

**立法會**  
***Legislative Council***

LC Paper No. LS37/15-16

**Paper for the House Committee Meeting  
on 26 February 2016**

**Legal Service Division Report on  
Proposed Resolution under section 37 of  
the West Kowloon Cultural District Authority Ordinance (Cap. 601)**

The Secretary for Home Affairs (SHA) has given notice to move a motion at the Legislative Council (LegCo) meeting of 16 March 2016. The motion seeks LegCo's approval of the West Kowloon Cultural District (Public Open Spaces) Bylaw (the proposed Bylaw) made by the West Kowloon Cultural District Authority (the Authority) under section 37(1) of the West Kowloon Cultural District Authority Ordinance (Cap. 601).

2. Under Cap. 601, the Authority has the functions to develop the West Kowloon Cultural District (WKCD) and to promote, operate, manage, maintain or otherwise deal with arts and cultural facilities and related facilities in WKCD. The term "related facilities" is defined in section 2 of Cap. 601 to include public open spaces within WKCD. According to paragraph 2 of the LegCo Brief (File Ref.: SF(72) to HABCS CR 7/1/99/1/1) issued by the Home Affairs Bureau in February 2016, WKCD stretches across 40 hectares of land on the waterfront of Victoria Harbour and will provide a total of 23 hectares of public open spaces. Section 37(1) of Cap. 601 empowers the Authority to make bylaws to provide, among others, for the regulation, operation or management of public open spaces within WKCD (POS) and for the conduct of persons in POS.

3. The main provisions of the proposed Bylaw are summarized below-

- (a) empowering the Authority to delineate the boundaries of POS, closed areas and restricted areas (sections 5 to 8);
- (b) prohibiting the conduct of an event in POS without the written permission of the Authority (section 10);
- (c) regulating the conduct of members of the public in POS (Part 3);
- (d) prohibition of dangerous goods, firearms and offensive weapons in POS (Part 5);

- (e) controlling the access of motor vehicles to POS (Part 8); and
- (f) empowering authorized persons to enforce the proposed Bylaw, including powers to require a person who is reasonably suspected of contravening the proposed Bylaw to produce proof of identity and to detain such person until the person is delivered into police custody (Part 10).

4. Under the proposed Bylaw, contravention of the relevant requirements would be an offence punishable by a fine ranging from level 1 (\$2,000) to level 3 (\$10,000). It is also proposed that prosecution of criminal offences under the proposed Bylaw may be brought in the name of the Authority.

5. According to paragraph 17 of the LegCo Brief, the Authority has undertaken extensive consultations with stakeholders, including the conduct of a public survey on park management from May to June 2014 through the Consultation Panel of WKCD and meeting with members of 18 District Councils and other stakeholder groups in 2015.

6. The proposed Bylaw, if approved, would come into operation on the date of publication in the Gazette.

7. As advised by the Clerk to the Joint Subcommittee to Monitor the Implementation of the West Kowloon Cultural District Project (the Joint Subcommittee), the Joint Subcommittee was consulted on the draft of the proposed Bylaw at its meeting on 23 March 2015. Members generally considered that the proposed Bylaw should seek to facilitate public enjoyment with minimum restrictions. There was a view that the vision and mission for the WKCD Park should be incorporated into the proposed Bylaw. An enquiry was also raised on whether the Places of Public Entertainment Ordinance (Cap. 172) was applicable to POS, and if so, whether Cap. 601 or the proposed Bylaw would have an overriding effect on Cap. 172.

8. The Legal Service Division is scrutinizing the legal and drafting aspects of the proposed Bylaw. If necessary, a further report will be issued.

Prepared by

YICK Wing-kin  
Assistant Legal Adviser  
Legislative Council Secretariat  
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