

立法會
Legislative Council

LC Paper No. CB(2)2495/99-00
(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 Monday, 8 November 1999 at 10:45 am
in Conference Room B of the Legislative Council Building**

Members Present : Hon Andrew WONG Wang-fat, JP (Chairman)
Hon HO Sai-chu, SBS, JP
Hon LEE Wing-tat
Hon Ambrose CHEUNG Wing-sum, JP
Hon CHAN Wing-chan
Hon Howard YOUNG, JP
Dr Hon TANG Siu-tong, JP

Members Absent : Hon Kenneth TING Woo-shou, JP
Hon Cyd HO Sau-lan
Hon Fred LI Wah-ming, JP
Hon Ronald ARCULLI, JP
Hon James TO Kun-sun
Hon CHAN Kam-lam
Hon Jasper TSANG Yok-sing, JP
Hon YEUNG Yiu-chung
Hon CHOY So-yuk
Hon FUNG Chi-kin

Public Officers Attending : Mrs Maureen CHAN
Deputy Secretary for Constitutional Affairs

Mr John LEUNG
Principal Assistant Secretary for Constitutional Affairs

Miss Selina LAU
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

I. Draft Committee Stage amendments (CSAs) to be proposed by Members

Revised CSAs to be proposed by Hon LEE Wing-tat
[Paper No. CB(2)321/99-00(01)]

At the invitation of the Chairman, Mr LEE Wing-tat briefed members on his proposed revised CSAs. The revised CSAs were tabled at the meeting and subsequently issued vide Paper No. CB(2)321/99-00(01).

Museum Regulation (Paragraph 446 in Schedule 3)

2. Members noted that Mr LEE Wing-tat proposed to amend section 5 of the Museum Regulation to the effect that a museum would be open to the public every day of the year, except Tuesdays and the first two days of the Lunar New Year, during such hours as determined by the Director of Leisure and Cultural Services. Mr LEE said that a museum should be open to the public as far as possible to maximize resources having regard to the high construction cost and operating expenditure of museums.

3. Deputy Secretary for Constitutional Affairs (DS(CA)) said that the Administration did not support Mr LEE Wing-tat's proposed amendments. The Administration had consulted the municipal services departments and concluded that the opening time of museum could be determined administratively having regard to resources, location of museums and public demand. She explained that it would be inflexible to prescribe the opening time of museums in the legislation as there would be circumstances requiring temporary closure of museums for urgent repairs and maintenance. However, she said that the Administration

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agreed in principle that museums should only be closed for one day every week. She requested Mr LEE to reconsider his proposal.

4. Responding to the Chairman, Senior Assistant Legal Adviser (SALA) advised that under the existing section 5(3) of the Museum Regulation, a Head of Museum was empowered to close temporarily a museum or any part thereof without notice for such reason as he thought fit. In this regard, DS(CA) pointed out that there were a number of smaller museums in relatively remote areas, and Mr LEE's amendment would cause difficulties in manpower deployment. The Administration was therefore of the view that curators should have the flexibility to determine the opening time of museums, having regard to the manpower resources.

5. Dr TANG Siu-tong considered that it would attract more audience if museums could open on public holidays, and such arrangements could be made administratively. DS(CA) acknowledged members' concern and agreed to review the feasibility of increasing the opening time of museums. However, she said that it would not be cost-effective to set rigid opening hours for all museums without regard to other factors such as patronage and resource implications.

Admin 6. After discussion, Mr LEE Wing-tat said that he would consider providing some flexibility for a Head of Museum in his CSAs. DS(CA) agreed to provide a written response to address Mr LEE's concern.

Pleasure Grounds Regulation (Paragraph 500 in Schedule 3)

7. Members noted that Mr LEE Wing-tat proposed to amend section 14 of the Pleasure Grounds Regulation to allow entry of handcarts carried by hand into a pleasure ground provided that it would not cause danger to others. DS(CA) said that the Administration had no objection in principle to the proposed amendment but would need to consider the drafting of the amendment. Members raised no objection to the proposed amendment.

Public Cemeteries Regulation (Paragraph 559 in Schedule 3)

8. Members noted that Mr LEE Wing-tat proposed to repeal section 9 of the Public Cemeteries Regulation concerning the exemption of Government from liabilities for losses and damages to articles inside graves in public cemeteries. Mr LEE Wing-tat drew members' attention to the fact that the Administration had already agreed to repeal similar exemption clauses in the Libraries Regulation and Museums Regulation.

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9. DS(CA) said that the Administration did not support Mr LEE's proposed amendment because it would be difficult to ascertain the kinds of articles placed inside the graves in open space. The Administration was concerned that the proposed repeal of the exemption clause would lead to unnecessary work and disputes in relation to unjustified claims. DS(CA) informed members that the existing exemption clause was added by the then Municipal Councils in 1995-96 after a landslide causing damages to some graves in Woo Hop Shek Cemetery. The purpose was to exempt Government and the Councils' liabilities for losses or damages to articles inside graves in the event of natural disasters. She pointed out public cemeteries were in open space and some of them were without boundary walls or fences. It was therefore not possible for Government to be liable for losses or damages to articles inside or above the graves.

10. Mr LEE Wing-tat said that while he agreed that it would be difficult to protect the graves against intentional damages, he considered that Government should be held responsible for losses and damages due to negligence or improper management. SALA advised that Government could still be sued, in case articles in a grave were stolen, for not having taken reasonable steps to prevent the stealing from happening in a public cemetery. However, there might be exemption clauses in the contract for depositing ashes/remains or other articles in public cemeteries. He further pointed out that it was unclear as to whether "articles" in section 9 included the grave itself. In response to the Chairman, Government Counsel said that "grave" was defined in the Public Health and Municipal Services Ordinance (Cap. 132) as "a burial place formed in the ground by excavation and without any internal walls of brickwork or stonework or any other artificial lining". The Chairman noted that there was no clear definition on "articles" under the exemption clause in the Regulation.

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11. In view of members' concerns, DS(CA) said that the Administration would further consult the municipal services departments and provide a response. She pointed out that it would need a convincing reason to revert the decision of the Municipal Councils on adding the exemption clause.

*Public Conveniences (Conduct and Behaviour) Regulation
(Paragraph 591 in Schedule 3)*

12. Members noted that Mr LEE Wing-tat proposed to amend section 5 of the Public Conveniences (Conduct and Behaviour) Regulation to remove the prohibition on loitering in public conveniences. Mr LEE said that persons suspected to have committed offences in public toilets could be removed or arrested by the police. DS(CA) said that the Administration had no objection to the proposed amendment.

Other amendments

13. Mr LEE Wing-tat informed members that he was also considering the following amendments -

- (a) stipulating a formula for the determination of public market stall rentals which would be subject to the approval of the Legislative Council;
- (b) including District Council members in the Liquor Licensing Board; and
- (c) amending the name of the new Department to "Food and Environmental Health Department".

14. Mr LEE said that he noted the Bills Committee's decision that it would not move CSAs on the name of the Food and Environmental Hygiene Department. However, he would still want to move the CSAs in his own name. As the proposed renaming would involve many clauses in the Bill, he sought members' consent for him to seek the assistance of the Legal Services Division on the drafting of the CSAs. After discussion, members were of the view that if Mr LEE insisted on moving the CSAs on the name of the Department, they had no objection to his seeking the usual advice from the Legal Services Division in this respect.

II. Any other business

Matters arising from previous meetings

15. Members noted the Administration's response to the written submissions received by the Bills Committee. The paper was tabled at the meeting and subsequently issued vide Paper No. CB(2)326/99-00(01).

16. Mr Ambrose CHEUNG reiterated his concern as to whether the Liquor Licensing Board would be able to cope with the future workload, given the proposed membership size and the high quorum requirement. Mr CHEUNG considered it unfair that any pending application made to the former board before 1 January 2000 would be treated as new application under the proposed transitional provision. The Chairman pointed out that it should not lead to any unfairness because the licensing conditions would remain unchanged. DS(CA) said that arrangement had been made for the existing liquor licensing boards to expedite processing of all pending applications before 1 January 2000. The

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Chairman suggested that existing liquor licensing boards should hold its regular meetings in the latter part of December 1999 to clear all backlogs.

17. Responding to Mr Ambrose CHEUNG, Principal Assistant Secretary for Constitutional Affairs confirmed that the amendments to the Dutiable Commodities (Liquor) Regulations were only technical in nature. The licensing criteria to be added to the Regulations were based on the existing criteria adopted by the Provisional Municipal Councils. The Administration had not imposed new licensing conditions in this respect. The proposed addition was to increase transparency of the operation of the Liquor Licensing Board.

18. At Mr Ambrose CHEUNG's request, DS(CA) undertook to provide the Administration's response to members' concerns raised at the meeting on 26 October 1999 before the next meeting. She said that the Administration did not agree with the proposal concerning market stall rental which would be subject to overall review under the new structure in future.

19. With regard to the CSAs proposed by Mr LI Wah-ming at the meeting on 4 November 1999, DS(CA) said that the Administration accepted two of the proposed amendments but disagreed with the one concerning the power of a stadium manager. The Administration was considering the other amendment seeking to include District Council members in the Municipal Services Appeals Board.

20. The Chairman reminded members that the Bills Committee would hold its last meeting on Friday, 12 November 1999 to discuss the CSAs to be proposed by Mr Ambrose CHEUNG and the Administration's response to members' CSAs.

21. The meeting ended at 12:15 pm.

Legislative Council Secretariat

26 June 2000