

Study on Restaurant Licensing

Summary Report

August 1999

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Section 1

Objective and
Terms of Reference

Objective and Terms of Reference

The current processing time for granting restaurant licenses is unacceptable to the food industry and requires a thorough review...

For many years, the slow process of granting a restaurant license has been a major concern for both the trade and the Government. The average processing time for a full license was more than 300 working days in 1998. (Appendix 1) As the food industry is a key service industry within the Hong Kong economy, it has been selected as an important area for consideration by the Business & Services Promotion Unit (BSPU) and Business Advisory Group (BAG). To this end, in partnership with the Provisional Urban Council and Urban Services Department, BSPU commissioned PricewaterhouseCoopers to undertake this consultancy study to review the current licensing arrangements/process.

The objective of the study was to recommend to the Provisional Urban Council ways to streamline and expedite the licensing process of restaurants without compromising hygiene and safety standards, with a view to creating and maintaining an open and business-friendly environment for the trade to operate in. In addition, the review also covered issues related to liquor licenses and club license.

The Terms of Reference requires us to review the present licensing system (including the standards and the approval and enforcement procedures) and to examine the co-ordination amongst various parties with a view to reducing the processing time to a practicable minimum. We were also asked to review existing legislation and to explore effective measures to eliminate unlicensed restaurants. Finally, we were asked to identify measures to reduce nuisance caused to the public subsequent to the issue of the liquor license and to examine the inconsistency with respect to the granting of club licenses not requiring the approval of the Provisional Urban Council.

Section 2

Overview of Recommendations

Overview of Recommendations

In accordance with the terms of reference, we have grouped our recommendations in the following improvement areas:

- Reconcile inconsistent **licensing requirements** with respect to hygiene, building and fire standards;
- Streamline the **licensing process** to a practicable minimum;
- Speed up the process for **building plan retrieval** in the Building Department;
- Strengthen the **enforcement procedures** by speeding up the closure procedures for unlicensed restaurants;
- Improve the measures to control the issue and renewal of **liquor licenses** with a view to abating nuisance to the public subsequent to the issue of liquor license;
- Reconcile the difference in hygiene requirements with respect to the granting of **club licenses** and restaurant licenses.

... Our major findings and recommendations are set out under the respective headings in the following pages.

Section 3

Licensing Requirements

Licensing Requirements

We have reviewed and compared the existing licensing requirements with similar practices adopted overseas. Our findings and conclusions are ...

- Buildings and ventilation requirements adopted in Hong Kong are comparable to international standards.
- Fire safety requirements in Hong Kong are more stringent than those in the UK and the US. However, owing to the distinct urban environment, for example, dense population and a large number of high rise buildings in Hong Kong, we do not recommend relaxing the fire requirements.
- Hygiene requirements in Hong Kong are less stringent than the practices adopted in the US and the UK. To safeguard public health, we recommend that USD should improve the hygiene requirements with respect to food preparation process.
- There are some inconsistencies between USD requirements and environmental protection requirements. We recommend that USD and the Environmental Protection Department should form a working group to reconcile the differences.
- The requirements for Light Refreshment License are restrictive in terms of food offering and do not support business needs. We recommend that USD should establish a working group with light refreshment restaurants to discuss and revise food offering as appropriate.

In general, we believe that the existing licensing requirements are not unduly onerous. However, there are areas where the licensing processes could be streamlined.

Section 4

Licensing Process

Licensing Process

Issues causing delays

The results of our study indicated that most of the delays are due to the following issues:-

Issues	Sub-issues
Applicant responsibility	<ul style="list-style-type: none"> ● Inconsistent quality of submission, e.g. inaccurate calculation of food preparatory and sanitary areas ● Do not fully understand the application guidelines for the application of restaurant license ● Use of inexperienced contractors ● Commit lease on premises which are subjected to Cat 3. Building Safety requirements ● Change of layout plans and licensable area after issuance of Letter of Requirements
Inefficient process	<ul style="list-style-type: none"> ■ Staff need to fill in various kinds of forms/reports, e.g. Quality Audit Result Report, Joint Site Audit Report, and New Issue Input Form ■ Most of the assessment and calculations are performed manually ■ Most information is kept in paper files ■ Memos and drawings are mainly delivered through standard government procedures i.e. via the Headquarters of the departments concerned ■ Several standard notices/memos to the departments concerned are generated by USD before Application Vetting Panel and after report of compliance - at least eight notices/memos are exchanged between departments during the licensing processes ■ The fixed schedule, e.g. AVP, JSI, was designed to allow the departments concerned to plan their work more systematically. However, it is inevitable that the work schedule of the staff become less flexible to meet the trade 僱 requirements

Licensing Process

Issues causing delays (cont'd)

The results of our study indicated that most of the delays are due to the following issues:-

Issues	Sub-issues
Inadequate co-ordination	<ul style="list-style-type: none">• Need for a central unit or agent to monitor the progress of the whole licensing process, particularly the tasks which are responsible by other departments• Applicants are required to communicate with many different departments throughout the whole licensing process• A large proportion of information is kept separately in the related departments• Staffing for the licensing units in BD and FSD are not completely dedicated to handling the workload of restaurant licenses
Inadequate information technology	<ul style="list-style-type: none">• Almost the whole licensing process is operated under a manual and paper-based environment• Insufficient hardware available for clerical staff, e.g. several staff to share the same personal computer within the Licensing Unit of USD, BD, and the Ventilation Division of FSD• Many staff, particularly those at clerical level, do not have sufficient opportunity to develop IT skills in their work environment• Based on the existing IT strategy, there are no major IT improvements for the licensing processes in the related departments scheduled to commence before June 2001

Licensing Process

Opportunities for improvement

Against this background, we have developed a series of initial improvement proposals, based on our analysis. In summary, these initial proposals are grouped under the following four categories...

Applicant:

- Improve information provided to applicants
- Ensure properties are fit for purpose
- Require practising certificate for licensing contractors
- Require application fee and review fee for revised building plans

Process:

- Simplify procedures for quality audit
- Formulate clear procedure guidelines on departmental referrals
- Expedite cross-departmental document delivery
- Automate workflow/the generation of letter of requirements

Technology:

- Improve Information Technology resources/training
- Automate routine/repetitive activities through through IT
- Improve cross-departmental communication via internet
- Information sharing across departments through computer network

Organisation:

- Revise pledges on performance according to process change
- Use of temporary staff
- Implement quota system on receipt of new application
- Implement 'one-stop' licensing concept
- Improve track and trace of work in progress
- More regular cross-departmental meetings
- Strengthen procedures for abandonment

...The practicality and effectiveness of each of these proposals were subsequently validated by the representatives from the departments concerned and the trade

Licensing Process

Key proposals from the trade

Apart from our own analysis, we have also solicited inputs from representatives of the trade and they strongly believe that the licensing process can be significantly improved through the implementation of a ‘one-stop’ licensing centre...

We have assessed the present environment and concluded that the expected benefits of ‘one-stop licensing service’ can only be realised if the following main requirements are satisfied:

- the necessary legislation change to empower USD the authority to approve the compliance certificates for the fire and building safety requirements;
- an effective Information Technology (IT) infrastructure to support on-line retrieval of relevant information, e.g. building plans and corresponding files kept in BD and FSD, which are required for processing of license applications; and
- a well designed process focusing at addressing applicants’ needs.

...Given the needs for legislation change and high investment in IT infrastructure, we treat this proposal as a long term vision which merits a separate detailed feasibility study

Licensing Process (cont'd)

Overall Recommendations

Having taken into account the inputs from the representatives of the departments concerned and the trade, we have identified the following three main groups of recommendations to improve the current process...

1. **Introduce a new licensing system** which provides applicants with two options. The first option is a fast track process which allows an applicant to obtain a license within the same day of application. The second option is a normal track process.
2. **Use “case manager” to improve co-ordinations** between related departments and the monitoring of licensing process.
3. **Provide more support to applicants** through, for example, proper guidance on the roles and responsibilities of related parties and the interpretation of licensing requirements.

...In conclusion, our recommendations aim at improving the licensing process within one to two years in a cost effective manner(ie. small investment in technology and staff resource, and minimal change of law). Each recommendation is discussed in the following pages.

Licensing Process - Introduce a new licensing system

Option 1 - Certification by Recognised Professionals (Fast Track Process)

This option is a redesign of the licensing process with a view to enabling applicants to obtain a license on the same day of application.

Key Features

The key features of the fast track process are:

- Landlord/tenants are required to obtain a “Certificate of Fit for Purpose” from recognised professionals.
- The current Letter of Requirements which is specific to individual restaurants will be replaced by a set of Uniform Licensing Requirements which is applicable to all restaurants.
- Applicants are required to obtain certificates of compliance with respect to health, building, fire safety and ventilation requirements from recognised professionals.
- Licensing authority will verify the certificates of compliance issued by recognised professionals on a sampling basis.

As this option requires the engagement of recognised professionals, it is suitable for restaurants that can afford or justify the cost of employing professionals (e.g. medium to large restaurants).

(Please refer to Appendix 2 for the Fast Track Process)

Licensing Process - Introduce a new licensing system

Option 1 - Certification by Recognised Professional (cont'd)

Benefits

The benefits of the fast track process are:

- Applicants will be assured by recognised professionals that the premises are licensable before they sign the lease commitment.
- Applicants will be able to obtain licenses on the same day of application under the new arrangement, instead of waiting for over a year under the current arrangement.
- Applicants will have greater control over the licensing process.
- Licensing authority will be able to free up licensing resources for other priorities, e.g. hygiene inspection.

Constraints

To implement the fast track process, the licensing body will need to:

- Propose new legislation to effect the fast track process.
- Establish a scheme to monitor recognised professionals.

Licensing Process - Introduce a new licensing system

Option 1 - Certification by Recognised Professional (cont'd)

The Fast Track Process cannot be implemented without legislative changes. USD should adopt a transition arrangement to implement immediate improvement opportunities that are supported by existing legislation.

Key Features

The key features of the transition arrangements are:

- The four certificates of compliance issued by recognised professionals will qualify for provisional license instead of full license.
- The transition arrangement requires 100% compliance inspection. The licensing body will only issue full licenses to applicants upon satisfactory compliance inspection.

Benefits

- The benefit of the transition arrangements is that improvement opportunities can be implemented immediately.

(Please refer to Appendix 3 for the Fast Track Process - Transition Arrangement)

Licensing Process - Introduce a new licensing system

Option 1 - Certification by Recognised Professional (cont'd)

The main idea of the Fast Track Process is to reduce the involvement of the existing licensing body and the related departments by engaging recognised professionals from the private sector to carry out the necessary assessments and certifications.

Under the fast track option, USD will issue a restaurant license to the applicant when the applicant submits the following certificates of compliance issued by recognised professionals:

Certificates	Issued by
◆ Certificate of compliance A (Health requirements)	◆ Authorised person/registered structural engineer
◆ Certificate of compliance B (Building requirements)	◆ Authorised person/registered structural engineer
◆ Certificate of compliance C (Fire services requirements)	◆ Registered fire services installation contractor/authorised person/registered structural engineer
◆ Certificate of compliance D (Ventilation requirements)	◆ Registered ventilation contractor

... However, the existing legislation does not permit the certificates of compliance to qualify for a full restaurant license.

Licensing process - Introduce a new licensing system

Option 1 - Certification by Recognised Professional (cont'd)

In addition to being governed by their own professional bodies and various registration ordinances for professionals, we have identified the following measures to specifically monitor the practices of recognised professionals with respect to restaurant licensing...

The measures are:

- ◆ USD, BD, and FSD will conduct 100% verification check of the premises during the transition arrangement for the fast track process;
- ◆ USD should develop and apply a “demerit point” system to monitor the performance of the recognised professionals on USD’s registration list during Phase 2 (there are likely legal implications involved); and
- ◆ working groups between the licensing agents and the various professional bodies should be held to discuss practice issues and to review disciplinary issues of individual professionals as per USD’s request. Since these activities will involve a number of professional disciplines of different governing frameworks, the details of the measures and disciplinary actions against recognised professionals who failed to discharge their obligation properly should be developed among the relevant working groups prior to implementation

...Legislation change is required to allow USD to have legitimate power on governing the performance of the recognised professionals registered for practising in restaurant licensing

Licensing Process - Introduce a new licensing system

Option 2 - Inspection by the Licensing Authority (Normal Track Process)

This option is a “streamlined” version of the current licensing process with a view to reducing the process time of issuing “letter of requirements” from about three months to one month.

This option does not require the engagement of recognised professionals and is available for restaurants that do not wish to employ professionals (i.e. small to medium restaurants).

Key Features

The key features of the normal track process are:

- Applicants will need to pay to licensing body an application fee upon submission of application and a review fee for change of layout plan.
- Quality audit will be replaced by a preliminary screening of layout plans.
- Departments will conduct separate site inspections instead of joint site inspection.
- Departments commit to issue letter of requirements on the 26th working day through automation and improvement in the efficiency of document delivery.

Benefits

The benefits are :

- The processing time for issuing a letter of requirements will be reduced by 57 working days.
- Applicants are not required to employ recognised professionals.

(Please refer to Appendix 4 for the Normal Track Process)

... Option 1 is a fast track process. Option 2 is a normal track process. It is a commercial decision for the applicants to choose between the two options.

Licensing Process - Use a “case manager” to improve co-ordination

Key Features

We recommend that dedicated a ‘case manager’ should be used to monitor the whole licensing process.

The key roles and responsibilities of a ‘case manager’ are to:

- ▶ Handle applicants’ enquiries and refer enquiries to the departments concerned as appropriate
- ▶ Ensure an effective co-ordination between the related departments
- ▶ Proactively monitor and keep track of the progress of each application

Benefits

- ▶ The process time for restaurant licensing will be reduced through proactive monitoring of the whole process
- ▶ Services will be improved as applicants will be served by dedicated case managers

Licensing Process - Provide more support to applicants

Key Features

Improving the support to applicants is essential to enhancing applicants' understanding of the licensing requirements and the roles and responsibilities of the key parties in the process. To achieve this, USD should provide applicants with multiple access to relevant information in the licensing process through the following means:

- ▶ **working group** comprising the licensing body and particularly small and medium enterprises to improve the communication between the licensing authority and the trade;
- ▶ **user-friendly guidelines** including case studies, videos or CD ROM to advise applicants on the 'dos' and 'don'ts' in the licensing process;
- ▶ **information centre** to handle general public enquiries and to provide advice to potential applicants;
- ▶ **seminars** on how to start a restaurant to improve applicants' understanding of the licensing requirements; and
- ▶ **dedicated 'case manager'** to monitor the progress of individual applications.

Benefits

Applicants, particularly small and medium enterprises, will be able to exercise better planning and control throughout the licensing process.

Section 5

Other Improvement Areas

Building Plan Retrieval Process

Issues

An applicant needs the original building plan to determine whether a premise is licensable before he/she commits the lease arrangement. However, the current processing time for building plan retrieval is unacceptable to the food industry.

The key issues are:

- ◆ The address provided by an applicant for plan retrieval may not be consistent with the information in the Buildings Department's Information System.
- ◆ Record management office usually processes the plan retrieval requests by batch and returns the retrieved plan to the Plan Retrieval Unit on a weekly basis.
- ◆ The Plan Retrieval Unit may not be able to arrange immediate viewing sessions for applicants due to the shortage in office space.

Recommendations

In the short term, Buildings Department should implement the following measures to improve the current situation:

- ◆ Establish a database to centrally maintain the historical and current address information for all buildings, including those that are currently kept separately in various physical locations;
- ◆ Assign dedicated staff and vehicle to proactively dispatch the request for building plans to the related Records Management Office and pick up the plans that have been retrieved on a daily basis; and
- ◆ Provide sufficient office space and staff resource to accommodate the need of applicants to view the building plans.

In the long term, we recommend that Buildings Department should convert all building plans into electronic format to eliminate the entire physical building plan retrieval process.

Benefits

The process time for plan retrieval can be reduced from 28 working days on average to less than 15 working days in the short term and to less than 5 working days in the long term.

Enforcement Procedures

Demerit Point System

Issues

The control of licensed restaurants is administered under the Demerit Points System. Currently, it is very difficult for USD to suspend a licensed restaurant under the Demerit Point System. This is because many laid-down criteria for demerit points are either unclear or not specific subjected to broad interpretation. In addition, the threshold required for immediate suspension is rather high and very serious offences are barely applicable.

Recommendations

To improve the effectiveness of the Demerit Point System, we recommend that USD should clarify the ambiguous criteria through user friendly guidelines and consider to lower the threshold for immediate suspension.

Benefits

The Demerit Point System will be more effective, particularly, with respect to sanctioning restaurants that pose high risk to the public.

Enforcement Procedures (cont'd)

Selective Inspection System

Issues

The main concern on the Selective Inspection System is that the demerit points used in the System are inconsistent with those used in the Demerit Points System. In addition, the demerit points scored in one year only affect the frequency of inspection in the following year and has no immediate impact on the frequency of inspection in the same year.

Recommendations

To improve the effectiveness of the system, USD should ensure that the criteria used in the Selective Inspection System are consistent with those used in the Demerit Point System. In addition, USD should review the frequency of selective inspection quarterly and consider immediate re-inspection for serious offences of environmental hygiene.

Benefits

The system will be more responsive to the needs for enforcement and inspection.

Other Issues Related to Liquor License

In addition to reviewing the restaurant licensing system, the terms of reference also required us to study the measures to abating nuisance to the public subsequent to the issue of liquor license. Our findings and recommendations are summarised below:

Issues

We have compared the measures adopted in Hong Kong to control nuisance related to liquor licenses against comparable measures adopted in the US. Our finding is that the measures adopted in both places follow the same principles, i.e. control over location of business, eligibility of licensee and renewal of license. However, the practice adopted in Hong Kong is less transparent than that adopted in the U.S.

Recommendations

To improve the abatement of nuisance related to liquor license, the Liquor Licensing Board should adopt the following measures:

Control over location - The Liquor Licensing Board should inspect and survey nearby areas to determine the suitability of the proposed location.

Control over eligibility - The Liquor Licensing Board should restrict certain unsuitable persons from being eligible for liquor license, e.g person convicted of a felony and publish the evaluation criteria.

Control over renewal of license - The renewal system should be linked to a demerit point system so that a licensee causing nuisance will not qualify for license renewal. In addition, to qualify for a renewal, all servers in a licensed premise should be required to undertake a mandatory server training program.

Benefits

Nuisance to the public subsequent to the issue of liquor licenses will be reduced through more transparent control over the location, eligibility and renewal of licenses.

Other Issues Related to Club License (cont'd)

The terms of reference also required us to study the inconsistency with respect to the granting of club licenses not requiring the approval of the Provisional Urban Council. Our findings and recommendations are summarised below:

Issues

Many people express their concerns about some “eating and drinking clubs” accepting members instantly and serving food and beverages to these members like a general restaurant. However, such eating and drinking clubs, according to the Clubs (Safety of Premises) Ordinance Ch. 376, are not required to comply with equivalent hygiene requirements as set out in the Food Business (Urban Council) By-law 4 for restaurant licenses. This raises the concern that members of eating and drinking clubs are exposed to potential risks as these clubs are not required to comply with hygiene requirements.

Recommendations

Our view is that eating and drinking clubs should be subjected to the same hygiene requirements as restaurants. Therefore, we recommend that USD and Home Affairs Department (HAD) should establish a task force to reconcile the difference in requirements in the certification/licensing processes.

Benefits

The public will be assured that the same hygiene standards will be observed by food and drinking clubs and restaurants.

Section 6

The Way Forward

The Way Forward

To maintain the momentum of change that has been built up during the study, we propose that the following high level implementation plan be adopted by the licensing agents:

Implementation tasks	Implementation schedule	Responsible parties
Process improvements: Option 1: Fast Track Process - Transition Arrangement <ul style="list-style-type: none"> ● Consultation ● Establish administrative system for ‘fit for purpose’ registration ● Standardise licensing requirements ● Strengthen monitoring of Recognised Professionals Option 1: Fast Track Process - Full Implementation <ul style="list-style-type: none"> ● Legislation change proposal ● Implement full license system Option 2: Normal Track Process <ul style="list-style-type: none"> ● Establish administrative procedures for application fee and resubmission review fee ● Change procedures for Quality Audit and site inspection ● Automate generation of Letter of Requirements ● Revise performance pledges 	Immediately Within 12 months Within 6 months Within 12 months Immediately 2 to 3 years immediately immediately immediately immediately	USD USD,BD,FSD USD,BD,FSD USD,BD,FSD USD,UC USD,BD,FSD USD USD,BD,FSD USD USD,BD,FSD
Assign case manager	Immediately	USD
Improve support to applicants	Immediately	USD,BD,FSD
Streamline building plan retrieval process	Immediately	BD
Enforcement procedure improvements: <ul style="list-style-type: none"> ● Simplify prosecution procedures ● Enhance Demerit Point System 	Immediately Immediately	USD,UC USD
Reconcile inconsistent requirements: <ul style="list-style-type: none"> ● Reconciliation between USD and EPD ● Review Light Refreshment Licenses 	Immediately Immediately	USD,EPD USD

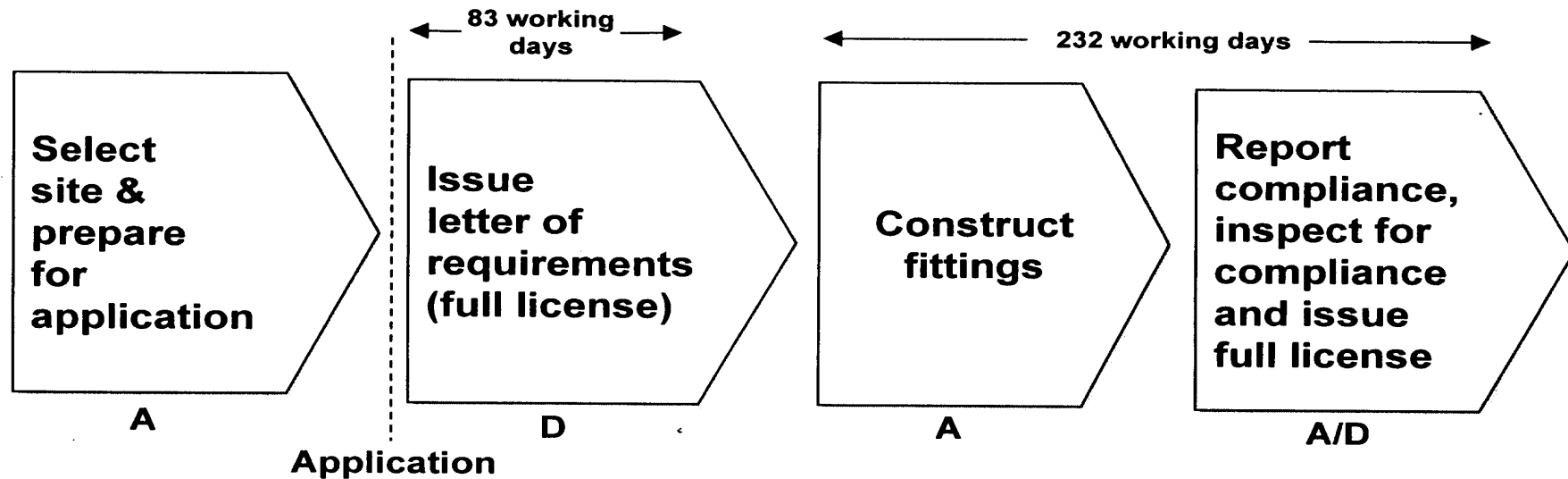
Most of the recommendations can be implemented within one year as the implementation does not require substantial investment in capital or labour.

Appendix A

Current Process

Current Process

Process Overview - Full License



Note:

- D** - Departments
- A** - Applicants

Current Situation

- Average processing time = 315 working days

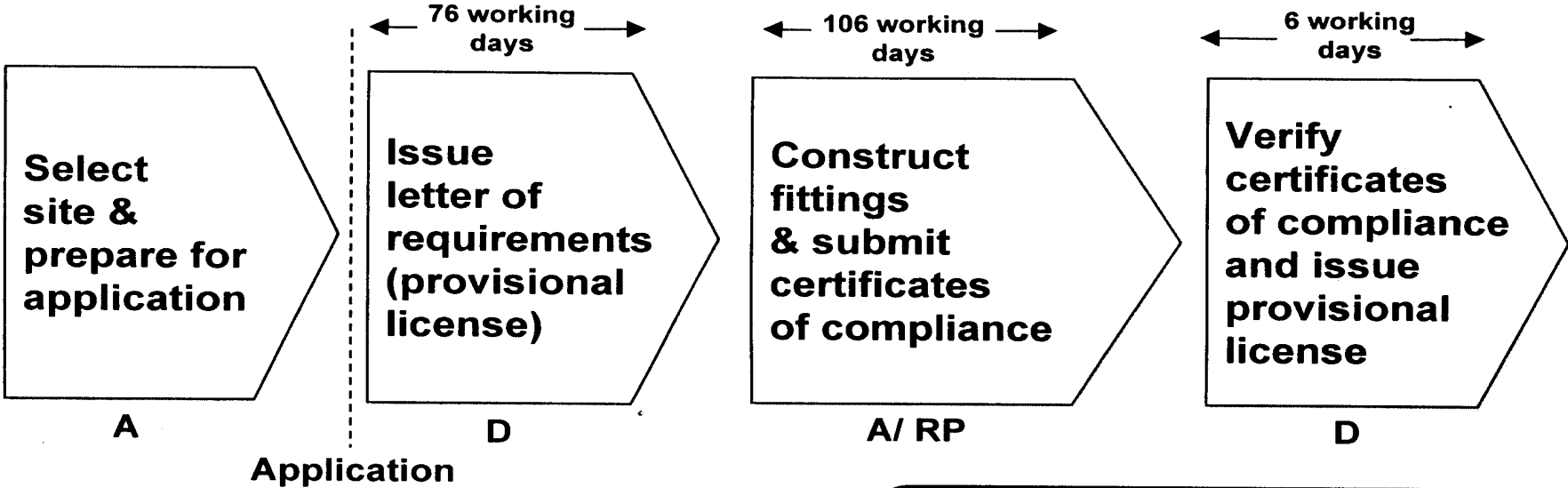
Assumes 5 working days a week

Appendix B

Fast Track Process

Current Process

Process Overview - Provisional License



Note:

- D - Departments
- A - Applicants
- RP- Recognised Professionals

Current Situation

- Average processing time = 188 working days

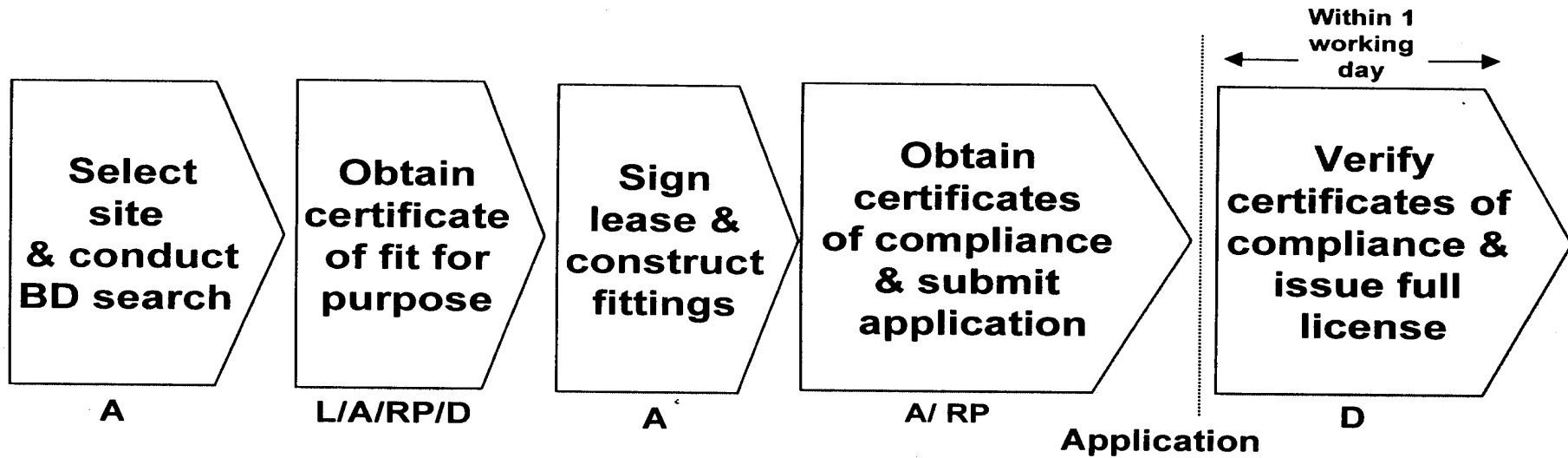
Assumes 5 working days a week

Appendix C

Fast Track Process -
Transition Arrangement

Option 1: Fast Track Process

Process Overview

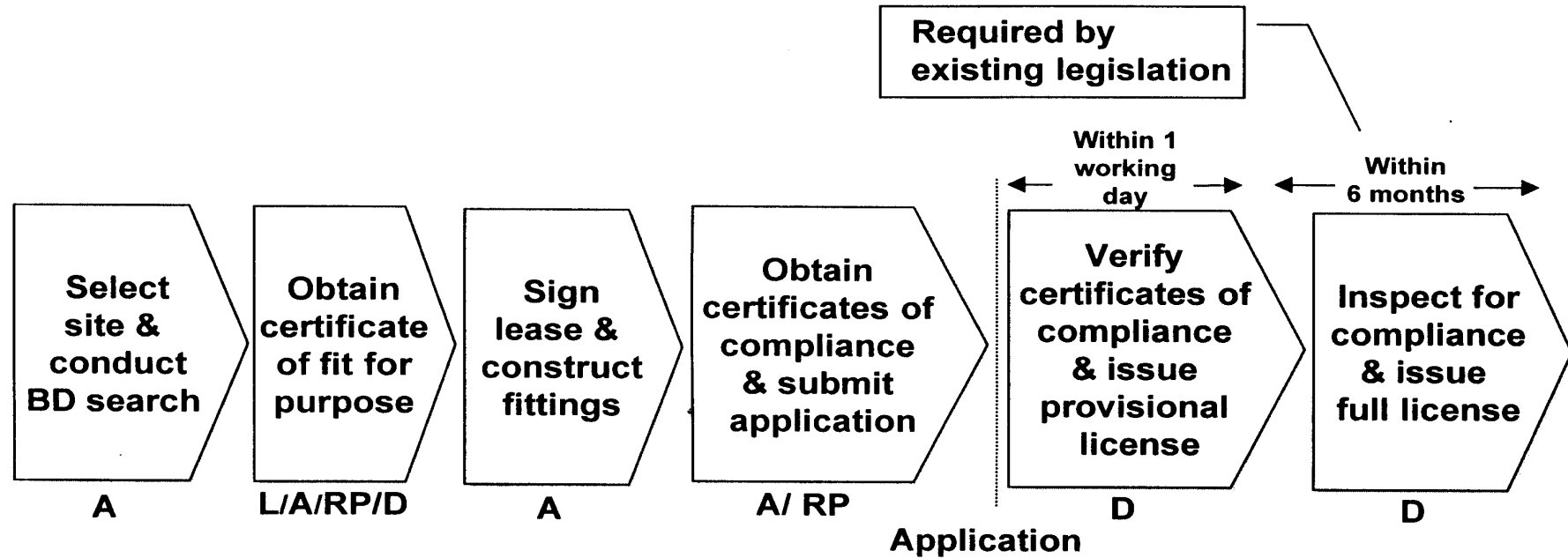


Note:

- D - Departments
- A - Applicants
- L - Landlords
- RP - Recognised Professionals

Option 1: Fast Track Process - Transition Arrangement

Process Overview



Note:

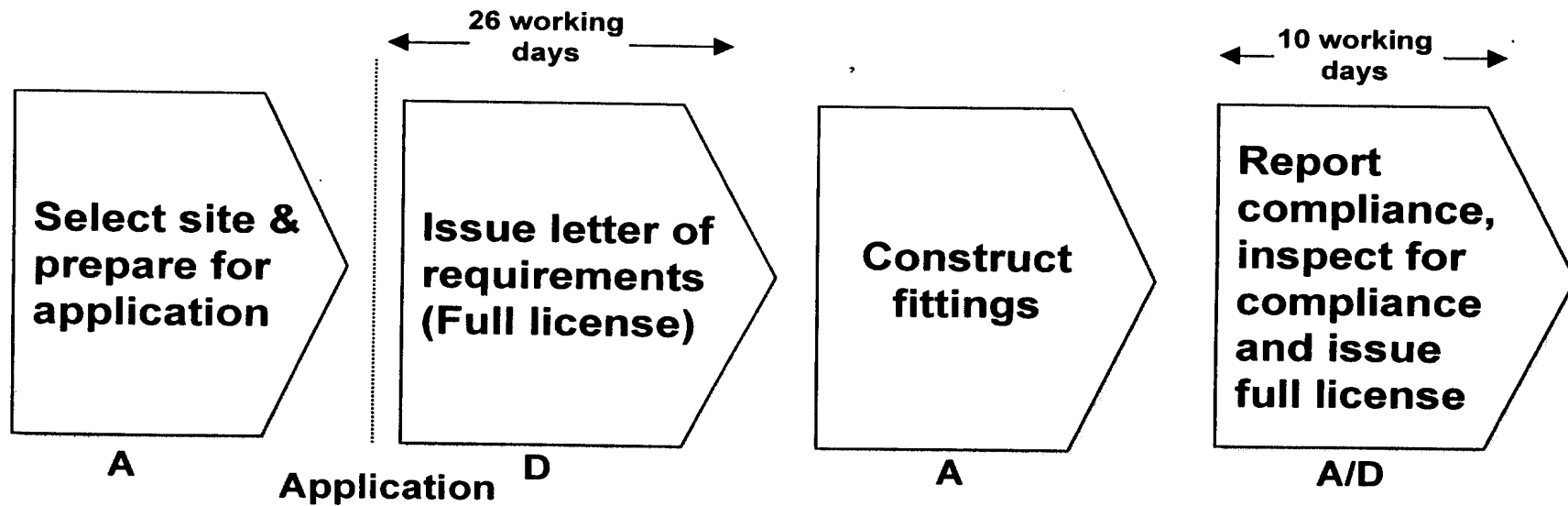
- D - Departments
- A - Applicants
- L - Landlords
- RP - Recognised Professionals

Appendix D

Normal Track Process

Option 2: Normal Track Process

Process Overview



Note:

D - Departments

A - Applicants