

Advisory Council on Food and Environmental Hygiene

Review on Hawker Licensing Policy

Purpose

The Food and Health Bureau (FHB) and the Food and Environmental Hygiene Department (FEHD) are jointly reviewing the policy on hawker licensing, and have completed consultation with District Councils (DCs), hawker associations and relevant stakeholders. This paper summarizes the views received and seeks Members' views on the way forward.

Background

2. Street hawking has a long history in Hong Kong. Street hawking provides job opportunities, and customers may find a cheaper source of goods. However, it also gives rise to environmental hygiene problems, noise nuisance and obstruction of public passageways. In addition, there are complaints from business operators that street hawking poses unfair competition to shop and market stall tenants who pay rent for their shops and stalls.

3. For many years, the Administration's policy has been to properly regulate the hawking activities of licensed hawkers and take enforcement action against illegal hawking. Since the early 1970's the two former municipal councils had stopped issuing new hawker licences under normal circumstances. Succession and transfer of hawker licences already issued have also been subject to stringent restrictions. Subsequently, taking into consideration that "Dai Pai Tong" hawkers and itinerant hawkers were more likely to cause environmental hygiene problems, noise nuisance as well as obstruction of public passageways, a five-year voluntary surrender scheme

was introduced in 2002 to encourage “Dai Pai Tong” licensees and itinerant hawkers to surrender their licences voluntarily in exchange for a one-off ex gratia payment, rental of a vacant stall in public markets/cooked food centres under concessionary terms, or becoming a (non-cooked food) fixed pitch hawker. The voluntary surrender scheme applicable to “Dai Pai Tongs” ended on 30 November 2007, while the scheme applicable to itinerant hawkers was extended to 31 December 2009.

4. As at 30 November 2008, the total number of Fixed-Pitch Hawker Licences (including “Dai Pai Tongs”) and Itinerant Hawker Licences in Hong Kong were 6 594 and 552 respectively.

Existing Hawker Licensing Policy

5. As mentioned in paragraph 3 above, the Administration has stopped issuing new hawker licences under normal circumstances since the early 1970’s. Succession and transfer of all types of hawker licences already issued are also subject to stringent restrictions. A hawker licence will be cancelled upon the death of the licensee. “Succession” of a licence refers to the issuance of a new licence to the immediate family member of a deceased licensee. If a licensee, on grounds of, for example, old age or ill health, makes an application for his family member to replace him as the licensee, it will be regarded as a licence “transfer”. When processing the application for transfer, FEHD will cancel the original licence held by the licensee and issue a new one to the transferee. The succession and transfer restrictions for different types of hawker licences are as follows -

- (a) General Fixed-Pitch Hawker Licence can be transferred to the “immediate family member” of the licensee (i.e. parent, spouse, son or daughter) or succeeded by them.
- (b) “Dai Pai Tong” Licence is also a type of Fixed-Pitch Hawker Licences, which, according to current arrangements, may only be transferred to the licensee’s spouse or succeeded by him/her.
- (c) Succession to and transfer of Itinerant Hawker Licence are not allowed.

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6. FHB and FEHD are jointly reviewing the policy on hawker licensing, including exploring the feasibility of re-issuing new hawker licences and relaxing the requirements for succession and transfer of hawker licences without compromising environmental hygiene. We briefed the Legislative Council Panel on Food Safety and Environmental Hygiene on our preliminary proposals in June 2008, and later consulted the 18 DCs, over 20 hawker associations and other relevant stakeholders. Views received during the consultation and our suggestions are set out in the ensuing paragraphs.

Issuing New Hawker Licences

(i) Fixed-Pitch Hawker Licences

7. Since the Administration has not issued new hawker licences for many years, some pitches in open-air hawker bazaars (such as the Tung Choi Street Hawker Permitted Places) were left vacant as a result of relocation or voluntary surrender of licence by the licensees. We propose that provided the current number of fixed pitches remains unchanged, Fixed-Pitch Hawker Licences can be issued to new operators for trading in the vacant pitches, or allowing licensees of adjacent pitches to use these vacant pitches to expand their operating area while paying the relevant fees.

8. The majority of DCs supported the proposal. DCs also suggested that the number of hawker pitches provided in a district should be estimated according to district needs before the vacant pitches are allocated on a fair and open manner. In addition, appropriate licensing conditions should be imposed for proper management of hawking operation, and to avoid subletting and other environmental hygiene problems. DCs supported the idea of allowing fixed pitch hawker licensees in open bazaars to take up the use of their adjacent vacant pitches at the back row in order to better utilize these vacant pitches. Some DC members considered that expanding the size of fixed pitches could better meet the operating needs of hawkers. A few DCs had reservations about issuing new hawker licences. They considered that this would affect the business environment of markets and shops nearby and compromise environmental hygiene. Hawker associations had no objection to issuing new licences for vacant pitches in order to

properly utilize the vacant fixed pitches and they also supported allowing fixed pitch hawkers at the front row to take up the use of the adjacent vacant pitches at the back row.

9. As for the targets and methods of issuing the new licences, DCs and hawker associations held different views. Most DCs which supported issuing new licences had no strong views about how the new licences should be issued. Some individual DC members suggested that priority should be given to registered assistants who have been assisting hawker licensees to operate their stalls. Hawker associations considered that when there is a vacant fixed pitch, the fixed pitch hawker operating in the adjacent pitch should first be invited to decide whether he / she would take up the vacant pitch. If the licensee has no intention to expand his operating area, registered assistants who have good experience in the hawking trade should be allowed to select the vacant pitch first, and any vacant pitches remaining could be open to applications from members of the public. Some hawker associations proposed setting a ratio of application for the vacant pitches between existing registered assistants and members of public.

10. To conclude, we propose to give priority to fixed pitch hawkers at the front row to take up the use the adjacent vacant fixed pitch at the back row, if there is one behind them. Such proposal will not only allow better utilization of the pitches at the back row which are less attractive location-wise, but can also enhance the vibrancy of hawker bazaars and help minimises illegal occupation of vacant pitches. If there are still vacant pitches after completion of selection by the fixed pitch hawkers at the front row, all individuals who are interested in the hawking trade will have an equal opportunity to select vacant pitch by balloting. We consider that this is a fair and reasonable arrangement as both the existing registered assistants and other people can have equal chances to submit applications.

11. When exploring the need to close down individual public markets with consistently high vacancy rates, some affected market tenants have asked for relocation to on-street vacant hawker fixed pitches to continue business. This proposal is an option other than granting ex-gratia payment and choosing to operate in vacant stalls in other markets. There will not be any increase to the current number of fixed pitches. Since this suggestion can expedite the progress of market closure, we will actively follow up the matter for implementation.

(ii) Fixed-Pitch (Cooked Food or Light Refreshment) Hawker Licence

12. There are now only 28 on-street fixed-pitch (cooked food or light refreshment) i.e. “Dai Pai Tong” hawkers. They are mainly concentrated in Sham Shui Po and the Central and Western District. Some of them prepare hot beverages such as tea and coffee, and some others serve seafood and other small Chinese dishes. Depending on the type of cooked food they prepare, their mode of operation and their respective locations, some “Dai Pai Tongs” have indeed created environmental hygiene problems, noise nuisance, as well as obstruction of public passageways. Others might have successfully blended in with their surroundings, providing special cooked food and are considered part of the local heritage that deserves preservation. We are of the view that the preservation or eradication of “Dai Pai Tongs” can be flexible, and should not be handled rigidly.

13. We propose to consult the relevant DC when a “Dai Pai Tong” is to be closed down because of the passing away of the licensee or other reasons. The DCs can then advise whether that “Dai Pai Tong” should be allowed to continue to operate in situ, after having regard to specific circumstances of the district and the residents’ aspirations. If the DC supports the continued operation of the “Dai Pai Tong” in situ, the Administration may then consider relaxing the requirements for succession and transfer of the licence, allowing the licence be succeeded by or transferred to the licensee’s spouse or other “immediate family members”, so as to align with that of other fixed pitch hawker licences, or issue new licences to other interested operators. DCs generally supported the above proposal. We plan to relax the requirements for succession and transfer of existing Fixed-Pitch (Cooked Food or Light Refreshment) Hawker Licences, and decide whether to issue new licences to other interested operators in situ with reference to DCs’ views after a “Dai Pai Tong” is closed down. When processing applications for succession, transfer or issuing new licences for a “Dai Pai Dong”, we will also take into consideration objective factors such as location of the stall and seek the DCs’ views on whether the existing limit of setting two tables and eight stools in front of the stall could be relaxed.

(iii) Itinerant Hawker Licences

14. Itinerant Hawker Licences are classified into three main categories, namely Itinerant Hawker Licences for selling wet and dry goods,

Itinerant (Frozen Confectionery) Hawker Licences and Itinerant (Mobile Van) Hawker Licences.

15. Itinerant hawkers selling wet and dry goods usually gather at prime locations when in operation, inevitably impeding the pedestrian passageways with their trolleys and goods and bringing about certain impact on environmental hygiene. We propose to maintain the existing policy of not issuing new Itinerant Hawker Licences for selling wet and dry goods nor relaxing the current requirements for succession and transfer of the Itinerant Hawker Licence. DCs had no objection to this proposal.

16. Hawker associations did not have objection to the above proposal too, but asked for an extension of the validity period of the voluntary surrender scheme or even to make the scheme permanent. In order to let itinerant hawkers understand the implication on them brought about by the current review, the voluntary surrender scheme has been extended to 31 December 2009. As we have now reaffirmed the existing policy of not issuing new Itinerant Hawker Licences should be maintained, we therefore propose to terminate the scheme upon its expiry on 31 December 2009 in order to encourage itinerant hawkers to voluntarily surrender their licences as soon as possible.

17. “Small ice cream vendors” usually sell frozen pre-packaged confectionery such as ice-cream, ice popsicles, soft drinks and other non-alcoholic beverages at the entrance of parks, beaches and tourist spots. There are only 28 such licensed itinerant hawkers at present. Their mode of operation is different from that of other licensed itinerant hawkers. They are usually riding motorcycles or bicycles to operate at different locations, hence providing convenience to visitors at remote areas without causing obstruction to public passageways. During consultation, most of the DCs and hawker associations supported issuing new Itinerant (Frozen Confectionery) Hawker Licences and had no strong view on the number of licences. Taking into account the market capacity, we propose to issue not more than 30 new Itinerant (Frozen Confectionery) Hawker Licences in the first round when such licences are re-issued. When licences are renewed every year, the Administration will consider having regard to the latest situation whether there is a need to add new conditions, for example restricting their operation areas.

18. Currently, there are 16 Itinerant (Mobile Van) Hawker Licences (ice cream vans) selling soft ice-cream from prepared mixture at different locations. In view of the big size of these mobile ice cream vans and their engines must be running during operation and will affect road-side air quality, many opined that the Administration should consider seriously whether to issue new Itinerant (Mobile Van) Hawker Licences. As issuing new mobile ice cream van licences is not generally supported, we propose to maintain the current arrangement. When technology development in future can solve the problem of running engine during operation of these vans, the possibility of issuing new licence of this type may be further discussed.

Validity Period, Succession and Transfer of Hawker Licences

19. The applicants of new hawker licences must be Hong Kong permanent residents and above the age of 18. The applicants and their immediate family members must not hold any valid hawker licences.

20. As hawker licences should not be regarded as commodities available for free transfer or trading in the market, stringent requirements on succession and transfer of the existing hawker licences are necessary. We propose to specify a validity period of five years on all new licences, including those issued on account of “succession” or “transfer” of licences and disallowing further succession or transfer. Within the five year validity period, hawker licensees are required to annually renew their licences. Upon expiry of the five-year validity period, the licensees will not be granted licence renewal automatically. They may re-apply for licence and compete with other applicants with fair chances by the method of ballot to decide the order of selecting pitches.

Open-air Hawker Bazaars

21. In recent years, members of the public have proposed, from time to time, the establishment of open-air bazaars rich in local characteristics at suitable sites. We are open-minded to such proposals and stand ready to provide in collaboration with the relevant departments, appropriate assistance to the proponents if they have identified suitable sites with support of the local districts, and have satisfied the requirements on food safety and

environmental hygiene. As to whether trading in open-air bazaars belongs to hawking activity for which a licence is required, it depends on the specific circumstances.

Role of District Councils

22. In general, DCs welcomed that their role be strengthened in terms of hawker licensing and hawker bazaar management at the district level to ensure hawker policy can meet different local needs. As suggested above, the Administration will consult the relevant DCs on whether to allocate vacant hawker pitches and “Dai Pai Tongs” in the future.

23. During the consultation, some DCs expressed their concerns about the environmental hygiene problems and the daily management of hawking activities. The Administration will follow up on these suggestions appropriately.

Way Forward

24. Subject to Members’ views, we will brief the Legislative Council Panel on Food Safety and Environmental Hygiene on the findings of the review in February this year. FEHD will follow up if the above policy proposals are supported by the Panel.

Advice Sought

25. Members are invited to comment on the above proposals.

Food and Health Bureau
Food and Environmental Hygiene Department
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