

L. N. 102 of 1999

HAWKER (URBAN COUNCIL) (AMENDMENT) BYLAW 1999

(Made by the Provisional Urban 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 58 of the Hawker (Urban Council) By-laws (Cap. 132 sub. leg.) is repealed.

Gregory H. FU

Secretary, Provisional

Urban Council

13 April 1999

Explanatory Note

This Bylaw repeals by-law 58 of the Hawker (Urban 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 58, 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 any of the following hawker offences---

- (a) hawking in a street without or not in accordance with a licence (section 83B(3));
- (b) hawking a commodity or service not specified in his licence (by-law 5(2));
- (c) cooking or heating any food or possessing a cooking stove or heating apparatus intended for cooking or heating food without or not in accordance with a licence (by-law 5(3));
- (d) hawking outside the hawker permitted area to which his licence relates (by-law 22(1));
- (e) hawking inside a hawker permitted area restricted to licensees of a class other than that to which the licensee belongs (by-law 22(2));
- (f) using a fixed pitch without being the holder of a fixed-pitch hawker licence (by-law 36(1));
- (g) hawking from any place other than that to which his fixed-pitch hawker licence relates (by-law 36(2));
- (h) using a fixed pitch without having all of his commodities and equipment placed within the boundaries of the pitch (by-law 48).

3. The effect of the repeal of by-law 58 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 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.