

PROVISION OF MUNICIPAL SERVICES (REORGANIZATION) BILL

**COMMITTEE STAGE**

Amendments to be moved by the Honourable Mr Ambrose CHEUNG

<u>Clause</u>	<u>Amendment Proposed</u>
Long title	<p>By deleting the long title and substituting:--</p> <p>“Provide for the provision of municipal services by the Urban Council and the Government as the case may be; to repeal the Provisional Regional Council Ordinance and to amend the Provisional Urban Council Ordinance; to make incidental and supplemental and connected provisions, including the vesting of property, rights and liabilities of the Provisional Regional Council and the Provisional Urban Council in the Urban Council and the Government as the case may be and the transfer of their functions; to amend the Public Health and Municipal Services Ordinance, the Municipal Services Appeals Boards Ordinance, the Dutiable Commodities Ordinance and the Places of Public Entertainment Ordinance and to make consequential and related amendments to enactments.”</p>
2	<p>(a) by adding -</p> <p>““Urban Council” means the Urban Council established by Section 3 of the Urban Council Ordinance (Cap. 101)”</p> <p>(b) by adding -</p> <p>““food safety matters” means any matter governed by provisions under Part V of the Public Health and Municipal Services Ordinance (Cap. 132)”</p> <p>(c) by adding -</p> <p>““other municipal services” means such functions and powers of the Urban Council other than food safety matters.”</p>
3	<p>(a) In the heading, by adding “amendment of” after “and”</p>

(b) By deleting clause 3 and substituting -  
“ The Provisional Urban Council Ordinance (Cap. 101) and its subsidiary legislation are amended to the extent and in the manner set out in Schedule 1. The Provisional Regional Council Ordinance (Cap. 385) and the subsidiary legislation made under it are repealed.

5(1) By adding the following proviso -  
“Provided that any party to the agreement, arrangement or contract other than the Council shall be entitled to terminate the agreement, arrangement or contract within a period of 6 months after the appointed day by giving prior notice in writing to the Government at least 30 days before the date of termination.”

6A the following is added -  
“**6A. Scope of application of sections 4, 5 and 6**  
Sections 4(1), 5(1) to 5(7) and 6 shall only apply in relation to food safety matters.”

6B the following is added -  
“**6B. Vesting of property, rights and liabilities and other savings in relation to other municipal services**  
In relation to other municipal services, any reference to the Government in Sections 4(1), 5(1) to 5(7) and 6 shall be read as a reference to the Urban Council.”

14 the following is added -  
“**14. Amend references to SCHEDULES**  
(a) SCHEDULE 1 shall become SCHEDULE 2  
(b) SCHEDULE 2 shall become SCHEDULE 3  
(c) SCHEDULE 3 shall become SCHEDULE 4  
(d) SCHEDULE 4 shall become SCHEDULE 5  
(e) SCHEDULE 5 shall become SCHEDULE 6  
(f) SCHEDULE 6 shall become SCHEDULE 7  
(g) SCHEDULE 7 shall become SCHEDULE 8”

SCHEDULE 4,

- section 63 (a) In the proposed section 124J(1) by deleting “with the approval of the Financial Secretary”.
- (b) In the proposed section 124L by deleting “The Financial Secretary or any public officer under his delegated authority” and substituting it with “The Authority”.

SCHEDULE 4,

- section 66 (a) In section 125 -
  - (i) by deleting paragraph (a);
  - (ii) by renumbering paragraph (b) as paragraph (a);
  - (iii) by deleting paragraph (c) and substituting the following as paragraph (b) -
    - “by repealing subsection (10) and substituting -
    - (10) If any person is dissatisfied with the determination of the licensing authority upon review under the provisions of subsection (9), he may, within 14 days after notification by the licensing authority of such determination, appeal to the Licensing Appeals Board established under section 125A against the decision.”

SCHEDULE 4 By deleting the THIRD SCHEDULE and substituting -

“THIRD SCHEDULE [s.3]

DESIGNATED AUTHORITIES

Section	Designated Authorities
4	Director of Drainage Services
5	Director of Drainage Services
6	Director of Drainage Services
7	Director of Drainage Services
9	Director of Drainage Services
10	Director of Drainage Services
13	Urban Council
14	Urban Council

15	Urban Council
20	Urban Council
22	Urban Council
22A	Urban Council
23	Urban Council
23A	Urban Council
24	Urban Council
26	Urban Council
27	Urban Council
28	Urban Council
29	Urban Council
30	Urban Council
32	Urban Council
33	Urban Council
34	Urban Council
35	Urban Council
36	Urban Council
37	Urban Council
38	Urban Council
42	Urban Council
42A	Urban Council
42B	Urban Council
43	Director of Urban Services
44	Urban Council
46	Urban Council
47	Urban Council
48	Urban Council
49	Urban Council
51A	Director of Food
56	Director of Food, but in respect of drugs, Director of Health
56A	Director of Health
58	Director of Food, but in respect of drugs, Director of Health
59	Director of Food, but in respect of drugs, Director of Health
62	Director of Food, but in respect of drugs, Director of Health
69	Director of Food, but in respect of drugs, Director of Health
70	Director of Food, but in respect of drugs, Director of Health
75	Director of Food, but in respect of drugs, Director of Health
76A	Director of Food

76B	Director of Food
77	Director of Food
78	Director of Food
79(1),(3) and (5)	Urban Council
79A	Urban Council
80	Urban Council
81	Urban Council
82	Urban Council
83A	Urban Council
83B	Urban Council
84	Urban Council
86	Urban Council
86B	Urban Council
92A	Urban Council
92AA	Urban Council
92AB	Urban Council
92B	Urban Council
93	Urban Council
94	Urban Council
94A	Urban Council
100	Urban Council
101	Urban Council
104(1)	Chief Executive in Council
104(3)	Director of Lands
105	Director of Buildings
105A	Urban Council
105B	Urban Council
105C	Urban Council
105D	Urban Council
105G	Urban Council
105H	Urban Council
105I	Urban Council
105K	Urban Council
105L	Urban Council
105M	Urban Council
105N	Urban Council
105O	Urban Council

105P	Urban Council
105Q	Urban Council
106(1) and (6)	Urban Council
106(3) and (4)	Director of Lands
107	Urban Council
108	Urban Council
109	Urban Council
110	Director of Urban Services
111	Urban Council
111B	Urban Council
111C	Urban Council
112	Urban Council
112A	Urban Council
114	Director of Lands in respect of cemeteries specified in Parts I, II, and IV of the Fifth Schedule
115	Urban Council in respect of cemeteries specified in Part I of the Fifth Schedule
116	Urban Council in respect of cemeteries specified in Parts I and II the Fifth of Schedule
117	Urban Council
118(1) and (4)	Urban Council
118(2)	Director of Urban Services in respect of cemeteries specified in Parts I,II and IVA of the Fifth Schedule
119A	Urban Council in respect of cemeteries specified in Part I of the Fifth Schedule
121	Urban Council
123	Urban Council
123A	Urban Council
123B	Urban Council
123C	Urban Council
124	Urban Council
124A	Urban Council
124B	Urban Council
124C	Urban Council
124D	Urban Council
124E	Urban Council
124I(1)(a)-(d)	Urban Council

124I(1)(e)-(h)	Director of Food
(i)-(t)	Urban Council
124J(1)	Urban Council
124J(3)	Urban Council
124K	Urban Council
124L	Urban Council, but in respect of sections 124I(1)(e)-(h), the Director of Food
127	Urban Council”

#### SCHEDULE 5,

section 2	In the proposed section 6(4A)- (a) By repealing subsection (a); (b) By renumbering subsection (b) as subsection (a).
section 3	By deleting the proposed section 6A and substituting - “Section 6A is amended - (a) by deleting subsections (3), (4) and (5); (b) in subsection (7) by deleting “or the Regional Council as the case may be.”
section 4	(a) By deleting paragraph (b) and substituting - “(b) in the definition of “prescribed fee” by repealing everything after “or,” and substituting “or the fee determined under section 6A(1) of the Ordinance;”; (b) In paragraph (c), by deleting the definition of “Board” and substituting - ““Board” means the Urban Council”
section 6	By repealing the proposed section 2A.
section 7	By deleting the proposed repeal of Regulation 3.

## CHEDULE 1

### AMENDMENTS TO PROVISIONAL URBAN COUNCIL ORDINANCE AND ITS SUBSIDIARY LEGISLATION [s.3]

#### **Provisional Urban Council Ordinance**

**1. Long title amended**

The long title to the Provisional Urban Council Ordinance (Cap. 101) is amended by repealing “Provisional.”

**2. Short title**

Section 1 is amended by repealing “Provisional”

**3. Interpretation**

Section 2 (1) is amended -

- (a) In the definition of “Council” by repealing “Provisional”
- (b) by repealing the definition of “Urban Council area”
- (c) by adding -

““appointed day” means the day appointed for the coming into operation of section 3 of the Provision of Municipal Services (Reorganization) Ordinance”

**4. Section substituted**

Section 3 is repealed and the following substituted -

“3(1) The Urban Council is a body corporate with perpetual succession and may sue and be sued in the corporate name of the Urban Council.

(2) The standing orders and rules of procedure of the Provisional Urban Council immediately before the appointed day apply to the Urban Council subject to the changes that the Urban Council may make and the changes that may be necessarily implied arising out of the change in name of and composition in the membership of the Urban Council.

(3) The Stamp Duty Ordinance (Cap. 117) does not apply to the vesting in the Urban Council of the Property and rights



transferred by virtue of the Provision of Municipal Services (Reorganization) Ordinance.

5. **Certain contracts and instruments not required to be under seal**

Section 5 is repealed.

6. **Declaration of Urban Council area**

Section 5A is repealed.

7. **Urban Council**

Section 6(1) is repealed and the following substituted -

“6(1) The Council shall consist of not more than 80 members, with 59 being elected through universal suffrage, 18 being representative members from each District Council and 3 being representative members from the Heung Yee Kuk.”

8. **Sections added**

The following is added -

**“7. Tenure of office of elected members**

(1) The elected members shall hold office -

(a) in the case of a member elected at an ordinary election for the Council for 4 years next following the notification in the Gazette of his election;

(b) in the case of a member elected to fill a vacancy caused by an elected member ceasing to be member, from the date of the notification in the Gazette of his election until the date when the elected member whom he succeeded would otherwise have ceased to hold office.

**7A. Election and tenure of office of representative members**

(1) Each District Council or Heung Yee Kuk shall, at a meeting of the District Council or the Heung Yee Kuk, as the case may be, elect one of its members as its representative member on the Council in accordance with the voting

procedure set out in the Fifth Schedule and, subject to this subsection, according to such procedures as the District Council or the Heung Yee Kuk may determine by its standing orders.

(2) The secretary of the District Council or Heung Yee Kuk shall be the returning officer for the election of a representative member.

(3) An elected member of the Council, who is also a member of a District Council or Heung Yee Kuk, as the case may be, is not qualified for election as a representative member of the Council.

(4) Each District Council or Heung Yee Kuk shall, in the month following the month in which an ordinary election for the District Council or the Heung Yee Kuk, as the case may be, is held, elect one of its members as its representative member for a term commencing on the first day of the month following the holding of the election and expiring on 30 September in the year in which the next ordinary election for the District Council or Heung Yee Kuk is held.

(5) Where the office of a representative member becomes vacant, the District Council or the Heung Yee Kuk, as the case may be, shall elect another representative member not earlier than one month from the date of publication of the vacancy in the Gazette and the new representative member shall hold office from the date of notification of his election in the Gazette for the balance of the term of office that the former member would have served if his office had not become vacant.

(6) The Chairman of a District Council or Heung Yee Kuk, as the case may be, shall notify the Chief Executive in writing of the result of the election of a representative member as soon as practicable after the election.

(7) The Secretary shall publish notice of the election or any vacancy of the office of a representative member in the Gazette.”

9. **Disqualification from appointment**

Section 10A is repealed.

10. **Non-acceptance of office**

The following section is added -

- “14. (1) A person may decline to accept office as a member by giving notice in writing to the Secretary at any time before his term of office commences.
- (2) If a person gives the Secretary notice of non-acceptance of office as a member, the Secretary shall publish the notice in the Gazette and the person shall be disqualified from holding office from the date of publication in the Gazette but may be elected at a subsequent election.

11. **Validity of acts of the Council**

Section 34 is amended by adding “election or “before “qualification”.

12. **Section Added**

The following section is added -

**“36A. Funds of the Council**

The funds of the Council shall consist of -

- (a) all moneys appropriated by the Legislative Council for the purposes of the Council
- (b) all moneys lawfully received by the Council by way of grants, loans, funds, donations, fees, rent or interest.”

13. **Estimates**

Section 39 is amended : -

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

(1) Not later than 2 months before the end of each financial year the Council shall prepare and submit to the Legislative Council for its approval estimates of its revenue and expenditure for the next financial year together with a list of works which the Council proposes to undertake during the next financial year.”

(b) by adding subsection (5) :-

(5) During any financial year, the Council may, for the purpose of implementing its undertaking submitted and approved under subsection (1) of this section submit

supplementary estimates to the Legislative Council for its approval.”

14. **Audit**

Section 40(4) is amended by repealing “Governor” and substituting “Legislative Council”

15. **Reduction etc. of fees and charges**

Section 41B is amended by repealing subsection (2).

16. **Saving**

Section 54 is amended by repealing “Provisional”

17. **Election of first Chairman and Vice-Chairman**

Section 55 is amended -

(a) in subsection (1) by repealing “Provisional Urban Council before 1 July 1997” and substituting “Urban Council 7 days after the appointed day”

(b) in subsection (5) by repealing “Provisional Urban Council to be held on or before 31 July 1997” and substituting “Urban Council to be held on or before 31 July 2000.”

(c) by adding subsections (7) and (8)

“(7) The Chairman elected at the first meeting after the appointed day is the delegate of the Council for the purpose of section 36 of the Urban Council Ordinance (Cap. 101) in the event that a delegation saved under the Provision of Municipal Services (Reorganization) Ordinance lapses. This delegation continues until the Council resolves otherwise.

(8) The Chairman may delegate the powers delegated to him under subsection (7) in accordance with the relevant Ordinances.”

18. **Saving of certain appointment**

Section 57 is amended by repealing “30 June 1997” and substituting “30 June 2000”.

19. **SCHEDULE 1**

SCHEDULE 1 is amended by repealing “Provisional” where it twice

appears.

20. **SCHEDULE 5**

SCHEDULE 5 is amended -

(a) in paragraph 1 by adding “a representative member under section 7A(1) or” before “a Chairman”.

(b) in paragraph 1A by adding “a representative member under section 7A(1) or” before “a Chairman”.

21. **Declaration of Urban Council Area Order 1994**

The Order is repealed.