

**For Information**

**Legislative Council Panel on Food Safety and Environmental Hygiene**

**Issues relating to Liquor Licensing and  
Liquor Licence Fees**

**Purpose**

This paper briefs Members on the liquor licensing regime and the latest development of the liquor licence fee adjustment.

**Liquor Licensing Regime**

Approving Authority and Enforcement Agencies

2. The Dutiable Commodities (Liquor) Regulations (Cap. 109B) (“the Regulations”) is the principal legislation governing the liquor licensing system in Hong Kong. The Liquor Licensing Board (“LLB”)<sup>1</sup> is established under the Regulations as an independent decision-making authority to consider applications for liquor licences, including club liquor licences.

3. The Food and Environmental Hygiene Department (“FEHD”) is LLB’s executive arm that processes and issues liquor licences. The Police is the main enforcement department for the liquor licensing regime. Other relevant Government departments such as the Fire Services Department, the Environmental Protection Department and FEHD enforce the laws and regulations under their respective purview with regard to the liquor-licensed premises<sup>2</sup>.

Processing of Liquor Licence Applications

4. When examining a liquor licence application, LLB adopts an open, transparent and fair approach and aims to balance the interests of legitimate commercial activities and those of the locality. Pursuant to regulation 17(2) of the Regulations, LLB will give due consideration to all relevant issues, including:

- (a) whether the applicant is a fit and proper person to hold the licence;

---

<sup>1</sup> Appointed by the Chief Executive, LLB consists of a Chairman, a Vice Chairman and nine other members.

<sup>2</sup> The enforcement agencies conduct regular and surprise checks on liquor-licensed premises so as to ensure continued compliance with the respectively statutory and administrative requirements. Upon the public lodging complaints to LLB directly, FEHD will refer the complaints to the Government departments under their respective purview for appropriate actions.

- (b) whether the location and structure of the premises and the fire safety and hygienic conditions thereof are suitable for the sale of liquor; and
- (c) whether the grant of the licence is contrary to the public interest.

5. Moreover, regulation 14A of the Regulations states that LLB may determine the procedure for meetings of and applications to LLB including the manner of making, hearing and determining applications and the documents to be lodged or served in connection with applications.

6. In considering a new liquor licence application, LLB consults the relevant government departments, including the Police, the Buildings Department, and the District Office (“DO”)<sup>3</sup> via FEHD. The applicant is required to place an advertisement in local newspapers, and the same advertisement is also posted on LLB’s webpage for information and comment by relevant parties. In addition, FEHD will post notice about the applications at the building where the premises under application are located. The public can comment on the applications through submission to LLB or the local consultation.

7. For any case with neither objection nor adverse comment<sup>4</sup>, FEHD will approve the application under the authority delegated by LLB. For any contentious case<sup>5</sup>, LLB will conduct an internal meeting for deliberations. For any contested case<sup>6</sup>, LLB will conduct an open hearing<sup>7</sup> to listen to representations from the applicant, the objector(s) and the relevant Government departments and then come up with an independent decision on the case concerned after details of the case have been duly scrutinised and deliberated. After taking into account all material considerations, LLB may take appropriate action as may be justified, including giving a licence period shorter than the full term, imposing new licensing conditions, or refusing an application altogether.

---

<sup>3</sup> DO will consult stakeholders in local communities directly affected by the applications, including members of the District Council concerned and representatives of the relevant residents’ organizations, e.g. Owners Corporations or Mutual Aid Committees, and refer the views to LLB.

<sup>4</sup> LLB has not received any objection or adverse comment in relation to the liquor licence application from members of the public or from the relevant Government departments.

<sup>5</sup> LLB has received adverse comment(s) in relation to the liquor licence application from members of the public or from the relevant Government departments, but there is no objection to the application.

<sup>6</sup> LLB has received objection(s) in relation to the liquor licence application from members of the public or from the relevant Government departments.

<sup>7</sup> For any contested case where objection(s) is/are received from the public, LLB will conduct an open hearing only if the objector(s) is/are willing to attend the open hearing; otherwise, LLB will arrange an internal meeting for deliberations of the application.

## Approval and Appeal Mechanism

8. Under Regulation 20(3) of the Regulations, a liquor licence is valid for a period of two years or such lesser period as LLB shall determine. For cases with “good track record”<sup>8</sup> for at least two consecutive years immediately before the renewal application, they would be favourably considered by LLB for granting two-year licence renewal<sup>9</sup>.

9. Regulation 17 of the Regulations empower LLB to impose conditions on the licensed premises as it thinks fits. A number of standard conditions are imposed across-the-board on these premises. These standard conditions mainly cover maintenance of public order and duty of licensees, e.g. no disorder should be permitted on the premises and the licensees should personally supervise the premises.

10. Based on a case-by-case assessment, LLB may impose additional conditions on the licensed premises to minimize the nuisance caused to nearby residents, such as restricting liquor selling hours and setting number of persons permitted on the premises. Moreover, upstairs bars<sup>10</sup> are subject to two additional conditions in accordance with the Guidelines on Assessing Liquor Licence Applications (“Guidelines”), i.e.:

- (a) requiring the licensees to attend a mandatory seminar on liquor licensing to help ensure the proper management of upstairs bars; and
- (b) imposing a more stringent capacity limit for upstairs bars to provide more room for the safe evacuation, at times of emergencies, of their employees and customers as well as occupants of the buildings where these premises are located.

11. Pursuant to regulation 17(5) of the Regulations, an applicant or objector to which the application relates may appeal to the Municipal Services Appeals Board if they are not satisfied with the decision made by LLB.

---

<sup>8</sup> By “good track record”, the liquor-licensed premises should meet the following criteria:

- (a) there is no substantiated complaint/enforcement action recorded against the licensed premises or the licensees in the licences register for at least two consecutive years immediately before the renewal application;
- (b) the premises had been granted a liquor licence of at least one year at the time when the licence was last approved or renewed; and
- (c) the licence renewal application is not the subject of objection or adverse comment from the public.

<sup>9</sup> FEHD compiles a register for individual liquor-licensed premises whereby they can check the record of complaints and enforcement actions against the premises. A liquor licence application from a licensee concerning premises with such a record would be treated as contentious and LLB’s attention would be drawn to it together with comments from relevant departments.

<sup>10</sup> Due to the special physical environment and public concerns over nuisance, fire safety and crimes caused by these premises, LLB adopts more stringent criteria as appropriate for applications from upstairs bars.

## Trade Facilitation Measures

12. In 2011, the Government conducted a public consultation on the review of liquor licensing to gauge the public's views on various proposals. Taking into account the views received from the consultation exercise, as well as the Government's continuous review of matters related to LLB and the efficacy of the liquor licensing regime, we have put in place a number of improvement measures over the past few years (at **Annex 1**) with a view to optimizing the operation of LLB and facilitating the trade.

## **Liquor Licence Fees**

### Review of Liquor Licence Fees

13. The current fee levels for liquor licences is set out at **Annex 2**. At the meeting on 11 July 2017, we briefed Members on the outcome of a costing exercise on the liquor licence services that the overall cost recovery rate is only 38% and outlined our plan to review fees and charges with respect to liquor licence fees<sup>11</sup>.

14. Subsequently, consultation sessions with LLB, the Business Facilitation Advisory Committee's Food Business and Related Services Task Force, Task Force on Business Liaison Groups, Recreational Clubs Business Liaison Group (BLG), Karaoke Establishments, Nightclubs, Bars and other Entertainment Clubs BLG as well as Hotels BLG, and relevant trade associations were held in August 2017. Panel Members also met with deputations to receive public views at the special meeting on 22 September 2017<sup>12</sup>.

### Outcome of Stakeholder Consultation

15. While some raised no objection to some suggestions, the trade had reservation about the adjustment proposals. A brief summary of the views received is at **Annex 3**. Their major concerns include: –

- (a) the possible hefty increase in liquor licence fees for some services e.g. transfer and amendment application for liquor licences, if full cost recovery is to be achieved in a few years' time;
- (b) fee levels should be set at levels considered to be reasonable by the

---

<sup>11</sup> Our proposed adjustments and justifications are set out in LC Paper No. CB(2)1809/16-17(05).

<sup>12</sup> An information paper (LC Paper No. CB(2)2019/16-17(01)) was issued to Panel for the special meeting on 22 September 2019.

trade and fee adjustment should be implemented in a gradual manner over a longer period of time to minimise the impact to the trade;

(c) the increase in the fees for transfer and amendment applications which only attract a nominal fee at present; and

(d) the lack of an appropriate fee adjustment mechanism in the past.

16. Given the diverse views received at the consultation sessions, the Government will take some time to formulate balanced and reasonable fee adjustments. We will further consult the Panel when appropriate.

17. In the meantime, further streamlining and facilitation measures will be explored and proposed to provide better service, reduce costs and save time, e.g. enhancement of e-services to liquor licences through an online licence service system.

## **Conclusion**

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

**Food and Health Bureau  
Food and Environmental Hygiene Department  
August 2019**

**Trade Facilitation Measures Implemented in the Past Few Years**

- (a) Publication on LLB website a set of Guidelines capturing the factors that are taken into account when assessing liquor licence applications since December 2013;
- (b) Licensees may submit renewal applications between three and four months prior to the expiry of liquor licence instead of the previous two to three months since December 2013;
- (c) Extension of the maximum duration of a liquor licence to two years since August 2015. The number of valid liquor licences issued with two years as at 31 December 2018 is 4 099, among a total of 8 399 liquor licences;
- (d) Applicants may submit application forms electronically with the assigned passwords since the second half of 2016;
- (e) Implementation of an optional “reserve licensee” mechanism since March 2017, which minimizes 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 from the licensee on vacation leave or under unforeseen situation. As at 31 December 2018, the number of reserved licensee applications approved was 2 854;
- (f) Implementation of 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 since the summer of 2017, e.g. setting up of a mechanism monitoring the progress of each application with a report listing the milestones such as receipt of acceptable application, referral to and reply from departments etc;
- (g) Implementation of a mechanism to deal with applications for transfer of liquor licence in the absence of the licensee’s consent (i.e. the liquor licensee refuses to transfer the licence to another person for various reasons) since July 2017; and
- (h) Issue of renewal notices or reminders for outstanding payment of liquor licence to the licensees/applicants by short message service (SMS) and email notifications since March 2019.

**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

**Summary of Views from Stakeholder Consultation  
on Review of Liquor Licence Fees**

*General*

- By and large, the trade agreed to review and adjust the fee levels for liquor licensing services as the fee levels has maintained almost 20 years but the adjustment should be on an incremental basis, not at one-off.
- Most Panel Members were concerned that the drastic increase in the proposed fee levels which added undue burden to the trade, in particular small and medium enterprises. Proposed fee levels at different types of LL application would have varying degrees of concerns.
- Some suggested to set fee levels that were considered reasonable by the trade and to implement fee adjustment in a gradual manner over a much longer period of time to alleviate the possible impact to the trade or to adopt a lower cost recovery rate for liquor licensing services.
- Some suggested to increase the fee by making reference the total inflation rate in the past years;

*New Issue*

- The trade did not have strong objection to the substantial increase in the fees for issue of new liquor licence which may only increase the cost in opening of new business at one-off. However, the bar association opined that the fee levels for new issue of liquor licence with bar endorsement was still too high.

*Renewal*

- In general, the trade did not object to the increase.

*Transfer and Amendment*

- The trade considered it unreasonable to have drastic increase in the proposed fee levels which is nominal at present (\$140). As it is not uncommon that the liquor licensee is an employee and the staff

turnover rate is quite high, transfer of liquor licences at least once a year is inevitable. The trade generally objected to a hefty increase.

### *Other Views*

- The trade did not consider appropriate for the Government to adopt the “user pay” principle to achieve full cost recovery appropriate, with the Government having accumulated huge fiscal reserves.
- It was unfair to have two fees for premises “with bar endorsement” and “without bar endorsement”. The trade suggested aligning the two liquor licences into one with a single licence fee.
- While agreeing that the measures in respect of liquor licences implemented by FEHD and LLB in the past years such as extension of maximum validity period of licence from one year to two years and reserve licensee mechanism could facilitate the trade, the trade suggested to streamlining the licensing procedures to reduce the handling cost instead of raising the fee and improve efficiency in processing applications.
- Some suggested to review the liquor licensing regime such as removal of natural person to hold the licence and cancellation of the summer recess arrangement of the LLB.
- Some suggested to set up a complaint handling mechanism under LLB to receive and handle complaints lodged by the public against liquor-licensed premises.
- There were complaints against the lack of licensing and regulatory control regarding the sale of liquors by convenience stores for consumption off the premises.