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Panel on Food Safety and Environmental Hygiene

**Background brief prepared by the Legislative Council Secretariat
for the meeting on 11 December 2018**

**Issues relating to hawker policy and
the implementation of the Licensed Hawker Assistance Scheme**

Purpose

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

Background

Government's hawker policy

2. There are two main types of hawker licence, namely fixed-pitch hawker licence and itinerant hawker licence, in Hong Kong. According to the Administration, the Government's policy towards hawkers and hawking, which underpins the relevant licensing and management arrangements, has evolved in tandem with changes in community needs and aspirations, some of which may stem from divergent values and perspectives. It has been the Government's official position since the early 1970s that no new hawker licences should normally be issued and that on-street licensed hawkers should be put into public market buildings or off-street hawker bazaars as far as practicable.

3. According to the information provided by the Administration in July 2014, the hawker control policies adopted by the former Municipal Councils were to (a) dissociate welfare considerations from hawker licensing and hawking activities; (b) reduce on-street licensed hawking activities by re-siting

or re-ordering licensed hawkers; (c) reduce illegal hawking activities by taking stringent enforcement actions at major hawker blackspots; (d) exercise higher enforcement priorities against illegal hawkers selling food items; (e) protect public market stall operators against unfair competition from illegal hawkers; (f) stop issuing new hawker licences under normal circumstances; and (g) restrict the succession and transfer of hawker licences already issued. The Food and Environmental Hygiene Department ("FEHD"), established in 2000 following the dissolution of the two former Municipal Councils, has been pursuing the above policies on hawker control and licensing. Over the years, the following reviews and measures have been conducted and implemented:

- (a) revised enforcement strategies in 2001;
- (b) Voluntary Surrender Scheme for Hawker Licences in 2002;
- (c) Hawker Licensing Policy Review in 2008;
- (d) issue of fixed-pitch hawker licence to former tobacco hawkers or retailers in 2010;
- (e) public consultation on management of fixed-pitch hawker areas in 2011 and 2012; and
- (f) the Hawker Assistance Scheme in 2013.

The Hawker Assistance Scheme

4. To reduce the fire risks posed by on-street hawking activities, the Administration obtained funding approval of \$230 million from the Finance Committee in March 2013 for operating the five-year Hawker Assistance Scheme which was designed with the following features:

- (a) hawkers who are required by FEHD to move their stalls for fire safety reasons may apply for a one-off relocation cum reconstruction grant to dismantle their old stalls and build new ones at the new pitch spaces in accordance with a set of prescribed fire-resisting specifications for reducing fire risks;
- (b) hawkers who are not required to relocate their stalls under (a) may apply for a one-off grant to carry out partial or full reconstruction of their stalls in-situ to meet the prescribed fire-resisting specifications; and
- (c) an ex-gratia payment ("EGP") will be paid to hawkers (except those whose licences were newly issued pursuant to the Hawker

Licensing Policy Review in 2008-2009) who opt for voluntary surrender of their hawker licences to the Government. This helps expedite the release of vacant pitches and hence facilitates the relocation of stalls which pose higher fire risks. Hawkers who obtain a one-off grant for relocation cum reconstruction or in-situ reconstruction of their stalls under the Hawker Assistance Scheme are however not eligible for EGP, if they surrender their hawker licences subsequently.

Members' views and concerns

5. Members' major views and concerns on the subject are summarized below.

Hawker policy

Need for a review of hawker policy

6. The Subcommittee on Hawker Policy formed under the Panel in the Fifth Legislative Council ("LegCo") studied and reviewed the hawker policy with the objectives of facilitating the long-term development of the hawking trade and improvement of the management and operating environment of the hawker areas.¹ During the study process, a query was raised as to whether the Government's ultimate goal was to "phase out" the hawking trade. In some members' view, the hawking trade served important social functions by not only offering a cheap source of goods for the public at large, but also providing employment opportunities and a means of living for the grassroots. The Administration should review the existing policy of hawker control and management, with a view to formulating a new hawker policy from the "development" and "town planning" perspectives. If new regulatory requirements were to be introduced, they should not be made excessively harsh as to hinder the development of the hawking trade.

7. According to the Administration, hawker policy should strike a sensible balance between economic considerations on the one hand and the community's need for social and cultural developments on the other. While the hawker policy should not focus solely on business objective, hawkers would still be required to identify a market niche that was sustainable in terms of business viability. By the same token, social and cultural developments should not be an excuse to justify hawkers' insulation from market forces. As such, local hawker policy should be formulated from a "regulated development" perspective balancing among regulation, eradication and development.

¹ The details of the Subcommittee's deliberations and recommendations are set out in its report (LC Paper No. CB(4)1497/14-15).

Issuing new fixed-pitch hawker licences

8. Members in general supported the issue of new fixed-pitch hawker licences to maintain a critical mass of hawkers and visitors of the hawker areas. Given that hawker assistants who were actually operating the fixed-pitch would lose their jobs instantly once their employers surrendered the licences, members suggested that a reasonable number of such licences should be open to registered hawker assistants (5 575 in total as at mid-April 2015) for priority review and approval of licence applications in accordance with hawker assistants' years of experience, so as to fill the vacant pitches in various hawker areas.

9. The Administration advised that it would carefully consider the matter at a suitable time after the initiatives under the Hawker Assistance Scheme to relocate and reconstruct hawker stalls had been completed by June 2018, taking into account the circumstances of individual hawker areas, including their fire safety and environmental hygiene situations, the business environment, comments of relevant departments, as well as the views of the relevant District Council and local residents.

10. Members urged the Administration to commence the preparation work for issuing new fixed-pitch hawker licences, taking into account the implementation progress of the Hawker Assistance Scheme and in anticipation of the total number of licences to be surrendered by target hawkers. The Administration advised that as the number of licences to be surrendered by hawkers could not be ascertained until the conclusion of the Hawker Assistance Scheme, the Administration considered it appropriate to conduct the review of issuing new licences after the expiry of the Hawker Assistance Scheme in June 2018.

Implementation of the Hawker Assistance Scheme

Objective of the Scheme

11. In response to a query as to whether the objective of the Hawker Assistance Scheme was to reduce the number of hawkers, the Administration stressed that it fully recognized the history of hawking and the contribution of hawkers to the economy of Hong Kong, and had endeavored to preserve the vitality of the hawking trade. Since the purpose of the voluntary licence surrender arrangement under the Scheme was to help expedite the release of vacant pitches for relocation of stalls that had higher fire risks, the total number of hawkers would inevitably be reduced with the implementation of the voluntary licence surrender arrangement. That said, the Hawker Assistance Scheme was not driven by an intention to reduce the number of hawkers.

Eligibility of applicants

12. Some members expressed dissatisfaction that the voluntary licence surrender arrangement was only applicable to the licensed hawkers operating in the 43 fixed-pitch hawker areas, but not the 141 hawkers whose licences were issued after the Hawker Licensing Policy Review in 2008-2009. In these members' view, EGP should be made available to all hawkers.

13. The Administration advised that following the Hawker Licensing Policy Review in 2008-2009, new hawker licences had been issued in 2010 and 2011 to people who were interested in the hawking trade. As these new hawkers had entered into the trade only for a short period of time, there was no strong case for allowing them to surrender their licences in order to apply for EGP. Besides, the purpose of the voluntary licence surrender arrangement was to facilitate the vacation of pitches for the relocation of on-street hawker stalls, thereby mitigating the fire risks posed by on-street hawking activities. Hawkers operating in the 18 off-street hawker bazaars which had better fire safety facilities were not the targeted candidates of the voluntary licence surrender arrangement.

Ex-gratia payment

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

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

Recent developments

16. The Administration provided the Panel with an information paper in July 2018 (LC Paper No. CB(2)1809/17-18(01)) reporting on the progress and outcome of the Hawker Assistance Scheme. According to the Administration, the Scheme, which was launched on 3 June 2013, expired on 2 June 2018.

17. The Panel will receive a briefing by the Administration at the meeting on 11 December 2018 on the results of the Hawker Assistance Scheme and the Government's policy on hawker control and management.

Relevant papers

18. A list of the relevant papers on the LegCo's website is in the **Appendix**.

Council Business Division 2
Legislative Council Secretariat
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Appendix

Relevant papers on the Issues relating to hawker policy and the implementation of the Licensed Hawker Assistance Scheme

Committee	Date of meeting	Paper
Panel on Food Safety and Environmental Hygiene	5.2.2013 (Item III)	<u>Agenda</u> <u>Minutes</u>
Subcommittee on Hawker Policy	-	<u>Report of Subcommittee on Hawker Policy</u>
Panel on Food Safety and Environmental Hygiene	8.12.2015 (Item V)	<u>Agenda</u> <u>Minutes</u>
	12.7.2018*	Administration's paper entitled "Progress Report on the Implementation of the Hawker Assistance Scheme" (LC Paper No. <u>CB(2)1809/17-18(01)</u>)
Legislative Council	31.10.2018	<u>Written question raised by Hon HO Kai-ming on "Hawker Assistance Scheme"</u>

* Issue date