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Panel on Food Safety and Environmental Hygiene

**Background brief prepared by the Legislative Council Secretariat
for the meeting on 8 December 2015**

Assistance scheme for hawkers in fixed-pitch hawker areas

Purpose

This paper provides background information on the Government's five-year assistance scheme for licensed hawkers operating in 43 fixed-pitch hawker areas ("the Assistance Scheme"), and summarizes major views and concerns of members of the Panel on Food Safety and Environmental Hygiene ("the Panel") on the Assistance Scheme.

Background

Improving fire safety in fixed-pitch hawker areas

2. In response to two fire outbreaks at the Fa Yuen Street hawker area in 2010 and 2011 (with the latter causing a considerable number of casualties in the adjoining buildings), the Administration has implemented a series of measures to reduce, as far as possible, the fire risks posed by on-street hawking activities. These measures include requiring stall hawkers to comply with the stall area requirements during and outside business hours, enforcement actions against stall canopies constructed of combustible materials and forbidding overnight on-street storage of commodities outside the approved stall areas after business hour. To ensure compliance with fire safety requirements, the Food and Environmental Hygiene Department ("FEHD") has put in place a sanction mechanism under which recalcitrant offenders would be subject to suspension or cancellation of their hawker licences.

3. To effectively control the potential fire risks in hawker areas, the Administration has established a Steering Committee on Hawker Management to formulate specific measures to improve the management of hawker stall areas and oversee their implementation. Recognizing the importance of fostering a

collaborative relationship with the stakeholders, FEHD has also set up Hawker Management Consultative Committees covering all hawker areas to provide an effective communication platform on hawker management issues, including promotion of fire safety.

Hawker Assistance Scheme

4. To mitigate the fire risks posed by on-street hawking activities in the hawker areas, the Government considers it necessary to enhance the fire resisting capability and design of hawker stalls and to relocate stalls away from staircase discharge points of buildings or emergency vehicular access. To this end, the Administration announced on 3 September 2012 a plan to launch a five-year Assistance Scheme for hawkers operating in the 43 hawker areas.

5. Under the Assistance Scheme, financial assistance will be provided to hawkers in the hawker areas for stall reconstruction and relocation. Besides, an ex-gratia payment will be offered for voluntary surrender of hawker licences. According to the Administration, the latter would help expedite the release of vacant pitches and hence facilitate the relocation of stalls that pose higher fire risks. Specifically, the Assistance Scheme has the following features -

- (a) hawkers who are required by FEHD to move their stalls to new pitch spaces for fire safety reasons may apply for a one-off relocation grant;
- (b) hawkers who are not required to relocate their stalls under (a) may apply for a one-off reconstruction grant to carry out partial or full reconstruction of their stalls in-situ for reducing fire risks; and
- (c) an ex-gratia payment will be paid to those hawkers (except those whose licences are newly issued pursuant to the hawker licensing policy review in 2008-2009) who opt for voluntary surrender of their licences to the Government.

Members' views and concerns

6. The Administration briefed the Panel on the details of the Assistance Scheme on 5 February 2013. The major views and concerns expressed by members are summarized below.

Objective of the scheme

7. In response to a query over the objective of the Assistance Scheme as to whether it was introduced in a bid to reduce the number of hawkers, the

Administration stressed that it fully recognized the history of hawking and the contribution of hawkers to the economy of Hong Kong, and had endeavored to preserve the vitality of the hawking trade. That said, since the purpose of the voluntary licence surrender arrangement under the Assistance Scheme was to help expedite the release of vacant pitches for relocation of stalls that had higher fire risks, the total number of hawkers would inevitably be reduced with the implementation of the voluntary licence surrender arrangement. Notwithstanding such potential side effects, the Assistance Scheme was not driven by an intention to reduce the number of hawkers.

Eligibility of applicants

8. According to some members, some fixed-pitch hawkers had already carried out improvement works to their stalls at their own expenses. Noting that the Assistance Scheme would not have retrospective effect, these members expressed dissatisfaction with the non-retrospective arrangement as it would have the effect of penalizing the responsible hawkers. There was a view that reimbursement of out-of-pocket expenses on stall improvement works should be made possible.

9. The Administration advised that subsequent to the two fire incidents, most of the fixed-pitch hawkers at Fa Yuen Street and some hawkers in other hawker areas had rectified the irregularities of their stalls as required by FEHD. It should be noted that the Government's established fiscal discipline did not normally provide for arrangements having retrospective effect. The Assistance Scheme would provide eligible hawkers with greater flexibility in seeking financial assistance, for example, they might apply for a one-off reconstruction grant to carry out partial or full reconstruction of their stalls, while improvement works could be carried out in phases within a five-year period.

10. Some other members expressed dissatisfaction that the voluntary licence surrender arrangement would only be applied to the licensed hawkers operating in the 43 fixed-pitch hawker areas, but not the 141 hawkers whose licences were issued after the hawker licensing policy review in 2008-2009. These members were of the view that the ex-gratia payment should be made available to all hawkers.

11. The Administration advised that following the hawker licensing policy review in 2008-2009, new hawker licences had been issued in 2010 and 2011 to people who were interested in the hawking trade. As these new hawkers had entered into the trade only for a short period of time, there was no strong case for allowing them to surrender their licences in order to apply for the ex-gratia payment. The Administration reiterated that the purpose of the voluntary licence surrender arrangement was to facilitate the vacation of pitches for the relocation of on-street hawker stalls, thereby mitigating the fire risks posed by

on-street hawking activities. Hawkers operating in the 18 off-street hawker bazaars which had better fire safety facilities were not the targeted candidates of the voluntary licence surrender arrangement.

Issuance of new hawker licences

12. There was a view that if there was an overwhelming response to the voluntary licence surrender arrangement, consideration should be given to re-issuing new hawker licences to fill the vacant pitches. A suggestion was also made to the Administration to issue new hawker licences to the registered assistants of hawker stalls ("registered assistants") who might become unemployed if their employers surrendered the hawker licences to the Government.

13. The Administration advised that while it acknowledged members' concern, the suggestion of issuing new hawker licences to registered assistants so that they could continue operating the hawker stalls would defeat the purpose of the voluntary licence surrender arrangement which was to expedite the release of vacant pitches for the relocation of stalls with higher fire risks.

Ex-gratia payment

14. Some members were of the view that the one-off ex-gratia payment of \$120,000 might not be able to induce hawkers currently operating in areas with high patronage to surrender their hawker licences, as hawkers would lose their means of livelihood permanently after surrendering the licences. An enquiry was raised as to whether consideration would be given to raising the amount of the ex-gratia payment.

15. The Administration advised that it had sought the views of hawkers when determining the level of the ex-gratia payment. The current proposal of \$120,000 was higher than the amount of ex-gratia payments offered in previous voluntary licence surrender schemes (such as the respective one-off ex-gratia payment of \$60,000 and \$30,000 to "Dai Pai Tong" and itinerant hawker licensees). As the licence surrender arrangement under discussion was voluntary in nature, hawkers were free to choose whether or not to surrender their licences in exchange for the one-off ex-gratia payment.

Recent developments

16. Following the Finance Committee's approval in March 2013 for the creation of a new commitment of \$230 million, the Assistance Scheme was launched on 3 June 2013 to provide financial assistance to some 4 300 licensed hawkers operating in 43 fixed-pitch hawker areas for expediting relocation of

stalls or in-situ stall reconstruction to reduce fire risks.

17. The Administration will report to the Panel the implementation progress of the Assistance Scheme at the Panel meeting on 8 December 2015.

Relevant papers

18. A list of the relevant papers on the website of the Legislative Council is in the **Appendix**.

Council Business Division 2
Legislative Council Secretariat
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Appendix

Relevant papers on the Assistance scheme for hawkers in fixed-pitch hawker areas

Committee	Date of meeting	Paper
Panel on Food Safety and Environmental Hygiene	5.2.2013 (Item III)	Agenda Minutes
Subcommittee on Hawker Policy	15.4.2014 (Item II)	Administration's paper entitled "Issues relating to Hawkers and Hawking" (LC Paper No. CB(4)566/13-14(01))

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