

**Fifth Meeting of the
EEC Subgroup on Business Facilitation**

Agenda Item 7 : Review of Cinema Licensing

Purpose

This paper aims to brief Members on the findings and initial recommendations of the review of cinema licensing.

Background

2. The cinema trade has expressly raised concern on the need to –
 - cut down on the lead time to obtain a new licence and approval for alteration works;
 - simplify the licensing procedure; and
 - update the licensing requirements in the light of the development of the industry.

As reflected from a sampling case review exercise, an average of 10 months was needed to obtain a new licence and 5 months to secure consent to alteration works.

3. In October last year, the EEC Subgroup on Business Facilitation commissioned the Business Facilitation Division of the Economic Analysis and Business Facilitation Unit to review cinema licensing with a view to streamlining the existing licensing regime to develop a more business-friendly environment for the trade to operate in.

4. As at 31 December 2004, there were altogether 59 licensed cinemas. Twelve new licence applications and 23 applications for alteration works carried out in licensed cinemas were received in the last three years.

The existing regime

5. The turn-around time for cinema licensing largely depends on the following activities :

- (a) Inspection of the premises and issuing licensing requirements by Food and Environmental Hygiene Department (FEHD), Buildings Department (BD) and Fire Services Department (FSD);
- (b) Issue of the revised licensing requirements due to layout changes;
- (c) Carrying out of fitting-out works by the cinema operator;
- (d) Certification by professionals and contractors on building safety and fire service installations respectively;
- (e) Inspections by FEHD and FSD to confirm full compliance; and
- (f) Rectification of defects identified in the course of inspections.

6. The licensing process (**Annex 1**) requires interactions and close co-operation of parties involved, i.e. government departments concerned, the applicant and his Authorized Persons⁽¹⁾ (AP) and registered specialist contractors (RSC).

7. FEHD is the Licensing Authority for cinemas. Apart from taking enforcement actions, the Licensing Authority also advises applicants on licensing requirements and checks the finishing works prior to the issue of a cinema licence. In case of any revision to the layout plan, the Licensing Authority will revisit the licensing requirements and advise the applicant on any revision required.

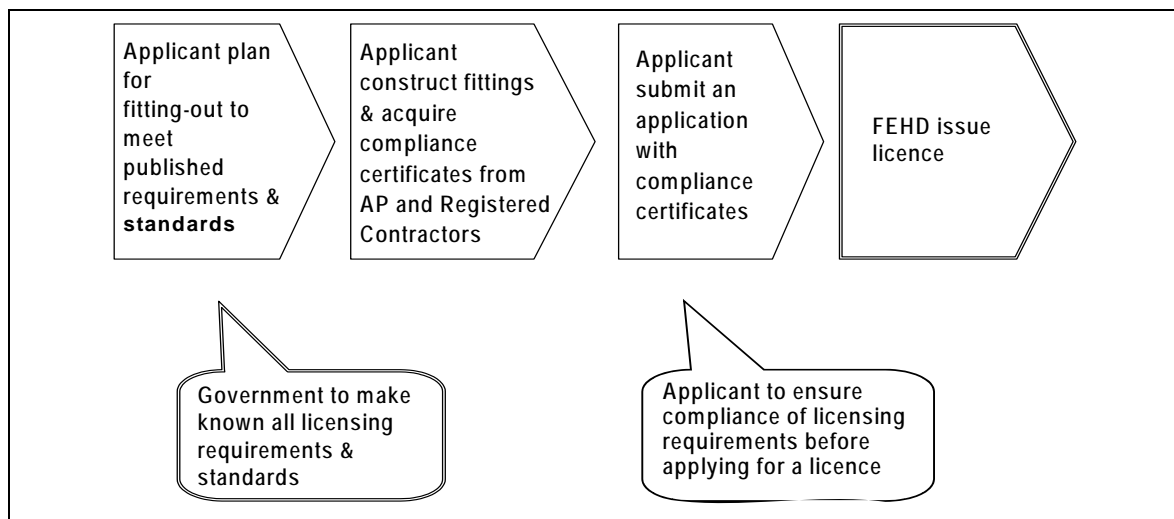
Recommendations

8. The review has focused on activities (a), (b) and (e) of Paragraph 5 with a view to identifying improvement opportunities without compromising public safety. The overall conclusion is that registered professionals and contractors could help achieve a speedier licensing process.

⁽¹⁾ Authorized Persons are registered with the Buildings Department who are qualified to perform duties and functions of an authorized person in accordance with the Buildings Ordinance. The authorized persons' register contains a list of architects, engineers and surveyors.

An alternative licensing framework

9. We **recommend** the introduction of a new licensing framework by which professionals in the private sector will play a more prominent role in advising applicants on licensing requirements and certifying compliance. The cinema trade may engage AP and Registered Fire Engineer (RFE) to work out the licensing requirements of the premises and to plan, design and fit out the premises according to published standards and guidelines. The Licensing Authority will issue a licence upon receipt of certification of compliance by AP, RFE and RSC. The following is a schematic view of the proposed licensing framework –



An alternative licensing framework

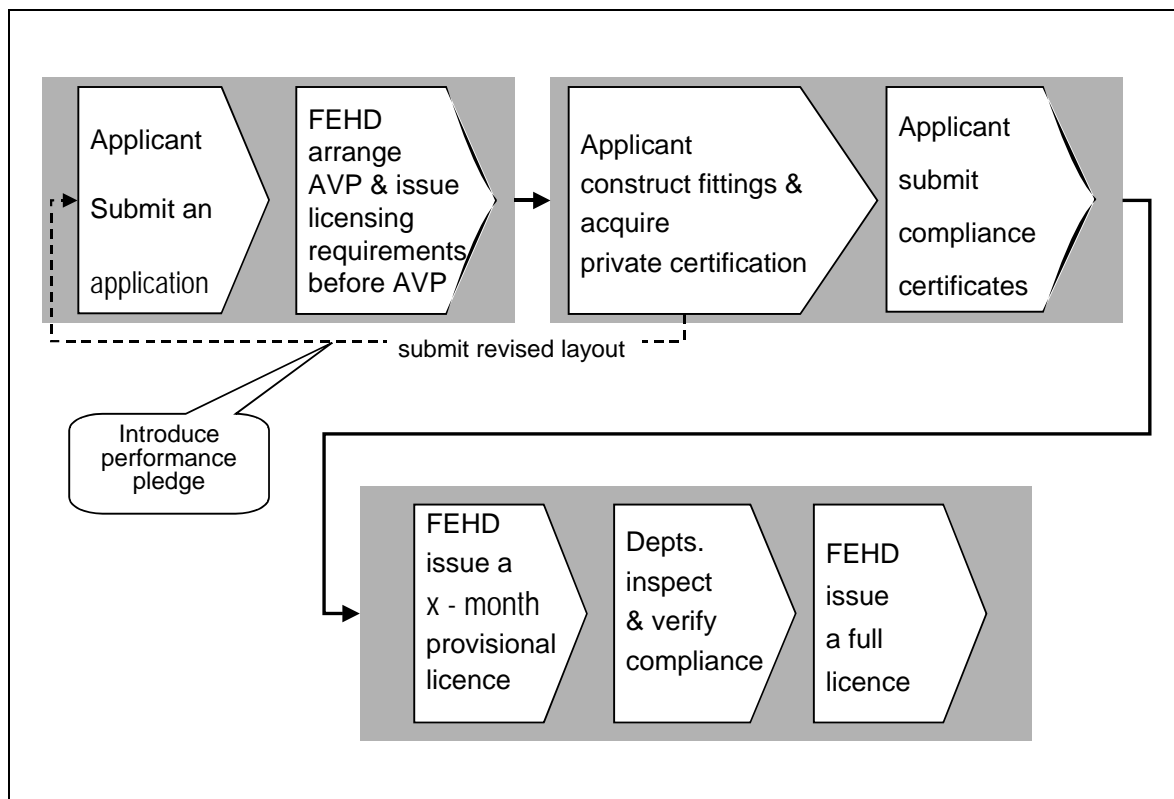
10. As most standard licensing requirements have been open to public through “A Guide to Application for Places of Public Entertainment Licences (Cinema)”, codes of practice and practice notes, registered professionals and contractors should have no problem to advise on licensing requirements. Indeed, it is already a common practice that fitting-out works commence well before the receipt of a letter of requirements from the Licensing Authority. To make the proposed framework work, there is a need to prepare and publish a set of comprehensive standard requirements which should include formulae, criteria and approaches for addressing site-specific issues.

11. There may be applicants or professionals who wish the Licensing Authority to advise on licensing requirements. For such cases, we **recommend** that the Government maintain an optional advisory service which will be charged on the ‘user-pay’ principle.

12. To encourage compliance, we **recommend** that “multi-year licence” be introduced for operators who have been law-abiding.

13. Implementation of the alternative licensing framework will take time for legislative amendments and preparation of the comprehensive licensing standards. The Fire Services Ordinance will have to be revised to introduce a class of professionals (i.e. Registered Fire Engineers) to ensure full compliance of fire safety requirements and issue certificates recognized by the Director of Fire Services. Amendment to the Places of Public Entertainment Ordinance may also be required as a result.

14. As an interim measure, we **recommend** that the Government continue to issue licensing requirements and a provisional licence, similar to that of restaurant licensing, be issued upon receipt of certification by AP and RSC as shown below. The Government will verify the private certification through audit / site inspections before the issue of a full licence. This option can be implemented promptly as it requires amendments only to subsidiary legislation. The Administration has estimated that subject to views of the industry, the proposal could be submitted to the Legislative Council before the end of the year.



Interim solution for new application

Licensing process

15. We have identified some opportunities where immediate improvement is possible. These include –

- (a) Issuing licensing requirements to applicants in advance to allow for a constructive discussion at the Application Vetting Panel;
- (b) Setting up a central database on common defects and “lessons learned” for sharing among the front-line staff, professionals and public; and
- (c) Defining the criteria for exemption from approval of layout plan revisions and alteration works to cut down on the number of re-submissions needed.

Customer service

16. The review has identified a need to improve on the relationship between the Licensing Authority and the trade and to align the understanding of the licensing requirements of parties concerned. We **recommend** that a forum comprising representatives from the Licensing Authority, the stakeholding departments and the cinema trade be established to facilitate exchange of views on issues of mutual concerns at regular intervals. The published licensing standards should be updated frequently to facilitate proper interpretation.

Protection of public interest

17. Enhancing public awareness would help combat unlicensed operation of cinemas. We **recommend** that –

- (a) The list of licensed cinemas be uploaded on the Government’s official web-sites for public awareness; and
- (b) The licence number be displayed at eye-level of each ticketing booth or printed on tickets to alert cinema-goers the need to patronise licensed establishments.

Consultation with industry

18. The Hong Kong Theatres Association, the Hong Kong Institute of Architects, the Hong Kong Institution of Engineers, the Hong Kong Institute of Surveyors, the Hong Kong Registered Ventilation Contractors Association and the Association of Registered Fire Service Installation Contractors of Hong Kong were consulted on the recommendations, in particular, about greater involvement of professionals and registered contractors in the licensing process, and they have all indicated support. Some professionals however prefer to follow the current practice whereby the Licensing Authority defines and issues licensing requirements on a case-by-case basis, thus mitigating disputes on the interpretation of licensing requirements. Their views are at **Annex 2**.

Way forward

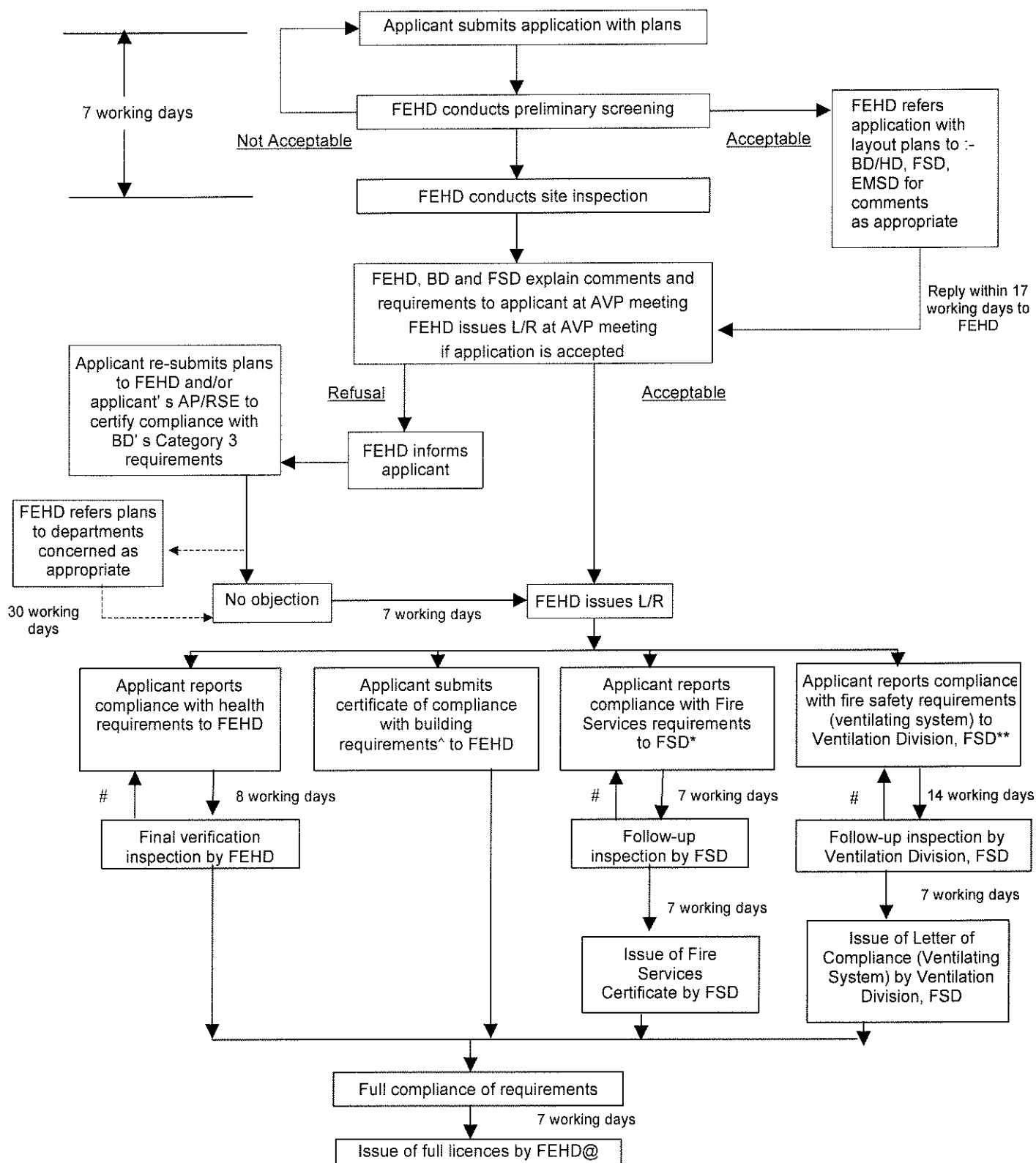
19. We are working further on streamlining the licensing process including procedures for alteration cases. Full recommendations will be submitted to the Economic and Employment Council in June.

Advice sought

20. Members are invited to give their views on the findings, recommendations and the way forward.

Economic Analysis and Business Facilitation Unit,
Financial Secretary's Office
April 2005

Flow Chart Showing Processing of Application For Places of Public Entertainment Licence (Cinema/Theatre)



Legend

: If there are still outstanding requirements
 @ : BD randomly audits certificate of compliance
 * : See Appendix V(f)(i)
 ** : See Appendix V(f)(ii)
 ^ : Including supporting documents required by BD
 RSE : Registered Structural Engineer

FEHD : Food and Environmental Hygiene Department
 BD : Buildings Department
 HD : Housing Department
 FSD : Fire Services Department
 AVP : Application Vetting Panel
 AP : Authorized Person
 L/R : Letter of Requirements

Views of the Cinema Industry and Professionals

Cinema operators' views

The cinema trade welcomed the proposal for greater use of professionals in the licensing process as this would speed up the process. They were confident that Authorized Persons (APs), registered fire service installation contractors and registered specialist (ventilation) contractors were capable of defining and interpreting the licensing requirements as well as certifying full compliance.

APs' views

2. APs supported self-certification. It is a system similar to that for provisional restaurant licensing, whereby the Licensing Authority serves as the “final checker” to ensure that safety standards are met prior to the issue of a full licence. APs however pointed out some pre-requisites to make the system work –

- (a) **Uniformity of standards** – HKIE and HKIA worried that individual government officials might apply different yardsticks in the course of audit inspections although professionals had already certified compliance, thus resulting in disputes. Both professional bodies stressed the importance of making known the government standards and details of licensing conditions and requirements.
- (b) **Liabilities** – HKIA was keen to see a clear definition of the extent of liabilities to be borne by each party should a problem arise. There was a suggestion that main contractors should be required to certify workmanship of their work while APs should confirm compliance of requirements on design. *(For reference, compliance of fire service installations in the case of provisional restaurant licensing are certified by registered contractors and endorsed by APs. But it is not the case for the certification on ventilation, which does not require APs' endorsement.)*

3. On the feasibility of APs advising on licensing requirements direct, all professional bodies had expressed reservations. They would prefer to follow the current practice whereby the Licensing Authority defines and issues licensing requirements on a case-by-case basis. This would mitigate disputes on the interpretation of licensing requirements and give them greater assurance on the work to be done.

4. Third party certification is a system by which compliance of a project is certified not by the APs who carry out the work, but by independent accredited professionals. This would remove the Government's role in final checking for compliance. Both cinema operators and HKIA however believed that third party certification would not speed up the licensing process and would result in additional cost.

Registered contractors' views

5. The Hong Kong Registered Ventilation Contractors Association and the Association of Registered Fire Service Installation Contractors of Hong Kong welcomed self certification by professionals and registered contractors who carried out the works. They were also confident that their members were acquainted of the Government's licensing standards and requirements. They would accept full liabilities should any problem arise from their work. Both Associations did not express views on certification by third party certifiers.