

**立法會**  
**Legislative Council**

LC Paper No. CB(2)2477/99-00  
(These minutes have been seen by  
the Administration and cleared  
with the Chairman)

Ref : CB2/BC/23/98

**Bills Committee on  
Provision of Municipal Services (Reorganization) Bill**

**Minutes of Meeting  
held on Tuesday, 2 November 1999 at 2:30 pm  
in the Chamber of the Legislative Council Building**

**Members Present** : Hon Andrew WONG Wang-fat, JP (Chairman)  
Hon Kenneth TING Woo-shou, JP  
Hon HO Sai-chu, SBS, JP  
Hon LEE Wing-tat  
Hon Fred LI Wah-ming, JP  
Hon CHAN Wing-chan  
Hon CHAN Kam-lam  
Hon Jasper TSANG Yok-sing, JP  
Hon Howard YOUNG, JP  
Hon CHOY So-yuk  
Dr Hon TANG Siu-tong, JP

**Members Absent** : Hon Cyd HO Sau-lan  
Hon Ronald ARCULLI, JP  
Hon James TO Kun-sun  
Hon Ambrose CHEUNG Wing-sum, JP  
Hon YEUNG Yiu-chung  
Hon FUNG Chi-kin

**Public Officers Attending** : Mrs Maureen CHAN  
Deputy Secretary for Constitutional Affairs  
  
Mr John LEUNG  
Principal Assistant Secretary for Constitutional Affairs

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Mr Peter CHEUNG  
Deputy Secretary for Home Affairs

Mrs N DISSANAYAKE  
Senior Assistant Law Draftsman (Department of Justice)

Mr Sunny CHAN  
Senior Government Counsel (Department of Justice)

**Clerk in Attendance** : Mrs Constance LI  
Chief Assistant Secretary (2) 2

**Staff in Attendance** : Mr LEE Yu-sung  
Senior Assistant Legal Adviser

Miss Connie FUNG  
Assistant Legal Adviser 3

Miss Flora TAI  
Senior Assistant Secretary (2) 2

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**I. Confirmation of minutes**

[LC Paper Nos. CB(2)206/99-00 and CB(2)219/99-00]

The minutes of meetings held on 6 July and 23 July 1999 were confirmed.

**II. Proposed Committee stage amendments (CSAs) from the Administration**

[Paper Nos. CB(2)213/99-00(01), CB(2)241/99-00(01) and CB(2)245/99-00(01)]

CSAs to Schedule 5

[Paper No. CB(2)213/99-00(01)]

2. At the invitation of the Chairman, Deputy Secretary for Constitutional Affairs (DS(CA)) briefed members on the CSAs to Schedule 5 of the Bill to be proposed by the Administration.

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*The Board may determine procedures for meetings and applications and forms of licences*

3. Members noted that the Administration proposed to add new section 14A to the Dutiable Commodities (Liquor) Regulations to empower the Liquor Licensing Board (LLB) to determine its procedure for meetings and applications. In response to Mr LEE Wing-tat's enquiry about the present procedures for existing liquor licensing boards, DS(CA) informed members that existing liquor licensing boards and other committees of the municipal councils adopted the procedures in the standing orders of the respective municipal council. As the future LLB would be a separate statutory body, it would need to determine its own procedures for meetings and applications. Mr LEE asked whether the Administration would provide sample rules for the future LLB to follow. DS(CA) responded that the Administration would recommend LLB to make reference to the practice of existing liquor licensing boards in determining its procedures for meetings and applications. She supplemented that the secretariat staff serving existing liquor licensing boards would be retained in the new structure as far as possible to provide continuity in the operation of the LLB.

*Establishment and composition of the Board*

4. Members noted that the Administration proposed to revise proposed sections 2A(2), (3) and (4) of the Dutiable Commodities (Liquor) Regulations to provide for a Vice-chairman for LLB and to clearly spell out the composition of LLB. Members noted that the LLB would be made up of non-officials only and that a legal adviser would be appointed by the Bureau Secretary.

5. Mr LEE Wing-tat asked whether there was any provision for the appointment of District Council (DC) members to LLB. DS(CA) replied that the Administration would definitely appoint representatives of the community such as DC members to LLB but did not consider it necessary to stipulate such arrangement in legislation. She supplemented that LLB meetings would be open to the public, and very often applicants would be accompanied by DC members in attending the meetings. Mr LEE disagreed with the Administration's argument and insisted that inclusion of DC members in LLB should be specified in legislation. To avoid any possible conflict of interest, he suggested that arrangement could be made to the effect that DC members would not participate in discussions of applications from their own District. Mr LEE further pointed out that existing liquor licensing boards were composed of municipal council members and that such characteristic should remain in the new structure.

6. Some members expressed concern that the proposed membership size of LLB might be insufficient to cope with the large number of new applications. The Chairman asked whether the Administration would set up several panels to share out the work of LLB. Mr LEE Wing-tat expressed support for the

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Chairman's suggestion. He said that the number of members should be increased so that the Board could hold meeting every month to expedite the processing of applications. DS(CA) advised that the existing section 13(1) of the Dutiable Commodities (Liquor) Regulations had provided that the Board should meet during March, June, September and December and at such other times as might be necessary for the transaction of licensing business. The Administration now proposed to revise section 13(1) so that the LLB could meet as often as necessary.

7. The Chairman said that he preferred the existing version which required the LLB to meet in March, June, September and December each year and any other times as necessary. He was concerned that the new version proposed by the Administration would provide too much flexibility for the LLB which might decide not to hold any meeting in a year. DS(CA) responded that the proposed flexibility was to enable the LLB to convene urgent meetings to deal with special business.

8. On the suggestion of setting up several panels, DS(CA) said that as a decision-making body, LLB should ensure consistency in its decisions. It was therefore undesirable to have different panels to decide on liquor licences. She added that the Administration would not rule out the possibility of increasing the membership size of LLB if considered necessary after a period of operation.

9. The Chairman said that the high quorum requirement for LLB meetings was impractical. Mr LEE Wing-tat shared the Chairman's concern, saying that it would be unfair to the applicant if LLB members who did not sit through the hearings would make decision on the application. Mr LEE suggested the Administration to make reference to the model proposed for the Municipal Services Appeal Board (MSAB) or require the same group of members who attended the hearings to make the decision. DS(CA) responded that the Administration had proposed to follow the practice of the existing LLBs for the benefit of the public. Nevertheless, she agreed to consider the views of the Chairman and members.

*The Board may delegate its powers and functions*

10. Members noted that the Administration proposed to add a new section 13A to provide that LLB could delegate its power and function to a committee, a member or a public officer in order to facilitate the operation of future LLB. DS(CA) explained that the proposed provision would expedite the processing of non-contested applications. In reply to Mr CHAN Wing-chan, DS(CA) said that an application would be considered as non-contested if no objection to the application was received.

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11. The Chairman remarked that the proposed delegation appeared to be fairly lax as the legislation had already provided for determination of applications by circulation of papers to LLB members. DS(CA) responded that the proposed provision was to provide flexibility to facilitate the operation of the LLB, in view of the heavy caseload of the LLB. Mr LEE Wing-tat asked who would make the decision that an application would be determined by circulation. DS(CA) said that it would be for the LLB to decide what business could be delegated and whether an application should be determined by circulation. She added that it was common practice for statutory bodies to be given such powers.

*Channel of appeal*

12. Members noted that the Administration proposed to specify a 28 days limit for lodging appeal to the MSAB and to require LLB to give notice in writing with reasons for its decisions so that the applicant and other persons or bodies who had expressed an interest in the application would be aware of the reasons of LLB's decision. On the calculation of the time limit of 28 days, Senior Assistant Legal Adviser (SALA) advised that according to section 71 of the Interpretation and General Clauses Ordinance (Cap. 1), the day on which the notice was received would not be counted towards the 28 days time limit. If the last day of the period was a public holiday or a gale warning day or black rainstorm warning day, the period should be extended by one day.

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13. The Chairman said that confusion could arise as both "notice is given" and "receiving notice" were used in the proposed provision. He therefore advised the Administration to consider counting the period from the day of receipt of notice.

14. Mr LEE Wing-tat also asked about the method of giving notice to the residents affected by the application. DS(CA) responded that the provision had included the requirement that 20 or more persons residing within a radius of 400 metres from the premises to which the application related could appeal. The Homes Affairs Department could assist in notifying the residents concerned.

Other issues

15. Members also noted that amendments would be proposed by the Administration to specify the period of a licence and the criteria for suspension, revocation or refusal of a licence.

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CSAs to Schedule 7

[Paper No. CB(2)241/99-00]

16. DS(CA) took members through the CSAs to Schedule 7 to be proposed by the Administration. Members noted that the proposed amendments were of minor and technical nature. Members did not raise any queries.

Further CSAs to Schedule 3

[Paper No. CB(2)245/99-00(01)]

17. DS(CA) and Deputy Secretary for Home Affairs (DS(HA)) briefed members on the further CSAs to Schedule 3 to be proposed by the Administration in response to members' further comments.

*Fee and charges for leisure and cultural services*

18. Members noted that the Administration proposed further amendments to Schedule 3 to implement a two-tier system for the setting of fees and charges in relation to leisure and cultural services. DS(HA) said that fees and charges in the first-tier would be set by the Secretary for Home Affairs subject to the negative vetting procedures of the Legislative Council (LegCo). The rest would be in the second tier which would be determined by the Director of Leisure and Cultural Services, subject only to the approval of the Financial Secretary. Responding to the Chairman, SALA advised that the new Schedule 16 had prescribed the admission fees and charges payable by an individual as a member of the public for use of certain venues, and amendments to the Schedule would be subject to negative vetting of the LegCo. He pointed out that the proposed Schedule did not include determination of fees and charges to use facilities and services in these venues.

19. Mr CHAN Wing-chan asked whether the proposed section 124IA would allow flexibility for the Authority to waive or reduce fees and charges payable by members of a club, institution, association or other organisations. DS(HA) responded that the second tier was not to enable the Department to increase fees but to provide flexibility to adjust the prices to promote usage of venues and programmes. Under the proposed mechanism, the Department would be able to reduce the fees or introduce differential rates to improve the marketability of less popular venues and programmes.

20. In response to Miss CHOY So-yuk's enquiries on the priorities for allocation of venues to sports organisations, DS(HA) informed members that the Leisure and Cultural Services Department (LCSD) would consult National Sports Associations (NSAs) and district bodies in devising schemes for the priority use of venues. The NSAs would discuss with LCSD the proposal of designating certain venues for use by NSAs. He explained that LCSD would

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manage the existing leisure and cultural venues, and the contracting out proposals did not include the power to determine relevant fees and charges. If there were future schemes which would require a degree of autonomy in fees and charges by the operator, the Administration would consult the relevant LegCo Panel beforehand.

*Food Business Regulation*

21. Members noted that the Administration proposed to amend the definition of "shell fish" to exclude molluscs or crustaceans forming part of sushi, as well as those in the form of sashimi and oyster to be eaten in its raw state. In response to Mr LEE Wing-tat, Principal Assistant Secretary for Constitutional Affairs explained that the Regional Council By-laws was to be adopted as the Food Business Regulation and its present definition of "shell fish" only excluded sashimi and oyster which were regulated under separate provisions. The Administration had accepted the suggestion made by the Public Health Select Committee of the Provisional Urban Council that the definition of "shell fish" should also exclude molluscs or crustaceans and proposed amendments accordingly. In reply to Mr LEE Wing-tat, DS(CA) confirmed that sushi was regulated under separate provisions in the Food Business Regulation.

**III. Legislative timetable**

22. DS(CA) informed members that it was the Administration's intention to resume Second Reading debate on the Bill on 1 December 1999 so that the relevant staffing and financial proposals could be submitted to the Establishment Subcommittee and Finance Committee in time. In this connection, the Chairman reminded members that if resumption of the Second Reading debate was to take place on 1 December 1999, the deadlines for giving notice of resumption and CSAs would be 16 and 22 November 1999 respectively. In that case, the Bill Committee would have to report to the House Committee on 12 November 1999. He urged members to forward their proposed CSAs as soon as possible for the Bills Committee to consider.

**IV. Any other business**

23. The Chairman said that the Hong Kong Public Health Inspectors' Association had proposed to change the name of the new "Food and Environmental Hygiene Department" to "Food and Environmental Health Department" and members had requested the Administration to consider the proposal at the last meeting. DS(CA) informed members that the Administration decided not to accept the proposal having considered the international practice

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and the fact that the term "environmental health" encompassed a much wider scope than the work of the Department.

24. As members had expressed different views on the proposal at the last meeting, the Chairman suggested that it would be more appropriate for individual members to propose relevant CSAs to change the name of the Department as "Food and Environmental Health Department". Mr LEE Wing-tat said that he was under the impression at the last meeting that the Chairman would move CSAs on behalf of the Bills Committee if the Administration decided against the proposal. However, he also had no objection to moving the relevant CSAs on the renaming of the Department in his name.

25. Members agreed to hold the next meeting on Friday, 5 November 1999 at 9:00 am to discuss draft CSAs to be proposed by Members.

26. The meeting ended at 5:10 pm.

Legislative Council Secretariat

26 June 2000