

**Economic and Employment Council
Retail Task Force**

***Improvement potentials on
licensing processes and procedures for
food retail business***

Purpose

This paper presents the initial recommendations of the review on the licensing processes and procedures for food retail business.

Introduction

2. The Retail Task Force under the EEC Subgroup on Business Facilitation commenced a regulatory review of the food retail sector (*including licensing of supermarkets/convenience stores*) in October 2004.

3. The review covered the licences/permits for non-restaurant food premises issued by the Food and Environmental Hygiene Department (FEHD). A list of these licences/permits is at **Annex A**.

Trade's concern

4. To improve the business environment, the food retail sector has specifically raised concerns for the need to –

- Strengthen the public consultation process when legislative proposals are introduced;
- Cut down on the number of different food related licences/permits;
- Reduce the lead time to obtain licences for food businesses;
- Simplify the licensing requirements; and
- Streamline the licensing procedures.

Review findings

5. The review has examined the licensing procedures and requirements of altogether 13 food related licences and permits other than general restaurant and light refreshment licences. Research was conducted on related overseas practices in Singapore, Victoria (Australia), London and Shenzhen (PRC).

6. A sampling review was conducted on cases completed by the Hong Kong Regional Office / Wanchai District Office in the first two months of 2005. Findings are highlighted below –

- Processing of new applications took an average of 99 days for the issue of provisional licences, 255 days for full licences, 68 days for permits, and 46-149 days for approval of layout alteration (*depending on the magnitude of the work*).
- Protracted process time had been mainly caused by re-submission of layout plans, the paper-based record system and the internal communication process.
- There is no performance pledge for processing applications for alteration work and food permits.
- There is a standing agreement with FSD and BD on the processing time of new licence applications and both departments have been able to meet the agreed timeline.

Recommendations

Enhancing the public consultation mechanism

7. The trade is of the view that there is insufficient public consultation prior to introducing new regulatory requirements. Bureaux/departments are seen to have been selective in seeking feedback from trade and industry bodies. Not all stakeholders are given the

opportunity to comment on the proposed regulations. Bureaux/departments do not always respond adequately to the trade's comments and concerns in the formal consultation document.

8. To address the above, the Task Force recommends that the public consultation procedure be formalized. This is particularly for proposals that have significant impact on the business sector. The Task Force also recommends the setting up of an independent committee for public consultation and the conduct of Regulatory Impact Assessment studies before such proposals are put up to LegCo.

Composite licensing

9. The review has identified that while some licences have unique basic requirements (*e.g. bakery, fresh food provision and food factory*), there are commonalities on licensing requirements and conditions of many licences/permits, particularly for ready-to-eat food. The Task Force therefore considers it appropriate to simplify the licensing regime by combining the existing 11 food licences/permits on ready-to-eat food into one composite licence as shown at **Annex B**. The products under the proposed composite licence do not require complex food preparation or manufacturing activities and the involvement of FSD and BD is minimal.

10. The main features of this proposal are that –

- One licence to cover a wide variety of food which would otherwise need separate licensing or endorsement under the present regulatory regime;
- Applicants to comply with the basic licensing requirements which are common to all food products allowable under the composite licence, prior to the issue of the composite licence;
- Licensees have the flexibility to change the food products to be sold without the need to apply for a new licence, provided that the new food item is allowable by the composite licence and the product-specific licensing requirements have been complied with.

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11. More details about this proposal are at **Annex C**.

Streamlining licensing procedures

12. The Retail Task Force considers that it is of paramount importance that licensing requirements are kept simple. Simple, clear and explicit requirements will benefit both the trade and the Government. The Retail Task Force also recommends that improvement be introduced in the following areas –

- To conduct a comprehensive review of the licensing requirements, including details shown on layout plans, with a view to removing the outdated and excessive regulatory controls and bringing the licensing requirements in tune with the development of the industry. This should include defining criteria for exemption from approval of change to layout;
- To introduce performance pledges for permit applications and layout alterations. This would help business operators plan ahead and contain their expectations on the performance level of the licensing authority;
- To make further use of private professional practitioners and registered contractors in the licensing process. Consideration should be given to accept private certification for the issue of full licences (*private certification is only accepted for provisional licences at present*);
- To publish as many internal guidelines as possible to facilitate compliance by applicants in the licensing process. This should include non-standard licensing requirements; and
- To improve on licensing tasks such as requiring applicants to highlight changes in applications for layout alteration; streamlined internal communication process and data sharing

between licensing offices and district offices. These minor improved measures would work together to facilitate and speed up the licensing process.

Way forward

13. The Retail Task Force would welcome feedback and comment from the Food and Environmental Hygiene Department (FEHD) on the above proposals and, if possible, to mitigate any difference in views between FEHD and the industry as far as possible in order that a common ground could be presented to the Economic and Employment Council. The Retail Task Force appreciates that these proposals are directional only and more effort is needed to work out the technical details when agreement is reached on the direction.

EEC Subgroup on Business Facilitation Secretariat
May 2005

List of Licences/Permits under Review

	<i>Licences/Permits</i>
1	Bakery Licence and Provisional Bakery Licence
2	Milk Permit
3	Frozen Confection Permit for Packaged Confection
4	Non-bottled Drinks Permit
5	Restricted Food Permits
6	Restricted Food (Sale of Sashimi/Sushi/Oyster & Meat to be eaten in raw) Permits
7	Food Factory Licence and Provisional Food Factory Licence
8	Frozen Confection Factory Licence and Provisional Frozen Confection Factory Licence
9	Fresh Provision Shop Licence and Provisional Fresh Provision Shop Licence
10	Siu Mei and Lo Mei Shop Licence / Provisional Siu Mei and Lo Mei Shop Licence

Composite Food Retail Licensing: Proposed Framework

Ready-to-Eat Food Licence

- | | |
|--|---|
| ▪ Chinese herb tea | ▪ Oysters to be eaten in raw state |
| ▪ Cut fruits | ▪ Packaged frozen confections |
| ▪ Meat to be eaten in raw state | ▪ Pre-cooked food requiring re-heating facilities |
| ▪ Milk | ▪ Siu mei and lo mei |
| ▪ Non-bottled drinks | ▪ Sushi/Sashimi |
| ▪ Non-packaged frozen confections
(e.g. soft ice-cream) | |

** Consolidates existing 11 permits and licences*

Composite Licensing

The proposal

- ☐ It will initially cover 11 read-to-eat food items. Other food items could be incorporated depending on the development of the food business. Primarily, the food items allowable under the read-to-eat food composite licence should not involve complex preparation.
- ☐ FEHD will categorically define the basic licensing requirements and the product-specific requirements for the food items under the ready-to-eat food licence.
- ☐ When an applicant first applies for a ready-to-eat food licence for a particular establishment, he has to satisfy the licensing authority that all basic licensing requirements are fully complied. He has also to comply with the specific requirements for the food items he intends to sell, before a ready-to-eat food licence is issued.
- ☐ If a licensee wishes to change the food product subsequently, he is not required to apply for a new licence provided that the following conditions are met –
 - there is no layout change affecting fire or building safety;
 - the basic health and hygiene requirements attained under the first-time application are maintained;
 - the licensee confirms compliance with the specific requirements of the new product to be sold, in accordance with the standards and guidelines published by FEHD;
 - the licensing authority is notified of the intended change prior to product change and the licensee has received acknowledgement from the former.

Mechanics for the proposal

To implement the proposed licensing regime, it is important that an adequate enforcement mechanism is set up to allow FEHD to take prompt corrective and punitive action. Detailed licensing requirements and conditions for each product under the composite licence should also be made available to the public.

Strengthened enforcement power

The licensing authority should be empowered to take the following enforcement actions against non-compliance –

- Issue of Improvement Notices requiring rectification to non-compliance within a specified timeframe;
- Issue of Prohibition Orders barring the conduct of specified activities, sale of specified products, etc.;
- Suspension or cancellation of a licence for repeated offences or serious violation that affects the overall hygiene or safety.

The requirement for licensees to notify the licensing authority in advance of change in product mix also provides an opportunity for FEHD to conduct inspection, if in doubt.

Transparent licensing requirements

FEHD has to consolidate and categorise requirements for ready-to-eat food into basic and product-specific groups. Trade and new licence applicants should be provided with ready access to all these licensing requirements and conditions.

Licensees may conduct minor change to the layout to facilitate the sale of new or additional products. In most cases, such works should not affect fire or building safety. The published guidelines should enable licensees to carry out the required work without first seeking a letter of requirements and consent from the licensing authority.