

立法會

Legislative Council

LC Paper No. CB(2)1471/17-18

(These minutes have been seen
by the Administration)

Ref : CB2/PL/FE

Panel on Food Safety and Environmental Hygiene

Minutes of meeting held on Tuesday, 10 April 2018, at 2:30 pm in Conference Room 3 of the Legislative Council Complex

Members present : Hon Steven HO Chun-yin, BBS (Chairman)
Dr Hon KWOK Ka-ki (Deputy Chairman)
Hon LEUNG Yiu-chung
Hon Tommy CHEUNG Yu-yan, GBS, JP
Prof Hon Joseph LEE Kok-long, SBS, JP
Hon Starry LEE Wai-king, SBS, JP
Hon CHAN Hak-kan, BBS, JP
Hon Claudia MO
Hon Michael TIEN Puk-sun, BBS, JP
Hon CHAN Chi-chuen
Hon CHAN Han-pan, JP
Hon LEUNG Che-cheung, SBS, MH, JP
Hon Alice MAK Mei-kuen, BBS, JP
Hon KWOK Wai-keung, JP
Dr Hon Helena WONG Pik-wan
Dr Hon Elizabeth QUAT, BBS, JP
Hon POON Siu-ping, BBS, MH
Dr Hon CHIANG Lai-wan, JP
Ir Dr Hon LO Wai-kwok, SBS, MH, JP
Hon Andrew WAN Siu-kin
Hon CHU Hoi-dick
Hon HO Kai-ming
Hon SHIU Ka-fai
Hon SHIU Ka-chun
Hon Wilson OR Chong-shing, MH
Hon YUNG Hoi-yan
Dr Hon Pierre CHAN
Hon HUI Chi-fung
Hon LAU Kwok-fan, MH

Hon Kenneth LAU Ip-keung, BBS, MH, JP
Hon KWONG Chun-yu
Hon Jeremy TAM Man-ho
Hon AU Nok-hin

Members attending : Dr Hon Priscilla LEUNG Mei-fun, SBS, JP
Hon WU Chi-wai, MH

Member absent : Hon Tanya CHAN

Public Officers attending : Item V

Mrs Cherry TSE LING Kit-ching, JP
Permanent Secretary for Food and Health (Food)

Miss Diane WONG
Principal Assistant Secretary for Food and Health (Food) 2

Mr David WONG Fuk-loi
Deputy Director (Administration and Development)
Food and Environmental Hygiene Department

Mr CHIU Yu-chow
Assistant Director (Grade Management and Development)
Food and Environmental Hygiene Department

Item VI

Mrs Cherry TSE LING Kit-ching, JP
Permanent Secretary for Food and Health (Food)

Miss Diane WONG
Principal Assistant Secretary for Food and Health (Food) 2

Ms Maisie CHAN Kit-ling
Deputy Director (Environmental Hygiene)
Food and Environmental Hygiene Department

Mr Eric TSAI Yu-sing
Assistant Director (Operations) 1
Food and Environmental Hygiene Department

Item VII

Mr Bill WONG Kwok-piu
Principal Assistant Secretary for Food and Health (Food) 3

Dr SO Ping-man, JP
Deputy Director of Agriculture, Fisheries and Conservation

Mr Mickey LAI Kin-ming
Assistant Director (Fisheries)
Agriculture, Fisheries and Conservation Department

Clerk in attendance : Miss Josephine SO
Chief Council Secretary (2) 2

Staff in attendance : Ms Wendy KAN
Assistant Legal Adviser 6

Mr LEUNG Chi-kit
Senior Council Researcher 2

Ms Ivy CHENG
Senior Council Researcher 9

Ms Wendy LO
Senior Council Secretary (2) 2

Miss Michelle TANG
Council Secretary (2) 2

Miss Cally LAI
Legislative Assistant (2) 2

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I. Confirmation of minutes
(LC Paper No. CB(2)1155/17-18)

The minutes of the meeting held on 13 February 2018 were confirmed.

II. Information paper issued since the last meeting

2. Members noted that no information paper had been issued since the last meeting.

III. Date of next meeting and items for discussion

(LC Paper Nos. CB(2)1157/17-18(01) and (02))

Special meeting on 30 April 2018

3. The Chairman reminded members that a special meeting had been scheduled for Monday, 30 April 2018 at 9:00 am to receive public views on the two policy initiatives announced by the Government in December 2017 to address the land premium and traffic impact assessment issues of pre-cut-off columbaria seeking a licence under the Private Columbaria Ordinance (Cap. 630).

Regular meeting in May 2018

4. Members agreed to discuss the following items at the next regular meeting scheduled for Tuesday, 8 May 2018 at 2:30 pm:

- (a) Outcome of the "Trap-Neuter-Return" trial programme for stray dogs;
- (b) Proposed amendments to the Road Traffic Ordinance (Cap. 374) (accidents involving cats and dogs); and
- (c) The Second Hong Kong Population-based Food Consumption Survey.

(Post-meeting note: To allow sufficient time for discussion of all items on the agenda, the Chairman had directed that the meeting be extended to end at 5:00 pm. The notice of meeting was issued vide LC Paper No. CB(2)1202/17-18 on 13 April 2018.)

Items for discussion at future meetings

Issues relating to the reprovisioning of livestock farms affected by development plans and the rehabilitation of fallow farmland

5. Members noted a letter dated 10 April 2018 from the Chairman, which was tabled at the meeting. The Chairman suggested in his letter that the Panel should discuss at a future meeting issues relating to the reprovisioning

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of livestock farms affected by development plans and the rehabilitation of fallow farmland. Members agreed that the subject matters as referred to in the Chairman's letter be included into the Panel's list of outstanding items for discussion, and that the Administration be requested to provide a written response to the issues and concerns raised in the letter.

(Post-meeting note: The Chairman's letter was issued to members vide LC Paper No. CB(2)1195/17-18 on 11 April 2018.)

Issues relating to animal welfare

6. Referring members to item 13 "Review of legislation relating to animal welfare" on the Panel's list of outstanding items for discussion (LC Paper No. CB(2)1157/17-18(01)), Dr Elizabeth QUAT expressed her wish for early discussion, preferably in the third quarter of 2018, of the item. Dr Helena WONG said that when discussing the said item, the Administration should also update members on relevant issues including measures to prevent/combat acts of cruelty to animals and the proposal to establish "animal police" teams. As the agenda for the meeting on 8 May 2018 would include (a) the outcome of the "Trap-Neuter-Return" trial programme for stray dogs and (b) the proposed amendments to the Road Traffic Ordinance (Cap. 374) (accidents involving cats and dogs), Mr LAU Kwok-fan suggested that the Administration could be requested to give an update at the May meeting on its work in enhancing animal welfare and its study of existing legislation related to animal welfare. The Chairman asked the Clerk to check with the Administration after this meeting on its readiness to discuss the above item at the meeting on 8 May 2018.

(Post-meeting note: The Administration advised after the meeting that it needed more time to complete the review and would update members on the proposed timing for discussing the said item at a later date.)

IV. Proposed overseas duty visit to Brazil

(LC Paper Nos. CB(2)325/17-18(01) and CB(2)1157/17-18(03))

7. The Chairman said that at the meeting on 14 November 2017, members agreed in principle that the Panel should conduct a duty visit to Brazil in August 2018 to obtain first-hand information about the food safety and quality control as well as the surveillance work of the Brazilian authorities over frozen and chilled meat and poultry meat exported to other countries. In this connection, the Legislative Council ("LegCo") Secretariat had prepared a paper (LC Paper No. CB(2)1157/17-18(03)) to seek members' views on the objectives of and proposed timing of conducting the duty visit (i.e. from 12 to 19 August 2018) as well as the composition of the delegation, as set out respectively in paragraphs 7, 9 and 10 of the paper.

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8. Dr Helena WONG said that the incidents occurred in March and May 2017 concerning the quality of Brazilian frozen and chilled meat and poultry products and involving falsified health certificates for food imported from Brazil both associated with suspected bribery of food safety control officials by meat producers in exchange for permission to sell and export allegedly contaminated meat. She asked whether arrangement could be made for the delegation to understand the remedial measures taken by the Brazilian government in the wake of the incidents with a view to plugging possible loopholes. The Chairman said that while the detailed visit programme would be drawn up with the assistance of the Consulate General of Brazil in Hong Kong, members might forward their suggestions, if any, on the visit programme to the Clerk in writing.

9. In response to Dr Helena WONG's enquiry on the composition of the delegation, the Clerk said that the broad guidelines were that members of the Panel should have priority in participating in the duty visit and with the consent of the Panel, non-Panel members would also be invited to join the visit. Dr WONG considered that the duty visit should be open to all LegCo Members. No members raised objection.

10. Mr HO Kai-ming said that the LegCo Secretariat should remind participating members to receive yellow fever vaccination before the visit and to seek doctor's advice before receiving the vaccine as he understood that travellers with certain health conditions might not be suitable to receive yellow fever vaccination. The Clerk referred members to footnote 4 in Appendix III to the paper which already stated that visitors travelling to Brazil were advised to receive yellow fever vaccination according to the advice of the Department of Health. Mr Tommy CHEUNG suggested that members interested in joining the visit should first consult a doctor and, if decided to join, make timely arrangement for receiving the vaccination.

11. Members agreed to undertake an overseas duty visit to Brazil in August 2018 and supported the proposed arrangements as set out in paragraphs 7, 9 and 10 of the paper. The Chairman advised that the Clerk would proceed to prepare a paper to seek the House Committee's permission for the Panel to undertake the proposed duty visit. Members would be invited to indicate interest to take part in the visit by way of a circular after the meeting.

(Post-meeting note: At the House Committee meeting held on 4 May 2018, permission was given for the Panel to conduct the overseas duty visit proposed vide LC Paper No. CB(2)1312/17-18.)

V. New allocation arrangement for public niches (including extendable niches and computer balloting)

(LC Paper Nos. CB(2)1157/17-18(04) and (05))

12. At the invitation of the Chairman, Permanent Secretary for Food and Health (Food) ("PSFH(F)") briefed Members on the Administration's refined proposals on the extendable arrangement for the use of public niches ("the refined proposals"), as detailed in the Administration's paper (LC Paper No. CB(2)1157/17-18(04)). Members noted the background brief on the subject matter (LC Paper No. CB(2)1157/17-18(05)) prepared by the LegCo Secretariat.

Extendable arrangement for the use of niches

13. Members noted that the Administration proposed to introduce, starting from the coming allocation exercise (tentatively scheduled for end-2018), an extendable arrangement in the allocation of public niches, i.e. an initial interment period of 20 years followed by extension every 10 years on payment of the prevailing prescribed fees. In other words, there was no time limit to the use of a niche allocated, provided that the related persons (i.e. the niche allocatee or nominated representative(s)) confirmed the continued use by extending the interment period following the 20/10-year schedule. Ir Dr LO Wai-kwok, Mr Wilson OR, Mr LAU Kwok-fan and Mr Kenneth LAU expressed support for the general direction of the proposal which, in their views, could help achieve sustainable use of columbarium facilities and land resources. Mr Tommy CHEUNG said that Members belonging to the Liberal Party were supportive of the proposal. These members considered that the Administration should ensure that the public would be well informed of the new allocation arrangements and should make every endeavor to contact the niche allocatees or their nominated representatives to ascertain their wish to renew the interment.

14. Mr CHAN Chi-chuen and Mr SHIU Ka-chun said that while they supported in principle the Administration's proposal to introduce an extendable arrangement for the use of public niches, they considered that the Administration should continue to develop new columbarium facilities to meet the demand for new niches.

15. Dr Helena WONG said that Members belonging to the Democratic Party were opposed to the proposal of introducing an extendable arrangement for the use of niches starting from the coming allocation exercise. Expressing dissatisfaction with the Administration's reluctance to conduct a public consultation on the proposed extendable arrangement, she suggested the Panel holding a public hearing. In Dr WONG's view, the Administration should first step up its effort in taking forward the proposed public

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columbarium developments in the 24 sites identified under the District-based Columbarium Development Scheme. If the Administration decided to pursue the refined proposals, it should set aside a certain percentage of niches for allocation under an extendable arrangement as a trial exercise to assess the public's acceptance. Mr WU Chi-wai shared a similar view.

16. PSFH(F) responded that the Administration decided to introduce an extendable arrangement for the use of public niches after having considered the following:

- (a) given the scarcity of land resources in Hong Kong, sole or predominant reliance on the deposition of cremated ashes in niches (be these public or private) was not sustainable. Field observations conducted by the Administration had revealed that allocated public niches might become increasingly unattended to by descendants with the passage of the time and that grave sweeping for niches allocated years ago was comparatively infrequent;
- (b) assuming full development of all sites identified for public columbaria under the District-based Columbarium Development Scheme, the Administration would be able to increase public niche supply by some 800 000 to 900 000. However, projection based on latest demographic and operational data was that in the next 20 years (from 2018 to 2037), the cumulative number of cremations was around 1.1 million. There was an imperative for the Administration to introduce measures to optimize the use of new public niches coming on stream in the years ahead; and
- (c) if permanent niches and extendable niches were both to be allocated in the same exercise, hardly would there be any incentive for the selection of extendable niches in the absence of a significant fee differential between the two ways of allocation, and it would not be fair and reasonable for the public to shoulder the cost of maintaining permanent niches indefinitely in the future when these niches had become unattended by later generations of the deceased.

17. PSFH(F) added that the Administration had set in train a series of consultation sessions with 18 District Councils ("DCs") or their relevant committees on the proposed adoption of extendable niches. Since DCs were established to advise the Government on, among others, the provision and use of public facilities and services within the districts, it was considered appropriate to consult DCs. So far, the Administration had completed consultation with seven in the districts of Sha Tin, North, Southern, Islands,

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Tsuen Wan, Kwun Tong and Yau Tsim Mong. They all supported in principle more sustainable use of land resources through adoption of extendable niches. The Administration would continue to consult the remaining 11 DCs in the coming two months.

18. In response to the enquiries of Mr WU Chi-wai and Ir Dr LO Wai-kwok, PSFH(F) said that the Food and Environmental Hygiene Department ("FEHD") had since January 2014 removed the cap on the number of sets of ashes that might be placed in public niches. To encourage co-location of additional ashes (i.e. shared use of niches), the Administration proposed that: (a) the new set of ashes would, starting from the co-location date, be given a fresh initial interment period of 20 years, which might be extended at 10-year intervals afterwards; (b) the above new interment schedule would supersede and replace the original interment schedule due to the first set of ashes occupying the niche; and (c) if more sets of ashes were added to the niche later, the same new interment schedule would apply and supersede the original one.

19. Mr Kenneth LAU expressed concern about the shortage of niches in Hong Kong and the resultant increase in the price of private niches. PSFH(F) responded that the Administration reckoned that following the implementation of the Private Columbaria Ordinance (Cap. 630), many operators of licensed private columbaria might have to change the current mode of operation resulting in more recycling use of niches. Some non-Government bodies providing niches were also taking new management initiatives to optimize the land allocated to them for burial and columbarium facilities and services. The Hong Kong Chinese Christian Churches Union, for instance, had since August 2017 introduced a time limit to the niches in their cemeteries for an initial interment period of 20 years which was extendable for every 10 years subject to renewal and payment. Indeed, many private columbaria had taken or were taking active steps to introduce time-limited occupation of niches against the present perpetual interment arrangement. As such, the Administration expected that the proposed extendable arrangement for the use of public niches would not lead to a surge in the price of private niches.

Application for extension of interment and associated arrangements

20. In response to Mr POON Siu-ping's enquiry, PSFH(F) said that the Administration's preliminary intention was to allow a niche allocatee to nominate a reasonable number of representatives (say, two or three) who might apply for extension of the interment period of a niche (with order of priority indicated), so as to provide added flexibility of niche extension. Mr POON and Ms Alice MAK asked whether the Administration would re-consider members' suggestion that organizations or community bodies

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could be nominated as niche allocatees or their representatives to apply for extension of interment. Mr CHAN Chi-chuen opined that organizations or community bodies should be eligible to be the allocatee and/or nominated representative(s).

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21. PSFH(F) responded that the Administration would not encourage the nomination of organizations or community bodies to be niche allocatees or their representatives to undertake after-death arrangements of a person. That said, the Administration was willing to consider how best to handle requests from organizations or community bodies on a case-by-case basis and would keep members posted of the way forward in this regard.

22. Ms Alice MAK appreciated the rationale behind the proposed arrangement as set out in paragraph 7(e) of the Administration's paper. In her view, if the related persons had not sought extension of interment or removed the ashes from the niches after the expiry of the interment period, the ashes removed by FEHD should be kept for a reasonable period of time to allow the related persons to re-apply for extension of interment or claim back the ashes. In the event that ashes placed in a niche had to be disposed of, FEHD should keep proper record of the final ash disposal arrangement adopted such that the descendants concerned could make applications for placing a memorial plaque for their ancestors in future.

23. Regarding the final ash disposal arrangement, Mr SHIU Ka-chun hoped that the Administration would provide options in the agreement to be signed between a niche allocatee and the Administration. He suggested that the Administration should consider providing temporary storage service for ashes that had to be removed from public niches after the expiry of the interment period.

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24. PSFH(F) responded that FEHD provided service for temporary storage of cremains in all its crematoria free of charge in the first two months following cremation and the duration might be extended upon application at a monthly fee of \$80. FEHD was exploring whether the paying of tribute by family members could be allowed in some way in these temporary storage facilities. At Mr SHIU Ka-chun's request, the Administration would provide more detailed information on the interim measures to be introduced for handling interred ashes that had to be removed from public niches after the expiry of the interment period and the available options of final disposal other than the ash disposal methods as set out in paragraph (d) of Annex A to the Administration's paper.

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Fee proposals for extendable niches

25. Mr POON Siu-ping and Mr Kenneth LAU enquired about the amount of the proposed new fees for extendable standard and large niches and the charges for extending the interment period of these niches. Ms Alice MAK expressed concern that with the passage of time, a particular descendant might have to apply for extension of interment for a number of niches of different ancestors. In her view, the Administration should not charge applicants any fees for extending the interment period of niches to avoid too heavy a financial burden on the descendants.

26. In response, PSFH(F) advised that the one-off fees for the permanent deposit of ashes were currently \$2,800 for a standard niche and \$3,600 for a large niche respectively, which were basically set by the two ex-municipal councils some 20 years ago. Despite the fact that this rate was far from being able to recover the full cost in operating public columbaria, in a bid to encourage sustainable development of columbaria facilities, the Administration proposed no change to the current fees in absolute terms, i.e. \$2,800 for a standard niche and \$3,600 for a large niche, though the term would be for 20 years rather than permanently. As a preliminary thinking, the fees for each 10-year extension period for an extendable standard niche and large niche would respectively be \$1,400 and \$1,800. As the current fees for public niches were set out in Schedule 6 of the Public Health and Municipal Services (Fees) Regulation (Cap. 132CJ), the Administration would propose amendments by way of subsidiary legislation to give effect to the above fees for extendable standard and large niches, subject to negative vetting by the LegCo.

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27. The Administration was requested to advise in writing the amount of the proposed new fees for extendable standard and large niches, respectively for (a) the initial 20-year interment period; (b) subsequent co-location of ashes of the second deceased for initial interment and (c) each 10-year extension period thereafter (preferably with examples to illustrate the fee proposals in different scenarios as set out in paragraph 6 of the Administration's paper).

Allocation arrangement for public niches by computer balloting

28. Ms Alice MAK and Mr SHIU Ka-chun asked whether the Administration would consider adopting a registration and queuing system for application and allocation of public niches on a first-come-first-served basis. Mr Wilson OR expressed concern that under the existing mechanism whereby niches were allocated by computer balloting, some applicants might have to wait for a very long time for allocation of niches. In his view, placing applicants on a waiting list would enhance transparency in the allocation process.

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29. PSFH(F) responded that the Administration had critically examined the suggestion of compiling a waiting list for applicants of public niches who would be entertained on a first-come-first-served basis, but was not inclined to adopt this suggestion given the considerations as set out in paragraph 10 of the Administration's paper. She stressed that Hong Kong was facing an aging population. The cumulative number of cremations in the next 20 years (from 2018 to 2037) was projected to be around 1.1 million. It was apparent that the current proposals for public columbarium projects, even if materialized at the end despite all the difficulties, could not alone meet such demands. A waiting list to be entertained on a first-come-first-served basis was inequitable in principle as it would prejudice those deceased in later years. Moreover, since there was a huge niche price difference between public and private columbaria, a waiting list set for public niches could inadvertently breed lucrative speculative activities (e.g. re-selling the private niches for pecuniary gains upon allocation of a public niche for a deceased relative). There was no law against such speculation and even if there were, policing and enforcement would be difficult.

30. In response to a follow-up enquiry of Mr SHIU Ka-chun, PSFH(F) said that to ensure fairness, the Administration proposed that niche allocation should continue to be determined by computer balloting. The Administration considered it inappropriate to set up a waitlisting mechanism for allocation of public niches as recommended by the Ombudsman in 2014.

31. Mr SHIU Ka-chun held the view that the Administration should maintain the existing practice whereby applicants would be given a choice to select niches according to the priority number assigned to them by computer balloting. At his request, the Administration would provide information on its Administration's publicity efforts to be made to advise the public on the new allocation arrangement, including the extendable arrangement for the use of niches, the allocation of niches by computer balloting on a random basis and the proposal to give additional ballot weighting to specified groups of applications.

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Promotion of green burial

32. Mr WU Chi-wai, Dr Helena WONG and Ir Dr LO Wai-kwok appreciated the Administration's efforts in promoting green burial. Noting that the number of green burial cases handled by FEHD in 2017 only accounted for about 12.9% (up to December 2017) of the total number of deaths in Hong Kong, Mr SHIU Ka-chun, Mr Wilson OR and Mr LAU Kwok-fan enquired about the measures to be taken by the Administration to increase the community acceptance of green burial as a sustainable form of ash disposal. Mr OR considered that the Administration should set clear objectives and target usage rates for green burial services.

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33. In response, PSFH(F) advised that FEHD had been stepping up the promotion of green burial through various publicity channels. For instance, it worked closely with community partners to cultivate a change in mindset in different sectors of society by organizing activities embodying the theme of green burial. District organizations/institutions were also welcomed to submit proposals on promoting green burial for FEHD's consideration.

34. Mr WU Chi-wai suggested that the Administration should promote other alternatives of handling ashes, e.g. turning ashes into synthetic diamond. PSFH(F) responded that the Administration was aware that services of turning human ashes into synthetic materials/diamonds were available in the market. FEHD did not have any particular concern about the deposit of such materials in public niches.

VI. Issues relating to Hong Kong's liquor licensing system and the operation of the Liquor Licensing Board

(LC Paper Nos. CB(2)178/17-18(01), CB(2)290/17-18(01), CB(2)1157/17-18(06) and (07))

35. At the invitation of the Chairman, PSFH(F) briefed Members on the salient points of the Administration's paper (LC Paper No. CB(2)1157/17-18(06)), which gave an overview of the existing liquor licensing system in Hong Kong including the trade facilitation measures introduced over the past few years and the way forward. Members noted the background brief entitled "Issues relating to the operation of the Liquor Licensing Board ("LLB")" (LC Paper No. CB(2)1157/17-18(07)) prepared by the LegCo Secretariat.

The liquor licensing system

Application for liquor licence and review of the licensing regime

36. Mr Tommy CHEUNG considered that liquor licences should be classified into different categories in accordance with their risk levels and low-risk licensed premises (e.g. the sale of liquor took up only a small percentage of the business turnover of the premises) should be subject to less stringent control/licensing conditions. He suggested that consideration should be given to allowing a body corporate or a partnership be issued with a liquor licence (instead of requiring a natural person to apply for and hold the licence) or, if that was found not feasible, allowing multiple licensees or a "reserve licensee" mechanism. This could help address the food business' concern that businesses occasionally suffered from a disruption in operation when the licensee left the service without transferring his licence to his successor. The Chairman shared a similar view.

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37. The Chairman and Mr Tommy CHEUNG were also concerned that LLB imposed additional conditions on licensed premises even though complaints (some were repeated and anonymous complaints) lodged against the premises concerned were found unsubstantiated after investigation by the relevant government departments. In their view, LLB should not impose overly stringent requirements when assessing the liquor licence applications.

38. PSFH(F) said that in considering liquor licence applications, LLB aimed to balance the interests of legitimate commercial activities and those of the locality. The Administration would explore the feasibility of classifying liquor licences into different categories in accordance with their risk levels, such that low-risk licensed premises (e.g. licensed premises with a good track record) were subject to less stringent licensing control. The Administration considered that prima facie, there were clear merits in calibrating scrutiny and enforcement (including licence renewal frequency) by a risk-based approach, as this could enable greater time and attention to possibly higher-risk cases while reducing the compliance cost and time for the clear-cut low-risk cases. Relevant factors to assess risks might include, for example, past conduct/track record of the applicant and/or the premises, liquor-related infractions, locations, hours of operation, etc.

39. PSFH(F) further said that whether a licensee must be a natural person or could be a body corporate required careful consideration as it could have important enforcement implications. In respect of this and the proposal for adopting a risk-based approach to scrutiny/enforcement, the Administration would conduct more detailed analysis including drawing reference from experiences in other jurisdictions. If refinements should seriously be considered, the Administration would deliberate the operational implications and consult relevant stakeholders.

40. Mr LEUNG Che-cheung said that as the Police was responsible for enforcement of the law, it might be more inclined to consider liquor licence applications from public safety and crime prevention perspectives, which, in his view, might create unfairness to the applicants. Regarding the appeal mechanism, Mr LEUNG pointed out that it might not be easy for residents to obtain sufficient support (i.e. to have 20 or more residents living near the premises concerned who felt aggrieved by the licensing decisions made by LLB) before lodging an appeal to the Municipal Services Appeals Board ("MSAB"). He hoped that the Administration would examine the above issues when undertaking its continuous review of matters related to LLB and the efficacy of the liquor licensing regime. The Deputy Chairman opined that the Administration should review and consider lowering the threshold for making an appeal to MSAB. At the Chairman's request, the Administration undertook to revert to the Panel on the overall direction and the outcome of the Administration's review of matters related to LLB and the liquor licensing regime.

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41. Mr CHAN Chi-chuen said that he had received complaints from members of the bar industry that LLB did not adopt the same yardsticks in assessing liquor licence applications from bars located in the same district/area. In response, PSFH(F) stressed that LLB adopted the same set of licensing criteria as laid down in regulation 17(2) of the Dutiable Commodities (Liquor) Regulations (Cap. 109B) ("DCLR") in considering each liquor licence application. Based on a case-by-case assessment, LLB might impose additional conditions on the licensed premises (e.g. restricting the liquor selling hours and requiring front doors which faced the streets to be closed during specific hours), in order to minimize the nuisance caused to nearby residents. Should the applicants concerned feel aggrieved by the licensing decisions made by LLB, they might appeal to MSAB.

42. The Chairman and Mr Tommy CHEUNG expressed concern about the long processing time required for some liquor licence applications. They considered that LLB should expedite the processing of liquor licence applications, in particular during the summer recess. PSFH(F) responded that since the summer of 2017, LLB had implemented a mechanism to monitor the progress of new liquor licence applications received in May and June each year with a view to ensuring the timely issue of liquor licences.

43. Mr CHAN Chi-chuen said that it was his understanding that the trade had grave concern about the proposal put forward by the Administration in July 2017 to adjust the fees and charges for various liquor licensing services, including issue of new licence and licence renewal. He asked about the latest development of the matter. PSFH(F) responded that the Administration had consulted members and received deputations' views on the fee adjustment proposal at the Panel meetings held on 11 July and 22 September 2017. Taking into account the views received, the Administration would not pursue the proposal at the present stage.

Nuisances caused by bars and restaurants

44. The Deputy Chairman and Mr HUI Chi-fung were concerned that the environmental hygiene and noise nuisance caused by bars in some districts had seriously affected the daily lives of nearby residents. Mr HUI expressed dissatisfaction that the Administration did not take concrete measures to mitigate the nuisance caused by bars. In their view, if a body corporate/partnership was allowed to be a licensee, it might give rise to doubt as to whether the body corporate/partnership concerned could be held liable for contravention of the licensing conditions. The complexity of the composition of the body corporate concerned might exacerbate the problems of criminal prosecution. This would hinder effective enforcement and maintenance of law and order on licensed premises, and clearly not in the public interest.

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45. The Deputy Chairman said that some objectors might not be willing to attend open hearings held by LLB due to various reasons (e.g. personal security concern) after having lodged a complaint. He enquired about the measures to be taken by the Administration to effectively handle complaints received against a licensed premises. Mr HUI Chi-fung requested the Administration to provide information on (a) the measures to be taken by the Administration to address the nuisances caused by the operation of bars to the surrounding environment; (b) the number of liquor licence applications rejected by LLB in the past three years due to adverse comments/objections received from members of the public or the relevant government departments (e.g. the Police); and (c) the number of cases in the past three years (breakdown by new application and licence renewal) in which LLB had imposed additional conditions on the licensed premises, after taking into account the advice from the relevant government departments and the views received during the consultation.

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46. PSFH(F) advised that to minimize the nuisance caused to nearby residents, LLB might impose additional conditions on the licensed premises, such as restricting liquor selling hours and setting number of persons permitted on the premises. Moreover, upstairs bars were subject to two additional conditions in accordance with the Guidelines on Assessing Liquor Licence Applications. As mentioned earlier, the Administration would consider classifying liquor licences into different categories in accordance with their risk levels, such that low-risk licensed premises were subject to less stringent control. This could enable greater time and attention to possibly higher-risk cases while reducing the compliance cost and time for the clear-cut low-risk cases. In response to Mr HUI Chi-fung's follow-up enquiry, PSFH(F) advised that the Administration would not rule out the possibility of increasing the penalties for breaches of licensing conditions and other nuisance-related offences in liquor-licensed premises.

47. Mr POON Siu-ping noted that under the existing arrangement, when serious crimes (e.g. sale of dangerous drugs) or breach of licensing conditions (e.g. sale and supply of intoxicating liquor to persons aged below 18 for consumption on the licensed premises) was discovered in liquor-licensed premises, which warranted revocation of the liquor licence, the Police might make such recommendation to LLB regardless of whether the licence was due to expire or not. He asked about the numbers of cases recorded in the past three years respectively in which (a) the Police had recommended the revocation of licence and (b) the liquor licence was revoked due to the Police's recommendations.

48. Deputy Director of Food and Environmental Hygiene (Environmental Hygiene) responded that LLB revoked 16 and 21 liquor licences in 2015 and 2017 respectively. Only two licences (one each in 2015 and 2017) were

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revoked because the licensed premises were associated with serious crimes (i.e. sale of dangerous drugs). The rest were revoked as a result of cessation of business. No liquor licence was revoked due to breach of licensing condition or contravention of legislation in 2016.

The operation of the Liquor Licensing Board

49. The Deputy Chairman said that in October 2017, there were media reports about a dinner gathering attended by some LLB members (including the Chairman and the Vice-Chairman) at a restaurant operated by a relative of an LLB member, the liquor licence of which had been renewed by LLB at a closed-door meeting. The matter had attracted public concern as to whether LLB had given preferential treatment to its member when processing the relevant liquor licence application. The Deputy Chairman called on the Administration to review LLB's composition and its system of declaration of interests to prevent recurrence of similar incidents.

50. PSFH(F) responded that as provided for in regulation 2A of DCLR, LLB comprised one Chairman, one Vice Chairman and nine other members, all non-officials appointed by the Chief Executive. The members were of different occupations and backgrounds, ranging from elected Member of DCs, company director, catering business owner, accountant, solicitor to social worker, reflecting a broad representation of interests. LLB had currently adopted a two-tier reporting system for its members to make a declaration of interests, including (a) the Chairman and members should register in writing their personal interests on their first appointment to LLB, and annually thereafter, to the secretary of LLB, with related information being uploaded to the register of interests on LLB's website; and (b) the Chairman and members should declare their interests and, if necessary, withdraw themselves from the relevant meetings prior to the discussion of any applications which might involve conflict of interests. PSFH(F) further said that after the incident which occurred in October 2017 as referred to by the Deputy Chairman, additional measures had been introduced to ensure that LLB members registered their interests properly.

VII. Implementation of the Convention on the Conservation of Antarctic Marine Living Resources in Hong Kong

(LC Paper Nos. CB(2)1157/17-18(08) and (09))

51. At the invitation of the Chairman, Deputy Director of Agriculture, Fisheries and Conservation ("DDAFC") briefed Members on the legislative proposal for implementing the Convention on the Conservation of Antarctic Marine Living Resources ("CCAMLR") in Hong Kong with a view to better protecting Antarctic marine living resources, as detailed in the

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Administration's paper (LC Paper No. CB(2)1157/17-18(08)). Members noted the background brief on the subject (LC Paper No. CB(2)1157/17-18(09)) prepared by the LegCo Secretariat.

Application of CCAMLR to Hong Kong

52. Mr SHIU Ka-fai enquired about the basis for extending the application of CCAMLR to the Hong Kong Special Administrative Region ("HKSAR") and whether CCAMLR effected regulation on species other than toothfish. DDAFC responded that:

- (a) CCAMLR was an international convention entered into force in 1982 with the objective of conserving Antarctic marine living resources, such as toothfish, Antarctic krill and icefish. To give effect to the objectives and principles of CCAMLR, including regulating activities associated with the rational utilization and management of the marine living resources in the Convention Area, the Commission for the Conservation of Antarctic Marine Living Resources ("the Commission") currently adopted a total of 69 Conservation Measures ("CMs") to support the conservation of Antarctic marine living resources and the management of fisheries in the Southern Ocean;
- (b) while toothfish was not classified as endangered, their biological characteristics (such as longevity, large size, slow growth and late maturation) made them highly vulnerable to overfishing and long-term detrimental impact. With toothfish being highly sought after as a table fish in some overseas countries, the toothfish resources had been experiencing significant levels of exploitation and illegal, unreported and unregulated ("IUU") fishing; and
- (c) according to the Commission, Hong Kong had become one of the major importing economies of toothfish. In order to protect toothfish from IUU fishing and to contribute to the international concerted efforts in the protection and sustainable use of Antarctic marine living resources, the Central People's Government, upon consultation with the HKSAR Government had agreed in principle to extend the application of CCAMLR to HKSAR. Both CCAMLR and its 69 CMs would then be binding on HKSAR. However, as Hong Kong had no fishing vessel operating in the Convention Area and would unlikely have any in the future, the HKSAR Government would implement CCAMLR and only those six CMs identified to be relevant to Hong Kong by enacting domestic legislation and

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introducing a new licensing regime regulating the trading of toothfish.

53. In response to Mr SHIU Ka-fai's further enquiry, DDAFC advised that currently there were a total of 36 Contracting Parties (comprising 25 members and 11 acceding states) committed to be bound by CCAMLR and its CMs. The Government of the People's Republic of China acceded to CCAMLR in 2006.

54. Dr Elizabeth QUAT said that as Antarctic krill contained rich omega-3 fatty acids, the fishery activities of Antarctic krill had been expanding in recent years to cater for the increasing demand for krill products (e.g. krill oil). Expressing concern about the rapid depletion of the Antarctic krill resources, Dr QUAT enquired whether the Administration had any plan to extend the scope of the proposed legislation to regulate the trading of Antarctic krill. The Chairman shared a similar concern and suggested that the Administration should promote the adoption of/substitution by sustainable alternative products so as to ease the demand for krill products.

55. DDAFC responded that CCAMLR had in place CMs regulating the harvesting of Antarctic krill in the Convention Area whereby a catch quota was set for each fishery, so as to fulfill the management objectives of balancing conservation and rational use of living resources and maintaining existing ecological relationships. Those CMs did not cover the trading of Antarctic krill. According to the Commission, the annual catch volume of Antarctic krill in the Convention Area had not reached the ceiling of the catch limit. The Administration would continue to keep in view the development of CCAMLR. If, in the future, other CMs adopted by the Commission were relevant to HKSAR, the Administration would consider if their implementation in Hong Kong was required.

Impact on the trade

56. Mr SHIU Ka-fai enquired about the number of toothfish traders in Hong Kong and whether the Administration had assessed the impact of the new regulatory regime on the trade. DDAFC responded that currently, about 10 local companies were engaged in the trading of toothfish in Hong Kong. The annual trade volume of toothfish accounted for less than 1% of the total consumption of fisheries products in Hong Kong. The application of CCAMLR to Hong Kong would therefore have minimal impact on the trade. The Administration planned to introduce the Conservation of Antarctic Marine Living Resources Bill into LegCo in the latter half of 2018. Subject to the passage of the Bill, it would take forward the legislative exercises for the two relevant Regulations. A grace period of six months would be proposed to allow time for the trade to adapt to the new requirements.

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57. Noting that the Agriculture, Fisheries and Conservation Department ("AFCD") had consulted the trade and relevant stakeholders, the Chairman asked about the details of the consultation exercise on the proposed regulatory regime. Mr SHIU Ka-fai enquired about the trade's response to the proposed implementation of CCAMLR and relevant CMs in Hong Kong.

58. DDAFC replied that the Administration had conducted another round of consultation in the first quarter of 2018. During the consultation period, AFCD had organized consultation forums with key stakeholders including importers, wholesalers and retailers of seafood, representatives of relevant trader and catering associations, environmental concern groups and other advisory bodies (e.g. the Fish Marketing Advisory Board). All the parties consulted welcomed the implementation of CCAMLR in Hong Kong. While considering that the proposed control scheme for the trading of toothfish would not cause significant burden on their operation, the trade hoped that the licence application procedures would be simple and user-friendly. The Chairman and Mr SHIU Ka-fai requested the Administration to provide a list of business entities engaging in the trading (import, export and re-export) of toothfish in Hong Kong.

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59. Concluding the discussion, the Chairman said that members present supported the proposed implementation of CCAMLR in Hong Kong.

VIII. Any other business

60. There being no other business, the meeting ended at 4:28 pm.

Council Business Division 2
Legislative Council Secretariat
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