

Seventh Meeting of the Economic and Employment Council

Agenda Item 3 : Report of the Subgroup on Business Facilitation

Purpose

This paper reports on the work of the Subgroup on Business Facilitation since the last EEC meeting on 13 June 2005.

Subgroup Meeting

2. The Subgroup held its sixth meeting on 4 August 2005. The meeting received work reports from the secretariat and the respective task forces on regulatory reviews in hand. A summary report of the progress made is set out in the ensuing paragraphs.

Progress of the Pre-construction Task Force

3. On the simplification of lease conditions, the departments concerned had taken forward the improvement measures in the past quarter where consensus had been reached. Lands Department (LandsD) is taking action to delete nine Special Conditions, simplify seven items and consolidate 10 items into four, and the first draft of the revised Special Conditions has been sent for comment by departments concerned in September 2005. The review of the General Conditions of the standard lease is at an advanced stage with final drafting to be completed in October. An enquiry procedure for exceptional cases involving concessionary land grants has now been put in place whereby grantees may make enquiries with LandsD about the basis for establishing the “before-value” in respect of any proposals involving the modifications of land grant conditions. LandsD will monitor the number of such enquiries and consider the need for devising more detailed enquiry procedures. LandsD has initiated action on any gazetting requirement once the required agreement to the transaction is reached to speed up a land exchange/modification case.

Expert determination system

4. The Administration has now further deliberated on the issue in detail and has concluded that its initial concerns, including those relating to public revenue implications, operational principles, Public Finance Ordinance, impartiality, and confidentiality cannot be satisfactorily addressed and safeguarded. Accordingly, the Administration is of the view that the proposed mechanism should not be implemented. In coming to this view, it has also been pointed out that other measures to expedite the premium appeal procedure have been and will continue to be explored and implemented with priority by LandsD within the context of the established and proven framework. The Pre-Construction Task Force (PCTF) held its eighth meeting on 20 September and discussed the response from the Administration on the Expert Determination System. Members consider that this is a policy issue for the Government but in making her decision the Government should strike a balance between LandsD's roles of a landlord and land administrator.

Progress of the Construction Task Force

5. The Task Force to Review the Construction Stage of the Development Process (CTF) had considered the suggestion for a web-based tracking system to enable building professional to check processing status of their submissions but concluded that, since regulatory authorities were still not yet communicating electronically in the building plan checking, no meaningful benefits could be reaped at present by the proposed system. However, CTF wished to urge the Government to keep pace with IT developments in the private sector by developing electronic communication systems for building plan checking.

6. The Legislative Council Panel on Planning, Lands and Works (PLW Panel) expressed strong reservation on the proposal of CTF to conduct a study on private certification of building submissions and urged Government to cancel the study. PLW Panel considered that the Government should first examine whether it was appropriate to outsource statutory authorities to private entities and to conduct wide consultation to forge consensus on fundamental issues before commissioning consultants to examine implementation issues. Due to the objections of the PLW Panel, CTF agreed to hold the study in abeyance so as to provide an opportunity to

explore possible ways forward. CTF would send a letter to the PLW Panel to clarify the purpose of the study, and a special panel meeting was being arranged to further clarify the CTF's thinking.

Progress of the Retail Task Force

Food licensing and Housing Department's vetting procedures

7. In the last quarter, the Retail Task Force (RTF) explored issues relating to food retail licensing and the problems with setting up food retail business in the estates of the Housing Authority. FEHD has drawn up an Implementation Plan on the recommendations to improve the licensing regime, processes and procedures for food retail business. RTF has discussed with the Housing Department (HD) and the Link Management Ltd. about improvement opportunities in the processing of applications to set up food retail business in its estates. HD has pledged to complete the processes for scrutinizing and approving fitting out works in seven working days for simple cases and in a maximum of 21 working days for complicated cases.

8. The RTF also met with trade representatives in early October to discuss their concerns over the regulatory control on retail of beauty products/cosmetics/medicines. It will decide on the need for more detailed review on the subject.

Public consultation

9. Both the Subgroup and RTF Members considered that, as evidenced in the public consultation processes for the proposed labeling scheme on nutrition information and the volatile organic compounds legislation, the current consultation mode adopted by the Government was inadequate and that the Government has been selective in consulting affected parties and reporting on the views expressed. Much efforts were needed in drawing the Government's proper attention to the views and concerns. To minimize the occurrence of selective consultation, the Subgroup urged the Government to provide details of parties consulted and reasons for accepting or declining views in the legislation process. Members also suggested that the Government improve the current mechanism to ensure all affected parties are adequately consulted and that their views are properly documented in any

submission to LegCo or its relevant Panels. The Subgroup will continue to monitoring the developments in this aspect.

10. Regarding the proposed VOC legislation, the Subgroup and RTF were content that the Environment, Transport and Works Bureau has reduced the number of categories of consumer goods to be regulated from 40 to 6. RTF will continue to monitor progress in the subject.

Regulatory Impact Assessment on vehicle waste tyres

11. The Environmental Protection Department (EPD) briefed the Subgroup on the latest development of the proposed product responsibility scheme for waste tyres in August. Views were diverse on the options of levy, mandatory scheme operated by the industry and landfill charge for tyre disposal. EPD will report to the Subgroup on further progress of the RIA study.

Review of Cinema Licensing

12. A report on the findings and recommendations of the review was made at the last EEC meeting. The trade, professional bodies and associations of specialist contractors were subsequently consulted in July and all indicated support for the recommendations. Besides, the trade suggested a licence disc, similar to the label for licensed food premises, be issued for display at the ticket control points to enhance the public awareness. The Home Affairs Bureau is drafting the legislative amendment on provisional licence for submission to the LegCo in December 2005.

Transparency and objectivity of rules and regulations

13. During the deliberations regarding the cinema licensing review and height restrictions on private Residential Care Homes for the Elderly (*see para. 14 – 15 below*), Subgroup Members have raised concerns, particularly of developers and building professionals about the uncertainty and prolonged processes arising from subjective interpretation of rules and regulations. One case in point is the “Fire Engineering Approach (FEA)”. While the Government ensures fire safety of licensed premises through prior approval of building plans according to prescriptive safety requirements, on various occasions, Authorized Persons (AP) expressed concern on the long

processing time for approving designs alternative to prescriptive fire safety requirements. Where there are physical constraints to comply with prescriptive requirements, the AP has to resort to FEA which is acceptable to Buildings Department (BD) and FSD, but is subject to subjective interpretation. However, there is no official guidelines and measurable yardsticks of the FEA published for the professionals to follow. The secretariat will follow up the issue with BD, FSD and the professionals and specialists in the fire engineering discipline for improvements.

Height restrictions on private Residential Care Home for the Elderly

14. The concerned bureau and departments briefed the Subgroup on 4 August regarding their major considerations in not further relaxing the height restrictions on private Residential Care Homes for the Elderly (RCHEs). Members held a follow-up meeting with the former on 16 August, during which Members gained a better understanding of the main differences in “hardware” in terms of designs to facilitate fire escape and evacuation, and “software” in terms of manning levels and training etc. between RCHEs and hospitals. Whilst noting the differences, Members suggested that the Government should focus on the evacuation time instead of rigidly applying the 24m rule and that FSD should as an interim improvement measure review the interpretation of the 24m height restriction, e.g. accepting podiums or refuge floors above or below the RCHE for the purpose of calculating the maximum height allowed.

15. The Subgroup advised that in the longer term, a review of the FEA (*see para. 13 above*) is warranted to give business operators a greater degree of certainty so that less cases will fall into the category. The Subgroup will continue to monitor progress in this aspect.

Other issues

16. The secretariat is following up with the concerned Bureaux and Departments on the following issues for discussion at coming Subgroup meetings –

- (a) Review of the licensing regime for travel agents.
- (b) Operation of temporary BBQ pits and other recreational purposes;
and

17. In the last quarter, the Subgroup received two referrals on the following subjects, proposing streamlining of the respective processes or introduction of facilitation measures for –

- (a) Processing of Short Term Waivers in the North District; and
- (b) Providing linkage between pharmaceutical patents and drug registration.

EEC Subgroup on Business Facilitation
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