

**LEGISLATIVE COUNCIL PANEL ON
CONSTITUTIONAL AFFAIRS
(Meeting on 16 November 1998)**

UPDATE ON REFORM OF DISTRICT ORGANISATIONS

INTRODUCTION

This is to update Members on the progress of the reform of district organisations since the last Panel meeting of 19 October 1998.

PROGRESS

Consultancy Report on Food Safety and Environmental Hygiene

2. The Consultancy Report is being finalised and should be ready for submission to the Administration soon. After receiving the final report, the Administration will study the recommendations carefully and determine how to implement the proposals.

Arts and Culture and Sports and Recreation

3. To develop a new administrative framework for the delivery of arts and culture, sports and recreation services, the Secretary for Home Affairs has arranged a series of public forums in November and early December for concerned parties (including territory-wide and district arts and sports bodies) and the public to express their views. The Home Affairs Bureau has also invited members of the public to send in written views by mid-December 1998. An Information Note on the consultation exercise has been submitted to the LegCo Panel on Home Affairs.

4. The Home Affairs Bureau has appointed Mr Albert C.C. LAM as a Consultant to assist in the study of the new structure. Mr Lam is expected to submit a report to the Secretary for Home Affairs in early 1999. The Administration will then make a decision on the new structure and introduce necessary legislation into the LegCo, if any. The LegCo Panel on Home Affairs will be briefed on the progress of the study.

Legislative Work

A. The District Councils Bill

5. The bill to provide for the establishment of the District Councils, their

constitution, functions, operation and electoral matters (the “District Councils Bill”) is being drafted. Our aim is to introduce it into the LegCo in December 1998.

6. The District Councils Bill will repeal the existing Provisional District Boards Ordinance (Cap.366) with effect from 1 January 2000. We intend to combine the provisions for the establishment, functions and operation, etc. of the District Councils with their electoral arrangements in one single piece of legislation. (Prior to 1 July 1997, the electoral arrangements for the District Boards were prescribed in the former Electoral Provisions Ordinance whereas their establishment, functions and operation, etc. were provided for in the former District Boards Ordinance.) We believe a single bill similar to the Legislative Council Ordinance is a tidier approach than amending the existing legislation, especially if the future structure of district organisations is to comprise District Councils only.

7. With reference to the Provisional District Boards Ordinance and its antecedent ordinance and the relevant provisions in the Legislative Council Ordinance and the former Electoral Provisions Ordinance, we propose that the District Councils Bill should provide for the following -

(a) on the establishment, functions and operation of the Councils:

- establishment, composition and general provisions as to members of Councils (including tenure of office, disqualification, acceptance of office, resignation, publication of notice of vacancy, etc.);
- Chairman and Vice-Chairman (including their election, acceptance, duties and resignation);
- functions and procedure of a Council (including appointment of secretary, standing orders, committees of Council, quorum, etc.);
- miscellaneous provisions (including directions of a general character by the Chief Executive to the Council, protection of members, proceedings against persons on grounds of disqualification, transitional provisions on the establishment of Councils, etc.); and
- transitional arrangements for the District Councils.

(b) on the electoral arrangements:

- specification of dates for holding general elections;
- establishment of constituencies;
- registration of electors (including qualification and disqualification from registration and from voting);
- conduct of election (including qualification and disqualification from candidature and from holding office, voting system, appointment of Returning Officers, termination of election proceedings, etc.);
- election petition procedures; and

- other miscellaneous provisions (including holding of by-elections, power to make regulations, etc.)

8. As explained in LC Paper No. CB(2)440/98-99(01) discussed at the last Panel meeting, the Bill has to be enacted as early as possible in 1999 to enable the work of demarcation of boundaries and the making of subsidiary legislation governing election expenses, election deposits, electoral procedures, etc. to proceed.

9. After the Bill is enacted, all the necessary subsidiary legislation including the negative vetting procedure will have to be completed by 14 July 1999 which is the last regular sitting of the LegCo before the summer recess. Failure to meet this deadline would mean a substantial delay until the LegCo reconvenes in October 1999. Such a delay would make it impossible for polling to take place before the end of 1999 as there would be insufficient time for the practical electoral arrangements (including the printing and publication voter register, nomination of candidates and canvassing activities, etc.).

B. Other Legislation

10. As noted in LC Paper No. CB(2)440/98-99(01), the transfer of the functions, contractual rights, duties and liabilities of the Provisional Municipal Councils to the Administration or other statutory bodies will involve a large number of legislative amendments. The list of legislation that would need to be amended or repealed is reproduced at Annex. We are studying the legislation concerned and considering the possibility of introducing all the amendments to the Ordinances in the form of an omnibus bill. Initially, we think that the legislative work may be divided into the following two stages -

- (a) to enact an omnibus bill or a number of bills mainly for amending the main Ordinances concerned (i.e., items (a) to (1) in the Annex, except (c)) and making consequential amendments to a number of primary and subsidiary legislation;
- (b) after the passage of the bill(s), to make a number of new subsidiary legislation, mainly to replace the by-laws made by the Provisional Municipal Councils under the Public Health and Municipal Services Ordinance (Cap.132).

11. We intend to introduce the bill(s) into the LegCo in the second half of the 1998/99 legislative session and to allow sufficient time for making the subsidiary legislation (including completing the negative vetting procedure) before the end of 1999, after the bill(s) are enacted.

12. Members' concern about the volume of legislative work and the tight time-frame is noted. Amendments to some 160 pieces of Ordinances and subsidiary legislation are involved, however we should note that :-

- (a) the vast majority of the amendments to the Ordinances and subsidiary legislation (estimated to be over 80%) only involve the transfer of powers from the Provisional Municipal Councils or the heads of the Department of Health and the Agriculture and Fisheries Department to the future Director of the new department of food and environmental hygiene, the Policy Secretary of the new bureau for the environment and food, other government agencies or statutory bodies. In most of the cases, such amendments are straight-forward; and
- (b) while we have to remove the differences in a large number of the by-laws made by the Provisional Urban Council and the Provisional Regional Council, such legislative changes will only need to be completed in the second stage mentioned in paragraph 10 above. This allows sufficient time for the Administration to study the legislative provisions carefully before deciding on the best formulation in the new subsidiary legislation.

13. We note the suggestion that the Administration should take the opportunity to review and update obsolete provisions in the ordinances and by-laws concerned. There appears to be a number of out-dated or obsolete provisions in the Public Health and Municipal Services Ordinance (Cap.132), the enactment history of which can be traced back to 1935 or earlier. We shall endeavour to review and update the relevant provisions in the Ordinance where appropriate. If necessary, a comprehensive review and revamp of Cap.132 could be undertaken as a separate exercise after the new policy bureau and department are established.

Constitutional Affairs Bureau

13 November 1998

**List of legislation that would need to be amended or
repealed in order to transfer authority or functions from the Municipal
Councils to the Administration or any public body**

Legislation	Likely Extent of Amendments
(a) Provisional Urban Council Ordinance (Chapter 101)	To be repealed; saving provisions required for transfer of property, rights and liabilities and continuity of contracts and legal proceedings
(b) Provisional Regional Council Ordinance (Chapter 385)	
(c) Provisional District Boards Ordinance (Chapter 366)	To be repealed and a new District Councils Ordinance to be introduced
(d) Public Health and Municipal Services Ordinance (Chapter 132) (including around 84 sets of by-laws)	Amendments to the primary and subsidiary legislation required
(e) Waste Disposal Ordinance (Chapter 354)	Amendment to the primary and subsidiary legislation required
(f) Places of Public Entertainment Ordinance (Chapter 172)	Amendment to the primary and subsidiary legislation required
(g) Dutiable Commodities Ordinance (Chapter 109)	Amendments to the primary and subsidiary legislation required
(h) Administrative Appeals Board Ordinance (Chapter 442)	Amendment to the Schedule to this Ordinance to enable the Board to take over the work of the Municipal Services Appeals Board

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| (i) Municipal Services Appeals Board Ordinance (Chapter 220) | To be repealed; saving provision required for continuity of the appeal cases already commenced |
| (j) Rating Ordinance (Chapter 116) | Amendment to the primary and subsidiary legislation required |
| (k) Hong Kong Arts Development Council Ordinance (Chapter 472) | Amendment to the primary legislation, if found necessary after the review |
| (l) Hong Kong Sports Development Board Ordinance (Chapter 1149) | Amendment to the primary legislation, if found necessary after the review |
| (m) Some forty other Ordinances and subsidiary legislation which contain references to the two Provisional Municipal Councils or the municipal services departments | Consequential amendments to these Ordinances and subsidiary legislation are required to replace references to the two Councils |
| (n) Some thirty other Ordinances and subsidiary legislation which are currently administered by the Agriculture and Fisheries Department or Department of Health | Amendments to these Ordinances and subsidiary legislation to transfer relevant powers to the future authority for food safety control |