

**立法會**  
**Legislative Council**

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**Subcommittee on Dutiable Commodities (Liquor) (Amendment)  
Regulation 2015 and Dutiable Commodities (Liquor Licences) (Fees)  
(Amendment) Regulation 2015**

**Minutes of meeting  
held on Tuesday, 17 February 2015, at 10:45 am  
in Conference Room 2B of the Legislative Council Complex**

**Members present** : Hon Tommy CHEUNG Yu-yan, SBS, JP (Chairman)  
Hon WONG Ting-kwong, SBS, JP  
Hon Steven HO Chun-yin  
Hon YIU Si-wing  
Hon CHAN Chi-chuen  
Dr Hon Kenneth CHAN Ka-lok  
Hon KWOK Wai-keung  
Hon SIN Chung-kai, SBS, JP

**Members absent** : Hon Paul TSE Wai-chun, JP  
Dr Hon Helena WONG Pik-wan

**Public Officers attending** : Item II  
  
Mr Christopher WONG Kwok-bun, JP  
Deputy Secretary for Food and Health (Food) 1  
  
Miss Diane WONG Shuk-han  
Principal Assistant Secretary for Food and Health (Food) 2  
  
Miss Vinci CHAN  
Assistant Secretary for Food and Health (Food) 7  
  
Mr LI Ka-kei  
Assistant Director (Operations) 1  
Food and Environmental Hygiene Department

Ms Rita YEUNG Yuk-ip  
Senior Superintendent (Licensing)  
Food and Environmental Hygiene Department

Miss Cindy CHEUK Chi-wing  
Senior Government Counsel (Acting)  
Department of Justice

**Clerk in attendance** : Ms Alice LEUNG  
Chief Council Secretary (2) 2

**Staff in attendance** : Miss Winnie LO  
Assistant Legal Adviser 7

Mr Richard WONG  
Council Secretary (2) 2

Ms Camy YOONG  
Clerical Assistant (2) 2

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Action

**I. Election of Chairman**

Mr Tommy CHEUNG, member who had the highest precedence in Council among members of the Subcommittee present, presided over the election of the Chairman. Mr CHEUNG called for nominations for the chairmanship of the Subcommittee.

2. Mr Tommy CHEUNG was nominated by Mr YIU Si-wing and the nomination was seconded by Mr Steven HO. Mr Tommy CHEUNG accepted the nomination. Mr Steven HO, member who had the highest precedence in Council among members present other than Mr Tommy CHEUNG, then presided over the election of the Chairman. As there was no other nomination, Mr HO declared Mr Tommy CHEUNG elected as the Chairman of the Subcommittee. Mr CHEUNG then took the chair.

3. Members agreed that the election of Deputy Chairman was not necessary.

Action

## **II. Meeting with the Administration**

[Legislative Council ("LegCo") Brief File Ref: FH CR 2/3231/13, L.N. 20 of 2015, L.N. 21 of 2015, LC Paper Nos. LS35/14-15, CB(2)863/14-15(02) and CB(2)863/14-15(03)]

4. The Subcommittee deliberated (index of proceedings attached at Annex).

### Follow-up actions arising from the discussion

5. Members noted that cases with a "good track record" meant those cases that - (a) did not have any substantiated complaint/enforcement action recorded against the licensed premises or the licensees in the licences register for at least two consecutive years immediately before licence renewal; (b) had been granted a full term (at present one year) licence at the time when their licences were last approved or renewed; and (c) did not receive objection or adverse comment from the public from its licence renewal application notice. According to the Administration, as at 31 December 2013, about 78% of the liquor-licensed premises would meet the "good track record" test. The Administration was requested to provide the following information -

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- (a) the breakdown of the liquor-licensed premises having a "good track record" by their types of business, particularly whether the premises concerned were restaurants or bars; and
- (b) the number of complaints received and substantiated against liquor-licensed premises in each of the 18 districts in the past three years.

6. Regarding the Administration's proposal of setting the fee for a liquor licence that was valid for more than one year at a level which was 1.5 times higher than the fee prescribed for a one-year licence, some members including Mr WONG Ting-kwong, Mr Steven HO, Mr CHAN Chi-cheun, Dr Kenneth CHAN and Mr KWOK Wai-keung were concerned about the justifications for the proposal and the financial implications on the Government. The Administration was requested to -

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- (a) provide (i) the costing methods for and the cost recovery rate of existing fees for the issuance of new liquor licences and renewal of liquor licences respectively; and (ii) an estimation of the overhead costs expected to be saved on a departmental basis by extending the licence validity period from one year to two years; and

Action

- (b) referring to Annex F to the LegCo Brief (File Ref.: FH CR 2/3231/13), explain how and why the projected cost recovery rate of the licence renewal service would be reduced from the present 149% to 119%, resulting in an estimated decrease in average annual revenue by about \$2.7 million.

Examination of the provisions of the two items of subsidiary legislation

7. The Subcommittee completed the examination of the provisions of the Dutiable Commodities (Liquor) (Amendment) Regulation 2015 and Dutiable Commodities (Liquor Licences) (Fees) (Amendment) Regulation 2015 ("the two Amendment Regulations").

**III. Any other business**

Extension of the scrutiny period

8. The Subcommittee agreed that to allow more time for the scrutiny work, the Chairman would move a motion at the Council meeting of 25 February 2015 to extend the scrutiny period of the two Amendment Regulations to the Council meeting of 25 March 2015.

Invitation for public views

9. The Subcommittee agreed to hold a meeting on Thursday, 26 February 2015 at 2:30 pm to receive public views on the two Amendment Regulations. Members noted that the Subcommittee would post a notice on the LegCo website and issue invitation letters to the 18 District Councils.

10. There being no other business, the meeting ended at 12:30 pm.

**Proceedings of the meeting of the  
Subcommittee on Dutiable Commodities (Liquor) (Amendment) Regulation 2015 and  
Dutiable Commodities (Liquor Licences) (Fees) (Amendment) Regulation 2015 on  
Tuesday, 17 February 2015, at 10:45 am  
in Conference Room 2B of the Legislative Council Complex**

<b>Time marker</b>	<b>Speaker</b>	<b>Subject(s)</b>	<b>Action Required</b>
000154 - 000433	Mr Tommy CHEUNG Mr Steven HO Mr SIN Chung-kai Mr KWOK Wai-keung Mr YIU Si-wing	Election of Chairman	
000434 - 000656	Chairman	The Chairman's opening remarks	
000657 - 001400	Chairman Admin	Briefing by the Administration on the Dutiable Commodities (Liquor) (Amendment) Regulation 2015 and Dutiable Commodities (Liquor Licences) (Fees) (Amendment) Regulation 2015 ("the two Amendment Regulations") - Legislative Council ("LegCo") Brief (File Ref.: FH CR 2/3231/13).	
001401 - 001418	Chairman Mr Steven HO	Members' agreement to invite public views on the two Amendment Regulations.	
001419 - 002050	Chairman Mr Sin Chung-kai Admin	<p>Mr Sin Chung-kai's concerns and views that -</p> <p>(a) following the enactment of the proposed amendment to extend the maximum validity period of a liquor licence from one year to two year ("licence period extension proposal"), the Liquor Licensing Board ("LLB") might issue/renew two-year licences irrespective of whether complaints/objections had been received from residents in the vicinity of the premises concerned. He was worried that LLB would be too lenient in granting a two-year licence; and</p> <p>(b) the Administration should adopt a two-tier licensing system under which liquor licences of different durations would be issued based on the track records of the premises concerned.</p> <p>The Administration responded that -</p> <p>(a) the existing regulation already provided for an appeal mechanism against LLB's decisions. In case the applicants or 20 or</p>	

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		<p>more persons residing within 400 metres from the premises concerned were aggrieved by the decisions made by LLB to grant licences, they might lodge an appeal to the Municipal Services Appeals Board ("MSAB");</p> <p>(b) the licence period extension proposal was not intended to alter the current practice that LLB might issue a licence with a period shorter than the full term (one year at present) if the applications drew objections or adverse comments. To address the concerns of residents in the vicinity, LLB might also impose licensing conditions where appropriate, such as those relating to liquor selling hours and measures to abate noise nuisances;</p> <p>(c) the existing regulation provided that LLB should ensure that the grant of the licence would not be contrary to the public interest in all the circumstances. As such, LLB had established procedures for placing advertisement so that the public, including residents in the neighbourhood of the premises applying for liquor licences, would be aware of the application; and</p> <p>(d) the licence period extension proposal had already struck a reasonable balance between the interests of the applicants and those residents who might be affected.</p> <p>The Chairman's remarks that the applicants or residents concerned might appeal to MSAB, and apply for judicial review against LLB's decisions, if aggrieved by the decision of MSAB.</p>	
002051 - 002634	Chairman Mr CHAN Chi-chuen Admin	<p>Mr CHAN Chi-chuen's enquiries about -</p> <p>(a) the current cost-recovery rate for issuing liquor licences, and the reason why the Administration proposed to set the fee for a licence that was valid for more than one year at a level which was 1.5 times of the fee prescribed for a one-year licence ("the fee proposal") while awaiting the results of the comprehensive fee review for liquor licences (including the licence</p>	

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		<p>renewal service) on a full cost recovery basis ("the comprehensive fee review"); and</p> <p>(b) the definition of "cases with a good track record", which the Administration expected to be considered favourably by LLB for licence renewal by two years.</p> <p>The Administration responded that -</p> <p>(a) the comprehensive fee review was underway. The Administration planned to brief the Panel on Food Safety and Environmental Hygiene on the results of the review before the end of 2015. The guiding principle was for the Government's fees and charges to reach full cost recovery. Based on the data available at this stage, fees and charges for liquor licences as a whole had yet to reach full cost recovery; and</p> <p>(b) cases with a "good track record" meant those cases that - (i) did not have any substantiated complaint / enforcement action (which might include verbal warning, warning letter and prosecution) recorded against the licensed premises or the licensees in the licence register for at least two consecutive years immediately before licence renewal; (ii) had been granted a full term licence at the time when their licences were last approved or renewed; and (iii) did not receive objection or adverse comment from the public from its licence renewal application notice. As at 31 December 2013, about 78% of the liquor-licensed premises would meet the "good track record" test. However, it would be ultimately for LLB to determine the exact licence period to be granted.</p>	
002635 - 003334	Chairman Mr YIU Si-wing Admin	<p>Mr Yiu Si-wing's remarks that he was inclined to support the licence period extension proposal as it would facilitate the trade and reduce LLB's workload, and his enquiries about -</p> <p>(a) the rationale for imposing more stringent requirements on bars than restaurants</p>	

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		<p>when processing liquor licence applications;</p> <p>(b) the rationale for the Administration's proposal to conduct the mid-term review in the 11th month during the validity period of a two-year liquor licence; and</p> <p>(c) whether new application would be granted a two-year licence.</p> <p>The Administration's responses that -</p> <p>(a) LLB had been imposing more stringent conditions on some liquor-licensed premises (particularly upstairs bars) due to their special physical environment and public concerns over nuisance, fire safety and crimes caused by these premises. In order to facilitate compliance by the trade and enhance transparency, LLB had released the "Guidelines on Assessing Liquor Licence Applications" ("the Guidelines");</p> <p>(b) the mid-term review mechanism was proposed to provide safeguards against deterioration in performance on the part of licensed premises after the granting of a 24-month licence. Under this mechanism, a review would be conducted in the 11th month during the validity period of a two-year liquor licence so as to ensure that liquor-licensed premises with record(s) of enforcement action or substantiated complaint would be examined by LLB regarding whether these premises could carry on with their operation within the remainder of the 24-month licence period. Nevertheless, LLB might revoke or suspend a licence immediately in case of major breaches of licensing conditions, irrespective of the licence duration; and</p> <p>(c) it should be noted that while it was ultimately for LLB to determine the exact licence period to be granted, it was expected that only cases with a good track record for at least two consecutive years would be considered favourably by LLB for licence renewal by two years. Applicants who newly joined the liquor selling business would not meet the test.</p>	

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		<p>In response to the Chairman's enquiry about the liquor licensing conditions imposed on restaurants and bars, the Administration advised that one of the standard licensing conditions imposed on liquor licences was that no bar business should be operated on the premises except with LLB's bar endorsement. The term "bars" referred to premises on which the sale and consumption of liquor was the main line of business. Based on a case-by-case assessment, LLB might impose additional conditions on the licensed premises to minimize the nuisance caused to nearby residents, such as restricting liquor selling hours, capacity limit of the premises and the requirements to close the doors and windows of the premises.</p>	
<p>003335 - 003841</p>	<p>Chairman Mr Steven HO Admin</p>	<p>Mr Steven HO's concern as to whether there would be any impact on the residents concerned to express their views to LLB following the enactment of the licence period extension proposal. His request for the Administration to provide the number of complaints against liquor-licensed premises in each of the 18 districts.</p> <p>The Administration responded that -</p> <p>(a) following the enactment of the licence period extension proposal, the current practice would continue so that when the licence was due for renewal, the applicant would be required to place advertisement so that members of the public would be aware of the renewal application. Applications which drew objections or adverse comments might be given a licence period shorter than the full term as LLB deemed fit. Furthermore, LLB had established procedures for conducting public hearing on contentious and contested cases. It was also open to LLB to impose additional licensing conditions where appropriate; and</p> <p>(b) to address some District Council ("DC") members' concerns about the possibility of deterioration in the performance of licensed premises after the granting of a 24-month licence, the Administration was formulating, in consultation with</p>	

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		<p>LLB, a mid-term review mechanism for licences of a two-year validity period.</p> <p>The Chairman's request for the Administration to provide (a) the breakdown of the liquor-licensed premises having a "good track record" by their types of business, particularly whether the premises concerned were restaurants or bars; and (b) the number of complaints received and substantiated against liquor-licensed premises in each of the 18 districts in the past three years.</p>	<p><b>Admin to provide the requested information</b> (Paragraph 5 (a) and (b) of the minutes )</p>
003842 - 004630	Chairman Mr WONG Ting-kwong Admin	<p>Mr WONG Ting-kwong's remarks that while he considered the licence period extension proposal was a trade facilitation measure, there were concerns in the districts about the nuisances caused by bars. In order to strike a better balance between trade facilitation and residents' concerns about nuisances caused by bars, the Administration should consider adopting a two-tier licensing system under which the licence period for bars would be one year and that for restaurants and clubs would be two years.</p> <p>Mr WONG also considered that the fee for a licence that was valid for more than one year should be set at a level which was two times higher than the fee prescribed for a one-year licence so as to adhere to the "user pays" principle. In his view, the trade would be facilitated by the licence period extension proposal, and the difference in fees payable was relatively insignificant.</p> <p>The Administration responded that -</p> <p>(a) for the sake of fairness, the granting of a two-year liquor licence would be based on whether the premises concerned maintained a "good track record" instead of the types of business they operated. As such, a two-tier licensing system was not adopted in the current proposal; and</p> <p>(b) upon the completion of the comprehensive fee review, it was likely that licence fees would be further revised. Nevertheless, it was the Administration's guesstimate that the cost for processing a two-year licence would not be as high as</p>	

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		<p>double that for a one-year licence, as two-year licences would only be granted to premises with a good track record, and hence the licence renewal process should be less manpower-intensive. For example, the processing of straight-forward renewal applications would not require consultation with the Police and a public hearing by LLB.</p>	
004631 - 005406	Chairman Mr KWOK Wai-keung Admin	<p>Mr KWOK Wai-keung's concerns whether it would become more difficult for LLB to revoke a two-year licence in response to residents' complaints and that the proposed mid-term review would not provide residents concerned with adequate safeguards against nuisances caused by liquor-licensed premises. He considered that the Administration should provide more concrete data related to the cost for processing licence application in order to justify the fee proposal.</p> <p>The Administration responded that the existing liquor licence vetting procedure provided adequate protection for residents in the vicinity of liquor-licensed premises (e.g. the advertisement process regarding applications for liquor licences and the appeal mechanism), irrespective of the licence duration.</p> <p>The Chairman's requests for the Administration to provide (a) the costing methods for and the cost recovery rate of existing fees for the issuance of new liquor licences and renewal of liquor licences respectively; and (b) an estimation of the overhead costs expected to be saved on a departmental basis by extending the licence validity period from one year to two years.</p>	<p><b>Admin to provide the requested information</b> (Paragraph 6(a) of the minutes )</p>
005407 - 010325	Chairman Dr Kenneth CHAN Admin	<p>Dr Kenneth CHAN's views that the Administration should -</p> <p>(a) explain how and why the fee proposal would result in an estimated decrease in average annual revenue by about \$2.7 million (with the projected cost recovery rate of the licence renewal service being reduced from the present 149% to 119%), as stated in Annex F to the LegCo Brief; and</p>	<p><b>Admin to provide the requested information</b> (Paragraph 6(b) of the minutes )</p>

Time marker	Speaker	Subject(s)	Action Required
		<p>(b) study whether it could further simplify the existing procedures for straight-forward licence renewal applications with good track record so as to reduce LLB's workload and the cost in processing the applications.</p> <p>The Administration responded that the procedures for processing straight-forward licence renewal cases were much simpler than new applications and contested licence renewal applications. For contentious cases, the liquor licence applications would be referred to the relevant departments including the Police for advice and the Home Affairs Department for consultation with stakeholders in the local communities directly affected by the applications (including members of the DC concerned), and LLB might conduct public hearing. As such, the cost recovery rate of straight-forward licence renewal cases would be higher than contested cases.</p>	
010326 - 011032	Chairman Admin	<p>The Chairman's concerns about -</p> <p>(a) how the trade would be facilitated by the proposed enhancement measures in electronic submission of applications; and</p> <p>(b) whether the current proposal to amend the provisions on temporary absence would have any impact on the licensing condition relating to duty hours of the licensee.</p> <p>The Administration responded that -</p> <p>(a) at present, electronic submission of liquor licence applications accompanied by a digital signature was permitted. However, the utilization rate was low given that only a small number of applicants were equipped with a digital signature. The current proposal was to allow electronic submission of applications for liquor licences (including their issue, renewal, transfer or amendment) either with a password assigned/approved by LLB or by a digital signature; and</p>	

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		<p>(b) the current proposal to amend the provisions on temporary absence would have no impact on the licensing condition relating to duty hours of the licensee. At present, the secretary to LLB could authorize a person to manage the licensed premises for a liquor licence holder who was ill or temporarily absent for a period not exceeding three months. As a corollary of the proposed extension of maximum licence period from one year to two years, the current proposal would cap the period of temporary absence at 25% of the licence period.</p>	
<p>011033 - 012240</p>	<p>Chairman Mr YIU Si-wing Admin</p>	<p>Mr YIU Si-wing's views that LLB should ensure that consistent standards were applied in vetting liquor licence applications, and provide the trade with more information about the time required for processing liquor licence applications. Noting that applications which drew objections or adverse comments might be given a licence period shorter than the full term as LLB deemed fit, he enquired about the channels through which residents concerned could express complaints/objections against liquor-licensed premises.</p> <p>The Administration responded that -</p> <p>(a) LLB applied the same set of standards in assessing liquor licence applications as provided in the Guidelines. LLB took into account the views of the relevant government departments and local residents and considered each application on its own merits. As mentioned earlier, LLB would take into account the views collected and impose additional licensing conditions where appropriate on a case-by-case basis;</p> <p>(b) according to the "Flow Chart of Processing Application for New Issue of Liquor Licences", which was available on LLB's website, released by LLB, the time required for processing non-contentious cases was 8 to 10 weeks. However, contested cases would take longer time as public hearing would be arranged; and</p>	

Time marker	Speaker	Subject(s)	Action Required
		(c) residents concerned might raise complaints / objections against liquor-licensed premises through various channels, including phone, electronic mail and mail.	
012241 - 012312	Chairman Mr YIU Si-wing	The Chairman's consultation with members on the need for extending the scrutiny period.	
012313 - 013116	Chairman Mr KWOK Wai-keung Admin	<p>Mr KWOK Wai-keung's enquiries about whether LLB could shorten the time required for processing non-contested cases following the enactment of the licence period extension proposal.</p> <p>The Administration responded that it was likely that LLB could shorten the time required for processing non-contested cases of licence renewal application, as there should be fewer renewal applications each year.</p>	
<i>Examination of the provisions of the two Amendment Regulations</i>			
013117 - 013238	Chairman Admin	<p>Legislative Council Brief (File Ref.: FH CR 2/3231/13) (Annex A)</p> <p><u>Dutiable Commodities (Liquor) (Amendment) Regulation 2015</u></p> <p><i>Section 1 - Commencement</i></p> <p><i>Section 2 - Dutiable Commodities (Liquor) Regulations amended</i></p>	
013239 - 013611	Admin Chairman Mr YIU Si-wing	<p><i>Section 3 - Regulation 20 amended (issue and duration of licences)</i></p> <p>The Administration's response to members' enquiries that the existing fees for licence of less than one year would remain unchanged, that was, the fee would be such proportion of the prescribed fee as the period for which such licence would be valid bore to a period of 12 months.</p>	
013612 - 013924	Admin Chairman	<p><i>Section 4 - Regulation 24 substituted</i></p> <p>In response to the Chairman's enquiry, the Administration confirmed that electronic applications in relation to the temporary absence of liquor licensees would be allowed.</p>	

<b>Time marker</b>	<b>Speaker</b>	<b>Subject(s)</b>	<b>Action Required</b>
		The Chairman expressed support for the proposed trade facilitation measure and pointed out that the Business Facilitation Advisory Committee had recommended several years ago that electronic submission of applications by food business and related services should be allowed.	
013925 - 014046	Chairman Admin	<i>Section 5 - Regulation 26C added</i>  <i>Section 6 - Regulation 34 added</i>	
014047 - 014123	Admin Chairman	Legislative Council Brief (File Ref.: FH CR 2/3231/13) (Annex B)  <u>Dutiable Commodities (Liquor Licences) (Fees) (Amendment) Regulation 2015</u>  <i>Section 1 - Commencement</i>	
014124 - 014133	Admin	<i>Section 2 - Dutiable Commodities (Liquor Licences) (Fees) Regulation</i>	
014134 - 014153	Admin	<i>Section 3 - Section 1A added</i>	
014154 - 014214	Admin	<i>Section 4 - Section 2 amended (fees)</i>	
014215 - 014259	Admin	<i>Section 5 - Schedule amended (fees in respect of liquor licences)</i>	
014300 - 014629	Chairman Mr YIU Si-wing Mr KWOK Wai-keung	Date of the next meeting; and  The Chairman's closing remarks.	