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Legislative Council

LC Paper No. CB(2)2080/16-17(01)

Ref : CB2/PL/FE

Panel on Food Safety and Environmental Hygiene

Background brief prepared by the Legislative Council Secretariat for the meeting on 22 September 2017

Review of fees and improvement measures for liquor licensing services

Purpose

This paper provides background information on the Administration's review of fees and charges for liquor licence services and the improvement measures introduced for processing liquor licence applications, and summarizes the views and concerns of members expressed at the meeting of the Panel on Food Safety and Environmental Hygiene ("the Panel") held on 11 July 2017.

Background

2. Under the Dutiable Commodities (Liquor) Regulations (Cap. 109B) ("DCLR"), the sale or supply of liquor at any premises for consumption on those premises is prohibited except under a liquor licence. The Liquor Licensing Board ("LLB") is an independent statutory body established under DCLR to consider liquor licence applications. Regulation 17 of DCLR stipulates that LLB must not grant a liquor licence unless it is satisfied that:

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

3. In considering new liquor licence applications, LLB consults the relevant Government departments, including the Police, the Buildings Department, the

District Offices via the Licensing Office of the Food and Environmental Hygiene Department ("FEHD"). These departments examine the applications (covering matters including the background of the applicant, the suitability of the premises and possible reaction of the neighbourhood), make analysis and assessment, and provide advice to LLB. An applicant shall, at least two weeks before LLB considers the application, place advertisements in three newspapers in accordance with section 16 of DCLR. The same is also posted on LLB's website. For cases with neither objection nor adverse comments, FEHD will approve the applications under the authority delegated by LLB. For contentious cases¹, LLB will conduct closed-door meetings to consider the applications with irregularities and decide whether it is necessary to conduct an open hearing. For contested cases², LLB will conduct open hearings to listen to representations from the applicants, the objectors and the relevant Government departments. LLB arrives at a decision on each case after the relevant case has been scrutinized and deliberated, taking into consideration the views from relevant Government departments, the applicant and the objector(s). Pursuant to section 17(5) of DCLR, an applicant or residents to which the application relates may appeal to the Municipal Services Appeals Board if they are not satisfied with the decision made by LLB.

Measures to improve efficiency in processing liquor licence applications

4. To improve efficiency and facilitate the trade, FEHD implemented the Liquor Licence Processing System in 2009 and the following measures to streamline licensing procedures between 2015 and 2017:

- (a) extending the duration of a liquor licence from one year to two years which most renewal applications can be submitted once every two years;
- (b) allowing liquor licence 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.

¹ In these cases, LLB has received adverse comment(s) in relation to the liquor licence applications from members of the public or the relevant Government departments, but there is no objection.

² In these cases, LLB has received objection(s) in relation to the liquor licence applications from members of the public or the relevant Government departments.

5. Through its Secretariat run by FEHD, LLB also implemented a number of trade facilitation measures to improve liquor licence services in 2013, which include publishing on LLB's website a set of guidelines capturing the factors that are taken into account when assessing liquor licence applications in the interest of enhancing transparency. In January 2017, a review team comprising representatives from the Food and Health Bureau, FEHD, the Police and the Home Affairs Department was formed to review the existing system and identify improvement measures, with a view to enabling timely processing of liquor licence applications. Details of improvement measures implemented in June 2017 were set out in Annex C of the Administration's paper (LC Paper No. CB(2)1809/16-17(05)) provided for the Panel meeting on 11 July 2017. According to the Administration, further streamlining and facilitation measures will be explored and proposed to better the service to the trade and reduce costs, e.g. development of e-service.

Liquor licence fees

6. According to the Administration, prior to 2000, liquor licence 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 liquor licence 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 liquor licence fees) in the urban areas and the New Territories to the lower level of the two. The existing fees in respect of liquor licences are in **Appendix I**.

7. In the 2013-2014 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 subsidized items. Mitigation measures to reduce the impact of fee revision all at one go are permissible. On the basis of this principle, FEHD has proceeded to review its fee items including those for liquor licensing services.

8. According to 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. The Administration therefore proposes to rationalize the fee structure to better reflect the relative costs of fee items, adopting a scenario which 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.

Members' views and concerns

9. The major views and concerns of members expressed at the Panel meeting held on 11 July 2017 are summarized below.

Proposed adjustment of fees and charges

10. Some members were concerned that the substantial increase in the fees for issue of new liquor licence (for the category of "liquor licence (no bar)") and subsequent renewal of which, aiming to recover the full cost of the services rendered would add undue burden to the trade. They pointed out that many sectors, including the retail trade, had been operating in severe adversity in recent years. With the Government having accumulated huge fiscal reserves, they queried the justification for increasing the fees for liquor licensing services to achieve full cost recovery. They urged the Administration to fully consult the trade on the proposed fees adjustment, before deciding on the way forward.

11. Some other members, however, considered the Administration's review of fees for liquor licensing services in accordance with the "user pays" principle appropriate. In these members' view, there was no reason for the Government to subsidize profit-making businesses with public fund.

12. According to the Administration, it planned to follow the "user pays" principle to adjust/set the fees for liquor licensing services at levels sufficient to recover the full cost of providing the services. The Administration would like to take the opportunity to rationalize the current fee structure, so that it could better reflect the relative costs of respective fee items. This notwithstanding, if some form of mitigation measures were warranted to alleviate the impact on the trade, the Administration might consider implementing the fees adjustment on an incremental basis.

Improvement measures introduced for liquor licensing services

13. Concern was raised about the long processing time required for some liquor licence applications, in particular the slow progress of LLB in handling new liquor licence applications during the summer recess.

14. According to the Administration, a number of improvement measures had been introduced with a view to enabling timely processing of liquor licence applications and minimizing the impact on those applications received in May and June of the year. Such measures included (a) a timeline (for processing an application for new issue received in May from date of acceptable application to approval of application) had been worked out for licensing staff to follow so as to ensure that consideration of all acceptable applications by LLB should be held in July; and (b) 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.) had been set up to ensure all applications were processed within the agreed timeframe. Besides, FEHD would 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.

15. Some members pointed out that there had been increasing public concern about the nuisances caused by bars close to residential areas/buildings. These members were concerned that the problem had worsen, consequential to the extension of the maximum validity period of a liquor licence from one year to two years. The Administration responded that as part of the package of measures to improve the regime to address concerns about public safety and security and to lower the regulatory burden to nurture a business-friendly environment, a new two-year liquor licence was introduced in August 2015 which would be 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 was submitted. The Administration assured members that in processing liquor licence applications, LLB would strike a balance between the interests of the public and the operation of the trade.

Latest developments

16. The Administration will consult stakeholders on its fee revision proposal at the coming liaison meetings with the trade (tentatively scheduled to be held in September and October 2017), covering the Business Facilitation Advisory Committee's Food Business and Related Services Task Force, Task Force on Business Liaison Groups, relevant Business Liaison Groups under the Economic Analysis and Business Facilitation Unit of the Financial Secretary's Office and relevant trade associations.

17. The Panel will receive public views on the government's review of fees and improvement measures for liquor licensing services at the Panel meeting on 22 September 2017.

Relevant papers

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

Fees in respect of Liquor Licences

Item	Matter	Fee
1.	The issue or renewal of a liquor licence (other than a club liquor licence) –	
	(a) if a bar is kept on the premises concerned –	
	(i) for a licence valid for 1 year	\$3940
	(ii) for a licence valid for more than 1 year	\$5910
	(b) if no bar is kept on the premises concerned –	
	(i) for a licence valid for 1 year	\$1990
	(ii) for a licence valid for more than 1 year.....	\$2990
2.	The issue or renewal of a club liquor licence -	
	(a) if a bar is kept on the premises concerned –	
	(i) for a licence valid for 1 year	\$1100
	(ii) for a licence valid for more than 1 year	\$1650
	(b) if no bar is kept on the premises concerned –	
	(i) for a licence valid for 1 year	\$1100
	(ii) for a licence valid for more than 1 year.....	\$1650
3.	The transfer of a liquor licence	\$140
4.	Any amendment to a liquor licence	\$140
5.	The issue of a duplicate of a liquor licence	\$140

Appendix II

Relevant papers on review of fees and improvement measures for liquor licensing services

Committee	Date of meeting	Paper
Panel on Food Safety and Environmental Hygiene	11.7.2017 (Item V)	<u>Agenda</u>

Council Business Division 2
Legislative Council Secretariat
18 September 2017