

立法會
Legislative Council

LC Paper No. CB(2)1935/99-00

(These minutes have been seen
by the Administration)

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

**Minutes of Meeting
held on Friday, 10 September 1999 at 8:30 am
in Conference Room A 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 Ronald ARCULLI, JP
Hon Ambrose CHEUNG Wing-sum, JP
Hon CHAN Wing-chan
Hon CHAN Kam-lam
Hon Jasper TSANG Yok-sing, JP
Hon Howard YOUNG, JP
Hon YEUNG Yiu-chung
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 James TO Kun-sun
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

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Mr Johnny WOO
Assistant Director of Urban Services (Leisure Management)

Mr Tony MA
Assistant Director of Regional Services (Culture & Entertainment)

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

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

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 Connie FUNG
Assistant Legal Adviser 3

Miss Flora TAI
Senior Assistant Secretary (2) 2

I. Matters arising
[Paper Nos. CB(2)2747/98-99(01), (04) and (05)]

At the invitation of the Chairman, Deputy Secretary for Constitutional Affairs (DS(CA)) briefed members on the Administration's papers on the proposed division of responsibilities on food safety and environmental hygiene matters, and the public markets and market rental policy.

Proposed division of responsibilities on food safety and environmental hygiene matters

[Paper No. CB(2)2747/98-99(04)]

2. Mr Howard YOUNG asked whether the Administration would consider setting up a single authority, modeled on the Food and Drugs Authority in the United States, for the control of food and drugs. DS(CA) responded that the Administration would not give consideration to the establishment of a single authority for the control of food and drugs at the present stage in view of the different existing regulatory practices for food and drugs. She added that the Administration had yet to put in place a regulatory framework for the control of health food. The Health and Welfare Bureau (HWB) and the Department of Health (DH) would draw up detailed regulations for the control of Chinese medicine after the enactment of the Chinese Medicine Ordinance (Cap. 549). DS(CA) informed members that the regulatory framework for food and drugs in the United States would also undergo a review in the near future. Mr YOUNG said that while the Bills Committee might not be the appropriate forum to discuss the proposal of a single authority, he hoped the Administration would give serious consideration to the establishment of an effective regulatory mechanism for the control of food and drugs. DS(CA) noted the comments.

3. Members noted that under the new structure, the Food and Environmental Hygiene Department (EFHD), the Agriculture and Fisheries Department (AFD) and the Environmental Protection Department (EPD) would come under the new Environment and Food Bureau (EFB) which would assume the overall coordinating role to provide policy direction on food safety and environmental hygiene matters. Mr CHAN Wing-chan queried whether EFB would have adequate authority to decide and take actions in case of outbreak of food-borne diseases such as the Avian flu. DS(CA) responded that the new structure would provide more effective co-ordination and line of command relating to the management of food and environmental hygiene hazard. Depending on the nature and extent of the health incident, it was unavoidable that other bureaux and departments might have to be involved and work closely under the co-ordination of the new EFB. To provide effective co-ordination of food safety issues, a standing committee comprising the new EFB, AFD, FEHD and the Department of Health would be set up.

4. Mr Ambrose CHEUNG expressed concern about the possible co-ordination problems. He said that DH was now under the Health and Welfare Bureau but it would have to work closely with various departments under the direction of EFB. Mr CHEUNG requested the Administration to confirm whether there would be a higher level mechanism above the Secretary for the Environment and Food, for example, the office of the Chief Secretary for Administration, to direct and co-ordinate actions to deal with large scale food safety or environmental hygiene emergencies. He also asked about the

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procedures to activate such mechanism. DS(CA) responded that the existing policy groups chaired by the Chief Secretary for Administration could resolve differences in opinions among bureaux if necessary.

5. With reference to the flow chart for future management of food hazards [Appendix III to Paper No. CB(2)2747/98-99(04)], Mr LEE Wing-tat asked which department would have the authority to decide on the recall, suspension of sale and destruction of poultry, livestock and fish and other non-food animals/fish/poultry, and to impose mandatory food recall. In response, DS(CA) said that relevant provisions of the Public Health and Municipal Services Ordinance (Cap. 132) had empowered AFD to decide on the recall and suspension of sale of poultry, and DH to order suspension of sale of food where necessary. Mr LEE wing-tat referred to previous food hazards and said that it was unclear as to whether DH had the authority to impose mandatory food recall. Mr LEE expressed concern that fragmentation of responsibilities would persist under the new structure. DS(CA) responded that a more streamlined structure would be put in place as the AFD and EPD would be placed under the new EFB. Moreover, the power to make regulations in respect of prohibition, restriction and regulation of the sale of live poultry would also be transferred from the Secretary for Health and Welfare to the Secretary for the Environment and Food.

6. Mr LEE Wing-tat expressed disappointment that AFD remained to be the authority for declaration of infected places. DS(CA) responded that AFD was the appropriate authority to declare infected places, as EFHD would be mainly responsible for the control of food animal diseases affecting human beings but not other animal diseases. Mr Ambrose CHEUNG was unconvinced of the argument as FEHD was to take over from the AFD those responsibilities relating to inspection of food animal/poultry, sampling of food animal/fish/poultry, tracing source of food contamination and communicating with suppliers. Principal Assistant Secretary for Constitutional Affairs (PAS(CA)) explained that AFD was currently the authority under the Public Health (Animals and Birds) Ordinance (Cap. 139) to declare infected places. He reiterated that animal diseases were not necessarily transmissible to human beings. Mr Ambrose CHEUNG maintained the view that FEHD should be empowered to make declaration of infected places in respect of food hazards affecting human beings.

7. The Chairman held a different view concerning the proposed transfer of responsibilities from AFD to FEHD. He considered it more cost-effective for AFD to retain those functions relating to the inspection of food animal/poultry, sampling of food animal/fish/poultry, and tracing source and communicating with suppliers as AFD would still perform other animal-related duties.

8. To address members' concerns, DS(CA) undertook to provide supplementary information to elaborate the proposed division of responsibilities for food and environmental hygiene matters. Mr LEE Wing-tat specifically

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requested the Administration to explain in the paper which departments would have the authority to decide and take actions on the importation, sale (and recall/suspension from sale) and destruction of poultry, livestock and fish, and what existing functions of AFD would be transferred to the FEHD and the related staffing arrangements. Mr Ambrose CHEUNG also requested the Administration to provide relevant information in respect of other non-food animals/fish/poultry.

9. Dr TANG Siu-tong referred to the flow chart for future management of food hazards and asked which department would be responsible for confirmation of incidence and taking follow-up actions. PAS(CA) responded that the standing committee involving EFB, AFD, FEHD and DH was responsible for co-ordination of food safety issues, while individual departments would take appropriate actions within their jurisdictions. In response to Mr CHAN Wing-chan, PAS(CA) said that EFHD, AFD and EPD would work closely under the command of the new EFB. PAS(CA) added that although DH was under a different policy bureau, professional staff would be seconded from DH to the EFHD to provide professional advice and support on matters relating to food safety. Dr TANG opined that the flow chart did not reflect clearly the role of EFB and the functions of relevant departments in the future management of food hazards. At members' request, DS(CA) agreed to provide clarification on the role of EFB, and a comparison on the existing and future functions of departments which were involved in food and environmental hygiene matters.

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10. Mr Ambrose CHEUNG said that under the new structure, DH and FEHD would be responsible for communicating with international health bodies and food organizations respectively. He expressed concern that it would be confusing to overseas authorities because sometimes it was difficult to distinguish issues concerning food and health. PAS(CA) pointed out that the World Health Organization also dealt with food safety issues. He said that it was not uncommon for an overseas government or organization to contact more than one government department in Hong Kong in cases of food hazard. Moreover, FEHD would actively establish liaison with overseas and international food organizations in the future. At Mr CHEUNG's request, PAS(CA) agreed to provide a list of overseas authorities and organizations which were expected to liaise separately with DH and FEHD.

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11. Mr Ambrose CHEUNG said that the Administration should provide information to illustrate how the proposed structure relating to the management of food and environmental hygiene hazards would be streamlined and improve efficiency. He stressed that such information should be made available before the enactment of the Bill because it would be a major consideration for members to decide as to whether to support the Bill. Mr CHAN Wing-chan and Mr LEE Wing-tat also expressed concern about the implications of the reorganization on staffing arrangements. DS(CA) responded that the task force which had just

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been set up in July 1999 was working on details of the new organizational structure. The Administration would brief the relevant Legislative Council (LegCo) Panels on the new structure before seeking approval of the LegCo Finance Committee. Responding to the Chairman, DS(CA) reiterated that it was the Administration's plan that the new bureau and departments would commence operation on 1 January 2000 and that the new structure could not operate without a statutory basis, i.e. enactment of the Bill. In view of members' concerns, the Chairman suggested the Administration to brief the Bills Committee on its preliminary proposal on the future organizational structure and establishment/staffing arrangements. DS(CA) undertook to provide the briefing paper once available.

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Public markets and market rental policy

[Paper No. CB(2)2747/98-99(05)]

12. At the Chairman's invitation, DS(CA) briefed members on the paper on public markets and market rental policy.

13. Members noted that market stalls in the jurisdictions of Provisional Urban Council (PUC) and Provisional Regional Council (ProRC) were normally rented out for a term of three years and four years respectively under the first contract. In reply to Mr CHAN Wing-chan, Assistant Director of Regional Services (Environmental Health Policy) (AD/RS) said that it was necessary to realign the differences on public markets and market rental policy between the urban area and the New Territories after the reorganization. AD/RS added that a term of four years would be in the favour of market stallholders. In response to Mr CHAN's further enquiry, AD/RS said that EFB and FEHD would be responsible for future market stall rentals policies. Mr CHAN then asked whether the Administration would consider putting in place a review mechanism similar to the ProRC's Market Stall Rental Review Sub-committee. AD/RS responded that if markets were to be operated on a commercial basis, future rentals could be determined by negotiation and consultation.

14. Mr Howard YOUNG noted that a market stallholder who had obtained his agreement through open auction was subject to the proviso that no stall agreement would be renewed at a rental lower than the existing rent. Mr YOUNG expressed concern that it would be unfair for market stallholders under the present economic climate. AD/RS responded that the purpose of the provision was to ensure fairness in an open auction. He explained that it would be unfair to other bidders if the successful bidder who had bid a market stall at a high price in an open auction was allowed to renew the tenancy agreement subsequently at a rental lower than the existing rent. As for market stallholders who had obtained his agreement through restricted auction, they would be offered to renew his agreement at a rent based on a formula which allowed for increase by phases. The Chairman said that the proviso was not necessary,

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pointing out that the market stall rentals should be determined by market force through auction. Mr Ambrose CHEUNG shared his view.

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15. Mr Ambrose CHEUNG was of the view that the reorganization would bring tremendous change to the mechanism on market stall rentals, as the power to determine market stall rentals would be transferred from the municipal councils to government departments which might adopt different criteria for determining market stall rentals. He reminded the Administration that PUC had adopted a policy which included a subsidy element in the determination of market stall rentals. Mr LEE Wing-tat shared a similar view and pointed out that rentals for market stalls in the jurisdictions of PUC and ProRC were much lower than those under the Housing Authority. Mr LEE requested the Administration to provide more details on the future arrangement and the policy considerations for fixing and adjusting the public market rentals in urban areas and in the New Territories.

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16. DS(CA) noted members' concern about protection of market stallholders' interest in determining the future market stall rental policies. She envisaged that relevant LegCo Panel would be consulted if changes were made to these policies. She undertook to prepare a composite paper to address members' concerns.

II. Dates of future meetings

17. Members agreed that the Bills Committee would continue clause-by-clause examination of the Bill at the next meeting to be held at 2:30pm on Wednesday, 15 September 1999.

18. Members also agreed that the Bills Committee meetings on Friday, 17 September and Friday, 24 September 1999 would run from 8:30 am to 12:30 pm.

19. The meeting ended at 10:45am.

Legislative Council Secretariat
9 May 2000