

**Business Facilitation Advisory Committee
Food Business Task Force**

Purpose

This paper summarizes the concerns and recommendations of the factory canteen operators on the licensing requirements of a factory canteen and the initial comments from the Lands Department (LandsD) and Food and Environmental Hygiene Department (FEHD) for Members' discussion.

Background

2. The Factory Canteen Association considers that some terms and conditions of the waiver of a factory canteen are outdated and has written to the Food Business Task Force in April 2006 to explore the feasibility to relax the licensing requirements in the ensuing paragraphs. These requirements, particularly items (B), (C) and (D), are considered as “specious”, “ironic”, “hard to enforce” and “even harder to comply with” by anyone. The Association is of the view that enforcement agencies should not be asked to take care of such trivial matters that demand so much effort and yet are not cost-effective. If these regulations are strictly enforced, the majority of the operators will have no way but to close their businesses. Comments from LandsD and FEHD on various concerns raised by the trade are set out in bracket at below -

Licensing Requirements for Factory Canteens

- (A) *Licensing Requirements:* Canteen area should not exceed 10% of the total gross floor area of the factory building and the relevant applications are treated on a “first-come-first-served basis”.

Trade's concerns: This regulation in principle does not cause any major problems. However, the Government should step up publicity for the regulation in order to steer investors away from making mistakes unknowingly.

[LandsD: The suggestion that Government should give more publicity to the policy that the total canteen area in an industrial building should not exceed 10% of the total floor area of the building will not make any sense unless the same is backed up by information on the amount of floor space that has already been put into canteen use in individual buildings together with the number of applications on the pipeline. With the number of

industrial buildings in Hong Kong, this is an impossible task and it would not be cost effective to keep updating the data just to serve one or two potential applications in a wide district.]

- (B) *Licensing Requirements:* The means of escape should lead to main streets and the fire exit doors should be kept closed. Access is prohibited unless under emergency conditions.

Trade's concerns: This regulation is impracticable because

- Emergency passages should not be locked;.
- Outside those exit doors which lead to the main streets, there are many passers-by who can see the canteens but are denied entry. If the case is serious, the Lands Department has the right to repossess the premises concerned. There is one such case in the past; and
- Impracticable regulations are undesirable and liable to cause non-compliance. Those exit doors, which can provide the most convenient and safest access for customers, are now closed and no access is permitted. This regulation should be amended to "access is allowed".

Trade's recommendations: Patrons should be allowed to use the access to the street. The main door should be kept unlocked as it leads to the street and therefore is the safest means of escape. It will not cause any fire safety problem that may affect other buildings.

[LandsD: Outsiders not working in the industrial building should be discouraged to use the canteen and hence it is the policy that the canteen should not have direct access to the street or if an emergency access onto street is provided, it should be kept closed. "Panic bolts" allowing easy egress but disallowing ingress are appropriate.]

- (C) *Licensing Requirements:* Displaying of signboards and advertising signs (including menus) is not allowed.

Trade's concerns: Every canteen should show its name and signboard to let customers know which canteen they are going to. Before entering the canteen, workers should have the right to know the menu of the day in order to avoid causing embarrassment when seated. The Government should not impose restrictions on such trivial matters.

Trade's recommendations: It is unnecessary for the Government to prohibit canteens from opening their doors for business and displaying their signboards and menus for attracting patrons.

[LandsD: The purpose of allowing canteen within an industrial building is to provide catering facility to the workers working in the building and this is a condition of the permission. Once a canteen is opened, the workers working in the building will soon know its existence. Erection of signboards at the outside of the building to promote the canteen will only invite breach of the condition. Canteen is an ancillary facility in an industrial building and there is no intention to relax the provision beyond 10% of the building.]

- (D) *Licensing Requirements* : Canteens are intended to cater for employees working in the same buildings and not outsiders.

Trade's concerns: This regulation is impracticable because

- Not every building has a canteen;
- Workers employed in a factory building should not be required to patronize only the canteen provided in the same building and not other canteens in the neighbourhood; and
- Under this licensing requirement, a worker working in San Po Kong and delivers goods to Kwun Tong will not be permitted to eat in the canteen in the factory building in Kwun Tong. Is it practicable? Is it necessary for the Government to introduce such regulation? Officers of FEHD have the right to check the personal particulars of the patrons of factory canteens, such as their identity cards and work places. If FEHD officers found any non-compliance during inspections, they can issue warning letters to the offending licensees. The accumulation of three warning letters will lead to cancellation of the licence and suspension of business without even the need to issuing a court order for fines. However, the canteen is not authorized to check the identity of a patron.

Trade's recommendations: Workers in an industrial area should be allowed to patronize any canteen of their choice. This regulation should be amended to "...cater for relevant persons in the industrial area" to allow choice of other canteens for patrons.

[LandsD: The suggestion that without the existence of the canteen, workers and outsiders would be unable to find dining places is not accepted. Restaurants and fast-food shops can be and are permitted in industrial buildings subject to obtaining planning permission, if required, and modification of the lease conditions with payment of a premium or waiver fee. They can provide service to those outsiders and workers who do not wish to dine in factory canteens. It should be noted that opening up the canteen to outsiders will be unfair to those restaurant and fast-food shop operators who have paid full premium/waiver fee in order to have the benefit of serving the public at large. On the other hand, if a canteen operator wishes to open up his canteen to outsiders, he can always apply to LandsD to obtain a waiver upon payment of a fee.]

[FEHD: Subject to the views of the Buildings Department and the Fire Services Department on building and fire safety, the Food and Environmental Hygiene Department is prepared to consider the proposal of relaxing the restriction of serving factory employees in the same building only and allowing outsiders to patronize factory canteens. However, the operator of a factory canteen should comply with all the licensing requirements and conditions on fire and building safety and hygiene for a general restaurant or a light refreshment restaurant, as the proposal has turned the factory canteen into a restaurant in essence.]

Statistics on factory canteen licences

3. The number of new factory canteen licences (*full and provisional*) in the past five years is appended below for Members reference –

	2001	2002	2003	2004	2005
New Factory Canteen Licences (Full) issued in year (<i>Jan - Dec</i>)	12	25	11	19	30
New Factory Canteen Licences (Provisional) issued in year (<i>Jan - Dec</i>)	21	32	15	33	34
Valid Full Factory Canteen Licences as at 31.12 of year	466	479	474	477	484

Way Forward

4. Members are invited to comment and advise on the way forward.