

**立法會**  
**Legislative Council**

LC Paper No. CB(2)2411/99-00  
(These minutes have been seen  
by the Administration)

Ref : CB2/BC/23/98

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

**Minutes of Meeting  
held on Friday, 8 October 1999 at 10:45 am  
in Conference Room A of the Legislative Council Building**

**Members Present** : Hon Andrew WONG Wang-fat, JP (Chairman)  
Hon Fred LI Wah-ming, JP  
Hon Ronald ARCULLI, JP  
Hon Ambrose CHEUNG Wing-sum, JP  
Hon CHAN Wing-chan  
Hon CHAN Kam-lam  
Hon YEUNG Yiu-chung  
Hon CHOY So-yuk

**Members Absent** : Hon Kenneth TING Woo-shou, JP  
Hon HO Sai-chu, SBS, JP  
Hon Cyd HO Sau-lan  
Hon LEE Wing-tat  
Hon James TO Kun-sun  
Hon Jasper TSANG Yok-sing, JP  
Hon Howard YOUNG, JP  
Hon FUNG Chi-kin  
Dr Hon TANG Siu-tong, JP

**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

Mr Paul CHEUNG  
Senior Staff Officer (Leisure Policy)  
Urban Services Department

Mr K T LAI  
Assistant Director of Regional Services  
(Environmental Health Policy)

Miss Agnes TANG  
Chief Manager (Cultural Services) Headquarters  
Regional Services Department

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 Flora TAI  
Senior Assistant Secretary (2) 2

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**I. Clause-by-clause examination**  
(from Schedule 5 onwards)

The Bills Committee continued clause-by-clause examination of the Bill from Schedule 5 onwards. At the Chairman's invitation, Deputy Secretary for Constitutional Affairs (DS(CA)) briefed members on the proposed amendments in Schedules 5 and 6. The gist of discussion is summarised in paragraphs 2-12.

Paragraph 1 of Schedule 5

2. Members did not raise any queries.

Paragraph 2 of Schedule 5

3. Members noted that the Administration proposed to add section 6(1)(na) to empower the Chief Executive in Council to grant exemptions from the requirement for a liquor licence by regulation. In response to Mr CHAN Wing-chan's enquiry about the conditions for granting exemptions, DS(CA) said that the provision was to enable the new Liquor Licensing Board (LLB) to make recommendations for exemptions where necessary and the criteria would be prescribed by regulation.

4. Mr Fred LI Wah-ming asked whether some establishments were currently exempted from the requirement for a liquor licence. Assistant Director of Regional Services (Environmental Health Policy) (AD/RS(EHP)) replied that there was at present no provision to exempt any person from the requirement of a liquor licence. Any person who intended to sell or supply intoxicating liquor to members of the public at any premises for consumption on the premises must obtain a liquor licence issued by the Provisional Urban Council (PUC) or the Provisional Regional Council (ProRC) as appropriate. However, staff canteens or police officers' mess were currently not subject to such requirement. DS(CA) explained that the Administration could consider exempting private clubs and canteens from the requirement for liquor licence and the proposed amendment sought to provide for exemptions if necessary. Mr Fred LI pointed out that clubs were required to be licensed for supply of liquor to members under section 26 of the Dutiable Commodities (Liquor) Regulations. Deputy Secretary for Home Affairs (DS(HA)) informed members that "clubs" referred to those commercial premises selling liquor to members of the public. The Home Affairs Bureau had a mechanism to exempt certain clubs from the requirement for a liquor licence.

5. The Chairman remarked that there were grey areas in respect of the exemptions from the requirement for liquor licence. The proposed amendment would tighten up control of the granting of such exemptions because the authority would prescribe the criteria by regulation. Mr Ambrose CHEUNG pointed out that as the coverage of "clubs" was very broad, the Administration should give careful consideration on the definition of "clubs" and the application of the exemption criteria to such establishments. In view of members' concerns, DS(CA) undertook to provide a written response on the definition/coverage of "clubs" and the current criteria for exemption from the requirement of a liquor licence.

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Paragraphs 3-15 of Schedule 5

6. Members did not raise any queries.

Paragraph 16 of Schedule 5

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7. On the transitional arrangement for liquor licence applications, Mr Ambrose CHEUNG requested the Administration to provide the number of liquor licence applications which would await a decision by the PUC and ProRC by 31 December 1999. DS(CA) agreed to provide the information.

8. With reference to section 32 of the Dutiable Commodities (Liquor) Regulations, Mr LEE Wing-tat asked about the application of the provision which empowered a police officer to apprehend persons drinking in unlicensed premises. AD/RS(EHP) responded that liquor licensees were required to display the licences in a conspicuous place on the licensed premises. Mr Ambrose CHEUNG pointed out that the problem lay with the consumption of liquor after the permitted liquor selling hours. He said that PUC and ProRC were studying the problem with a view to closing the loophole in legislation. AD/RS(EHP) explained that most licensees would try to comply with the licensing condition by urging their customers to place last orders for liquor well ahead of the close of permitted hours for liquor selling. However, liquor consumption outside permitted hours was not a breach of the licensing condition and not an offence.

Paragraph 1 of Schedule 6

9. Members noted that the future licensing authority for places of public entertainment would be transferred to the Secretary for Home Affairs. The events, activities and other things referred to in the definition of "entertainment" in section 2 had been prescribed in Schedule 1 of the Places of Public Entertainment Ordinance (Cap. 172). In response to Mr LI Wah-ming, DS(HA) said that the authority would issue a licence to a permanent place of public entertainment, while a permit would be issued for temporary events such as the holding of a school bazaar. Appeals in respect of such licences could be made to the Municipal Services Appeals Board under section 9.

10. Mr LEE Wing-tat asked whether the Administration had commissioned consultancy study to streamline the licensing of places of public entertainment. DS(HA) replied that the Administration was aware of the problems of the existing regulatory system which required the applicant to apply for different types of licences from various licensing authorities. The Home Affairs Bureau was now reviewing the system with a view to drawing up a unified licensing framework for places of public entertainment.

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Paragraphs 2-14 of Schedule 6

11. Members did not raise any queries.

Schedule 7 - Consequential And Miscellaneous Amendments

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12. Members noted that the Administration would provide a paper setting out the significant changes to the ordinances covered by Schedule 7 to facilitate members' scrutiny. Members therefore agreed to defer the clause-by-clause examination of Schedule 7 to the next meeting

**II. Matters arising**

Fee-setting mechanism

[Paper No. CB(2)109/9-00(03)]

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13. At the Chairman's invitation, DS(HA) briefed members on the Administration's proposal on the vetting procedures for fees and charges relating to leisure and cultural services. DS(HA) stressed that the Administration did not resist LegCo scrutiny of the fees and charges. However, there was a pragmatic need to allow flexibility in the fee-setting mechanism in order to promote usage of venues and programmes, cost-effectiveness of the services provided and a more proactive marketing strategy in response to market changes. He had the impression that members had agreed at previous meetings that programme admission charges would not require LegCo vetting, and these charges should be determined by the future Leisure and Cultural Services Department (LCSD) given their large number and diversity. At Mr LEE Wing-tat's request, DS(HA) undertook to provide a breakdown of the 2 000 types of fees and charges for cultural and leisure programmes/activities which would require frequent adjustments in response to market changes.

14. DS(HA) said that in view of members' strong views about the fee-setting mechanism proposed in the Bill, the Administration had now proposed a two-tier approach in determining fees and charges for leisure and cultural services. Under the revised proposal, fees and charges for venues and facilities which were widely used by individual members of the public would be prescribed by regulation and subject to the negative vetting of LegCo. All other fees and charges for leisure and culture including those for commercial purposes and for use by organisations would be determined by LCSD subject to the approval of the Financial Secretary in accordance with the procedure described in section 124J(1)(n). These two categories of fees and charges would be clearly prescribed in the legislation. The Chairman suggested that the fees and changes under these two categories could be specified in the form of schedules to the Bill.

15. Mr LI Wah-ming inquired the criteria for determining the types of leisure and cultural facilities that were "widely used by individual members of the public", as the list might need updating to take into account changes in demand and new facilities. DS(HA) responded that the Administration had compiled a tentative list of popular facilities including public swimming pools, tennis courts and other ball game venues, holiday camps and museums. He added that public libraries were not included in the list as no fee was charged currently. The Chairman asked whether a fee would be charged for using library services in future. DS(HA) responded that this could be included in the list if deemed necessary. In response to Mr LI Wah-ming, DS(HA) said that civic centres were not included in the negative vetting category because civic centres were mostly hired by organisations rather than individuals. He added that it was unlikely that the Administration would set these fees and charges too high because marketability was one principal concern in fee setting. As regards activity rooms, fitness rooms and water sports centres, they were not included because their usage was comparatively low. For these venues, LCSD would need flexibility in introducing new charging scheme or facilities in order to improve usage of these venues.

16. Mr LEE Wing-tat expressed concern that LCSD might set high charges for hiring leisure and cultural facilities during popular time slots, at a level beyond the affordability of those non-profit-making or district organisations. DS(CA) responded that section 124J empowered the authority to prescribe different fees and charges in relation to persons or cases of different classes or descriptions. As the Home Affairs Bureau and the future LCSD would have the responsibility to promote arts and culture, they would not overcharge these organisations for hiring arts and cultural facilities. In this connection, the Chairman expressed concern that as marketability was an important factor in price-setting, the Administration might be tempted to increase the fees or charges for popular facilities. He asked whether the Administration would consider setting a ceiling for fee increases or provide a mechanism to subsidise non-profit-making organisations for hiring leisure and cultural facilities. Mr LEE suggested that the fees or charges to be paid by non-profit making or district organisations could also be subject to the negative vetting procedure of LegCo. DS(HA) responded that it was not feasible to do so because prescribing these fees by regulation would inhibit innovative approaches and the LCSD would then be unable to respond swiftly to market changes.

17. Some members remained concerned that the Administration would be inclined to propose fee increase for leisure and cultural services based on cost-recovery principles, as the proposed fee levels would be subject to the approval of the Financial Secretary. Mr LEE Wing-tat therefore asked the Administration to consider deleting "with the approval of the Financial Secretary" from the proposed section 124J(1). Mr Ambrose CHEUNG also requested the

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Administration to provide a paper setting out the criteria/rationale and scope of the proposed negative vetting mechanism for setting the fees and charges in respect of certain popular leisure and cultural facilities. He stressed that there should be an external monitoring mechanism over the fee-setting mechanism for leisure and cultural services. DS(HA) undertook to provide a written response to these concerns.

#### New framework for delivering municipal services

18. Responding to the Chairman, DS(CA) said that the Administration would brief the Bills Committee and all other LegCo Members on the staffing proposals of the new framework for delivering municipal services by the end of October 1999.

#### Administration's responses to outstanding issues

Clerk

19. Mr LEE Wing-tat and Mr LI Wah-ming urged the Administration to provide its responses to members' concerns raised at previous meetings as soon as possible, so that members would have adequate time to prepare their draft Committee stage amendments (CSAs). DS(CA) informed members that the Administration would provide its draft CSAs and responses to some outstanding issues after the meeting. The Chairman said that the Clerk would issue them to members by fax once available. The Chairman also asked members to forward their draft CSAs to the Clerk as soon as possible.

### **III. Any other business**

20. Members agreed that the Bills Committee should invite public submissions and meet deputations (including the PUC and ProRC) on the Bill at its meeting scheduled for Friday, 22 October 1999 from 8:30 am to 12:45 pm. At the Chairman's suggestion, members agreed to schedule an additional meeting for Saturday, 23 October 1999 from 9:00 am to 12:00 noon.

21. The Chairman reminded members that the next meeting would be held on Friday, 15 October 1999 at 8:30 am.

22. The meeting ended at 12:35 pm.

Legislative Council Secretariat

12 May 2000