

**立法會**  
**Legislative Council**

LC Paper No. CB(2)2463/99-00

(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, 22 October 1999 at 8:30 am  
in the Chamber 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 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  
Dr Hon TANG Siu-tong, JP

**Members Absent** : Hon Kenneth TING Woo-shou, JP  
Hon Cyd HO Sau-lan  
Hon James TO Kun-sun  
Hon Jasper TSANG Yok-sing, JP  
Hon Howard YOUNG, JP  
Hon FUNG Chi-kin

**Public Officers Attending** : Items I & II

Mrs Maureen CHAN  
Deputy Secretary for Constitutional Affairs

Item I

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Mr John LEUNG  
Principal Assistant Secretary for Constitutional Affairs

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

Mr Sunny CHAN  
Senior Government Counsel (Department of Justice)

*Item II*

Mr Peter CHEUNG  
Deputy Secretary for Home Affairs

**Attendance by :  
Invitation**

*Item II*

Association of Stallholders at Tsing Yi Regional Council  
Market (青衣市政街市商戶聯合會)  

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Mr LEE Tung-loi

Mr WONG Kwong-mo

Association of Licenced Hawkers (持牌小販協進會)

Mr LEUNG Kin-cheuk  
Chairman

Mr WOO Kam-hong  
Vice-Chairman

Hong Kong Vegetable Food & Grocery Hawkers Welfare  
& Fraternity Association Limited  

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Mr CHOW Tong  
Chairman

Mr LO Tak-fai

Ms LEUNG Fung-lei

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Association of Hong Kong Bar & Pub Business Limited

Mr Isaac CHAN  
Chairman

Mr YAN Chun-tin  
External Affairs Committee member

Mr LEE Tak-wing  
Committee member

Mr Johnny LAU  
Committee member

Hong Kong Association for the Rights of Karaoke  
Entertainment & Catering Business

Mr CHOW Man-yau, William  
Chairman

Mr LIN Chor-kwong  
Committee member

Mr HO Hung-sang  
Committee member

Provisional Urban Council

Mr Joseph CHAN Yuek-sut  
Chairman, Public Health Select Committee

Mr KWONG Kwok-hing, MH  
Vice-Chairman, Public Health Select Committee

Mr KAM Nai-wai  
Chairman, Libraries Select Committee

The Hon Ambrose CHEUNG Wing-sum, JP  
Vice-Chairman, Markets and Street Traders Select Committee

Ms Jennifer CHOW Kit-bing, MH  
Chairlady, Cultural Activities Sub-Committee of Culture  
Select Committee

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Urban Council's caucus of the Democratic Party

Mr WU Chi-wai

Mr NG Wing-fai

Regional Council's caucus of the Democratic Party

Ms CHEUNG Yuet-lan

Ms CHAN Shu-ying

A group of market stallholders at Po On Road

Ms LEUNG Shui-sum

Mr HO Yun-kiu

Mr HO Lin-tang

Mr LEE Hong-fong

Mr CHAN Hong-ning

Sports Federation & Olympic Committee of Hong Kong, China

Mr A F M CONWAY

Vice President

Mrs Vivien FUNG

Vice President

Mr Alan SHUM

Assistant Hon. Secretary

Hong Kong Amateur Swimming Association

Mr Tony K L YUE

Chairman

Hong Kong Table Tennis Association

Mr Simon S M LAU

Chairman

Hong Kong Canoe Union

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Mr P K WONG  
Chairman  
The Judo Association of Hong Kong, China

**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**

(Paragraphs 340-368 of Schedule 3)

[Paper Nos. CB(2)96/99-00(04) and CB(2)109/99-00(02)]

At the invitation of the Chairman, Deputy Secretary for Constitutional Affairs (DS(CA)) highlighted the amendments in the proposed Hawker Regulation from paragraph 353 of Schedule 3 onwards. The gist of discussion is summarised in paragraphs 2-9.

Paragraphs 353-360

2. Members did not raise any queries.

Paragraph 361

3. Members noted that the provision on the use of wholesome water was incorporated into the proposed Regulation for better hygiene control. Mr LI Wah-ming said that whilst he supported the Administration to include the requirement to use wholesome water, he queried whether there was any definition or health standard in legislation for wholesome water. Assistant Director of Regional Services (Environmental Health Policy) (AD/RS(EHP)) responded that public mains water provided by the Water Supplies Department was considered up to the standard required. If public mains water was not available (in some areas of the New Territories), the use of other source of water would need to be approved by the licensing authority and there was regular test of water samples by the authority to ensure that only wholesome water was used.

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He said that most cooked food stalls and licensed food business premises were already equipped with mains supply. In response to Mr LI, AD/RS(EHP) said that the authority had always educated the public to drink boiled water.

4. Mr LI Wah-ming expressed concern that the quality of tap water might not meet the hygiene standard for direct consumption without boiling. Mr Ambrose CHEUNG said that many food business operators used tap water for preparing beverage or ice-cube and he queried whether there was any regulation in this respect. AD/RS(EHP) said that the municipal services departments would act on complaint and take samples for testing. Due to resource constraints, surveillance and monitoring by the municipal service departments were focused on high risk categories. Mr LI expressed dissatisfaction that the Administration had taken a rather passive approach in monitoring the hygiene standard of drinking water consumed at food business premises. DS(CA) said that with the reorganization, there would be more effective re-deployment of resources under one single authority. It was envisaged that the new authority would be able to conduct more proactive evaluation of health risks in food-related matters. Mr CHAN Wing-chan added that as far as he knew, food business operators normally used boiled water or distilled water for preparing beverage for customers.

5. Mr Ambrose CHEUNG further asked whether there were adequate provisions in the proposed Regulation regulating the sale of beverage in used bottles by itinerant hawkers. AD/RS(EHP) replied that no licence had been issued to itinerant hawkers for selling foods and drinks for a long time and that these illegal hawkers were subject to prosecution by the municipal services departments.

6. Messrs LI Wah-ming and Ambrose CHEUNG remained concerned about the inadequate regulation of drinking water and ice cubes at cooked food stalls and other licensed food premises. DS(CA) said that the Administration was aware of the grey area between the municipal services departments and the Department of Health in monitoring the hygiene standard of drinking water at food business premises. The Administration was confident that there would be a clearer delineation of responsibilities under the new set-up. Mr CHAN Kam-lam remarked that the many problems identified by members of the Bills Committee indicated the need for reorganization for the delivery of municipal services. The Chairman advised the Administration to provide a written response as to whether there was any definition or health standard in legislation for the drinking water provided by hawkers/cooked food stalls/food business premises to customers.

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Paragraph 362

7. The Chairman said that the Chinese version of "importunate" in the proposed section 53(2) might need improvement. DS(CA) responded that this could be considered when the Hawker Regulation was reviewed at a later stage.

Paragraphs 363-365

8. Members did not raise any queries.

Paragraph 366

Admin 9. Members noted that amendments had been proposed to take into account the addition of offences and penalties under the new sections 5A, 12(1A) and 55A(2). In response to Mr LI Wah-ming, DS(CA) undertook to check whether the proposed penalty level for the new sections were the same as those in the Hawker (Regional Council) By-laws.

Paragraphs 367-368

10. Members did not raise any queries.

Administration's initial response to members' concerns raised at the last meeting

Admin 11. DS(CA) said that as requested by members at the meeting on 19 October 1999, the Administration had reviewed the Chinese translation of "hawker badge" in section 2 and proposed to use either "小販證" or "小販證章" to replace "小販徽章". Members suggested adopting "小販證" and DS(CA) agreed to put up Committee stage amendments (CSAs) to that effect.

12. DS(CA) further informed members that the Administration would propose CSAs to improve the drafting of section 14 in respect of "defacement authorised by the Director".

Admin 13. As regards the adequacy of the proposed provisions to remove fixture, equipment, goods and paraphernalia on hawker pitches where necessary, DS(CA) said that the Administration had reviewed the relevant provisions and concluded that section 34 was adequate for the purpose. The Administration would provide a written response to members' concerns on Hawker Regulation.

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**II. Meeting with deputations**

[The Chairman ordered a break of five minutes and the meeting resumed at 10:00 am to meet deputations.]

14. The Chairman welcomed representatives of the ten deputations to the meeting and invited them to give their views on the Bill.

Association of Stallholders at Tsing Yi Regional Council Market

[Paper No. CB(2)135/99-00(05)]

15. Representatives of the Association of Stallholders at Tsing Yi Regional Council Market highlighted their concerns in the written submission. They expressed concern that following the abolition of municipal councils, it would no longer be possible for stallholders to lodge complaints about determination of market rentals to members of an elected council. They said that stallholders of Tsing Yi Regional Council Market faced great difficulties in running their business because of the prevalence of illegal hawkers and poor market design. They also requested the Administration to consider requiring the stallholders to pay rentals on a monthly instead of quarterly basis in order to ease their difficulties.

16. Mr Ambrose CHEUNG said that under the current structure, the Review Committees of the Provisional Municipal Council (PMC) could review, upon application of the stallholder, licensing decisions and market stall rentals of the municipal services departments. Representative of the Association of Stallholders at Tsing Yi Regional Council Market stressed that the future structure must also provide a review mechanism for market stall tenancy matters. In this connection, DS(CA) informed members and the deputation that the Administration had accepted members' suggestion and would move CSAs to expand the scope of the Municipal Services Appeals Board to cover termination of market stall tenancy cases.

Association of Licensed Hawkers

[Paper No. CB(2)150/99-00(01)]

17. Vice-Chairman of the Association of Licensed Hawkers referred to the written submission and expressed concern that with the centralisation of the delivery of municipal services, the future Director of Food and Environmental Hygiene might not be able to monitor municipal services effectively. Chairman of the Association of Licensed Hawkers said that licensed hawkers had grave concern about the future direction of hawker policies especially the possibility of compulsory deletion of Itinerant Hawker Licence and discontinuation of assistant "licences". The Chairman pointed out that the future hawker policy was outside the ambit of the Bill and that the Administration had undertaken to maintain existing policies after reorganization .



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18. In response to Mr LI Wah-ming, Chairman of the Association of Licensed Hawkers said that the future appeal mechanism would be less representative as it would consist of appointed members only. He was also concerned that the future Department might have excessive power. He suggested that the Administration should consider the "One Council, One Department" option if the intention was to save cost.

19. Responding to Mr LEE Wing-tat, representatives of the Association of Licensed Hawkers reiterated their concern about the absence of a fair channel for lodging appeals to safeguard their interests in future.

Hong Kong Vegetable Food & Grocery Hawkers Welfare & Fraternity Association Limited

[Paper No. CB(2)150/99-00(02)]

20. Chairman of the Association said that the existing structure had provided different channels for hawkers and stallholders to lodge their appeals or complaints. He expressed concern about the absence of appeals mechanism after the abolition of municipal councils. He said that the future Director of Food and Environmental Hygiene might not be able to monitor the delivery of municipal services in an effective manner. He was also concerned about the implications of the proposed section 53(2) which prohibited hawkers to behave in an importunate manner. Chairman of the Association said that the Urban Services Department had been more stringent in endorsing assistants to assist in hawking during the absence of licensed hawkers, and this had led to disputes between the assistants and frontline municipal services officers. He was worried that the future Department of Food and Environmental Hygiene might not be sympathetic to their difficulties. A representative of the Association also expressed dissatisfaction that the trade had not been consulted on the proposal of increasing the fee of hawker licence. He was worried that the future licence fee would be determined solely by the Director of Food and Environmental Hygiene without consultation.

Association of Hong Kong Bar & Pub Business Limited

[Paper No. CB(2)173/99-99(01)]

21. Representatives of the Association expressed concern about the absence of elected members in the future Liquor Licensing Board which might not be able to reflect the views of the applicants and the public. They considered it a step backwards to abolish the elected councils. They hoped there would be representatives of community opinions, preferably elected members, in the future Liquor Licensing Board.

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Hong Kong Association for the Rights of Karaoke Entertainment & Catering Business

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22. Representatives of the Association expressed worries about the absence of a complaint mechanism for matters relating to restaurant and liquor licensing. They considered elected members more approachable as elected members were more willing to listen to operators of entertainment and catering business in the licensing process. These representatives were concerned that a government department would be more stringent and the officials might not have sufficient understanding of the operation of the trade.

23. Responding to Mr LI Wah-ming, representatives of the Association said that they were concerned that persons unfamiliar with the trade would be appointed to the Liquor Licensing Board, and that applicants could no longer appeal to municipal council members on the Liquor Licensing Board decision.

Provisional Urban Council (PUC)

[Paper Nos. CB(2)135/99-00(04) and CB(2)256/99-00]

24. Chairman, PUC Public Health Select Committee and Chairman, PUC Libraries Select Committee briefed members on the following concerns as detailed in their written submission [Paper No. CB(2)135/99-00(04)] -

- (a) proposed division of responsibilities on food safety and environmental hygiene;
- (b) future fee-setting mechanism;
- (c) validity and continuity of contracts after the transfer;
- (d) future appeal mechanism in dealing with cases other than licensing applications;
- (e) future licensing mechanism;
- (f) restaurant regulation; and
- (g) monitoring mechanism over the future delivery of municipal services.

25. Chairman, PUC Public Health Select Committee said that PUC had maintained its position that "One Council, One Department" proposal was the best way to rationalise the structure for the delivery of municipal services. PUC was opposed to the Bill which sought to transfer the powers of the PMCs to the Government or public officers, and this would in effect replace the existing

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elected councils by a governmental structure. He also expressed concern that Government might not consult the trade or the public in formulating future policies for the delivery of municipal services.

26. Vice-Chairman, PUC Public Health Select Committee considered that the Bill should include provisions to improve existing policies and practices for the benefit of the public. He informed members that after lengthy discussion, the PMCs had agreed to delegate powers to the directors of the municipal services departments to close those food business premises which continued to operate without a licence. The PMCs were about to introduce legislation to this effect and he hoped the new administrative structure would implement these policies. He also pointed out that the relevant Select Committees of the PMCs had put forward proposals to streamline the food licensing system, to regulate the provision of water for keeping live fish and crustacean, and to adopt a three tier classification system for restaurants. The PUC had also endorsed the policy to provide full municipal services at all private streets. He said that it was disappointing that the Administration had not incorporated these proposals in the Bill. Moreover, the Bill failed to address current policy discrepancies between the two PMCs in respect of itinerant and frozen confectionery hawkers, or propose any improvements to deal with illegal hawkers.

27. Chairman, PUC Libraries Select Committee echoed the concern that the reorganization would adversely affect the implementation of various improvement initiatives and capital works projects endorsed by the PMCs. He urged the Bills Committee to give due regard to the future plans for these projects and the future fees and charges for leisure and cultural activities.

28. Chairlady, PUC Cultural Activities Subcommittee of Culture Select Committee said that the culture community was concerned whether there would be better co-ordination of resources and continuation of pluralistic development in arts and culture under the new structure. She requested the Bills Committee to urge the Administration to provide a blueprint for the future development of culture and arts. She also urged the Administration to proceed cautiously with the proposal of contracting out the management of selected venues and ticketing services.

29. Mr Ambrose CHEUNG gave his opinions as the Vice-Chairman of the Markets and Street Traders Select Committee. He expressed concern as to whether the current policies in respect of market stall tenancies, licence renewals and appeal mechanism would continue after the abolition of PMCs. He was strongly of the view that the Administration must give an undertaking to continue the PMC's policies and capital works projects pending any review. The Administration should also widely consult affected parties and allow a grace period in proposing any change to existing policies.

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30. Mr Ambrose CHEUNG also reiterated his concern about the legal effects of the transfer provisions in the Bill in respect of the continuity of contracts. He considered it unfair that parties to the contracts such as market stallholders and street traders did not have the right to re-negotiate or rescind the contracts upon transfer of the authority.

31. Chairman, PUC Public Health Select Committee also informed members that the PUC had recently endorsed a number of legislative amendments such as the fixed penalty for throwing or depositing litter in public places. He suggested that these should be incorporated in the Bill. At the request of the Chairman, Chairman, PUC Public Health Select Committee agreed to provide a list of these proposals for the Bill Committee to follow up.

*(Post-meeting note : PUC Public Health Select Committee had subsequently provided a further submission which was issued vide LC Paper No. CB(2)256/99-00.)*

Urban Council's caucus of the Democratic Party  
[Paper No. CB(2)135/99-00(01)]

32. Representatives of the Urban Council's caucus of the Democratic Party commented that the Bill had not proposed any improvements for the delivery of municipal services under the new structure. Given the heavy workload of the PMCs, they had doubts that the LegCo would have the capacity of absorbing the work of the PMCs in monitoring the delivery of municipal services. They considered that "One Council, One Department" would be the more appropriate structure.

33 With regard to hawker policy, representatives of the Urban Council's caucus of the Democratic Party pointed out that there were discrepancies between the two PMCs and that the Administration should give a clear indication of the future direction of hawker policies. They also queried the new section 52(2) of the proposed Hawker Regulation which required a hawker to seek the Director of Food and Environmental Hygiene's approval for using water from a source other than Government water mains. Representatives also expressed concern about the future operation of liquor licensing and the absence of elected members in the Liquor Licensing Board. Whilst only premises were required by legislation to be licensed for the sale of liquor, they pointed out that section 30 of the Hawker (Regional Council) By-laws (Intoxicating liquor not allowed at hawker stalls) had not been included in the proposed Hawker Regulation. They therefore urged that the Administration to consider the regulation of the sale of intoxicating liquor at hawker stalls.

34. Referring to the representatives' concern about the future review/appeal mechanism for the determination of market stall rentals, Mr LEE Wing-tat asked

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how the "One Council, One Department" proposal could provide an effective mechanism in this respect. Representatives of the Urban Council's caucus of the Democratic Party explained that the PUC had adopted a conscious policy decision to set market stall rentals below the market rate and to increase the rentals by phases. The PUC could also freeze the rentals during renewal of tenancies to help market stallholders tide over financial difficulties during economic downturn. They expressed objection that the Bill did not provide for a similar mechanism to review market stall rentals on application by the stallholders. In this regard, Mr Ambrose CHEUNG commented that the Administration must give an indication on the future policy direction on the mechanism for determining market stall rentals. The Chairman pointed out that the Administration had agreed to consider the suggestion and would provide a written response.

Regional Council's caucus of the Democratic Party  
[Paper No. CB(2)135/99-00(02)]

35. Representatives of the Regional Council's caucus of the Democratic Party expressed concern that licence applications would in future be processed by a bureaucratic structure and that aggrieved parties would be unwilling to lodge complaints to a government department about the delivery of municipal services. They also expressed serious concern about the absence of an appeal mechanism for the determination of market stall rentals under the new structure. They were worried that the future Director of Food and Environmental Hygiene would determine market stall rentals and other fees and charges based on cost recovery principles, without regard to the financial difficulties of stallholders or operators. These representatives considered that a better alternative to the new administrative structure was strengthening the co-ordination and co-operation of the two PMCs in the delivery of municipal services.

A group of market stallholders at Po On Road  
[Paper No. CB(2)173/99-00(02)]

36. Representative of a group of market stallholders at Po On Road explained the operational difficulties experienced by market stallholders. She said that the raids conducted by municipal services departments to prevent market stallholders from placing commodities or equipment outside their pitches had adversely affected their business. She expressed concern about the future mechanism for determining market stall rentals, and the future appeals and complaints mechanism after the abolition of the PUC. The Chairman advised that the LegCo could monitor the delivery of municipal services by government departments in future, and that LegCo Members would be most willing to assist members of the public if they were aggrieved with the work of the new departments.

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37. The representative also suggested that an assistant who had been employed by a licensed hawkler for seven or eight years should be allowed to inherit the licence on retirement of the licensee. The Chairman advised that the Bill did not cover policy issues and the suggestion would need further consideration by Government as a policy change was involved.

Sports Federation and Olympic Committee of Hong Kong, China (SF&OC)

38. Vice Presidents of SF&OC said that the National Sports Associations (NSAs) were very concerned about the availability of sports facilities and venues to NSAs and the hire charges for using these facilities after reorganization. As NSAs currently received subsidies from PMCs for hire of facilities and venues, they hoped the existing policy and fee level would continue under the new structure. The Vice Presidents also suggested that Administration should designate certain sports venues to NSAs to facilitate training and holding of competitions.

39. Assistant Honorary Secretary, Hong Kong Amateur Swimming Association and Chairman, Judo Association of Hong Kong pointed out that hire charges of facilities and venues represented 30%-40% of the expenditure of NSAs. If Government was to resume control of these sports venues and increase the hire charges, it would seriously affect future sport development. They therefore urged Government to consult NSAs before proposing any fee increases in future. Chairman, Hong Kong Table Tennis Association and Chairman, Hong Kong Canoe Union echoed similar concerns and requested for designated sports venues and subsidies for NSAs in promoting elite sport development.

40. In response to Mr Ambrose CHEUNG, Vice President of SF&OC said that Government should give clear policy direction on the future arrangement for the use and management of facilities and venues.

41. Miss CHOY So-yuk said that whilst she supported the SF&OC's proposal of designating certain sport venues for use by the NSAs, she was concerned about the detailed allocation arrangement given the limited resources and that there might be more than one sports association for the same type of sport. Vice President of SF&OC responded that these sports associations could affiliate with the relevant NSAs in bidding for the use of venues. Assistant Honorary Secretary, Hong Kong Amateur Swimming Association said that the NSAs would co-ordinate the use of venues among their member associations. He stressed that availability of designated venues was essential for NSAs to organise elite training. Miss CHOY asked about the proposed arrangement for sports associations which were not members of the SF&OC or affiliated members of any NSA. Chairman, Hong Kong Table Tennis Association responded that NSA could play a co-ordinating role in the allocation of venues for sports training and activities. Vice President of SF&OC considered that the Administration should

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have no difficulty in designating some venues for use by NSAs in view of the availability of venues throughout the territory. Mr CHEUNG and Miss CHOY advised that SF&OC should put forward detailed proposal on the allocation of sports venue for consideration by the Administration.

**III. Any other business**

42. The Chairman informed members that the Hong Kong Public Health Inspectors' Association had provided a written submission [Paper No. CB(2)135/99-00(03)] but was unable to send any representative to present its views to the Bills Committee. Members noted that the Association proposed to rename the new Food and Environmental Hygiene Department as "Food and Environmental Health Department", and that one seat in the new Advisory Council for Food and Environmental Health should be reserved for the environmental health profession.

43. The Chairman reminded members that the Bills Committee would meet again on Saturday, 23 October 1999 from 9:00 am to 12:00 noon to continue examination of Schedule 7 and the Administration's first batch of draft CSAs.

44. The meeting ended at 1:10 pm.

Legislative Council Secretariat  
26 June 2000