

LEGISLATIVE COUNCIL BRIEF

Public Health and Municipal Services Ordinance
(Cap. 132)

MARKET (CESSATION OF APPLICATION OF THE PUBLIC HEALTH AND MUNICIPAL SERVICES ORDINANCE) DECLARATION 2009

PUBLIC HEALTH AND MUNICIPAL SERVICES (CESSATION OF DESIGNATION AS PUBLIC MARKET) ORDER 2009

PUBLIC HEALTH AND MUNICIPAL SERVICES ORDINANCE (AMENDMENT OF TENTH SCHEDULE) ORDER 2009

INTRODUCTION

This paper briefs Members on three pieces of subsidiary legislation made by the Director of Food and Environmental Hygiene (“DFEH”) to cease the designation of Kimberley Street Market (“KSM”) as a public market under the Public Health and Municipal Services Ordinance (Cap.132) (“the Ordinance”), following its decommissioning on 18 April 2009.

BACKGROUND

2. For the proper regulation and control of public markets, DFEH is empowered, under section 79(1) of the Ordinance, to declare a venue to be a market to which the Ordinance applies. DFEH may then, under section 79(3) of the Ordinance, designate such market as a public market under section 79(3) so that by virtue of section 79A, the management and control of that market will be vested in DFEH. DFEH is also empowered under section 79(5) of the Ordinance to amend, add to or delete from the Tenth Schedule of the Ordinance, which specifies the designated public markets.

3. In his Report No. 51, the Director of Audit recommended that the Food and Environmental Hygiene Department (“FEHD”) should critically

assess the need for the continued operation of KSM as a designated public market, and if there was no such need, to explore in consultation with the Government Property Agency (GPA) and the Lands Department the alternative gainful use of the market site.

4. KSM was originally built to provide public market facilities to residents of Tsim Sha Tsui East. However, as Tsim Sha Tsui gradually developed into a commercial and tourist centre, most of its residential areas were replaced by shops and offices. Meanwhile, as there were quite a number of supermarkets and fresh provision shops in the vicinity, in addition to two other FEHD markets in the district, the local demand for fresh food supply from KSM was low. As there were already hundreds of restaurants and snack shops offering a large variety of choices for people living or working in the district, the cooked food centre on the G/F was not essential.

5. Based on the above assessment, FEHD consulted the Food and Environmental Hygiene Committee (“FEHC”) of the Yau Tsim Mong District Council in March 2009, and received unanimous support for complete closure of KSM as soon as possible. Accordingly, all the tenancies of KSM were not renewed after their expiry on 17 April 2009. FEHD resumed all the market stalls and KSM ceased operation from 18 April 2009. It is necessary for DFEH to declare the cessation of designation of KSM as a public market under the Ordinance. In parallel, FEHD is consulting relevant departments on the future use of the market premises.

THE SUBSIDIARY LEGISLATION

6. To decommission KSM, DFEH has made the following Declaration and Orders -

- (a) the **Market (Cessation of Application of the Public Health and Municipal Services Ordinance) Declaration 2009** at Annex A to declare the cessation of KSM as a market to which the Ordinance applies;
- (b) the **Public Health and Municipal Services (Cessation of Designation as Public Market) Order 2009** at Annex B to cease the designation of KSM as a public market; and

- (c) the **Public Health and Municipal Services Ordinance (Amendment of Tenth Schedule) Order 2009** at Annex C to remove KSM from the list of designated public markets.

LEGISLATIVE TIMETABLE

7. The legislative timetable is as follows –

	Publication in the Gazette	Tabling at the Legislative Council
Market (Cessation of Application of the Public Health and Municipal Services Ordinance) Declaration 2009	30 October 2009	4 November 2009
Public Health and Municipal Services (Cessation of Designation as Public Market) Order 2009	30 October 2009	4 November 2009
Public Health and Municipal Services Ordinance (Amendment of Tenth Schedule) Order 2009	30 October 2009	4 November 2009

IMPLICATIONS OF THE SUBSIDIARY LEGISLATION

8. The three pieces of subsidiary legislation are in conformity with the Basic Law, including the provisions concerning human rights. They will not

affect the current binding effect of the Ordinance and have no economic, productivity, and environmental implications. As the daily management of KSM has been contracted out since its opening in 1994, its closure will not involve deletion of civil service posts and thus has no civil service implications. Besides, the recurrent expenditure for KSM contract maintenance in 2008-09 was about \$1.36 million while the income from stall rentals was about \$1.84 million. The exact impact of the closure of KSM on the expenditure and income will hinge on the future use of the market premises.

PUBLIC CONSULTATION

9. The Yau Tsim Mong District Council and the existing tenants of KSM had been consulted and were supportive of the decommissioning of KSM. An Information Note explaining the decommissioning was issued to the Legislative Council Panel on Food and Environmental Hygiene on 12 May 2009.

PUBLICITY

10. As the relevant stakeholders are well informed of the project, further publicity on the designation is considered not necessary.

ENQUIRIES

11. Enquiries on this brief can be addressed to Mr. LEE Kwok-hung, Damian, Assistant Secretary for Food and Health (Food)7 (Tel No.: 2973 8114).

Food and Health Bureau
October 2009

**MARKET (CESSATION OF APPLICATION OF THE
PUBLIC HEALTH AND MUNICIPAL SERVICES
ORDINANCE) DECLARATION 2009**

(Made by the Director of Food and Environmental Hygiene under section 79(1)
of the Public Health and Municipal Services Ordinance (Cap. 132))

**1. Market to which the Public Health and Municipal Services Ordinance
no longer applies**

It is declared that Kimberley Street Market ceases to be a market to which
the Public Health and Municipal Services Ordinance (Cap. 132) applies.

2. Schedule amended

The Schedule to the Declaration of Markets Notice (Cap. 132 sub. leg.
AN) is amended by repealing –

“Kimberley Street Market 金巴利街街市” .

Director of Food and Environmental Hygiene

October 2009

Explanatory Note

This Declaration declares that Kimberley Street Market ceases to be
a market to which the Public Health and Municipal Services Ordinance (Cap.
132) applies.

**PUBLIC HEALTH AND MUNICIPAL SERVICES
(CESSATION OF DESIGNATION AS PUBLIC
MARKET) ORDER 2009**

(Made by the Director of Food and Environmental Hygiene under section 79(3)
of the Public Health and Municipal Services Ordinance (Cap. 132))

1. Cessation of designation as a public market

Kimberley Street Market ceases to be designated as a public market.

Director of Food and Environmental Hygiene

October 2009

Explanatory Note

This Order cancels the designation of Kimberley Street Market as a public market.

**PUBLIC HEALTH AND MUNICIPAL SERVICES
ORDINANCE (AMENDMENT OF TENTH
SCHEDULE) ORDER 2009**

(Made by the Director of Food and Environmental Hygiene under section 79(5)
of the Public Health and Municipal Services Ordinance (Cap. 132))

1. Public markets

The Tenth Schedule to the Public Health and Municipal Services Ordinance (Cap. 132) is amended by repealing –

“Kimberley Street Market 金巴利街街市” .

Director of Food and Environmental Hygiene

October 2009

Explanatory Note

Consequent upon the cancellation of the designation of Kimberley Street Market as a public market, this Order amends the Tenth Schedule to the Public Health and Municipal Services Ordinance (Cap. 132) to reflect the cancellation.