



中華人民共和國香港特別行政區政府總部食物及衛生局  
Food and Health Bureau, Government Secretariat  
The Government of the Hong Kong Special Administrative Region  
The People's Republic of China

---

Our ref.: FHB/F/3/4/4/1

Fax: 2136 3282

14 August 2014

Clerk to Panel on Food Safety and Environmental Hygiene  
Legislative Council Complex  
1 Legislative Council Road  
Central, Hong Kong  
(Attn: Mr Richard WONG)  
[Fax: 2185 7845]

Dear Mr Wong,

**LegCo Panel on Food Safety and Environmental Hygiene  
Follow-up to Meeting on 8 April 2014**

**“Liquor Licensing System in Selected Places”**

At the meeting of the LegCo Panel on Food Safety and Environmental Hygiene held on 8 April 2014, the Administration was requested to provide a response to the findings of the research study conducted by the LegCo Secretariat on “Liquor licensing system in selected places” (“research findings”), in particular, issues relating to the composition and the functions of the Liquor Licensing Board (“LLB”), risk assessment of licence applications and the complaint handling mechanism. I am authorised to reply as follows.

## LICENSING AUTHORITY

2. In Hong Kong, any person intending to sell liquor at any premises for consumption on the premises are required to obtain a liquor licence or a club liquor licence from LLB before commencement of such business. LLB is an independent statutory body established under the Dutiable Commodities (Liquor) Regulations (Cap. 109B) to consider liquor licence applications.

3. We note from the research findings that there is similar standalone authority in New South Wales of Australia (“NSW”) (namely, the Independent Liquor and Gaming Authority (“ILGA”)) and Ontario of Canada (“Ontario”) (namely, the Alcohol and Gaming Commission of Ontario (“AGCO”)), while in England and Wales of the United Kingdom (“England and Wales”), local councils are responsible for administering the liquor licensing systems in their respective local areas.

### **Composition of Licensing Authority**

4. Members of LLB are appointed by the Chief Executive. We note from the research findings that members of the ILGA and the AGCO are similarly appointed, by the Governor and the provincial government respectively; whereas members of the local councils in England and Wales are elected by the local communities.

5. As regards the qualifications of members of the licensing authority, we note that there is statutory requirement in NSW that at least one of the appointed members is or has been a judge, or has been an Australian lawyer for at least seven years. Similar to Ontario and England and Wales, we do not have any statutory requirement in Hong Kong on this front.

6. Though it is not required under the law, as acknowledged in the research findings, the current LLB has a broad representation of interests with members coming from various backgrounds, ranging from senior executive of non-governmental organisation, District Council member, company director, catering business owner, accountant, solicitor, social worker to educator. With members from various sectors, LLB

could balance the interests of legitimate commercial activities and those of the general public when considering applications for liquor licences.

### **Functions of Licensing Authority**

7. We note from the research findings that the licensing authorities in Hong Kong, NSW, Ontario and England and Wales perform the function of determining liquor licence applications.

8. Unlike the three other jurisdictions, LLB does not need to carry out administration or complaint handling work. The Secretary for Food and Health has appointed a Secretary and other staff from the Food and Environmental Hygiene Department (“FEHD”) to provide secretarial support to LLB. FEHD also serves as the executive arm of LLB to process and issue liquor licences. As regards complaint handling, relevant Government departments including the Hong Kong Police Force (“the Police”), FEHD, Environmental Protection Department (“EPD”) and Fire Services Department (“FSD”) are responsible for handling complaints against liquor-licensed premises under their respective purview.

9. The main enforcement agency in Hong Kong is the Police. As noted from the research findings, the ILGA of NSW does not perform the enforcement function either. The Office of Liquor, Gaming and Racing under NSW Trade and Investment, a government department responsible for driving the economic development of NSW, and their Police are jointly responsible for the enforcement and regulatory control.

## **FEATURES OF LIQUOR LICENCE**

### **Duration of Liquor Licence**

10. At present, the valid period of a liquor licence in Hong Kong is one year or less as determined by LLB. When the licence is due for renewal, the licensee has to submit an application afresh and place advertisement to inform members of the public of the renewal application.

As noted from the research findings, the valid period of a liquor licence in NSW, Ontario and England and Wales is longer, ranging from two years to perpetual licence.

11. The annual renewal exercise in Hong Kong provides a natural opportunity for LLB to gauge the views of various government departments and the community on the operation of a licensee in the past year and to take necessary actions. Some opine that the annual renewal is a burden on the trade and the large number of renewals handled annually also adds to the caseload of LLB and relevant government departments. In response, the Administration consulted the public in 2011 on proposals to extend the licence duration to more than one year. .

12. With the trade's strong support and LLB's agreement, the Administration will take forward the proposal to extend the maximum liquor licence duration to a period of two years for those with a good track record for at least two consecutive years immediately before the liquor licence renewal application is submitted. A mid-term review mechanism for licences of a two-year period will also be introduced to guard against deterioration in performance on the part of such licensed premises. Details were reported to the Panel at its meeting on 8 April 2014 (ref.: LC Paper No. CB(2)1220/13-14(05)).

### **Holder of Liquor Licence**

13. We note from the research findings that NSW and England and Wales allow an individual or a corporation to apply for a liquor licence. In Hong Kong, only an individual can make the application.

14. The enforcement under the current liquor licensing regime relies heavily on a clear liability and legal responsibility of the licensee to supervise and manage the licensed premises in person. If the licensee fails to do so, LLB could revoke, suspend or refuse to renew the licence depending on the circumstances of the case. The licensee may risk losing his job or even face penalties under Cap. 109B, which may include imprisonment. The Administration considers the control necessary and appropriate as it is commonly known that licensed premises, if not properly managed, could be a breeding ground of crimes and a source of

public nuisance. If a body corporate becomes a licensee, it is doubtful whether the body corporate, and its directors or partners, could be held liable for the breaches of the licensing conditions. The complexity of the composition of the body corporate concerned may exacerbate the problems of criminal prosecution. This will hinder effective enforcement and maintenance of law and order at licensed premises, and clearly not in the public interest.

15. The Administration consulted the public on this in 2011. The community generally supports maintaining the existing requirement that liquor licensees must be natural persons, so as to maintain a clear legal responsibility.

### **Risk Assessment of Licence Applications**

16. The research findings suggest that the ILGA of NSW and the AGCO of Ontario have introduced risk assessment schemes for determining the risk level of proposed licensed premises before the licensing decision is made, while LLB of Hong Kong and the local councils of England and Wales assess the risk level of the proposed licensed premises on a case-by-case basis.

17. In considering liquor licence applications, LLB adopts an open, transparent and fair approach and aims to balance the interests of legitimate commercial activities and those of the locality. Pursuant to Regulation 17 of Cap. 109B, LLB will consider three factors in considering each application, namely –

- (a) whether the applicant is a fit and proper person to hold the licence;
- (b) whether the premises are suitable for selling and supplying intoxicating liquor; and
- (c) whether in all the circumstances the grant of the licence is not contrary to the public interest.

LLB may impose additional licensing conditions (e.g. liquor selling hours, duty hours of the licensee, number of persons permitted on the premises) on individual licences.

18. Similar to the three other overseas places, Hong Kong has in place public notification and consultation procedures to collect public views on applications for liquor licences. LLB adopts a three-pronged approach in notifying the public on liquor licence applications, namely (a) advertisement in local newspaper and LLB's website; (b) post of notice near to the proposed premises (for new issue of licence); and (c) local consultation through District Offices of Home Affairs Department ("HAD") (for new issue of licence, and transfer and renewal of licence where there are complaints against the liquor-licensed premises).

19. To determine whether the statutory requirements in paragraph 17(b) above are met, LLB generally requires as a prerequisite that the premises under application must have already been granted a restaurant licence by FEHD or a certificate of compliance or an exclusive order by HAD under the Clubs (Safety of Premises) Ordinance, where location, structure, fire safety and hygiene conditions of the premises have been cleared by the concerned Government departments.

20. Regarding the requirements in paragraph 17(a) and (c), applications which are objected to by the public or the Police will be openly heard by LLB. LLB will convene meetings to discuss such applications, at which all parties involved are given equal opportunity to express their views before decision is made, whether to allow, allow subject to certain conditions or refuse the applications. For cases which require further observations, LLB may grant a short-term licence (usually 3 months or 6 months) for the licensee to demonstrate his/her ability to manage the licensed premises, or for the improvement work to be carried out (e.g. installing double glazed windows on the premises to reduce noise nuisance).

21. To enhance transparency as well as to help the trade and the public better understand the factors that are taken into account by LLB when assessing liquor licence applications, LLB has promulgated a set of guidelines that capture the criteria used in vetting liquor licence applications (namely, the "Guidelines on Assessing Liquor Licence

Applications”). The full version of the Guidelines is available at LLB’s website.

22. Since “upstairs bars”<sup>1</sup> are relatively more prone to attract public concern, LLB has set out, in the Guidelines, the factors that the Board would specifically take into account when vetting liquor licence applications from upstairs bars. Other than the vetting criteria which have all along been adopted, LLB will suitably impose two additional licensing conditions in the liquor licence for upstairs bars, namely requiring the licensee to attend the “Seminar on Liquor Licensing” which covers the topics of fire safety, public order and environmental hygiene, and imposing a more stringent capacity limit for their premises having regard to the circumstances. For liquor-licensed premises with serious noise problem, LLB will suitably impose a new licence condition prescribing more stringent noise abatement requirement.

## **COMPLAINT HANDLING MECHANISM**

23. As mentioned in paragraph 8 above, unlike the three overseas places, LLB of Hong Kong does not need to perform the function of complaint handling. In Hong Kong, relevant Government departments such as the Police, FEHD, EPD and FSD are responsible for handling complaints against liquor-licensed premises under their respective purview. During the licence period, if there are serious breaches of the law or licensing conditions detected by the Police in liquor-licensed premises, the Police will notify LLB promptly and may recommend to LLB to revoke or suspend the liquor licence under Cap. 109B.

24. LLB has been discharging a very challenging gate-keeping role in seeking to strike a reasonable balance between the benefits brought by commercial and economic activities and the social cost to the

---

<sup>1</sup> The term “upstairs bars” refers to liquor-licensed premises which operate as bars with the sale and consumption of liquor on the premises being the main line of business and which are not located at the street level. These premises are mostly situated in office buildings or domestic/commercial buildings. Due to their special physical environment and the relatively greater difficulties inherent in taking enforcement actions and conducting inspections in respect of fire safety, noise, environmental hygiene and public nuisance, etc., they are prone to attract public concerns and draw complaints from the neighbourhood nearby. In general, for liquor-licensed premises that are located in shopping centres, hotels or buildings specifically designed for entertainment businesses, we do not put them under the “upstairs bars” category.

nearby community in terms of matters such as public order, building safety, environmental hygiene and nuisances. We consider it appropriate to maintain the existing arrangement in respect of complaint handling in order to allow LLB to focus their attention on handling new applications or contested or contentious licence renewal applications.

Yours sincerely,

A handwritten signature in black ink, appearing to be 'Vinci Chan', with a long horizontal line extending to the right.

( Vinci CHAN )

for Secretary for Food and Health

c.c.: Director of Food and Environmental Hygiene  
(Attn.: Ms Rita Yeung) [Fax: 2530 1368]