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**Paper for the House Committee meeting
on 12 November 1999**

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

Purpose

This paper reports on the deliberations of the Bills Committee on Provision of Municipal Services (Reorganization) Bill.

Background

2. Following the Review of District Organizations, the Administration has decided that the two Provisional Municipal Councils (PMCs) should be dissolved after the terms of office of the incumbent members expire on 31 December 1999. The Government will from 1 January 2000 resume responsibility for the delivery of municipal services, including all functions relating to food safety and environmental hygiene, as well as the main responsibilities for leisure and cultural services.

3. A new policy bureau and two new departments will be set up to undertake these responsibilities from 1 January 2000. Two non-statutory advisory bodies will also be established to advise Government on food safety and environmental hygiene, and culture and heritage matters respectively. To effect the reorganization, the Administration has proposed an omnibus bill to repeal and make necessary amendments to existing legislation concerning the PMCs. Amendment to about 58 ordinances and roughly 100 subsidiary legislation are proposed in the Bill.

4. Two other bills have also been introduced into the Legislative Council to amend the membership of two existing statutory bodies for arts and sports, i.e. the Arts Development Council and Sports Development Board. These Bills are now under the scrutiny of two separate Bills Committees.

The Bill

5. The Bill seeks to provide for -

- (a) the transfer of all existing property, rights, liabilities, functions and powers of the PMCs to the Government or designated public officers;
- (b) the repeal of the Provisional Urban Council Ordinance (Cap. 101) and the Provisional Regional Council Ordinance (Cap. 385);
- (c) the establishment of a new Liquor Licensing Board and a Licensing Appeals Board in place of existing boards and committees under the PMCs performing similar licensing and review functions;
- (d) the establishment of a Municipal Services Appeal Board in place of the existing Urban Services Appeal Board and Regional Services Appeals Board;
- (e) a new fee-setting mechanism for various fees and charges related to municipal services;
- (f) the amendment of certain provisions in the Public Health and Municipal Services Ordinance (Cap. 132) and its subsidiary legislation, and the repeal of duplicate subsidiary legislation;
- (g) various transitional provisions and savings to maintain legal and administrative continuity; and
- (h) consequential amendments in related ordinances and subsidiary legislation.

6. The Bill contains 13 clauses and seven Schedules. The 13 clauses in the Bill provide for the dissolution of the two PMCs and the transfer of functions, property, rights and liabilities of the PMCs to the Government as from the appointed day. There are also savings provisions to preserve the subsidiary legislation and fees and charges in force before the amendments made in Schedules 1 to 7 come into operation. The liability for offences against a repealed enactment and the power to prosecute offences committed under a repealed enactment are also preserved. Schedules 1 to 7, which contain about 950 clauses, give details of the amendments to various ordinances and subsidiary legislation affected by the reorganization.

The Bills Committee

7. At the House Committee meeting on 30 April 1999, a Bills Committee was formed to study the Bill. Chaired by Hon Andrew WONG, the Bills Committee has held a total of 29 meetings (equivalent to 38 two-hour sessions) with the Administration, including one meeting to receive views from incumbent members of the two PMCs and deputations.

8. The membership list of the Bills Committee is in **Appendix I**. A list of persons and organizations that have given views or submissions to the Bills Committee is in **Appendix II**.

Deliberations of the Bills Committee

9. The Bills Committee agreed from the beginning not to debate the issue as to whether the two PMCs should be dissolved, since this had been thoroughly discussed on various occasions in the Legislative Council (LegCo) and its Panels before and during the consultation period on the Review of District Organizations. The Bills Committee has noted that some members, including Members belonging to the Democratic Party and some Members who are also members of the PMCs, are strongly opposed to the substitution of the Government in place of the PMCs for the delivery of municipal services. However, given the extensive scope of the Bill and the fact that a new structure will need to be put in place when the term of office of PMC members expires on 31 December 1999, the Bills Committee has agreed to adopt a pragmatic approach by confining its discussion to “operational” policy issues related to the Bill, as well as the merits, rationale and legal effect of the detailed provisions therein. The Bills Committee has scrutinized the Bill in detail, and the main points of its deliberations are summarized below.

Main clauses in the Bill

Transfer of authority

10. Members of the Bills Committee are very concerned whether the main clauses in the Bill can adequately effect the transfer of authority from the PMCs to the Government. They have specifically sought clarification on the legal effect of clauses 4, 5 and 6 of the Bill, as well as the legislative and administrative arrangements required for the transfer of powers from the “former authority” to the “new authority”.

11. In this connection, the Administration has explained that the transfer of functions is effected by specific statutory amendments in Schedules 3 to 7 of the Bill. In relation to a particular function, the Bill only changes the person who is authorized to perform the relevant function. If the former authority has delegated any of its statutory powers which is to be transferred to the new authority, such delegation is preserved by clause 8(2)(e) of the Bill, as long as it is consistent with the Bill. It is therefore not necessary to arrange for gazette notice of the delegation of authority thus saved. The Bills Committee has also noted that the proposed Third and Sixth Schedules of the Public Health and Municipal Services Ordinance (Cap. 132) in Schedule 3 of the Bill set out the new designated authorities for carrying out different statutory functions, and for initiating proceedings for offences, under the said Ordinance.

Validity and continuity of contracts after the transfer

12. Members of the Bills Committee have expressed serious concern that there should be no legal uncertainty or ambiguity in the transfer provisions of the Bill to avoid unnecessary litigation over contractual obligations and liabilities after the transfer. Some members have asked whether the Bill has provided for re-negotiation of contracts and claims for compensation by parties to the contract or by a third party affected by the contract. These members are concerned that the transfer of authority may constitute a change in contract terms or circumstances, and the other party of the contract may have a claim to rescind or re-negotiate the contract previously signed with a municipal council.

13. The Administration has stressed that the purpose of the transfer provisions is to preserve the validity of contracts to maintain continuity of municipal services to the public after the transfer. The Administration has reassured members that the provisions of the Bill adequately deal with the transfer arrangements. By virtue of clauses 4, 5 and 6 of the Bill, the property, rights and liabilities of PMCs will be transferred to the Government, and that the rights of the contracting parties and the third parties are preserved. The legal rights and obligations of the contracting parties as well as the terms and conditions are not changed by the substitution of Government as the contracting party. Clause 5(3) expressly provides that Government may be sued for those liabilities inherited from PMCs and that they can be recovered from the Government. Clause 5(6) also provides that any legal claims against a municipal council may be continued or enforced against the Government. The Administration has advised that the different legal status of the Government from that of a statutory body in terms of liability is irrelevant as the liability was incurred by the PMCs in such capacity.

14. In response to members, the Administration has confirmed that the Bill does not give either the Government or the other party the right to discontinue or re-negotiate the terms of the contracts. The substitution of the Government for the PMCs as a contracting party does not give rise to a breach of a contract condition or a situation of loss for which damages are payable. However, the Bill does not prevent parties from varying or rescinding the contracts by mutual agreement. The legal position is similar to the substitution of the PMCs for the Municipal Councils on 1 July 1997. The Administration has acknowledged that some existing contracts signed by the PMCs (such as contracts commissioning performances by performing arts companies) do contain provisions against the assignment of rights and liabilities without the written consent of the other party. However, the Administration considers it unlikely that the other party would wish to rescind the contract upon the transfer of contractual rights and liabilities to the Government.

15. The Bills Committee has noted that about 260 and 597 contracts respectively are now under processing by the Provisional Urban Council and Provisional Regional Council and which will likely take effect or continue in force after 31 December 1999. For avoidance of doubt, the Administration will move a CSA to clause 5(1) and clause 8(2)(e) to expressly save those agreements and licences signed by the PMCs before 1 January 2000 which would take effect on or after that date.

16. On ownership of intellectual property, the Administration has advised that it will depend on the terms of the contract signed with the artists or companies by the PMCs. If PMC is the employer, it acquires the ownership of the piece of work produced. Clause 6(c) of the Bill specifically saves the rights held by PMCs in relation to trademarks, copyright and other intellectual property. In other words, the Government will become the owner of all such intellectual property of the PMCs including armorial bearings of the PMCs.

17. With regard to the transfer of property, the Administration has advised that PMCs do not hold any land titles. Under clauses 4, 5 and 6 of the Bill, the Government will become entitled to any property, rights and legal claims of the PMCs including the contractual fees and charges due to the PMCs. Responding to some members' concern that Government may change the land use of certain PMC facilities after the transfer, the Administration has assured members that Government will consult affected parties and District organizations should there be any proposed changes.

18. Concerning the employment contracts signed by the PMCs, the Administration has confirmed that these are also preserved under clauses 4 and 5(1) of the Bill. The Administration has assured members that the terms and conditions of those employees whose service is still needed will be no less favorable than those provided for under the Employment Ordinance and Employees Compensation Ordinance.

Repeal, amendment and renaming of enactments

19. The Bills Committee notes that upon dissolution of the two PMCs, the Administration will adopt a unified set of bylaws for the delivery of municipal services in urban areas and in the New Territories. In general, the Administration has selected the more comprehensive version among the two of the Bylaws of the PMCs under the Public Health and Municipal Services Ordinance (Cap. 132) for adoption. The selected Bylaw will be renamed and called regulations, and suitably amended to reconcile some existing differences between the two PMCs, while the other Bylaw not adopted will be repealed under clause 7 of the Bill.

20. The Bills Committee notes that the deletion of four Bylaws under Cap. 132 are proposed in the Bill as they are either obsolete or already covered by other enactments. These Bylaws currently only apply to the Urban Council area and have not been invoked in recent years. These are -

- Basements (Urban Council) Bylaws;
- Mosquito Prevention (Urban Council) Bylaws;
- Ventilation (Urban Council) Bylaws; and
- Wells and Water Storage (Urban Council) Bylaws.

21. The Bills Committee has sought clarification from the Administration on the background and reasons for repealing these Bylaws and whether other enactments can adequately deal with situations to which the repealed provisions may still apply. The

Administration has provided written responses in this connection and confirmed that the proposed repeal is appropriate and in order. The Administration will also move CSAs to address some inadvertent omissions in other parts of Cap. 132 and in the new regulations in connection with the repeal of the four Bylaws as identified by the Bills Committee.

Continued offences under a repealed enactment

22. With regard to the transitional provisions on offences in clause 10, members have raised queries on how continuing offences under a repealed enactment will be dealt with on or after 1 January 2000. The Administration has advised that all proceedings in respect of offences committed under an enactment repealed by this Ordinance before the repeal comes into effect may be commenced or continued on or after 1 January 2000, as long as there is a corresponding enactment. In other words, if the relevant act of an offence is committed under a repealed bylaw before 1 January 2000 and the act is continued beyond 1 January 2000, the defendant is liable for an offence under a technically different law. The new authority can therefore still initiate or continue proceedings for such offences.

23. A member has expressed concern that as the Administration has generally adopted the more comprehensive and stringent version among the two in aligning the different Bylaws, some conduct which was originally not unlawful under an existing Bylaw may become unlawful after the re-alignment exercise. Senior Assistant Legal Adviser has advised that if a new offence is created by the new provision, an act or omission will be an offence only if it takes place after the provision comes into effect. With regard to the penalty of a continued offence, Senior Assistant Law Draftsman points out that, under section 101J of the Criminal Procedures Ordinance (Cap. 221), an offender is liable to the penalty prescribed at the time of the offence if the penalty level has been amended between the time the person committed an offence and the time of his conviction. However, if a lighter penalty has been imposed by the new provision, the court will normally take account of the new penalty level when giving sentence. The Administration has added that the existing penalty levels are preserved during alignment of the two Bylaws under Cap. 132.

24. To remove any doubt about the application of clause 10, the Administration has accepted the Chairman's suggestion and improved its drafting, to make it clear that the repealed legislation will only apply to offences committed before the repeal, and that the new corresponding enactment will apply to a continuing offence or offences committed after commencement of the new enactment.

25. On the question of whether there will be a vacuum period during which existing enactment has been repealed but corresponding enactment has not come into operation, the Administration has advised that the proposed Ordinance and the repeal will take effect at the same time on 1 January 2000. A grace period will however be given for compliance with some aligned Bylaws, for example, Commercial Bathhouses Regulation, which will bring commercial bathhouses operating in the Provisional Regional Council area under the same licensing regulation currently applied only to commercial bathhouses in urban area.

Power of Chief Executive in Council to make consequential, transitional and savings provisions

26. Some members have sought clarification as to whether clause 11, which seeks to amend the Ordinance by way of an order, instead of an amendment bill, is a common practice. The Administration has explained that there are similar provisions in other legislation, and that it is not uncommon to have an order, which is subsidiary legislation subject to LegCo approval, to amend an ordinance in the laws of Hong Kong. The purpose of clause 11 is to make additional consequential amendments and transitional and savings provisions which may become necessary as a result of the repeal and amendments contained in the Bill. For example, consequential amendments will be necessary to amend subsidiary legislation newly made by the PMCs before the Bill comes into operation. In this respect, the Administration has assured members that LegCo will have the opportunity to examine whether the amendments made under clause 11 are truly consequential when they are introduced into LegCo by way of positive resolution procedure.

27. A member points out that the scope of clause 11 as presently drafted will not be limited to such amendments. To address members' concern, the Administration has agreed to redraft clause 11 to make it simpler in presentation to show its limited scope. A CSA will be introduced to achieve this.

Schedules 1 and 2

28. Members have noted that Schedules 1 and 2 provide for the adoption, renaming and repeal of certain subsidiary legislation made under the Public Health and Municipal Services Ordinance, Cap. 132, as a result of the reorganization. The Administration has intended that the repeal and renaming will take effect from 1 January 2000.

Schedule 3

Fees and charges

29. The Bills Committee has noted that the PMCs now charged about 900 fees and charges (excluding admission charges for some 2000 cultural programmes) and these will come under general revenue after the reorganization. Clause 9 of the Bill saves the fees and charges immediately in force before the reorganization, including the different pricing levels of the two PMCs. The Administration has proposed to preserve the pricing levels until they are revised, and the realignment exercise is expected to complete in two years.

30. Members have expressed serious concern and have detailed discussion with the Administration on the future fee-setting mechanism as set out in paragraph 63 of Schedule 3 in the Bill. The Administration has proposed that fees and charges for licensing and regulatory schemes, which are mainly related to food and environmental hygiene services and based on cost-recovery principles, will be prescribed in

regulations made by the relevant Policy Secretary and subject to negative vetting by LegCo. As for the other fees which are mainly admission charges/course fees for cultural and recreational programmes and hire charges of venues, they are to be determined by the future Director of Leisure and Cultural Services, subject only to the approval of the Financial Secretary. According to the Administration, these fees are often based on a “market-oriented” approach and set at heavily subsidized levels on policy considerations for promoting art, culture and sports. In view of the large volume and enormous diversity of such charges, the Administration considers it difficult for LegCo to vet and determine these fees on each occasion.

31. While most members have no objection to the proposed fee-setting mechanism for licensing and regulatory schemes in relation to food and environmental hygiene services, some members have expressed strong reservations about the mechanism for determining fees for cultural and leisure services. These members are concerned that Government will progressively increase the fee level of cultural and leisure services with the ultimate aim of full cost recovery. They are strongly of the view that, if the PMCs are to be dissolved, a mechanism should be put in place to enable a council with elected members, such as the LegCo, to vet and monitor price levels for those services. Members belonging to the Democratic Party have suggested a two-tier system whereby LegCo can vet and approve such fees and charges above a prescribed subsidy level, while the other fees can be determined by the Director of Leisure and Cultural Services subject to the approval of the Financial Secretary. Some other members have suggested enlarging the category of fees and charges which will require negative vetting by LegCo. Members have also requested the Administration to undertake that the present fee levels will be preserved for two years after reorganization.

32. The Administration has responded that it will follow the well-established policies for setting fees and charges according to the nature of services. It also assures members that it will continue to subsidize leisure and cultural services and will ensure that the price levels are kept at reasonable levels. The existing pricing levels will be preserved while a review will be carried out to reconcile the existing differences between the two PMCs in two years. On the involvement of LegCo in the fee-setting mechanism, the Administration has undertaken to consult relevant LegCo Panels on changes to the fee-setting mechanism, including contracting-out and corporatization schemes that will require a degree of autonomy of fee-setting by the operators. The Administration will also discuss with Panels the pricing policy before any major fee review.

33. The Administration however considers it impractical to prescribe subsidy levels by legislative means as the subsidy levels are often the result of an interplay of various factors such as costs and patronage. Moreover, flexibility has to be provided to operators and the new Department for the setting of admission fees and programme charges for leisure and cultural programmes to encourage initiatives and respond to rapid market changes. To address members’ repeated request that fees for certain basic leisure and cultural services should be subject to negative vetting by LegCo, the Administration has finally agreed that those fees and charges for venues and facilities which are widely used by individual members of the public will be prescribed in

regulations to be approved by LegCo by way of negative vetting. Examples under this category include admission fees to public swimming pools and hire charges for tennis courts and football pitches. The other fees, including charges for commercial purpose and use by organizations, will be determined administratively by the new Department subject to the approval of the Financial Secretary. Committee stage amendments will be moved by the Administration to this effect. The Bills Committee welcomes the revised proposal.

34. Some members of the Bills Committee have expressed concern that there should be a mechanism to enable reduction of market rentals at times of economic downturn to help the stall-holders tide over difficult times. These members have suggested that market rentals may be included in the category of licences and permits so that they are also subject to the LegCo negative vetting procedure. The Administration has responded that market rentals are commercial charges which are set at market rates. It is not feasible to prescribe market rentals in the form of subsidiary legislation as the rates can be determined by tender, auction, contract or commercial negotiation.

Division of responsibilities on food and drug matters

35. Members of the Bills Committee have urged the Administration to have a clear delineation of responsibilities under the new structure for the control of food and drugs. As one principal objective of the reorganization is to improve co-ordination and to streamline the existing structure with regard to food and environmental hygiene matters, members have inquired how the proposed structure can effectively achieve the objective. They have expressed particular concern about the regulation of Chinese herbal tea and health food composing of Chinese medicine, and the control of communicable food-borne diseases such as Avian flu. In this respect, members have urged the Administration to expedite actions to put in place an effective regulatory framework for these products to ensure their safety. Members belonging to the Liberal Party have also suggested the establishment of a single authority, modeled on the Food and Drug Administration in the United States, for the control of food and drug.

36. To allay members' concerns, the Administration has provided written responses and flowcharts to show the procedures and proposed division of responsibilities for the control of food and environmental hygiene. It has assured members that the new structure will improve co-ordination with the proposed Environment and Food Bureau assuming overall co-ordination and policy responsibilities for food safety and environmental hygiene. The new Food and Environmental Hygiene Department, the Agriculture and Fisheries Department (now under Economic Services Bureau) and Environmental Protection Department (now under Planning, Environment and Lands Bureau) will be placed under the new Bureau for carrying out these responsibilities. The proposed structure will provide leadership at a senior level to enhance the capability in dealing promptly and effectively with food incidents. A proactive approach will also be adopted for the food surveillance programme and public education on food risks.

37. The Administration has advised that an inter-departmental liaison group will also be established to co-ordinate actions and facilitate exchange of information in dealing with problems relating to public health, food safety and the environment.

38. The control of drugs will continue to be dealt with by the Health and Welfare Bureau and the Department of Health. Where necessary, regulatory control of a product can be taken by both Bureaux and Departments according to the power vested in relevant legislations.

39. Concerning the regulation of Chinese herbal tea, the newly enacted Chinese Medicine Ordinance (Cap. 546) will provide a statutory framework to regulate the practice, use, trading and manufacture of Chinese medicines (which includes Chinese herbal tea), upon commencement of the relevant part of the Ordinance. As for health food with medicinal claims or containing pharmaceutical components, they are regulated by the Pharmacy and Poisons Ordinance (Cap. 138) which is under the purview of the Department of Health. To ensure that there is adequate control of health food and other new food products, the Administration is closely monitoring international developments and will make necessary changes to the regulatory framework.

Savings and benefits arising from the reorganization

40. Members of the Bills Committee are concerned about the possible savings and benefits to be derived from the re-organization. The Bills Committee has sought a briefing from the Administration on the new framework for delivering municipal services after dissolution of the two PMCs. Members have inquired about the future organizational structure, the proposed staff establishment and deployment of posts, staff savings and arrangements for surplus staff. The Administration has advised that the structural change will bring about better co-ordination, focused strategic planning and clearer delineation of responsibilities for funding and delivery of municipal services. The proposed structure will also enhance accountability and cost-effectiveness in the delivery of these services, and LegCo will be able to monitor the services provided through approval of budgets and scrutiny of legislative proposals.

41. Members have noted that a total annual notional saving of about \$700 million will be brought about by streamlining of staffing structure, institutional efficiency and economies of scale. Some members have sought clarification on the calculation of the estimated savings and the Administration has undertaken to provide details for discussion by the Finance Committee.

42. In response to some members, the Administration has advised that the surplus staff are mainly general grades and common grades staff and they will be re-deployed to other departments upon reorganization. Their terms of employment will remain unchanged. A few other surplus posts will be deleted through natural wastage.

Amendments to subsidiary legislation under Cap. 132

43. The Bills Committee has scrutinized in detail the provisions in Schedule 3 amending the various subsidiary legislation under the Public Health and Municipal Services Ordinance (Cap. 132). Many of these provisions involve the transfer of authority from PMCs to the relevant government department(s) or bureau(x) for carrying out specific statutory functions. Members have noted that the Administration has taken the opportunity to delete some obsolete provisions and to update certain provisions to bring them in line with existing or new enactments. Amendments are also proposed to reconcile existing differences between the subsidiary legislation made by the two PMCs.

44. In the course of examination of individual provisions under the proposed regulations, members have identified some omissions and inconsistencies on which the Administration has agreed to move CSAs. Members have also discussed with the Administration the legislative intent and the future policy on a number of issues. These include the public markets and rental policy, control of hawkers, licensing of food business, food hygiene standards, posting of bills and billboards, and restrictions over the use of libraries, museums, public conveniences, and pleasure grounds, etc. The Administration has advised that the existing policies of the two PMCs will be preserved after the reorganization, and the new Bureau and Departments will review the policies to re-align the existing differences where appropriate. In this respect, the Administration has re-assured members that the relevant LegCo Panels will be consulted on any policy reviews after reorganization. In aligning the differences, the Administration will carefully consider the implications on the trade and parties which are currently not subject to any regulation or restriction. For example, commercial bathhouses in the New Territories which are at present not subject to any licensing control will be given a grace period of two years to comply with the new regulatory framework.

45. Some members have also made specific suggestions to remove obsolete or redundant provisions governing public meetings and assemblies, and the prohibition of insufficient clothings, in government crematoria, public swimming pools, bathing beaches and civic centres. These members have also proposed to remove the restriction on the erection of statute or sculpture on pleasure grounds, and to standardize the age limit for application of certain licences in line with other relevant legislation. Clarification has been sought on the hygiene standards for public and private swimming pools, the control of clubhouses, the proposed height/age restriction for entering changing rooms of the other sex, and Government's exemption from liability of losses and damages. The Administration has agreed to most of these suggestions made by members and will move CSAs to address these concerns. A summary of the proposed amendments to the subsidiary legislation of Cap. 132 is given in **Appendix III**.

Licensing Appeals Board

46. Members have noted that a new Licensing Appeals Board (LAB) will be established to hear appeals against licensing decisions made by Director of Food and Environmental Hygiene and Director of Leisure and Cultural Services under Cap. 132. This will replace the existing review mechanism of the PMCs under section 125(9) of Cap. 132 to review licensing conditions made by the existing municipal services departments on behalf of the PMCs. The LAB, comprising unofficial members, is intended to be a less formal first-tier appeal mechanism to avoid overburdening the future Municipal Services Appeal Board (MSAB) with too many appeal cases. The provisions governing the membership, functions and powers of LAB are given in section 66 of Schedule 3 in the Bill.

47. Some members are concerned that the proposed LAB may not be able to cope with the enormous workload with its small membership (a Chairman and 14 members). Members have raised queries on its operation, for example, the quorum requirement, grounds for rejection of appeals and appointment of legal adviser. To address members' concerns, the Administration has agreed to move CSAs to provide a Vice-Chairman to LAB to share out the workload of the Chairman, and to set out more clearly its functions, quorum requirements and the requirement to give reasons in writing for its decisions in order to ensure fair hearings.

48. In response to members, the Administration has advised that the existing functions of the Review Committees of the two PMCs have been covered by the proposed LAB except certain appeals relating to termination of market stall tenancies. Some members are of the view that there should be an appeals channel to deal with such cases. The Administration has considered the suggestion and concluded that LAB's role is confined to handling appeals against licensing decisions and should not be broadened to cover appeals against administrative decisions. However, the Municipal Services Appeal Board (MSAB) can be asked to determine appeals against termination of a market stall agreement (see paragraph 53 below).

Schedule 4 -Municipal Services Appeal Board

49. Schedule 4 of the Bill sets out the amendments to the Municipal Services Appeals Boards Ordinance (Cap. 220). The Administration has proposed to merge the two existing Municipal Services Appeals Boards under the PMCs into a single board chaired by a legally qualified person to deal with appeals against decisions of the LAB, the Liquor Licensing Board (LLB) and other decisions made under Cap. 132 and Places of Public Entertainment Ordinance (Cap. 172).

50. Members have noted that there is no change in the board composition except that the attendance of a PMC member will cease in future. In this connection, some members have suggested inclusion of District Council (DC) members, as representatives of community opinions, in place of the PMC member. This will also enhance the role of DC members and increase district participation in managing environmental affairs in the District. The Administration has responded that at

present 7 out of 21 existing MSAB members are District Board members and the same practice will continue. As the PMC member on MSAB is to advise on the relevant policies of the PMCs, the Administration considers that DC members will not be in a position to substitute PMC members and perform the same role. A conflict of interest situation may also arise if the DC member knows the appellant or has dealt with the case before. Despite the Administration's explanation, some members maintain the view that MSAB should include some DC members and will propose CSAs by themselves. To overcome practical difficulties in appointing DC members to the Board, the Chairman of the Bills Committee has suggested a roster system of appointing only the Chairmen and/or Vice-chairmen of the DCs to the MSAB.

51. Some members have also raised concern about overlapping membership of the different appeals boards. The Administration has pointed out that section 6 of Schedule 4 specifically excludes a person from MSAB if he has been involved in making the relevant administrative decision or the appeals decision. The Administration has also acknowledged an oversight in the drafting of section 7 and will move a CSA to specify that both the Chairman and Vice-chairman of MSAB should be legally qualified.

52. Members have strong reservations about the proposal that government departments as licensing authority can also make use of MSAB to appeal against the decisions of the Liquor Licensing Board and Licensing Appeal Boards. They consider the arrangement unfair to the other party and an inappropriate use of resources. The Administration has accepted members' views and will introduce CSAs to remove the licensing authority's right of appeal to MSAB.

53. The Administration has also accepted members' suggestion to expand the scope of MSAB to cover termination of market stall tenancy cases. As regards dispute over market stall rentals, the Administration maintains its position that it is inappropriate for MSAB to handle these cases which require expert knowledge on assessment of open market rents.

Schedule 5 - Liquor Licensing Board

54. Schedule 5 of the Bill sets out the amendments to the Dutiable Commodities Ordinance (Cap. 109) and the Dutiable Commodities (Liquor) Regulations. It replaces the two existing liquor licensing boards under the PMCs by a new Liquor Licensing Board (LLB) comprising a Chairman and 10 members appointed by the Chief Executive to issue liquor licences. Some members have expressed concern that the proposed membership size of LLB is insufficient to cope with the large number of new applications and pending applications awaiting decision of the existing liquor licensing boards of PMCs. These members have suggested the Administration increase the number of members or consider setting up several panels to share out the work. To ensure fair hearings, some members have suggested that the decisions of LLB hearings should be made by the same members who sit through the hearings. In this connection, the quorum requirement for hearings may be adjusted.

55. The Administration has advised that in 1998, the two LLBs of the PMCs processed a total of 4,830 applications and most of them (about 4,660) are straightforward cases. To address members' concerns, the Administration has proposed a number of improvements to the operation of the new LLB. These include:

- empowering the Board to delegate its power and functions to a public officer, a member or a committee of the Board to deal with the straightforward applications and renewal cases;
- adding a Vice-chairman to the composition of the Board to deputize for the Chairman in his temporary absence;
- providing flexibility for the LLB to hold meetings as often as necessary; and
- specifying that the quorum for LLB meetings is not less than half of the members.

56. The Administration has maintained the view that a lower quorum requirement is inappropriate for the purpose of hearing contested applications, and that a single board is preferred to smaller panels for the same reason. Some members do not entirely agree with the Administration's revised proposals, considering that the quorum requirement may present difficulties in ensuring fair hearings. They have also suggested inclusion of DC members in the LLB. These members will consider moving CSAs by themselves.

Schedules 6 and 7

57. Members have noted that Schedules 6 and 7 set out mainly technical amendments to relevant ordinances and subsidiary legislation arising from the dissolution of PMCs and transfer of authority. The Administration will move CSAs to address some omissions and to improve clarity and presentation.

Committee Stage amendments

58. After discussion with the Bills Committee, the Administration has accepted a number of members' suggestions and agreed to move Committee Stage amendments (CSAs) to that effect. These CSAs cover technical amendments and improvements to various provisions in the Bill including those governing the fee-setting mechanism, the Licensing Appeals Board, Liquor Licensing Board and Municipal Services Appeals Board. The Bills Committee has considered four sets of CSAs proposed by the Administration, and a consolidated list is given in **Appendix IV**.

59. The Bills Committee has also considered moving CSAs to change the name of the proposed Food and Environmental Hygiene Department to Food and Environmental Health Department in response to a submission of the Hong Kong Public Health Inspectors Association. The Administration has advised that the

proposed use of “environmental health” as the name of new Department has exceeded the latter’s scope of responsibilities and will cause confusion to the public and international organizations. After careful re-consideration, the Bills Committee has finally decided not to move CSAs in the name of the Bills Committee. A member has indicated that he will move the CSAs in his own name. As the Administration has accepted many of the Bills Committee’s proposals, the Bills Committee has not proposed other CSAs.

60. Three members of the Bills Committee have indicated that they will separately introduce CSAs to the Bill. The Bills Committee has considered the proposals of two members and the Administration has also indicated support to some of their proposed amendments. The proposed CSAs of a third member will be discussed by the Bills Committee on 12 November 1999.

Resumption of the Second reading debate

61. The Administration intends to resume Second reading debate of the Bill on 1 December 1999.

62. Further report will be made to the House Committee on 19 November 1999 as the Bills Committee will consider some members’ CSAs on 12 November 1999.

63. Members are requested to note the Bills Committee’s deliberations as above.

Legislative Council Secretariat
11 November 1999

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

Membership list

Hon Andrew WONG Wang-fat, JP (Chairman)
Hon Kenneth TING Woo-shou, JP
Hon HO Sai-chu, JP
Hon Cyd HO Sau-lan
Hon LEE Wing-tat
Hon Fred LI Wah-ming
Hon Ronald ARCULLI, JP
Hon James TO Kun-sun
Hon Ambrose CHEUNG Wing-sum, JP
Hon CHAN Wing-chan
Hon CHAN Kam-lam
Hon Jasper TSANG Yok-sing, JP
Hon Howard YOUNG, JP
Hon YEUNG Yiu-chung
Hon CHOY So-yuk
Hon FUNG Chi-kin
Dr Hon TANG Siu-tong, JP

Total : 17 members

Date : 14 May 1999

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

**List of persons and organizations
that have given views or submissions to the Bills Committee**

1. 青衣市政街市商戶聯合會
2. 持牌小販協進會
3. Hong Kong Vegetable Food & Grocery Hawkers Welfare & Fraternity Association Limited
4. Association of Hong Kong Bar & Pub Business Limited
5. Hong Kong Association for the Rights of Karaoke Entertainment & Catering Business
6. Provisional Urban Council
7. Urban Council's caucus of the Democratic Party
8. Regional Council's caucus of the Democratic Party
9. Sports Federation & Olympic Committee of Hong Kong
10. Hong Kong Public Health Inspectors' Association
11. Government Recreation and Sport Service Staff Union
12. Provisional Regional Council
13. 關注市政兩署改組工會聯席會
14. 225 signed petitions from market stall operators against the setting of rental levels of public market stalls by a government department

**The Administration's Response to
Proposed Amendments to Subsidiary Legislation of Cap.132
raised by Members of Bills Committee**

Regulation	Adopted version	Section	Proposed Amendments	Meeting concerned	Remarks
Advertisement Regulation	N.A.	11	To consider whether part of the section (which prohibits the erection of signs obstructing means of escape or interfering with road traffic) will be retained	15.9.99	Part of the section in respect of the power to remove signs causing obstruction to road traffic would be retained. Repeal of the remaining part is agreed as adequate power has been provided under the Fire Services Ordinance (Cap.95) to deal with obstructions to means of escape.
		5(2), 13	To review whether the definitions of "occulting sign" & "neon sign" adequately cover new substances now used for advertisements	15.9.99	Consultation with other departments underway.
Bathing Beaches Regulation	UC	13	To delete the section which prohibits public meetings and assemblies in any bathing beach except with the permission of the Director	15.9.99	Agreed. Administration will introduce a CSA.

Regulation	Adopted version	Section	Proposed Amendments	Meeting concerned	Remarks
Civic Centres Regulation	RC	11(b)	To delete the provision which empowers the manager to refuse entry of persons who is indecently or insufficiently dressed	17.9.99	Agreed. Administration will introduce a CSA.
Cremation and Gardens of Remembrance Regulation	UC	15(c) and (h)	To delete the provisions governing public meetings and clothings in Government crematorium	17.9.99	Agreed. Administration will introduce a CSA.
		22(c) and (h)	To delete the provisions governing public meetings and clothings in garden of remembrance	17.9.99	- ditto -
Food Business Regulation	RC	28	To provide further information on the purpose of the proposed amendment and the legal effects concerning the area of water where collection of shell fish is prohibited	17.9.99	Bylaw 29 of the Food Business (UC) Bylaws has already become obsolete after series of reclamation in the Kwai Chung area. We will introduce a CSA to amend "Harbour" to read as "harbour" which is defined in Cap. 1. By combining the descriptions of waters under s.28(a) and (b), the area stipulated in UC Bylaws would be covered.
		31	To consider re-inserting "accidentally defaced" in relation to the issue of duplicate licence	17.9.99	Agreed. A CSA will be introduced to put back the phrase.

Regulation	Adopted version	Section	Proposed Amendments	Meeting concerned	Remarks
		34(a)	To explain why more stringent licensing conditions are adopted, e.g. “deviation” instead of “material deviation” from plans is adopted in section 34.	17.9.99	S.34D describes precisely the scope of deviation. As such, the qualifying word “material” is considered unnecessary.
Frozen Confections Regulation	UC	16	To consider whether hawkers of frozen confections are required to wear uniforms and display numbers	17.9.99	This requirement is obsolete. Administration will introduce a CSA to delete the section.
		19	To consider re-inserting such provision as s.18(1)(i) of the RC Bylaws as one of the licensing requirements. This provision prohibits the manufacture and storage of frozen confections near soil fitments or latrine fitments	17.9.99	Agreed. A CSA will be put up to this effect.
Funeral Parlours Regulation	RC	5	To consider deleting “under the age of 21 years” as a condition for refusal and revocation of licence	17.9.99	We consider that a minimum age should be stipulated, and this should be lowered to 18. The same will apply to s.7 of the Places of Amusement Regulation and the Undertakers of Burials Regulation. CSAs will be put up to amend the age limit in these Regulations.

Regulation	Adopted version	Section	Proposed Amendments	Meeting concerned	Remarks
Libraries Regulation	RC	N.A.	To rename the Regulation as “ Public Libraries Regulation ”	22.9.99	Libraries governed by the Regulation are clearly defined. There is no practical need to introduce the proposed amendment.
		33(4)	To review the necessity to include provision regarding absolute exclusion of liabilities for loss or damage of articles deposited in cloakroom		We have no objection to remove the provision and will put up a CSA for Members’ consideration.
		34A	To repeal the restriction on taking of writing implements into any library	22.9.99	Agreed. Administration will introduce a CSA.
Declaration of Markets Notice	RC	N.A.	To set out the complete list of markets in both Chinese and English	22.9.99	The Declaration of Markets Notice will be updated to include three new markets and to delete one market no longer in use.

Regulation	Adopted version	Section	Proposed Amendments	Meeting concerned	Remarks
Milk Regulation	UC	16(1)	To re-insert the provision prohibiting the processing, reconstituting or storage of any milk or milk beverage in any part of the premises containing any soil fitment or latrine fitment as one of the licensing requirements	22.9.99	Agreed. We will put up a CSA for Members' consideration.
		19(1)	To add the phrase "the temperature to which the milk or the milk beverage is subsequently cooled"	22.9.99	Agreed. Administration will introduce a CSA.
Museums Regulation	RC	5	To require museums to open on Sunday and public holidays in the legislation	22.9.99	Members' concerns are noted but there is no need to have this written into the law as s. 5(1) allows the Director to make such arrangements.
		8(6)	To review the necessity to include the provision regarding absolute exclusion of liabilities for loss or damage of articles deposited in cloakroom	22.9.99	We have no objection to remove the provision and will put up a CSA for Members' consideration.

Regulation	Adopted version	Section	Proposed Amendments	Meeting concerned	Remarks
		11	To explain the rationale of the 20% surcharge under section 11	22.9.99	The 20% surcharge is to cover administrative cost involved in the replacement of the item. It is consistent with the Government Store and Procurement Regulations and Financial and Accounting Regulations which stipulate an additional charge of 20% for overheads.
Offensive Trades Regulation	RC	10(1)	To consider whether a grace period should be allowed for introducing additional requirements under section 10(1) in the existing jurisdiction of Provisional Urban Council	22.9.99	The conditions as laid down in section 10(1) of the Offensive Trades Regulation are already provided in By-law 7 of the Offensive Trades (UC) By-laws except section 10(1)(m) which requires “any heating equipment provided is properly installed and, having regard to the nature of the premises, is not likely to be dangerous”. We do not envisage the existing licence-holders in the urban area would encounter any difficulty to comply with this requirement. Therefore a grace period for implementation is not necessary.
		19	To delete the word “absolute” before “discretion”	22.9.99	Agreed. We will put up a CSA for Members’ consideration.

Regulation	Adopted version	Section	Proposed Amendments	Meeting concerned	Remarks
		21	To explain the rationale for setting the age limit at 14	22.9.99	The Employment of Children Regulations, Cap. 57 specifies that children under the age of 15 shall not be employed in the industrial undertaking which includes offensive trade premises. The Administration will introduce a CSA to raise the age limit to 15.
Pleasure Grounds Regulation	UC	14(1)	To consider whether it is necessary to add "hand cart"	22.9.99	On reflection, it is not necessary to add "hand cart". A CSA will be put up to delete the proposed addition.
		20	To delete the addition of "statue or other sculpture" as proposed in section 505 of schedule 3 of the Bill	24.9.99	Agreed. Administration will introduce a CSA.
		28	To delete the section which prohibits public meeting, public discussion, procession, etc.	24.9.99	Agreed. Administration will introduce a CSA.
Private Cemeteries Regulation	UC	9(2)	To consider whether it is necessary to retain the provision in respect of prohibition to leave any coffin or urn deposited on surface of the ground.	24.9.99	Leaving any coffin or urn deposited on the surface of the ground is unsightly and unhygienic, save in so far as may be necessary in the course of disposing of any human remains. Retention of section 9(2) is therefore necessary.

Regulation	Adopted version	Section	Proposed Amendments	Meeting concerned	Remarks
Public Cemeteries Regulation	UC	7A(2A)	To review the drafting of the Chinese version of the provision to provide greater clarity	24.9.99	The Chinese version accurately reflects our drafting intention and corresponds with the meaning of English text. No amendment is considered necessary.
		9	To review the need to retain the section on the exclusion of liabilities for loss or damage to articles	24.9.99	Retention is necessary because in the event of natural disasters such as landslips, whilst the Department would fulfill its management duties by reinstating or relocating damaged graves, it is important that the Government's liability for losses and damages to articles inside or in the vicinity of any grave be excluded from civil action.
Public Cleansing and Prevention of Nuisances Regulation	UC	15	To consider whether a uniform age, say, 14 or 16 should be adopted for section 15 and in other Regulations	24.9.99	Maintaining the age restriction at 16 as set out in the regulation is necessary because the Women and Young Persons (Industry) Regulations, Cap 57, prohibits employment of persons under 16 in dangerous trade or carrying any load exceeding 18 kg.
Public Conveniences (Conduct and Behaviour) Regulation	UC	4	To consider whether the charging provision for use of public latrines is necessary	24.9.99	We have no objection to delete this section. Administration will introduce a CSA.

Regulation	Adopted version	Section	Proposed Amendments	Meeting concerned	Remarks
		5(d)	To consider whether the provision on prohibition on loitering in public conveniences is necessary	24.9.99	In order to have better control over the proper use of public loilets, their management and cleansing, this section should be maintained.
		8	To consider whether the section on prohibition of entry of persons knowingly suffering from communicable diseases is necessary	24.9.99	We have no objection to delete this section. Administration will introduce a CSA.
		12	To consider whether granting exemption to attendants who are carrying out his duties in public conveniences from being subject to the control of the Regulation is necessary	28.9.99	To provide for better management of public toilets and to enable the toilet attendants or assistants to execute their duties effectively, this section should be maintained.
Public Markets Regulation	RC	6	To consider whether “any one person” is appropriate and adequate for the purpose of section	24.9.99	‘Any one person’ is appropriate because under existing practice in the ProRC and PUC areas, a market stall is let to one person only.
Public Swimming Pools Regulation	UC	4(k)	To consider deleting “or so sparsely clad” as being an offence	24.9.99	There has recently been an incident where the pool staff had to remove, under this section, a swimmer who went swimming clad only in underwear and caused considerable embarrassment to other swimmers. We therefore suggest to retain the wording to

Regulation	Adopted version	Section	Proposed Amendments	Meeting concerned	Remarks
					prevent the recurrence of similar situation.
		7	To review the age and height limits for persons being prohibited from entering into dressing rooms of the opposite sexes	24.9.99	Retention of this section is recommended as it prevents children under the age of 8 who may accidentally wander into the deep pool after leaving the changing room, unsupervised by the career. The solution to this problem is to provide family changing rooms in public swimming pools.
Swimming Pools Regulation	UC	6(1)(h)	To consider adding the provision of equivalent latrine accommodation mentioned under s.6(1)(h) of the RC Bylaws, such as “aquaprivies” and “chemical closets”	24.9.99	Agreed. A CSA will be put up to add this phrase to section 6(1)(h).
		N.A.	To consider adopting more stringent licensing requirements contained in the RC Bylaws and to provide a grace period for implementation	24.9.99	We agree to adopt the provisions governing the quality of water in Bylaw 11 of the RC Bylaws. A CSA will be put up for Members’ consideration. We do not envisage the existing licence-holders in the urban area will counter any difficulty in complying with the provisions. As regards control over disinfection of pool water, provision of testing kits and inspection book provided in Bylaws 17(A), 17B and 17C of the RC

Regulation	Adopted version	Section	Proposed Amendments	Meeting concerned	Remarks
					Bylaws, the control can be imposed through licensing conditions and need not be stipulated in the Regulation.
		15	To consider deleting the section which requires the sterilization of bathing costumes and towels supplied to bathers	24.9.99	For protecting public health, the provision has to be retained as some swimming pools provide towels to swimmers.
Undertakers of Burials Regulation	RC	7	To consider removing the age limit of 21 concerning the refusal to grant or revocation of licence	24.9.99	We consider that a minimum age should be stipulated and this should be lowered to 18. A CSA will be introduced for Members' consideration.
		8	To consider improving the drafting of the section adopting the version in the existing UC Bylaws	24.9.99	Agreed. A CSA will be put up for Members' consideration.

Provision of Municipal Services (Reorganization) Bill

Committee Stage Amendments

to be moved by the

Secretary for the Constitutional Affairs

Provision of Municipal Services (Reorganization) Bill
Committee Stage Amendments
to be moved by the Secretary for Constitutional Affairs

Main Clauses of the Bill

- **Licences issued / agreements signed by the Councils before the commencement day to take effect on / after the commencement day**

(Clause 5(1) - C1703)

(Clause 8(2)(e) - C1707)

Proposed CSA : Amending clauses 5(1) and 8(2)(e) to the effect that agreements signed or licences issued by the Councils before 1.1.2000 to take effect on or after 1.1.2000 would be saved.

Remarks : To take into account agreements or licences signed or issued by the Councils before 1.1.2000 which are to take effect on or after that date.

- **Savings and transitional provisions for legal proceedings**

(Clause 8(2)(a) - C1707)

Proposed CSA : Amending clause 8(2)(a) to save legal proceedings instituted in the name of a person authorized by the Councils.

Remarks : To cover legal proceedings brought in the name of an authorized officer of the Council.

- **Saving of right of appeal (Clause 8(2)(b) - C1707)**

Proposed CSA : Replacing “a former authority” by “the former authority”.

Remarks : Grammatical amendment.

- **Savings and transitional provision for departmental warrant cards**

(Clause 8(2)(i) - C1709)

Proposed CSA : Amending clause 8(2)(i) to save the validity of warrant cards issued by an authorized officer on behalf of the Council.

Remarks : To describe the current practice where warrant cards are issued by an officer on behalf of the Council.

- **Savings and transitional provision in relation to references to a former authority (Clause 8(2)(j) - C1709)**

Proposed CSA : Amending clause 8(2)(j) to the effect that references made to a former authority and persons authorized by a former authority would be saved.

Remarks : Technical amendment to include the former authority.

- **Saving of subsidiary legislation, fees, etc. (new Clause 9(3))**

Proposed CSA : Adding a new clause 9(3) to ensure that the existing fees are valid as if prescribed.

Remarks : To avoid any challenge to the validity of any existing fees which are not presented in the required form of subsidiary legislation.

- **Transitional provisions with respect to offences (Clause 10(1) - C1711)**

Proposed CSA : Amending clause 10(1) to the effect that offences committed before 1.1.2000 will be prosecuted under the repealed enactment and not the corresponding new enactment.

Remarks : To address Bill Committee's concern about the confusion in the enactment to be used to prosecute offences committed before 1.1.2000.

- **Chief Executive in Council to make consequential, transitional and savings provisions (Clause 11(1) - C1713)**

Proposed CSA : Amending clause 11(1) to limit the scope of consequential amendments to any enactment or provisions of a transitional or savings nature.

Remarks : To address Bills Committee's concern about the complicated language of the clause. The Administration has agreed with the Legal Adviser assisting the Bills Committee the wording of this proposed amendment.

Schedule 3 - Amendments to Public Health and Municipal Services Ordinance and its subsidiary legislation (Cap.132)

I. Amendments to the Main Ordinance

● **Interpretation (Clause 1 - C1721)**

Proposed CSA : Repealing amongst others the definitions of “boarding house”, “laundry”, “lines” and “washhouse” from section 2(1).

Remarks : A CSA in response to the Bills Committee’s concern. We omitted to delete these definitions upon the repeal of relevant sections in the main provisions of Cap. 132.

● **Public table tennis saloon**

- **Main Ordinance (Clause 1 - C1721) (Clause 91 - C1761)**

- **Places of Amusement Regulation
(Clause 281 - C1885) (Clauses 487, 488 & 489 - C1887)**

Proposed CSA : Repealing all the provisions with respect to public table tennis saloons, including the relevant offence provision.

Remarks : A CSA in response to the Bills Committee’s concern. We agree to delete these provisions as public table tennis saloons are no longer in existence.

● **Interpretation (Clause 1 - C1721)**

Proposed CSA : Repealing the definition of “registered ventilation contractor” and substitute that of “registered specialist contractor (ventilation category)”.

Remarks : Consequential amendment to a recent substitution of the term “registered ventilation contractor” in the Buildings Ordinance (Cap. 123).

● **Interpretation (Clause 1 - C1721)**

Proposed CSA : Amending the definition of “health officer”.

Remarks : To empower the Director of Health and Director of Food and Environmental Hygiene to authorize a person to perform the functions as a “health officer”.

● **Fees and charges for leisure and cultural services**
(Clause 1 - C1721) (Clause 63 - C1737-C1739) (Clause 84 - C1749-C1755)
(new Clauses 83A & 94A)

Proposed CSA : These include

— adding a new section 124 IA to provide that

- the Authority (i.e. Secretary for Home Affairs) may by regulation prescribe certain fees and charges payable by an individual as a member of the public in connection with the matters specified in a new Schedule 16. Such fees and charges will be subject to negative vetting by the Legislative Council;
- the above does not apply to fees and charges payable by members of a club, institution, association or other organization, or payable for games, sports or other activity organized by such organizations, for trading or advertising, or for a commercial purpose; and the Authority may prescribe different fees and charges payable in connection with these purposes;
- subject to the approval of LegCo, the Authority may by order published in the Gazette amend Schedule 16;

- amending section 124J(1) to the effect that other than those fees and charges prescribed under section 124IA(1), any fees or charges payable in connection with the admission to or the use of a venue, service or facility relating to a cultural and leisure activity provided by the Authority which is under the control and management of the Authority, may be determined by the Authority with the approval of the Financial Secretary; and
- making consequential amendments to the definition of “prescribed fee” in proposed Clause 1 of Schedule 3, and the Third Schedule on the designated authority.

Remarks : This is to implement the system for the setting of fees and charges for leisure and cultural services set out in the paper submitted to the Bills Committee on 14 October (Paper No. CB(2)109/99-00(03)).

● **Protection of public sewers and drains (new Clause 2A)**

Proposed CSA : Adding a new clause 2A to cater for the repeal of “only” from section 6(2).

Remarks : At present section 6(2) provides that the Director of Drainage Services may prosecute for an offence. The provision may give a false impression that the Secretary for Justice does not have such prosecuting power. To clarify matters, we propose to delete the work “only”.

● **Heading amended (Clause 5 - C1721)**

Proposed CSA : Deleting “laundries” and “labourers’ lines” from the heading before section 35.

Remarks : The original heading reads “Public latrines, bathhouses, laundries and labourers’ lines”. We omitted to delete “laundries” and “labourers’ lines” from the heading.

● **Sections providing for rules-making power**

- Public swimming pool rules (Clause 16 - C1725)
- Market rules (Clause 28 - C1729)
- Public pleasure ground rules (Clause 52 - C1733)
- Public cemetery and Commonwealth War Graves Commission Cemetery rules (Clause 56 - C1735)

Proposed CSA : Amending sections 43(1), 81(1), 110(1) and 117(1) to specify the sections in the Ordinance under which the rules are made.

Remarks : Technical amendment.

● **Regulations in relation to markets (new Clause 26A)**

Proposed CSA : Amending section 80(1) to provide for the Municipal Services Appeals Board to handle appeals against termination of market stall agreements.

Remarks : To address Bills Committee's concern that the new structure does not provide an appeal channel for termination of market stall agreements.

● **Abatement of overcrowding (new Clause 30A)**

Proposed CSA : Adding a new clause 30A to repeal section 87.

Remarks : Proposed by the Bills Committee. Section 87 is no longer necessary and has not been invoked in recent years.

● **Offences with respect to undertakers of burials (new Clause 40A)**

Proposed CSA : Amending section 92C(2) so that offences concerning section 92AB can be dealt with under that subsection.

Remarks : To correct an omission.

- **Minor penalties in respect of libraries (Clause 47 - C1733)**

Proposed CSA : Deleting section 105L(2) which empowers the Authority to determine by notice in the Gazette certain minor penalties mentioned in subsection (1)(k).

Remarks : These penalties will be prescribed in subsidiary legislation.

- **Use of civic centres (new Clauses 49A, 49B, 49C & 89A)**

Proposed CSA : Repealing section 105S which requires any person using any part of a civic centre for the purpose of public meeting to obtain the prior consent of the Chief Secretary. Consequentially, section 105R which defines “public meeting” and section 105T which provides for the prevention of unauthorised public meetings in civic centres are repealed. The penalties in respect of section 105S(1) in the Ninth Schedule are also repealed.

Remarks : We agree with the Bills Committee that section 105S is an obsolete provision.

- **Management and Control of public pleasure grounds (Clause 50 - C1733)**

Proposed CSA : Deleting the word “organized” from section 107(2).

Remarks : To address Bills Committee’s concern that reference to “organised (有組織) games and sports” in that section of sensitive.

- **Objections to application for crematorium in certain locations (Clause 61 - C1735)**

Proposed CSA : Amending section 124D(4) to provide a time limit of 30 days for lodging appeals to the Municipal Services Appeals Board on objections to application for crematorium in certain locations.

Remarks : To set a deadline for lodging appeals to Municipal Services Appeals Board which is not provided in Cap. 132 currently.

● **Prescription of fees and charges (Clause 63 - C1737)**

Proposed CSA : Amending clause 63 by deleting “the registration or licensing of public slaughterhouses or” from proposed section 124I(1)(f) which deals with fees and charges.

Remarks : The phrase is superfluous as no licensing requirement is stipulated for public slaughterhouses and thus no fee for licensing can be charged.

● **Prescription of fees and charges (Clause 63 - C1737)**

Proposed CSA : Adding a new section 124I(1)(sa) to stipulate that a fee can be charged for the insertion of an inscription in a commemorative book kept at a garden of remembrance.

Remarks : To correct an inadvertent omission.

● **Interpretation of Part XIB-Licensing Appeals Board (new Clause 64A)**

Proposed CSA : Adding a new section 124M to define the terms “Board”, “Chairman”, “Vice-Chairman” and “Secretary” in the context of the LAB; and deleting the proposed subsections 125A(6) &(7) consequentially.

Remarks : This CSA improves the presentation by providing definitions at the beginning of this part.

● **Revising the membership composition of the Licensing Appeals Board to include a Vice-Chairman (Clause 66 - C1741-C1743)**

Proposed CSA : Amending proposed subsection 125A(2) to provide a Vice-Chairman and making consequential amendments to the proposed subsections 125A(4) and (5).

Remarks : The proposed Vice-Chairman is to share out the workload of the Chairman. The creation of this new office will correspondingly reduce the number of other members to not less than 13 from the original not less than 14.

● **Appeal against decision of the Licensing Appeals Board**
(Clause 66 - C1741-C1743)

Proposed CSA : These include

- revising proposed subsection 125B(4) to the effect that right of appeal to the MSAB will only be given to persons who appeal to the LAB but dissatisfied with the decisions of the Board;
- adding a new subsection 125B(5) to provide that the LAB may at discretion suspend operation of its decision pending the outcome of appeal of the MSAB; and
- amending the section heading accordingly.

Remarks : The proposed amendment to proposed subsection 125B(4) is to reflect the decision of the Administration to remove the right of appeal from the licensing authority.

The PUC/PRC Review Committees are now provided with such discretion. Since the LAB is to replace the Review Committees, the same discretion should be provided.

● **The composition of the Board for hearing and for determining suspension of decision** (Clause 66 - C1741-C1743)

Proposed CSA : Amending proposed section 125C to the effect that

- either the Chairman or Vice-Chairman can preside at Board meetings for hearing appeals/determining suspension of decisions; and

- the Secretary shall make nomination of panel members subject to any directions given by the Chairman,

and amending the section heading accordingly.

Remarks : The CSA is to amend the composition of the Board for the purposes of hearing appeal and determining suspension of decisions consequent upon the inclusion of a Vice-Chairman and to set out the way to nominate panel members.

- **Parties to an appeal (Clause 66 - C1741-C1743)**

Proposed CSA : Amending proposed section 125D by adding “the” after “and” in the description of “the appellant and licensing authority from whose decision the appeal is brought”.

Remarks : Technical amendment.

- **Provisions applicable to hearing (Clause 66 - C1741-C1743)**

Proposed CSA : Amending proposed section 125E to reflect the role of the Vice-chairman.

Remarks : Consequential amendments.

- **Board to give reasons for its decision (Clause 66 - C1741-C1743)**

Proposed CSA : Adding a new section 125EA to make it a requirement for the LAB to give reasons in writing for its decision.

Remarks : To ensure that parties to an appeal are aware of the reasons of LAB’s decision.

- **Rules made by the Licensing Appeals Board (Clause 66 - C1741-C1743)**

Proposed CSA : Adding a new subsection 125F(2) to specify that rules made by the LAB are subsidiary legislation.

Remarks : To clarify the nature of rules made by the LAB.

● **Meetings of the Board other than hearing appeals (Clause 66 - C1741-C1743)**

Proposed CSA : Adding a new section 125FA to provide a quorum for meetings of the LAB other than those for hearing appeals/determining suspension of decisions and to set out the method of making decision.

Remarks : To make provision for certain important aspects for meetings of the Board. The proposed quorum requirement is not less than half of the members of the Board present. Decision making will be by majority vote and the presiding person shall have a casting vote.

● **The Secretary for the Environment and Food to appoint a legal adviser (Clause 66 - C1741-C1743)**

Proposed CSA : Amending proposed section 125G to provide for a legal adviser to be appointed by the Secretary for the Environment and Food.

Remarks : This CSA is to clarify the arrangement for appointment of legal adviser.

● **Authentication and production in evidence of documents (Clause 75 - C1747)**

Proposed CSA : Adding subsection (3) to section 135 so that documents made and signed before the commencement of the amendments to that section are saved.

Remarks : To add a savings provision to ensure documents made and signed by public bodies (i.e. the two Provisional Municipal Councils) continue to be admissible without further proof.

- **Saving of existing fees and charges (new Clause 83A)**

Proposed CSA : Adding a transitional provision such that fees prescribed under sections 124I, 124IA, 124J and 124K are deemed to be prescribed under clause 9(2) in the Bill.

Remarks : To clarify that fees will remain unchanged for the time being.

- **Third Schedule - Designated Authority (Clause 84 - C1749-C1755)**

Proposed CSA : Replacing the Secretary for the Environment and Food by the Director of Food and Environmental Hygiene for the purpose of section 83B.

Remarks : Section 83B deals with advising the Commissioner for Transport on setting aside streets for hawking purposes and the allocation of hawker pitches which are operational in nature. It is more appropriate for the Director to be the Authority.

- **Third Schedule - Designated Authority (Clause 84 - C1749-C1755)**

Proposed CSA : Adding a new entry to designate the Director of Leisure and Cultural Services as the Authority for specifying conditions for the use of stadia under section 105E of Cap. 132.

Remarks : We omitted to designate the Director of Leisure and Cultural Services as the new Authority for enforcing section 105E.

- **Third Schedule - Designated Authority (Clause 84 - C1749-C1755)**

Proposed CSA : Deleting section 118(5) from the relevant entry.

Remarks : Technical amendment. Section 118(5) has already been repealed.

● **Sixth Schedule - Names in which Proceedings for Offences may be brought**
(Clause 87 - C1757-C1761)

Proposed CSA : These include

- deleting the entry of section 92AB which should not have been included; and
- deleting “Director of Food and Environmental Hygiene” in section 92C and substituting “Director of Leisure and Cultural Services in respect of section 92A and Director of Food and Environmental Hygiene in respect of section 92AB”.

Remarks : Section 92AB is a mistaken entry and section 92C after being amended will cover offences under section 92AB.

● **Seventh Schedule - Forms (Clause 88 - C1761)**

Proposed CSA : Amending Notes 1 and 3 in Form F and Notes 1 and 2 in Form G regarding fines prescribed.

Remarks : When the Ninth Schedule on the prescription of penalties was revised in 1996, corresponding amendments to the Notes were overlooked.

● **Penalties (new Clause 89A)**

Proposed CSA : Repealing the penalties with respect to section 105F(3) in the Ninth Schedule.

Remarks : We omitted this consequential amendment upon the repeal of section 105F under clause 44 of Schedule 3 to the Bill.

II. Amendments to Subsidiary Legislation

● **Reference to fees**

- **Abattoirs Regulation (Clause 100 - C1763)**
- **Cremation and Gardens of Remembrance Regulation (Clause 219 - C1797)**
- **Food Business Regulation (Clause 255 - C1815)**
- **Frozen Confections Regulation (Clause 296 - C1827)**
- **Private Markets Regulation (Clause 534 - C1901)**
- **Public Funeral Halls Regulation
(Clause 601 - C1921) (Clause 608 - C1923)**

Proposed CSA : Amending the above provisions in relation to fees so that the same term “prescribed fees” is consistently adopted in the relevant Regulations.

Remarks : Technical amendment.

Advertisement Regulation

● **Advertisement of saleable commodity (Clauses 146 & 151 - C1775)**

Proposed CSA : Repealing section 3 which prohibits the advertisement of any saleable commodity on any vessel in the Hong Kong waters. The relevant offence provision is also repealed.

Remarks : This provision is obsolete.

● **Occulting signs (Clauses 148 & 151 - C1775)**

Proposed CSA : Repealing section 5 which totally prohibits the exhibition of occulting signs and the relevant offence provision.

Remarks : Deletion recommended as no established correlation exists between occulting sign and the number of traffic accidents and as such there is no genuine need to prohibit ‘occulting sign’ on road safety and traffic grounds.

- **Prohibition on the erection of signs interfering with road traffic**
(Clauses 149 & 151 - C1775) (New Clause 149A)

Proposed CSA : Reinstating part of section 11 to prohibit the erection of signs which interfere with road traffic and putting back section 11 in the relevant offence provision.

Remarks : Retention of the above is necessary as there is no other specific legislation which prohibits the erection of such signs.

Bathing Beaches Regulation

- **Protection of beaches** (Clause 157 - C1777)

Proposed CSA : Reinstating in section 5(c) that lighting of fire other than in an area set aside by the Director for the purpose of cooking is prohibited.

Remarks : To correct an omission of words.

- **Erection of beach structures** (Clause 158 - C1777)

Proposed CSA : These include

- deleting proposed amendments to section 6 which makes reference to proposed section 124J of Cap.132 for determining charges payable in connection with the erection of beach structures; and
- substituting the "Director" as the authority for determining charges.

Remarks : These are commercial charges to be determined by the Director instead of under section 124J which requires the approval of Financial Secretary.

Public meetings and assemblies (Clauses 165 & 167 - C1779)

Proposed CSA : Repealing section 13 which prohibits public meetings and assemblies in any bathing beach and the relevant offence provision.

Remarks : Proposed by the Bills Committee. The provision is considered obsolete.

Civic Centres Regulation

- **Power to refuse entry of person who is indecently or insufficiently dressed (Clause 174 - C1781)**

Proposed CSA : Repealing section 11(1)(b) which empowers the manager to refuse entry of a person who is indecently or insufficiently dressed.

Remarks : Proposed by the Bills Committee. The provision is considered obsolete.

- **Appeal to the Director (Clause 175 - C1781)**

Proposed CSA : Replacing “he” by “him” in section 11A(2).

Remarks : Technical amendment.

Cremation and Gardens of Remembrance Regulation

- **Conduct and behaviour in Government crematorium and garden of remembrance (Clause 209 - C1791) (Clause 217 - C1795)**

Proposed CSA : Deleting the provisions governing public meetings and clothings.

Remarks : Proposed by the Bills Committee. The provisions are considered obsolete.

Designation of Libraries Order

- **Heading amended** (Clause 224 - C1797-C1801)

Proposed CSA : Amending the heading “Schedule amended” to read “Schedule substituted”.

Remarks : To rectify a drafting error.

- **Designation of library** (Clause 224 - C1797-C1801)

Proposed CSA : Adding a new entry at the end of the list.

Remarks : To update the list of designated libraries.

Food Business Regulation

- **Definition of “shell fish”** (Clause 233 - C1803-C1805)

Proposed CSA : Amending the definition of “shell fish” to exclude molluscs or crustaceans forming part of sushi, as well as those in the form of sashimi and oyster to be eaten in its raw state.

Remarks : To align with the definition used in the existing of UC Bylaws. Sushi is controlled under separate provisions in the Regulation. CSA proposed by the PUC Public Health Select Committee.

- **Definition of “Wholesale market”** (Clause 233 - C1803-C1805)

Proposed CSA : Amending the definition of “wholesale market” by excluding Western Wholesale Food Market.

Remarks : To align with the definition used in the existing set of UC Bylaws. CSA proposed by the PUC Public Health Select Committee.

- **Collection of shell fish (Clause 248 - C1809)**

Proposed CSA : Amending section 28(a) by replacing “Harbour” with “harbour”.

Remarks : The area of waters covered by “harbour” is already defined in Cap.1 and when combined with section 28(b) will adequately cover the waters stipulated in the existing set of (UC) Bylaws.

- **Issue of duplicate licence (Clauses 249 & 250 - C1811)**

Proposed CSA : Re-inserting “accidentally defaced” in sections 30(3) and 31(6).

Remarks : To align with the existing provision in the existing set of (UC) Bylaws.

- **Restriction on sale of articles (Clause 249 - C1811)**

Proposed CSA : Delecting subparagraph (e)(v).

Remarks : Technical amendment. The subparagraph is considered superfluous as the function has already been covered by paragraph (e)(ii).

Frozen Confections Regulation

- **Hawkers of frozen confections to wear uniforms and display numbers (Clause 277 - C1821) (Clause 297 - C1827)**

Proposed CSA : Delecting section 6 which requires hawkers of frozen confections to wear uniforms and display numbers and the relevant offence provision.

Remarks : Proposed by the Bills Committee. The requirement has become obsolete.

● **Additional licensing requirement (Clause 280 - C1823)**

Proposed CSA : Adding under section 19 a licensing requirement to prohibit the manufacture and storage of any frozen confection in any part of the premises containing any soil fitment or latrine fitment.

Remarks : Proposed by the Bills Committee. This requirement is adopted from the corresponding set of RC Bylaws.

● **Refusals and revocations**

- **Funeral Parlours Regulation (Clause 304 - C1829)**
- **Places of Amusement Regulation (Clause 475 - C1885)**
- **Undertakers of Burials Regulation (Clause 721 - C1953)**

Proposed CSA : Amending the minimum age requirement for licensee of the above trades from 21 to 18.

Remarks : CSA in response to the Bills Committee's concern. A minimum age requirement for licensee is considered desirable but this can be lowered to 18 years of age.

Hawker Regulation

● **References to “小販徽章”**
(Clause 316 - C1832) (Clause 325 - C1836) (new Clause 325A)

Proposed CSA : Changing the Chinese translation of ‘hawker badge’ from “小販徽章” to “小販證” .

Remarks : CSA in response to Bills Committee's concern. The new translation is to reflect more appropriately the kind of badge in Chinese.

● **Alteration or defacement of pitch cards (Clause 329 - C1837-C1839)**

Proposed CSA : Amending section 14(2) to prohibit altering or defacing pitch cards without authorization.

Remarks : Prohibition on altering pitch cards is omitted in the Bill. The phrase “unless ... authorized by the Director” is also amended to avoid misunderstanding.

● **Metered fixed pitch (Clause 350 - C1845)**

Proposed CSA : Deleting section 39(1) which requires metered fixed pitches be maintained in safe and clean condition

Remarks : This provision is obsolete.

● **Change of Department name**

- **Hawker Regulation (Clause 360 - C1847) (Clause 366 - C1851)**
- **Private Markets Regulation (Clause 546 - C1905)**
- **Public Cemeteries Regulation (Clauses 555 & 558 - C1907-1909)**
- **Restriction of Hawking in Special Areas Notification (Clause 638 - C1931)**

Proposed CSA : Changing the name of the proposed “Department of Food and Environmental Hygiene” to “Food and Environmental Hygiene Department”.

Remarks : Technical amendment. The Chinese name remains unchanged.

Libraries Regulation

● **Issue of library cards (Clause 379 - C1855)**

Proposed CSA : Adding a comma between “library card” and “the Director”.

Remarks : To improve comprehension.

● **Reservation of library material (Clause 386 - C1857)**

Proposed CSA : Reinstating section 17 concerning the right of a borrower to reserve library material.

Remarks : The section is retained in view of the continued availability of reservation service. Corresponding technical amendments in relation to fees have been incorporated.

● **Return of library material (Clause 388 - C1857)**

Proposed CSA : Adding “as” before “directed”.

Remarks : Grammatical amendment.

● **Exclusion of liabilities**

- **Libraries Regulation (Clause 396 - C1859)**

- **Museums Regulation (Clause 448 - C1877)**

Proposed CSA : Deleting the provisions regarding absolute exclusion of liabilities for loss or damage of articles deposited in cloakroom.

Remarks : We have no objection to removing the provision as suggested by the Bills Committee.

● **Restriction on writing materials (new Clause 396A)**

Proposed CSA : Deleting section 34A which restricts persons from taking writing implements etc. into any library.

Remarks : We have no objection to removing this provision as suggested by the Bills Committee.

● **Name in which proceedings may be brought (Clause 401 - C1861)**

Proposed CSA : Replacing “Director” in section 39(1) by “Government” as the receiving party of debt payable.

Remarks : Technical amendment.

Declaration of Markets Notice

- **List of markets (Clause 405 - C1863-C1865)**

Proposed CSA : Amending the Schedule by including three new markets and deleting one market no longer in use.

Remarks : To update the list of markets.

Milk Regulation

- **Amendment to Schedule 1 (Clause 409 - C1867)**

Proposed CSA : Deleting “the” before “Secretary”.

Remarks : Technical amendment.

- **Additional licensing requirement (Clause 419 - C1869)**

Proposed CSA : Inserting under section 16 a licensing requirement to prohibit the processing, reconstituting or storage of any milk products in any part of the premises containing any soil fitment or latrine fitment as one of the licensing requirements.

Remarks : Proposed by the Bills Committee. This requirement is adopted from the corresponding set of RC Bylaws.

- **Requirement as to heating apparatus (Clause 424 - C1871)**

Proposed CSA : Adding the requirement concerning the mode of heating of milk or milk beverage.

Remarks : Proposed by the Bills Committee. This requirement is adopted from the corresponding set of RC Bylaws.

Offensive Trades Regulation

- **Power to grant exemption** (Clause 465 - C1883)

Proposed CSA : Deleting the words “absolute discretion” in section 19.

Remarks : To address the Bill Committee’s concern. These words are not considered necessary.

- **Age restriction for persons to be in premises carrying on offensive trades**
(new Clause 466A)

Proposed CSA : Amending the age limit from 14 to 15.

Remarks : CSA in response to the Bills Committee's concern. We propose to raise the age limit to 15 so that it falls in line with the Employment of Children Regulations (Cap.57, sub. leg.) which specifies that children under the age of 15 shall not be employed in an industrial undertaking.

Pleasure Grounds Regulation

- **Admission charges** (Clause 495 - C1889)

Proposed CSA : Redrafting proposed amendment in relation to admission charges.

Remarks : Technical amendment.

- **Protection of property** (Clause 497 - C1889)

Proposed CSA : Amending section 8 by deleting “for cooking purposes” after “light a fire”.

Remarks : To broaden the restriction on lighting a fire in pleasure grounds so that it is not confined only to cooking purpose.

- **Protection of artificial lakes, ponds, birds and animals (Clause 498 - C1891)**

Proposed CSA : Adding a “,” before “destroy” for both paragraphs (b) and c(i).

Remarks : Technical amendment.

- **Restriction on vehicles to be brought into pleasure grounds (Clause 500 - C1891)**

Proposed CSA : Deleting the addition of “hand cart”.

Remarks : Proposed by the Bills Committee. The addition of “hand cart” as one of the restricted types of vehicles is considered not necessary.

- **Kites, model aircraft, balloons, etc. (new Clause 502A)**

Proposed CSA : Replacing “Council” by “Director”.

Remarks : Technical amendment omitted in the Bill.

- **Erection of structures (Clause 505 - C1893)**

Proposed CSA : Deleting the addition of “statue or other sculpture” proposed under clause 505(a)(i)(A) which prohibits erection of structures in pleasure grounds.

Remarks : To address Bills Committee’s concern.

- **Prohibition of public meetings, public discussion, procession, etc. (Clauses 510 & 511 - C1895)**

Proposed CSA : Repealing section 28 on the prohibition of public meetings etc. in pleasure grounds and the relevant offence provision.

Remarks : Proposed by the Bills Committee. The provision is considered obsolete.

Public Cemeteries Regulation

- **Fees (Clauses 561 - C1909)**

Proposed CSA : Amending section 12(1) to the effect that a prescribed fee shall be paid to the Director for the burial of human remains, the setting up of any monument or enclosure over or around any grave and the construction of any vault or urn.

Remarks : Setting out the fees payable to the Director in respect of public cemeteries.

Public Convenience (Conduct and Behaviour) Regulation

- **Fees for use of compartments in certain public latrines (Clauses 590 & 595 - C1919)**

Proposed CSA : Repealing section 4 which provides for the charging of fee for use of public latrines and the relevant offence provision.

Remarks : CSA in response to the Bills Committee's suggestion. This is an obsolete provision.

- **Communicable diseases (Clauses 593 & 595 - C1919)**

Proposed CSA : Repealing section 8 which prohibits persons knowingly suffering from communicable diseases from entering or remaining in any bathhouses and the relevant offence provision.

Remarks : CSA in response to the Bills Committee's suggestion. The provision is considered obsolete and not practicable.

Public Funeral Halls Regulation

- **Fees (Clause 608 - C1923)**

Proposed CSA : Repealing section 14(2) which provides for the waiver or reduction of fees.

Remarks : Technical amendment. The power has already been provided for under section 124L in Schedule 3 of the Bill.

Public Markets Regulation

- **Letting of market stalls (Clause 615 - C1925)**

Proposed CSA : Amending section 6(1) to allow a stall-holder to appeal to the Municipal Services Appeals Board against a decision of the Director to terminate the lease, licence or permit.

Remarks : CSA in response to the Bills Committee's suggestion.

Public Swimming Pools Regulation

- **General Offences (Clause 626 - C1927)**

Proposed CSA : Amending "sparsely clad" to "improperly clad" with regard to the offence provision governing clothings in public swimming pools.

Remarks : CSA in response to Bills Committee's concern.

- **Fees and charges (Clause 631 - C1929)**

Proposed CSA : Amending section 10 to make clear that a person using a swimming pool during a session is required to pay the prescribed fee.

Remarks : To include more specific provision on the requirement to pay fee.

- **Fees and charges (Clause 631 - C1929)**

Proposed CSA : Amending section 10(2) to the effect that except with the prior permission of an attendant, no person shall enter the precincts of a swimming pool without first having paid the appropriate fee.

Remarks : To make clear that for the purpose of discharging duties, people like policemen or ambulancemen are allowed to enter the swimming pool without paying a fee.

● **Power to make rules** (Clause 632 - C1929)

Proposed CSA : Deleting the word “ rules” and substituting “subsidiary orders” in the heading.

Remarks : Technical amendment.

Slaughterhouses Regulation

● **Appointment of authorized officers** (Clause 651 - C1933)

Proposed CSA : Deleting “wherever” and substituting “where” in section 4(1).

Remarks : Technical amendment.

Swimming Pools Regulation

● **Conditions for issue of licences** (Clause 705 - C1949)

Proposed CSA : Adding to paragraph (h) in the provision under section (3) the equivalent latrine accommodation such as “aquaprivities” and “chemical closets” as other alternative provision. This provision is adopted from the corresponding set of RC Bylaws.

Remarks : CSA in response to the Bills Committee’s suggestion.

● **Quality of water** (new Clause 706A)

Proposed CSA : Repealing section 10 and substituting the same licensing requirements in the corresponding set of RC Bylaws to ensure the quality of water.

Remarks : CSA in response to the Bills Committee’s suggestion.

Undertakers of Burials Regulation

Defacing a licence (Clause 722 -C1953)

Proposed CSA : Improving the drafting of the section regarding defacing and alternation of a licence by adopting the version in the corresponding set of UC Bylaws.

Remarks : CSA in response to the Bills Committee's suggestion.

Ventilation of Scheduled Premises Regulation

● **Annual inspection of dampers, filters and precipitators (Clause 731 - C1955)**

Proposed CSA : Amending the term “registered ventilation contractor” to “registered specialist contractor (ventilation category)” in section 6.

Remarks : Consequential amendment arising from a recent substitution of the term “registered ventilation contractor” by “registered specialist contractor” in the ventilation category in the Buildings Ordinance (Cap.123).

Schedule 4 - Amendments to Municipal Services Appeals Board (Cap. 220)

- **Interpretation** (Clause 3(b) - C1959; Clause 10 - C1963 and Clause 11 - C1963-C1965)

Proposed CSA : These include

- amending the definition of “respondent”;
- moving the definition of “first decision” to the front;
and
- making consequential amendments by deleting subsections 8(3) and 9(4).

Remarks : The definition of “respondent” is amended in response to Members’ views that the licensing authority should not have right of appeal to the MSAB. Moving the definition of “first decision” to the front is for better presentation and consequently proposed subsection 8(3) can be deleted. Proposed section 9(4) can also be deleted because the distinction between “decision maker” and “respondent” no longer exists and ‘respondent’ will now refer to the decision maker and will not be the ‘appellant’ which may be the case under the original proposal.

- **Qualification of the Vice-Chairman** (Clause 7(a) - C1961)

Proposed CSA : Amending proposed section 6(2) to require that Vice-Chairman should also be legally qualified.

Remarks : The existing legislation specifies that both the Chairman and Vice-Chairman of the Municipal Services Appeals Board should be legally qualified. The Bill as drafted at present only requires the Chairman to be legally qualified. A CSA is proposed to reflect the existing provision.

● **Power of the Board in respect of appeal (Clause 8 - C1961-C1963)**

Proposed CSA : These include

- revising proposed subsection 7(1)(a) by deleting the words “decision which was the subject matter of the appeal board decision” and substituting “first decision”.
- revising proposed subsection 7(2)(b) by deleting the words “in which the respondent is the person whose decision was the subject matter of the appeal board decision”.

Remarks : As the original description in proposed subsection 7(1)(a) refers to “first decision” after removal of licensing authority’s right to appeal to the MSAB, it is substituted for clearer presentation.

As “respondent” would only mean “decision maker” after removing licensing authority’s right of appeal to the MSAB, the original description to clarify who is the “respondent” has become superfluous.

● **Board to give notice of appeal (Clause 10 - C1963)**

Proposed CSA : Deleting proposed subsection 8(2) and 8(3) and substituting new subsections to provide that in addition to the respondent and the persons who are bound by the decision appealed against, the MSAB should also give notice of appeal to the LAB and any other persons who had made representations to the respondent and LAB before their relevant decisions were made.

Remarks : The CSA is to ensure that in serving the notice of appeal, the MSAB will be able to cover all persons/bodies who have made representation on the subject matter.

Respondent and Licensing Appeals Board to lodge statement and relevant documents
(Clause 11 - C1963-C1965)

Proposed CSA : These include

- changing the heading of proposed section 9 to “Respondent and Licensing Appeals Board to lodge statement and relevant documents”;
- revising proposed subsection 9(1)(a)(iia) by deleting “decision maker” and substituting “respondent”;
- adding a new subsection 9(1A) to specify the documents and other information to be provided to the MSAB by the Secretary to the LAB within 28 days after receiving MSAB’s notice; and
- deleting from Clause 11 of Schedule 4 proposed paragraphs (a)(i), (a)(iii)(A), (a)(iii)(E)(I), a(iv), (b)(i), (b)(ii), (c) and (d) which were originally included in the Bill to cater for appeal by the licensing authority to the MSAB.

Remarks : These amendments are consequential to removing the licensing authority’s right of appeal to the MSAB and stipulate the need for the LAB to lodge relevant documents/information to the MSAB in the case of an appeal against a LAB decision.

Schedule 5 - Amendments to Dutiable Commodities Ordinance and its subsidiary legislation (Cap. 109)

Amendments to Dutiable Commodities Ordinance (Cap. 109)

● **Jurisdiction of the Chief Executive in Council (Clause 2 - C1967-C1969)**

Proposed CSA : Simplifying the proposed amendment to subsection 6(1)(g) by referring to ‘section 6A’ instead of describing the details of that section.

Remarks : Technical amendment.

● **The Board may determine procedures for meetings and applications and forms of licences (Clauses 2, 13 & 14 - C1967-C1971 and new Clauses 8C & 14B)**

Proposed CSA : Improving the wording used in the proposed subsection 6(4A)(b) to reflect that regulations can be made to empower the Board to “determine its procedures and forms for the purposes of those regulation”. As a result, the following consequential amendments are also made to the Dutiable Commodities (Liquor) Regulations

- adding a new reg. 14A to empower the Board to determine procedure for meetings and applications;
- adding a new reg. 26B to empower the Board to determine the forms for various licences; and repealing proposed reg. 25(2) & 26(3) concerning the determination of licences which has become superfluous.

Remarks : No change in meaning. This CSA is merely to improve the wording.

- **The Secretary for the Environment and Food may prescribe fees for liquor licences (Clause 3 - C1969 and new Clause 12A)**

Proposed CSA : These include

- revising proposed section 6A of the Ordinance to provide that in addition to fees for issue, renewal, transfer or amendment of a liquor licence, the Secretary for the Environment and Food may prescribe fee for approval of temporary substitute of licensee;
- updating reg. 24 at the same time to provide that the payment for approval of temporary substitute of licensee will be in accordance with an appropriate fee prescribed under proposed section 6A of the Ordinance.

Remarks : This amendment is to empower the Secretary for the Environment and Food to prescribe also the fees in relation to temporary substitute of licensee on grounds of absence or illness. Reg. 24 regarding fees for this purpose is also amended correspondingly to reflect this new mechanism in determining fees. Furthermore, we have proposed a CSA to clause 16 in this Schedule to save all the relation to liquor licences.

Amendments to Dutiable Commodities (Liquor) Regulations (Cap. 109B)

- **Interpretation** (Clause 4 - C1969)

Proposed CSA : Amending the definition of the term “Board” under proposed reg. 2(1) by replacing “section” with “regulation”.

Remarks : Technical amendment.

● **Establishment and composition of the Liquor Licensing Board (Clause 6 - C1969-C1971)**

- Proposed CSA** : Revising the proposed reg. 2A to
- provide a Vice-chairman for the Board;
 - reduce the number of other members from 10 to 9 correspondingly;
 - clarify that the Board is to be made up of non-officials only; and
 - stipulate that the legal adviser for the Board shall be appointed by the Secretary for the Environment and Food.

Remarks : The proposed CSA is to spell out the composition of the Board and appointment of legal adviser more clearly. The Vice-Chairman is needed to deputize the Chairman during his absence in view of the frequency of meetings and heavy caseload of the Board. The existing LLBs of the two PMCs also have the office of Vice-chairman.

● **Meetings of Board (new Clause 8A)**

Proposed CSA : Revising reg. 13(1) to provide that the Board may meet as often as necessary.

Remarks : To allow flexibility for the future Board to meet.

● **Board may delegate its powers and functions (new Clause 8B)**

Proposed CSA : Adding a new reg. 13A to provide that the Board may delegate its power and function to a committee, a member or a public officer.

Remarks : Currently, PUC delegates the authority for determination of non-contested applications to delegated LLB members. In the case of ProRC, non-contested applications are determined by circulation of papers to LLB members. In view of the heavy caseload of nearly 5,000 liquor licence applications per annum, a provision to enable the future LLB to delegate its powers and functions is necessary to ensure its smooth and effective operation.

● **Quorum for meeting of Board (new Clause 8B)**

Proposed CSA : Adding a new reg. 13B to provide that the quorum of meeting shall not be less than half of the members.

Remarks : Since the LLB is a statutory body, there is a need to provide in the law the quorum for its meetings. Equivalent quorum requirement applies to District Councils and many other statutory Boards.

● **Chairman or Vice-chairman to preside (new Clause 8B)**

Proposed CSA : Adding a new reg. 13C to provide that either the Chairman or Vice Chairman must preside at any meeting of the Board.

Remarks : To reflect the role of the Vice Chairman provided under proposed reg. 2A.

● **Mode of voting (new Clause 8D)**

Proposed CSA : Amending reg. 14(2) by replacing “Chairman” with “person presiding”.

Remarks : To clarify that the “person presiding” who may be the Chairman or Vice Chairman will have a casting vote.

● **Advertisement of applications (new Clause 9A)**

Proposed CSA : Repealing the words “or sign” from reg. 16.

Remarks : Reg. 16 requires the Board to advertise the liquor licensing applications in local press at the expense of the applicants. The advertisement is expected to provide the name and address of the applicant and the address and proposed name or sign of the premises to be licensed. From experience, “sign” of the premises is not necessary and hence deletion is recommended.

● **Criteria for assessment of applications, requirement to give reasons and channel of appeal (Clauses 10, 11,12 & 15 - C1971)**

Proposed CSA : These include

- setting out under proposed reg. 17(2) specific criteria for assessment of liquor licensing applications;
- specifying a “28 days” limit for lodging appeal to the Municipal Services Appeals Board by
 - applicant and contestors living in the vicinity against the decision of LLB under proposed reg. 17(5);
 - licensee against suspension and revocation of licence under proposed reg. 19(2) and 23(3);
 - licensee against refusal of application to employ young persons under proposed reg. 29(1A); and
- requiring the Board to give notice in writing with reasons for its decisions made with regard to the above appeals.

Remarks : The criteria for granting a liquor licence under proposed reg. 17(2) is to provide guiding principles for Board members in considering licensing applications. These are the criteria currently adopted by the two LLBs.

At present no time limit is set for lodging appeal against the Board's decisions to the MSAB. Other types of appeals to the MSAB are all subject to a time limit.

The proposed requirement for the LLB to give reasons for its decision is to ensure that the applicant and other persons or bodies who have expressed an interest in the application are aware of the reasons of the LLB's decisions.

● **Duration of Licence (new Clause 11A)**

Proposed CSA : Amending reg. 20(3) to provide that the LLB may grant liquor licence for any period up to 1 year.

Remarks : The existing regulation provides that a liquor licence may be granted for a year or a shorter period of "9 months, 6 months or 3 months". The proposed CSA will enable the LLB to decide the length of any shorter period without the restriction of 3, 6 or 9 months.

● **The power of the Board to suspend, revoke or refuse to renew liquor licence (Clause 12 - C1971)**

Proposed CSA : To amend proposed reg. 23(1) and to add a new reg. 23(1A) to the effect that the LLB may suspend, revoke or refuse to renew a liquor licence based on certain criteria.

Remarks : The existing legislation has not provided any criteria based on which the LLB may make the above decisions. These criteria follow closely those stipulated under proposed reg. 17(2).

- **Licensee to exhibit name, etc. (new Clause 14A)**

Proposed CSA : Amending the word “liquor” in reg. 26A(1) to read as “liquor licence”.

Remarks : Technical amendment to rectify an omission.

- **Transitional provision to cover the prescribed fees for liquor licences (Clause 16 - C1971-C1973)**

Proposed CSA : Adding a new reg. 33 (1A) to ensure that prescribed fees and charges for liquor licences will continue in force without being affected by the amendments to Cap. 109 and its subsidiary legislation.

Remarks : A saving provision to maintain the status quo of fees relating to liquor licence.

Schedule 7 - Consequential and Miscellaneous Amendments

- **Specification of Public Offices (Interpretation and General Clauses Ordinance Cap. 1 sub. leg) (new Clause 1A)**

Proposed CSA : Deleting from the Schedule to the above subsidiary legislation the entry of the Public Health and Municipal Services Ordinance, section 105S which requires any person using a civic centre for the purpose of public meeting to obtain the prior consent of the Chief Secretary.

Remarks : Consequential amendment upon the repeal of section 105S in Cap. 132 as proposed by Members.

- **Land (Miscellaneous Provisions) Ordinance (new Clause 1A)**

Proposed CSA : Amending the Schedule to the above Ordinance by

- deleting “, the Urban Council” in column 3 and substituting “, the Director of Food and Environmental Hygiene” in relation to section 6(1), (2) and (2A); and
- adding “, the Director of Food and Environmental Hygiene” to column 3 in relation to section 6(3), (4A) and (5).

Remarks : Urban Council was added to the Schedule in 1981 due to operational need for the power to remove structures on the street arising from the resiting exercises for fixed pitch hawkers. When the Regional Council was established in 1986, there was no request for the extension of such a designated authority to the Regional Council. Thus the Regional Council has not been included in the Schedule. In view of the continuing need for such a power provided under section 6 of the Land (Miscellaneous Provisions) Ordinance, it is proposed that the future Director of Food and Environmental Hygiene be included as a designated authority in both the Urban and New Territories areas.

- **Fire Services Department (Reports and Certificates) Regulations (Clause 10 - C1979)**

Proposed CSA : Deleting 'items 3 and 4' and substituting 'item 3'.

Remarks : A technical amendment. The table which specifies fees payable for the issue of a certificate required for compliance with the Food Business Regulation only relates to item 'item 3' and 'not items 3 and 4'.

- **Rating Ordinance (Clause 26 - C1983)**

Proposed CSA : Amending section 18 to clarify that the rates payable will be calculated on the basis of a prescribed percentage of the ratable value of every tenement included in a valuation list which is "in force".

Remarks : Technical amendment for the avoidance of doubt.

Public Health (Animals and Birds) Ordinance

- **Authorization of health officer (Clause 36 - C1987 and new Clause 36B)**

Proposed CSA : Amending the definition of "health officer" in section 2 of the above Ordinance and adding a new section 17A, empowering the Director of Health to authorize public officers to act as "health officers".

Remarks : The new definition will enable the Director of Health to authorize medical officers seconded to the new FEHD to carry out the functions set out under the Public Health (Animals and Birds) Ordinance and its subsidiary legislation.

● **Limitation of Liability (new Clause 36A)**

Proposed CSA : Amending section 14 of the above Ordinance to save the Director of Food and Environmental Hygiene (in addition to the Director of Agriculture and Fisheries) from the liability for acts done for purposes of the Ordinance.

Remarks : Inclusion of the Director of Food and Environmental Hygiene is necessary as she will be involved in enforcing the provisions under this Ordinance.

● **Change of name of the new Department**

- **Public Health (Animals and Birds) Ordinance (new Clause 36A)**
- **Magistrates Ordinance (Clause 53 - C1993)**
- **the Ombudsman Ordinance (Clause 93 - C2007)**
- **Tsing Ma Control Area Ordinance (Clause 113 - C2011)**

Proposed CSA : Amending the name of the proposed “Department of Food and Environmental Hygiene” to “Food and Environmental Hygiene Department”.

Remarks : A technical amendment. The Chinese name, however, is to remain the same (食物環境衛生署).

● **Public Health (Animals and Birds) Regulations (Clause 37 - C1987)**

Proposed CSA : Deleting proposed clause 37 and substituting more comprehensive CSAs as follows:

- substituting the meaning of abattoir in sub-reg. 9(1) by the meaning of ‘licensed slaughterhouse’; and
- substituting the word ‘abattoir’ in sub-reg. 9(2) and 9(3) by ‘licensed slaughterhouse’.

Remarks : Deleting sub-reg. 9(1) as proposed at present under clause 37 is not adequate. The proposed CSAs are to reflect the segregation arrangements for imported animals upon closure of Kennedy Town Abattoir and Cheung Sha Wan Abattoir, which has been implemented.

● **Societies Ordinance (Clause 42 - C1989)**

Proposed CSA : Amending definition of ‘election’ under section 2(1) of the above Ordinance to take account of the revised wording introduced by the Legislative Council (Amendment) Ordinance 1999 which was passed in July 1999.

Remarks : CSA to reflect the up-to-date wording in section 2(1), which clause 42 now proposes to delete.

● **Chinese Temples Ordinance (Clause 43 -C1989)**

Proposed CSA : These include

- deleting section 7(2)(b) of the above Ordinance which stipulates the appointment of ‘one member who shall be Chinese’; and
- amending section 7(2)(d) to increase the number of persons to be appointed by the Chief Executive as members of the Chinese Temples Committee from 5 to 6.

Remarks : The proposed deletion of section 7(2)(b) is to avoid the misunderstanding that there is racial requirement in the appointment of that member. As a result of this proposed deletion, we propose that the number of members in section 7(2)(d) be increased correspondingly from 5 to 6 so that the total number of membership remains the same as at present.

● **Dogs and Cats Ordinance (new Clause 44A)**
[Dogs and Cats (Amendment) Ordinance 1997 as in the Bill]
(Clauses 130, 131 and 132 - C2017)

Proposed CSA : Making consequential amendments due to enactment of the above Amendment Ordinance in June 1999. These include

- adding a new section 44A under a new heading “Dogs and Cats Ordinance”;
- amending the definition of ‘Secretary’ in section 2 to be the ‘Secretary for the Environment and Food’ and substituting ‘經濟局局長’ under section 3(2)(a) of the Chinese text by ‘局長’ ; and
- repealing clauses 130, 131 and 132 in Schedule 7, which have been duly substituted by the above CSAs.

Remarks : Consequential amendments upon enactment of the above Amendment Ordinance. Except for the name of the Ordinance, there is no change in the contents of the proposed amendments.

● **Defences (Firing Areas) Ordinance (Clause 47 - C1991)**

Proposed CSA : Amending clause 47 to stipulate the Director of Food and Environmental Hygiene and Director of Leisure and Cultural Services as the recipients of firing programmes undertaken by the People’s Liberation Army stationed in the HKSAR.

Remarks : The above is an inadvertent omission. Currently the Director of Urban Services and Director of Regional Services receive such notifications. Replacement of the two current Directors by the Directors of the new departments is necessary, to ensure safety of staff of these departments when performing outdoor duties.

● **Substitution of Authority**

- Air Pollution Control (Specified Processes) Regulations (new Clauses 65A, 65B & 65C)
- Waste Disposal (Designated Waste Disposal Facility) Regulation (new Clause 83A)
- Noise Control Ordinance (new Clause 93A)
- Noise Control (Appeal Board) Regulations (new Clause 93B)

Proposed CSA : Deleting “Secretary for Planning, Environment and Lands” and substituting “Secretary for the Environment and Food”.

Remarks : Technical amendments previously omitted and now included to reflect the transfer of responsibility upon establishment of the new Environment and Food Bureau.

● **Legislative Council Ordinance (new Clause 125A)**

Proposed CSA : Amending section 20V(1)(e) of the Legislative Council Ordinance (which define the composition of the sports, performing arts, culture and publication functional constituency) by adding the Leisure and Cultural Services Department and the Home Affairs Bureau to the text so that organizations receiving subsidy/grant from them would be included the scope of the above functional constituency.

Remarks : Consequential amendment upon the enactment of the Legislative Council Amendment Ordinance passed by the Legislative Council in July 1999.

● **Firearms and Ammunition (Amendment) Ordinance 1999 (new Clause 133)**

Proposed CSA : Deleting section 3(a) of the above Amendment Ordinance before its commencement so that clause 58 in Schedule 7 of the Bill may have its effect to delete ‘or the Urban Council’ from section 3(b) of the Firearms and Ammunition Ordinance accordingly.

Remarks

: The inclusion of this CSA depends on whether the PMS (Reorganization) Bill is enacted before or after the Firearms and Ammunition (Amendment) Bill 1998. If the Firearms and Ammunition (Amendment) Bill 1998 is enacted before the PMS (Reorganization) Bill, we shall need this CSA to obviate section 3(a) of that Bill which provides the substitution of 'or the Urban Council' by 'Provisional Urban Council and the Provisional Regional Council'. If it is the other way, we shall not need this CSA but the Law Draftsman will propose another CSA, outside the context of this Bill, to delete section 3(a) of the Firearms and Ammunition (Amendment) Bill 1998.

- END -

PROVISION OF MUNICIPAL SERVICES (REORGANIZATION) BILL

COMMITTEE STAGE

Amendments to be moved by the [_____]

<u>Clause</u>	<u>Amendment Proposed</u>
5(1)	By adding “or which is to take effect on or after that day” after “appointed day”.
8(2)	(a) In paragraph (a) by adding “or which are instituted on behalf of a former authority” after “party”. (b) In paragraph (b) by deleting “the former authority” and substituting “a former authority”. (c) In paragraph (e) by deleting “if in force immediately before the commencement date day” and substituting “which is in force immediately before the commencement date or which is to take effect on or after that date”. (d) In paragraph (i) by adding “or on behalf of” after “issued by”. (e) In paragraph (j) — (i) by deleting “provision of such an enactment” and substituting “former

authority or person authorized by the former authority”;

- (ii) by deleting “or provision, if any” and substituting “(if any) or new authority or authorized person, as the case may require”.

9 By adding —

“(3) For the avoidance of doubt it is stated that the validity of a fee or charge continued in force under subsection (2) as a prescribed fee is not affected by it not being in the required form, until it is varied, amended or replaced by the new authority or under the new provision referred to in that subsection.”.

10(1) By deleting “under the enactment which corresponds to it, if any, and if there is no corresponding enactment,”.

11 By deleting subclause (1) and substituting —

“(1) The Chief Executive in Council may, by order published in the Gazette, make such consequential amendments to any enactment or provisions of a transitional or savings nature as are necessary for the better carrying out of the provisions of this Ordinance.”.

Schedule 3,
section 1

(a) By deleting paragraph (c) and substituting -

“(c) by repealing the definitions of “boarding house”, “laundry”, “lines”, “public table tennis saloon”, “Regional Council area”, “Regional Services Appeals Board”, “Urban Council area”, “Urban Services Appeals Board” and “washhouse”;

(b) By adding -

“(ca) by repealing the definition of “registered ventilation contractor” and substituting -

““registered specialist contractor (ventilation works category)” () means a person whose name is for the time being on the sub-register for the ventilation works category in the register of specialist contractors maintained under section 8A of the Buildings Ordinance (Cap. 123);”;

(c) In paragraph (d) -

(i) in the proposed definition of

“health officer” by deleting paragraph (b) and substituting -

“(b) the Director of Food and Environmental Hygiene, a Deputy Director of Food and Environmental Hygiene or an Assistant Director of Food and Environmental Hygiene,

and includes a person authorized by the Director of Health or the Director of Food and Environmental Hygiene to perform the functions of a health officer;”;

(ii) in the proposed definition of “prescribed fee” by adding “, 124IA” after “124I”.

Schedule 3 By adding -

“2A. Protection of public sewers and drains

Section 6(2) is amended by repealing “only”.

Schedule 3 By deleting section 5 and substituting -

“5. Heading substituted

The heading before section 35 is repealed and the following substituted -

“Public latrines and bathhouses”.”.

Schedule 3, section 16 In the proposed section 43(1) by deleting “this Ordinance” and substituting “section 42”.

Schedule 3 By adding -

“26A. Regulations in relation to markets

Section 80(1) is amended by adding -

“(aa) an appeal to the Municipal Services Appeals Board against a decision to terminate a grant referred to in paragraph (a);”.

Schedule 3, section 28 In the proposed section 81(1) by deleting “this Ordinance” and substituting “section 80”.

Schedule 3 By adding -

“30A. Abatement of overcrowding

Section 87 is repealed.”.

Schedule 3 By adding -

“40A. Offences

Section 92C(2) is amended by adding “or 92AB” after “92A”.

Section 124D is amended -

(a) in subsection (4) by repealing “Appeals Board” and substituting “Municipal Services Appeals Board”;

(b) by adding -

“(5) Any appeal under subsection (4) must be made within 30 days after receiving notice of the decision.”.”.

Schedule 3,
section 63

(a) In the proposed section 124I(1) -

(i) in paragraph (f) by deleting “the registration or licensing of public slaughterhouses or”;

(ii) by adding -

“(sa) the insertion of an inscription in a book kept at a garden of remembrance for recording commemorative inscriptions;”.

(b) By adding -

**“124IA. Authority may prescribe
fees and charges for matters
specified in Schedule 16**

(1) The Authority may by regulation

provide for the fees and charges payable by an individual as a member of the public in connection with the matters specified in Schedule 16.

(2) For the purposes of subsection (1) the following is not included -

(a) fees and charges payable in connection with the admission to a venue or facility specified in Schedule 16 -

(i) of members of a club, institution, association or other organization as members thereof; or

(ii) for a commercial purpose; or

(b) fees and charges payable in connection with the use of a venue, service or facility specified in Schedule 16 -

(i) by members of a club,

institution, association or other organization as members thereof;

(ii) for games, sports or other activity organized or arranged by or on behalf of a club, institution, association or other organization;

(iii) for trading or advertising; or

(iv) for a commercial purpose.

(3) The Authority may prescribe different fees and charges for persons or cases of different classes or descriptions under subsection (1).

(4) The Authority may by order published in the Gazette amend Schedule 16.

(5) An order under subsection (4)

is subject to the approval of the Legislative Council.”.

(c) By deleting the proposed section 124J(1) and substituting -

“(1) Subject to section 124IA(1), any fee or charge payable in connection with the admission to or the use for any purpose of a venue, service or facility relating to a cultural or leisure activity provided by the Authority or which is under the control and management of the Authority may be determined by the Authority with the approval of the Financial Secretary.”.

(d) In the proposed section 124L by adding”, 124IA” after “124I”.

Schedule 3

By adding -

“64A. Section added

The following is added in Part XIB -

“124M. Interpretation of Part XIB

In this Part, unless the context otherwise requires -

“Board” () means the Licensing Appeals Board established under section 125A;

“Chairman” () means the person appointed to that office under section 125A(2);

“secretary” () means the secretary to the Board appointed under section 125G(1);

“Vice-Chairman” () means the person appointed to that office under section 125A(2).”.”.

Schedule 3,
section 66

(a) In the proposed section 125A -

(i) by deleting subsection (2) and substituting -

“(2) The Board is to consist of -

(a) a Chairman;

(b) a Vice-Chairman; and

(c) not less than 13 other members,

appointed by the Chief Executive in accordance with this section.”;

(ii) in subsection (4) by deleting “of the Board” and substituting “or Vice-Chairman”;

(iii) in subsection (5) by deleting “or Chairman” and substituting”, Chairman or Vice-Chairman”;

(iv) by deleting subsections (6) and (7).

(b) In the proposed section 125B -

(i) in the heading by adding **“and appeals from its decisions”** after **“Board”**;

(ii) in subsection (4) by deleting “dissatisfied with” and substituting “who appeals to the Board, if dissatisfied with the”;

(iii) by adding -

“(5)If an appeal is made under subsection (4), the Board may, in its discretion, suspend the operation of the decision to which the appeal relates, pending the determination of the appeal.”.

(c) By deleting the proposed section 125C and substituting -

“125C. How the Board is to be constituted for the purposes of an appeal

(1) For the purposes of hearing an appeal or making a decision for the purposes of section 125B(5), the Board is to consist of -

(a) the Chairman or Vice-Chairman; and

(b) 4 other members nominated under subsection

(2).

(2) The secretary must nominate 4 members for the purposes of subsection (1) (b).

(3) In nominating members under subsection (2), the secretary is subject to the direction of the Chairman or Vice-Chairman.”.

(d) In the proposed section 125D by adding “the” after “and”.

(e) In the proposed section 125E -

(i) in subsection (1) by deleting “of the Board” and substituting “or Vice-Chairman”;

(ii) in subsections (3), (4) and (5) by deleting “Chairman” wherever it appears and substituting “person presiding”.

(f) By adding -

**“125EA. Board to give reasons for
decision**

(1) The Board must give reasons for its decisions.

(2) The secretary must serve a copy of the Board’s decision and of the reasons for the decision on the parties to an appeal.”.

(g) In the proposed section 125F -

(i) by renumbering it as section 125F(1);

(ii) by adding -

“(2) The rules made under subsection (1) are subsidiary legislation.”.

(h) By adding -

“125FA. Meetings of the Board other than appeal hearings

At a meeting of the Board, other than an appeal hearing or a meeting for the purposes of section 125B(5) -

- (a) the quorum shall be not less than half the members of the Board for the time being;
- (b) the Chairman or Vice-Chairman shall preside;
- (c) decisions are to be made by a majority of the members present and voting; and
- (d) the person presiding has a casting vote.”.

(i) In the proposed section 125G -

- (i) by renumbering it as section 125G(1);
- (ii) in subsection (1) (b) by deleting “(which may include a legal adviser)”;
- (iii) by adding -

“(2) The Secretary for the Environment and Food may appoint a legal adviser to advise on

legal matters relating to an appeal and the legal adviser may be present at any hearing before the Board or deliberations of the Board to so advise the Board.”.

Schedule 3 By deleting section 75 and substituting -

**“75. Authentication and production
in evidence of documents**

Section 135 is amended -

- (a) by repealing “or public body” wherever it appears;
- (b) by adding -

“(3) Notwithstanding the amendments made to this section by the Provision of Municipal Services (Reorganization) Ordinance (of 1999), on and after the commencement of those amendments, subsection (2) applies to any order, notice, demand, certificate or other document made and signed before that commencement and to which that subsection would have

applied if not for such commencement, as if those amendments had not been made.”.”.

Schedule 3 By adding -

“83A. Section added

The following is added -

“154. Transitional

Any reference in subsidiary legislation made under this Ordinance to prescribed fee or fee determined under section 124J includes a reference to a fee continued in force under section 9(2) of the Provision of Municipal Services (Reorganization) Ordinance (of 1999) as if prescribed under section 124I, 124IA or 124K or determined under section 124J, as the case may be, until the relevant fee is replaced under section 124I, 124IA, 124J or 124K.”.”.

Schedule 3, In the proposed Third Schedule -

section 84 (a) by deleting -

“83B Secretary for the Environment and Food”

and substituting -

“83B Director of Food and Environmental Hygiene”;

(b) by adding -

“105E Director of Leisure and Cultural Services”;

(c) by deleting “118(1), (4) and (5)” and substituting “118 (1) and (4)”;

(d) by adding -

“124IA Secretary for Home Affairs”.

Schedule 3, In the proposed Sixth Schedule by deleting -

section 87 “92AB Director of Food and Environmental Hygiene
92C Director of Food and Environmental Hygiene”

and substituting -

“92C Director of Leisure and Cultural Services in respect of section 92A and Director of Food and Environmental Hygiene in respect of section 92AB”.

Schedule 3 By deleting section 88 and substituting -

“88. **Forms**

The Seventh Schedule is amended -

(a) in Form F -

(i) by repealing “or public body”;

(ii) in Note 1 -

(A) by repealing “of \$60,000” and substituting “at level 6”;

(B) by repealing “\$1,000” and substituting “\$1,750”;

(iii) in Note 3 by repealing “of \$10,000” and substituting “at level 4”;

(b) in Form G -

(i) by repealing “or public body” where it twice appears;

(ii) in Note 1 -

(A) by repealing “of \$60,000” and substituting “at level 6”;

(B) by repealing “\$1,000” and substituting “\$1,750”;

(iii) in Note 2 by repealing “of \$10,000” and substituting “at level 4”.”.

Schedule 3

By adding -

“89A. Penalties

The Ninth Schedule is amended by repealing -

“105F(3) level 2 -
105S(1) level 3 and 3 months imprisonment -”.”.

Schedule 3, section 91 By deleting paragraph (b) and substituting -
“(b) by repealing “Public table tennis saloon” and “Undertaker of burials”.”.

Schedule 3 By adding before the heading “**Abattoirs Regulation**” -

“94A. Schedule added

The following is added -

“SCHEDULE 16 [s. 124IA]

**MATTERS FOR WHICH SECRETARY FOR HOME AFFAIRS MAY
BY REGULATION PROVIDE FOR FEES AND CHARGES**

1. Public swimming pools
Admission
2. Museums
Admission
3. Libraries
Admission
4. Public pleasure grounds
 - (a) Hire of tennis courts
 - (b) Hire of basketball courts
 - (c) Hire of squash courts

(d) Hire of football pitches

(e) Hire of table tennis tables

(f) Hire of badminton courts

5. Holiday camps

Camp fees”.

Schedule 3, By deleting paragraphs (b) and (c) and substituting -

section 100 “(b) in subsection (2) by repealing everything from “if” to “Ordinance” and substituting “if there is a prescribed fee for that purpose”;

(c) in subsection (3) by repealing everything after “pay” and substituting “the prescribed fee, if any, for night slaughter.”.”.

Schedule 3 By deleting section 146 and substituting -

“146. **Section repealed**

Section 3 is repealed.”.

Schedule 3 By deleting section 148 and substituting -

“148. **Section repealed**

Section 5 is repealed.”.

Schedule 3, By deleting “, 10 and 11” and substituting “and 10”.

section 149

Schedule 3, section 151 (a) By deleting subparagraph (ii) and substituting -

“(ii) by repealing “3(1), 5(1), 6, 8, 9, 10” and substituting “6”;

Schedule 3 By adding -

“149A. **Section amended**

Section 11 is amended by repealing everything from “such” to “, or” and substituting “sign”.

Schedule 3, section 157 By deleting everything after “aside” and substituting “by the Director for use by the public for cooking.”.

Schedule 3, section 158 By deleting paragraphs (a) and (b) and substituting -

“(a) by repealing “Council (which may be granted on payment of such fee as the Council thinks fit)” and substituting “Director”;

Schedule 3 By deleting section 165 and substituting -

“165. **Public meetings and assemblies**

Section 13 is repealed.”.

Schedule 3 By deleting section 167 and substituting -

“167. **Offences and penalties**

Section 16 is amended -

(a) by repealing “by-law” where it twice appears and substituting “section”;

(b) in paragraph (a) by repealing “13,”.”.

Schedule 3, By deleting paragraph (a) and substituting -

section 174 “(a) in subsection (1) -

(i) in paragraph (a) by repealing “these by-laws;” and substituting “this Regulation; or”;

(ii) by repealing paragraph (b);”.

Schedule 3, By deleting “he” and substituting “him”.

section 175

(b) (i)

Schedule 3 By deleting section 209 and substituting -

“209. Conduct and behaviour

– Section 15 is amended -

(a) in paragraph (a) by repealing “Council” and substituting “Director of Food and Environmental Hygiene”;

(b) by repealing paragraph (c);

(c) in paragraph (h) by repealing everything from “or is” to “clad”.”.

Schedule 3 By deleting section 217 and substituting -

“217. Conduct and behaviour

Section 22 is amended -

- (a) in paragraph (a) by repealing “Council” and substituting “Director of Food and Environmental Hygiene”;
- (b) by repealing paragraph (c);
- (c) in paragraph (e) by repealing “Council” and substituting “Director of Food and Environmental Hygiene”;
- (d) in paragraph (h) by repealing everything from “or is” to “clad”.”.

Schedule 3, By deleting paragraph (b) and substituting -
section 219

- “(b) by repealing “the Council” where it secondly appears and substituting “that Director”;
- (c) by repealing everything after “payment” and substituting “of the prescribed fee.”.”.

Schedule 3, (a) In the heading by deleting **“amended”** and substituting
section 224 **“substituted”**.

(b) In the proposed Schedule by adding at the end -

“59. The first floor of Urban Council Sam Ka Tsuen Complex,
6 Lei Yue Mun Path, Sam Ka Tsuen, Kwun Tong,
Kowloon.”.

Schedule 3,
section 233 (a)

By adding -

- “(iia) in the definition of “shell fish” by repealing everything after “include” and substituting “molluscs or crustaceans in the form of sashimi or forming part of sushi, or oyster to be eaten in its raw state;
- (iib) in the definition of “wholesale market” by adding “, but does not include the Western Wholesale Food Market” after “Fisheries”;”.

Schedule 3,
section 248

In the proposed section 28(a) by deleting “Harbour” and substituting “harbour”.

Schedule 3,
section 249

(a) In paragraph (c) by adding -

“(iia) by repealing “or destroyed” and substituting”, destroyed or accidentally defaced”;”.

(b) By deleting paragraph (e) (v).

Schedule 3,
section 250 (e)

By adding -

“(iia) by repealing “or destroyed” and substituting “, destroyed or accidentally

defaced”;

Schedule 3, (a) In paragraph (d) by deleting the full stop and substituting a
section 255 semicolon.

(b) By adding -

“(e) in subsection (6) by repealing “appropriate” and substituting “prescribed”.”.

Schedule 3 By deleting section 277 and substituting -

“277. Hawkers of frozen confections to wear uniforms and display numbers

Section 16 is repealed.”.

Schedule 3, By adding -

section 280 (a) “(va) by adding -

“(ha) no part of the premises in which any frozen confection is manufactured or stored contains a soil fitment or latrine fitment or communicates directly with a room or other place which contains a soil fitment or latrine fitment;”;

Schedule 3, By deleting paragraph (b) and substituting -
section 296

“(b) in subsection (2A) -

(i) by repealing “bylaw” and

substituting “section”;

- (ii) by repealing “appropriate” and substituting “prescribed”;

Schedule 3, By adding -
section 297 (a) “(iii) in paragraph (a) by repealing “16,”;

Schedule 3 By deleting section 304 and substituting -

“304. Refusals and revocations

Section 5 is amended -

- (a) by repealing “Council” where it twice appears and substituting “Director”;
- (b) by repealing “21” and substituting “18”.

Schedule 3, By deleting the proposed section 14 and substituting -
section 329

**“14. Licence, etc. not to be altered
or defaced**

(1) A person shall not alter, deface or make any erasure on a licence, hawker badge or pitch card.

(2) A person shall not use or have in his possession with a view to using a licence, hawker badge or pitch card on which an erasure has been made or which has been altered or defaced unless

-

- (a) the alteration is authorized; or
- (b) the licence, hawker badge or pitch card has been defaced or damaged accidentally.”.

Schedule 3 By deleting section 350 and substituting -

**“350. Fixed pitches to be kept in safe
and clean condition**

Section 39 is amended -

- (a) by repealing subsection (1);
- (b) in subsection (2) by repealing “by-law 31” and substituting “section 33”.”.

Schedule 3, By deleting “Department of Food and Environmental Hygiene” and
section 360 (c) substituting “Food and Environmental Hygiene Department”.
(ii) and (e) (ii)

Schedule 3, (a) In paragraph (b) by adding -
section 366 “(iia) by repealing “to 24” and substituting “, 24”;”.

(b) By deleting paragraph (d) and substituting -

“(d) in subsection (5) -

- (i) by repealing “by-laws” and substituting “sections”;
- (ii) by repealing “29,”;”.

(c) In paragraph (g) (ii) by deleting “Department of Food and Environmental Hygiene” and

substituting “Food and Environmental Hygiene Department”.

Schedule 3, section 379 (a) By deleting “library card” and substituting “library card.”.

Schedule 3 By deleting section 386 and substituting -

“386. Section substituted

Section 17 is repealed and the following substituted -

“17. Borrower may reserve library material not immediately available

A borrower who desires to borrow any library material which is not immediately available in a library may reserve that library material by paying the appropriate fee determined under section 124J of the Ordinance.”.

Schedule 3, section 388 (a) (i) By adding “as” before “directed”.

Schedule 3, section 396 By deleting paragraph (b) and substituting -
“(b) by repealing subsection (4);”.

Schedule 3 By adding -
“396A. Restriction on writing materials, etc.

is processed, reconstituted or stored, contains a soil fitment or latrine fitment or communicates directly with a room or other place which contains a soil fitment or latrine fitment;”;

Schedule 3, section 424 By adding before paragraph (a) -
“(aa) in subsection (1) by adding “and the temperature to which the milk or the milk beverage is subsequently cooled” after “heated”;”.

Schedule 3, section 448 By deleting paragraph (d) and substituting -
“(d) by repealing subsection (6);”.

Schedule 3, section 465 By deleting paragraph (a) and substituting -
“(a) by repealing “Council may in its absolute discretion” and substituting “Director may”;”.

Schedule 3 By adding -
“466A. **Restrictions as to certain person**
Section 21 is amended by repealing “14” and substituting “15”.”.

- Schedule 3,
section 475 By adding -
 “(aa) by repealing “21” and substituting “18”;
- Schedule 3 By deleting section 481 and substituting -
 “481. Offences and penalties
 Section 19 is amended -
 (a) by repealing “bylaw” and substituting “section”;
 (b) by repealing “, 26 or 28” and substituting “or 26”.
- Schedule 3 By deleting section 487 and substituting -
 “487. Part repealed
 Part V is repealed.”.
- Schedule 3 By deleting section 488 and substituting -
 “488. Schedule amended
 Schedule 1 is amended -
 (a) by repealing “[bylaw 4]” and substituting “[s. 4]”;
 (b) by repealing -
 “Public table 1 year”.
 tennis saloon
- Schedule 3,
section 489 By deleting paragraph (d) and substituting -
 “(d) by repealing Form 4.”.
- Schedule 3,
section 495 By deleting subparagraph (ii) and substituting -

(b) “(ii) by repealing “the Council may determine” and substituting
“determined under section 124J of the Ordinance”.”.

Schedule 3, By deleting “for cooking purposes other than in” and substituting “other
section 497 (c) than in an”.

Schedule 3, (a) In paragraph (b) by deleting “destroy or remove” and substituting
section 498 “, destroy or remove”.

(b) In paragraph (c) (i) by deleting “destroy or release” and
substituting “, destroy or release”.

Schedule 3, By deleting subparagraph (i).
section 500 (a)

Schedule 3 By adding -
“502A. **Kites, model aircraft,
balloons, etc.**

Section 17 is amended by repealing “Council” and substituting
“Director”.”.

Schedule 3, By deleting subparagraph (i) and substituting -
section 505 (a) “(i) in paragraph (a) by repealing “Council” and substituting
“Director”.”.

Schedule 3 By deleting section 510 and substituting -

“510. Public addresses, etc.

Section 28 is repealed.”.

Schedule 3 By deleting section 511 and substituting -

“511. Offences and penalties

Section 30 is amended -

- (a) by repealing “bylaw” where it twice appears and substituting “section”;
- (b) in paragraph (a) by repealing “, 28,”.”.

Schedule 3, By deleting paragraph (e) and substituting -

section 534 “(e) in subsection (7) -

- (i) by repealing “Council” and substituting “Director”;
- (ii) in the proviso by repealing “fee prescribed” and substituting “prescribed fee”.”.

Schedule 3, By deleting “Department of Food and Environmental Hygiene” and
section 546 (b) substituting “Food and Environmental Hygiene Department”.

Schedule 3, By deleting “Department of Food and Environmental Hygiene” and
section 555 substituting “Food and Environmental Hygiene Department”.

Schedule 3, By deleting “Department of Food and Environmental Hygiene” and section 558 (d) (ii) substituting “Food and Environmental Hygiene Department”.

Schedule 3, By deleting paragraph (a) and substituting -
section 561

“(a) by repealing subsection (1) and substituting -

“(1) Subject to subsection (2), the prescribed fee is payable to the Director for the burial of human remains, the setting up of any monument or enclosure over or around any grave and the construction of any vault or urn.”;

Schedule 3 By deleting section 590 and substituting -

“**590. Fees for use of compartments in certain public latrines**

Section 4 is repealed.”.

Schedule 3 By deleting section 593 and substituting -

“**593. Communicable diseases**

Section 8 is repealed.”.

Schedule 3, By deleting subparagraph (ii) and substituting -

section 595 (a) “(ii) by repealing “4, 5, 6, 7 or 8” and substituting “5, 6, 6A or 7”;

Section 6 is amended -

- (a) by renumbering it as section 6(1);
- (b) in subsection (1) -
 - (i) by repealing “Council” and substituting “Director”;
 - (ii) by repealing “it” and substituting “he”;
- (c) by adding -

“(2) A person to whom a stall is let under subsection (1) may appeal to the Municipal Services Appeals Board against any decision of the Director to terminate the lease, licence or permit by which the stall is let to the person, within 14 days after receiving notice of the termination.”.

Schedule 3 By deleting section 626 and substituting -

“626. General offences

Section 4 is amended -

- (a) in paragraphs (a) and (d) by repealing “Council” and

substituting “Director”;

(b) in paragraph (k) by repealing “sparsely clad” and substituting “improperly clad”.”.

Schedule 3,
section 631

By deleting the proposed section 10 and substituting -

“10. Fees and charges

(1) A person using a swimming pool during a session specified under section 9 shall pay to the Director the prescribed fee or the fee determined under section 124J of the Ordinance as may be appropriate.

(2) Except with the prior permission of an attendant, no person shall enter the precincts of a swimming pool without first having paid the appropriate fee under subsection (1).”.

Schedule 3,
section 632

In the heading by deleting “**rules**” and substituting “**subsidiary orders**”.

Schedule 3,
section 638

By deleting “Department of Food and Environmental Hygiene” wherever it appears and substituting “Food and Environmental Hygiene Department”.

Schedule 3,
section 651

By deleting “wherever” and substituting “where”.

(a) (i)

Schedule 3, By adding -
section 705 “(iii) in paragraph (h) in the proviso by adding “, such as aqua-
(a) privies and chemical closets, approved by the Director” after
“accommodation”;

Schedule 3 By adding -
“706A. **Section substituted**
Section 10 is repealed and the following substituted -
“10. Quality of water
A licensee of a swimming pool shall cause the water in
the swimming pool to be maintained to -
(a) a standard of bacteriological quality, such that -
(i) Escherichia coli is absent in pool
water samples of 100 mL each, taken
at any time at any location in the
swimming pool; and
(ii) the total

bacterial count as determined by the 48-hour plate count method at 37°C does not exceed 200 bacteria per mL of pool water sample taken at any time at any location in the swimming pool; and

(b) a standard of clarity, such that -

(i) the turbidity of water as expressed in Nephelometric Turbidity Units does not exceed 5; and

(ii) the colour of water as expressed in Hazen Units does not exceed 5; and

- (c) a standard of pH value of not less than 7.0 and not more than 7.8.”.”.

Schedule 3 By deleting section 721 and substituting -

“721. Refusals and revocations

Section 7 is amended -

- (a) by repealing “Council” where it twice appears and substituting “Director”;
- (b) by repealing “21” and substituting “18”.”.

Schedule 3,
section 722 By deleting section 722 and substituting -
“722. Section substituted

Section 8 is repealed and the following substituted -

“8. Licence not to be altered or defaced

- (1) A person shall not alter, deface or make any erasure on a licence.
- (2) A person shall not use or have in his possession with a view to using a licence on which an erasure has been made or which has been altered or defaced unless -
 - (a) the alteration is authorized; or
 - (b) the licence has been

defaced or damaged accidentally.””.

Schedule 3, (a) In paragraph (b) by deleting the full stop and substituting a
section 731 semicolon.

(b) By adding -

“(c) by repealing “registered ventilation contractor” wherever
it appears and substituting “registered specialist
contractor (ventilation works category)””.

PROVISION OF MUNICIPAL SERVICES (REORGANIZATION) BILL

COMMITTEE STAGE

Amendments to be moved by the [_____]

Clause

Amendment Proposed

Schedule 4,
section 3 (b) (a) In subparagraph (iv), in the proposed definition of “respondent” by deleting paragraph (b) and substituting -

“(b) an appeal board decision, the person who made the first decision;”.

(b) In subparagraph (viii), by adding -

““first decision” () means a decision which was the subject matter of an appeal to the Licensing Appeals Board;”.

Schedule 4,
section 7 (a) In the proposed section 6(2) by adding “who are legally qualified” after “persons”.

Schedule 4,
section 8 (a) In the proposed section 7(1) (a) by deleting

"decision which was the subject matter of the appeal board decision" and substituting "first decision".

- (b) In the proposed section 7(2)(b) by deleting everything after "decision" where it first appears and substituting a full stop.

Schedule 4,
section 10

By deleting paragraphs (b) and (c) and substituting -

"(b) in subsection (2) -

(i) by adding -

"(aa) in the case of an appeal against an appeal board decision, the secretary to the Licensing Appeals Board; and";

(ii) in paragraph (b) by repealing "and" and substituting a full stop;

(iii) by repealing paragraph (c);

(c) by adding -

"(3) If the Chairman so directs, the Secretary shall also give notice to any person (other than the appellant) who has made representations -

(a) to the respondent, on the

subject matter of the administrative decision or the first decision, before the relevant decision was made; or

- (b) to the Licensing Appeals Board, on the subject matter of the appeal board decision, before that decision was made.”.”.

Schedule 4,
section 11

- (a) In the heading by deleting “**decision maker**” and substituting “**Respondent and Licensing Appeals Board**”.
- (b) By deleting paragraph (a) (i).
- (c) By deleting paragraph (a) (iii) (A) and (E) (I) and (iv).
- (d) In paragraph (a) (iii) (D), in the proposed section 9(1) (a) (iia) by deleting “decision maker” and substituting “respondent”.
- (e) By adding -
 - “(aa) by adding -

“(1A) If the appeal to the Board is against an appeal board decision, the secretary to the Licensing Appeals Board shall, within 28 days after receiving notice of an appeal under section 8(2), serve on the Secretary, the appellant and any other person bound by the appeal board decision, a copy of the appeal board decision, the reasons for that decision, the minutes of proceedings and private deliberations relating to that decision, the names of persons who has made representations to the Licensing Appeals Board on the subject matter of that decision and any other document which is in the possession of the Licensing Appeals Board and considered by the Licensing Appeals Board to be relevant to the appeal.”;

- (f) By deleting paragraph (b) (i) and (ii).
- (g) By deleting paragraphs (c), (d) and (e).

PROVISION OF MUNICIPAL SERVICES (REORGANIZATION) BILL

COMMITTEE STAGE

Amendments to be moved by the [_____]

<u>Clause</u>	<u>Amendment Proposed</u>
Schedule 5, section 2	(a) In paragraph (a) (i), in the proposed section 6(1) (g) by deleting everything from “for” to “(n)” and substituting “referred to in <u>section 6A</u> ”. (b) In paragraph (b), in the proposed section 6(4A) (b) by deleting “make rules for regulating proceedings before it” and substituting “determine its procedures and forms for the purposes of those regulations”.
Schedule 5, section 3	In the proposed section 6A by adding “and for authorizing a person to manage premises for which a licence has been issued, in place of the licence holder” after “licence” where it thirdly appears.
Schedule 5, section 4(c)	In the proposed definition of “Board” by deleting

“section” and substituting “regulation”.

Schedule 5, By deleting the proposed regulation 2A(2), (3) and (4) and substituting -
section 6

“(2) The Board is to consist of -

- (a) a Chairman;
- (b) a Vice Chairman; and
- (c) 9 other members,

appointed by the Chief Executive.

(3) A public officer may not be appointed under paragraph (2).

(4) A person appointed under paragraph (2) is to hold and vacate office in accordance with that person’s terms of appointment.

(5) The Secretary for the Environment and Food may appoint a secretary to the Board and other staff as the Secretary considers necessary.

(6) The Secretary for the Environment and Food may appoint a legal adviser to advise on legal matters relating to an application and the legal adviser may be present at any hearing before the Board or deliberations of the Board to so advise the Board.”.

Schedule 5 By adding -

“8A. **Meetings of Board**

Regulation 13(1) is amended by repealing “during March, June, September and December and at such other times” and substituting “as often”.”.

Schedule 5 By adding -

“8B. Regulations added

The following are added -

**“13A. Board may delegate powers
and functions**

The Board may delegate any power or function of the Board to a committee of the Board, a member of the Board or a public officer.

**13B. Quorum for meeting
of Board**

The quorum for a meeting of the Board is not less than half its members for the time being.

**13C. Chairman or Vice Chairman
to preside**

The Chairman or Vice Chairman appointed under regulation 2A(2) must preside at any meeting of the Board.”.”.

Schedule 5 By adding -

“8C. Regulation added

The following is added in Part II -

**“14A. Board may determine procedure for
meetings and applications**

The Board may determine the procedure for meetings of and applications to the Board including the manner of making, hearing and determining applications and the documents to be lodged or served in connection with applications.”.”.

Schedule 5 By adding -

“8D. Mode of voting

Regulation 14(2) is amended by repealing “chairman” and substituting “person presiding”.”.

Schedule 5 By adding -

“9A. Advertisement of applications

Regulation 16 is amended by repealing “or sign”.”.

Schedule 5 By deleting section 10 and substituting -

“10. Regulation substituted

Regulation 17 is repealed and the following substituted -

“17. Decisions of Board and

appeals to Municipal

Services Appeals

Board

(1) Upon application the Board may grant a liquor licence without conditions or subject to such conditions as it thinks fit, or refuse the application.

(2) The Board shall not grant a liquor licence unless it is satisfied -

(a) that the applicant is a fit and proper person to hold the licence;

(b) that the premises to which the application relates are suitable for selling or supplying intoxicating liquor, having regard to -

(i) the location and structure of the premises; and

(ii) the fire safety and hygienic conditions in the premises;

(c) that in all the circumstances the grant of

the licence is not contrary to the public interest.

(3) The Board must give reasons in writing -

(a) for any decision on an application in respect of which there is an objection; or

(b) for any decision to refuse an application.

(4) The secretary to the Board appointed under regulation 2A(5) must give notice in writing of the Board's decision, together with reasons, to the applicant and any other person who or body which has expressed an interest in the application.

(5) The applicant or 20 or more persons residing within a radius of 400 metres from the premises to which the application relates may, within 28 days after notice is given under paragraph (4), appeal to the Municipal Services Appeals Board against the decision.”.”.

Schedule 5 By deleting section 11 and substituting -

“11. Restriction against further applications

Regulation 19(2) is amended by repealing

everything after “(1) (b),” and substituting -“the secretary to the Board must give notice in writing of the refusal, together with reasons, to the person and the person may appeal to the Municipal Services Appeals Board against the refusal within 28 days after receiving the notice.”.”.

Schedule 5 By adding -

**“11A. Issue and duration of
licences**

Regulation 20(3) is amended by repealing “, 9 months, 6 months or 3 months” and substituting “or such lesser period”.”.

Schedule 5 By deleting section 12 and substituting -

**“12. Revocation and suspension of
licences**

Regulation 23 is amended -

(a) in paragraph (1) by adding “or refuse to renew” after “fit”;

(b) by adding -

“(1A) Without limiting paragraph (1), the Board may revoke, suspend or refuse to renew a liquor licence, if in its opinion -

(a) the person

holding the licence has
failed to comply with any
condition of the licence;

(b) the person holding the
licence has ceased to be a fit
and proper person to hold
the licence;

(c) the premises specified in the
licence have ceased to be
suitable for selling or
supplying

intoxicating liquor, for

reasons connected with -

(i) the location and

structure of the

premises;

(ii) the fire safety and

hygienic conditions in

the premises; or

(d) public

interest so requires.”;

(c) by repealing paragraph (2) and substituting -

“(2) The secretary to the Board must give notice in writing, together with reasons, of a decision under this regulation to the person concerned.

(3) A person may appeal to the Municipal Services Appeals Board against any decision of the Board under this regulation within 28 days after receiving notice of the decision.”.”.

Schedule 5 By adding -

“12A. Illness or absence of licensee

Regulation 24 is amended by repealing “a fee of \$10” and substituting “the appropriate fee prescribed under section 6A of the Ordinance”.”.

Schedule 5 By deleting section 13 and substituting -

“13. Issue of temporary licences

Regulation 25(2) is repealed.”.

Schedule 5 By deleting section 14 and substituting -

**“14. Clubs to be licensed for
supply of liquor to
members**

Regulation 26 is amended -

- (a) in paragraph (2), by repealing “Urban Council or the Regional Council as the case may require” and substituting “Board”;
- (b) by repealing paragraph (3).”.

Schedule 5 By adding -

“14A. Licensee to exhibit name, etc.

Regulation 26A(1) is amended by adding “licence” after “liquor”.

14B. Regulation added

The following is added -

**“26B. Board may determine forms
of licences**

The Board may determine the form of any licence granted by it under these regulations.”.”.

Schedule 5 By deleting section 15 and substituting -

“15. Restrictions on employment of

**young persons on licensed
premises**

Regulation 29 is amended -

(a) by adding after paragraph (1) -

“(1AA) If the Board refuses permission for the purposes of paragraph (1) (c), the Board must give reasons in writing for the refusal.”;

(b) in paragraph (1A) by repealing “Appeals Board” and substituting “Municipal Services Appeals Board within 28 days after receiving notice of the refusal”.”.

Schedule 5, In the proposed regulation 33 by adding -

section 16

“(1A) Any reference in these regulations to the prescribed fee includes a reference to a fee continued in force under section 9(2) of the Provision of Municipal Services (Reorganization) Ordinance (of 1999) as if prescribed under section 6A of the Ordinance, until that fee is replaced under that section 6A.”.

PROVISION OF MUNICIPAL SERVICES (REORGANIZATION) BILL

COMMITTEE STAGE

Amendments to be moved by [_____]

Clause

Amendment Proposed

Schedule 7 By adding before the heading “**Public Finance Ordinance**” -
“**Specification of Public Offices**

1A. Schedule amended

The Schedule to the Specification of Public Offices (Cap. 1 sub. leg.) is amended by repealing -

“Chief Secretary for Administration Public Health and Municipal Services Ordinance (Chapter 132), section 105S.””.

Schedule 7 By deleting section 6 and substituting -

“6. Designated Authorities

The Schedule to the Land (Miscellaneous Provisions) Ordinance (Cap. 28) is amended -

- (a) in the entry in relation to section 6(1), (2) and (2A) in column 3 by repealing “Urban Council” and substituting “Director of Food and Environmental Hygiene”;
- (b) in the entry in relation to section 6(3), (4A) and (5) in column 3 by adding “, the Director of Food and Environmental Hygiene” before “or”.

Schedule 7, section 10 By deleting “items 3 and 4” and substituting “item 3”.

Schedule 7, section 26(a) By adding “in force” after “list”.

Schedule 7, section 30 In the proposed section 56 -

- (a) in subsection (2) by deleting “under” and substituting “for the purposes of”;
- (b) in subsection (3) by deleting “under” where it first appears and substituting “for the purposes of”;
- (c) in subsection (4) by deleting “under” and substituting “for the purposes of”.

Schedule 7 By deleting section 36 and substituting -

“36. Interpretation

Section 2(1) of the Public Health (Animals and Birds) Ordinance (Cap. 139) is

amended in the definition of “health officer” -

- (a) by repealing “and” and substituting a comma;
- (b) by adding “and includes a public officer authorized under section 17A” after “officer” where it lastly appears.

36A. Limitation of liability for acts

done for purposes of

Ordinance

Section 14 is amended -

- (a) by adding “or the Director of Food and Environmental Hygiene” after “Director” where it twice appears;
- (b) by adding “or the Food and Environmental Hygiene Department” after “Department”.

36B. Section added

The following is added -

“17A. Director may authorize

public officers to act as

health officers

The Director may authorize any public officer to perform the functions of a health officer under this

Ordinance.”.”.

Schedule 7 By deleting section 37 and substituting -

**“37. Imported animals to be taken to
licensed slaughterhouse or
Government Depot**

Regulation 9 of the Public Health (Animals and Birds)
Regulations (Cap. 139 sub. leg.) is amended -

(a) by repealing subregulation (1) and substituting -

“(1) In this regulation “licensed
slaughterhouse” () means a
slaughterhouse licensed under the
Slaughterhouses Regulation (Cap. 132 sub.
leg.).”;

(b) in subregulation (2) by repealing “an abattoir” and
substituting “a licensed slaughterhouse”;

(c) in subregulation (3) -

(i) by repealing “an abattoir” and
substituting “a licensed
slaughterhouse”;

(ii) by repealing “abattoir” where it

secondly appears and substituting
“licensed slaughterhouse”.”.

Schedule 7, section 42 By deleting “, the Urban Council, the Regional Council” and substituting “the Urban Council, the Regional Council or”.

Schedule 7, section 43 By deleting everything from “Section” to “Council” and substituting -
“Section 7(2) of the Chinese Temples Ordinance (Cap. 153) is amended -
(a) by repealing paragraph (b);
(b) in paragraph (d) by repealing “5” and substituting
“6”.

Schedule 7 By adding before the heading “**Wild Animals Protection Ordinance**” -
“**Dogs and Cats Ordinance**

44A. Interpretation

Section 2 of the Dogs and Cats Ordinance (Cap. 167) is amended by repealing the definition of “Secretary” and substituting -

““Secretary” (局長) means the Secretary for the Environment and Food.”.

44B. Regulations

Section 3(2) (a) is amended by repealing “經濟局局長” and substituting “局長” .”.

Schedule 7,
section 47

By adding “and substituting “Director of Food and Environmental Hygiene.” and “Director of Leisure and Cultural Services.” respectively” after “Regional Services.”

Schedule 7,
section 53(b)

By deleting “Department of Food and Environmental Hygiene” and substituting “Food and Environmental Hygiene Department”.

Schedule 7

By adding before the heading “**Merchant Shipping (Miscellaneous Craft) Regulations**” -

“Air Pollution Control (Specified Processes) Regulations

65A. Second Schedule amended

Form 5 in the Second Schedule to the Air Pollution Control (Specified Processes) Regulations (Cap. 311 sub. leg.) is amended by repealing “Secretary for Planning, Environment and Lands” and substituting “Secretary for the Environment and Food”.

65B. Fourth Schedule amended

The Fourth Schedule is amended by repealing “Secretary for Planning, Environment and Lands” where it twice appears and substituting “Secretary for the Environment and Food”.

65C. Fifth Schedule amended

The Fifth Schedule is amended by repealing “Secretary for Planning,

Environment and Lands” and substituting “Secretary for the Environment and Food”.”.

Schedule 7 By adding before the heading “**Waste Disposal (Refuse Transfer Station) Regulation**” -

**“Waste Disposal (Designated
Waste Disposal Facility)
Regulation**

83A. Amendment of Schedule

Section 8 of the Waste Disposal (Designated Waste Disposal Facility) Regulation (Cap. 354 sub. leg.) is amended by repealing “Secretary for Planning, Environment and Lands” and substituting “Secretary for the Environment and Food”.”.

Schedule 7,
section 93(b) By deleting “Department of Food and Environmental Hygiene” and substituting “Food and Environmental Hygiene Department”.

Schedule 7 By adding before the heading “**Ozone Layer Protection Ordinance**” -
“Noise Control Ordinance

93A. Interpretation

Section 2 of the Noise Control Ordinance (Cap. 400) is amended in the definition of “Secretary” by repealing “Secretary for Planning, Environment and Lands” and substituting “Secretary for the Environment and Food”.

93B. “**規劃環境地政局局長**” **substituted by**
“**環境食物局局長**”

Sections 8A, 9(1) and (3), 10(1) and (3), 13A(3), 13B(3) and 27(1) are amended by repealing “**規劃環境地政局局長**” wherever it appears and substituting “**環境食物局局長**” .

Noise Control (Appeal Board)
Regulations

93C. **Forms**

Forms 1, 2 and 2A of the Schedule to the Noise Control (Appeal Board) Regulations (Cap. 400 sub. leg.) are amended in the notes by repealing “Secretary for Planning, Environment and Lands” and substituting “Secretary for the Environment and Food”.

Schedule 7, section 113(a) By deleting “Department of Food and Environmental Hygiene” and substituting “Food and Environmental Hygiene Department”.

Schedule 7 By adding before the heading “**Chinese Permanent Cemeteries Ordinance**” -

“Legislative Council Ordinance

125A. **Composition of the sports,
performing arts, culture
and publication
functional constituency**

Section 20V(1) (e) of the Legislative Council Ordinance (Cap. 542) is amended by repealing “or the Provisional Regional Council” and substituting “, the Provisional Regional Council, the Leisure and Cultural Services Department or the Home Affairs Bureau”.”.

- Schedule 7 (a) By deleting the heading before section 130.
(b) By deleting sections 130 to 132.

Schedule 7 ¹[By adding -

“Firearms and Ammunition (Amendment)

Ordinance 1999

**133. Possession on behalf of
the Crown etc.**

Section 3(a) of the Firearms and Ammunition (Amendment) Ordinance 1999 (of 1999) is repealed.”.]

¹ The inclusion of this depends on whether the resumption of second reading of the PMS (Reorganization)