



本署檔號 Our Ref. HAD/LA/1/2/6  
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10 July 2020

To: All licensees of hotels and guesthouses / licence applicants

Dear Sir/Madam,

**Amended Hotel and Guesthouse Accommodation Ordinance**  
**will commence on 1 December 2020**

Operation of hotels and guesthouses in Hong Kong is regulated by the Hotel and Guesthouse Accommodation Ordinance (Ordinance). The Ordinance aims to, through a licensing regime, ensure that premises intended to be used as hotels or guesthouses meet the building structure and fire safety standards specified in the Buildings Ordinance (Cap. 123) and the Fire Services Ordinance (Cap. 95). In view of the safety concerns and the potential nuisance to the neighbourhood caused by unlicensed hotels and guesthouses, there have been strong calls for a more stringent licensing mechanism. The public are also expecting more effective enforcement actions and stronger deterrent effect against unlicensed hotels and guesthouses. To address the public concerns, the Government conducted an extensive consultation exercise to collect the views of the public and the trade. Based on the views collected in the public consultation, the Government proposed to amend the Ordinance to enhance the licensing regime. The relevant proposals have been included in the Hotel and Guesthouse Accommodation (Amendment) Ordinance 2020 (Amendment Ordinance) passed by the Legislative Council on 11 June 2020.

2. The Hotel and Guesthouse Accommodation (Amendment) Ordinance 2020 (Commencement) Notice was gazetted on 10 July 2020 to appoint **1 December 2020** as the commencement date of the Amendment Ordinance.

3. The Amendment Ordinance seeks to improve the existing licensing regime, facilitate enforcement actions and enhance deterrence against unlicensed hotels and guesthouses. The major amendments are as below:

(a) Improve the existing licensing regime

The Amendment Ordinance empowers the Hotel and Guesthouse Accommodation Authority (Authority) to take into account in the licensing process the relevant restrictive provisions in land documents, local residents' views, and whether the licence applicant is a "fit and proper" person. The Amendment Ordinance also provides for a differentiation between a hotel licence and a guesthouse licence, and empowers the Authority to impose a licence condition on a guesthouse licence to prohibit the use of the word "hotel" in its business name.

(b) Facilitate enforcement actions

The Amendment Ordinance introduces a strict liability offence. If there is evidence which proves that the premises are used as an unlicensed hotel or guesthouse, the owners and tenants of the premises (which refer to persons given exclusive possession of the premises concerned under a tenancy and do not include guests patronising the premises) will be held criminally liable, unless they can provide a relevant statutory defence. Moreover, in order to combat unlicensed hotels and guesthouses, the Amendment Ordinance empowers the Authority to apply for a search warrant to allow enforcement officers to break into, with reasonable force when necessary, a suspected unlicensed hotel or guesthouse to inspect or collect evidence.

(c) Enhance deterrence

The Amendment Ordinance empowers the Authority to apply to the court, upon the second conviction within 16 months of operating an unlicensed hotel or guesthouse or the new strict liability offence in respect of the same premises, to issue a closure order for the premises for six months. The maximum penalty will also be increased from a fine of \$200,000 to \$500,000, and imprisonment from two years to three years.

## **Transitional Arrangement**

4. To allow existing licensees making preparation for migration to the new regime, we will put in place a transitional period of 12 months after the commencement of the Amendment Ordinance (from 1 December 2020 to 30 November 2021). (Please refer to the attached information note for details.)
5. For enquiries, please contact us at 3107 3021 or visit our website ([www.hadla.gov.hk](http://www.hadla.gov.hk)).

Yours faithfully,

(Signed)  
(TANG Hoi-kwan, Edwin)  
Chief Officer (Licensing Authority)  
Office of the Licensing Authority

## Key Provisions of the amended Hotel and Guesthouse Accommodation Ordinance

The amended Hotel and Guesthouse Accommodation Ordinance (“the Ordinance”) will take effect on **1 December 2020**. The legislative amendment aims to:

- (a) improving the existing licensing regime by empowering the Hotel and Guesthouse Accommodation Authority (“the Authority”) to take into account relevant restrictive provisions in land documents and local residents’ views in the licensing process, and introducing a number of enhancement measures to better protect the lodgers and the public;
- (b) facilitating enforcement actions against unlicensed hotels and guesthouses by introducing a “strict liability” offence and empowering the Authority to apply for search warrants; and
- (c) enhancing deterrence by increasing the penalties for offences under the Ordinance, and empowering the Authority to apply for closure of premises in particular cases.

### New Licensing Regime

2. After implementation of the amended Ordinance, “new applications” and “renewal applications not eligible for the transitional arrangement” will have to meet the requirements under the new regime, including the following major items:

(a) Consideration of Land Documents

The applicant is required to provide a written legal advice given by a legal practitioner on whether there is any restrictive provision in the deed of mutual covenant (DMC) or land lease concerned. There shall be no express provision which prohibits the premises concerned from being used as a hotel or guesthouse, for commercial purpose, or otherwise than for private residential purpose.

(b) Local Consultation

The Authority will set up an advisory panel, comprising professionals, local communities and members of the industry, etc., to collect and consider views submitted by affected residents (“local consultation”). Applicants might be required to provide supplementary information or respond to the questions raised by the advisory panel. The recommendations of the panel are not binding, but are among the factors which the Authority may take into account in deciding whether or not a licence should be issued, and whether or not to impose suitable licensing conditions.

(c) “Fit and Proper” Person

It is required to declare in the application form that the applicant (including a body of persons) is a “fit and proper” person, i.e. whether the applicant, or (if the applicant is a body of persons) a related person, has committed an offence under the Ordinance, or any other serious offence resulting in a sentence to imprisonment for more than 3 months, or is an undischarged bankrupt, in liquidation or the subject of a winding-up order. The Authority will take into account the declaration when considering the application.

(d) Differentiation of “hotel licence” and “guesthouse licence”

Guesthouses are prohibited from using of the word “酒店” or “hotel” in their business name.

## **Enforcement and Prosecution against Unlicensed Hotels and Guesthouses**

3. In order to combat unlicensed hotels and guesthouses, the amended Ordinance introduces a new offence, empowers the Authority new enforcement power and increases the penalties for offences under the Ordinance. Details are as below:

(a) Strict Liability Offence

If there is evidence which proves that the premises are used as an unlicensed hotel or guesthouse, the owners and tenants of the premises (which refer to persons given exclusive possession of the premises concerned under a tenancy and do not include guests patronising the premises) will be held criminally liable, unless they can provide a relevant statutory defence.

(b) Search Warrant

The amended Ordinance empowers the Authority to apply to the court for a search warrant to allow enforcement officers to break into, with reasonable force when necessary, a suspected unlicensed hotel or guesthouse to inspect or collect evidence.

(c) Increasing the Maximum Penalty

The maximum penalty will also be increased from a fine of \$200,000 to \$500,000, and imprisonment from 2 years to 3 years.

(d) Closure Order for Repeated Offence

The amended Ordinance also empowers the Authority to apply to the court, upon the second conviction within 16 months of operating an unlicensed hotel or guesthouse or the new strict liability offence in respect of the same premises, to issue a closure order for the premises for 6 months.

## **Commencement Date**

4. The amended Ordinance will commence on 1 December 2020. All new applications shall be processed in accordance with the requirements under the new regime. Also, the Authority could exercise the power granted by the amended Ordinance in respect of enforcement and prosecution work with immediate effect for the newly introduced and existing offences under the Ordinance.

## **Transitional Arrangement**

5. To allow existing licence holders making preparation for migration to the new regime, we will put in place a **transitional period** of 12 months (from 1 December 2020 to 30 November 2021). If an existing licence expires before the end of the transitional period (i.e. on 30 November 2021 or before) and its renewal application is submitted between 1 September 2020 and 30 November 2021 (both dates inclusive), the renewal application can be processed in accordance with the requirements under the old regime and the licence can be renewed for a period **not exceeding 12 months**. Upon expiry of the licence, the licensee will have to meet all new requirements for further renewal of the licence.