

**立法會**  
**Legislative Council**

LC Paper No. CB(2)2439/99-00  
(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 Saturday, 23 October 1999 at 9:00 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 Ambrose CHEUNG Wing-sum, JP  
Hon CHAN Wing-chan  
Hon Jasper TSANG Yok-sing, 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 Howard YOUNG, JP  
Hon YEUNG Yiu-chung  
Hon CHOY So-yuk  
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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Mrs N DISSANAYAKE  
Senior Assistant Law Draftsman (Department of Justice)

Mr Sunny CHAN  
Senior Government Counsel (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 Flora TAI  
Senior Assistant Secretary (2) 2

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**I. Clause-by-clause examination**  
[Paper No. CB(2)109/99-00(02)]

At the invitation of the Chairman, Principal Assistant Secretary for Constitutional Affairs (PAS(CA)) briefed members on the proposed consequential and miscellaneous amendments to the ordinances and subsidiary legislation contained in Schedule 7.

Paragraphs 1-5

2. Members did not raise any queries.

Paragraph 6

3. Members noted that the Administration proposed to repeal the reference to "the Urban Council" in the Schedule to the Land (Miscellaneous Provisions) Ordinance (Cap. 28). Mr LEE Wing-tat asked why "Regional Council" was not included in that Schedule. PAS(CA) undertook to provide a written response.

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Paragraphs 7-12

4. Members did not raise any queries.

Paragraph 13 (New Territories Ordinance)

5. Members noted that section 149(2) of the Public Health and Municipal Ordinance (Cap. 132) empowered the Chief Executive in Council to amend the Duplicate Permits and Licences (New Territories) Rules by regulation. PAS(CA) explained that as the Rules were subsidiary legislation of the New Territories Ordinance (Cap. 97), the Administration considered it more appropriate to include that provision in the New Territories Ordinance. Senior Assistant Legal Adviser (SALA) advised that the New Territories Ordinance did not specify the types of permits or licences for which fees would be charged for the duplicates. At Mr LEE Wing-tat's request, Deputy Secretary for Constitutional Affairs (DS(CA)) agreed to provide a list of such permits or licences.

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Paragraphs 14-15 (Estate Duty Ordinance)

6. Mr LEE Wing-tat asked about the implication of the deletion of the reference to the municipal councils in the Estate Duty Ordinance (Cap. 111) if a deceased person had indicated in his will to pass on certain properties to either the Urban Council (UC) or Regional Council (RC). SALA advised that the properties would remain in the deceased person's estate because the will to pass these properties to the municipal councils could not be executed after the abolition of the councils. Senior Assistant Law Draftman (SALD) shared a similar view. The Chairman remarked that the Government might be able to take over these properties as the Bill had provided for the transfer of all existing property and rights of the Provisional Municipal Councils (PMCs) to the Government. Mr LEE and Mr HO Sai-chu were of the view that the Administration should carefully consider the legal position on the matter.

Paragraphs 16-20

7. Members did not raise any queries.

Paragraphs 21-30 (Rating Ordinance)

8. PAS(CA) explained the reason for the proposed amendments to the Rating Ordinance (Cap. 116). He said that after the abolition of the two PMCs, it would no longer be necessary to differentiate between general rates and the UC/RC rates. Paragraphs 29-30 were to ensure that the current valuation lists would continue to be in force after the dissolution of the PMCs. This would enable action to be taken by Government to recover outstanding rates.

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9. In response to Mr LEE Wing-tat's enquiry on paragraph 26, SALD explained that section 18(1) of the Rating Ordinance provided for the general rates percentage to be prescribed by a resolution of the Legislative Council (LegCo). SALA agreed with SALD's interpretation. Mr LEE further asked whether there was a possibility for reduction of rates as a result of the anticipated saving arising from the reorganization. DS(CA) responded that the rates would become general revenue for provision of improved services after the abolition of PMCs. Any increase or decrease in rates payable would have to be considered in the context of the overall Government budget.

Paragraph 31

10. Members did not raise any queries.

Paragraph 32 (Stamp Duty Ordinance)

11. Mr LEE Wing-tat asked whether the proposed deletion of PMCs (and parties executing their instruments) from the exemption list for payment of stamp duty would have any effects on third parties. PAS(CA) responded that the existing provision referred to those contracts and tenancy agreements signed by the PMCs. As the Government would sign such agreements after abolition of the PMCs, the existing provisions would no longer be necessary. SALD said that according to section 23 of the Interpretation and General Clauses Ordinance (Cap. 1), any repeal did not impose any new liability or affect any concession already existed. The proposed deletion would be applicable to new transactions only. SALA also pointed out that stamp duty was required to be paid at the time of signing the instruments and the legal liability was therefore clear even if the municipal councils were later abolished.

Paragraphs 33-35

12. Members did not raise any queries.

Paragraph 36 (Public Health (Animals and Birds) Ordinance)

13. Mr LEE Wing-tat asked about the rationale for adding the Department of Food and Environmental Hygiene to section 14 of the Public Health (Animals and Birds) Ordinance (Cap. 139). PAS(CA) explained that the Department would assume overall responsibility for food safety and had an important role to play in the prevention of disease related to animals and birds. SALD pointed out that section 14 was only to make clear the common law principle that public officers were exempt from personal liabilities in discharging their statutory duties.

Paragraph 37 (Public Health (Animals and Birds) Regulation)

14. PAS(CA) informed members that in view of the imminent closure of the Cheung Sha Wan Abattoir, the Administration would move Committee stage amendments (CSAs) to replace references to "abattoir" with "licensed slaughterhouse" in Regulation 9 of the Public Health (Animals and Birds) Regulations.

Paragraphs 38-42

15. Members did not raise any queries.

Paragraph 43

16. PAS(CA) informed members that the Administration had concluded, after re-consideration, that it would not be appropriate to specify in the legislation that a member to be appointed to the Chinese Temples Committee under section 7(2)(b) of the Chinese Temples Ordinance (Cap. 153) must be a Chinese. The Administration would move a CSA to delete the reference to the race of a member.

Paragraphs 44-46

17. Members did not raise any queries.

Paragraph 47 (Defences (Firing Areas) Ordinance)

18. PAS(CA) informed members that the Administration would move a CSA to the effect that the Director of Food and Environmental Hygiene and the Director of Leisure and Cultural Services would be added to the Second Schedule to the Defences (Firing Areas) Ordinance (Cap. 196) because they might have operational need to be supplied with relevant programmes, notices and charts.

Paragraphs 48-53

19. Members did not raise any queries.

Paragraph 54 (Magistrates (Forms) Rules)

20. In reply to Mr LEE Wing-tat, SALA explained that officers of the municipal services departments could issue summons to persons who had committed the offence of illegal hawking or littering. The summons would be issued by way of general forms prescribed under the Magistrates Ordinance

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(Cap. 227). He said that there were no specific forms for use by the officers of the municipal services departments, and that amendment to the general forms would not be necessary. PAS(CA) added that the Bill had provided for amendments to certain forms currently specified in the Public Health and Municipal Services Ordinance (Cap. 132).

Paragraphs 55-59

21. Members did not raise any queries.

Paragraph 60 (Hong Kong Arts Centre Ordinance)

22. Members noted that the Administration proposed to add two seats to the list of appointments by the Chief Executive to fill the two seats vacated by the UC and RC members. Mr Ambrose CHEUNG was of the view that the two vacant seats should be filled by representatives of those organizations under the Hong Kong Arts Centre or members of the proposed Culture and Heritage Commission.

23. PAS(CA) responded that to maintain the representativeness of the Board, the number of co-opted members would be increased by two, which would be filled by persons interested in the visual, literary, musical or performing arts. DS(CA) added that although the powers and functions of PMCs would be transferred to the Government, the Administration had not proposed to fill the vacant seats by public officers because the Hong Kong Arts Centre was not a government body. It would not be appropriate to appoint representatives of the proposed Culture and Heritage Commission to the Board as the Commission was a non-statutory advisory body. The Chairman also pointed out that appointment of representatives from the Culture and Heritage Commission to the Hong Kong Arts Centre might give the impression that the Centre would have favourable treatment in future funding allocations. DS(CA) said that representatives from the Hong Kong Arts Development Council (HKADC) could be considered for appointment to the Board instead. Mr Ambrose CHEUNG commented that the Administration should not decide the composition of the Board on the basis of expediency. Nevertheless, he agreed that appointment of HKADC representatives was worthy of support.

24. Mr LEE Wing-tat asked about the purpose of including two UC/RC members in the Board at present. DS(CA) said that participation of UC and RC members would facilitate the co-ordination in the use of venues and organization of activities. Mr LEE said that, for that purpose, representatives of the Leisure and Cultural Services Department might have to be included in the Board membership in future. However, he agreed with Mr Ambrose CHEUNG that the Board representativeness should be enhanced by including more members from the arts and culture community rather than increasing the number of co-opted

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Admin members to be appointed by the Chief Executive. At the Chairman's suggestion, DS(CA) agreed to consider the suggestion.

Paragraphs 61-67

25. Members did not raise any queries.

Paragraph 68 (Protection of Investors Ordinance)

Admin 26. Mr LEE Wing-tat queried why "District Boards" were currently included in the list of exempted bodies in Part IV A of the Schedule to the Protection of Investors Ordinance (Cap. 335). The Chairman expressed similar concern, pointing out that District Boards were not corporate bodies and should have no investment. PAS(CA) undertook to provide a written response.

Paragraphs 69-82 (Waste Disposal Ordinance)

Admin 27. Members noted that the Administration proposed to add a new Section 41 as a saving clause to cover the draft disposal plans and regulations currently in force. Responding to the Chairman, SALD advised that the amendment was to put beyond doubt that the validity of the draft disposal plans and regulations would continue to remain in force. At Mr LEE Wing-tat's suggestion, the Administration agreed to consider whether the Chinese translation of "draft plan" (草案) could be improved to avoid confusion with "a bill".

Admin 28. Members noted that the Administration proposed to replace reference to "UC area" by the equivalent Districts specified in Schedule 1 of the District Councils Ordinance (8 of 1999). Mr LEE Wing-tat considered that the proposed reference to urban area was clumsy. He suggested the Administration to consider simplifying the drafting. SALA advised that "UC area" was defined in the Provisional Urban Council Ordinance (Cap. 101) as specified districts according to the maps kept by the Director of Home Affairs. DS(CA) agreed that the Administration would consider whether the proposed long definition to replace "UC area" could be simplified.

Paragraphs 83-103

29. Members did not raise any queries.

Paragraph 104 (Hong Kong Arts Development Council Ordinance)

30. Members noted that a Bills Committee had been formed to examine the Hong Kong Arts Development Council Bill which had been introduced into the Legislative Council.

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Paragraph 104-115

31. Member did not raise any query.

Paragraph 116 (Government Rent (Assessment and Collection) Ordinance)

32. Members noted that the Administration proposed to repeal references to the UC area and RC area in section 10(1)(a) of the Government Rent (Assessment and Collection) Ordinance (Cap. 515).

Paragraphs 117-119

33. Members did not raise any queries.

Paragraphs 120-125 (Electoral Affairs Commission Ordinance)

34. Mr LEE Wing-tat referred to the definition of "election" in section 2 of the Electoral Affairs Commission Ordinance (Cap. 541) which made reference to "a body which is a successor to the Provisional Urban Council or the Provisional Regional Council". He was of the view that the wording clearly reflected that it was not the intention at that time that the municipal councils were to be abolished.

35. Members noted that the Administration proposed to add "a body which was known at any time during that period of 4 years as" to section 3(5) of Electoral Affairs Commission Ordinance. As the terms of office of the municipal council members before 1 July 1997 and the PMC members were only two years, Mr LEE Wing-tat asked whether the provision as presently amended would prevent their appointment to the Electoral Affairs Commission. Mr TSANG Yok-sing was of the view that the provision would have such effect. In response to members' concerns, PAS(CA) said that it was a policy decision to standardise the sanitization period as 4 years which was applicable to any member of the prescribed bodies in section 3(5)(k) of the Electoral Affairs Commission Ordinance.

36. In response to Mr LEE Wing-tat's enquiry about the difference between "general election" and "ordinary election" in section 2 (Interpretation) of the Electoral Affairs Commission Ordinance, PAS(CA) explained that different terms were used to distinguish the elections for LegCo and District Councils.

Paragraphs 126-127

37. Members did not raise any queries.



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Paragraphs 128-129 (Hong Kong Sports Development Board Ordinance)

38. Members noted that a Bills Committee had been formed to examine the Hong Kong Sports Development Board (Amendment) Bill which had been introduced into the Legislative Council. Mr Ambrose CHEUNG asked whether the passage of the Bill would need to synchronise with that of the Hong Kong Arts Development Council (Amendment) Bill and the Hong Kong Sports Development Board (Amendment) Bill. PAS(CA) replied that paragraphs 128-129 only proposed technical amendments to repeal the reference to UC and RC members from the respective ordinances. Moreover, it was not a must for the Hong Kong Arts Development Council (Amendment) Bill and the Hong Kong Sports Development Board (Amendment) Bill to be enacted before 1 January 2000.

39. Mr Ambrose CHEUNG reminded the Administration that the name of the "Amateur Sports Federation and Olympic Committee of Hong Kong" had been changed to "Sports Federation & Olympic Committee of Hong Kong, China". At the Chairman's request, the Administration undertook to consider whether consequential amendments would be required.

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Paragraphs 130-132 (Dogs and Cats (Amendment) Ordinance 1997)

40. Members noted that the Administration would propose some technical amendments subsequent to the passage of the Dogs and Cats (Amendment) Bill 1997. SALD explained that the proposed amendments in the Bill would need to be made to the principal Ordinance instead of the amendment Ordinance.

**II. Any other business**

Written submission of the Hong Kong Public Health Inspectors' Association  
[Paper No. CB(2)135/99-00(03)]

41. The Chairman asked about the Administration's position on the proposal of the Hong Kong Public Health Inspectors' Association to rename the new Food and Environmental Hygiene Department as "Food and Environmental Health Department". DS(CA) said that the Administration had considered the proposal and concluded that no amendment was necessary. Mr Ambrose CHEUNG expressed disappointment at the Administration's response. Mr CHEUNG said that he also supported the Association's another proposal that at least one seat in the new Advisory Council on Food and Environmental Hygiene should be reserved for the environmental health profession.

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42. Mr LEE Wing-tat queried the Administration's rationale for rejecting the Association's renaming proposal. PAS(CA) responded that the Administration had made reference to overseas conventions and concluded that the term "environmental health" encompassed a much broader range of functions. The Administration considered that the term "Food and Environmental Hygiene" would more accurately reflect the work of the new Department. He added that the status of a particular grade was determined by the functions of its members but not the name of the department. Mr LEE said that he might consider moving CSAs to rename the new Department as proposed by the Association if the Administration did not do so.

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43. The Chairman said that he appreciated the Administration's difficulties if the term "Environmental Health" was used because it might straddle the areas of responsibilities of the Department of Health and the Environmental Protection Department. However, the Administration could consider drawing up clear portfolios for relevant departments. In view of members' concerns, the Chairman asked the Administration to re-consider the Association's proposal and revert to members as soon as possible.

Way forward

44. Mr Ambrose CHEUNG asked whether the Bills Committee would consider those policy issues on the list which he previously submitted to the Bills Committee [Paper No. CB(2)2124/98-99(01)]. The Chairman said that the Bills Committee had already covered most "medium-range" policy issues as proposed by Mr CHEUNG during clause-by-clause examination of the Bill.

45. In response to Mr Ambrose CHEUNG, DS(CA) reiterated that it was the Administration's intention to resume the Second Reading debate of the Bill at the end of November 1999 or early December 1999. She said that the Administration had provided responses to all concerns raised by members at previous meetings and she hoped the Bills Committee could complete scrutiny of the Bill at the meeting of 29 October 1999. The Chairman remarked that the Bills Committee had yet to discuss members' CSAs. He hoped members could forward their draft CSAs for the Bills Committee's consideration before the meeting scheduled for 5 November 1999. He expected that the Bills Committee would complete discussion of all draft CSAs proposed by members at the meeting on 12 November 1999.

Date of next meeting

46. Members noted that Head, Task Force on Reorganization of Municipal Services would brief the Bills Committee and LegCo Members on the "New Framework for Delivering Municipal Services" [LC Paper No. CB(2)175/99-00] at the next Bills Committee meeting scheduled for 26 October 1999 at 2:30 pm.

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47. The meeting ended at 12:30 pm.

Legislative Council Secretariat  
12 May 2000