

PROVISION OF MUNICIPAL SERVICES (REORGANIZATION) BILL

COMMITTEE STAGE

Amendments to be moved by the []

<u>Clause</u>	<u>Amendment Proposed</u>
4(3)	By adding “by or in relation to the Government” after “continued”.
5(1)	By adding “or which is to take effect on or after that day” after “appointed day”.
8(2)	(a) In paragraph (a) by adding “or which are instituted on behalf of a former authority” after “party”. (b) In paragraph (b) by deleting “the former authority” and substituting “a former authority”. (c) In paragraph (e) by deleting “if in force immediately before the commencement date day” and substituting “which is in force immediately before the commencement date or which is to take effect on or after that date”. (d) In paragraph (i) by adding “or on behalf of” after “issued by”. (e) In paragraph (j) -

- (i) by deleting “provision of such on enactment” and substituting “former authority or person authorized by the former authority”;
- (ii) by deleting “or provision, if any” and substituting “(if any) or new authority or authorized person, as the case may require”.

9 By adding -

“(3) For the avoidance of doubt it is stated that the validity of a fee or charge continued in force under subsection (2) as a prescribed fee is not affected by it not being in the required form, until it is varied, amended or replaced by the new authority or under the new provision referred to in that subsection.”.

10(1) By deleting “under the enactment which corresponds to it, if any, and if there is no corresponding enactment,”.

11 By deleting subclause (1) and substituting -

“(1) The Chief Executive in Council may, by order published in the Gazette, make such consequential amendments to any enactment or provisions of a transitional or savings nature

as are necessary for the better carrying out of the purposes of this Ordinance.”.

Schedule 3, (a) By deleting paragraph (c) and substituting -

section 1 “(c) by repealing the definitions of “boarding house”, “laundry”, “lines”, “public table tennis saloon”, “Regional Council area”, “Regional Services Appeals Board”, “Urban Council area”, “Urban Services Appeals Board” and “washhouse”;

(b) By adding -

“(ca) by repealing the definition of “registered ventilation contractor” and substituting -

““registered specialist contractor (ventilation category)” () means a person whose name is for the time being on the sub-register for the ventilation category in the register of specialist contractors maintained under section 8A of the Buildings Ordinance (Cap. 123);”.

(c) In paragraph (d) in the proposed definition of “health officer” by deleting paragraph (b) and substituting -

“(b) the Director of Food and Environmental Hygiene, a Deputy Director of Food and Environmental Hygiene or an Assistant Director of Food and Environmental Hygiene,

and includes a person authorized by the Director of Health or the Director of Food and Environmental Hygiene to perform the functions of a health officer;”.

Schedule 3 By adding -

“2A. Protection of public sewers and drains

Section 6(2) is amended by repealing “only”.”.

Schedule 3 By deleting section 5 and substituting -

“5. Heading substituted

The heading before section 35 is repealed and the following substituted -

“Public latrines and bathhouses”.”.

Schedule 3, section 16 In the proposed section 43(1) by deleting “this Ordinance” and substituting “section 42”.

- Schedule 3 By adding -
- “26A. Regulations in relation to markets**
- Section 80(1) is amended by adding -
- “(aa) an appeal to the Municipal Services Appeals Board against a decision to terminate a grant referred to in paragraph (a);”.”.
- Schedule 3,
section 28 In the proposed section B1(1) by deleting “this Ordinance” and substituting “section 80”.
- Schedule 3 By adding -
- “30A. Abatement of overcrowding**
- Section 87 is repealed.”.
- Schedule 3 By adding -
- “40A. Offences**
- Section 92C(2) is amended by adding “or 92AB” after “92A”.”.
- Schedule 3,
section 47 By deleting paragraph (b) and substituting -
- “(b) by repealing subsection (2).”.
- Schedule 3 By adding -
- “49A. Consent of Chief Secretary for Administration**
- Section 105S is repealed.”.

Schedule 3, section 50 By deleting “organized” where it secondly appears.

Schedule 3, section 52 In the proposed section 110(1) by deleting “this Ordinance” and substituting “section 109”.

Schedule 3, section 56 In the proposed section 117(1) by deleting “this Ordinance and substituting “section 116”.

Schedule 3 By deleting section 61 and substituting -

“61. **Provision for hearing objections where application for crematorium in certain locations**

Section 124D is amended -

(a) in subsection (4) by repealing “Appeals Board” and substituting “Municipal Services Appeals Board”;

(b) by adding -

“(5) Any appeal under subsection (4) must be made within 30 days after receiving notice of the decision.”.

Schedule 3, section 63 (In the proposed section 124I(1) -

(a) in paragraph (f) by deleting “the registration or licensing of public

slaughterhouses or”;

(b) by adding -

“(sa) the insertion of an inscription in a book kept at a garden of remembrance for recording commemorative inscriptions;”.

By adding -

“64A. **Section added**

The following is added in Part Part XIB -

“124M. **Interpretation of Part XIB**

In this Part, unless the context otherwise requires -

“Board” () means the Licensing Appeals Board established under section 125A;

“Chairman” () means the person appointed to that office under section 125A(2);

“secretary” () means the secretary to the Board appointed under section 125G(1);

“Vice-Chairman” () means the person appointed to that office under section 125A(2).”.”.

Schedule 3,
section 66

(a) In the proposed section 125A -

(i) by deleting subsection (2) and substituting -

“(2) The Board is to consist of -

- (a) a Chairman;
- (b) a Vice-Chairman; and
- (c) not less than 13 other members,

appointed by the Chief Executive in accordance with this section.”;

- (ii) in subsection (4) by deleting “of the Board” and substituting “or Vice-Chairman”;
- (iii) in subsection (5) by deleting “or Chairman” and substituting”, Chairman or Vice-Chairman”;
- (iv) by deleting subsections (6) and (7).

(b) In the proposed section 125B -

- (i) in the heading by adding **“and appeals from its decisions”** after **“Board”**;
- (ii) by adding -

“(5) If an appeal is made under subsection (4), the Board may, in its discretion, suspend the operation of the decision to which the appeal relates, pending the determination of the appeal.”.

(c) By deleting the proposed section 125C and substituting -

“125C. How the Board is to be constituted for the purposes of an appeal

(1) For the purposes of hearing an appeal or making a decision for the purposes of section 125B(5), the Board is to consist of -

- (a) the Chairman or Vice-Chairman; and
- (b) 4 other members nominated under subsection (2).

(2) The secretary must nominate 4 members for the purposes of subsection (1) (b).

(3) In nominating members under subsection (2), the secretary is subject to the direction of the Chairman or Vice-Chairman.”.

(d) In the proposed section 125D by adding “the” after “and”.

(e) In the proposed section 125E(1) -

- (i) by deleting “of the Board” and substituting “or Vice-Chairman”;
- (ii) in subsections (3), (4) and (5) by deleting “Chairman” wherever it appears and substituting “person presiding”.

(f) By adding -

“125EA. Board to give reasons for decision

(1) The Board must give reasons for its decisions.

(2) The secretary must serve a copy of the Board’s decision and of the reasons for the decision on the parties to an appeal.”.

(g) In the proposed section 125F -

(i) by renumbering it as section 125F(1);

(ii) by adding -

“(2) The rules made under subsection (1) are subsidiary legislation.”.

(h) By adding -

“125FA. Meetings of the Board other than appeal hearings

At a meeting of the Board, other than an appeal hearing or a meeting for the purposes of section 125B(5) -

(a) the quorum shall be not less than half the members of the Board for the time being;

(b) the Chairman or Vice-Chairman shall preside;

(c) decisions are to be made by a majority of the members present and voting; and

(d) the person presiding has a casting vote.”.

(i) In the proposed section 125G -

(i) by renumbering it as section 125G(1);

(ii) in subsection (1) (b) by deleting “(which may include a legal adviser)”;

(iii) by adding -

“(2) The Secretary for the Environment and Food may appoint a legal adviser to advise on legal matters relating to an appeal and the legal adviser may be present at any hearing before the Board or deliberations of the Board to so advise the Board.”.

Schedule 3

By adding -

“83A. **Section added**

The following is added -

“**154. Transitional**

Any reference in subsidiary legislation made under this Ordinance to “prescribed fee” or “fee determined under section 124J” includes a reference to a fee continued in force under section 9(2) of the Provision of Municipal Services (Reorganization) Ordinance (of 1999)

as if prescribed under section 124I or 124K or determined under section 124J, as the case may be, until the relevant fee is replaced under section 124I, 124J or 124K.”.”.

Schedule 3,
section 84

In the proposed Third Schedule -

(a) by deleting -

“83B Secretary for the Environment and Food”

and substituting -

“83B Director of Food and Environmental Hygiene”;

(b) by adding -

“105E Director of Leisure and Cultural Services”;

(c) by deleting “118(1), (4) and (5)” and substituting “118(1) and (4)”.

Schedule 3,
section 87

In the proposed Sixth Schedule by deleting -

“92AB Director of Food and Environmental Hygiene

92C Director of Food and Environmental Hygiene”

and substituting -

“92C Director of Leisure and Cultural Services in respect of section 92A and Director of Food and Environmental Hygiene in respect of section 92AB”;

Schedule 3

By deleting section 88 and substituting -

“88. Forms

The Seventh Schedule is amended -

(a) in Form F -

(i) by repealing “or public body”;

(ii) in Note 1 -

(A) by repealing “of \$60,000” and

substituting “at level 6”;

(B) by repealing “\$1,000” and substituting

“\$1,750”;

(iii) in Note 3 by repealing “of \$10,000” and

substituting “at level 4”;

(b) in Form G -

(i) by repealing “or public body” where it

twice appears;

(ii) in Note 1 -

(A) by repealing “of \$60,000” and

substituting “at level 6”;

(B) by repealing “\$1,000” and substituting

“\$1,750”;

(iii) in Note 2 by repealing “of \$10,000” and substituting “at level 4”.”.

Schedule 3, By deleting paragraph (b) and substituting -
section 91

“(b) by repealing -

“Public table tennis saloon Undertaker of burials”.”.

Schedule 3, By deleting paragraphs (b) and (c) and substituting -
section 100

“(b) in subsection (2) by repealing everything from “if” to “Ordinance” and substituting “if there is a prescribed fee for that purpose”;

(c) in subsection (3) by repealing everything after “pay” and substituting “the prescribed fee, if any, for night slaughter.”.”.

Schedule 3 By deleting section 146 and substituting -

“146. **Section repealed**

Section 3 is repealed.”.

Schedule 3 By deleting section 148 and substituting -

“148. **Section repealed**

Section 5 is repealed.”.

Schedule 3, section 149 By deleting “,10 and 11” and substituting “and 10”.

Schedule 3, section 151 By deleting subparagraph (ii) and substituting -

“(ii) by repealing “5(1), 6, 8, 9, 10, 11” and substituting “6, 11”.

Schedule 3 By adding -

“149A. **Section amended**

Section 11 is amended by repealing everything from “such” to “, or” and substituting “sign”.”.

Schedule 3, section 157 By deleting everything after “aside” and substituting “by the Director for use by the public for cooking.”.”.

Schedule 3, section 158 By deleting paragraphs (a) and (b) and substituting -

“(a) by repealing “Council (which may be granted on payment of such fee as the Council thinks fit)” and substituting “Director”.”.

Schedule 3 By deleting section 165 and substituting -

“165. Public meetings and assemblies

Section 13 is repealed.”.

Schedule 3 By deleting section 167 and substituting -

“167. Offences and penalties

Section 16 is amended -

- (a) by repealing “by-law” where it twice appears
and substituting “section”;
- (b) in paragraph (a) by repealing “13,”.”.

Schedule 3, By deleting paragraph (a) and substituting -
section 174

“(a) in subsection (1) -

- (i) in paragraph (a) by repealing “these by-laws;”
and substituting “this Regulation; or”;
- (ii) by repealing paragraph (b);”.

Schedule 3, By deleting “he” and substituting “him”.
section 175 (b) (i)

Schedule 3 By deleting section 209 and substituting -

“209. Conduct and behaviour

Section 15 is amended -

- (a) in paragraph (a) by repealing “Council” and substituting “Director of Food and Environmental Hygiene”;
- (b) by repealing paragraph (c);
- (c) in paragraph (h) by repealing everything from “or is” to “clad”.”.

Schedule 3 By deleting section 217 and substituting -

“217. Conduct and behaviour

Section 22 is amended -

- (a) in paragraph (a) by repealing “Council” and substituting “Director of Food and Environmental Hygiene”;
- (b) by repealing paragraph (c);
- (c) in paragraph (e) by repealing “Council” and substituting “Director of Food and Environmental Hygiene”;
- (d) in paragraph (h) by repealing everything from “or is” to “clad”.”.

- Schedule 3,
section 219
- By deleting paragraph (b) and substituting -
- “(b) by repealing “the Council” where it secondly appears and substituting “that Director”;
- (c) by repealing everything after “payment” and substituting “of the prescribed fee.”.”.
- Schedule 3,
section 248
- In the proposed section 28 (a) by deleting “Harbour” and substituting “harbour”.
- Schedule 3,
section 249
(e)
- By deleting subparagraph (v).
- Schedule 3,
section 250
(e)
- By adding –
- “(iia) by repealing “or destroyed” and substituting “, destroyed or accidentally defaced”.”.
- Schedule 3,
section 255
- (a) In paragraph (d) by deleting the full stop and substituting a semicolon.
- (b) By adding -
- “(e) in subsection (6) by repealing “appropriate” and substituting “prescribed”.”.
- Schedule 3
- By deleting section 277 and substituting -
- “277. Hawkers of frozen confections to wear uniforms and display numbers**

Section 16 is repealed.”.

Schedule 3, By adding -
section 280 (a)

“(va) by adding -

“(ha) no part of the premises in which any frozen confection is manufactured or stored contains a soil fitment or latrine fitment or communicates directly with a room or other place which contains a soil fitment or latrine fitment;”;

Schedule 3, By deleting paragraph (b) and substituting -
section 296

“(b) in subsection (2A) -

- (i) by repealing “bylaw” and substituting “section”;
- (ii) by repealing “appropriate” and substituting “prescribed”;

Schedule 3, In paragraph (a) by adding -
section 297

“(iii) in paragraph (a) by repealing “16,”;

Schedule 3 By deleting section 304 and substituting -

“304. **Refusals and revocations**

Section 5 is amended -

- (a) by repealing “Council” where it

twice appears and substituting “Director”;

(b) by repealing “21” and substituting “18”.”.

Schedule 3, By deleting the proposed section 14 and substituting -
section 329

“14. Licences etc. not to be altered or defaced

(1) A person shall not alter, deface or make any erasure on a licence, hawker badge or pitch card.

(2) A person shall not use or have in his possession with a view to using a licence, hawker badge or pitch card on which an erasure has been made or which has been altered or defaced unless-

(a) the alteration is authorized; or

(b) the licence, hawker badge or pitch card has been defaced or damaged accidentally.”.

Schedule 3 By deleting section 350 and substituting -

“350. Fixed pitches to be kept in safe and clean condition

Section 39 is amended -

- (a) by repealing subsection (1);
- (b) in subsection (2) by repealing “by-law 31” and substituting “section 33”.”.

Schedule 3, By deleting “Department of Food and Environmental Hygiene” and section 360 (c) substituting “Food and Environmental Hygiene Department”.
(ii) and (e) (ii)

Schedule 3, By deleting “Department of Food and Environmental Hygiene” and section 366 substituting “Food and Environmental Hygiene Department”.
(g) (ii)

Schedule 3, By deleting “library card” and substituting “library card,”.
section 379 (a)

Schedule 3 By deleting section 386 and substituting -

“386. Section substituted

Section 17 is repealed and the following substituted -

“17. Borrower may reserve library material not immediately available

A borrower who desires to borrow any library material which is not immediately available in a library may reserve that library material by paying the appropriate fee determined under section 124J of the Ordinance.”.”.

- Schedule 3,
section 388 (a) In subparagraph (i) by adding “as” before “directed”.
- Schedule 3,
section 396 By deleting paragraph (b) and substituting -
“(b) by repealing subsection (4);”.
- Schedule 3 By adding -
“396A. **Restriction on writing materials, etc.**
Section 34A is repealed.”.
- Schedule 3,
section 401 By deleting “Director” and substituting “Government”.
(a) (ii)
- Schedule 3,
section 405 (a) By deleting -
“Ap Le Chau Market 鴨脷洲街市”。
- (b) By deleting -
“Apleichau West Industrial Area 鴨脷洲西岸工業
Cooked Food Market 邨熟食市場”。
- (c) By deleting -
“Nelson Street Temporary Cooked 奶路臣街臨時熟
Food Market 食市場”。
- (d) By adding at the end -
“Sai Ying Pun Market Stanley 西營盤街市
Temporary Market 赤柱臨時街市”。

Yee On Street Market

宜安街街市” .

Schedule 3, section 409 By deleting “the Secretary” and substituting “Secretary”.

Schedule 3, section 419 By adding -

“(da) by adding -

“(ha) no part of the premises in which milk or any milk beverage is processed, reconstituted or stored, contains a soil fitment or latrine fitment or communicates directly with a room or other place which contains a soil fitment or latrine fitment;”.

Schedule 3, section 424 By adding before paragraph (a) -

“(aa) in subsection (1) by adding “and the temperature to which the milk or the milk beverage is subsequently cooled” after “heated;”.

Schedule 3, section 448 By deleting paragraph (d) and substituting -

“(d) by repealing subsection (6);”.

Schedule 3, section 465 By deleting paragraph (a) and substituting -

“(a) by repealing “Council may in its absolute discretion” and substituting “Director may”;”.

Schedule 3 By adding -

“466A. **Restrictions as to certain person**

Section 21 is amended by repealing “14” and substituting “15”.”.

Schedule 3 By deleting section 487 and substituting -

“487. **Part repealed** Part V is repealed.”.

Schedule 3 By deleting section 488 and substituting -

“488. **Schedule amended**

Schedule 1 is amended -

(a) by repealing “[bylaw 4]” and substituting “[s. 4]”;

(b) by repealing - “Public table tennis saloon 1 year”.”.

Schedule 3, By deleting paragraph (d) and substituting -
section 489

“(d) by repealing Form 4.”.

Schedule 3, By deleting subparagraph (ii) and substituting -
section 495 (b)

“(ii) by repealing “the Council may determine”

and substituting “determined under section 124J of the Ordinance”.”.

Schedule 3, section 497 (c) By deleting “for cooking purposes other than in” and substituting “other than in an”.

Schedule 3, section 498 (a) In paragraph (b) by deleting “destroy or remove” and substituting”, destroy or remove”.
(b) In paragraph (c) (i) by deleting “destroy or release” and substituting”, destroy or release”.

Schedule 3, section 500 By deleting paragraph (a) (i).

Schedule 3 By adding -
“502A. **Kites, model aircraft, balloons, etc.**
Section 17 is amended by repealing “Council” and substituting “Director”.”.

Schedule 3, section 505 (a) By deleting subparagraph (i) and substituting -
“(i) in paragraph (a) by repealing “Council” and substituting “Director”;”.

Schedule 3 By deleting section 510 and substituting -
“510. **Public addresses, etc.**
Section 28 is repealed.”.

- Schedule 3 By deleting section 511 and substituting -
- “511. **Offences and penalties**
- Section 30 is amended -
- (a) by repealing “bylaw” where it twice appears and substituting “section”;
- (b) in paragraph (a) by repealing “28,”.”.
-
- Schedule 3, By deleting paragraph (e) and substituting -
section 534
- “(e) in subsection (7) -
- (i) by repealing “Council” and substituting “Director”;
- (ii) in the proviso by repealing “fee prescribed” and substituting “prescribed fee”.”.
-
- Schedule 3, By deleting “Department of Food and Environmental Hygiene” and
section 546 (b) substituting “Food and Environmental Hygiene Department”.
-
- Schedule 3, By deleting “Department of Food and Environmental Hygiene” and
section 555 substituting “Food and Environmental Hygiene Department”.
-
- Schedule 3, By deleting “Department of Food and Environmental Hygiene” and
section 558 (d) substituting “Food and Environmental
(ii)

Hygiene Department”.

Schedule 3,
section 561

By deleting paragraph (a) and substituting -

“(a) by repealing subsection (1) and substituting -

“(1) Subject to subsection (2), the prescribed fee is payable to the Director for the burial of human remains, the setting up of any monument or enclosure over or around any grave and the construction of any vault or urn.”;

Schedule 3

By deleting section 590 and substituting -

“590. **Fees for use of compartments in certain public latrines**
Section 4 is repealed.”.

Schedule 3

By deleting section 593 and substituting -

“593. **Communicable diseases**
Section 8 is repealed.”.

Schedule 3,
section 595 (a)

By deleting subparagraph (ii) and substituting -

“(ii) by repealing “4, 5, 6, 7 or 8” and substituting “5, 6, 6A or 7”;

Schedule 3,
section 601

By deleting paragraph (a) and substituting -

“(a) in subsection (1) -

- (i) by repealing “Council” where it twice appears and substituting “Director”;
- (ii) in paragraph (b) by repealing “appropriate fee prescribed in the Schedule” and substituting “prescribed fee set out in the Schedule”;

Schedule 3,
section 608

(a) In paragraph (a) -

(i) by deleting subparagraph (i) and substituting -

“(i) by repealing “Subject to paragraph (2), the” and substituting “The”;

(ii) by adding -

“(ia) by repealing “fees listed” and substituting “prescribed fees set out”;

(b) By deleting paragraph (b) and substituting -

“(b) by repealing subsection (2).”.

Schedule 3

By deleting section 615 and substituting -

“615. Letting of market stalls

Section 6 is amended -

(a) by renumbering it as section 6(1);

- (b) in subsection (1) -
 - (i) by repealing “Council” and substituting “Director”;
 - (ii) by repealing “it” and substituting “he”;

- (c) by adding -
 - “(2) A person to whom a stall is let under subsection (1) may appeal to the Municipal Services Appeals Board against any decision of the Director to terminate the lease, licence or permit by which the stall is let to the person [,] within 14 days after receiving notice of the termination.”.”.

Schedule 3, By deleting the proposed section 10 and substituting -
section 631

“10. Fees and charges

(1) A person using a swimming pool during a session specified under section 9 shall pay to the Director the prescribed fee or the fee determined under section 124J of the Ordinance as may be appropriate.

maintained to -

(a) a standard of bacteriological quality, such

that -

(i) *Escherichia coli* is absent in pool

water samples of 100 mL each,

taken at any time at any location

in the swimming pool; and

(ii) the total bacterial count as

determined by the 48-hour plate

count method at 37°C does not

exceed 200 bacteria per mL of

pool water sample taken at any

time at any location in the

swimming pool; and

(b) a standard of clarity, such

that -

- (i) the turbidity of water as expressed in Nephelometric Turbidity Units does not exceed 5; and
- (ii) the colour of water as expressed in Hazen Units does not exceed 5; and
- (c) a standard of pH value of not less than 7.0 and not more than 7.8.”.”.

Schedule 3 By deleting section 721 and substituting -

“721. **Refusals and revocations**

Section 7 is amended -

- (a) by repealing “Council” where it twice appears and substituting “Director”;
- (b) by repealing “21” and substituting “18”.”.

Schedule 3,
section 722 By deleting section 722 and substituting -

“722. Section substituted

Section 8 is repealed and the following substituted -

“8. Licence not to be altered or defaced

(1) A person shall not alter, deface or make any erasure on a licence.

(2) A person shall not use or have in his possession with a view to using a licence on which an erasure has been made or which has been altered or defaced unless-

(a) the alteration is authorized; or

(b) the licence has been defaced or damaged accidentally.”.

Schedule 3,
section 731

(a) In paragraph (b) by deleting the full stop and substituting a semicolon.

(b) By adding -

“(c) by repealing “registered ventilation contractor” wherever it appears and substituting “registered specialist contractor (ventilation category)”.”.