

(TRANSLATION)

**Subcommittee on Places of Public Entertainment
(Exemption) (Amendment) Order 2011**

**Administration's Response to Follow-up Issues Raised at the
Subcommittee Meeting on 17 January 2012**

This paper sets out the Administration's response to the follow-up issues raised by the Subcommittee at its meeting on 17 January 2012 in relation to the various matters on the Places of Public Entertainment Ordinance ("PPEO") (Cap. 172).

Legislation History of the PPEO

2. The PPEO was enacted in 1919 with the aim of consolidating and amending the law relating to places of public entertainment, which primarily referred to the Theatres Regulation Ordinance ("Ordinance") enacted in 1908. According to the provisions of the Ordinance, the major aim of the Ordinance was to ensure the safety of places of public resort for the public performance of stage plays. Amendments of different extent have been introduced to the PPEO for more than 40 times. We are summarizing the information according to the Hansard records of the Legislative Council.

3. According to the records available, the definition of "entertainment" in the PPEO in 1919 was "any concert, stage play, stage performance, cinematograph display, exhibition of dancing, conjuring and juggling, acrobatic performance, boxing contest or circus, or any other entertainment of a similar character". In 1951, the Administration amended the definition of "entertainment" by deleting "boxing contest" and inserting "other musical, dramatic and theatrical entertainment, lecture, story-telling, exhibition of pictures, photographs or books, exhibition of abnormal persons or animals, any sporting exhibition or contest, any bazaar, any merry-go-round, flying wheel or other mechanical device designed for amusement" in order to make it more suitable to the needs at that time. In 1994, in light of the enactment of the Amusement Rides (Safety) Ordinance (Cap. 449), the Administration replaced "any merry-go-round, any flying wheel or other mechanical device designed

for amusement” in the definition of “entertainment” by “an amusement ride within the meaning of the Amusement Rides (Safety) Ordinance (Cap. 449) or any mechanical device (other than such an amusement ride) which is designed for amusement”. In 1995, the Administration amended the definition of “entertainment” again by deleting “stage play, exhibition of dancing, conjuring and juggling, acrobatic performance and exhibition of abnormal persons or animals” and inserting “opera, ballet, laser projection display and exhibition of manuscripts or other documents or other things”. In 2002, “dance party” was inserted into the definition of “entertainment” according to the needs at that time.

Definitions of “Entertainment”, “Public Entertainment” and “Place of Public Entertainment”; What Constitutes a “Place of Public Entertainment and the Distinction between a “Place of Public Entertainment” and a “Place of Private Entertainment”

4. Section 2 of and Schedule 1 to the PPEO have set out the definitions of “entertainment”, “public entertainment” and “place of public entertainment” as follows:

5. “Entertainment” refers to the following or any part of any of them -
- (i) a concert, opera, ballet, stage performance or other musical, dramatic or theatrical entertainment;
 - (ii) a cinematograph or laser projection display;
 - (iii) a circus;
 - (iv) a lecture or story-telling;
 - (v) an exhibition of any 1 or more of the following, namely, pictures, photographs, books, manuscripts or other documents or other things;
 - (vi) a sporting exhibition or contest;
 - (vii) a bazaar;

(viii) an amusement ride within the meaning of the Amusement Rides (Safety) Ordinance (Cap. 449) or any mechanical device (other than such an amusement ride) which is designed for amusement; and

(ix) a dance party.

6. “Public entertainment” refers to any entertainment within the meaning of the PPEO to which the general public is admitted with or without payment, while a “place of public entertainment” refers to -

(i) so much of any place, building, erection or structure, whether temporary or permanent, capable of accommodating the public; and

(ii) any vessel,

in or on which a public entertainment is presented or carried on whether one occasion or more.

7. Accordingly, when a public entertainment is presented or carried out on one occasion or more at any place mentioned in paragraph 6 above, that particular place constitutes a “place of public entertainment”. According to the Interpretation and General Clauses Ordinance (Cap. 1), “public” includes any class of the public.

Case of the University of Hong Kong and Enforcement Actions

8. As at 26 January 2012, Loke Yew Hall is the only premises within the campus the University of Hong Kong (HKU) that was granted a Places of Public Entertainment Licence (“PPE Licence”). According to the records, HKU was never involved in any prosecution cases against unlicensed keeping or using places of public entertainment.

9. Officers of the Food and Environmental Hygiene Department (FEHD) would take prosecution actions if they have sufficient evidence to prove that a person has held or carried out public entertainment at any place(s) of public entertainment without a valid PPE Licence, which is an offence under the PPEO.

Licensing Process and Criteria

10. Anyone who wishes to obtain a PPE licence shall submit the application form together with relevant documents to FEHD. Upon receiving an application, FEHD would conduct an initial screening of the application as well as an on-site inspection. If the application is acceptable in-principle, the application would be referred to the Buildings Department, the Fire Services Department (FSD), the Electrical and Mechanical Services Department and the Hong Kong Police Force, etc. according to the circumstances of the application for departments' comments from the perspectives of building safety, fire safety, etc. After receiving comments and approval from all the relevant departments, FEHD would issue a Letter of Requirements. FEHD would only issue a PPE Licence after the applicant has fulfilled all the licensing conditions, including requirements in relation to hygiene (e.g. toilet facilities, provision of rubbish bins, etc.), building safety (e.g. the safety of the building or temporary structures, means of escape, etc.) and fire safety (e.g. fire safety of the premises, the fire safety certificate issued by the FSD for the premises, etc.).

11. The relevant application form can be downloaded from the website of FEHD. For members' easy reference, a copy is attached at **Annex 1**.

12. Over the past five years, a total of 34 applications for PPE Licence were rejected. Relevant details and reasons of rejection are set out at **Annex 2**.

List of Licensed Places of Public Entertainment

13. As at 26 January 2012, there were a total of 207 licensed places of public entertainment in Hong Kong, including 47 licences held by individuals and 160 licences held by organizations. A list of licensed places of public entertainment is at **Annex 3**.

Representatives of the Department of Justice to Attend the Meeting

14. The attendance from the Administration for the Subcommittee meeting of 2 February 2012 is as follows –

Miss Winnie TSE	Principal Assistant Secretary (Civic Affairs) ³ Home Affairs Bureau
Ms YEUNG Yuk-ip Rita	Senior Superintendent (Licensing) Food and Environmental Hygiene Department
Ms YAU Sau-ling Cindy	Senior Assistant Law Officer (Civil Law) Department of Justice

Home Affairs Bureau
Food and Environmental Hygiene Department

February 2012