

**For discussion on
11 July 2017**

Legislative Council Panel on Food Safety and Environmental Hygiene

Liquor Licensing: Review of Fees and Improvement Measures

Purpose

This paper briefs Members on the improvement measures introduced for processing liquor licensing applications. We would also like to share with Members our latest thoughts on how to take forward, with respect to fees for liquor licensing services, the 2013-14 Budget commitment to review fees and charges. We shall consult the trade on the options identified and in due course, submit to Members our proposals on way forward.

Background

2. Prior to 2000, liquor licence (LL) services in the urban and New Territories areas were under the respective purview of the ex-Urban Council and ex-Regional Council. There were disparities in LL fee levels in the urban areas and the New Territories, as the fee reviews were made by two separate entities. In 2013, an exercise was completed to align the different fees (including LL fees) in the urban areas and the New Territories to the lower level of the two. Please see the table below for the fee items applicable to LL under the fee alignment exercise –

LL Services	Fees Before alignment (\$)		Fees After alignment (\$)
	Urban areas (since 1998)	NT (since 1997)	Whole territory (since July 2013)
New Issue / Renewal (1-year)			
➤ LL ¹ (bar ²)	3,940	4,300	3,940
➤ Club LL ³ (bar)	3,940	1,100	1,100
➤ LL (no bar ⁴)	1,990	2,200	1,990
➤ Club LL(no bar)	1,990	1,100	1,100
Transfer	140	780	140
Amendment	140	610	140
Issue of Duplicates	140	140	140
Authorisation of person to manage premises	10	10	10

3. In the 2013-14 Budget, the Financial Secretary announced a review of fees and charges to ensure that public subsidy is given only when justified and to forestall cost recovery items from being inadvertently turned into heavily subsidised items. Mitigation measures to reduce the impact of fee revision all at one go are permissible. On the basis of this promulgation, FEHD has proceeded to review its fee items. This paper covers our considerations with respect to the fees for LL services.

4. While taking forward the revision of LL fees on the basis of 2013-14 Budget Speech, we notice that the same fees are charged for services requiring great disparity in complexity and efforts required. A salient example is charging new licence applications and one-year licence renewal the same level of fees when the former obviously requires more thorough checking and neighbourhood consultations. Hence, we shall take the opportunity of the fee review exercise to rationalise the fees structure, so that it may better reflect the relative costs of the respective fee items.

¹ A liquor licence will only be valid if the premises remain licensed as a restaurant.

² Where a bar is kept on the premises. Under regulation 2 of the Dutiable Commodities (Liquor) Regulations (DCLR), "bar" means any place exclusively or mainly used for the sale and consumption of intoxicating liquor.

³ Clubs are not licensed as restaurants. Club liquor licence is issued under regulation 26 of DCLR, which provides that no liquor shall be supplied at any premises used by any club for the purposes of the club to any member of the club except under and in accordance with a club liquor licence.

⁴ Where no bar is kept on the premises.

Current position

5. Based on a recent in-house costing exercise, FEHD has found out that the overall cost recovery rate for liquor licensing services is only 38%. This translates into a subsidy by taxpayers of around \$24 million per annum. We recognise that some liquor licensees are small and medium sized enterprises. This notwithstanding, the justification for long term public subsidy of a profit-making business operation needs to be prudently considered, taking into account the possible alternative uses of public funds for socially and economically worthy causes.

Rationalisation of the Fee Structure

6. Based on the latest costing exercise done, we would propose to rationalise the fee structure to better reflect the relative costs of fee items in the first place as per **Annex A**.

7. Based on the rationalised fee structure set out above, we have worked out the estimated fees at the 2017/18 price level if we are to recover the full cost of the services rendered, as tabulated below -

LL Services	Current Fee (\$)	Estimated Full Cost Recovery Fee at 2017/18 price level (\$)	No. of Cases in 2016	Amount of Subsidy to the Trade at 2017/18 price level (\$ million)
New Issue				
➤ LL(bar)	3,940	17,020	75	10.2
➤ Club-LL(bar)	1,100	17,020	5	
➤ LL(no bar)	1,990	8,510	1 107	
➤ Club-LL(no bar)	1,100	8,510	15	
Renewal - one year				2.0
➤ LL(bar)	3,940	5,110	433	
➤ Club-LL(bar)	1,100	5,110	28	
➤ LL(no bar)	1,990	2,550	2 206	
➤ Club-LL(no bar)	1,100	2,550	60	
Renewal - two year				
➤ LL(bar)	5,910	7,660	229	
➤ Club-LL(bar)	1,650	7,660	30	
➤ LL(no bar)	2,990	3,820	1 295	
➤ Club-LL(no bar)	1,650	3,820	84	

Transfer				
➤ LL(bar)	140	10,770	303	10.4
➤ Club-LL(bar)	140	10,770	18	
➤ LL(no bar)	140	5,380	1123	
➤ Club-LL(no bar)	140	5,380	56	
Amendment				
➤ LL(bar)	140	10,770	34	
➤ Club-LL(bar)	140	10,770	0	
➤ LL(no bar)	140	5,380	81	
➤ Club-LL(no bar)	140	5,380	2	
Issue of duplicates	140	425	7	0.002
Authorisation of person to manage premises				
- not more than 30 days	10	695	641	0.4
- more than 30 days	10	4,260	209	0.9

Possible Impact

8. The all at one-go scenario above follows the “user pays” principle and abides by the Government policy that fees and charges of Government services should in general be set at levels sufficient to recover the full cost of providing the services. Contextually, the increase is illustrated in paragraphs 9 to 11 below.

9. The majority of LL applicants are restaurants seeking LL without bar endorsement (see **emphasis** added to the table above). Using the number of cases in 2016 to illustrate –

Category	Total no. of applications	Applications from restaurants without a bar		Applicable fees under all at one-go scenario (\$)
	(A)	No. (B)	% (C)=(B)/(A)	
(a) New Issue	1 202	1 107	92%	8,510

(b) Renewal – one year	2 727	2 206	81%	2,550
(c) Renewal – two years	1 638	1 295	79%	3,820 (i.e. 1,910 a year)
Total	5 567	4 608	83%	-

If implemented, the one-off fee for new issue of LL is \$8,510. New issue of LL is usually valid for one year. Spread monthly, this implies \$709 per month. The licence renewal fees, annual or biennial as the case may be, are much more modest (\$2,550 or \$1,910 a year on average). Translated into monthly terms, this would mean \$212.5 or \$159.2.

10. About 83% of all existing liquor licensees are those of restaurants without a bar. The licence renewal fees they are subject to would only experience a small increase (\$560 or \$415 a year on average, or \$46.7 or \$34.6 monthly).

11. As regards the remaining fee categories (i.e. other than issue of new licences or renewal of existing licences), the average amount involved is not substantial, if such one-off fees are spread over the normal lifetime of a licence. For illustration purposes, about 60% of all existing LL has its term lasting for 5 years or above.

12. Despite the questionable justification for subsidy of profit-making businesses from the public coffers, and despite the modest amounts involved as illustrated in the preceding paragraphs, if some form of mitigation measures are warranted to alleviate the impact on the trade, we may consider implementing the fees adjustment on an incremental basis.

Possible Mitigation

13. For illustration of how we may seek to smoothen out the rationalisation and revision of LL fees, we have attempted further scenarios to facilitate consultation with the trade and solicitation of views from the public. The scenario of recovering the full costs over two years is set out at **Annex B**.

Public Consultation

14. We will take into account Members' views in refining the proposals for consulting stakeholders at the coming liaison meetings with the trade (tentatively in September and October 2017). This would cover the Food Business and Related Trade Task Force, Task Force on Business Liaison Groups, Recreational Clubs Business Liaison Group (BLG) and Hotels BLG under the Economic Analysis and Business Facilitation Unit of the Financial Secretary's Office, as well as the Liquor Licensing Board itself.

Legislative steps

15. The fees for the liquor licensing services are specified in Part 2 of the Dutiable Commodities (Liquor Licences) (Fees) Regulation (Cap 109H). To revise the fees, the Secretary for Food and Health may amend the Dutiable Commodities (Liquor Licences) (Fees) Regulation (Cap 109H)⁵. We will finalise the fee revision proposal as appropriate having regard to Members' views and the outcome of the coming consultation. Our plan is to consult this Panel in late 2017, table the necessary amendment order before the Legislative Council by early 2018 for negative vetting and implement the fee adjustment before April 2018. The same amendment regulation will provide for the first and subsequent annual adjustments to achieve full cost recovery.

Measures to improve efficiency and lower costs

16. As part of the package of measures to improve the regime to address concerns about public safety and security and lower the regulatory burden and nurture a business-friendly environment, in August 2015 we extended the maximum validity period of a LL upon renewal from one year to two years. Given the longer licence coverage, the fee for this new two-year licence was set at 1.5 times of that for one year, while the fees for all other services remained unchanged.

17. FEHD regularly reviews its operation and streamlines procedures with a view to facilitating the trade, improving efficiency, and lowering operating costs where possible. FEHD implemented LL Processing System in 2009 and the following measures to streamline licensing procedures between 2015 and 2017 –

⁵ The fee for 'authorisation of person to manage premises during temporary absence of licensee' is currently charged on an administrative basis. We would take this opportunity to put it on a statutory footing and cover it by Part 2 of Cap 109H.

- (a) extending the duration of a LL from one year to two years which most renewal applications can be submitted once every two years;
- (b) allowing LL applicants to submit the application forms electronically either by assigned passwords or digital certificates; and
- (c) introducing an optional “reserve licensee” mechanism which minimize disruption to the liquor selling business due to sudden departure of the licensee by identifying and nominating at an early stage a suitable person as a reserve licensee to take over the role of the licensee.

18. Apart from the above, the LLB, through its Secretariat run by FEHD, implemented a number of trade facilitation measures to improve LL services in 2013 –

- (a) publishing on the LLB website a set of Guidelines capturing the factors that are taken into account when assessing liquor licence applications in the interest of enhancing transparency; and
- (b) allowing the licensee to submit renewal applications between 3 and 4 months prior to expiry of LL instead of previous 2 to 3 months so that the licensee would have sufficient time to deal with the applications.

19. A review team comprising representatives from the Food and Health Bureau, FEHD, the Police and the Home Affairs Department formed in January 2017 has reviewed the existing practice and identified improvement measures, with a view to enabling timely processing of LL applications. **Annex C** sets out the details of the improvement measures implemented in June 2017.

20. In the coming years, further streamlining and facilitation measures will be explored and proposed to better the service to the trade and reduce costs, for instance, development of e-service to LL through an online service system.

Advice sought

21. Members are invited to note the content of this paper.

**Food and Health Bureau
Food and Environmental Hygiene Department
July 2017**

**Rationalisation of the Fee Structure
to better reflect the Relative Costs of Fee Items**

Application for Issue of New Liquor Licence and Renewal

Applications for issue of new liquor licence and renewal are the core business of the liquor licensing services. Out of some 8,000 service requests received by FEHD in 2016, about 5,500 cases (or 69%) are applications for new liquor licence or renewal. According to the latest costing exercise, the cost recovery rate for processing the application for new licence and renewal is about 54%.

2. At present, the fees charged for ‘new licence’ and ‘one-year renewal’ are the same. In reviewing the licence procedures, we note that the overall complexity for handling a renewal application is generally much less than that of an application for a new licence and the cost of the former is about 30% of that of the latter. Thus the fee level for ‘one-year renewal’ should therefore be pitched at 30% of that of ‘new licence’ to reflect the actual costs involved.

3. In August 2015 we introduced a new two-year liquor licence issued upon renewal, on top of the one-year licence, for those with a good track record for at least two consecutive years immediately before the liquor licence renewal application is submitted (paragraph 7 of the paper). By reducing the workload that would otherwise arise from the processing of straight forward licence renewal cases (i.e. cases with good track records), this will allow the LLB as well as relevant government departments to focus their attention on handling new applications or contested or contentious licence renewal applications. This is welcome by the trade¹. As at 30 April 2017, there are 7,792 licensees. 3,745 of them are holding a one-year licence and the remaining 4,047 are holding a two-year licence. Given the longer licence coverage of two-year renewal vis-a-vis one-year renewal, we propose to maintain the broad relativity of the two fee levels at 1.5 times’ differences.

4. In the current fee structure for both new applications and renewals, there is a distinction of fee levels between “licence with bar endorsement” and “licence without bar endorsement”, as there is a higher likelihood of contested cases for the former. As hearing before the LLB is required in a contested case, the Secretariat will need to prepare a paper and provide the logistic arrangement in inviting applicants,

¹ Since the implementation, there are 4 422 two-year renewal applications received (i.e. about 76% out of 5 794 liquor licences eligible for 2-year renewal applications). As at 30 April 2017, 4 272 2-year licences are granted and 4 047 of them are still valid. The remaining 24% continue to apply for 1-year liquor licence due to various reasons, including expiry of tenancy agreement with the landlord or change of shop etc..

objectors and representatives of Government departments, for example the Police, to attend the hearing, resulting in a higher cost generally as shown in the latest costing exercise. The current distinction of fee levels should therefore be maintained to reflect the relative costs.

5. The current fee structure also draws a distinction of fee levels between “liquor licence” and “club liquor licence”, but the latest costing exercise shows that the work involved in processing issue and renewal applications between the two is similar (and the caseload of the latter is only 4% of the former). We should thus remove the distinction between the two and align the fee levels to the same.

Application for Miscellaneous Services

6. During the validity period of a liquor licence, the licensee may request various miscellaneous services to meet the operational needs, including the following

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- (a) transferring the licence to another person, when the business has been sold to another person, or the existing licensee has resigned from the owner of the business who needs to appoint another person as a licensee;
- (b) amending the details of the licence, owing to, for example, addition of licensing conditions and change of shop sign, size of premises, nature of business (e.g. from restaurant to Karaoke) and the endorsement (e.g. bar and dancing endorsement);
- (c) requesting a duplicate licence for loss of the current licence; and
- (d) authorizing a person to manage the premises during the illness or temporary absence of the licensees.²

7. In 2016, some 2,500 cases were handled (31% of all service requests). Although the work involved is much less substantial than new issue or renewal, it is not mere formality as revealed in the costing exercise. However, the fees being charged are apparently nominal, i.e. \$140 for application of ‘licence transfer’, ‘licence amendment’ or ‘issues of duplicates’ and \$10 for ‘authorization of person to manage premises’. According to the latest costing exercise, the cost recovery rate for miscellaneous services is 2%. The current fee structure should be rationalised to set

² Regulation 24 of DCLR provides that the maximum period (or the aggregate of the periods) for which a person may be authorized to manage the licensed premises during the illness or temporary absence of the licensee be capped at 25% of the licence duration, and for licences that bear a duration exceeding one year, each year, each period of absence must not exceed 90 days (and the total period of absence must not exceed 90 days within 12 consecutive months during the licence duration).

fees at a level to reflect the actual service costs.

8. For “transfer” and “amendment” applications for liquor licences, the procedures are similar to “new issue” applications but fewer departments may need to be consulted. For example, for “transfer” applications, consultation through HAD is not necessarily required if there is no objection received and no complaint in the past. The latest costing exercise suggests that the processing cost of a ‘transfer’ and ‘amendment’ application is only about 60% of that of a ‘new issue’ and the relative fee levels should be set accordingly.

9. As in the case of new application and renewal, there is a higher likelihood for a “licence with bar endorsement” to involve a hearing before the LLB. Therefore, we propose to introduce a distinction of fee levels in transfer and amendment between “bar endorsement” and “no bar endorsement” to reflect their relative costs. On the other hand, the fee levels of “liquor licence” and “club liquor licence” should remain the same as the processing work is similar.

10. For “authorization of person to manage premises” during the illness or absence of licensee, the cost for a period of more than 30 days is substantially higher as it involves the processing by the Police. Thus, we propose to set two fee levels accordingly to reflect the respective costs.

Fee proposals of Liquor Licence
Cap. 109H Dutiable Commodities (Liquor Licences) (Fees) Regulation

2-year Scenario

Fee description	Date of last revision/ first introduction	No. of Cases in 2016	Current Fee (\$)	Year 1 (2017/18 price level)		Year 2 (2018/19 price level)	
				Proposed Fee (\$)	Change in amount (\$)	Proposed Fee (\$)	Change in amount (\$)
New Issue & Renewal							
(i) New issue							
(a) LL (bar)	1 Nov 1998	75	3,940	13,150	9,210	17,580	4,430
(b) Club LL (bar)	1 Apr 1997	5	1,100	13,150	12,050	17,580	4,430
(c) LL (no bar)	1 Nov 1998	1 107	1,990	6,580	4,590	8,790	2,210
(d) Club LL (no bar)	1 Apr 1997	15	1,100	6,580	5,480	8,790	2,210
(ii) Renewal – one year							
(a) LL (bar)	1 Nov 1998	433	3,940	3,940	-	5,280	1,340
(b) Club LL (bar)	1 Apr 1997	28	1,100	3,940	2,840	5,280	1,340
(c) LL (no bar)	1 Nov 1998	2 206	1,990	1,990	-	2,640	650
(d) Club LL (no bar)	1 Apr 1997	60	1,100	1,990	890	2,640	650
(iii) Renewal – two year							
(a) LL (bar)	3 Aug 2015	229	5,910	5,910	-	7,920	2,010
(b) Club LL (bar)	3 Aug 2015	30	1,650	5,910	4,260	7,920	2,010
(c) LL (no bar)	3 Aug 2015	1 295	2,990	2,990	-	3,960	970
(d) Club LL (no bar)	3 Aug 2015	84	1,650	2,990	1,340	3,960	970

Fee description	Date of last revision/ first introduction	No. of Cases in 2016	Current Fee (\$)	Year 1 (2017/18 price level)		Year 2 (2018/19 price level)		
				Proposed Fee (\$)	Change in amount (\$)	Proposed Fee (\$)	Change in amount (\$)	
Transfer & Amendment								
(i) Transfer								
(a) LL (bar)	1 Nov 1998	303	140	7,890	7,750	11,120	3,230	
(b) Club LL (bar)	1 Nov 1998	18		7,890	7,750	11,120	3,230	
(c) LL (no bar)	1 Nov 1998	1 123		3,950	3,810	5,560	1,610	
(d) Club LL (no bar)	1 Nov 1998	56		3,950	3,810	5,560	1,610	
(i) Amendment								
(a) LL (bar)	1 Nov 1998	34		7,890	7,750	11,120	3,230	
(b) Club LL (bar)	1 Nov 1998	0		7,890	7,750	11,120	3,230	
(c) LL (no bar)	1 Nov 1998	81		3,950	3,810	5,560	1,610	
(d) Club LL (no bar)	1 Nov 1998	2	3,950	3,810	5,560	1,610		
Issue of Duplicate	1 Nov 1998	7	140	255	115	440	185	
Authorisation of person to manage premises								
(a) not more than 30 days	24 Apr 1970	641	10	400	390	720	320	
(b) more than 30 days		209		2,560	2,550	4,400	1,840	

**Improvement Measures Identified by the Review Team
In Processing Liquor Licence Applications**

The Team has identified the following improvement at various stages of processing a liquor licence application:

(a) Engage the business owners –

- Most of business owners may be restaurant licence applicants/licensees or club licensees, who may not be fully aware of the progress of liquor licence applications, as all the correspondences related to the applications are addressed to the applicants. With a view to engaging the business owners at an earlier stage of application, the following measures have recently been implemented:
 - i. Upon receipt of a duly completed application form for new issue with required supporting documents, an acknowledgement letter will be issued to the applicant and copied to the respective restaurant licensees/club licensee;
 - ii. To provide more information in the acknowledgement letter and enhance the transparency of the application, the applicant will be advised to (a) place advertisement early on the newspapers; (b) attend an interview with the Police; and (c) track the status of the application by making use of the online licence services; and
 - iii. Three weeks after the issue of the acknowledgement letter, the applicant will be reminded in writing to place an advertisement which will also be copied to the respective restaurant licensees/club licensees.

(b) Enhance coordination among processing departments –

- i. To ensure timely processing, the HAD/Police have been reminded of working target to process referrals from FEHD;
- ii. In case of an outstanding reply, FEHD will provide weekly alert reports to HAD/Police on overdue cases in 3 bandings with different colours; and

- iii. Overdue cases will be escalated to the management level so that they will identify the problems on specific cases.

(c) Improve management information and internal monitoring –

- i. It is noted that some applicants do not duly complete the application form or submit the required supporting documents. The liquor licence processing system (“the System”) has been enhanced to record (a) the date of acceptable application, meaning the date when a duly completed application form is submitted with required supporting documents and the processing of application starts; and (b) the outstanding documents. Such measure can improve management information in the sense that applicants can be reminded to submit the outstanding items to facilitate timely processing; and
- ii. The System will be enhanced with colour features for overdue reports to alert the management levels of the processing departments to take early action (referring to item (ii) of paragraph II above).

(d) Specific measures for summer recess arrangement –

- The trade has raised concerns on the possible delay in handling new liquor licence applications arising from the existing summer recess arrangement, though all non-contested cases are being handled through a year. With a view to minimizing the impact to applications received in May and June, the following measures have been taken:
 - i. A timeline for processing an application for new issue received in May from date of acceptable application to approval of application has been worked out for licensing staff to follow so as to ensure that consideration of all acceptable applications by LLB shall be held in July;
 - ii. A monitoring mechanism of the progress of each application with a report listing the milestones, such as receipt of acceptable application, referral to and reply from departments and posting advertisement etc., has been set up to ensure all applications are processed within the agreed timeframe. The

report will be sent to the management levels of FEHD. Should any applications be processed beyond the timeframe, immediate follow up action will be taken including urging concerned departments to reply or sending reminders to the applicants; and

- iii. FEHD will closely liaise with the LLB Secretariat to arrange hearings in July for cases received in May and in the first LLB hearing in September for those received in early June.

With the above improvement measures, the applicants/business owners and concerned departments can be better informed of the progress of the applications and take early action if necessary. In addition, strengthened monitoring mechanism can help the management level of concerned departments effectively identify the difficulties in the processing of the applications.