

LCQ8: Reserve Licensee Mechanism established under liquor licence

Following is a question by the Hon Tommy Cheung and a written reply by the Secretary for Food and Health, Professor Sophia Chan, in the Legislative Council today (June 27):

Question:

Under the existing legislation, liquor licences may be issued only to natural persons but not body corporates and companies. For trade facilitation, the Government has implemented since March last year a Reserve Licensee Mechanism (RLM), allowing a liquor licensee to identify and nominate at an early stage a suitable person as a reserve licensee to take over the duty of the licensee within a short period in case of sudden departure of the licensee. In this connection, will the Government inform this Council:

(1) of the respective numbers of applications for nomination of a reserve licensee received and approved by the authorities since the implementation of RLM; among the bars and other types of restaurants which have been issued with liquor licences, the respective current numbers and percentages of those that have a reserve licensee;

(2) as some members of the catering industry have relayed that under the existing requirements, an application for nomination of a reserve licensee may only be submitted together with an application for new issue, transfer or renewal of liquor licence, whether the authorities will consider permitting liquor licensees to submit applications for nomination of a reserve licensee at any time during the licence period, with a view to enhancing the flexibility of RLM; if so, of the implementation timetable; if not, the reasons for that;

(3) of the number of applications, received by the authorities since the implementation of RLM, for authorisation of a reserve licensee to manage a liquor-licensed premises (together with a breakdown by whether the liquor-licensed premises were bars or other types of restaurants), as well as the average time taken for processing those applications; and

(4) whether it has reviewed the effectiveness of RLM; if it has reviewed and the outcome is that RLM is ineffective, whether the authorities will consider afresh the proposal of permitting liquor licences to be held by body corporates or companies; if so, of the implementation timetable; if not, the reasons for that?

Reply:

President,

The Liquor Licensing Board (LLB) implemented the Reserve Licensee Mechanism (RLM) on March 28, 2017, under which a liquor licensee can identify

and nominate at an early stage a suitable person as a reserve licensee. The reserve licensee can take over the role of the licensee as soon as possible in case of his/her departure under predictable or unforeseen circumstances, so as to avoid disruption to the liquor selling business and allay the concern of the trade over the sudden departure of the "natural person". At present, an application for nomination of reserve licensee can be submitted together with the application for new issue, renewal or transfer of liquor licence. Should there be a sudden departure of the liquor licensee, the business owner or operator can apply for authorisation of the nominated reserve licensee to temporarily manage the liquor-licensed premises, and the owner or operator can meanwhile formally apply to the LLB for transfer or new issue of liquor licence.

My reply to the various parts of the question is as follows:

(1) From March 28, 2017 to May 31 this year, the LLB received 2 733 applications for nomination of reserve licensee, of which 1 652 were approved. As at May 31 this year, the numbers and percentages of liquor-licensed premises where their applications for nomination of reserve licensee have been approved, with a breakdown by the type of liquor licence (with or without bar endorsement), are set out as follows:

Type of liquor licence	Total number of liquor-licensed premises	Nomination of reserve licensee		
		Number of applications received	Number of applications approved	Percentage in the total number of liquor licences of the type
With bar endorsement (Note 1)	1 236	588	318	25.7 per cent
Without bar endorsement	7 004	2 145	1 334	19 per cent
Total:	8 240	2 733 (Note 2)	1 652	—

Note 1: It means a bar operates on the particular premises. According to section 2 of the Dutiable Commodities (Liquor) Regulations (Cap. 109B), a "bar" means any place exclusively or mainly used for the sale and consumption of intoxicating liquor.

Note 2: As at May 31, 2018, a total of 2 733 applications for nomination of reserve licensee were received. Among them, 1 652 applications were approved, one was rejected and 205 required no further actions due to withdrawal by the applicants or other reasons, such as applicants failing to provide relevant documents before the deadline. The remaining 875 applications were being processed.

(2) At the initial stage of the implementation of RLM, to avoid delay in

processing the applications caused by a sudden surge in workload of the departments concerned, the LLB only accepted applications for nomination of reserve licensee submitted by the applicants (including existing licensees) together with their applications for new issue, renewal or transfer of liquor licence. The LLB will monitor the implementation of the RLM from time to time and conduct timely reviews. For instance, it will look into the feasibility of relaxing the arrangement to allow the licensees to submit nomination applications separately, and increasing the number of reserve licensees to be nominated with a view to facilitating the trade. In addition, to further minimise the disruption to business operation in case of sudden departure of the licensee, since July last year, the LLB has started to accept applications for transfer of liquor licence from liquor licenced business owners or operators even without consent of the current liquor licensees. Overall speaking, we believe that the two trade facilitation initiatives mentioned above could further minimise the impact of sudden departure of the licensee on the trade.

(3) From March 28, 2017 to May 31, 2018, the LLB received 21 applications for authorisation of reserve licensee, of which 14 were approved. The numbers of applications for authorisation of reserve licensee received and approved, with a breakdown by the type of liquor licence (with or without bar endorsement), are set out as follows:

Type of liquor licence	Authorisation of reserve licensee	
	Number of applications	Number of applications approved
With bar endorsement	5	3
Without bar endorsement	16	11
Total	21 (Note 3)	14

Note 3: As at May 31, 2018, a total of 21 applications for authorisation of reserve licensee were received. Among them, 14 applications were approved and the remaining seven were being processed.

Under normal circumstances, the LLB Secretariat may grant approval-in-principle to the authorisation of reserve licensee within four working days after receiving the application. The application will then be circulated to the Police for comment. Upon receiving the comments of the Police, the LLB will consider whether or not to formally approve the authorisation. At present, it takes an average of 25 working days to process an application.

(4) According to the Dutiable Commodities (Liquor) Regulations (Cap. 109B), a liquor licence should only be issued to a "fit and proper person". The legislative intent of this provision is to make a natural person instead of a company the holder of a liquor licence. As the regulatory work relies heavily on the licensees' fulfilment of their legal and administrative responsibilities, it is a licensing condition that the licensee must personally supervise the operation of the premises. As for the trade's

suggestion of allowing a body corporate to be issued with a liquor licence for the purpose of facilitating business operation, the Government is conducting preliminary studies on it.

Moreover, some trade members suggest that consideration should be given to classifying liquor licences into different categories in accordance with the types of risks involved, in a bid to strengthen the risk management of various types of liquor-selling premises. The Government will consider making use of the risk assessment principles to set the criteria for classifying liquor-licensed premises into different risk types. The criteria may include the term of the liquor licence, past records of the liquor-licensed premises (e.g. whether the premises had caused any noise nuisance to nearby residents or received complaints during the licence period), records of contravention of licensing conditions, location and operation mode of the premises, and liquor-selling hours. Specific criteria will also be followed when considering the feasibility of allowing a body corporate to be issued with a liquor licence.