

For information

Legislative Council
Panel on Food Safety and Environmental Hygiene

Regulatory Control of “Private Kitchens”

PURPOSE

This paper provides Members with additional information on the introduction of a new category of food business to cover the operation of “private kitchens”.

BACKGROUND

2. The Legislative Council Panel on Food Safety and Environmental Hygiene (the Panel) discussed the regulatory control of “private kitchens” at its meeting on 18 December 2003. Members generally supported the Administration’s proposal for regularizing “private kitchens”. They also requested for information on “private kitchens” operating in small houses in the New Territories, and a comparison of the licensing requirements among “private kitchens”, restaurants and clubs.

PROPOSED REGULATORY FRAMEWORK

3. Section 31 of the Food Business Regulation (Cap. 132 sub. leg. X) requires a person to obtain a licence to operate a food business such as restaurant, food factory and fresh provision shop. The licensing regime aims to safeguard public health and to ensure the safety of patrons. Under the current system, restaurant operators have to comply with health, ventilation, and fire and building safety requirements.

4. There is a need to regularize the operation of “private kitchens”. The restaurant trade feels strongly that “private kitchens” should not be exempted from licensing control. On the other hand, “private kitchen” operators believe they offer an alternative to customers and contribute to the development of tourism in Hong Kong. Most operators agree that “private kitchens” should also be subject to regulatory control. However, they consider the existing regulatory requirements are designed with conventional restaurants in mind and do not suit the development of small

scale operations like “private kitchens”.

5. We have carefully examined the views expressed by the Panel and the trade. We consider that suitably regulated “private kitchens” will provide more dining choices to customers and play a complementary role vis-à-vis conventional restaurants, and bring about business and employment opportunities. On the other hand, there is a need to maintain a level playing field for all food business operations by placing “private kitchens” under a licensing regime, as with other food businesses.

6. We therefore intend to require “private kitchens” to meet all the basic licensing requirements concerning hygiene and building and fire safety requirements imposed by the Food and Environmental Hygiene Department (FEHD), Buildings Department and Fire Services Department, as with applicants for other food business licences. Operators of “private kitchens” will need to apply for a liquor licence if they wish to sell alcohol in their premises.

7. However, given the small scale of business, we will allow “private kitchens” to provide smaller food rooms and fewer sanitary fittings and ablution facilities than traditional restaurants. This would help reduce the capital investment of “private kitchens”, having regard to their special characteristics, namely, catering for a small number of customers and concentrating on a few hours of operation in a day in a “homely” environment. Under the new licensing regime, we will require “private kitchens” to comply with the following criteria –

- (a) the premises must be served by two or more exit staircases if located on the upper floor and permitted for commercial use, e.g. housed in commercial buildings or the commercial part of composite commercial/residential or composite industrial/office buildings. Operation in residential or industrial buildings will not be allowed;
- (b) maximum seating capacity will be restricted to 24 persons at any one time;
- (c) business hours will be confined to no more than three and a half hours per day; and
- (d) provision of meals for consumption off the premises will not be allowed.

Paragraph 7(a) is to ensure the safety of patrons and to prevent “private kitchens” from causing nuisances to nearby residents. Paragraph 7(b) to (d) are to restrict the scale of operation of “private kitchens” compared to a general restaurant and a light refreshment restaurant in order to allow application of correspondingly less stringent sanitary requirements.

8. We believe the flexible approach adopted in the proposed regulatory control will provide room for “private kitchens” to operate, without compromising food safety and hygiene standards and building and fire safety requirements.

ADDITIONAL INFORMATION

9. Under the existing licensing policy, an application for a restaurant licence including a general restaurant and a light refreshment restaurant in a village type house (VTH) in the New Territories will only be accepted if the VTH conforms to the dimensions stipulated in the Buildings Ordinance (Application to the New Territories) Ordinance (Cap. 121) and the lease conditions of the subject lot or tenancy/waiver conditions. The same policy would be applicable to “private kitchens”.

10. FEHD takes enforcement action against unlicensed “private kitchens” in the same manner as in the case of other unlicensed food businesses. In 2004-05, over 1,500 summons were taken against operation of unlicensed food businesses. Among them, 12 cases related to unlicensed “private kitchens”.

11. A comparison table setting out the licensing control of general restaurants, clubs and “private kitchens” with regard to key health/hygiene, building, fire safety and ventilation requirements is at **Annex**.

WAY FORWARD

12. We propose to introduce amendments to the Food Business Regulation and place “private kitchens” under licensing control under section 31, and apply provisional licence as provided in section 33C equally to “private kitchens”. We further propose to use a more specific term of “restricted dining place” to replace the common term of “private kitchens” to avoid possible confusion.

13. We are working out the detailed licensing requirements and conditions with the relevant departments. We plan to introduce the relevant amendments to the Food Business Regulation in the 2005-06 legislative session to effect the implementation of the new licensing scheme.

Health, Welfare and Food Bureau
Food and Environmental Hygiene Department
September 2005

Comparison of Licensing Control of General Restaurants, Clubs and “Private Kitchens”

Requirements	General Restaurants	Clubs	“Private Kitchens”
<i>1. Health/hygiene requirements</i>			
1.1 Food room area	For gross floor area (GFA) of 100 m ² or less: Not less than 30% of GFA, but not less than 9 m ² must be allocated for kitchen, food preparation and scullery purposes, of which 6 m ² must be solely for the kitchen.	No requirement for the provision of food room.	Not less than 5 m ² must be allocated for kitchen, food preparation and scullery purposes.
1.2 Sanitary fitments	For less than 25 customers: One water closet for both sexes and one flush urinal for males must be installed. The water closet and flush urinal shall be segregated with separate entrances.	Same as general restaurants.	One water closet for both sexes must be installed.
1.3 Ablution facilities	One wash-hand basin each of glazed earthenware or other approved materials of not less than 350 mm in length must be installed in kitchen and toilet.	The provision of ablution facilities in toilets should follow the requirements under the Building (Standards of Sanitary Fitments, Plumbing, Drainage Works and Latrines) Regulations (Cap. 123 sub. leg. I).	One wash-hand basin of glazed earthenware or other approved materials must be installed in the toilet. There is no restriction on dimensions of the basin.
1.4 Supply of mains water	Public mains water shall be laid on to the premises.	Same as general restaurants.	Same as general restaurants.

Requirements	General Restaurants	Clubs	“Private Kitchens”
<i>2. Building requirements</i>			
2.1 Fire resisting construction	Premises shall be designed and constructed of fire resisting materials which satisfy the provisions of the Building (Construction) Regulations (Cap. 123 sub. leg. B) and the Code of Practice for Fire Resisting Construction issued by the Buildings Department (BD).	Same as general restaurants.	Same as general restaurants.
2.2 Means of escape	Adequate means of escape in accordance with Part V of the Building (Planning) Regulations (Cap. 123 sub. leg. F) and the Code of Practice for the Provision of Means of Escape in Case of Fire issued by BD (MOE Code).	Same as general restaurants.	Same as general restaurants.
2.3 Floor loading	The minimum designed imposed loading of the premises shall not be less than 5 kPa (i.e. 100 lbs/ft ²).	The minimum designed loading of the premises shall not be less than 5 kPa. Otherwise, a structural justification prepared by an authorized person/ registered structural engineer to demonstrate the adequacy of the existing structure to be a club should be submitted and subject to the satisfaction of the Licensing Authority in the Home Affairs Department (HAD).	Not applicable subject to a maximum population density of 1 person/m ² , non-provision of waiting/ dancing area/ place of assembly, no bulk storage of materials/groceries and no installation of heavy equipment.

Requirements	General Restaurants	Clubs	“Private Kitchens”
2.4 Unauthorized building works (UBWs)	The business shall not be situated in premises other than those approved for non-domestic use, unless no objection is raised by BD. The layout of the premises should conform to the approved building plans or a layout plan approved by BD.	The clubhouses shall not be situated in an unauthorized structure.	Same as general restaurants.
<i>3. Fire safety and ventilation requirements</i>			
3.1 Fire service installations and equipment	All the fire service installations and equipment provided in the premises shall be retained. They shall be maintained and certified by a registered fire service installation contractor to ensure that they are in efficient working order.	Same as general restaurants.	Same as general restaurants.
3.2 Fuel	Electricity, towngas may be used in the kitchen of the premises without any restriction. Other fuels, such as liquefied petroleum gas (LPG), diesel, kerosene may be used in the kitchen subject to the compliance with relevant safety requirements where appropriate. LPG is not allowed on the basement level.	Same as general restaurants.	Electricity, towngas, LPG supplied from a centralized system and LPG in cylinder with a total quantity of not exceeding 130 litres may be used in the kitchen of the premises. LPG is not allowed on the basement level.

Requirements	General Restaurants	Clubs	“Private Kitchens”
3.3 Ventilation installations	When natural ventilation is insufficient (i.e. where openings or windows which can be opened to the open air are less than 1/10 th of the floor area), a ventilating system must be provided to give not less than 17 m ³ of outside air per hour for each person whom the premises are designed to accommodate. The ventilating system, including the kitchen exhaust, shall be designed and installed in accordance with the Ventilation of Scheduled Premises Regulation (Cap. 132 sub. leg. CE) and the relevant Fire Services Department (FSD) Circular Letters.	The ventilating system with ducting passing through fire resisting walls or ceilings shall be designed and installed in accordance with the Building (Ventilating Systems) Regulations (Cap. 123 sub. leg. J) and the relevant FSD Circular Letters.	The premises shall be adequately ventilated to the satisfaction of the Food and Environmental Hygiene Department. Where a mechanical ventilating system is necessary, the standards of requirement are similar to those of clubs.
3.4 Polyurethane (PU) foam	All PU foam filled mattresses and upholstered furniture shall conform to the flammability standard as specified in British Standard (BS) 7177 and BS 7176 for use in medium hazard premises/ building.	Same as general restaurants.	Same as general restaurants.

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