

**Bills Committee on
West Kowloon Cultural District Authority Bill**

Proposed Committee Stage Amendments – The First Batch

Purpose

This paper explains the Administration's proposed Committee Stage Amendments ("CSA") to the West Kowloon Cultural District Authority Bill ("the Bill") in response to suggestions by Members.

Proposed CSAs

2. The Administration intends to propose CSAs in response to Members' views and suggestions. The first batch of the proposed CSAs covering Clauses 4, 5, 8, 30A, 31 and 34 are at **Annex**. The rationales of the proposed CSAs are as follows:

Clause 4(2)

3. Clause 4(2) of the Bill provides that the West Kowloon Cultural District Authority ("WKCD"), when performing its functions under Clause 4(1), is to have regard to one or more of the purposes listed under Clause 4(2). Taking into account Members' views, we intend to propose CSAs to revise Clause 4(2) requiring the WKCD to carry out its functions in ways which are conducive to achieving a number of objectives set out in the revised Clause 4(2). The objectives have been drawn up with regard to the purposes included in the existing Clause 4(2), but they are expressed in a more forthcoming manner.

Clauses 5(2)(n) and 5(3)

4. Clause 5(2)(n) empowers the WKCD to "engage in such activities as the Chief Executive in Council may, after consultation with the Authority, permit or assign to it by order published in the Gazette". Clause 5(3) specifies that an order under Clause 5(2)(n) is a subsidiary legislation. Taking into account Members' views and the functions and powers of the Authority under other provisions of the Bill, we intend to propose CSAs to delete Clause 5(2)(n) and Clause 5(3).

Clause 8

5. Clause 8 provides for matters related to the Audit Committee. Taking into account Members' views, we intend to move CSAs to specify that the chairman of any other committee established under the Ordinance is not eligible for appointment as a member of the Audit Committee. This would strike a reasonable balance between the need to ensure the independence of the Audit

Committee and to have adequate members familiar with the operation of the WKCD. The proposed CSAs will specify explicitly that members of the Audit Committee may comprise individuals who are Board members or those who are not Board members. The proposed CSAs will also change the Chinese rendition of “ member of Audit Committee” from “審計委員會成員” to “審計委員會委員” to tally with the wording used in Clause 9. We would also propose that, in line with the practice of listed companies, the Audit Committee should include at least one member with appropriate professional qualifications or accounting or related financial management expertise. This will be included in a revised CSA on Clause 8.

Clause 30A and 31

6. Clause 31 requires the WKCD to submit to the Financial Secretary annually (a) a report on the activities of the Authority, (b) a copy of the statement of accounts and (c) a copy of the Auditor’s report. The proposed CSA seeks to include all these three documents into one single document – the annual report, which is the common practice among statutory bodies. In response to Members’ concerns, the proposed CSAs also specify that the annual report must specify how the activities of the Authority for that financial year relate to the Authority’s functions and objectives specified in Clause 4.

Clause 34

7. Clause 34 provides for matters related to disclosure of interest. It requires a Board or Committee member to disclose his interest upon his first appointment and on such occasion as the circumstances may require after the appointment. In response to Members’ views and to make the responsibility of the Board or Committee member in this respect clearer, we intend to move CSAs to require (in addition to the existing requirement of disclosing interest upon first appointment) a Board or Committee member to disclose his interest at the beginning of each calendar year after the appointment, on first becoming aware of the existence of an interest not previously disclosed and after the occurrence of any change to an interest previously disclosed.

8. The proposed CSAs are at **Annex**.

WEST KOWLOON CULTURAL DISTRICT AUTHORITY BILL

COMMITTEE STAGE

Amendments to be moved by the Secretary for
Home Affairs

Clause

Amendment Proposed

4

By deleting subclause (2) and substituting -

"(2) The Authority shall perform its functions under subsection (1) in ways which are conducive to achieving the following objectives -

- (a) to facilitate the long-term development of Hong Kong as an international arts and cultural metropolis;
- (b) to uphold and encourage freedom of artistic expression and creativity;
- (c) to enhance and promote excellence, innovation, creativity and diversity in arts and culture;
- (d) to enhance the appreciation of a diverse and pluralistic range of the arts;
- (e) to develop new and experimental works in arts and culture;
- (f) to cultivate and nurture local talents in the arts (including

local artists), and local arts groups and arts-related personnel;

- (g) to encourage wider participation by the local community in arts and culture;
- (h) to promote and provide arts education to the local community;
- (i) to facilitate the development of cultural and creative industries;
- (j) to facilitate and enhance cultural exchange and cooperation between the Mainland of China, Hong Kong and any other place;
- (k) to facilitate and enhance cooperation between any government or non-government body or organization and providers of the arts, within and outside Hong Kong;
- (l) to encourage commercial and corporate support and sponsorship of arts and culture;
- (m) to provide or facilitate the provision of free and accessible open space within

the leased area to the general public; and

(n) to strengthen the position of Hong Kong as a tourist destination."

5(2) (a) In paragraph (m), by adding "and" at the end.

(b) By deleting paragraph (n).

5 By deleting subclause (3).

8(3) In the Chinese text, by deleting "成員" and substituting "委員".

8 By deleting subclause (4) and substituting -

"(4) Each of the members of the Audit Committee, whether or not the member is a Board member, is to be appointed by the Board."

8 By adding -

"(4A) A person is not eligible for appointment as a member of the Audit Committee if -

(a) he is the Chief Executive Officer or any other employee of the Authority; or

(b) he is the chairman of any other committee established under this Ordinance."

New

By adding -

"30A. Annual report

(1) The Authority shall, in respect of each financial year, prepare an annual report of the Authority for that financial year.

(2) Without limiting the matters that the Authority may include in it, the annual report must -

- (a) specify the activities of the Authority for that financial year and how they relate to the Authority's functions and the objectives specified in section 4;
- (b) include the statement of accounts prepared under section 25(2) for that financial year; and
- (c) include the report submitted under section 26(3)(b) for that financial year."

31

In the heading, by deleting "**Reports, etc.**" and substituting "**Annual report**".

31

By deleting subclause (1) and substituting -

"(1) The Authority shall, within 6 months after the end of each financial year, submit to the Financial Secretary the annual report

prepared under section 30A(1) for that financial year."

31(2) By deleting "documents" and substituting "report".

34 By deleting subclause (1) and substituting -

"(1) A Board member or a committee member shall disclose to the Authority any interest that he has which is of a class or description determined by the Authority under subsection (2) -

- (a) upon his first appointment;
- (b) at the beginning of each calendar year after the appointment;
- (c) on first becoming aware of the existence of an interest not previously disclosed under this subsection; and
- (d) after the occurrence of any change to an interest previously disclosed under this subsection."

34(5) By adding ", by such means as it considers appropriate," before "make available".