

L. N. 101 of 1999

HAWKER (REGIONAL COUNCIL) (AMENDMENT) BYLAW 1999

(Made by the Provisional Regional Council under section 83A of the Public Health and Municipal Services Ordinance (Cap. 132))

1. Commencement

This Bylaw shall come into operation on 1 June 1999.

2. Forfeiture of equipment

By-law 34 of the Hawker (Regional Council) By-laws (Cap. 132 sub. leg.) is repealed.

LAU Wong-fat

Chairman, Provisional

Regional Council

25 March 1999

Explanatory Note

This Bylaw repeals by-law 34 of the Hawker (Regional Council) By-laws (Cap. 132 sub. leg.).

2. Section 86A(1)(a) of the Public Health and Municipal Services Ordinance (Cap. 132), together with by-law 34, imposes a mandatory requirement on the court to order the forfeiture of hawker equipment and commodities in the case where a person is convicted of a contravention of any of the following provisions---

- (a) hawking in a street without or not in accordance with a licence (section 83B(3));
- (b) hawking in the Regional Council area without or not in accordance with a licence (by-law 4(1));
- (c) cooking or heating any food or possessing a cooking stove or heating apparatus intended for cooking or heating food for the purposes of hawking without or not in accordance with a licence (by-law 4(3));
- (d) using a fixed pitch or a wall stall without being the holder of a fixed pitch hawker licence (by-law 8A(1));
- (e) hawking from any place other than that to which a fixed pitch hawker licence relates (by-law 8A(2));
- (f) using a pitch that is demarcated in visible form without having all of his wares, utensils, showboards and equipment placed within the boundaries of the pitch so demarcated (by-law 26);
- (g) hawking inside a hawker restricted area without permission to hawk therein (by-law 32(6)).

3. The effect of the repeal of by-law 34 will be that mandatory forfeiture will no longer apply in respect of a conviction for any of those particular hawker offences. However, by virtue of section 86A(1)(b), the court must still order forfeiture in

those or any other hawker offences unless it finds and specifies special reasons not to do so, which reasons shall be special to the facts of the case and not special to the offender as distinct from the offence.