

立法會 *Legislative Council*

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Panel on Home Affairs
Background brief prepared by the Legislative Council Secretariat
for the meeting on 18 March 2011

Monitoring of unlicensed hotels and guesthouses

Purpose

This paper provides background information on the monitoring of unlicensed hotels and guesthouses, and highlights Legislative Council ("LegCo") Members' concerns on the subject.

Background

2. The Hotel and Guesthouse Accommodation Ordinance (Cap. 349) ("the Ordinance") was enacted in 1991 to provide for the regulation, control and safety of hotel and guesthouse accommodation. The Office of the Licensing Authority ("OLA") under the Home Affairs Department ("HAD") is responsible for the administration and enforcement of the Ordinance.

Licensing requirements

3. Under the Ordinance, "hotel" and "guesthouse" mean any premises whose occupier, proprietor or tenant holds out that, to the extent of his available accommodation, he will provide sleeping accommodation for any person presenting himself who appears able and willing to pay a reasonable sum for the services and facilities provided and is in a fit state to be received. Such premises include tourist guesthouses, non-purpose built hotels, purpose-built hotels, local people guesthouses, motels, holiday flats and holiday camps.

4. Any new establishments must apply for a licence from OLA before commencing operation as hotels or guesthouses. The validity periods of licences range from 12 to 84 months. Licences are subject to renewal

upon their expiration. The applicant has the responsibility to ensure that the premises concerned comply with the lease conditions, Deed of Mutual Covenant and other relevant legislation.

Inspection

5. OLA maintains a register of hotels and guesthouses accommodations. In processing new or renewal applications, OLA will conduct inspections to the premises to ensure that they comply with the relevant statutory requirements. Upon receipt of a complaint against a suspected unlicensed guesthouse, OLA will inspect the premises within eight working days. If the investigation shows that there is prima facie evidence indicating unlicensed operation of a guesthouse, OLA will seek legal advice on appropriate actions for prosecution.

Penalties

6. Under the Ordinance, the operator of an unlicensed guesthouse is liable on conviction to a fine of \$200 000 and to imprisonment for two years, and to a fine of \$20 000 for each day during which the offence continues. OLA will consider cancelling the licence or refusing its renewal if the operator is convicted of running an unlicensed guesthouse.

Enforcement

7. According to the Administration, the number of reports received, inspections conducted, prosecutions instituted and cases convicted in relation to the contravention of the Ordinance between 2008 and 2010 (as at March 31) were as follows –

	Report	Inspection	Prosecution	Conviction
2008	216	1 664	28	30
2009	460	2 589	40	37
2010 (as at March 31)	100	695	7	12

Members' concerns

Enforcement

8. While the subject of the monitoring of unlicensed hotels and guesthouses had not been discussed by the Panel on Home Affairs ("the Panel") in the past decade, LegCo Members had raised questions about the

number of inspection cases, enforcement action taken and resources allocated for the investigations against such hotels and guesthouses during their examination of the Government's Estimates of Expenditure. The Administration responded that it would step up enforcement action.

Prosecution

9. Members also raised written questions on unlicensed hotels and guesthouses at various Council meetings. At the Council meeting on 28 April 2010, a Member asked whether the Administration had assessed the deterrent effect of the existing prosecution policy and the penalties imposed by the court on the operation of unlicensed guesthouses. Given that their operation might endanger the structural safety of buildings in which they were located as well as the personal safety of lodgers in them, the Member also asked whether the Administration would consider amending the Ordinance to enhance the deterrent effect.

10. The Administration responded that it would explain the safety problems posed by unlicensed guesthouses to its lodgers and residents of the buildings concerned to the court to facilitate the latter to reflect the seriousness of the crime in its sentences.

Publicity activities of unlicensed guesthouses

11. At the Council meeting on 12 May 2010, a Member asked about the Administration's measures against unlicensed guesthouses' distribution of promotion cards and leaflets to solicit business at busy streets.

12. The Administration advised that OLA would collect information from newspapers and web pages about the promotion of suspected unlicensed guesthouses. It would also conduct inspections at black spots and take appropriate enforcement action if publicity activities such as display of bills, overhanging of signboards or distribution of leaflets were found.

13. The Administration further advised that OLA had conducted the following publicity activities to encourage and facilitate visitors to choose licensed guesthouses –

- (a) launching a Licensed Guesthouse Logo Scheme ("the Scheme") under which all licensed guesthouses had to display the required logo at the main entrance and on the doors of all guestrooms;

- (b) launching publicity activities for the Scheme, including television and radio broadcasts, display of posters/banners at black spots and immigration control points, and the provision of a list of licensed guesthouses on OLA's website; and
- (c) setting up a hotline and uploading a report form onto OLA's website to facilitate reporting of suspected illegal operation of guesthouses by members of the public.

Latest development

14. The Panel will discuss matters relating to the monitoring of unlicensed hotels and guesthouses at its meeting on 18 March 2011.

Relevant papers

15. A list of relevant papers with their hyperlinks at LegCo's website is in the **Appendix**.

Council Business Division 2
Legislative Council Secretariat
15 March 2011

**Relevant documents on
Monitoring of unlicensed hotels and guesthouses**

Committee	Date of meeting	Documents/Papers	LC Paper No.
Panel on Home Affairs	14.10.1997	Minutes of meeting	CB(2)531 http://www.legco.gov.hk/yr97-98/english/panels/ha/minutes/ha141097.htm
	20.10.1997	Request for review of the Hotel & Guesthouse Accommodation Ordinance and strengthening of enforcement action against unlicensed guesthouse	CB(2)426(04) http://library.legco.gov.hk:1080/record=b1093284
		Review of Hotel and Guesthouse Accommodation Ordinance	CB(2)426(05) http://library.legco.gov.hk:1080/record=b1093288
		Minutes of meeting	CB(2)584 http://www.legco.gov.hk/yr97-98/english/panels/ha/minutes/ha201097.htm
	15.12.1997	Licensing of Guesthouses under the Hotel and Guesthouse Accommodation Ordinance	CB(2)720(01) http://library.legco.gov.hk:1080/record=b1093372
		Minutes of meeting	CB(2)830 http://www.legco.gov.hk/yr97-98/english/panels/ha/minutes/ha151297.htm
Legislative Council	8.7.1998	Hon Howard YOUNG raised an oral question on "Unlicensed guesthouses"	http://www.legco.gov.hk/yr98-99/english/counmtg/hansard/980708fe.htm

Committee	Date of meeting	Documents/Papers	LC Paper No.
Panel on Home Affairs	27.7.1998	Information Paper from the Administration on Hotel Accommodation (Miscellaneous Provisions) Bill 1998	CB(2)81/98-99(04) http://www.legco.gov.hk/yr98-99/english/panels/ha/papers/ha27075a.htm
		Minutes of meeting	CB(2)205/98-99 http://www.legco.gov.hk/yr98-99/english/panels/ha/minutes/ha270798.htm
Legislative Council	7.3.2001	Hon Howard YOUNG raised a written question on "Licensing of guesthouses"	http://www.legco.gov.hk/yr00-01/english/counmtg/hansard/010307fe.pdf
Panel on Home Affairs	8.5.2001	Paper provided by the Administration on Amendments to licence fees under the Hotel and Guesthouse Accommodation (Fees) Regulations (Cap. 349 Sub. Leg.)	CB(2)1424/00-01(01) http://www.legco.gov.hk/yr00-01/english/panels/ha/papers/1424e01.pdf
		Minutes of meeting	CB(2)2228/00-01 http://www.legco.gov.hk/yr00-01/english/panels/ha/minutes/ha010508.pdf
Legislative Council	15.10.2003	Hon Frederick FUNG raised an oral question on "Regulation of bed space apartments and hotels/guesthouses"	http://www.legco.gov.hk/yr03-04/english/counmtg/hansard/cm1015ti-translat e-e.pdf
Panel on Home Affairs	14.12.2007	Minutes of meeting	CB(2)1051/07-08 http://www.legco.gov.hk/yr07-08/english/panels/ha/minutes/ha071214.pdf

Committee	Date of meeting	Documents/Papers	LC Paper No.
Legislative Council	28.4.2010	Hon Abraham SHEK raised a written question on "Enforcement of the Hotel and Guesthouse Accommodation Ordinance"	http://www.info.gov.hk/gia/general/201004/28/P201004270150.htm
Legislative Council	12.5.2010	Hon Paul TSE raised a written question on "Unlicensed guesthouses"	http://www.info.gov.hk/gia/general/201005/12/P201005110206.htm

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