

立法會
Legislative Council

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by the Administration and cleared
with the Chairman)

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LegCo Panel on Environmental Affairs

**Subcommittee on matters
relating to environmental hygiene**

**Minutes of Meeting held on
Thursday, 20 April 2000 at 8:30 am
in Conference Room B of the Legislative Council Building**

- Members Present** : Dr Hon TANG Siu-tong, JP (Chairman)
Hon Fred LI Wah-ming, JP
Dr Hon LEONG Che-hung, JP
Hon WONG Yung-kan
- Members Absent** : Hon CHAN Wing-chan
Hon CHOY So-yuk
- Public Officers Attending** : For Item III
- Mr Paul TANG
Deputy Secretary for the Environment and Food
- Ms Eva TO
Principal Assistant Secretary for the
Environment and Food
- Miss Sarah WU
Deputy Director of Food and Environmental Hygiene
(Environmental Hygiene)
- Mr K S NG
Senior Superintendent (Hygiene and Licensing),
Food and Environmental Hygiene Department

For Item IV

Mr Paul TANG
Deputy Secretary for the Environment and Food

Ms Eva TO
Principal Assistant Secretary for the
Environment and Food

Miss Sarah WU
Deputy Director of Food and Environmental Hygiene
(Environmental Hygiene)

Miss Janet WONG
Deputy Director of Food and Environmental Hygiene
(Administration and Development)

Mr K K LEE
Senior Superintendent (Operations),
Food and Environmental Hygiene Department

Mrs Angel CHOI
Chief Executive Officer,
Food and Environmental Hygiene Department

Mr S K WONG
Project Director, Architectural Services Department

Clerk in Attendance : Mrs Constance LI
Chief Assistant Secretary (2)2

Staff in Attendance : Miss Mary SO
Senior Assistant Secretary (2)8

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I. Date of next meeting and items for discussion
[Paper No. CB(2)1717/99-00(03)]

Members agreed to discuss the consultancy study report on restaurant licensing as well as the management of the Hawker Control Force at the next meeting of the Subcommittee to be held at 8:30 am on 25 May 2000.

[*Post-meeting note*: The next meeting was subsequently rescheduled to 8:30 am on 30 May 2000.]

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2. With regard to Mr Fred LI's enquiry about the timetable for the market stall rental review, Deputy Secretary for the Environment and Food (DS(EF)) said that while market stall rentals would remain unchanged for the time being, the Legislative Council (LegCo) would be consulted in December 2000 on the review of the mechanism for market stall rental adjustments.

II. Information paper issued since the last meeting

[Paper No. CB(2)1732/99-00(01)]

3. Members noted the information paper provided by the Environment and Food Bureau (EFB). In addition to the major reviews in relation to food business licensing and environmental hygiene services currently undertaken or being planned by the Food and Environmental Hygiene Department (FEHD), the paper also set out the timetable for consulting LegCo.

III. Proposed legislation to close unlicensed food premises

[Paper No. CB(2)1717/99-00(01)]

4. DS(EF) briefed members on the paper provided by the EFB setting out the proposals to tackle the problem of unlicensed food business operations and food business operations posing an imminent health hazard to the public. He said that the Administration's first priority was to tackle unlicensed food premises so as to minimize risk to public health. To this end, the Administration proposed to amend the relevant legislation to empower the Director of Food and Environmental Hygiene (DFEH) to make a direct application to the court for closing unlicensed food premises under section 128 of the Public Health and Municipal Services Ordinance (Cap. 132) (the Ordinance) without first applying for a Prohibition Order. The court might issue a Closure Order upon being satisfied on evidence that the food business was operated without a valid food business licence. The new proposal would streamline the existing application procedures for a Closure Order and shorten the time required. However, if the unlicensed food business ceased to operate or the provisions of the Ordinance had been complied with, the Closure Order could be lifted by the court as soon as possible upon application made by the owner or the occupier concerned. He further said that the Administration was considering streamlining the food business licence application procedures, with a view to minimizing the number of food premises operating without a valid licence.

5. On measures to tackle food incidents posing an imminent health hazard, in addition to the Prevention of the Spread of Infectious Diseases Regulations, the Administration also proposed that a new provision be provided in the Ordinance to empower DFEH to close food premises and food factories temporarily on the ground of imminent health hazard. DS(EF) stressed that such power would only be exercised by DFEH on an absolute need basis for the protection of food safety and public health. He further said that the Administration would consult the trade upon finalizing the above two proposals in the next few months. The

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object of the Administration was to introduce the relevant legislative amendments in the next legislative session.

6. With regard to unlicensed food premises, the Chairman asked about the number of Prohibition Orders that the Administration had succeeded in obtaining from the court, as well as the amount of fine imposed on food business operators for breaching the relevant Ordinance to date.

7. Senior Superintendent (Hygiene and Licensing) of the FEHD (SS(HL)) replied that as at mid-April this year, there were about 600 unlicensed food businesses in Hong Kong, and 81% of them had made an application for a food business licence from the licensing authority, i.e., FEHD, whereas the remaining 19% or so had never made an application. On the question of prosecution, SS(HL) said that a total of 6 291 prosecutions were made against licensed and unlicensed food businesses in 1999, with the highest and lowest fines being \$63,000 and \$190 respectively, and the average fine \$8,500. During the same period, 350 Prohibition Orders had been issued by the court. However, about 20% of the owners or occupiers concerned continued to operate their food businesses despite the Prohibition Orders. The maximum and minimum penalties awarded for breaching the Prohibition Order were \$84,280 and \$154 respectively, with the average fine being \$18,500. As regards the number of Closure Orders issued, SS(HL) said that a total of three Closure Orders had been issued in 1999, and the unlicensed food businesses concerned had ceased to operate subsequently.

8. Mr Fred LI said that unlicensed food factories such as siu mei and lo mei factories posed a more serious threat to public health than unlicensed food premises. He asked whether the Closure Order would also be applicable to unlicensed food factories in addition to unlicensed food premises. Mr LI considered that one major reason why the Administration had been unable to combat unlicensed food business operations effectively was that such operations could change the name of the unlicensed food premises and replace the operators to avoid complying with the Closure Order. He asked whether the proposed procedures for closing unlicensed food premises could plug this loophole. Mr LI further said that the Administration should first close those food premises which had never made any application for a licence, and those which had lodged their licence applications but were considered not fit to be licensed as food premises because of their location and structure, such as failure to comply with the structural safety and fire escape requirements of the Fire Services Department and the Buildings Department.

9. DS(EF) responded that while both the Prohibition Order and the Closure Order could apply to unlicensed food factories as well, the target of the present approach was to tackle food premises which continued to operate even after their licence applications had been rejected. Regarding the avoidance of compliance with a Closure Order by changing the signboards of food premises and replacing their operators, SS(HL) clarified that the Prohibition Order and Closure Order were targetted at the premises concerned and not the operator concerned. He

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further said that the new procedures for closing unlicensed food premises were to tackle mainly the following four categories of unlicensed food premises:

- (a) unlicensed food premises operating under very unhygienic conditions;
- (b) unlicensed food premises which had been in business for a long time but had never made any application for food business licences;
- (c) unlicensed food premises which were not fit to be licensed on grounds of their location or structure; and
- (d) unlicensed food premises whose provisional licences had expired for a long time.

10. The Chairman inquired about the time needed to complete the process of closing an unlicensed food premise under the present arrangement. Deputy Director of Food and Environmental Hygiene (Environmental Hygiene) (DD/FEH(EH)) replied that the existing procedures were complicated and the process might take as long as nine months.

11. Mr Fred LI asked why the Administration had only succeeded in closing three unlicensed food premises in the past year if the Prohibition Order and Closure Order were to deal with the premises of the business operations concerned. SS(HL) explained that many unlicensed food business operators had, upon receiving notice of a Prohibition Order or Closure Order, applied to the court for lifting the relevant Order on the ground that they were in the process of changing trade. However, these operators would revert to operating unlicensed food businesses having been in another kind of business for some time. The situation was especially common among small scale and highly mobile food businesses.

12. Mr Fred LI and Dr LEONG Che-hung expressed concern about such situation and asked if the Administration had any measures to tackle the problem. DS(EF) responded that the problem of unlicensed food business operations was rather complicated and had been in existence for a long time. The proposed streamlined procedures for closing food premises would reduce the time needed to issue a Closure Order, thereby reducing the possibility of such a situation occurring. The Administration would also keep a close watch on those unlicensed food business premises where the court had been told that these premises had been switched to another trade. If the premises concerned were used as food premises again, the Administration would apply again to the court for a Closure Order. In response to members' questions on how the Administration would deal with re-applications for licences from these food premises, DS(EF) said that should such food premises apply for a licence again, the Administration would process their applications according to normal licensing requirements. The Administration would not presume that they would not meet the licensing requirements.

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13. DD/FEH(EH) said that the Administration had stepped up prosecution actions against unlicensed food businesses over the past few months, thereby sending a very clear message to people interested in operating food businesses that they had to obtain a food business licence and to bring the premises concerned in line with the licensing requirements within a specified period of time. Moreover, in the event that a particular application was considered not in compliance with the licensing requirements, the Administration would notify the applicants as soon as possible to enable them to take appropriate actions such as finding another suitable premises or revising the layout plan.

14. The Chairman asked whether the proposed procedures could shorten the whole process of closing unlicensed food premises to three months. DD/FEH(EH) replied that the Administration was discussing with the Judiciary on the implementation details, and she could not undertake at the present stage that the whole process could be completed within three months. Nevertheless, she considered that the time required for closing unlicensed food premises under the proposed procedures would definitely be shorter than that under the existing arrangement, and the Administration hoped that the process of closing unlicensed food businesses could be completed within three months.

15. Dr LEONG Che-hung opined that it was of paramount importance that the food business licensing procedures should be streamlined if the number of unlicensed food businesses was to be reduced. Since legislative amendments would take time, Dr LEONG asked if there were alternative measures to shorten the procedures for closing unlicensed food premises. Dr LEONG further enquired why it would take shorter time to close a licensed food operation than an unlicensed one. He pointed that while DFEH was required to apply to the court for a Closure Order to close unlicensed food premises at present, the Director of Health was empowered to close food premises under the Prevention of the Spread of Infectious Diseases Regulation.

16. DD/FEH(EH) concurred that it was important to streamline the application procedures for a food business licence. She pointed out that the Administration was reviewing the relevant procedures with a view to further streamlining the licensing procedures. In December 1995 the Administration introduced a provisional licensing system to enable the trade to start their business with a provisional licence (PL) within a reasonable timeframe pending the issue of a full licence. The PL was valid for a period of six months and would be issued if the basic requirements on health, building and fire safety were met. Under the existing licensing system, Letter of Requirements (L/R) would normally be issued within five weeks, whereas issue of a full licence would take some six to seven weeks. However, the time required for the issue of a food business licence would depend to a great extent on when the applicants could provide the relevant government department with the requisite certificates and reports.

17. On the need to amend the relevant legislation, DD/FEH(EH) replied that it was necessary to amend the Ordinance to empower the Director to make a prompt application to the court for a Closure Order without first applying for a

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Prohibition Order. DD/FEH(EH) also clarified that the proposal in paragraph 7 would apply to licensed and unlicensed food businesses alike. DS(EF) stressed that food premises would only be closed immediately on an absolute need basis for the protection of food safety and public health. The Administration would first seek professional opinion to make sure that the food incidents would pose an imminent health hazard before taking action to immediately close the food premises.

18. DS(EF) further said that the Administration did not wish to give people a wrong impression that DFEH was given too much power on closing food premises. Such being the case, the Administration considered it appropriate for DFEH to provide reasons to the court for the granting of a Prohibition Order and a Closure Order.

19. In reply to the Chairman, DD/FEH(EH) said that the existing legal system had already provided an appeal channel for operators of unlicensed food businesses.

20. As regards the duration of the temporary closure of food premises on the ground of food incidents posing an imminent health hazard, DD/FEH(EH) said that it would depend on the circumstances of each case.

21. Mr WONG Yung-kan asked whether the lengthy licensing process was one reason why some food business operators would rather not submit any licence applications. SS(HL) responded that some of the business operations which had not applied for any food business licence were either operated on a short-term basis or located in premises that were hardly suitable for food business operation purposes. DD/FEH(EH) reiterated that the Administration was reviewing the possibility of further streamlining the licensing procedures. At the same time, FEHD would maintain close liaison with the relevant government departments to ensure smooth processing of food business licence applications.

22. The Chairman asked whether the applicants' previous record of breaching the relevant ordinance would affect their chance of being granted a food business licence in the future. SS(HL) replied that since the relevant record was focussed on the premises of the food business operations rather than the licensees, it would not affect the chance of the relevant applicants being granted a food business licence when they submitted their applications again. However, should the premises breach the relevant legislation again, the Administration would expedite prosecution action or apply for a Prohibition Order, and heavier penalty would be imposed.

23. Mr Fred LI asked how the Administration would come to know the existence of unlicensed food factories and take enforcement action, since most of them were located inside buildings and in remote areas in the New Territories.

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24. SS(HL) replied that FEHD had put in place a regular inspection system and provided a hotline for people to report and lodge complaints. These had enabled the Department to uncover unlicensed food business operations and unlicensed food factories within a very short period of time. DD/FEH(EH) added that in recent years, there had been enhanced public awareness of reporting unlicensed food business operations and unlicensed food factories. Many unlicensed food business operations and unlicensed food factories uncovered in the past few months were reported by members of the public. DD/FEH(EH) said that to tackle unlicensed food factories located in remote places more effectively, the Administration would promote the reporting of unlicensed food factories by enlisting the cooperation of village organizations.

25. In response to Mr Fred LI's question on how to deal with the closure of unlicensed food premises where there were people living therein, SS(HL) said that to make sure that no one would be rendered homeless as a result of the closure of the food premises concerned, the Administration would normally only close the part of the premises used for doing business or as a factory and would not close the part used for living purpose. Since the problems involved in closing this kind of unlicensed food premises were more complicated, the Administration would normally close the entrances and exits of the premises and take away the paraphernalia.

26. Referring to the proposal in paragraph 7 of the Administration paper, the Chairman asked about the circumstances under which DFEH would close food premises temporarily on the ground of imminent health hazard. DS(EF) replied that the Administration would specify the circumstances under which the DFEH could close food premises temporarily on the ground of imminent hazard to public health in the amendment bill. When drafting the relevant amendment bill, the Administration would make reference to the practice of the Director of Health in closing food premises to prevent the spread of infectious diseases .

IV. Crematoria Service

[Paper No. CB(2)1717/99-00(02)]

27. At the invitation of the Chairman, DD/FEH(EH) and Deputy Director of Food and Environmental Hygiene (Administration & Development) (DD/FEH(AD)) briefed members on FEHD's papers on the provision of cremation service and the programme to replace cremators at the Kwai Chung Crematorium (KCC).

28. Dr LEONG Che-hung welcomed the establishment of joint offices by the FEHD, the Department of Health and the Immigration Department with one on Hong Kong Island and the other in Kowloon, to facilitate the booking of cremation sessions by family members of the deceased. In view of the aging population and the increasing acceptance of cremation by the community, Dr LEONG agreed with the call for additional crematoria. Nevertheless, Dr LEONG considered that there were difficulties in identifying suitable sites for the

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construction of crematoria and obtaining the support of the residents in the vicinity. Although the Administration indicated that an additional cremation session from 5 pm to 9 pm could be introduced to meet additional demand, this measure might not be very effective as family members of the deceased in general did not prefer cremation sessions after dusk. Dr LEONG therefore considered that it would be more practical to replace the old cremators or provide additional cremators at the six existing government crematoria and enquired about the feasibility of these measures. Dr LEONG also enquired about the time the Administration could fulfill its performance pledge that cremation service could be arranged within 15 days of application.

29. DD/FEH(AD) replied that provision of additional cremators at existing crematoria would depend on the availability of suitable sites and ancillary facilities at these crematoria. Even if no additional cremators could be built, the Administration would consider increasing the total cremation capacity of the cremators or replacing the existing cremators as far as it was technically feasible. As new cremators were of a multi-layer design, the time required for cremation could be reduced from the present 2½ hours to 1¼ hours, thereby increasing the cremation capacity. She further said that using new cremators could reduce the cost of cremation service. DD/FEH(EH) added that as each existing government crematorium had its own problems and constraints, an in-depth study would be necessary before deciding whether additional cremators or replacement cremators could be provided. Citing the Kwai Chung Crematorium as an example, she said that four replacement cremators should be constructed on the lawn in the crematorium. However, this might not be feasible in other existing crematoria.

30. With regard to the performance pledge, DD/FEH(EH) said that the Administration would strictly adhere to the pledge of arranging cremation service within 15 days of application. To ensure that the pledge could be met, additional cremation sessions would be provided if necessary. She pointed out that there were a few cases where cremation service was provided after 15 days of application as family members of the deceased had insisted on choosing a particular session or had to await their relatives to return from overseas.

31. Since cremation sessions after dusk were generally not popular, Dr LEONG Che-hung asked whether the Administration would consider advancing the cremation session to 7:30 am. DD/FEH(EH) responded that the Administration had no particular views on providing earlier cremation sessions, but its feasibility would depend on the acceptance by the community, and whether it would fit in with the operation of the funeral parlour. She further said that while increasing the number of cremation sessions would help to meet the demand, it would also shorten the life span of cremators and increase the frequency of repairs. This being the case, FEHD would discuss with the Electrical and Mechanical Services Department to work out a suitable arrangement.

32. DD/FEH(AD) added that since it was a common practice for the bereaved families to pay their respect to the deceased in the service hall, the

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Administration would have to ensure the availability of the service hall in the crematorium when considering increasing the number of cremation sessions.

33. Mr Fred LI asked why Close Circuit Television system (CCTV) had not been installed in Cheung Chau Crematorium to monitor the operation of the crematorium and strengthen its security, given that things buried along with the deceased had been stolen from the crematorium. DD/FEH(EH) responded that due to the low usage of the crematorium and the fact that the design of the crematorium could enable the bereaved families to watch the staff carrying out the cremation of the deceased, there was no plan at the moment to install CCTV for the crematorium. She undertook however that CCTV would be installed in Cheung Chau Crematorium should such need arise in the future.

34. Mr Fred LI asked why there was no replacement programme for the cremators at the Diamond Hill Crematorium (DHC), which was built before the KCC. Mr LI also asked whether six new cremators would be built in addition to the six existing cremators at DHC.

35. DD/FEH(AD) responded that the Administration was conducting an environmental impact assessment on the replacement of cremators at the DHC and Fu Shan Crematorium at the moment. If these replacement programmes could meet all of the established environmental standards, they would be submitted to the LegCo Public Works Subcommittee and the Finance Committee for approval. On the replacement of cremators at the DHC, DD/FEH(AD) said that the Administration was examining the relevant data and had not made a final decision on the matter.

36. There being no other business, the meeting ended at 10 am.

Legislative Council Secretariat

12 October 2000