

**For discussion
on 25 February 2002**

LegCo Panel on Food Safety and Environmental Hygiene

**Licensing of Outside Seating Accommodation
for Licensed Restaurants**

PURPOSE

This paper informs Members of the outcome of consultation with District Councils (DCs) and the trade on the licensing of outside seating accommodation (OSA) for licensed restaurants and the implementation proposals.

BACKGROUND

2. At the meeting of the LegCo Panel on Food Safety and Environmental Hygiene held on 26 March 2001, Members discussed the paper on “Review of Outside Seating Arrangement for Licensed Food Premises” (LC Paper No. CB(2) 1148/00-01(05)), which set out the recommendations made by the inter-departmental Working Group for the review of arrangements for approving OSAs. The Food and Environmental Hygiene Department (FEHD) undertook to consult the trade and the District Councils (DC) and report back to the Panel on the outcome of the consultation exercise.

CONSULTATIONS WITH DISTRICT COUNCILS AND THE TRADE

3. Consultations with DCs were completed in late November 2001. Of the 18 DCs, 16 supported the Government’s initiative to promote OSA. Two DCs however did not support the provision of OSA within their residential areas as members were concerned about the likely nuisance caused by the operation of OSA to nearby residents. However, all DCs had no objection to developing OSA in tourist areas and other suitable locations in Hong Kong. They also urged the authorities for greater allowance and flexibility when imposing additional licensing requirements. Some cautioned that OSAs should not be allowed to degenerate into cooked food

bazaars and suggested that there must be effective monitoring by FEHD.

4. The Hong Kong Tourism Board expressed similar views and in particular wished that the restriction on operating hours could be relaxed. As for the trade associations, they wanted more tangible support from the Government to facilitate the development of OSA as part of the promotion of the trade and tourism.

IMPLEMENTATION PROPOSALS

5. In the light of the views received, the Administration has considered the best way forward and put forth the following implementation proposals.

Land Requirement

Permanent OSA

6. Restaurateurs operating OSA on Government land on a daily, exclusive occupation basis are required to secure the right to use the land in question and will have to obtain a short-term tenancy (STT) from the Lands Department. Processing such STT would take about 3 months. As for private land, OSA operators have to obtain the legal right to use the land through their own means.

Temporary OSA

7. In some pedestrianized streets where the condition of the pavements permit, restaurateurs may in conjunction with the pedestrianization scheme be permitted to provide temporary OSAs outside their restaurants during weekends and public holidays including Sundays at specific times, subject to no objection from the departments and DC concerned.

Planning Requirement

8. In the urban area, OSAs without involving permanent structures/building works do not require planning permission from the Town Planning Board (TPB). Planning permission, if required, would be processed by TPB within 2 months under the Town Planning Ordinance.

9. In rural areas, planning permission is not required if “restaurant” use is permitted as of right in the land use zone where the proposed OSA falls. Otherwise

planning permission from TPB would be required.

Hygiene Requirement

10. It is an existing licensing requirement that restaurants operating OSA should provide additional food preparation and scullery area, the size of which should amount to at least one-tenth of the OSA's floor area. FEHD is prepared to relax the application of this requirement, subject to the observance of other conditions in the food preparation and conveyance process to ensure food safety.

Business Hours

11. To address the concerns of some DCs on the potential environmental nuisances that might be caused by OSAs, we will impose a licensing condition specifying the business hours up to 11.00 p.m. on the licence in case the OSA is in close proximity to residential buildings.

Licence Application

12. To promote a more business-friendly system, the Administration will implement a "one-stop-shop" licensing service in processing OSA applications, including applications for the use of Government land, whereby FEHD would arrange for the necessary referrals and follow through the whole process. The Administration will promulgate guidelines on OSA applications to facilitate the trade in applying for the necessary approval.

WAY FORWARD

13. FEHD intends to implement the new arrangement in March 2002.

Food and Environmental Hygiene Department
February 2002