

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

Proposed Committee Stage Amendments – The Third Batch

Purpose

This paper outlines the third batch of the Administration's proposed Committee Stage Amendments ("CSAs") to the West Kowloon Cultural District Authority Bill ("the Bill").

Proposed CSAs

2. The Administration issued two batches of proposed CSAs for discussion at the Bills Committee on 21 May and 3 June 2008 respectively covering Clauses 1, 4, 5, 6, 8, 8A, 8B, 10, 20, 25, 30A, 31 and 34. We have also proposed a number of technical amendments to Clauses 2, 4, 11 and 18 to fine-tune the Bill.

3. In response to Members' views expressed at earlier Bills Committee meetings and on the first two batches of CSAs, we intend to propose further amendments to the CSAs on Clauses 4, 5, 8A and 8B as well as sections 9 and 15 of the Schedule. In addition, we also propose to amend Clause 6 to elaborate the criteria for appointing non-public officer members to the West Kowloon Cultural District Authority (WKCDA) Board. The major contents of the third batch of the proposed CSAs are set out below.

Clauses 4 and 5

4. Taking into account Members' views that the presentation of WKCDA's functions and objectives in Clause 4 should be further improved, we will propose further amendments to Clause 4 such that the WKCDA shall perform its functions in ways which "aim to achieve" (instead of "are conducive to achieving") its objectives.

5. In the light of our first batch of proposed CSAs to amend Clause 4(2), which replace "purposes" of the WKCDA by "objectives", we will propose consequential amendments to Clauses 5(2)(f), (h) and (j) to replace references to "purposes" by "objectives".

Clause 6

6. Members have expressed the view that the appointment criteria of the 5 or more Board members with arts and cultural background should be suitably tightened. We propose to amend Clause 6(3)(c)(i) such that the 5 or more Board members with arts and cultural background should, in the opinion of the Chief Executive, have **extensive knowledge of, or wide experience in or exposure to, arts and cultural activities.**

7. To address Members' view that criteria should be provided for the appointment of non-public officer Board members, we propose to add a new provision to the effect that the other members (other than those members with arts and cultural background and the LegCo Member) shall **possess experience in management, engineering, planning, architecture, accounting, finance, education, law or community service, or such professional or other experience as would, in the opinion of the Chief Executive, render them suitable for appointment.**

Clause 8A

8. In response to Members' views on the functions of the Investment Committee, we will propose to refine Clause 8A(2)(c) such that the other functions of the Investment Committee are confined to **any other matter relating to investment or finance** (instead of "any other matter, whether relating to investment or otherwise") that is referred or assigned to it by the Board for consideration.

Clause 8B

9. Taking into account the views of Members, we propose to refine Clause 8B(2)(a) and (b) by recasting the functions of the Remuneration Committee. After the proposed amendment, the functions of the Remuneration Committee are to advise the WKCD on terms and conditions for the purposes of **Clauses 10(2) and (3)** (instead of 10(2) alone, i.e. including both the terms and conditions of employment and pension schemes, etc.) and on any other matter **relating to allowances, benefits and remuneration** of its employees, former employees or their dependants (instead of on any other matter, whether relating to remuneration or otherwise) that is referred or assigned to it by the Board for consideration. We also propose to delete the definition of "remuneration" in Clause 8B(10).

Section 9 of the Schedule

10. Having considered Members' views on section 9 of the Schedule, we propose to amend this section such that where a matter relating to the terms and

conditions of appointment or removal of the Chief Executive Officer (CEO) is brought up for discussion or consideration in a board meeting, the CEO shall not take part in the deliberation of the Board and vote on any question concerning it. We also propose to remove the part that enable the CEO to participate at such a meeting if two-thirds of the Board members present at the meeting allow him to do so since it would be unlikely that such scenario would arise in practice. As a consequential amendment, we will delete section 9(2) of the Schedule.

Section 15 of the Schedule

11. Taking into account Members' suggestions, we will propose a new sub-section under section 15 of the Schedule to provide that the WKCDA Board may issue a guideline to set out the circumstances where a Board member is directly or indirectly interested in any contract or matter, for deciding whether he shall be required to disclose his interest. We will also propose a technical amendment to section 15(1) to spell out clearly that a Board member **present at a Board meeting** shall disclose interest under specific circumstances.

_____ 12. The proposed CSAs are at **Annex**.

Home Affairs Bureau
June 2008

WEST KOWLOON CULTURAL DISTRICT AUTHORITY BILL

COMMITTEE STAGE

Amendments to be moved by the Secretary for
Home Affairs

Clause

Amendment Proposed

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By deleting subclause (2) and substituting -

"(2) The Authority shall perform its functions under subsection (1) in ways which aim to achieve 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 (f), by deleting "purposes under" and substituting "objectives specified in".
 - (b) In paragraph (h), by deleting "attainment of the purposes under" and substituting "achievement of the objectives specified in".
 - (c) In paragraph (j), by deleting "purposes under" and substituting "objectives specified in".
 - (d) In paragraph (m), by adding "and" at the end.
 - (e) By deleting paragraph (n).

- 6(3)
- By deleting paragraph (c) and substituting -
- "(c) not less than 8 and not more than 15 other members who are not public officers, including -
 - (i) at least 5 members who, in the opinion of the Chief Executive, have extensive knowledge of, or wide experience in or exposure to, arts and cultural activities;
 - (ii) at least one member who is a member of the Legislative Council; and
 - (iii) such other members who possess

experience in management,
engineering, planning,
architecture, accounting, finance,
education, law or community
service, or such professional or
other experience as would, in the
opinion of the Chief Executive,
render them suitable for
appointment; and".

New

By adding -

"8A. Investment Committee

(1) There is established by this section a committee to be known as the Investment Committee.

(2) The functions of the Investment Committee are -

- (a) to advise the Authority in relation to its functions under section 20;
- (b) for the purposes of paragraph (a), to monitor any investment made under section 20 and oversee the management of such investment; and
- (c) to consider any other matter relating to investment or finance that is referred or assigned to it by the Board for

consideration.

(3) The Investment Committee is to consist of -

- (a) the Director of Accounting Services, or his representative; and
- (b) such number of other members, not being less than 2, as the Board may determine who, in the opinion of the Board, possess such expertise or experience as would render them suitable for appointment.

(4) Each of the members of the Investment Committee specified in subsection (3)(b), whether or not the member is a Board member, is to be appointed by the Board.

(5) The Board is to appoint a Board member to be the chairman of the Investment Committee.

(6) The Board may -

- (a) withdraw any matter referred or assigned under subsection (2)(c); or
- (b) revoke any appointment made under subsection (4) or (5).

(7) An appointment made under this section is to be made public in the manner that the Board considers fit.

(8) Meetings of the Investment Committee are to be held as often as may be necessary for the performance of its functions.

(9) The Investment Committee may, subject to the requirements of this Ordinance, regulate its own administration, proceedings and business in such manner as it considers appropriate."

New By adding -

"8B. Remuneration Committee

(1) There is established by this section a committee to be known as the Remuneration Committee.

(2) The functions of the Remuneration Committee are to advise the Authority -

(a) in relation to its functions under section 10(2) and (3);
and

(b) on any other matter relating to the remuneration, allowances or benefits made available to its employees, former employees or their dependants that is referred or assigned to it by the Board for consideration.

(3) The Remuneration Committee is to consist of such number of members, not being less than 3, as the Board may determine.

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

(5) The Board is to appoint a Board member to be the chairman of the Remuneration Committee.

(6) The Board may -

(a) withdraw any matter referred or assigned under subsection

(2)(b); or

(b) revoke any appointment made under subsection (4) or (5).

(7) An appointment made under this section is to be made public in the manner that the Board considers fit.

(8) Meetings of the Remuneration Committee are to be held as often as may be necessary for the performance of its functions.

(9) The Remuneration Committee may, subject to the requirements of this Ordinance, regulate its own administration, proceedings and business in such manner as it considers appropriate."

Schedule,
section 9(1)

By deleting everything after "it" and substituting a full stop.

Schedule By deleting section 9(2).

Schedule,
section 15(1) By deleting "who is in any way directly or indirectly interested in any contract or any other matter which is to be discussed or considered by the Board at a Board meeting" and substituting "present at a Board meeting is in any way directly or indirectly interested in any contract or any other matter which is to be discussed or considered by the Board at the meeting" .

Schedule,
section
15(1)(a) By deleting "(if he is present at the Board meeting)".

Schedule,
section 15 By adding -
"(1A) The Board may from time to time issue a guideline to set out the circumstances in which a Board member is to be regarded as being directly or indirectly interested in any contract or any other matter for the purposes of subsection (1).".