

**Legislative Council**  
**Subcommittee on Proposed Resolution under Section 37 of**  
**the West Kowloon Cultural District Authority Ordinance (Cap. 601)**

**Follow-up to the meeting on 9 May 2016**

The Subcommittee noted from paragraph 1(c) of West Kowloon Cultural District Authority (WKCDA)'s response to the issues raised at the meeting on 18 April 2016 (LC Paper No. CB(2)1426/15-16(01)) that subject to members' views, WKCDA was prepared to insert a defence of reasonable excuse for the offences set out in sections 7(2), 8(4), 9(9), 10(9), 17(4), 22(2), 23(3) and 23(6) of the proposed West Kowloon Cultural District (Public Open Spaces) Bylaw (the proposed Bylaw) through adding in the wording "without reasonable excuse" as appropriate in the relevant sections. The Subcommittee also noted that a defence of lawful excuse was provided for the offence set out in section 16(5) of the proposed Bylaw.

WKCDA was requested to explain the logic behind its proposal to provide a defence of reasonable/lawful excuse for only some of the offences but not all offences punishable with a fine under the proposed Bylaw, and respond to Mr Alan LEONG's concern that the adoption of such a differential approach might have the effect of usurping the functions of the court in deciding whether there could be or could be no reasonable/lawful excuse for individual offences set out in the proposed Bylaw. WKCDA was also requested to consider and respond to Mr Alan LEONG's suggestion that WKCDA should either do away with all reasonable/lawful excuse defence for the offences set out in the relevant sections of the proposed Bylaw, or provide such a defence for all offences under the proposed Bylaw which, in some members' view, would afford better protection to users of the public open spaces in the West Kowloon Cultural District.

As members have indicated that they wish to include the "reasonable excuse" defence for offences punishable with a fine under the proposed Bylaw, WKCDA will insert the "reasonable excuse" defence in the sections of the proposed Bylaw referred to by the Assistant Legal Adviser in her letter dated 5 April 2016 (LC Paper No. CB(2)1263/15-16(04)) (i.e. sections 7(2), 8(4), 9(9), 10(9), 12(3), 17(4), 18(3), 22(2), 23(3), (6) and (8)), as set out in **Annex A**, and amend the defence in sections 16(1) and (3) to "reasonable excuse" from "lawful excuse".

Further, a revised preamble of the proposed Bylaw is at **Annex B**.

**West Kowloon Cultural District Authority**  
**May 2016**

**Proposed Amendments on Defence of Reasonable Excuse**

**7. Restricted areas**

- (2) A person who, without reasonable excuse, contravenes subsection (1) commits an offence and is liable on conviction to a fine at level 1.

**8. Closed areas**

- (4) A person who, without reasonable excuse, contravenes subsection (3) commits an offence and is liable on conviction to a fine at level 1.

**9. Domestic animals**

- (9) A person who, without reasonable excuse, contravenes subsection (2), (3), (4), (5), (6) or (7) commits an offence and is liable on conviction to a fine at level 1.

**10. Conduct of events**

- (9) A person who, without reasonable excuse, contravenes subsection (1), (3) or (8) commits an offence and is liable on conviction to a fine at level 1.

**12. Compliance with notices and directions**

- (3) A person who, without reasonable excuse, contravenes subsection (2) commits an offence and is liable on conviction to a fine at level 1.

**16. Access to public conveniences**

- (1) Except with permission or a lawful reasonable excuse, a male person must not enter any part of a public convenience that is allocated for the exclusive use of female persons.
- (3) Except with permission or a lawful reasonable excuse, a female person must not enter any part of a public convenience that is allocated for the exclusive use of male persons.

**17. Lost or misplaced property**

- (4) A person who, without reasonable excuse, contravenes subsection (1) commits an offence and is liable on conviction to a fine at level 1.

**18. Prohibition of motor vehicles**

- (3) A person who, without reasonable excuse, contravenes subsection (1) commits an offence and is liable on conviction to a fine at level 1.

**22. Securing of vessels to wharfs of public open spaces**

- (2) A person who, without reasonable excuse, contravenes subsection (1) commits an offence and is liable on conviction to a fine at level 1.

**23. Enforcement**

- (3) A person who, without reasonable excuse, fails to produce proof of identity or state the true address under subsection (2) commits an offence and is liable on conviction to a fine at level 1.
- (6) A person who, without reasonable excuse, fails to leave a public open space or any part of a public open space after being required to do so under subsection (4) commits an offence and is liable on conviction to a fine at level 1.
- (8) A person who, without reasonable excuse, refuses to be accompanied or detained under subsection (7) commits an offence and is liable on conviction to a fine at level 2.

**Revised Preamble**

**West Kowloon Cultural District (Public Open Spaces) Bylaw**

(Made by the West Kowloon Cultural District Authority under section 37 of the West Kowloon Cultural District Authority Ordinance (Cap. 601) subject to the approval of the Legislative Council)

**Preamble**

WHEREAS -

- (1) The vision and mission of the West Kowloon Cultural District Authority for the Public Open Spaces in the West Kowloon Cultural District is formulated in the light of section 4, and in particular section 4(2)(m), of the West Kowloon Cultural District Authority Ordinance (Cap. 601);
- (2) The West Kowloon Cultural District Authority aims to provide or facilitate the provision of free and accessible open space within the leased area to the general public;
- (3) The West Kowloon Cultural District Authority aims to manage the open space in ways which aim to achieve the mission for the open space to inspire, promote and encourage cultural pursuits for all.