

The Karaoke Establishments Ordinance (Cap. 573) Guide to Application

Part A : General

1. Introduction

According to the Karaoke Establishments Ordinance (Cap. 573), subject to paragraph 3 below, any person who intends to keep, manage, operate or otherwise have control of a karaoke establishment must either obtain a permit or a licence from the Licensing Authority.

This Guide aims to provide guidelines on the application procedures for a permit or a licence for karaoke business operators.

2. Who is the Licensing Authority? Permit or Licence?

Depending on where the karaoke establishment is situated, the applicant shall either apply for a permit or a licence. There are two Licensing Authorities for different kinds of karaoke establishments: the **Secretary for Home Affairs** and the **Director of Food and Environmental Hygiene**. The licensing works of the Secretary for Home Affairs are done through the Office of the Licensing Authority of Home Affairs Department (“**HAD**”) whereas those of the Director of Food and Environmental Hygiene are carried out by the Food and Environmental Hygiene Department (“**FEHD**”).

(a) Hotels, guesthouses, & club-houses: Permits

If a karaoke establishment is situated at any hotel or guesthouse that has been issued with a licence under the Hotel and Guesthouse Accommodation Ordinance (Cap. 349); or

If a karaoke establishment is situated at any club-house that has been issued with a certificate of compliance under the Clubs (Safety of Premises) Ordinance (Cap. 376),

HAD is responsible for the grant of a karaoke establishment **permit**. A karaoke establishment permit will only be valid so long as the licence or certificate of compliance in respect of the premises remains valid.

(b) Restaurants: Permits

If a karaoke establishment is situated at a restaurant that has been granted with a licence under the Public Health and Municipal Services Ordinance (Cap. 132),

FEHD is responsible for the grant of a karaoke establishment **permit**. A

karaoke establishment permit will only be valid so long as the restaurant licence remains valid. Regarding all the licensing procedures and requirements of FEHD, please refer to their enquiry centres listed at **Appendix I**.

(c) Premises other than the above: **Licences**

If a karaoke establishment is situated at any premises other than (a) or (b) above,

HAD is responsible for the issue of a karaoke establishment **licence**.

A karaoke establishment licence is not applicable to those karaoke operations serving meals or liquor within the premises. Since serving meals and/or liquor need licences issued under other Ordinances, a karaoke establishment permit granted under paragraph (a) or (b) above would be more appropriate.

(d) Provisional permits & provisional licences

When applying for a karaoke establishment permit or licence, the applicant may, at the same time or before issue of the formal permit or licence, apply for a **provisional** permit/licence to operate the karaoke establishment. For details please see Part D of this Guide.

3. General Exemption

Certain types of karaoke establishments are exempted from the requirements of permits or licences under the Karaoke Establishments Ordinance.

(a) Exemption

Section 3(1) of the Karaoke Establishments Ordinance provides that the Ordinance shall not apply to any karaoke establishment --

- (i) in premises where the karaoke activity is carried on in not more than 3 rooms with an aggregate floor area of not more than 30 m²;
- (ii) in concert halls, theatres, auditoria and community halls in respect of which a licence has been granted and is for the time being in force under section 4 of the Places of Public Entertainment Ordinance (Cap. 172) or which are the subject of an order made under section 3A of that Ordinance that is for the time being in force; or
- (iii) exempted by an order of the Licensing Authority under section 3(2) of the Karaoke Establishments Ordinance that is for the time being in force.

(b) Application for exemption

In respect of subparagraph (a)(iii) above, a karaoke operator may apply to the Licensing Authority for exemption. (Please refer to paragraph 2 of this Part for the appropriate authority to write to.)

To facilitate the Licensing Authority to consider an application, the applicant should submit the layout plans of the premises concerned, description of the mode of the operation and safety measures, or equipment provided in the premises.

The Licensing Authority may agree or refuse to, under section 3(2) of the Karaoke Establishments Ordinance, exempt the premises, and will inform the applicant in writing. For those karaoke establishments that are not exempted, their operators have to apply for permits or licences in accordance with the normal procedure.

4. Transitional Arrangement

Any person who, prior to the commencement date of the Karaoke Establishments Ordinance (that is 8th January 2003), has been operating, keeping, managing or otherwise controlling a karaoke establishment (the “existing operator”) may continue to operate that karaoke establishment without a valid permit or licence for a transitional period of 12 months from the commencement date:

During the transitional period, the existing operators will have to apply for permits or licences under the Karaoke Establishments Ordinance.

The existing operators must provide evidence to the Licensing Authority showing that their karaoke establishments have been in operation before the commencement date.

5. Enquiries

For further enquiries concerning applications of karaoke establishment permits or licences, please approach the Licensing Offices or the Restaurant Licensing Resource Centre listed at **Appendix I**.

6. Relevant Legislation

Applicants may purchase a copy of the Karaoke Establishments Ordinance (Cap. 573), the Karaoke Establishments (Licensing) Regulation, and the Karaoke Establishments (Fees) Regulation through the following channels:

Home Affairs Department – Office of the Licensing Authority

- visit the Publication Sales Unit of Information Services Department at Room 626, 6/F, North Point Government Offices, 333 Java Road, North Point (Tel: 2537 1910)
- the online Government Bookstore at www.bookstore.gov.hk
- by email at: puborder@isd.gov.hk

Applicants may access to all relevant legislation from the website of the Department of Justice at <http://www.legislation.gov.hk>.

Important Note

- (1) This is not a legal document. Information contained in this Guide is for reference only. All applications for issue, renewal and transfer of the karaoke establishments permits / provisional permits or licences / provisional licences are processed in accordance with the Karaoke Establishments Ordinance (Cap. 573) and its subsidiary regulations, the Karaoke Establishments (Licensing) Regulation and Karaoke Establishments (Fees) Regulation.
- (2) It is an offence under the Karaoke Establishments Ordinance if any person keeps, manages, operates or otherwise has control of a karaoke establishment without a licence/permit or a provisional licence/permit. The person convicted of the offence is liable, on first conviction, to a fine of HK\$50,000 and to imprisonment for 6 months and in the case of a second or subsequent conviction, to a fine of HK\$100,000 and to imprisonment for 1 year. In the case of a conviction of a continuing offence, a further daily fine of HK\$2,000 per day during which the offence continues may be imposed.
- (3) Applicants, while having dealings of any kind with the Government departments, should not offer advantage to the Government officers. Persons offering advantages may commit an offence under the Prevention of Bribery Ordinance (Cap.201). According to the Prevention of Bribery Ordinance, "advantages" include any gift, loan, fee, reward, etc. Please refer to Section 2 of the Prevention of Bribery Ordinance for the definition of "advantages".
- (4) The issue of a karaoke establishment permit/licence does not in any way exempt or indemnify the holder of the permit/licence from the consequences of non-compliance with the provisions of any other enactments or from the consequences of any breach of any other regulations or laws of Hong Kong (including The Law of the People's Republic of China on Safeguarding National Security in the Hong Kong Special Administrative Region).
- (5) For the permit/licence to be issued under Cap. 573, the applicant shall ensure that no act or activity on the premises with permit/licence may constitute or is likely to cause the occurrence of an offence endangering national security under the National Security Law or other laws of the Hong Kong Special Administrative Region.

Part B : Application for issue

1. General Information

Before making an application, the applicant must determine whether he/she is applying for a **permit** or a **licence**. Please refer to paragraph 2 of Part A of this Guide for details.

(a) Applicant and authorized representative

The applicant can be an individual, a body corporate (i.e. a limited company) or a partnership.

If the applicant is an individual, he/she must be a “fit and proper” person suitable to keep, manage, or have control of a karaoke establishment. The application will be referred to the Hong Kong Police Force for checking in parallel.

If the applicant is a body corporate (i.e. a limited company) or a partnership, then the applicant must authorize an individual to submit the application. This authorized representative must be a “fit and proper” person as stated above. The permit/licence will be issued to the applicant as a grantee or licensee, and the name of the authorized representative will also appear on the permit/licence.

(b) Fire safety training to personnel

The applicant must ensure that at least one person from the management level of the karaoke establishment has attended a fire safety training course recognized by the Director of Fire Services. For details of the fire safety training, please contact the Fire Services Department at the address and telephone number listed at **Appendix I**.

The name of the person trained and details of the training courses must be submitted to the Licensing Authority for approval.

(c) Preparation of a short fire safety film

It is a requirement for all karaoke establishments that a short fire safety film must be shown to all customers before they start any karaoke activities. The aim of showing this film is to introduce customers to the safety equipment in the premises, the means of escape in emergency and the related arrangements. Such safety film and the mode of operation have to be submitted to the Licensing Authority for prior approval.

(d) Decoration and fitting-out works

The Licensing Authority will process all applications with reference to the latest plans approved by the Buildings Department. All alterations and additions (except exempted building works) to the premises must first obtain approval of the Buildings Department. No works should be commenced without the consent from the Buildings Department. For enquiries on the alterations and additions (building works), please refer to the Buildings Department at the address and telephone number listed at **Appendix I**.

(e) Unauthorized building works

If there is any unauthorized building works (i.e. works that have not been approved by the Buildings Department) in the karaoke establishment premises, the Licensing Authority may consider that the premises are not suitable for a karaoke establishment, and a permit/licence may not be issued.

(f) Other approvals, consents and agreements

The grant or issue of a permit or licence for any karaoke establishment does not act as a waiver of any terms in the leases or licences issued by the Government Departments. There may also be other restrictions or covenants governing the use of the premises, such as the Deed of Mutual Covenants (DMC) of a building. The applicants should seek their own legal advice.

2. Restrictions on Choice of Premises

The Licensing Authority will not normally grant or issue any karaoke establishment permit or licence to certain premises which are associated with high fire risks or to which access for purpose of making rescue in case of emergency is difficult. For example, the following premises are not suitable for a karaoke establishment:

- (i) Basement level 4 or below;
- (ii) Industrial buildings including their godowns (except the commercial zone on lower floors which are separated from the industrial zone on upper floors by a buffer zone of non-fire-hazardous use (e.g. carpark or refuge floors) of a composite industrial-commercial buildings); or
- (iii) Upper floors of a single staircase building.

The applicant is advised to consult a qualified building professional for technical advice before involving in any commitments.

3. Application Procedures

(a) Forms

- For a permit : form HAD 182
- For a licence : form HAD183

The applicant must read carefully and follow the notes at the end of the application form.

(b) Layout plans

The applicant must submit a set of plans (in triplicate):

- The plans must be drawn in metric, in a scale of not less than 1:100.
- The plans should show the layout of the karaoke establishment, the use of all parts, all internal partitioning and doors, all escape routes, dimensions and calculation of areas, fire service installations, sanitary fittings, seating, furniture and fixtures, equipment and other details as listed at section 2 of the Karaoke Establishments (Licensing) Regulation.
- The applicant must sign on all copies of the plans to certify their authenticity.
- If necessary, the submitted plans may be amended and endorsed (with a date) by the applicant.

(c) Declaration

The applicant (and the authorized representative, if applicable) must make a declaration in the application form. Please read through every part carefully, and ensure that a true and correct declaration will be made. Any person ***makes or knowingly makes a false statement*** shall be guilty of an offence under the Karaoke Establishments Ordinance, and may ***jeopardize the application*** and any permit/licence subsequently issued.

(d) Fees

Upon submission of the application form, the applicant must pay the prescribed fee as listed at **Appendix VI**. However, the payment of fee does not mean that the application has been approved, and the fee paid is not transferable. The fee paid is for recovering the costs of processing the application, and is not subject to pro-rata reduction even if the validity period of the permit/licence is shorter.

The prescribed fee for a **permit** applies to all premises irrespective of their sizes.

The prescribed fees for **licences** are set at different levels for different sizes

of karaoke establishments. The size of a karaoke establishment is calculated according to its gross floor area, which is subject to the final decision of the Licensing Authority. The fee paid on application may have to be adjusted accordingly, and must be fully paid before a licence can be issued.

4. Processing Application

(a) Preliminary checking

The applicant is advised not to commence any decoration or upgrading works at this stage until the Licensing Authority has issued a letter of requirements on health, fire safety and building safety.

Staff of the Office of the Licensing Authority of the Home Affairs Department (OLA-HAD) will conduct site inspections.

If, after the preliminary checking, the Licensing Authority finds that there are fundamental reasons for refusal (for example, the premises are not suitable for the proposed karaoke establishment), then the application will be refused and the applicant will be notified accordingly.

(b) Notification of health, fire safety and building safety requirements

The OLA-HAD will issue a letter of requirements to the applicant listing out the licensing requirements, including health, fire safety and building safety requirements which have to be complied with. (For reference, some general requirements on health, fire safety and building safety are attached at **Appendices II, III & IV** respectively.) Staff of the OLA-HAD will answer enquiries on those requirements.

(c) Upgrading works

The applicant should expedite the upgrading works in the proposed karaoke establishment with a view to complying with the licensing requirements. Upon completion, the applicant should submit the “Report of Compliance” as soon as possible to the OLA-HAD for verification.

(d) Completion inspection

After receipt of the applicant’s “Report of Compliance”, staff of the OLA-HAD will make an appointment with the applicant to inspect the premises and check the compliance of the licensing requirements. Any outstanding licensing requirements will be made known to the applicant in writing. The applicant has to rectify all the outstanding matters to the satisfaction of the Licensing Authority.

On completion, the applicant is required to submit all the relevant certificates

in relation to the fire services, electricity, gas and ventilation installations, and the fire-resisting construction certificates.

(e) Certification of plans

The Licensing Authority will certify the layout plans, and one set of the **certified plans** will be returned to the applicant upon issue of a permit/licence. The grantee/licensee is advised to keep the certified plans and ensure that no alterations or additions to the premises will be carried out before approval of the Licensing Authority has been given.

5. Conditions Imposed on a Permit/Licence

The Licensing Authority may impose conditions on a permit/licence upon its issue. All conditions imposed shall form part of the permit/licence. The grantee/licensee (including the authorized representative) who breaches any of these conditions commits an offence under the Karaoke Establishments Ordinance, and may be liable to prosecution.

A set of sample conditions is attached at **Appendix V** for reference. Certain conditions may only be applicable to a particular karaoke establishment.

The permit/licence including all the conditions imposed must be displayed at a conspicuous position near the entrance of the karaoke establishment.

6. Processing Time and Performance Targets

The Licensing Authority has made a commitment on the processing time and performance targets in respect of the following stages of work:

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|-------|--|--|
| (i) | Acknowledge receipt of application | within 4 working days |
| (ii) | Issue of a letter of requirements:-
(If no fundamental reasons for refusal) | within 22 working days from receipt of a valid application. |
| (iii) | Compliance inspection:-
(By appointment with the applicant) | within 20 working days from receipt of a valid "Report of Completion" |
| (iv) | Issue of a permit/licence:-
(If all the upgrading works are completed and the required documents are submitted to the satisfaction of the Licensing Authority.) | within 8 working days after confirmation of compliance with all the requirements |

7. Validity Period of a Permit/Licence

A karaoke establishment permit/licence will be valid for a maximum period of 24 months.

A permit will be valid so long as the relevant licence (for a hotel or guesthouse) / certificate of compliance (for a club-house) remains valid.

Since the expiry date of the licence / certificate of compliance may be different from that of the permit, the karaoke establishment operator should renew the licence / certificate of compliance on time.

8. Refusal

If the Licensing Authority refuses an application, he will first inform the applicant of his intention to refuse with reasons in writing. The applicant may make a written representation to the Licensing Authority explaining his/her grounds and submit other relevant information or remedies for consideration by the Licensing Authority.

If the Licensing Authority still decides to refuse the application, then a written order stating the reasons of refusal will be served on the applicant.

After receipt of the formal refusal order from the Licensing Authority, the applicant will have a right to appeal if he/she feels aggrieved by such a decision. (Please refer to paragraph 4 of Part E of this Guide for details.)

For those existing operators (who have been operating a karaoke establishment prior to the commencement of the Karaoke Establishment Ordinance, i.e. 8th January 2003), they have a right to continue operating their karaoke establishments without valid permits/licences for a period of 12 months after the formal refusal.

Part C : Renewal

1. General Information

The grantee/licensee should apply to the Licensing Authority for renewal not less than 90 days before expiration of the permit/licence. Otherwise, the Licensing Authority may be unable to process the renewal application before the permit/licence expires and the permit/licence will not remain in effect.

2. Renewal Forms

Renewal forms are the same as the application forms for issue:

- For a permit : form HAD 182
- For a licence : form HAD 183

The grantee/licensee must read carefully the notes at the end of the forms.

3. Documents

Depending on the types of installations provided within the premises, certain certificates on periodic maintenance are required to be timely submitted to the Licensing Authority by the grantee/licensee, such as:

- (i) Fire service installation annual testing certificate (FS251);
- (ii) Electrical installation testing certificates (either WR1 or WR2);
- (iii) Ventilation certificate.

If a permit/licence is subject to certain conditions that the grantee/licensee must comply with during the validity period, the grantee/licensee is advised to ensure that those requirements have been met before making an application for renewal.

4. Alterations and Additions

The layout of a karaoke establishment must conform to its latest certified plans unless the Licensing Authority has given prior approval. The grantee/licensee may propose any alterations or additions at any time during the validity period of the permit/licence for the approval of the Licensing Authority. The proposed alterations and additions should not be carried out without approval.

Similar to an application for issue of a permit/licence, the grantee/licensee must submit a set of layout plans (in triplicate, with signature on each copy) drawn in accordance with section 2 of the Karaoke Establishments

(Licensing) Regulation. The grantee/licensee may propose any alterations or additions at that time.

5. Validity Period of a Permit/Licence on Renewal

The Licensing Authority may renew a permit/licence normally for a period of 24 months or for a lesser period. The validity period of the renewal will commence on the next day following the expiry date of the preceding one.

6. Fees

The renewal prescribed fee is listed at **Appendix VI**.

For renewal of a licence, if any alterations or additions to the premises have led to a difference in the gross floor area of the karaoke establishment, the fee will be calculated according to the new area.

The fee paid is not transferable. The fee paid is for recovering the costs of processing the application, and is not subject to pro-rata reduction even if the validity period of the renewal is shorter than 24 months.

7. Processing Time and Performance Targets

The Licensing Authority has committed that for an application that is received not less than 90 days before the expiry of the permit/licence, the renewal, if approved, will be given before the said expiry.

Part D : Provisional Permit / Provisional Licence

1. General Information

When applying for issue of a permit/licence, the applicant may in addition apply for a provisional permit/licence. Both applications will be processed in parallel. The grantee/licensee of a provisional permit/licence may operate the karaoke establishment on a provisional basis pending issue of a formal permit/licence.

2. Application Procedures

The Licensing Authority will not consider any application for a provisional permit/licence unless there is a concurrent application for a formal permit/licence. The application procedures for a provisional permit/licence are the same as that for a formal permit/licence (see Part B of this Guide).

When the provisional permit/licence is issued, the processing of the formal permit/licence application will continue. When the formal permit/licence is issued, the provisional permit/licence will then be cancelled.

3. Criteria for Issue

The Licensing Authority will issue a provisional permit/licence if:

- (i) There is no fundamental objection to the application for a formal permit/licence; and
- (ii)a The “Report of Completion” has been submitted by the applicant, and the Licensing Authority is satisfied that all essential licensing requirements have been met; or
 - b The applicant has engaged professionals (see the box below) to certify compliance of the licensing requirements to the Licensing Authority.

(At this stage, for example, the letter of compliance for ventilating systems and the updated layout plans can be outstanding.)

The following professionals are recognized by the Licensing Authority for the purpose of certifying compliance of licensing requirements:

- Authorised persons or registered structural engineers (registered under the Buildings Ordinance) in respect of the health and building safety requirements;

- Fire service installation contractors (registered with Fire Services Department) in respect of the fire service installations and equipment;
- Registered specialist contractors (ventilation works category) (registered under the Buildings Ordinance) in respect of the ventilating systems.

A list of the authorised persons, registered structural engineers, and registered specialist contractors (ventilation works category) is kept by the Buildings Department; and a list of the registered fire service installation contractors is kept by the Fire Services Department. Please refer to **Appendix I** for viewing at the addresses or the web sites of the two departments.

4. Fees

Upon submission of the application forms, the applicant must pay the prescribed fee (see **Appendix VI**). The fee is in addition to the fee for a formal permit/licence being applied for. The fee paid is not transferable.

5. Validity Period

A provisional permit/licence is normally valid for six months. (A provisional permit will be valid so long as the relevant licence (for a hotel or guesthouse) or certificate of compliance (for a club-house) remains valid.)

The provisional permit/licence will be cancelled upon issue of the formal permit/licence.

If the formal permit/licence application is refused, the provisional permit/licence will also be cancelled.

6. Renewal

A provisional permit/licence may only be renewed once for a period of not exceeding six months. Renewal application must be submitted not less than one month before expiry of the provisional permit/licence, and the prescribed renewal fee must be paid (see **Appendix VI**).

Part E : Miscellaneous

1. Transfer

During the validity period of a permit/licence, the grantee/licensee may apply to the Licensing Authority for transfer of the permit/licence to another person. The grantee/licensee and the proposed transferee have to jointly complete a transfer application form (form HAD 184) for submission. The applicant must read and follow carefully the notes at the end of the application form. The prescribed fee for transfer is listed at **Appendix VI**.

The proposed transferee is equivalent to an applicant in an application for issue of a permit/licence (see paragraph 1(a) of Part B of this Guide), and must be considered to be a “fit and proper” person under section 5(3)(a) of the Karaoke Establishments Ordinance. The application will be referred to the Hong Kong Police Force for checking in parallel.

When an application for transfer is approved, the Licensing Authority may impose conditions in addition to or instead of any condition previously imposed. The new grantee/licensee is required to comply with all the requirements under the Karaoke Establishments Ordinance and its Regulations, and the conditions imposed on the permit/ licence transferred. The name of the new grantee/licensee will be endorsed on the existing permit/licence and the validity period will not be affected. The new grantee/licensee may make renewal application as usual (see Part C of this Guide).

If the Licensing Authority refuses the transfer of a permit/licence, the applicants will be advised in writing of the reasons for the refusal.

2. Change of Particulars on a Permit/Licence

The grantee/licensee may, upon payment of a fee (see **Appendix VI**), apply in writing together with the supporting documents to the Licensing Authority for making the following changes to the permit/licence:

- (i) The name of the karaoke establishment;
- (ii) The particulars of the grantee/licensee;
- (iii) The authorized representative (if the grantee/licensee is a body corporate or a partnership).

In respect of items (i) and (ii), the grantee/licensee must ensure that those changes will not involve any transfer of the permit/licence. Under normal circumstances, the Licensing Authority will endorse the changes on the existing permit/licence within 14 days from the date of receipt of the

application.

For item (iii), the grantee/licensee must submit an application form (form HAD 185) to the Licensing Authority within 14 days from the cessation of the original authorized representative's authority. The proposed substitute representative must be a "fit and proper" person under section 5(3)(a) of the Karaoke Establishments Ordinance (see paragraph 1(a) of Part B of this Guide). The application would be referred to the Hong Kong Police Force for checking in parallel.

3. Refund of Fees

The prescribed fee paid upon an application for a permit/licence may be refunded if :

- (i) The applicant withdraws the application; or
- (ii) The application is refused by the Licensing Authority.

4. Appeal

Any person aggrieved by a decision of the Licensing Authority made under

- (i) section 5 (Application of permit or licence);
- (ii) section 6 (Transfer of permit and licence);
- (iii) section 8 (Renewal of permit or licence);
- (iv) section 9 (Provisional permits and provisional licences); or
- (v) section 10 (Revocation, suspension, refusal to renew or transfer; amendments or variation of conditions of permit or licence),

of the Karaoke Establishments Ordinance may, within 28 days of receiving notice of the decision, appeal to the Administrative Appeals Board.

A person who intends to appeal should deliver a Notice of Appeal to the Administrative Appeals Board Registry at Room 321, 3/F, East Wing, Central Government Offices, 2 Tim Mei Avenue, Tamar, Hong Kong.

For enquiries and assistance, or request for a Notice of Appeal form, please contact the Registry at the telephone number of 2810 2092 or by fax at 2526 4133.