves.

22. It is common to find small tented restaurants on wheels or street stalls in Korea, selling a variety of street foods in the evening. They offer non-expensive food and are quite popular in after-work hours. The hawkers are responsible for the food hygiene of their stalls. Some district offices would offer food hygiene training for hawkers involved in

food handling, and they will reach out to the hawkers to disseminate health messages and distribute to them information sheets and guidelines.

Street vendor associations

23. Street vendors in Korea are often members of federations or alliances of the trade. These federations, e.g. the National Federation of Korean Street Vendors and the Korean Street Vendor Confederation, often seek to maintain dialogue with the government on hawker policy, advocate the rights of street vendors and assist in their self-regulation (e.g. allocation of hawker sites). As a case in point, at the demand of these federations made to the local government after the Olympics 1988, street vendors are allowed to carry on their businesses in a street close to the Olympic stadium in Seoul. Today, this area has become a popular hawker area and an attraction for tourists.

JAPAN

Background

24. In Japan, there is no uniform regulatory framework on hawker management and the governing of hawking activities varies from prefecture to prefecture. The practices in regulation of hawking activities in Tokyo Metropolis are set out below for reference.

Social function of hawking

25. In Japan, hawking activities serve the social function of providing convenient services for people with limited access to shopping facilities, including people who are at a disadvantage, such as senior citizens with limited transport means and living in regions where shopping facilities are limited. For temporary stalls and temporary traders operating at community festival or events for public purpose, they are regarded as part of the traditional culture.

Problems caused by hawkers

26. Hygiene and noise nuisances generated by hawkers are the major problems. The Tokyo Metropolitan Police Department keeps an eye on hawking activities on a regular basis and they also pay special attention to selling of illegal items such as counterfeit goods. Besides, the police will watch out for involvement of gangsters in the hawker trade.

Legislative control

27. There are ordinances that regulate illegal hawker or hawking activities. The Bureau of Social Welfare and Public Health of Tokyo Metropolitan Government is responsible for monitoring hawking activities involving food preparation, food manufacture, food processing and food selling; business licences and peddler licences are issued under the Food Sanitation Act (食品衛生法) administered by the Ministry of Health Labour and Welfare.

Licensing control for food-related hawking activities

28. Licences issued under the Food Sanitation Act in connection with hawking and related activities are listed below -

Activity	Description	Type of business	Remarks
Hawking (行商)	Moving around on foot or by bicycle for selling certain food items without processing or cooking	Hawking	The operator should put on clean working clothes and receive annual medical checkup and undergo examination.
Mobile food shop (移動営業)	In the form of a movable cart for selling cooked food and/or drinks processed or prepared	Restaurant business (mobile)	The food should be easily processed and cooked with simple steps.
		Confectionery manufacture (mobile)	Handling of raw food e.g. Sashimi and Sushi, cooked rice and fresh cream are prohibited.

Temporary street stall (臨時出店)	In the form of a movable stall for selling cooked food and/or drinks processed or prepared in festival events for public purpose	Restaurant business	Food should already be cut into small pieces.
		Confectionery manufacture	Pre-mixed ingredients should be used.
		Selling groceries only	
Temporary Trader (臨時營業者)	In the form of a movable stall for selling cooked food and/or drinks processed or prepared at special occasions organized by community associations or by governments for local residents	Restaurant business	Food should already be cut into small pieces.
		Confectionery manufacture	Pre-mixed ingredients should be used.
Mobile catering (移動販売車)	In a form of a vehicle for selling either prepackaged food or cooked food and/or drinks processed or prepared	Restaurant business	The food must be divided into small packages and served by re-heating.
		Tea-and-coffee-shop business	
		Confectionery manufacture	
		Selling milk, meat, fish and groceries only milk, meat and fish	The food has to be prepackaged. No cooking or processing is allowed.

29. Application for a business licence (營業許可) should be submitted to the Public Health Centres for conducting activities of mobile food shop, temporary trader and mobile catering. There are no special criteria for applicant's eligibility but a qualified Food Sanitation Manager (食品衛生責任者) should be engaged. The concerned licence must be displayed during the operation.

30. A peddling licence (行商鑑札) is required for hawking and should be displayed during the operation together with the peddler badge (行商記章). Although application for business licence is not necessary for operating temporary street stall, the operator has to file a case to the respective Public Health Centre prior to commencing his/her operation.

Specifications of movable cart, stall and mobile vehicle

31. Specifications of movable cart for mobile food shop, movable stall for temporary street stall and temporary trader and mobile catering vehicle are similar in construction and should be made of easy-to-clean and vermin-proof materials. Sufficient capacity containers for clean water supply and waste water storage, adequate areas for food handling, scullery and sanitations as well as provisions for refrigeration, waste collection and cutlery storage should be provided. Extraction system and electricity supply system are also required for mobile vehicles.

32. Some basic health conditions should be observed by food handlers such as maintaining the cleanliness of the surrounding, ensuring sufficient supply of sterilizers to sanitation facilities, keeping food and cutlery free from contamination etc. Food handlers should put on clean overall and perform good hygiene practices.

Business locations

33. For temporary street stall and temporary trader, the operators are allowed to run the business at venues of specific events or occasions. For hawking, mobile food shop and mobile catering, they are permitted to conduct business within the district/region which is specified in the licence issued by the respective public health centre.

Other relevant legislation

34. In addition, the Road Traffic Act (道路交通法), the City Park Act (都市公園法) and the Natural Park Act (自然公園法) are applicable to any hawking activities conducted on public roads, in city parks and natural parks respectively. Offenders are liable for fines or imprisonment as stipulated in the relevant legislation. Should there be any breach of the permitted terms and conditions, the respective permit issued to the hawker may be revoked.

35. For example, if the hawking activity violates the Road Traffic Act, the offender may be sentenced for less than 3 months or charged a penalty of less than JPY 50,000 (equivalent to HK\$ 3,800). If the

activity violates other legislation at the same time, like the Food Sanitation Act, additional penalties will be applied.

Hawker Bazaars

36. Local governments may regulate hawker bazaars at their own discretion according to the Law on Special Measures for Adjustment for Retail Businesses. The mode of operation may be different for each bazaar. They may be managed by the responsible authority, the hawker association of the bazaar or an independent organization. Morning bazaars (朝市) are often operated by municipalities or agricultural and fisheries unions for selling local products, including hand-crafts, snacks and agricultural products such as vegetables, pickles and flowers.

Development of mobile vendor business

37. Owing to the aging and shrinking population in Japan, many communities are facing deterioration in the social infrastructure essential to people's daily life, including shopping facilities, hence causing difficulties to senior citizens, especially in areas lacking convenient public transport. The Ministry of Economy, Trade and Industry and some local governments have been promoting public-private collaboration and providing support to mobile vendor businesses. The prefecture would subsidize local supermarkets for the costs involved in purchasing vehicles for use as mobile stores selling food and daily necessities to meet the needs of local communities.

PRESENTATION

38. Members are invited to note the content of this paper.

Food and Health Bureau
Food and Environmental Hygiene Department
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