

立法會
Legislative Council

LC Paper No. CB(2)2431/03-04

Ref : CB2/BC/1/03

Paper for the House Committee meeting on 21 May 2004

**Report of the Bills Committee on
Hong Kong Sports Development Board (Repeal) Bill**

Purpose

This paper reports on the deliberations of the Bills Committee on Hong Kong Sports Development Board (Repeal) Bill.

The Bill

2. The Hong Kong Sports Development Board Ordinance (Cap. 1149) (the Ordinance) empowers the Hong Kong Sports Development Board (SDB), among other things, to promote the development of sport and physical recreation in Hong Kong, and manage and develop the Hong Kong Sports Institute (HKSI). The Ordinance also establishes the Hong Kong Institute Trust Fund Committee of Trustees (Committee) which applies the Hong Kong Sports Institute Trust Fund (Fund) in such manner and to such extent as the SDB may advise for the object of meeting the expenses of the HKSI.
3. The Bill provides for -
 - (a) the repeal of the Ordinance;
 - (b) the dissolution of SDB;
 - (c) the dissolution of the Committee;
 - (d) the closure of the Fund;

- (e) the vesting of the assets, liabilities, rights and obligations of SDB and the Committee and any balance of the Fund in the Government; and
- (f) consequential amendments.

The Bills Committee

4. At the House Committee meeting on 28 November 2004, Members formed a Bills Committee to study the Bill. The membership list of the Bills Committee is in **Appendix I**.

5. Under the chairmanship of Hon NG Leung-sing, the Bills Committee has held two meetings with the Administration. The Bill Committee has received written submissions from the staff of SDB, the Staff Concern Group Secretariat of the Sports Development Board, the Hong Kong Amateur Swimming Association and the Assistant Leisure Services Manager II Association.

Deliberations of the Bills Committee

Justifications for the proposed dissolution of the Hong Kong Sports Development Board

6. Some members have queried the justifications for the proposed dissolution of SDB and the benefits brought about by the new administrative structure. As HKSI will be re-constituted to become an incorporated body, these members are concerned about the lack of monitoring of the performance of the future HKSI.

7. The Administration has explained that the existing administrative structure is considered unsatisfactory for the effective delivery and development of sports in Hong Kong. The major problems identified are -

- (a) the lack of a central institution that takes the lead in overall policy planning, coordination, monitoring, and resources allocation in respect of sports development;
- (b) a perceived overlap and lack of clarity in the delineation of roles and responsibilities between the various stakeholders responsible for sports development. An example frequently quoted by the National Sport Associations (NSAs) is the need for them to apply funding support from three different bureau/department/public body, namely, the Home Affairs Bureau (HAB), the Leisure and Culture Services Department (LCSD) and SDB.

- (c) the difficulties encountered in building a strong partnership between the various stakeholders and inadequacies in attracting resources from the private sector and the community at large.

8. To address the above deficiencies and to put in place an enabling structure conducive to the attainment of the new vision for sports developments, the Administration proposes that SDB be dissolved and a new Sports Commission (SC) be established to advise the Government on all matters pertaining to sports development in Hong Kong. The new SC will consist of three committees, comprising representatives from different sectors with the relevant expertise and experience, to help develop and promote community sports, elite sports and major events in Hong Kong. LCSD will take up the executive responsibility for administering the funding support to the relevant bodies, replacing the current arrangements which require NSAs to apply subventions from HAB, LCSD and SDB. HKSI will be re-constituted to become an incorporated body upon the dissolution of SDB to allow greater flexibility in its management and operation. The re-constituted HKSI will be a delivery agent for sports services currently under the auspices of SDB. It will continue to be financially supported by the Government through annual subvention allocation. HKSI's performance will be monitored through the setting of performance targets and indicators in the annual funding exercise. The Administration believes that the new administrative structure could strengthen partnership between the Government, the sports sector and the community at large, and mobilise efforts and resources in promoting sports at all levels.

9. The Administration has further explained that the decision to dissolve SDB was made on the basis of the results of a two-month public consultation exercise on the Sports Policy Review Report ending at the end of July 2002. Due regard has been given to the opinions expressed in the 380 submissions received and over 50 discussion sessions conducted during the consultation period with a wide range of organisations and individuals, including the management and staff of SDB, Sports Federation & Olympic Committee of Hong Kong, China, NSAs, sports-related bodies, sports professionals, educational bodies/institutions, political parties, members of District Councils. The Administration is of the view that the decision has paid heed to the majority views of the sports sector and the general public at large.

Transitional staffing arrangements upon the dissolution of the Hong Kong Sports Development Board

10. Some members have expressed concern about the transitional staffing arrangements for SDB staff upon the dissolution of SDB. These members have queried why, before the Bill is enacted, the Provisional Hong Kong Sports Institute Limited (PHKSIL) has already commenced an internal recruitment exercise for the future HKSI. These members have queried whether there would be smooth transition should existing SDB staff have to apply for the posts, and whether staff have been consulted before launching the exercise.

11. The Administration has explained that incorporated in late October 2003, the main task of PHKSIL is to embark on the preparatory work for the new administrative structure on sports development. It would determine the organisation structure and establishment of the future HKSI. The internal recruitment exercise was launched with a view to minimising anxiety of SDB staff arising from the job uncertainty during the transition. The recruitment exercise has ceased having regard to the concerns of staff.

12. The Administration has further explained that at present, the number of existing SDB staff to be offered re-employment at the future HKSI, based on its streamlined structure, is estimated to be about 260 or so out of its current budgeted establishment of 311. This represents some 40 to 50 redundant staff with approximate annual saving of staff cost of around \$17 million. Any net savings achieved would be channelled to fund sports development programmes including support to the future HKSI.

13. Some members have criticised that the Administration should have resolved the dispute with the staff of SDB over their employment upon the dissolution of SDB before the introduction of the Bill. At the first meeting on 12 December 2003, Hon LEE Cheuk-yan moved a motion to the effect that the Bill Committee would continue the discussion on the Bill only after the Administration has resolved the dispute with the SDB staff over the transitional staffing arrangements. The motion was passed by a vote of eight to four.

14. The Administration has subsequently informed the Bills Committee that in anticipation of the disbandment of two functions of SDB, namely the allocation of funding to NSAs and management of the Sports House, SDB conducted an internal re-organisation exercise in March 2004 resulting in a reduced establishment from 311 to 260. Upon completion of the re-organisation on 1 April 2004, 46 staff were found redundant and were compensated in accordance with the Employment Ordinance (EO). In addition, ex-gratia payment was made to those staff whose posts were deleted in this re-organisation exercise and could not continue their employment with SDB with effect from 1 April 2004. The Administration has reached in-principle agreement with SDB staff representatives on the transitional arrangement from SDB to the new HKSI as follows -

- (a) the new HKSI will adopt the existing re-organised SDB staffing of 260. All incumbent post holders will be re-employed by the new HKSI on contract terms upon dissolution of SDB;
- (b) the total pay and fringe benefits will remain unchanged for the SDB staff upon transfer to the new HKSI;
- (c) upon dissolution, SDB will terminate the employment of all serving SDB staff. All eligible staff will be entitled to severance payment calculated in accordance with EO;

- (d) as all serving SDB staff will be offered re-employment in the new HKSI, no ex-gratia payment will be paid;
- (e) leave encashment and end-of-contract gratuity entitlement will be calculated on a pro-rata basis up to the date of termination of employment with SDB; and
- (f) 100% of the employer's provident fund contribution will be vested to the employee upon termination of employment with SDB.

15. For the purpose of clarity, the Administration has agreed to consider members' suggestion to provide in the new employment contract for SDB staff re-employed by the new HKSI that the period of service with SDB will be recongised in the calculation of the length of service with the new HKSI.

Final statement of accounts and reports

16. Clause 12 of the Bill provides for the arrangements in respect of the final statements of accounts and reports relating to SDB and the Fund. The Administration will move Committee Stage amendments (CSAs) to provide for the former Vice Chairman of SDB to handle these statements of accounts and reports where the former Chairman of SDB is not available for the purpose of the section. At the request of members, the Administration has agreed to provide information confirming the authorisation of the former Chairman and former Vice Chairman of SDB to prepare the final statements of accounts and reports (as amended by the CSAs) after SDB has convened a meeting for this purpose.

Committee Stage amendments

17. Apart from the amendments referred to in paragraph 16 above, the Administration will move an amendment to clause 9 of the Bill and add new clause 9A making it clear that section 66 of the Interpretation and General Clauses Ordinance (Cap. 1) is overridden by the new clause 9A. A copy of the draft CSAs is in **Appendix II**.

Recommendation

18. The Bills Committee supports that the Second Reading debate on the Bill be resumed at the Council meeting on 9 June 2004, subject to the CSAs to be moved by the Administration.

Follow-up action by the Administration

19. The Administration has undertaken to -
- (a) consider providing in the new employment contract for staff of SDB re-employed by the new HKSI that the period of service with SDB will be recognised in the calculation of the length of service with the new HKSI (paragraph 15 above refers); and
 - (b) provide information confirming the authorisation of the former Chairman and former Vice Chairman of SDB to prepare the final statements of accounts and reports referred to in clause 12 (as amended by the CSAs) of the Bill (paragraph 16 above refers).

Advice Sought

20. Members are invited to note the deliberations of the Bills Committee and the recommendation of the Bills Committee in paragraph 18 above.

Council Business Division 2
Legislative Council Secretariat
20 May 2004

**Bills Committee on
Hong Kong Sports Development Board (Repeal) Bill**

Membership list

Chairman	Hon NG Leung-sing, JP
Members	Dr Hon David CHU Yu-lin, JP Hon LEE Cheuk-yan Dr Hon Eric LI Ka-cheung, GBS, JP Hon Fred LI Wah-ming, JP Hon CHAN Kwok-keung, JP Hon CHAN Yuen-han, JP Hon Bernard CHAN, JP Hon Andrew WONG Wang-fat, JP Hon Emily LAU Wai-hing, JP Hon CHOY So-yuk Hon Andrew CHENG Kar-foo Hon Timothy FOK Tsun-ting, SBS, JP Hon LI Fung-ying, JP Hon Henry WU King-cheong, BBS, JP Hon Tommy CHEUNG Yu-yan, JP Hon Albert CHAN Wai-yip Hon LEUNG Fu-wah, MH, JP Dr Hon LO Wing-lok, JP Hon WONG Sing-chi Hon IP Kwok-him, JP Hon MA Fung-kwok, JP

Total: 22 Members

Clerk Mrs Sharon TONG LEE Yin-ping

Legal Adviser Mr Stephen LAM

Date 12 December 2003

HONG KONG SPORTS DEVELOPMENT BOARD (REPEAL) BILL

COMMITTEE STAGE

Amendments to be moved by the Secretary for Home Affairs

<u>Clause</u>	<u>Amendment Proposed</u>
9	By deleting subclause (2).
New	By adding – “9A. Continuous employment (1) This section applies to any employment by the Government that was employment by the Board or the Committee immediately before the commencement and has become employment by the Government by virtue of this Ordinance. (2) Notwithstanding section 66 of the Interpretation and General Clauses Ordinance (Cap. 1), the Employment Ordinance (Cap. 57) applies to any employment to which this section applies. (3) For the purposes of the Employment Ordinance (Cap. 57), nothing in this Ordinance breaks the continuity of any

employment to which this section applies.

(4) For the purposes of the Employment Ordinance (Cap. 57), any employment to which this section applies is to be taken as employment by the same employer.”.

12 By adding –

“(7A) Where the former Chairman is not available for the purposes of any subsection of this section due to sickness, absence from Hong Kong or any other reason, a reference to the former Chairman in that subsection shall be taken as a reference to the former Vice Chairman.”.

12(8) By adding –

““former Vice Chairman” (前副主席) means the person who held the office of the Vice Chairman of the Board by virtue of section 3 of the repealed Ordinance immediately before the commencement;”.