

Legislative Council
Panel on Health Services,
Panel on Environmental Affairs, and
Panel on Constitutional Affairs
(meeting of 8 February 1999)

The Administration's Initial Thinking on
the Provision of Municipal Services Bill

Introduction

The legislative work to implement the changes as a result of the review of district organisations involves the transfer of the functions, contractual rights, duties and liabilities, etc. of the Provisional Municipal Councils (PMCs) to the Administration or other statutory bodies and any necessary changes to the relevant statutory bodies such as the existing Municipal Services Appeal Boards. We are working on the draft legislation and intend to introduce the bill into the Legislative Council (LegCo) as soon as possible. This paper sets out the Administration's initial thinking on the draft legislation.

Previous LegCo Discussions

2. In preparing the draft legislation, we have taken into account the following views expressed by Members in previous meetings of the LegCo Panel on Constitutional Affairs on the legislative proposals arising from the review of district organisations:

- (a) the Administration should introduce an omnibus bill on the subject to allow Members to have an overall view on the proposed changes; and
- (b) the Administration should take the opportunity to review and update obsolete provisions in the ordinances and by-laws concerned.

An Omnibus Bill

3. On the legislative approach, we have considered two options:

(A) a bill to transfer the functions and powers of both the Provisional Urban Council (PUC) and Provisional Regional Council (ProRC) to the Administration or other statutory bodies. The repeal or amendments to all existing ordinances involving the PUC and ProRC would be dealt with under this Bill as consequential amendments;

(B) a series of individual amendment bills each dealing with specific powers and functions of the PUC and ProRC.

4. On balance, we prefer option (A) because it is a tidier package and enables LegCo to focus and deal with the matters at one go.

5. The bill is tentatively known as the “Provision of Municipal Services Bill”. It will provide for the legal basis, re-vesting the Government or its designated public officers to assume the functions, powers, authority, ownership and management responsibilities from the PUC and the ProRC.

Future Structure for Delivery of Municipal Services

Food and Environmental Hygiene Services

6. On food and environmental hygiene services, we propose that a new policy Bureau should be set up. It will mainly provide central co-ordination and direction on environmental protection, environmental hygiene, waste management, food safety and nature conservation policies and facilitate the development of the agricultural and fisheries industries. It will be underpinned by a new Department of Food and Environmental Hygiene, as well as the existing Environmental Protection Department, and the Agriculture and Fisheries Department.

7. The responsibilities for food and environmental hygiene currently under the purview of the Urban and Regional Services Departments, the Department of Health, and the Agriculture and Fisheries Department will be assumed by the new Department of Food and Environmental Hygiene.

Culture and Leisure Services

8. On arts and culture, sports and recreation, the Secretary for Home Affairs has separately appointed a Consultant to study the new administrative framework for the delivery of services. On receipt of the consultancy report, the Administration will soon make a decision on the new structure. The necessary legislative amendments to reflect the decision will be incorporated, as far as possible, into the legislation being drafted.

Principal Objectives of the Bill

9. The principal objectives to be achieved by the legislation are:
- (a) to transfer generally the functions and powers of both the PUC and ProRC under the Provisional Urban Council Ordinance, Cap 101, and the Provisional Regional Council Ordinance, Cap 385 respectively and other legislation to the Government or designated public officers on 1 January 2000. Third party interests will be secured.;
 - (b) to create a new Licensing Appeals Committee to hear appeals against the designated public officers' decisions on general licensing and related matters;
 - (c) to form a new Liquor Licensing Board to consider application and grant of liquor licences, in place of the two existing Liquor Licensing Boards (one in the Urban Council Area and one in the Regional Council Area);
 - (d) to merge the functions of the existing Urban Services Appeals Board and Regional Services Appeals Board to form a Municipal Services Appeals Board which will serve as the final appeal body for all appeals against licensing decisions by the designated public officers, the Licensing Appeals Committee, and the Liquor Licensing Board;
 - (e) to enable the designated officers to receive and to prescribe fees or charges for the provision of municipal services, under the

authorisation of various ordinances and subsidiary legislation, where appropriate. On 1 January 2000, the fees and charges received should form part of the general revenue and be subject to the control and management under the Public Finance Ordinance, Cap 2;

- (f) to vest existing rights, duties and obligations of both PUC and Pro RC in the Government;
- (g) to abolish the demarcation between the “Urban Council Area” and “Regional Council Area”;
- (h) to delete certain obsolete provisions in the Public Health and Municipal Services Ordinance, Cap.132 and its subsidiary legislation;
- (i) to make transitional provisions and savings to maintain legal and administrative continuity;
- (j) to repeal the Provisional Urban Council Ordinance, Cap 101, and the Provisional Regional Council Ordinance, Cap 385, and to consolidate and rationalise the subsidiary legislation under the Public Health and Municipal Services Ordinance, Cap 132; and
- (k) to provide for consequential amendments in related primary and subsidiary legislation.

Differences in Policies and Practices between the Two Councils

10. There are a number of differences in the legislative provisions, policies and practices between the two PMCs. For example, some of the By-laws on the same subject have slightly different provisions. In some cases, the details of enforcement policies such as the prosecution policy for unlicensed premises and demerit points system and operational arrangements such as opening hours of facilities and venues are also different. We will need to consider how these differences can be reconciled by 1 January 2000 or to adopt transitional measures where more time is needed to implement a common policy.

Legislative Work and Timetable

11. It is estimated that altogether 57 Ordinances and no less than 100 subsidiary legislation will be affected in this legislative operation. Minor and consequential amendments will have to be made to 55 Ordinances and no less than 72 subsidiary legislation. Two Ordinances and 29 subsidiary legislation (all under Cap.132) will have to be repealed. The list of Ordinances and subsidiary legislation likely to be affected is at **Annex**.

12. Although the legislative work may appear to be onerous, the vast majority of the amendments are straight-forward and consequent upon the transfer of powers from the PMCs to the Government or designated officers. Thus, while the volume of work is rather substantial, their relevant contents are not too complex in the majority cases. We have started drafting the bill which is expected to be ready for introduction into the LegCo in a few months' time.

CONSTITUTIONAL AFFAIRS BUREAU
2 February 1999

**List of Ordinances and
Subsidiary Legislation Likely to be Affected
by the Provision of Municipal Services Bill**

Part A

**Minor and Consequential Amendments to Primary
Legislation**

Item	Enactment
A1	Interpretation and General Clauses Ordinance (Cap 1)
A2	Public Finance Ordinance (Cap 2)
A3	Jury Ordinance (Cap 3)
A4	Defamation Ordinance (Cap 21)
A5	Land (Miscellaneous Provisions Ordinance (Cap 28)
A6	Legal Aid Ordinance (Cap 91)
A7	Judicial Officers Recommendation Commission Ordinance (Cap 92)
A8	Forest and Countryside Ordinance (Cap 96)
A9	Dutiable Commodities Ordinance (Cap 109)
A10	Estate Duty Ordinance (Cap 111)
A11	Inland Revenue Ordinance (Cap 112)
A12	Rating Ordinance (Cap 116)
A13	Stamp Duty Ordinance (Cap 117)
A14	Public Health and Municipal Services Ordinance (Cap 132)
A15	Pesticides Ordinance (Cap 133)

Item	Enactment
A16	Public Health (Animals and Birds) Ordinance (Cap 139)
A17	Societies Ordinance (Cap 151)
A18	Chinese Temples Ordinance (Cap 153)
A19	Banking Ordinance (Cap 155)
A20	Dogs and Cats (Amendment) Ordinance (Cap 167)
A21	Wild Animals Protection Ordinance (Cap 170)
A22	Places of Public Entertainment Ordinance (Cap 172)
A23	Animals and Plants (Protection of Endangered Species) Ordinance (Cap 187)
A24	Defences (Firing Areas) Ordinance (Cap 196)
A25	Prevention of Bribery Ordinance (Cap 201)
A26	Consumer Council Ordinance (Cap 216)
A27	Weapons Ordinance (Cap 217)
A28	Municipal Services Appeals Boards (Cap 220)
A29	Magistrates Ordinance (Cap 227)
A30	Summary Offences Ordinance (Cap 228)
A31	Firearms and Ammunition Ordinance (Cap 238)
A32	Agricultural Products (marketing) Ordinance (Cap 277)
A33	Hong Kong Arts Centre Ordinance (Cap 304)
A34	Air Pollution Control Ordinance (Cap 311)
A35	Trade Unions Ordinance (Cap 332)

Item	Enactment
A36	Protection of Investors Ordinance (Cap 335)
A37	Waste Disposal Ordinance (Cap 354)
A38	Water Pollution Control Ordinance (Cap 358)
A39	The Ombudsman Ordinance (Cap 397)
A40	Ozone Layer Protection Ordinance (Cap 403)
A41	Rabies Ordinance (Cap 421)
A42	Environment and Conservation Fund (Cap 450)
A43	Dumping At Sea Ordinance (Cap 466)
A44	Marine Parks (Cap 476)
A45	Hong Kong Arts Development Council Ordinance (Cap 472)
A46	Sex Discrimination Ordinance (Cap 480)
A47	Disability Discrimination Ordinance (Cap 480)
A48	Tsing Ma Control Area Ordinance (Cap 498)
A49	Environmental Impact Assessment Ordinance (Cap 499)
A50	Government Rent (Assessment and Collection) Ordinance (Cap 515)
A51	Family Status Discrimination Ordinance (Cap 527)
A52	Veterinary Surgeons Registrations Ordinance (Cap 529)
A53	Electoral Affairs Commission Ordinance (Cap 541)
A54	Chinese Permanent Cemeteries Ordinance (Cap 1112)
A55	Hong Kong Sports Development Board Ordinance (Cap 1149)

Part B

Consequential Amendments to Subsidiary Legislation

Item	Title of Subsidiary Legislation
B1	Employment of Children Regulations Cap 57
B2	Fire Services Department (Reports and Certificate) Regulations Cap 95
B3	Pension Benefits Ordinance, (Established Offices) Order Cap 99
B4	Dutiable Commodities (Liquor) Regulations Cap 109
B5	Dutiable Commodities (Liquor Licences) (Specification of Fees) (Regional Council Area) Notice Cap 109
B6	Miscellaneous Licences Regulations Cap 114
B7	Rating (Miscellaneous Exemptions) Order Cap 116
B8	Resolutions of the Legislative Council Cap 116
B9	Buildings (Refuse Storage Chambers and Chutes) Regulations Cap 123
B10	Bathing Beach (Urban Council) By-laws *
B11	Civic Centres (Regional Council) By-laws
B12	Colouring Matter in Food Regulations Cap 132
B13	Commercial Bathhouses (Urban Council) By-laws
B14	Conservancy (Urban Council) By-laws

* All the By-laws listed here are made under Cap. 132

Item	Title of Subsidiary Legislation
B15	Cremation and Gardens of Remembrance (Urban Council) By-laws
B16	Designation of Libraries (Regional Council Area) Order
B17	Designation of Libraries (Urban Council Area) Order
B18	Dried Milk Regulations Cap 132
B19	Food Adulteration (Artificial Sweeteners) Regulations Cap 132
B20	Food Adulteration (Metallic Contamination) Regulations Cap 132
B21	Food and Drugs (Composition and Labelling) Regulations Cap 132
B22	Food Business (Regional Council) Bylaws
B23	Food Business (Regional Council) Bylaws (Exemption from Bylaw 31(1))(Consolidation) Notice
B24	Food Business (Urban Council) By-laws (Exemption from By-law 32(1))(Consolidation) Notice
B25	Frozen Confections (Urban Council) By-laws
B26	Funeral Parlour (Regional Council) By-laws
B27	Harmful Substances in Food Regulations Cap 132
B28	Hawker (Permitted Place)(Urban Council) (Consolidation) Declaration
B29	Hawker (Urban Council) By-laws
B30	Imported Game, Meat and Poultry Regulations Cap 132
B31	Library (Regional Council) By-laws

Item	Title of Subsidiary Legislation
B32	Declaration of Markets in the Regional Council Area
B33	Declaration of Markets in the Urban Council Area
B34	Milk (Urban Council) Bylaws
B35	Mineral Oil in Food Regulations Cap 132
B36	Mosquito Prevention (Urban Council) By-laws
B37	Museums (Urban Council) Bylaws
B38	Declaration of Offensive Trades in the Regional Council Area
B39	Declaration of Offensive Trades in the Urban Council Area
B40	Offensive Trades (Regional Council) By-laws
B41	Places of Amusement (Urban Council) Bylaws
B42	Pleasure Grounds (Urban Council) Bylaws
B43	Preservatives in Food Regulations
B44	Private Cemeteries (Urban Council) By-laws
B45	Private Markets (Regional Council) By-laws
B46	Public Cemeteries (Urban Council) By-laws
B47	Public Cleansing and Prevention of Nuisances (Urban Council) By-laws
B48	Public Conveniences (Conduct and Behaviour) (Urban Council) By-laws
B49	Public Market (Urban Council) By-laws
B50	Public Swimming Pools (Urban Council) By-laws

Item	Title of Subsidiary Legislation
B51	Restriction of Hawking in Special Areas (Regional Council Area) (Consolidation) Notification
B52	Sanitation and Conservancy (Regional Council) By-laws
B53	Slaughterhouses (Regional Council) Bylaws
B54	Smokeless Tobacco Products (Prohibition) Regulations
B55	Stadia (Urban Council) By-laws
B56	Swimming Pools (Regional Council) Bylaws
B57	Undertakers of Burials (Regional Council) By-laws
B58	Ventilation of Scheduled Premises (Urban Council) By-laws
B59	Wells and Water Storage (Urban Council) By-laws
B60	Mental Health Regulation Cap 136
B61	Public Health (Animals and Birds) Regulations Cap 139
B62	Public Health (Animals and Birds) (Keeping of Cattle, Sheep and Goats) Regulations Cap 139
B63	Diaries Regulations Cap 139
B64	Poultry (Slaughtering for Export) Regulations Cap 139
B65	Public Health (Animals and Birds) (Licensing of Livestock Keeping) Regulations Cap 139
B66	Places of Public Entertainment Regulations Cap 172
B67	Prison Rules Cap 234
B68	Business Registration Regulations Cap 310
B69	Air Pollution Control (Appeal Board) Regulations Cap 311

Item	Title of Subsidiary Legislation
B70	Merchant Shipping (Miscellaneous Craft) Regulations Cap 313
B71	Waste Disposal (Charge for Disposal of Waste) Regulation Cap 354
B72	Chinese Permanent Cemeteries Rules Cap 1112

Part C

Repeals of Primary and Subsidiary Legislation

Item	Title of Enactment/Subsidiary Legislation
C1	Provisional Urban Council Ordinance (Cap 101)
C2	Provisional Regional Council Ordinance (Cap 385)
C3	Abattoirs (Urban Council) By-laws *
C4	Advertisements By-laws
C5	Basements (Urban Council) By-laws
C6	Bathing Beach (Regional Council) By-laws
C7	Civic Centre (Urban Council) By-laws
C8	Commercial Bathhouses (Urban Council) By-laws
C9	Cremation and Gardens of Remembrance (Regional Council) By-laws
C10	Food Business (Urban Council) By-laws
C11	Frozen Confections (Regional Council) By-laws
C12	Funeral Parlour (Urban Council) By-laws
C13	Hawker (Regional Council) By-laws
C14	Library (Urban Council) By-laws
C15	Milk (Regional Council) By-laws
C16	Museum (Regional Council) By-laws
C17	Offensive Trades (Urban Council) By-laws

* All the By-laws listed here are made under Cap. 132

Item	Title of Enactment/Subsidiary Legislation
C18	Places of Amusement (Regional Council) By-laws
C19	Pleasure Grounds (Regional Council) By-laws
C20	Private Cemeteries (Regional Council) By-laws
C21	Public Cemeteries (Regional Council) By-laws
C22	Public Cleaning & Prevention of Nuisance (Regional Council) By-laws
C23	Public Conveniences (Regional Council) By-laws
C24	Public Market (Regional Council) By-laws
C25	Public Swimming Pools (Regional Council) By-laws
C26	Slaughterhouse (Urban Council) By-laws
C27	Stadia (Regional Council) By-laws
C28	Swimming Pools (Urban Council) By-laws
C29	Undertakers of Burials (Urban Council) By-laws
C30	Ventilation of Scheduled Premises (Regional Council) By-laws
C31	Ventilation (Urban Council) By-laws