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Paper for the Panel on Food Safety and Environmental Hygiene

Report of the Subcommittee to Study the Streamlining of Food Business Licensing

Purpose

This paper reports on the deliberations of the Subcommittee to Study the Streamlining of Food Business Licensing.

Background

Licensing framework

2. Under section 56 of the Public Health and Municipal Services Ordinance (Cap. 132) and the Food Business Regulation (subsidiary legislation X, Cap. 132), a food business licence is required for the manufacture, storage, sale or preparation of food for human consumption. The Food and Environmental Hygiene Department (FEHD) issues mainly two broad categories of food business licences, i.e. restaurant licence and non-restaurant licence. The category of restaurant licence includes general restaurant, marine restaurant and light refreshment restaurant. The category of non-restaurant licence includes bakery, cold store, factory canteen, food factory, fresh provision shop, frozen confection factory, milk factory, and siu mei and lo mei shop.

3. Section 30 of the Food Business Regulation also stipulates that the permission of the Director of Food and Environmental Hygiene is required for the sale, or possession for sale or use in food preparation, certain kinds of food such as sashimi, sushi, oysters or meat to be eaten in raw state, food to be sold by means of a vending machine, leung-fan (涼粉), non-bottled drinks, frozen confections or milk.

4. The Food Business Regulation sets out in general the application procedures for licences/permits, the conditions for issue of licence, validity period and transfer of licence, offences and penalties, and other conditions for compliance by the licensees.

Consultancy studies on food business licensing

Restaurant licensing

5. The restaurant trade has for many years raised concern about the relatively long time required for the licensing process. In response to such concern, the Business Services Promotion Unit of the Financial Secretary's Office (FS's Office) engaged PricewaterhouseCoopers in December 1998 to conduct a study with a view to revamping the system and expediting the licensing process.

6. In January 2001, the Panel on Food Safety and Environmental Hygiene was briefed on the progress of implementing the improvement measures recommended in the consultancy report. The Panel noted that the Administration had put in place improvement measures such as shortening the time for issuing a Letter of Requirements for a provisional licence, introducing a Case Manager scheme, shortening the retrieval time of building plans and setting up a Resource Centre to provide assistance and information to licence applicants. With these improvements, a provisional licence could be issued in about five weeks and a full licence within four to six months.

Non-restaurant licensing

7. The non-restaurant food trade has also been calling for the licensing regime to be streamlined, in order to shorten the licence application processing time and the number of licences/permits required for selling a variety of food (e.g. supermarkets).

8. To address the concerns of the trade, the Administration engaged KPMG Consulting Asia Limited in September 2000 to conduct a study to streamline the procedures and shorten the time for issuance of licences for non-restaurant food premises. The consultancy report was delivered to the Government in May 2001.

9. The Panel was briefed on the recommendations of the consultancy study on 18 June 2001. Panel members generally supported the recommendations of combining the eight different types of licences into two generic groups, simplifying/standardising the licensing requirements, and streamlining the application and renewal procedures. At the Panel meeting on 22 April 2002, the Administration informed members that the food trade generally preferred to maintain the existing categories of licences as some food business only required one type of licence. As the trade also welcomed the suggestion of

introducing a new “manufacturing/retailing licence”, the Administration would further examine the proposal and the legislative amendment required.

10. The Panel also noted that the Administration had taken measures to simplify and standardise certain licensing requirements, such as the loading requirement for cold storage rooms in food premises not rested on soil. While the Panel welcomed the pilot scheme to shorten the licensing process from 44 to 30 days, members requested the Administration to further explore ways to shorten the time for issuing a licence.

Recent developments and concerns

11. Given the development of new forms of food businesses, such as “private kitchens” and “outside seating accommodation”, the Panel on Food Safety and Environmental Hygiene discussed in 2001 and 2003 whether these establishments should be subject to the normal licensing requirements for food business. While agreeing that safeguarding public health and safety was of primary importance, some members considered that more relaxed requirements should be applied to these establishments to promote tourism and create employment.

12. In December 2004, the Panel revisited the issue of long processing time for food business licences, as some food premises in Langham Place in Mongkok were found to be in operation without a food business licence. Members were concerned that the long processing time for licence applications was the cause of food premises operating without a licence, and this would put public health at risk.

13. The Panel noted that the Subgroup on Business Facilitation of the Economic and Employment Council (EEC) under FS’s Office was also reviewing whether improvements should be made to the retail food business licensing. Panel members expressed interest in the review and its recommendations.

The Subcommittee

14. At the Panel meeting on 14 December 2004, members agreed to set up a subcommittee under the Panel to study the streamlining of food business licensing.

15. Chaired by Hon Tommy CHEUNG, the Subcommittee has held six meetings to discuss with the relevant bureaux/government departments, and the Convenor of the Retail Task Force of the EEC Subgroup on Business Facilitation. The Subcommittee has also gauged the views of different food business trades on the problems of the present licensing system and the proposed improvement measures.

16. The membership list of the Subcommittee is in **Appendix I**. A list of organisations and individuals who have given views to the Subcommittee is in **Appendix II**.

Deliberations of the Subcommittee

Procedures and time for processing food business licences

17. The Subcommittee has met with the departments involved in the licensing process to better understand the procedures and problems under the present food business licensing framework. The Subcommittee has noted that under the present licensing framework, FEHD coordinates and works together with Buildings Department (BD), Fire Services Department (FSD), and other departments as necessary, to process applications for food business licences. Food business licence applications are received and processed by the three regional Licensing Offices of FEHD. Applications for a provisional licence must be accompanied with applications for a full licence. Both the provisional and full licence for operating food business are issued by FEHD, after the relevant departments are satisfied that the necessary licensing requirements concerning health and hygiene, building, fire safety and ventilation have been complied with.

Restaurant licence

18. The Subcommittee has noted that the average time taken to process a provisional licence in 2002, 2003 and 2004 was 48, 49 and 44 working days respectively. According to FEHD, it takes about three working days to conduct preliminary screening of submitted plans and pass the acceptable plans to BD and FSD for processing. BD and FSD require up to 17 working days to conduct site inspections and provide comments on the plans to FEHD. On or before the 20th working day, the three departments jointly conduct an Application Vetting Panel (AVP) meeting to explain the details of the application to the applicant. At the AVP meeting, a Letter of Requirements for provisional licence and full licence is handed to the applicant.

19. The Subcommittee has expressed concern that the average time taken for issuing a provisional licence is about 44 days, although FEHD has claimed that the shortest possible time for issuing a provisional licence is 21 working days, i.e. one day after the AVP meeting if all requirements are met. The Administration has explained that the actual time required for issuing a licence depends primarily on the time taken by the applicant in complying with the licensing requirements. FEHD has pledged to issue a provisional licence within one working day upon receipt from the applicant of the certificates of compliance on the various requirements certified by the private sector professionals. Therefore, if the applicant can produce all certificates of compliance on the 20th working day, a provisional licence can be issued on the

21st working day. A flow chart of the licensing procedures and the timeframe is in **Appendix III**.

20. As regards the time for issuing a full licence, the Subcommittee has criticised the Administration for taking as long as six months to process a full restaurant licence. According to the information provided by FEHD, the shortest possible time for issuing a full licence to a restaurant was 48 days, and the average time taken in 2002, 2003 and 2004 was 185, 185 and 164 working days respectively. The Administration has explained that in some of these cases, the applicants concerned had not taken active steps to comply with the licensing requirements. Some premises were even locked up and the applicants did not respond to the departments' reminders.

Non-restaurant licence

21. The Administration has informed the Subcommittee that the shortest possible time for issuing a provisional non-restaurant licence varies from 11 to 31 working days, depending on whether referral to BD and FSD is necessary. For example, it is not necessary to refer to FSD food factory licence applications where the premises are smaller than 100 m², and where "open fire" or "deep frying" cooking methods will not be used.

22. The Subcommittee has noted that under the current procedures, FEHD requires three working days to conduct preliminary screening of the layout plans and, where necessary, send the plans to BD and FSD for comments. FEHD then takes about four days to arrange for site inspection, while BD and FSD require up to 24 working days to provide comments to FEHD. Upon receipt of the "No Objection" replies from BD and FSD, FEHD will issue a Letter of Requirements in three working days. On receipt of all requisite certificates of compliance by private sector professionals, FEHD can issue a provisional licence in one working day. The licensing procedure is in **Appendix IV**.

23. The Subcommittee has expressed concern that the licensing authority takes more than six weeks and four months respectively to issue a provisional and a full licence for non-restaurant food business. According to information provided by the Administration, the average time taken to issue a provisional non-restaurant licence in 2002, 2003 and 2004 was 54, 48 and 43 working days respectively, while that for issuing a full licence was 133, 130 and 107 working days respectively. The Administration has explained that the actual time taken to issue a licence depends on when the applicant can provide all necessary certificates of compliance in respect of the licensing requirements. In some cases, the applicants have not taken active steps to comply with the licensing requirements, while some have abandoned or withdrawn their applications after expiry of the provisional licence which only lasts for six months.

Verification by departments and retrieval of plans

24. A member is of the view that the need for BD and FSD to conduct site inspections and verify compliance of licensing requirements has lengthened the processing time for licence applications and applications for revision of plans from food businesses. Another member has expressed concern that it might take a long time for BD to retrieve building plans for viewing by licence applicants upon application and to provide copies of plans to applicants or Authorised Persons (APs).

25. BD has explained that it has pledged to process 95% of applications for restaurant, cold store and canteen licences within 14 working days, as an AVP meeting will be convened within 20 working days. For subsequent revision to building plans to these types of licences, BD has introduced an internal performance target to process 85% of these proposals also within 14 working days. As for revision of plans or alternative proposals for other types of food business licences, the performance target of BD is to process 85% of these cases within 28 working days.

26. As regards the processing of plan viewing applications, BD has responded that in over 90% of those applications relating to food business licence, BD can retrieve building plans for viewing within four working days. To expedite the retrieval of plans, improvement measures are being carried out, such as conversion of plans into electronic format and provision of a computerised Building Records Management System to enable instant inspection of building records in Hong Kong Island, Mongkok and Yau Tsim districts by the public.

27. As regards the provision of copies of plans to applicants or APs, although no performance target is set, copies of paper plans can be provided within a few days, and computerised records can be provided instantly. It is expected that with the conversion of all building plans into electronic format by 2006, the retrieval process can be expedited. However, such conversion plan is currently limited to those buildings regulated under the Buildings Ordinance (Cap. 123) and does not cover housing estates managed by the Housing Department and small houses in the New Territories.

Withdrawn and abandoned applications

28. The Subcommittee has noted that there is a large number of abandoned or withdrawn applications for food business licences. These applications have taken up a lot of the time and resources of FEHD and other departments, and such resources could have been redeployed to expedite the processing of other applications.

29. The Subcommittee has requested the Administration to find out the reasons for withdrawal of applications. According to the Administration, 332 and 205 applicants withdrew their applications for food business licence in 2003 and 2004 respectively, representing 14% and 8% of the total number of applications received in those years. The main reason cited by applicants for their withdrawal was personal problems, and other reasons included poor business or tenancy problems.

30. The Subcommittee has also noted that 206 (8%) and 168 (7%) applications received in 2003 and 2004 respectively did not pass the preliminary screening of layout plan, while 121 (5%) and 46 (2%) cases in 2003 and 2004 respectively were terminated by FEHD due to the lack of progress in complying with the licensing requirements.

31. The Administration has advised that some applicants might only want to obtain a provisional licence for short term operation, and therefore did not take active steps to comply with the requirements for a full licence. There are also cases where the premises are not suitable for operation of food business because of building or structural constraints. Some members have pointed out that while provisional licences are only valid for six months and rarely renewed, there is a possibility that some operators who have not obtained the full licence on expiry of their provisional licences still continue to operate their food business without a valid licence.

32. On the issue of withdrawn/abandoned applications, some representatives of the food business trade have expressed the view that most applicants are serious about their applications, given the substantial investment put in to start a food business. To avoid wasting time and money in starting a food business at unsuitable premises, the food trade requests the licensing authority to provide a list of premises which are not suitable for operation as food business because of structural or building constraints. The trade also requests for a list of competent persons who are familiar with the building and fire safety requirements for food premises.

Proposals to streamline food business licensing

33. The Subcommittee has noted that the EEC Subgroup on Business Facilitation had set up a Retail Task Force in October 2004 to examine improvements required for the catering/food and supermarket/chain store sectors. Having considered the views of the food trades and discussed with the Administration and the EEC Subgroup on Business Facilitation, the Subcommittee has focussed its discussion on the following areas –

- (a) the feasibility of establishing a centralised licensing office to provide one-stop service for all types of food business licences;

- (b) the feasibility of reducing the number of different licences/permits required for selling a variety of foods;
- (c) the feasibility of adopting third party certification in food business licensing;
- (d) the need to simplify and modernise certain licensing requirements; and
- (e) the need to provide clear and consistent guidelines/advice to licence applicants.

Establishing a centralised licensing office to provide one-stop service for all types of food business licence applications

34. Some members of the Subcommittee consider that the need to transfer documents and layout plans to and from departments may have delayed the time for departments to respond to requests for comments on licence applications from FEHD and enquiries from licence applicants. These members and the food industry have suggested that a single food business licensing authority should be established to provide one-stop service to licence applicants. The proposed licensing authority should comprise staff seconded from FEHD, BD, FSD and other relevant departments, and all such staff should be accommodated under one roof, so as to save the need for transfer of documents and layout plans and to improve/expedite communication among departments.

35. Some members suggest that the Administration should model the proposed one-stop service on the operation of the Office of the Licensing Authority (OLA) of the Home Affairs Department (HAD) for issuing certificates of compliance for clubhouses. The Subcommittee has invited HAD to explain the operation and resources required for OLA.

36. According to HAD, OLA received 114, 125 and 196 applications for certificates of compliance for clubhouses in 2002, 2003 and 2004 respectively. About 70% of these applications involved the provision of catering service in eating and drinking clubs, mahjong clubs and karaoke clubs. OLA provides one-stop licensing services to applicants for certificates of compliance for clubhouses. Such services include vetting of applications, inspection of premises, issuance and renewal of certificates of compliance, enforcement actions and other statutory duties.

37. Apart from the regulation of clubhouses, OLA is also responsible for the implementation of the regulatory systems for the safety of hotels and guesthouses, bedspace apartments and karaoke establishments. OLA has a total of 69 staff, including professional and technical staff seconded from BD and FSD, and their salaries are paid by HAD. There is no segregation of manpower specifically for dealing with clubhouse applications.

38. FEHD has pointed out that under the mode of operation of OLA, it still takes about 43 working days to arrange for site inspection and issuance of a letter of upgrading requirements or refusal of application. The processing time is not shorter than that for restaurant licensing for which an AVP meeting with the applicant can be arranged within 20 working days. A provisional licence can also be issued within a few weeks.

39. The Administration is of the view that to some extent, one-stop service has already been provided to food business licence applicants, as FEHD currently plays a coordinating role in processing such applications, and a Case Manager Scheme has been introduced since 2001. On the proposed centralised licensing office, the Administration has responded that it is a complicated issue involving transfer of staff and resources among different departments, and new legislation will also be necessary.

40. The Administration considers that establishing a centralised licensing office or accommodating all relevant officers under one roof may not necessarily speed up the licensing process, as the licensing officers still have to check compliance in accordance with the legislation and carry out site inspections. In this process, the licensing officers will have to go back to their own departments to trace the approved plans and relevant records, and issue Letters of Requirements to the applicants. It is also not possible for officers in one discipline to overrule the comments or objections raised by officers in other disciplines.

41. The Administration has advised that, as a start, it will implement less complicated improvement measures to streamline the processing of food business licensing. It will also explore the feasibility of introducing a third party certification system which will reduce the need for compliance checks by the relevant departments (see paragraphs 47 to 54 below).

Reducing the number of licences required for selling a variety of food

42. The Subcommittee has noted that the food trade has suggested that a new class of food business licence should be introduced to cover generic categories of food for businesses that operate multiple product lines such as supermarkets, in order to reduce the number of licences required for food premises. The Subcommittee has noted that at present, up to nine licences/permits are required for supermarket selling fresh food, dairy products, bakery and ready-to-eat food.

43. The Administration has advised that the concept of a composite licence has already been applied to raw food. One single type of licence, i.e. the fresh provision shop licence, is issued for selling meat, seafood and poultry. Appropriate endorsement or permission is included in the licence to specify the different types of raw food for sale.

44. As regards the request for a generic licence for supermarkets selling a variety of food, the Subcommittee has noted that the Retail Task Force under the EEC Subgroup on Business Facilitation has also examined the issue and recommended a composite licence for food business selling a variety of “ready-to-eat” food. The recommendation has the support of the Subcommittee.

45. Following discussion at the Subcommittee, the Administration has informed members that it is prepared to consider introducing a composite licence to cover the sale of “ready-to-eat” food such as siu mei and lo mei, cooked food, bakery products, sushi/sashimi, cut fruits, frozen confections, milk, and Chinese herb tea. Under the proposal, a single licence with endorsement or permission for the sale of particular food items will be issued for this category of food. Amendments to the Food Business Regulation will be necessary.

46. The Administration has also agreed that, for restaurants which also sell bakery products at a separate counter or area, a separate bakery licence will no longer be required and an endorsement on the restaurant licence will be issued instead. Such endorsement is issued on the condition that the sale of bakery products at the restaurant is only for retail, and there is sufficient food preparation area for manufacturing such products.

Third party certification of compliance with licensing requirements

47. The Subcommittee has discussed at length the proposed third party certification system to save the time for FEHD, BD and FSD in conducting site inspections and compliance checks.

48. The Subcommittee has noted that a third party certification system has been adopted to some extent for the issuance of a provisional licence for food business since 2000. To speed up the application process, FEHD accepts third party certification for compliance of health/hygiene, fire services, ventilation and building safety requirements for the issuance of a provisional licence.

49. The Administration has advised that a total of four certificates are required for provisional restaurant licence, and they must be signed by an AP and/or a registered structural engineer as appropriate, and also by a fire service installation contractor in the case of certificate of compliance of fire safety requirements. For provisional non-restaurant licence, not all the four

certificates are required in some cases. For example, the two certificates for compliance of fire services and ventilation requirements are not required for a food factory with an area of less than 100 m² involving no “open fire” or “deep frying” activities. While the validity of these certificates is checked by FEHD staff, no site inspections are made to check compliance. FEHD issues a provisional licence over the counter on the same day on receipt of the required certificates.

50. Noting that the third party certification system has effectively shortened the processing time for provisional licence applications, the Subcommittee has urged the Administration to seriously consider adopting a similar certification system for the full licence.

51. After discussion with members, the Administration informed the Subcommittee in June 2005 that it was prepared to consider a private sector certification system as a longer term measure to streamline the licensing procedures. Under this system, the relevant departments will continue to set their respective standards and requirements on building safety, fire safety, ventilation and hygiene. The licensing authority will accept certification by APs or registered professionals on compliance with these requirements for the issuance of a full licence. While the relevant departments will no longer conduct compliance checks before the issuance of a licence, they will conduct audit checks afterwards. FEHD, BD, FSD and the Housing Department have indicated agreement to introducing the proposed private sector certification system.

52. The Administration has further advised that in respect of the building safety requirements, while the applicant or AP will certify compliance with the standards and requirements, the AP concerned will still have to seek BD’s approval if building works are involved, as presently required under the Buildings Ordinance. As regards certification of fire safety requirements, a Registered Fire Engineer (RFE) system will have to be introduced, because currently there is no recognised professional for certification of fire safety requirements. FSD is working with the relevant professional bodies to establish the RFE system, and legislation is required for the regulation of the RFEs.

53. In discussing the proposed third party certification system, the Administration has emphasised the need for the Government to take effective action during major food incidents to stop operators continuing operation for the protection of public health and safety. The Administration also considers it necessary to provide effective sanctions against malpractice of APs or registered professionals. As the proposed system involves the interests of many stakeholders, the relevant departments will have to conduct extensive consultations with interested parties and relevant trades. It is expected that it will take several years before the system can be implemented.

54. The Subcommittee welcomes the Administration's agreement to introduce private sector certification system for the issuance of full licences, and urges the Administration to expedite the preparation and consultation work for the implementation of the system.

Simplifying and modernising the licensing requirements

55. The food business trade is of the view that some licensing requirements for food business are already outdated. They have urged the relevant departments to modernise and simplify these requirements to suit present-day circumstances. Some representatives have also urged the departments concerned to rationalise those licensing requirements which have created problems in compliance. The trade has cited the following examples where improvements are called for –

- (a) the requirement for the entrance of factory canteens to face the interior of the building and the restriction of patrons of factory canteens to regular users of the building are outdated and impracticable;
- (b) the requirements for toilets and sprinklers should be relaxed for food premises located in village houses on outlying islands;
- (c) the applicants should not be required to provide proof on the thickness of wall for food premises situated in public housing estates managed by the Housing Authority, as the latter should have such information ; and
- (d) the Administration should maintain a record of those premises which are not suitable for operation of food business for public reference.

56. On the suggestion of rationalising the various licensing requirements, the Administration has explained that different departments have their own jurisdiction and emphasis of work. For example, the regulation governing the opening of fire exits of factory canteens is based on risk assessments, as the fire risk of industrial buildings is higher than that of commercial or composite buildings. Moreover, as the objective of factory canteen is to provide food for factory employees, admission of members of the public to industrial buildings may expose them to risks they are not familiar with. It is therefore necessary to discourage non-regular users of the buildings from patronising factory canteens.

57. The Administration has also explained that for food premises with an area less than 230 m², the provision of sprinkler system is not required. As regards the trade's concern about the toilet requirements for food premises located in village houses, the Administration has undertaken to look into

individual cases where there are problems. The Administration has also undertaken to examine areas where further streamlining can be made without affecting public health and safety.

58. As regards food premises situated in public housing estates, the Housing Department has explained that the tenancy and licensing requirements are explained in detail at meetings held with the tenants. The Housing Department also accepts certification by AP appointed by the tenants on compliance of requirements.

59. On the suggestion of maintaining a list of premises not suitable for food premises, the Administration has advised that given the large number of premises in the market, it is not possible to provide such a list. The licence applicants can make reference to the guidelines issued by the licensing authority on the requirements for licensing of restaurants and other food business premises. Applicants may also seek the advice of their consultants in choosing suitable premises for operation of food business.

Standardising advice and guidelines to licence applicants

60. The food trade has suggested that clearer guidelines and advice should be provided to applicants at an early stage, in order to save the need for subsequent revisions to plans and installations. The trade has also requested that the procedures for seeking approval for changes to layout plans be streamlined.

61. The Administration has advised that comprehensive guidelines on applications for food business licence are available at FEHD offices and on its website. Detailed requirements are also set out in the Letters of Requirements issued to applicants, and a list of such requirements is also attached to the application forms for alterations. BD and FSD also make available lists of APs and professionals for the trade's reference.

62. On changes to layout plans, the Administration has advised that works not requiring prior approval or consent under the Buildings Ordinance may be carried out at any time. For alterations requiring approval but not involving structural change to the premises, the applicant may submit the layout plan and apply for approval of commencement of building works at the same time. The Administration is considering introducing a legislative proposal to the effect that alteration of layout plans of food premises will be regarded as minor works projects and accepted by the licensing authority on certification by APs.

63. The Administration has also agreed to examine whether the existing guidelines or advice can be further improved to facilitate understanding by the applicants and the trade.

Liquor licence

64. The catering trade has commented that the time for issuing a liquor licence is too long, and it is often not issued even after the operator has obtained a food business licence. The trade has suggested that the liquor licences should be issued together with the food business licence, and that a company (instead of an individual) should be allowed to hold a liquor licence. According to the trade, issuing a corporate licence can solve the problems posed by the temporary absence of a licensee.

65. The Subcommittee has requested the Administration to explain the operation of the Liquor Licensing Board and the procedures for issuing liquor licences. The Subcommittee has also requested the Administration to consider the suggestions of the trade.

66. The Administration has advised that liquor licence is issued separately by the Liquor Licensing Board in accordance with the criteria and procedures as laid down in the Dutiable Commodities (Liquor) Regulations (Cap. 109 Sub. Leg. B) Regulation. For non-contested cases, a licence can be issued within a few weeks. If there is objection from the local residents, the Police or other government departments, open hearings will be held. In some cases, close-door meetings will be held, when there is no objection but adverse comment from the public or government department, or irregularities are found on the subject premises. The decisions of the Liquor Licensing Board, together with reasons, will be provided to the applicants and interested parties in writing in 10 working days. Applicants who are not satisfied with the Board's decision may appeal to the Municipal Services Appeals Board within 28 days after the date of notification of the Board's decision.

67. On the suggestion of issuing a liquor licence to a company instead of an individual, the Administration has advised that it may pose enforcement difficulties as a liquor licensee is required to be present at the food premises when liquor is sold. The Police has explained that one of the licensing criteria is that the applicant must be "a fit and proper person". As the mode of operation and management of premises selling liquor are different from that of a restaurant, the requirements for a liquor licensee as "a fit and proper person" are different from that required of a restaurant licensee. A liquor licensee also has greater responsibility in supervising the premises and ensuring that there is no disorder, violence or illegal activity on the licensed premises. In considering the application, the Police will take into account the applicant's background such as criminal record, qualifications and experience in managing similar premises, and health conditions.

68. As regards expediting the processing of liquor licences, the Subcommittee has noted that for straightforward cases, the processing time can be further shortened to about three weeks. However, a longer processing time is required if there is objection to the application, as HAD has to consult local

communities such as District Councils, area committees and owners' corporations on the applications.

Licence fees

69. The Subcommittee has requested the Administration to explain the basis of determination of the current licence fees for various food businesses. The Administration has advised that the current licence fees were set by the two former municipal councils. Due to historical reasons, the former municipal councils took into account only their own costs but excluded costs incurred by the other departments which invest substantial manpower in processing the applications. The fees are calculated according to the area of the premises according to the category of licence under application. The Administration is currently reviewing the various fees and charges set by the former municipal councils based on the cost-recovery principle.

70. The Subcommittee supports the principle of recovering the costs for processing licence applications from applicants, especially if the recovery of costs incurred by BD and FSD will enable deployment of adequate manpower resources for expediting the processing of applications and revision of layout plans. Some members, however, have expressed the view that the Administration should not increase the licence fees before improvements have been made to the licensing scheme.

71. The Subcommittee has indicated support to the Administration's proposal to charge a licence application fee, in view of the substantial number of withdrawn or abandoned applications during processing. It is noted that FEHD and other departments have invested a lot of time and resources in processing these applications, and such resources could have been redeployed to expedite the processing of other applications. Under the present system, the Administration cannot recover the administrative cost from the applicants who withdraw their applications. The Administration considers that there is a need to introduce measures to encourage only those applicants who have genuine interest in operating a food business to submit licence applications.

Recent developments on streamlining measures agreed to by the Administration

72. In November 2005, the Administration provided an information note to the Panel on Food Safety and Environmental Hygiene on the progress made in the implementation of improvement measures.

73. According to the Administration, the following measures have been implemented since July 2005 –

- (a) to facilitate discussion of the various licensing and statutory requirements at the AVP meeting, all necessary requirements, including the fire and building safety requirements, are issued to the licence applicants before the meeting. The applicant is also advised that his consultant and contractor should be involved in an early stage and included in the AVP meeting;
- (b) to speed up the processing of applications for changes to approved layout plans, the applicants are advised to highlight the proposed changes on the revised plan; and
- (c) FEHD has relaxed certain licensing requirements which do not pose food hygiene problems to suit present-day operation. For example, the minimum height of a food counter is lowered and the requirement for a drip board from sink is waived.

74. As regards the proposed composite licence for ready-to-eat food (paragraph 45) and the issuance of an endorsement on a restaurant licence to replace a bakery licence (paragraph 46), the Administration is working out the details. The trade will be consulted on the new framework for the issuance of a composite licence shortly.

75. On changes to approved layout plans, FEHD has, in consultation with BD and FSD, reviewed the existing requirements in order to simplify the procedures for those changes which do not constitute any material deviation and have no hygiene, building safety and fire safety impact. A list of items not required to be shown on the layout plan has been issued to the trade for consultation in October 2005. With the support of the trade, FEHD is now taking steps to introduce the list.

76. As regards the large number of withdrawn or abortive applications, FEHD has decided that for new applications, an application will be deemed to be withdrawn six months after the expiry of the provisional licence, or 12 months after the issuance of Letter of Requirements for a full licence, unless the applicant can prove that the delay in meeting the licensing requirements is due to circumstances beyond his control. FEHD staff will pay a site visit to the premises within three months after the issuance of a Letter of Requirements to the applicant, to offer advice on site as necessary. Reminders will be issued quarterly until six months after the expiry of the provisional licence, or 12 months after the issue of Letter of Requirements for a full licence. The trade has indicated support of the proposal and FEHD is taking steps to implement the measure which will enable FEHD and relevant departments to focus their resources on applicants with genuine interest in operating a food business.

Advice sought

77. Members of the Panel on Food Safety and Environmental Hygiene are invited to note the deliberations of the Subcommittee (paragraphs 17 to 71) and the improvement measures being implemented by the Administration (paragraphs 72 to 76).

Council Business Division 2
Legislative Council Secretariat
11 January 2006

Panel on Food Safety and Environmental Hygiene
Subcommittee to Study the Streamlining of Food Business Licensing

Membership list

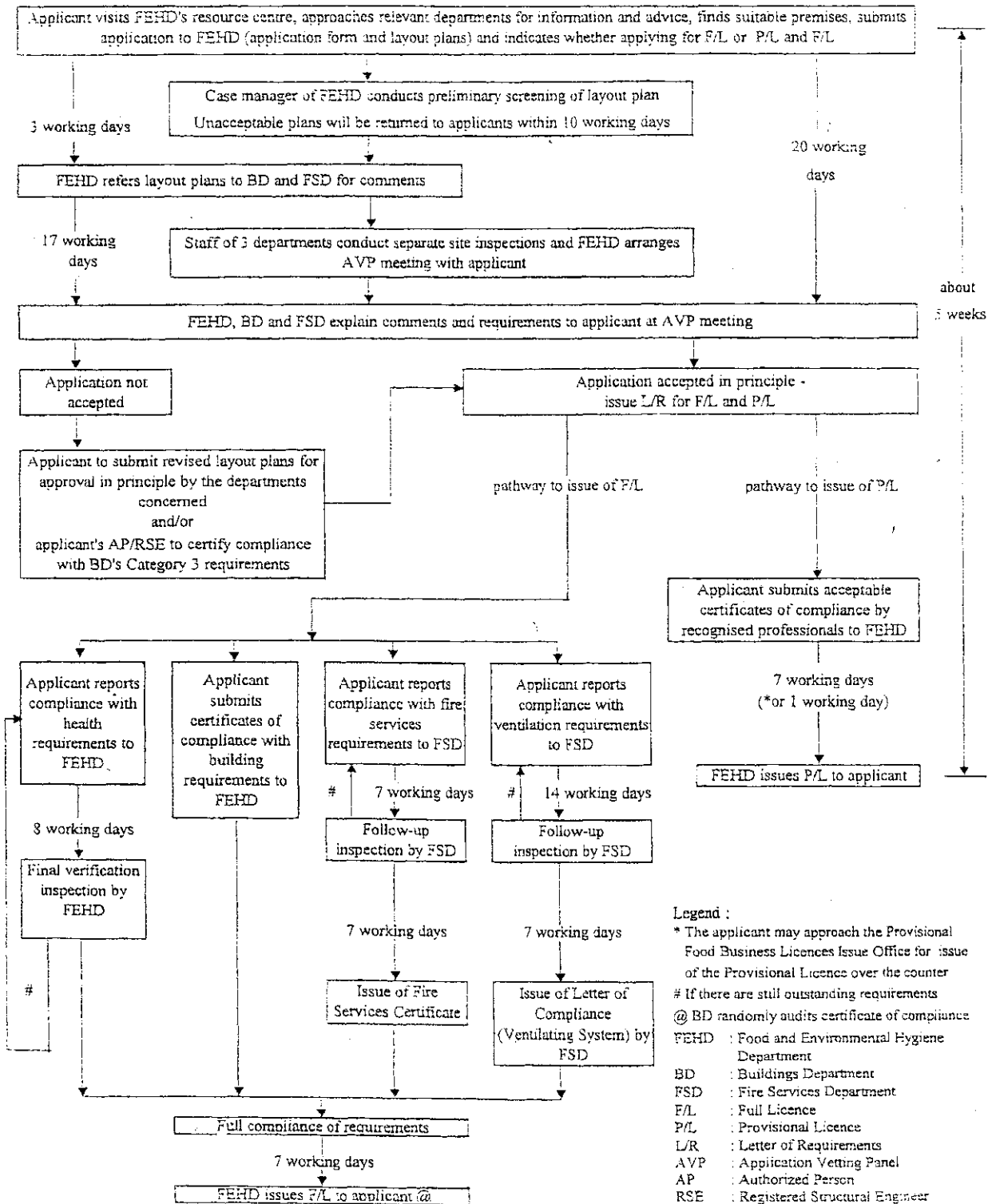
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|----------------------|--|
| Chairman | Hon Tommy CHEUNG Yu-yan, JP |
| Members | Hon WONG Yung-kan, JP Hon Andrew CHENG Kar-foo Hon Vincent FANG Kang, JP Hon WONG Kwok-hing, MH (until 26.9.2005) |
| | (Total : 4 members) |
| Clerk | Mrs Constance LI |
| Legal adviser | Mr Stephen LAM |
| Date | 26 September 2005 |

Appendix II

List of organisations and individuals who have given views to the Subcommittee to Study the Streamlining of Food Business Licensing

1. Hong Kong Federation of Restaurants & Related Trades
2. The Association for Hong Kong Catering Services Management Limited
3. Association of Restaurant Managers Limited
4. Hong Kong Catering Industry Association
5. A S Watson Group – PARKnSHOP
6. Hong Kong Japanese Restaurants Association
7. Cambo Thai Restaurant Limited
8. Tsui Wah Restaurant
9. Tao Heung Holding Limited
10. Rainbow Seafood Restaurant
11. Federal Restaurants (Group) Limited
12. Xin Cuisine
13. King Bakery
14. De Rodeo Catering Limited
15. Entertainment Business Rights Concern Group
16. California Red Limited
17. Swire Beverages Limited
18. Maxim Caterers Limited
19. Dairy Farm Company Limited – Wellcome
20. Circle K Convenience Stores (HK) Limited

Flow chart showing restaurant licensing procedures



Appendix IV

Flow chart showing non-restaurant licensing procedures (Food Factory, Milk Factory, Fresh Provision Shop Siu Mei & Lo Mei Shop and Frozen Confection Factory)

