

HOW TO APPLY FOR A LICENCE UNDER THE HOTEL AND GUESTHOUSE ACCOMMODATION ORDINANCE, CAP. 349

The Legislation

The Hotel and Guesthouse Accommodation (Amendment) Ordinance 2020 (Cap. 349) (the Amendment Ordinance) has come into operation on 1 December 2020 to provide for a refined licensing scheme to ensure that the premises comply with the licensing requirements in respect of suitability (building and fire safety, health and sanitation), no-use restriction (no restrictive provisions in the deed of mutual covenant or land lease), fit and proper, and operation (renewal only).

For the purposes of the Amendment Ordinance:

Premises are a **“hotel”** or **“guesthouse”** if the premises are held out as providing sleeping accommodation to any persons presenting themselves who are willing to pay a fee for the sleeping accommodation. In this context—

“any persons” includes any person or persons of a particular category, class, group or description; and

“presenting” includes presenting in person or through an agent or a representative, whether physically or through any other means, and whether with or without prior booking or notice.

Application for a Licence

Any person who operates, keeps, manages or otherwise has control of a hotel or a guesthouse should obtain a licence from the Hotel and Guesthouse Accommodation Authority. Four different forms of licences viz Hotel, Guesthouse (General), Guesthouse (Holiday Camp), Guesthouse (Holiday Flat) will be issued in accordance with the categorization as follows under the Ordinance : (a) “hotel licence” for premises/buildings approved by the Building Authority for hotel use; (b) “guesthouse (general) licence” for premises providing short-term sleeping accommodation located in residential buildings; (c) “guesthouse (holiday camp) licence” for premises providing short-term sleeping accommodation within camp sites; and (d) “guesthouse (holiday flat) licence” for premises providing short-term sleeping accommodation in village type houses in the New Territories.

Prior to the issue of a licence, the application should comply with the suitability, no-use restriction and fit and proper requirements.

Before approving a licence application in respect of any premises, a local consultation has to be conducted unless the use of the premises as a hotel or guesthouse is permitted according to (a) a draft plan or an approved plan within the meaning of the Town Planning Ordinance (Cap. 131); or (b) a permission granted in respect of such a plan under Cap. 131.

Renewal of a Licence

A licence is subject to renewal after expiry. An application for licence renewal must be made within the period beginning 6 months before, and ending 3 months before, the end of the licence period of the licence (application period). An application for licence renewal may not be accepted if it is not made within the application period unless the Authority considers that there is a good reason for doing so.

Transfer of a Licence

Any licence holder who wishes to transfer the licence to another person or body of person should make an application to that effect. If the licence is lost, the licence holder should report the loss to the Police and apply to the Office of the Licensing Authority for a certified true copy of the licence before applying for transfer.

Under the new licensing regime, the transferee has to satisfy the fit and proper requirement.

Upon transfer of the licence, the transferee has to take up the obligation of complying with the conditions imposed on the previous licence holder (i.e. the transferor).

Offence

In accordance with the Ordinance, any person, owner or tenant who on any occasion operates, keeps, manages or otherwise has control of a hotel/guesthouse without a valid licence under the Ordinance commits an offence and is liable on conviction to a maximum fine of \$500,000 and to imprisonment for 3 years and, in the case of a continuing offence, to a further fine of \$20,000 for every day during which the offence continues.

Fees

The fee for a licence will depend upon the number of rooms of the hotel or guesthouse and the validity period of the licence. A fee will be charged for any application, renewal and transfer of a licence as well as endorsement to a licence for particulars shown on the licence. Information on the current fee scales can be obtained from the Office of the Licensing Authority.

How to Apply

Forms for the application, renewal and transfer of a licence can be obtained free of charge from the Office of the Licensing Authority of the Home Affairs Department. They can also be downloaded from the Home Affairs Department Homepage – www.had.gov.hk.

The application form should be returned to the Office of the Licensing Authority. Details concerning the submission of the application form and guidelines for completion of the form are given in the information booklet “A Guide to Licence Application under the Hotel and Guesthouse Accommodation Ordinance (Cap. 349)” which can be downloaded from Home Affairs Department Homepage – www.had.gov.hk.

Enquiry

Enquiries may be made to the Office of the Licensing Authority of the Home Affairs Department at 2881 7034 (general issues) or 3107 3021 (licence requirements and local consultation), or by post or email to —

Address: 10th Floor,
14 Taikoo Wan Road,
Taikoo Shing,
Hong Kong

Email: hadlaenq@had.gov.hk (general issues)
hadlaapu@had.gov.hk (licence requirements and local consultation)