

Hotel and Guesthouse Accommodation (Amendment) Ordinance 2020 (Commencement) Notice gazetted

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

A Home Affairs Bureau spokesperson said, "The Amendment Ordinance seeks to improve the existing licensing regime, facilitate enforcement actions and enhance deterrence against unlicensed hotels and guesthouses."

To 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.

To 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.

As regards enhancing 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.

The spokesperson added, "To let existing licensees make 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."

Specifically, if an existing licence expires within the 12-month transitional period, the licensee can apply for renewal based on the existing

requirements for a period not exceeding 12 months. Upon expiry of this first-renewed licence, the licensee will have to meet all new requirements for further renewal of the licence.

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 a 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 Amendment Ordinance passed by the Legislative Council on June 11, 2020.

For details of the Amendment Ordinance, please contact the Office of the Licensing Authority (OLA) under the Home Affairs Department at 3107 3021 or visit the website of the OLA (www.hadla.gov.hk).