

政制事務局政府總部的信頭
**Letterhead of CONSTITUTIONAL AFFAIRS BUREAU GOVERNMENT
SECRETARIAT**

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Our Ref: CAB C4/17/7

3 June 1999

Mrs Constance LI
Clerk to Bills Committee
Legislative Council Secretariat
Legislative Council Building
8 Jackson Road
Central

Dear Mrs Li,

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

Thank you for your letter of 26 May 1999.

Our response to Members' requests and suggestions as set out in your letter is as follows -

- (a) A paper describing the existing categories of fees and charges and the fee setting policies of the two Provisional Municipal Councils (PMCs) is at **Appendix I**. As suggested by Mr Ambrose Cheung, we have categorised the services into "facilities" and "activities";
- (b) *Mr Lee Wing-tat suggested a two-tier mechanism for setting the fees for cultural and recreational services. The subsidy levels would first be scrutinised and approved by the Legislative Council (LegCo), before the Financial Secretary or the Director for Leisure and Cultural Services could approve the actual fees based on the subsidy levels approved by LegCo.*

We are not sure whether the requirement for LegCo approval of the subsidy levels is intended to be prescribed by law and whether the actual subsidy levels are to be prescribed in law as well. If the subsidy levels are prescribed in law and mandatory, there are a number of practical difficulties in implementing the proposal, such as -

- (i) it would be **difficult to determine an appropriate subsidy level**. As noted in our earlier paper on “Fees and Charges Provisions”, in setting fees and charges for leisure and cultural services, various factors are taken into account, including operating costs, users’ affordability, changing market situations, inflation rate, usage rates and locations of venues, etc.. There are also policies to maximize usage rates of leisure and cultural facilities by differentiating charges at peak and non-peak hours/days and offer fee reductions to charitable and non-profit making organisations, students, senior citizens, and the disabled, etc.. As a result, the PMCs’ fee structures are complex. (See, for example, the admission fees and hire charges of the PMCs’ public swimming pools at **Appendix II**.) The subsidy level is normally the end result and not a main consideration in fee setting. There is a diversity of subsidy levels even for the same type of services. Taking venue hire charge for a cultural programme as an example, it could range from 100% subsidy to no subsidy at all. It would be meaningless to set subsidy levels based on such a broad range. If a narrower range of subsidy levels are prescribed, the flexibility in fee setting to take into account the factors mentioned above would be hindered;

- (ii) it would be **difficult to ensure that the actual subsidy levels achieved match with the subsidy levels prescribed by law** and as a result, the fees and charges determined based on the latter could be challenged. The actual subsidy levels are affected by a number of factors which are beyond the control of the Administration, such as the take-up/usage rates of the services concerned, change in economic climate and supply and demand situations and unforeseeable incidents. For instance, an outbreak of communicable disease might lead to reduced patronage of swimming facilities, resulting in the fees collected unable to meet the prescribed subsidy level; and

- (iii) it would be **difficult to define clearly how the subsidy levels should apply** as each venue, facility or programme may have a different subsidy level. Taking cultural programmes as an example, the subsidy levels could apply to a session of a programme, all sessions of the programme, a particular type of programmes, all programmes in a specific venue, or all programmes in all venues, etc.. It would also be difficult to apply a subsidy level to the complex fee structure of public swimming pools at **Appendix II** with many different fee types ranging from commercial rates to concessionary rates.

The reorganisation exercise aims at enhancing the quality of services under a more cost-effective structure. As stated in our earlier paper on “Fees and Charges Provisions”, we will continue to follow the well established policies for setting fees and charges after the reorganisation, including subsidising leisure and cultural services. We will also ensure that the fees are kept at reasonable levels. We note Members’ concern over the subsidy levels for leisure and cultural services. We welcome continued discussion about the general pricing principles and subsidy levels in the relevant LegCo Panel after the reorganisation.

- (c) A paper describing the existing and future arrangements for delegation of statutory powers is at **Appendix III**.
- (d) As noted in the LegCo Brief on the Bill, the total savings that could be realized in year 2000 are estimated to be in the region of \$300 million. There would be scope for further streamlining and improved efficiency in the medium term mainly through more contracting out of services. We estimate that additional annual savings in the region of \$500 million could be achieved by 2003/2004. We are still studying the staffing establishments of the new structure and will inform Members when details are available.

Please let me know if any further information is needed.

Yours sincerely,

(John C. Y. Leung)
for Secretary for Constitutional Affairs

**Legislative Council Bills Committee on
the Provision of Municipal Services (Reorganization) Bill
(4 June 1999)**

Fees and Charges for Municipal Services

This paper describes the different categories of fees and charges and the fee setting policies of the two Provisional Municipal Councils (PMCs), in response to Members' request at the Bills Committee meeting of 25 May 1999.

Fees and Charges of the PMCs

2. Fees and charges of the PMCs can be classified into the following categories according to their charging principles -

- (a) full-cost fees;
- (b) subsidized fees; and
- (c) non-fee charging services.

The types of fees and charges and the policies of each category are described in paragraphs 4 to 6 below.

3. In addition, commercial revenue obtained by the PMCs is not regarded as fees and charges. Commercial charges are usually set at market rates and determined by tender, auction, contract or commercial negotiation. These include fairs and flower show stall rentals, market rentals, restaurant and kiosk rentals, slaughterhouse rental, sales of abattoir by-products, and advertisement and broadcast right charges, etc.

Full-cost Fees

4. Full-cost fees are fees and charges for goods and services where it is reasonable for users to pay the full cost incurred. The vast majority of fees for

environmental hygiene services are set on a full cost recovery basis. On the other hand, only a few items of fees for cultural and leisure services such as hiring charges of the Hong Kong Stadium and URB TIX service charges are full-cost fees. A list of services charged on a full cost recovery basis is at **Annex A**.

Subsidized Fees

5. Subsidized fees are fees and charges for goods and services where a conscious policy decision has been taken for part of the cost to be borne by General Revenue or by the PMCs' rates revenue because of compelling social grounds. While only a few items of fees for food and environmental hygiene services are subsidized, most fees and charges for leisure and cultural services are subsidized on policy grounds to promote arts and culture and leisure and sports activities among the public. A list of the subsidized fees and their estimated subsidy levels and reasons for subsidy is at **Annex B**.

Non-fee Charging Services

6. There are some services which the PMCs provide free of charge to the public on policy grounds such as to promote leisure and culture. The subsidy level is therefore 100%. These include admission to public libraries and some of the museums, admission to parks and playgrounds, and free entertainment programmes, etc..

Constitutional Affairs Bureau
2 June 1999

Fees and Charges Set on a Full Cost Recovery Basis

A. Food and Environmental Hygiene Services

Types	Existing provision in the Public Health and Municipal Services Ordinance (Cap. 132)	Proposed Provision in paragraph 63 of Schedule 3 to the Bill
Hawker licences ¹	s.83AA	s.124I(1)(j)
Food business licences	s.56B	s.124I(1)(e)
Commercial bathhouse licences	s.35A	s.124I(1)(b)
Offensive trade licences	s.49A	s.124I(1)(c)
Swimming pool licences	s.42AA(1)(a)	s.124I(1)(d)
Undertaker of burial licences	s.92BA	s.124I(1)(k)
Funeral parlour licences	s.123AA	s.124I(1)(o)
Liquor licences ²	s.6A	s.6A ³
Burial fees ¹	s.116A	s.124I(1)(l)
Meat examination fees ¹	s.77A(1)(c)	s.124I(1)(h)
Private slaughterhouse licences	s.77A(1)(b)	s.124I(1)(g)

¹ These fees are however set by the Provisional Urban Council on a subsidized basis.

² Fees with regard to liquor licences are provided under the Dutiable Commodities Ordinance (Cap.109).

³ See proposed provision in paragraph 3 of Schedule 5 to the Bill.

B. Leisure and Cultural Services

Types	Existing provision in the Public Health and Municipal Services Ordinance (Cap. 132)	Proposed Provision in paragraph 63 of Schedule 3 of the Bill
Places of public entertainment licences ⁴	s.7C	s.7(1)(ba) ⁵
Places of amusement licences	s.92BA	s.124K
Hire charges of the Hong Kong Stadium ⁶	s.105E(1)(a)	s.124J(1)(b)
URBTIX service charges	(note 7)	s.124J(1)(n)
Sale of publications	(note 7)	s.124J(1)(n)
Reproduction of museum materials	s.105J(1)(c)	s.124J(1)(g)
Replacement of library cards	s.105LA	s.124J(1)(i)

⁴ Fees with regard to places of public entertainment licences are provided under the Places of Public Entertainment Ordinance (Cap.172).

⁵ See proposed provision in paragraph 5 of Schedule 6 to the Bill.

⁶ The Hong Kong Stadium is managed under a self-financing policy in accordance with an understanding reached between the Government and the Provisional Urban Council.

⁷ These charges are made under section 25(1)(ec) of the Provisional Urban Council Ordinance(Cap.101) and section 26(1)(ea) of the Provisional Regional Council Ordinance (Cap.385).

Subsidized Fees

A. Food and Environmental Hygiene Services

Types	Estimated Subsidy Level in 1998/99	Policy
Hawker licence fees (PUC only) [s.124I(1)(j)]*	16% ¹	<ul style="list-style-type: none"> Having considered the cost and also the affordability of the licensees.
Burial fees (PUC only) [s.124I(1)(l)]	30%	<ul style="list-style-type: none"> Having considered the affordability of the payees and the higher cost compared with the ProRC's.
Cremation and columbarium fees and related services [s.124I(1)(q),(r),(s)&(t)]	63% (PUC) 45% (ProRC) (average)	<ul style="list-style-type: none"> To encourage cremation and discourage burials. PUC's policy for cremation and columbarium fees is not exceeding 50% subsidy level while ProRC's policy is to adjust such fees progressively upwards to a 30% subsidy level.
Meat examination fees (PUC only) [s.124I(1)(h)]	50%	<ul style="list-style-type: none"> To keep the fee on par with ProRC though the cost in urban area is higher.

* The section number in square brackets in column 1 refers to the proposed section in paragraph 63 of Schedule 3 to the Bill.

¹ excluding costs relating to enforcement of hawker control.

B. Cultural Services

Types	Estimated Subsidy Level in 1998/99	Policy
Venue hire charges of civic centres [s.124J(1)(j)]	52% to 89% ²	<ul style="list-style-type: none"> • To promote arts and culture. • At affordable level to encourage hiring. • To maximize usage by setting differentiating charges for different time-slots and venues at different locations to take into account users' demand and popularity of the facilities concerned. • To differentiate between hiring of a commercial and non-commercial nature, and to set a higher fee for the former either through taking of a % of gate receipt or through surcharge so as to lessen subsidy for profit-making events. • To offer concessionary hiring rates to bona-fide district or non-profit organizations.
Admission charges for cultural programmes [s.124J(1)(e),(f)&(n)]	36% to 71% (on cash cost; average for all programmes)	<ul style="list-style-type: none"> • To promote arts and culture. • To set ticket admission charges at a rate affordable to the general public. • To offer concessionary rate tickets to students, senior citizens and the disabled, etc.

² This has not taken into account charges made on a revenue sharing basis if the hirers generate income more than hire charges.

Types	Estimated Subsidy Level in 1998/99	Policy
Admission charges for main museums [s.124J(1)(e)&(f)]	78% to 92%	<ul style="list-style-type: none"> • To promote culture. • Nominal fees at main museums for crowd control purpose. • To offer concessionary rate tickets to students, senior citizens and the disabled, etc.
Fees for Music Office [s.124J(1)(n)]	91%	<ul style="list-style-type: none"> • To promote public interest in music and music training.
Hire charges of museum venues and library extension activities rooms [s.124J(1)(g)&(i)]	Not cost-related	<ul style="list-style-type: none"> • To maximize usage for these facilities after their use for museum and library activities have been met. • To set charges at affordable level to encourage hiring for culture and art activities and drawing reference from comparable facilities in civic centres.
Library cloakroom charges [s.124J(1)(i)]	Not cost-related	<ul style="list-style-type: none"> • Nominal fee to discourage misuse of services.
Reservation of library material [s.124J(1)(i)]	Not cost-related	<ul style="list-style-type: none"> • Nominal charge for additional service.

C. Leisure Services

Types	Estimated Subsidy Level in 1998/99	Policy
<p>Hire charges and admission of recreational venues [s.124J(1)(a),(m)&(n)]</p> <p><u>Examples are:</u></p> <p>Swimming pools</p> <p>Holiday camps</p> <p>Athletic grounds / sports grounds & turf pitches</p> <p>Tennis courts</p> <p>Indoor games halls</p> <p>Squash courts</p> <p>Bowling green</p>	<p>46% to 94% (around 80% on average)</p> <p>83%</p> <p>84%</p> <p>91%</p> <p>66%</p> <p>79%</p> <p>81%</p> <p>89%</p>	<ul style="list-style-type: none"> • To promote recreation and sports. • To offer concessionary rate tickets to students, senior citizens and the disabled, etc. • To offer fee waiver / reductions for sports associations and community-related and charitable events. • To maintain differential rates for peak and off-peak periods in order to induce maximum use of facilities (ProRC only).
<p>Fees for recreation and sports courses and programmes [s.124J(1)(n)]</p>	<p>90% on average</p>	<ul style="list-style-type: none"> • To promote recreation and sports.

Public swimming pool			
PUC		ProRC	
I	<u>Admission fees</u>	I	<u>Swimming Pools Gate Admission fee for 2 session</u>
i	Full rate (Adult)	\$19	i Normal rate
			1 Monday to Friday \$17
			2 Saturday, Sunday and Public Holiday \$20
ii	Concessionary (Children/Senior Citizen/Disabled/Minder of Disabled/Full-time students)	\$9	i Children at or below 14 years old, elderly at or above 60 years old or people with disabilities
			1 Monday to Friday \$8
			2 Saturday, Sunday and Public Holiday \$9
iii	Toddlers (under the age of 3)	Free	iii Children at or below 2 years old Free
II	<u>Hire charges of pool facilities</u>	II	<u>Hire charge of pool facilities</u>
i	Normal rates (per hour or part thereof)		<u>Use of public swimming pools in July and August</u>
1	A Main pool/50m pool per pool (July & August)	\$1,364	i Use by non-profit making bodies
	B Main pool/50m pool per pool (other months)	\$682	1 Teaching/Training Pool (per pool per hour) \$350
2	A Main pool/50m pool per 1/2 pool (July & August)	\$682	2 25 M Pool (per lane per hour) \$90
	B Main pool/50m pool per 1/2 pool (other months)	\$341	3 50M Pool (per lane per hour) \$175
3	A Main pool/50m pool per lane (July & August)	\$166	4 50M pool (per pool per hour) \$1,410
	B Main pool/50m pool per lane (other months)	\$83	5 Diving Pool (per pool per hour) \$175
4	A Diving pool/Teaching pool/Training pool per pool (July & August)	\$342	
	B Diving pool/Teaching pool/Training pool per pool (other months)	\$171	ii Use by commercial organizations
5	A Diving pool/Teaching pool/Training pool per 25m lane (July & August)	\$86	1 Teaching/Training Pool (per pool per hour) \$705
	B Diving pool/Teaching pool/Training pool per 25m lane (other months)	\$43	2 25 M Pool (per lane per hour) \$175
6	A Children pool at Kin Tsai Swimming Pool per 1/2 pool (July & Aug)	\$342	3 50M Pool (per lane per hour) \$350
	B Children pool at Kin Tsai Swimming Pool per 1/2 pool (other months)	\$171	4 50M pool (per pool per hour) \$2,815
7	A High-board diving at Victoria Park and Kowloon Park Swimming Pools per 1/2 pool (July & August)	\$342	5 Diving Pool (per pool per hour) \$350
	B High-board diving at Victoria Park and Kowloon Park Swimming Pools per 1/2 pool (other months)	\$171	
ii	Commercial rates	Double the normal rates	
iii	Non-designated use	20% of total receipts subject to a minimum charge of \$8,240 per four-hour session per pool	iii Use by schools (50% concession of the charges of non-profit making bodies during school hours and the fees are rounded to the nearest dollars.)
			<u>Use of public swimming pools in other months</u>
			i Use by non-profit making bodies

Public swimming pool

PUC		ProRC	
		1 Teaching/Training Pool (per pool per hour)	\$175
		2 25 M Pool (per lane per hour)	\$45
		3 50M Pool (per lane per hour)	\$90
		4 50M pool (per pool per hour)	\$705
		5 Diving Pool (per pool per hour)	\$90
		ii Use by commercial organizations	
		1 Teaching/Training Pool (per pool per hour)	\$350
		2 25 M Pool (per lane per hour)	\$90
		3 50M Pool (per lane per hour)	\$175
		4 50M pool (per pool per hour)	\$1,410
		5 Diving Pool (per pool per hour)	\$175
		iii Use by schools	
		(50% concession of the charges of non- profit making bodies during school hours and the fees are rounded to the nearest dollars)	
III	<u>Hire charges of equipment and facilities</u>	III	<u>Hire charges of equipment and facilities</u>
1	<u>Public address system</u>		<u>Public Address System</u>
A	for the first hour \$118	i	First hour \$190
B	for each additional hour or part thereof \$38	ii	Each additional hour or part thereof \$65
2	<u>Electronic timing equipment (every four hours or part thereof)</u>		<u>Timer/Scoreboard</u>
A	Times with 8-lane scoreboard \$353	i	Timer without Scoreboard (minimum of 4 hours) (per hour) \$55
B	Times with 1-lane scoreboard \$284	ii	Times with Scoreboard (minimum of 4 hours) (per hour) \$75
C	Times without scoreboard \$166		<u>Use of Display Board</u>
3	<u>Use of gymnastic room (per half hour or part thereof)</u> \$27	i	Normal Rate (per hour) \$150
4	<u>Use of electronic scoreboard at Kowloon Park Swimming Pool</u>	ii	Commercial Rate (per hour) \$1,460
A	Normal rate (per hour or part thereof) \$294	iii	Advertisement (per minute) \$150
B	Commercial rate (per hour or part) \$2,990		
C	Display of advertisements (per minute or part thereof) \$235		
5	<u>Use of the function room at Kowloon Park Swimming Pool (each hour or part</u>		
A	Whole room \$140		
B	Half room \$70		
6	<u>Use of the removable boom for short- course swimming events</u> \$35,300 per occasion		
IV	<u>Concessionary rates</u>		
	Applicable to items specified in II(i), III(i), III(ii) & III(4)A only		
	Schools (specific hours), Subvented non- half the government organizations (specific hours). normal rate		
	Disabled groups and individuals		

**Legislative Council Bills Committee on
the Provision of Municipal Services (Reorganization) Bill
(4 June 1999)**

**Existing and Future Arrangements for
Delegation of Statutory Powers to Public Officers**

This paper describes the existing arrangements for delegation of statutory powers to public officers by the two Provisional Municipal Councils (PMCs) and the future arrangements for delegation of powers after the transfer of authority suggested in the Provision of Municipal Services (Reorganization) Bill (“the Bill”).

Existing Arrangements

2. Under section 36 of the Provisional Urban Council Ordinance (Cap.101) and section 38 of the Provisional Regional Council Ordinance (Cap.385), the Provisional Urban Council (PUC) and the Provisional Regional Council (ProRC) may respectively by resolution delegate their powers and functions to any public officer, other than a few exceptions such as power to make any bylaw or regulation. Under section 142 of the Public Health and Municipal Services Ordinance (Cap. 132), the PMCs may delegate any power, function, authority or discretion conferred upon them by the provisions of that Ordinance, other than a power to make regulations, to any public officers or class of public officers, subject to and in accordance with the provisions of Cap.101 and Cap.385. In addition, the PMCs may authorize any public officers to exercise certain powers (e.g. power to arrest in certain cases and power to seize hawker equipment and commodities from alleged offenders) conferred by sections 84, 86, 86B, 126, 132 and 135 of Cap. 132 and section 4E of the Summary Offences Ordinance (Cap. 228).

3. The PMCs (and their predecessors, the Municipal Councils) have delegated various powers under Cap.132 to officers of the Urban Services Department (USD) and Regional Services Department (RSD). An example is the delegation of power by the Urban Council to certain USD officers for hawkker control and related duties. In addition, the PMCs have delegated some powers under Cap.132 to officers in other departments (e.g. Department of Health) or authorized officers in other departments to exercise certain powers. Examples of such delegations and authorizations are set out in **Annex A**.

Future Arrangements

4. The Provision of Municipal Services (Reorganization) Bill provides for the transfer of powers and functions of the PMCs to a new authority. The Bill only changes the person who is authorized to perform specific statutory functions. If the former authority had delegated any of its statutory powers which is to be transferred to the new authority or authorized any public officers to exercise certain powers, such delegation and authorization will be saved by virtue of **clause 8(2)(e)** of the Bill as if it was a delegation or authorization made by the new authority, in so far as it is consistent with the Bill and the continuation of such delegation or authorization is required. We are at present examining the various existing authorizations and delegations. We propose to make arrangements for new delegations and authorizations to take effect on the appropriate dates in cases where it is more appropriate than continuing existing delegations.

5. Furthermore, **Clause 8(2)(i)** of the Bill provides that documents or forms specified, prescribed, printed or duplicated for use in connection with any

functions transferred by the Bill, including any written authorization issued by a former authority for the performance of a function, may be so used despite the fact that they contain references to a former authority, or to a former department, etc.. Those references should be construed as references to the new authority or the new department etc., as the case may require. Departmental warrant cards, as written authorizations to the officers, will be saved by virtue of this clause.

Constitutional Affairs Bureau
3 June 1999

**Examples of Delegation of Statutory Powers by the
Provisional Municipal Councils to Officers of other Departments
under Cap. 132**

<u>Section</u>	<u>Power</u>	<u>Delegated to</u>
S.14(1)	To determine if premises are in such a state as to be a nuisance or injurious or dangerous to health, or are in such a state as to affect injuriously or disfigure the amenities of a place or locality.	Officers in the Department of Health
S.22A(2)	To determine if the litter or waste found on or in a canopy is or may become injurious or dangerous to health, or is or may become a danger to any person, or constitutes a nuisance or is unsightly.	Officers in the Department of Health
S.46(1)	To determine if an article is in such a filthy, dangerous, unwholesome or verminous condition that health is, or is likely to be, injuriously affected and to cause the article to be cleansed, disinfected, destroyed or removed as the case may be.	Officers in the Department of Health
S.58(1)	To call for information as to composition of substances used in the preparation of food.	Officers in the Department of Health