

**Business Facilitation Advisory Committee
Food Business and Related Services Task Force**

**Arrangement to Relax the Requirement for Applying
to Lands Department for Offensive Trades Licences
under Government Leases for Specified Food Businesses**

Purpose

This paper briefs members on the arrangement adopted by the Lands Department ("LandsD") to relax the requirement for applying for an offensive trades licence ("OT Licence") under Government lease for three types of licenced food businesses.

Background

2. If Government leases containing the offensive trades clause prohibits carrying on the trade of sugar-baker, oilman, butcher, victualler and tavern-keeper (collectively "the five trades") on the concerned lot or premises, the operation of food business in such a lot or premises would be considered in breach of the Government lease. The offensive trades clause is often found in the old Government leases.

3. At the time of making an application to Food and Environmental Hygiene Department (FEHD) for general restaurant licence or light refreshment restaurant licence, the applicant is required to make a declaration to the effect that the operation of the proposed restaurant business at the premises is in compliance with the Government lease conditions.

Requirement of Offensive Trades Licence

4. Previously, owners of a lot or premises held under Government leases containing the offensive trades clause should apply to LandsD for an OT Licence

to carry on the five trades contained in the offensive trades clause if operation of food business is intended. The current administrative fee payable for OT Licences is \$32,600 (for each OT Licence).

New Arrangement

5. Having considered the operation of the existing mechanism and the stakeholders' views, LandsD has relaxed the requirement for applying for OT Licences for specified food businesses since 5 November 2021 so as to relax existing barriers to the industry and to achieve the purpose of convenience to citizens. The new arrangement is applicable to a business which requires one or more of the following three types of licences: General Restaurant Licence and Light Refreshment Restaurant Licence granted by FEHD; and Liquor Licence granted by the Liquor Licensing Board (collectively "the Statutory Licences").

6. Under the new arrangement, upon the grant of any of the Statutory Licences (or the relevant provisional licence(s)) in respect of a lot or premises which is subject to the offensive trades clause under the Government lease, an OT Licence would be deemed to be granted to the owner of the concerned lot or premises by LandsD without the need of separate application and payment of associated fees. Under such circumstance, the OT Licence shall be co-terminus with the relevant Statutory Licence(s). Upon ceasing effect of all relevant Statutory Licence(s) in respect of the concerned lot or premises, the OT Licence shall automatically cease to have effect and the applicability of the offensive trades clause contained in the Government leases will be restored.

7. The above streamlining arrangement applies to cases where the following three criteria are satisfied:

- (a) The concerned lot or premises is not covered by an OT licence;
- (b) The proposed use of the concerned lot or premises falls within one or more of the five trades; and
- (c) The concerned lot or premises does not form part of a hotel development and shall remain so during the term of the relevant Statutory Licence(s).

8. For details about the above new arrangement, please refer to the press release and Lands Administration Office Practice Note Issue No. 3/2021 (English version only) issued by LandsD on 5 November 2021. The document has been uploaded on LandsD's website, at <https://www.landsd.gov.hk/en/resources/practice-notes/lao.html>. For applicants who submitted applications for OT Licence earlier, LandsD has written to inform them about the above new arrangement. Those applicants can choose to withdraw the submitted applications and have refund of paid fees.

Advice Sought

9. Members are invited to consider the content of the paper and are welcomed to make comments.

**Lands Department
November 2021**