

民政事務總署  
香港灣仔軒尼詩道一百三十號  
修頓中心二十九、三十及三十一樓



**Home Affairs Department**

29th, 30th and 31st Floors,  
Southorn Centre,  
130 Hennessy Road,  
Wan Chai, Hong Kong.

本署檔號 Our Ref. HAD HQ CR/15/3/20(C)  
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電話 Tel.: 2835 2223  
傳真 Fax.: 2575 1009

18 June 2019

Ms Wendy Jan  
Clerk to Bills Committee  
Legal Service Division  
Legislative Council Secretariat  
1 Legislative Council Road  
Central, Hong Kong

Dear Ms Jan,

**Hotel and Guesthouse Accommodation (Amendment) Bill 2018 (“the Bill”)**

Thank you for your letter dated 8 April 2019 ref CB2/BC/5/17. Our replies to the questions raised are set out in the ensuing paragraphs.

*(a) information on the average processing time of applications for licence renewal for hotel/guesthouse licences, and the licence renewal arrangements for hotels and guesthouses;*

2. Under the existing section 9, if a hotel/guesthouse licence holder applies for licence renewal not less than three months before the expiration of the licence (referred to as a “protected case”), the licence shall remain in effect, even if it expires prior to the determination of the renewal application, until the determination by the Authority of this application. The protected case arrangement has been working well in facilitating the continuous operation of licensed premises during the processing of renewal applications.

3. In making the renewal application, a licence holder should submit the Renewal Application Form together with the relevant documents and certificates, including (i) a copy of valid Certificate of Fire Service Installations and

Equipment (F.S. 251) issued by a registered fire service contractor and (ii) a copy of valid “Work Completion Certificate – Form WR1” issued by a registered electrical worker, to the Office of the Licensing Authority (“OLA”). The OLA will then inspect the subject premises. Should there be any deficiencies and/or irregularities, the OLA will notify the licence holder of all the required rectification works. Upon completion of the required rectification works, the OLA will conduct compliance checking. The licensee may also need to submit relevant information (e.g. test reports and material certificates) for verification. When all rectification works are found satisfactorily completed and all relevant certificates/documents have been checked and found to be in order, the OLA will issue a renewed licence. According to the current practice, the average processing time of applications for licence renewal for hotel and guesthouse licences in the past five years was around four calendar months.

4. A similar protected case arrangement is also proposed in the Bill. Under the new section 12C(3)(a), an application for licence renewal must be made within the period beginning six months before, and ending three months before, the end of the licence period of the licence (“specified period”). Allowing renewal applications to be submitted during the specified period only, but not more than six months before the expiration of the licence, is an enhancement to the existing arrangement. This enhancement is proposed to avoid the accumulation of backlogs due to licensees submitting renewal applications well in advance, rendering the information out-of-date when the licences expire. This also allows the OLA to assess renewal applications with greater certainty. Similar to the existing section 9, the new section 12H(4) further provides that a licence remains in effect despite the end of its licence period if the renewal application is made within the specified period and the application is pending as at the end of the licence period.

5. The OLA will continue to process both new and renewal applications within the time specified in its performance pledges<sup>1</sup> and provide assistance to the applicants as appropriate with a view to facilitating their applications.

*(b) justifications for only requiring licence holders whose licence had a validity period exceeding 36 months, but not all licence holders, to submit to the Hotel and Guesthouse Accommodation Authority a certificate from an authorized person certifying the matters specified in the proposed new section 12I(3) on an annual basis; and*

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<sup>1</sup> On hotel and guesthouse licensing matters, the OLA has pledged to –

- i. notify an applicant of the result of initial checking of documents within four working days of receipt of a new licence or renewal application;
- ii. conduct site inspection of the proposed hotel/guesthouse premises and issue letter of upgrading requirements within 22 working days upon notifying an applicant of the result of initial checking of documents; and
- iii. for application of a new licence, notify an applicant of the application result within 35 working days upon receipt of the report of completion of the required upgrading works.

*(c) justifications for issuing licences with validity period not exceeding 84 months to hotels but only issuing licences with validity period not exceeding 36 months to guesthouses, and the reasons for not specifying in the Hotel and Guesthouse Accommodation (Amendment) Bill 2018 the different maximum validity periods of licences for hotels and guesthouses.*

6. By way of background information, the requirement of submitting a certificate from an authorised person (“AP”) was introduced in 1998. Before 1998, only licences for validity of not more than 12 months could be issued under the Hotel and Guesthouse Accommodation Ordinance (Cap. 349). To enhance the licensing process and obviate the need for annual renewal, the Government proposed in 1998 to extend the period of new or renewed licences to a maximum period of 36 months, while the trade counter-proposed further extending the maximum period of a licence to seven years, subject to the submission of an annual certificate from an AP by the licensee. The Government agreed with the proposal, as the annual certificate requirement could ensure that safety standards would not be compromised for licences with validity periods beyond 36 months.

7. According to the current practice, first-time applicants who have no prior experience in operating hotels/guesthouses would normally be granted a licence of 12 months upon satisfaction of all licence requirements. Other than first-time applicants, it is up to the licensees and applicants to opt what licence periods (on a yearly basis ranging from 12 months to 84 months) for which they would like to apply. The OLA has the discretion to determine the period of a licence with reference to the safety conditions and the record of compliance of the premises. While there is no provision prohibiting the OLA from issuing a licence with a validity period exceeding 36 months to a guesthouse with good compliance records, in actual practice, only a small number of purpose-built hotels<sup>2</sup> have opted for longer licence periods. This may be because many operators may consider it a financial burden to engage an AP annually to inspect the premises and to submit the required certificate to the OLA.

8. To ensure compliance with fire safety, the OLA conducts inspection upon licence renewal and annually on all licensed premises regardless of their licence periods. Ad-hoc inspections are also arranged as necessary when complaints or incidents arise.

9. As for building safety, apart from inspection upon licence renewal and in response to complaints, every year, the OLA randomly inspects 20% of premises with licences of a validity period exceeding 12 months but not

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<sup>2</sup> Purpose-built hotels, in general, are premises which have been purposely designed, approved and constructed for hotel use in accordance with the Buildings Ordinance (Cap. 123) and the Fire Services Ordinance (Cap. 95). For non-purpose-built premises (i.e. normally the case for guesthouses), most of them are situated in multi-storey buildings and share common areas and facilities with other occupants of the buildings.

exceeding 36 months. For premises whose licences exceed 36 months, as mentioned above, the licence holder has to comply with the more stringent requirement that a building safety inspection must be conducted annually by an AP. If abnormality is found in the AP's annual certificate, the OLA will arrange inspection at the premises as appropriate to ensure public safety. Having regard to the relatively infrequent changes to building structure, such arrangements could sufficiently safeguard the building safety of the premises concerned.

Yours sincerely,

A handwritten signature in cursive script that reads "Grace".

(Miss Grace Li)  
for Director of Home Affairs

cc. Department of Justice (Attn: Mr Peter Sze)