

**立法會**  
**Legislative Council**

LC Paper No. CB(2)1251/14-15  
(These minutes have been seen  
by the Administration)

Ref : CB2/SS/3/14

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

**Minutes of meeting  
held on Thursday, 26 February 2015, at 2:30 pm  
in Conference Room 3 of the Legislative Council Complex**

**Members present** : Hon Tommy CHEUNG Yu-yan, SBS, JP (Chairman)  
Hon WONG Ting-kwong, SBS, JP  
Hon Paul TSE Wai-chun, 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  
Dr Hon Helena WONG Pik-wan

**Public Officers attending** : Items I and 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

**Attendance  
by invitation** : Item I

Entertainment Business Rights Concern Group

Ms Lilian CHAN  
Chairman

Hong Kong Bars and Karaoke Rights Advocacy

Miss Anita TO  
Vice Chairman

Individual

Mr HUI Chi-fung  
Central and Western District Council Member

Institution of Dining Art

Mr Kelvin YAU  
Chairman

**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

## **I. Meeting with deputations and the Administration**

1. The Subcommittee deliberated (index of proceedings attached at Annex).
2. The Subcommittee received views from four deputations / individual attending the meeting, and noted two written submissions from other organizations which did not attend the meeting [LC Paper Nos. CB(2)913/14-15(02) and CB(2)919/14-15(02)].

*(Post-meeting note: After the meeting, the Subcommittee received a submission from the Democratic Party [LC Paper No. CB(2)1003/14-15(01)], which was issued to members vide LC Paper No. CB(2)1003/14-15 on 10 March 2015.)*

## **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)913/14-15(03) & (04)]

*(Post-meeting note: The Administration's response to issues raised at the meeting on 17 February 2015 [LC Paper No. CB(2)913/14-15(04)], which was tabled at the meeting, was issued to members vide LC Paper No. CB(2)925/14-15 on 27 February 2015.)*

### Follow-up actions arising from the discussion

3. Mr SIN Chung-kai and Dr Helena WONG noted in the Administration's paper that a complaint against liquor-licensed premises was regarded as substantiated if prosecution had been taken or verbal/written warning had been made against the premises after investigation by the concerned department(s). The Administration was requested to provide further information as follows -

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- (a) a breakdown of the complaints substantiated against liquor-licensed premises in each of the 18 districts in the past three years by (i) enforcement action taken; (ii) verbal warning made; and (iii) written warning made against the liquor-licensed premises concerned; and
- (b) in relation to the liquor-licensed premises with record of substantiated complaints, the number of licence renewal applications being (i) refused; (ii) approved with a full term licence period (at present one year); and (iii) approved with a

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licence period shorter than a full term and/or with additional licensing conditions respectively in the past three years.

Admin

4. Mr SIN Chung-kai and Dr Helena WONG were also concerned about whether public interest was duly protected in the vetting process of liquor licence applications. The Administration was requested to provide guidelines and/or procedures that the Liquor Licensing Board had been following with a view that the grant of the licence would not be contrary to public interest.

Completion of the scrutiny and the legislative timetable

5. The Chairman concluded that the Subcommittee had completed the scrutiny of the two items of subsidiary legislation. Members noted that the scrutiny period of the two items of subsidiary legislation would expire on 25 March 2015 and the deadline for giving notice to move amendments to the two items of subsidiary legislation was 18 March 2015. Members also noted that the Subcommittee would report its deliberations to the House Committee on 13 March 2015.

6. Mr SIN Chung-kai and Dr Helena WONG expressed the view that the criteria for "good track record" as set out in the footnote of the Legislative Council Brief should be specified in the proposed amendments to the effect that LLB must apply the criteria in processing licence renewal cases. They indicated that they might consider moving an amendment to that effect.

**III. Any other business**

7. There being no other business, the meeting ended at 4:18 pm.

Council Business Division 2  
Legislative Council Secretariat  
14 April 2015

**Proceedings of the meeting of the  
Subcommittee on Dutiable Commodities (Liquor) (Amendment) Regulation 2015 and  
Dutiable Commodities (Liquor Licences) (Fees) (Amendment) Regulation 2015 on  
Thursday, 26 February 2015, at 2:30 pm  
in Conference Room 3 of the Legislative Council Complex**

| <b>Time marker</b>  | <b>Speaker</b>  | <b>Subject(s)</b>  | <b>Action Required</b> |
|---|---|--|------------------------|
| 000401 -<br>000855  | Chairman  | The Chairman's opening remarks   |                        |
| <i>Item I - Meeting with deputations and the Administration</i> |   |  |                        |
| 000856 -<br>001115  | Chairman<br>Ms Lilian CHAN,<br>Entertainment<br>Business Rights<br>Concern Group  | Presentation of views<br>[LC Paper No. CB(2)919/14-15(01)]   |                        |
| 001116 -<br>001453  | Chairman<br>Miss Anita TO, Hong<br>Kong Bars and<br>Karaoke Rights<br>Advocacy    | Presentation of views<br>[LC Paper No. CB(2)919/14-15(01)]   |                        |
| 001454 -<br>001842  | Chairman<br>Mr HUI Chi-fung,<br>Central and Western<br>District Council<br>Member | Presentation of views  |                        |
| 001843 -<br>002048  | Chairman<br>Mr Kelvin YAU,<br>Institution of Dining<br>Art                        | Presentation of views<br>[LC Paper No. CB(2)913/14-15(01)]   |                        |
| 002049 -<br>002648  | Chairman<br>Admin   | The Administration's responses to deputations' views and concerns that -<br><br>(a) the existing requirement that liquor licensees must be natural persons was considered necessary to maintain a clear legal responsibility. To facilitate the trade, the Administration, having consulted the Liquor Licensing Board ("LLB"), was working out the operational details of the reserve licensee mechanism; and<br><br>(b) to address residents' concerns about nuisances caused by bars, the Administration had implemented in the |                        |

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|                 |   | <p>past two years a number of measures, as set out in paragraphs 5 to 7 in the Legislative Council ("LegCo") Brief (File Ref: FH CR 2/3231/13).</p>   |                 |
| 002649 - 003206 | <p>Chairman<br/>Dr Helena WONG<br/>Admin</p>  | <p>Dr Helena WONG's view that the Administration should conduct a comprehensive review on the liquor licensing regime, in particular issues relating to the composition and functions of LLB, and law enforcement against non-compliances such as noise nuisances.</p> <p>The Administration advised that -</p> <ul style="list-style-type: none"> <li>(a) LLB currently had a broad representation of interests with members coming from various backgrounds. The existing composition could strike a proper balance between the interests of the general public and those of the trade;</li> <li>(b) law enforcement against noise nuisances was carried out by the Police and the Environmental Protection Department. LLB would consider requiring liquor-licensed premises with noise problems to take additional noise insulation measures; and</li> <li>(c) the Administration would follow up with the Panel on Food Safety and Environmental Hygiene ("the Panel") on the issues and concerns raised by members on the liquor licensing regime in general.</li> </ul> <p>The Chairman's remarks that the policy issues relating to the liquor licensing regime in Hong Kong could be discussed at a future meeting of the Panel.</p> |                 |
| 003207 - 003853 | <p>Chairman<br/>Mr YIU Si-wing<br/>Mr HUI Chi-fung,<br/>Central and Western<br/>District Council<br/>Member<br/>Admin</p> | <p>Mr YIU Si-wing's enquiry about whether the Administration's proposed mid-term review mechanism would provide residents concerned with adequate safeguards against nuisances caused by liquor-licensed premises.</p> <p>Mr HUI Chi-fung's responses that -</p> <ul style="list-style-type: none"> <li>(a) under the existing arrangement, residents</li> </ul>  |                 |

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|             |         | <p>had the opportunities to express their views at LLB's public hearing on a licence renewal application at least once a year. However, following the implementation of the proposed amendment to extend the maximum licence period from one year to two years ("the licence period extension proposal"), there might be fewer opportunities for residents to express their views to LLB, as the proposed mid-term review would not require LLB to arrange public hearing; and</p> <p>(b) to provide safeguards against LLB issuing/renewing two-year licences irrespective of whether complaints/objections had been received from residents in the vicinity of the liquor-licensed premises concerned, the Administration should consider providing additional mechanism for handling residents' complaints. For example, LLB should be required to arrange a public hearing upon receiving a complaint made by 20 or more persons residing within a radius of 400 metres from the liquor-licensed premises concerned, irrespective of the time remaining in the licence period.</p> <p>The Administration responded that -</p> <p>(a) 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" as set out in the LegCo Brief would be considered favourably by LLB for licence renewal for two years. As such, renewal applications which drew objections/adverse comments would not be given a two-year licence; and</p> <p>(b) the mid-term review mechanism was introduced with a view to addressing residents' concerns about the possibility of deterioration in the performance on the part of licensed premises in complying with the licensing conditions after the granting of a 24-month licence.</p> |                 |

| Time marker     | Speaker                               | Subject(s)  | Action Required |
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|                 |                                       | <p>The Chairman's remarks that residents could file complaints to government departments concerned (such as the Police) against liquor-licensed premises anytime they detected non-compliances. In case the licence applicants or residents concerned were aggrieved by the licensing decisions made by LLB, they might lodge an appeal to the Municipal Services Appeals Board ("MSAB"). If aggrieved by the decision of MSAB, they might apply for judicial review.</p>   |                 |
| 003854 - 004444 | Chairman<br>Mr SIN Chung-kai<br>Admin | <p>Mr SIN Chung-kai's remarks that while he raised no objection against issuing two-year liquor licences to uncontested cases such as restaurants, he considered it necessary for the Administration to provide for an additional mechanism for preventing LLB from granting a two-year licence in a lenient manner. He considered that the criteria for "good track record" as set out in the LegCo Brief should be specified in the proposed amendments to the effect that LLB must apply the criteria in processing licence renewal cases.</p> <p>The Administration responded that under the Dutiable Commodities (Liquor) Regulations (Cap. 109 sub. leg. B) ("DCLR"), LLB should not grant a liquor licence unless it was satisfied that (a) the applicant was a fit and proper person to hold the licence; (b) the premises to which the application related were suitable for selling or supplying intoxicating liquor; and (c) granting the licence was not contrary to the public interest in all the circumstances. As a matter of fact, LLB had in many cases not granted a full-term licence to applicants apart from imposing additional licensing conditions to help mitigate nuisances that might be caused to the neighbourhood. LLB had published guidelines to capture the factors that were taken into account when assessing liquor licence applications. As and when the proposal to increase the licence validity period to 24 months was passed by LegCo, the guidelines would be suitably updated so that the considerations that LLB would take into account when deciding whether to grant a 24-month renewal were duly reflected in the guidelines.</p> |                 |



| Time marker     | Speaker                                | Subject(s)  | Action Required |
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| 004445 - 004817 | Chairman<br>Mr WONG Ting-kwong         | <p>Mr WONG Ting-kwong's views that -</p> <p>(a) while sharing residents' concerns about nuisances caused by bars, he noted that less than 20% of the some 6 800 liquor-licensed premises were bars. He supported the licence period extension proposal to facilitate the trade; and</p> <p>(b) the licence period extension proposal should not alter the existing practice that LLB would determine the licence duration on a case-by-case basis. Policy issues relating to the liquor licensing system raised by members should be followed up by the Panel.</p>  |                 |
| 004818 - 005436 | Chairman<br>Mr KWOK Wai-keung<br>Admin | <p>While concurring that the current proposals would facilitate the trade and decrease LLB's workload, Mr KWOK Wai-keung was concerned about the adequacy of the safeguards in the proposed mid-term review against nuisances caused by liquor-licensed premises;</p> <p>The Administration responded that -</p> <p>(a) LLB was empowered by the Regulation 23(1)A of DCLR to revoke, suspend or refuse to renew a liquor licence, if LLB decided that - (i) the person holding the licence had failed to comply with any condition of the licence; (ii) the person holding the licence had ceased to be a fit and proper person to hold the licence; (iii) the premises specified in the licence had ceased to be suitable for selling or supplying intoxicating liquor, for reasons connected with the location and structure of the premises, the fire safety and hygienic conditions in the premises, or when the public interest so required. As such, major breaches of licensing conditions might lead to a liquor licence being revoked or suspended immediately; and</p> <p>(b) as two-year licences would only be granted to premises with a "good track record", this would provide an incentive for licensees to keep up their good records by avoiding causing nuisances to residents.</p> |                 |

| Time marker                                      | Speaker   | Subject(s)  | Action Required |
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| 005437 - 005859                                  | Chairman<br>Dr Helena WONG<br>Admin                     | <p>Dr Helena WONG's enquiry about the follow-up actions taken by LLB in relation to the liquor-licensed premises with record of substantiated complaints.</p> <p>The Administration responded that it was an established practice that public hearings would be held for contested cases so that LLB would hear the objections and the grounds underlying such objections raised by the persons affected and the departments concerned. Of the 8 223 licence applications (including those for new licence and licence renewal) received by LLB in 2014, 1 900 cases were contested cases and 67 cases were refused by LLB.</p> |                 |
| 005900 - 010222                                  | Chairman<br>Mr SIN Chung-kai<br>Admin                   | <p>Mr SIN Chung-kai's enquiry about whether the Administration would propose amendment to L.N.20 of 2015 to the effect that only cases which met the criteria of "good track record" as set out in the LegCo Brief would be issued a two-year licence.</p> <p>The Administration responded that it was prepared to liaise with LLB on updating the Guidelines on Assessing Liquor Licence Applications to reflect the relevant factors to be taken into account when LLB considered the applications for renewing a liquor licence for two years.</p>   |                 |
| 010223 - 010600                                  | Chairman<br>Dr Helena WONG<br>Mr SIN Chung-kai<br>Admin | <p>Dr Helena WONG's remarks that she might consider proposing amendments with a view to ensuring that public interest would be duly protected in the vetting process of liquor licence applications.</p> <p>The Chairman's advice that the scrutiny period of the two items of subsidiary legislation would expire on 25 March 2015.</p>  |                 |
| <i>Item II - Meeting with the Administration</i> |   |   |                 |
| 010601 - 011136                                  | Chairman<br>Admin                                       | The Administration's briefing on LC Paper No. CB(2)913/14-15(04)  |                 |
| 011137 - 011730                                  | Chairman<br>Mr CHAN Chi-chuen<br>Admin                  | Mr CHAN Chi-chuen's enquiries about the discrepancy between the cost-recovery rate of new licence and that of licence renewal, and whether the Administration would further revise liquor licence fees in the near future.  |                 |

| Time marker        | Speaker   | Subject(s)   | Action Required |
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|                    |   | <p>The Administration responded that -</p> <p>(a) the procedures for processing straight-forward licence renewal cases were much simpler than new applications and contested licence renewal applications. The cost recovery rates for new issue and renewal of liquor licences based on the existing procedures were 25% and 149% respectively; and</p> <p>(b) the comprehensive fee review for liquor licences (including the licence renewal service) on a full cost recovery was underway. The Administration planned to brief the Panel on the results of the review before the end of 2015.</p>  |                 |
| 011731 -<br>012920 | Chairman<br>Mr SIN Chung-kai<br>Dr Helena WONG<br>ALA7<br>Clerk | <p>In reply to enquiries by Mr SIN Chung-kai and Dr Helena WONG, the Legal Adviser to the Subcommittee and the Clerk pointed out that -</p> <p>(a) the scrutiny period of the two items of subsidiary legislation had been extended from the Council meeting of 25 February 2015 to that of 25 March 2015 by a resolution of the Council passed on 25 February 2015. The deadline for giving notice to move amendments to the two items of subsidiary legislation, if any, was 18 March 2015 and the Subcommittee would report its deliberations to the House Committee on 13 March 2015; and</p> <p>(b) the order of business at a Council Meeting was stipulated in Rule 18 of the Rules of Procedures of LegCo.</p> |                 |
| 012921 -<br>013352 | Chairman<br>Dr Helena WONG<br>Clerk<br>Admin                    | <p>Dr Helena WONG's enquiry about the discrepancy between the numbers of complaints received and those substantiated. She was concerned that LLB might issue a two-year licence in an overly lenient manner if a liquor-licensed premise could maintain a "good track record" as long as no complaint was substantiated, irrespective of the number of complaints received against the premise.</p> <p>The Administration responded that a complaint was regarded as substantiated if prosecution had been taken or verbal/written warning had</p>   |                 |

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|                            |  | <p>been made against the premises after investigation by the concerned department(s). Nevertheless, for a liquor-licensed premise to be regarded as having a "good track record", it also had to fulfill the condition that no objection or adverse comment was received from the public on its licence renewal application notice.</p>   |  |
| <p>013353 -<br/>014632</p> | <p>Chairman<br/>ALA7<br/>Mr SIN Chung-kai<br/>Dr Helena WONG<br/>Admin</p> | <p>The Administration's reiteration of the meaning of cases of "good track record" in response to Dr Helena WONG's enquiry.</p> <p>Mr SIN Chung-kai and Dr Helena WONG indicated their intention to move amendments to the Dutiable Commodities (Liquor) (Amendment) Regulation 2015 with a view to better protecting public interest in the vetting process of liquor licence applications. They considered that the criteria for "good track record" as set out in the LegCo Brief should be specified in the Administration's proposed amendments to the effect that LLB must apply the criteria in processing licence renewal cases.</p> <p>Dr Helena WONG's request for the Administration to provide the following information -</p> <p>(a) a breakdown of the complaints substantiated against liquor-licensed premises in each of the 18 districts in the past three years by (i) enforcement action taken; (ii) verbal warning made; and (iii) written warning made against the liquor-licensed premises concerned;</p> <p>(b) in relation to the liquor-licensed premises with record of substantiated complaints, the number of licence renewal applications being (i) refused; (ii) approved with a full term licence period (at present one year); and (iii) approved with a licence period shorter than a full term and/or with additional licensing conditions respectively in the past three years; and</p> <p>(c) guidelines and/or procedures that LLB had been following with a view that the grant of the licence would not be contrary to public interest.</p> | <p><b>Admin to provide</b><br/>(Paragraphs 3(a) and (b) and 4)</p> |

| <b>Time marker</b> | <b>Speaker</b>                                 | <b>Subject(s)</b>   | <b>Action Required</b> |
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|                    |  | In reply to Dr Helena WONG's enquiry, the Chairman and the Legal Adviser to the Subcommittee pointed out that the scrutiny period of the two items of subsidiary legislation would expire at the end of the Council meeting of 25 March 2015. |                        |
| 014633 -<br>014925 | Chairman<br>Dr Helena WONG<br>Mr SIN Chung-kai | The Chairman's closing remarks.   |                        |

Council Business Division 2  
Legislative Council Secretariat  
14 April 2015