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**Paper for the House Committee meeting
on 20 June 2008**

**Report of the Bills Committee on
West Kowloon Cultural District Authority Bill**

Purpose

This paper reports on the deliberations of the Bills Committee on West Kowloon Cultural District Authority Bill.

Background

2. Following its announcement on 21 February 2006 to discontinue the Invitation for Proposals (IFP) process to pursue the West Kowloon Cultural District (WKCD) project, the Administration established the Consultative Committee on the Core Arts and Cultural Facilities of the West Kowloon Cultural District (Consultative Committee), supported by three advisory groups, to re-examine, with a view to re-confirming if appropriate, the need for the Core Arts and Cultural Facilities (CACF) as defined in the IFP and other arts and cultural facilities to be provided in WKCD and the financial implications of developing and operating these facilities. The recommendation report of the Consultative Committee was submitted to the Chief Executive (CE) on 30 June 2007 and was released by the Administration on 12 September 2007 with the launch of a three-month public engagement exercise.

3. Having regard to the results of the public engagement exercise, the Administration proposes to adopt the Consultative Committee's recommendations with regard to the provision of arts and cultural facilities in WKCD, the financing approach for developing the WKCD and the enactment of legislation for the establishment of a West Kowloon Cultural District Authority (WKCDA). The Bill was introduced into the Legislative Council (LegCo) on 20 February 2008.

The Bill

4. The Bill proposes to set up WKCDA as a dedicated statutory body whose major functions are to implement the WKCD project from its planning to the operation stages and to ensure the project's financial sustainability. WKCDA is required to have regard to one or more of the specified purposes relating to the promotion of arts and culture in performing its functions and is vested with the necessary powers to do so. The governing and executive body of WKCDA will be a Board of not more than 20 members, consisting of both public officers and non-public officer members. The Bill also provides for planning matters in respect of the WKCD site, financial matters pertinent to WKCDA, and measures to safeguard public interests.

The Bills Committee

5. At its meeting on 22 February 2008, the House Committee agreed to form a Bills Committee to study the Bill. Hon Mrs Selina CHOW LIANG Shuk-yee and Hon CHEUNG Hok-ming were elected Chairman and Deputy Chairman of the Bills Committee respectively. There are a total of 27 members on the Bills Committee. The membership list of the Bills Committee is in **Appendix I**.

6. The Bills Committee has held a total of 15 meetings, including two meetings to receive views from interested parties. The Bills Committee has received views from 39 organizations and nine individuals. The list of the organizations/individuals is in **Appendix II**. The Bills Committee has taken into account the views expressed by various parties in examining the Bill.

Deliberations of the Bills Committee

Commencement of the West Kowloon Cultural District Authority Ordinance - clause 1

7. Clause 1(2) of the Bill provides that the West Kowloon Cultural District Authority Ordinance (the WKCDA Ordinance), if passed, will come into operation on a day to be appointed by the Secretary for Home Affairs (SHA). The Administration has subsequently affirmed its intention that WKCDA should be established as soon as possible to take forward the WKCD project, and thus the Administration will move a CSA to delete clause 1(2) so that the Ordinance will commence upon publication in the Gazette after passage of the Bill by LegCo.

Establishment of WKCDA - clause 3

8. Clause 3 incorporates WKCDA as a body corporate with perpetual succession and a corporate seal. Some members have expressed concern that the public may wish to change the name of WKCD after passage of the Bill. According to the Administration, changing the name of WKCDA will need legislative amendments but changing the name of WKCD will not. While there is a view that it would not be satisfactory if the name of WKCD has to be changed after the passage of the Bill, members in general consider it acceptable to name the statutory body as WKCDA in the Bill.

Functions of WKCDA - clause 4

9. Clause 4(1) sets out the functions of WKCDA. Clause 4(2) provides that the Authority, when performing its functions, is to have regard to one or more of the purposes listed in that clause. Some members consider that in view of the high expectations of the public on the WKCD project, the present provisions in clause 4 are not sufficient to reflect the public's expectations and the unique character of WKCD. There has been a suggestion that mission statements and objective performance indicators should be formulated and specified in the Bill to provide objective yardsticks for the public and LegCo to monitor regularly the Authority's work.

10. According to the Administration, the functions of WKCDA in clause 4(1) seek to set out in technical and functional terms what WKCDA is required to do to achieve its objectives. The purposes which WKCDA should have regard to in performing its functions as set out in clause 4(2) seek to express and elaborate in different dimensions the broad vision and objectives of the WKCD project — an important strategic investment in the long-term development of culture and the arts for the future of Hong Kong.

11. Each of the purposes can serve as broad yardsticks or indicators for evaluating the performance of WKCDA in future. The actual types, quantity and quality of programmes or activities which should be carried out to deliver the functions and purposes should be left to WKCDA to decide after it has been set up. The Administration does not consider it appropriate to specify in the enabling legislation any quantifiable performance indicators for evaluating WKCDA's work, as such evaluation should be done on an on-going basis and in a holistic manner with evolving indicators at different stages of the WKCD project. This approach is in line with the legislation of comparable local statutory bodies.

12. However, taking into account the views and comments from members and deputations, the Administration agrees to improve the presentation of clause 4 to bring out more clearly the role of WKCDA in meeting the different objectives when performing its functions. The Administration will move a

Committee Stage amendment (CSA) to clause 4(2) so that WKCDA is required to carry out its functions in ways which aim to achieve its objectives, instead of merely having regard to one or more of the purposes. The list of objectives under the revised clause 4(2) has been drawn up with regard to the various purposes included in the original clause 4(2), but they are expressed in a more forthcoming manner. Moreover, the following new objectives are added having regard to deputations' suggestions --

- (a) to uphold and encourage freedom of artistic expression and creativity; and
- (b) to enhance and promote excellence, innovation, creativity and diversity in arts and culture.

13. In response to members' view that WKCDA should assess its performance during the year by making reference to the objectives in the Bill, the Administration agrees to amend clause 31 to the effect that WKCDA will be required to make reference to the objectives set out in clause 4 in its annual report for submission to the Financial Secretary.

14. Hon Margaret NG has suggested that the provision of input/recommendations to the Administration with regard to the introduction of legislation to regulate museum services should be a function or purpose of WKCDA. In this regard, the Administration has explained that although WKCDA will be responsible for building and managing a cultural institution with museum functions (temporarily entitled M+), it is not intended to be a regulatory or advisory body on museum matters in Hong Kong. The Administration does not consider it appropriate to include the provision of input/recommendations to the Administration with regard to the introduction of legislation to regulate museum services as a function or purpose of WKCDA. The Administration will consider whether museum services should be regulated by legislation in the context of its cultural policy on provision and development of museum services. WKCDA will be a future provider of museum services. In considering this matter, the Administration would, if necessary, consult stakeholders including WKCDA.

Amendments proposed by members

15. Taking note of the amendments to clause 4 proposed by the Administration, Hon Emily LAU Wai-hing has requested the Administration to add the objective of "to recognize and enhance the right of everyone to take part in cultural life" to reflect the relevant principle under the International Covenant on Economic, Social and Cultural Rights. The Administration considers that this principle has already been fully embedded and reflected in its proposed revised clause 4(2). The CSA proposed by Ms LAU is in **Appendix III**.

16. Members of the Democratic Party have requested the Administration to further amend clause 4 --

- (a) to add a provision under clause 4(1) to require WKCDA to conduct open design competitions for the arts and cultural facilities and the exhibition centre in WKCD with a view to obtaining the most suitable designs;
- (b) to add "culture" to "arts" in a number of the objectives listed under the revised clause 4(2) proposed by the Administration; and
- (c) to include the wording "different sectors of the community including" to the revised clause 4(2)(1) proposed by the Administration so that it would read "to encourage different sectors of the community including commercial and corporate support and sponsorship of arts and culture".

17. A set of the proposed CSAs submitted by members of the Democratic Party to the Bills Committee is in **Appendix IV**.

18. Prof Hon Patrick LAU Sau-shing has requested the Administration to further amend clause 4(1) to require WKCDA to conduct open design competitions for the planning of WKCD and for the architectural designs of the arts and cultural facilities, so as to ensure high quality designs and to meet the principle of fair and orderly competition. The requirement, according to Prof LAU, is concordant with the management code for building projects of the Mainland Government.

19. A set of the proposed CSAs submitted by Prof LAU to the Bills Committee is in **Appendix V**.

20. The Administration has subsequently indicated that it intends to include the element of "community (社會)" in clause 4(2)(1) such that one of the objectives of WKCDA is to encourage community, commercial and corporate support and sponsorship of arts and culture. This further amendment may have the same effect as the amendment proposed by members of the Democratic Party in paragraph 16(c) above. The Administration has also advised that according to the recommendations of the Consultative Committee, design competitions should be organized for a few major arts and cultural venues in WKCD only. The Administration therefore does not agree with the relevant amendments proposed by members of the Democratic Party and Prof LAU.

Powers of Authority - clause 5

21. Clause 5(2)(n) empowers WKCDA to "engage in such activities as CE in Council may, after consultation with the Authority, permit or assign to it by order published in the Gazette". Clause 5(3) specifies that an order under clause 5(2)(n) is subsidiary legislation. The Bills Committee has questioned the need for clause 5(2)(n) and sought clarification from the Administration on the relevant policy intent. The Administration has subsequently advised that it will propose CSAs to delete clause 5(2)(n) and clause 5(3).

Establishment of Board - clause 6

22. Clause 6 provides that the Board, which is the governing and executive body of WKCDA, shall consist of not more than 20 members, comprising --

- (a) the Chairman who may or may not be a public officer;
- (b) the CEO;
- (c) not more than 15 members, who are not public officers, including at least five members who, in the opinion of CE, have knowledge of, or experience in, or exposure to, arts and cultural activities, and at least one member who is a member of LegCo; and
- (d) three other members who are public officers.

All Board members (other than the CEO) are to be appointed by CE.

Appointment mechanism

23. Some members of the Bills Committee have expressed grave concern about the appointment mechanism provided in the Bill, pointing out that the entire appointment exercise would be conducted behind closed doors and at the sole discretion of CE. They consider that the appointment mechanism should be transparent and accountable to the public. At the earlier stage of the scrutiny of the Bill, some members suggested that some of the non-public officer Board members should be appointed in representative capacities instead of on a personal basis through nomination or election by the respective sectors. Moreover, the LegCo Member(s) to be appointed to the Board should be elected by and from among LegCo Members.

24. According to the Administration, the WKCDA Board should be composed of a right and balanced mix of individuals with different expertise and knowledge in various fields at different stages of the project. As such, the precise composition of the Board may vary from time to time to tie in with the

needs of the different stages of the development and operation of the WKCD facilities. The Administration therefore considers it not appropriate to specify the precise composition of the Board members in the Bill.

25. On the suggestion that some of the non-public officer members of the Board should be appointed in representative capacity, the Administration's stance is that WKCD Board should work together as a strong, dedicated and cohesive team capable of performing the range of executive functions conferred on WKCD in accordance with its statutory objectives. Any nomination or election mechanism would risk undermining the effective operation of the Board, as the interests of the sectors or organizations which some members are representing may not be compatible with the corporate objectives of the Board in responding to the development needs of the WKCD project from time to time. Any election or nomination system based on majority vote does not necessarily provide a balanced mix of individuals on the Board. It may also have the unintended effect of denying individuals who could make valuable contributions to the Board the opportunity to serve on it, if they are not among any of the specified sectors or organizations.

26. The Administration has also advised that it is particularly difficult and impracticable to prescribe a proper and fair election or nomination system for the arts and cultural sector, given its diversity and the lack of an established professional accreditation mechanism for screening and electing qualified representative members of the arts and cultural sector. It follows that the Administration does not agree to prescribe any nomination or election mechanism which seeks to return a precise composition of the Board, setting out the sectors or organizations, as well as the number of members in each sector or organization.

27. Given the above considerations, the Administration considers it more appropriate for CE to appoint members of the Board having regard to the different needs of the WKCD project at different stages of development, based on the merit of the individuals concerned, including their ability, expertise, experience, integrity and commitment to public service. The Administration also indicates that it is open to any organizations or individuals to nominate persons for consideration of appointment to the Board by CE.

Criteria for appointing non-public officer members of the Board

28. Some members consider that putting aside the issue of prescribing a nomination or election mechanism, the Administration should specify in the Bill objective criteria for the appointment of the non-public officer members of the Board. This would to some extent provide assurance to the public that the appointments would not be based solely on the personal liking of CE. There is also a suggestion that the appointment criteria of the five or more Board members with arts and cultural background should be suitably tightened, to the

effect that those Board members should have standing and good reputation within the arts and cultural sector.

29. Having regard to members' views, the Administration has agreed to move CSAs to amend clause 6(3) to the effect that (revised aspects shown in bold type) --

- (a) **there shall be not less than eight** and not more than 15 non-public officer members (other than the CEO and the LegCo Member(s)) to be appointed to the Board;
- (b) those five or more Board members with arts and cultural background should, in the opinion of CE, have extensive knowledge of, or experience in, or exposure to, arts and cultural activities, **or have good standing in the field of arts and culture;** and
- (c) the other non-public officer members (other than those members with arts and cultural background and the LegCo Member(s)) shall possess experience in **management, engineering, planning, architecture, surveying, landscape architecture, accounting, finance, education, law or community service, or such professional or other experience** as would, in the opinion of CE, render them suitable for appointment.

Amendments proposed by Hon Alan LEONG Kah-kit

30. Hon Alan LEONG Kah-kit has indicated his intention to move CSAs to the effect that --

- (a) of the not more than 15 non-public officer members (other than the CEO and the LegCo Member(s)) of the Board, there shall be not fewer than eight persons selected by CE according to the principles and procedures laid down in a new Part 5 of the Schedule; and
- (b) the LegCo Member(s) sitting on the Board shall be elected by the Members among themselves.

31. A set of the proposed CSAs submitted by Mr LEONG to the Bills Committee is in **Appendix VI**.

Amendments proposed by members of the Democratic Party

32. Members from the Democratic Party have indicated their intention to move CSAs (**Appendix IV**) to the effect that --

- (a) two LegCo Members should be appointed to the WKCDA Board by way of election among LegCo Members;
- (b) to add "good standing within the arts and cultural sector" to the factors that CE needs to consider in appointing those Board members with arts and cultural background;
- (c) to add "information technology" to the list of professions/range of experience from which the other non-public officer Board members should come from; and
- (d) to add a provision that after three years of establishment of WKCDA, there should be at least two board members to be appointed through election among the stakeholders of WKCD. The election method should be specified in subsidiary legislation to be published by notice in the Gazette.

Amendments proposed by Hon CHAN Yuen-han

33. Hon CHAN Yuen-han has requested the Administration to further amend clause 6 to the effect that at least seven (instead of five under the Administration's current proposal) non-public officer members of the Board shall have arts and cultural background, and those members should, in the opinion of CE --

- (a) have good standing in the field of arts and culture in Hong Kong, the Mainland and internationally; or
- (b) have extensive knowledge of, or wide experience in or exposure to, arts and cultural activities, with regard to a specified range of knowledge and experience relating to arts and culture.

Miss CHAN's suggested range of knowledge and experience includes (a) arts/culture administration, education and planning; (b) arts/culture creation, interpretation, commentary; and (c) arts/culture sponsorship.

34. A set of the proposed CSAs submitted by Miss CHAN to the Bills Committee is in **Appendix VII**.

Term of office of the WKCDA Board - Section 1 of the Schedule

35. Section 1 of the Schedule to the Bill provides that any non-public officer members of the Board (other than the CEO) is to be appointed by CE for a term not exceeding three years. Some members consider that to avoid perpetual appointment of certain persons to the Board, the Administration should introduce a provision to the effect that these Board members may not serve as such a member continuously for more than six years. In this regard, the Bills Committee notes that such a prohibition is adopted for the Construction Industry Council as provided for in section 10 of the Construction Industry Council Ordinance (Cap. 587).

36. The Administration has explained that while individuals with different backgrounds and expertise are required to serve on the Board at different stages of the development and operation of the WKCD project, the Administration also needs to take into account the need to ensure continuity and consistency in the Board's operations. The Administration agrees that in line with the Administration's existing administrative guidelines on appointment of non-official members to advisory and statutory bodies, a non-public officer member of the WKCDA Board should not serve on the Board in any one capacity continuously for more than 6 years. The Administration would abide by this rule as far as practicable, but does not consider it necessary to specify this arrangement in the legislation.

Appointment and removal of the CEO - clause 7 and Section 10 of the Schedule

37. Clause 7 provides that WKCDA may, with the prior approval of CE, appoint a person to be the CEO of the Authority who is to be an employee of the Authority. Section 10 of the Schedule provides that the Authority may, with the prior approval of CE, remove the CEO.

38. Some members are of the view that the appointment process should be fair and open, and have requested the Administration to revise clause 7 to this effect. The Administration has responded that it expects that WKCDA will recruit the CEO through an open recruitment exercise, which is a common practice of comparable local statutory bodies. As the recruitment of the CEO is a responsibility of WKCDA and will involve sensitive issues such as individual candidates' ability and experiences, the Administration considers it more appropriate to leave it to WKCDA to decide the actual arrangements and procedures for recruiting the CEO having regard to operational and practical considerations.

39. On the issue of whether the appointment and removal of the CEO should require the prior approval of CE, the Bills Committee notes that similar arrangements are provided for in the relevant legislative provisions for some

comparable public statutory bodies. The Administration considers that the arrangement would safeguard the public interest and would not affect the independence of WKCDA. The Administration has also confirmed that the terms of appointment and the remuneration would be decided by WKCDA, and CE would not interfere with the appointment process. Some members consider that WKCDA should have the powers to decide the appointment and removal of employees of WKCDA including the CEO. Hon Abraham SHEK Lai-him has expressed the view that prior approval of CE for appointment and removal of the CEO is appropriate because this would offer a safeguard against irregularities in the operation of WKCDA.

Amendment proposed by Hon Alan LEONG Kah-kit

40. Hon Alan LEONG Kah-kit has indicated his intention to move a CSA (**Appendix VI**) to clause 7 to the effect that the appointment of the CEO shall be made according to a set of principles and procedures laid down in a new part (Part 5) of the Schedule to the Bill. The prior approval of CE for the appointment is not required under his proposed amendments.

Audit Committee - clause 8

Composition of Audit Committee

41. Clause 8 provides for the establishment of the Audit Committee and related matters. Clause 8(3) provides that the Audit Committee is to consist of such number of members, not being less than three, as the Board may determine. Clause 8(4) further provides that the Board is to appoint each of the members of the Audit Committee but neither the CEO nor any other employee of the Authority is to be so appointed. Clause 8(5) provides that the WKCDA Board is to appoint a Board member (other than the Chairman) to be the chairman of the Audit Committee.

42. The Bills Committee has examined whether and how the composition of the Audit Committee should be subject to additional conditions to enhance its independence and effectiveness in performing the internal financial monitoring role. As regards some members' concern about the inclusion of WKCDA Board members in the Audit Committee, the Administration has explained that this provision enables the Audit Committee to include Board members who are familiar with the operation of WKCDA to facilitate the operation of the Committee. This arrangement is generally in line with the practices of comparable local statutory bodies such as the Airport Authority and the Urban Renewal Authority.

43. In response to the suggestion of some members that the members of the Audit Committee should not include those persons who make or execute decisions on the expenditure of WKCDA, the Administration initially proposed

to specify that the Audit Committee should exclude members of other committees set up under WKCD. Noting that such an arrangement is not adopted by other public statutory bodies, some members consider that as non-executive WKCD Board members do not have any private interest, concurrent membership among the committees should not give rise to problems of role conflict. Prohibiting concurrent membership may also give rise to the problem of not having sufficient Board members who are familiar with the operation of WKCD for appointment to the various committees. After deliberation, the Bills Committee considers that the Audit Committee of WKCD would play a role similar to the Audit Committee of listed companies and thus reference could be made to the relevant rules for listed companies.

44. In this regard, the Administration has advised that the Rules Governing the Listing of Securities on the Stock Exchange of Hong Kong Limited ("listing rules") do not prevent a Board director from being appointed as a member of the Audit Committee. The relevant section in the listing rules provides that an audit committee should comprise non-executive directors only. It also sets out that, among others, an audit committee must comprise a minimum of three members, the majority of the audit committee members must be independent non-executive directors of the listed issuer, and the audit committee must be chaired by an independent non-executive director.

45. Taking into account members' concerns and views, the Administration will move CSAs to specify that the chairman of any other committee established under the WKCD Ordinance is not eligible for appointment as a member of the Audit Committee. This is to strike a reasonable balance between the need to ensure the independence of the Audit Committee and to have enough Board members familiar with the operation of WKCD available to sit on the various committees of WKCD. The Administration also proposes that, in line with the practice of listed companies, the Audit Committee should include at least one member with appropriate professional qualifications or accounting or related financial management expertise, and will move CSAs to this effect. The proposed CSAs will also specify explicitly that members of the Audit Committee may comprise individuals who are Board members or those who are not Board members.

Functions of Audit Committee

46. Clause 8(2)(a) of the Bill provides that the functions of the Audit Committee include the consideration of such matters relating to the financial affairs of the Authority and to conduct an audit (whether generally or in respect of particular matters) as the Committee considers necessary or desirable. Clause 8(2)(b) further provides that the Audit Committee can consider any other matter, whether financial or otherwise, referred or assigned to it by the Board for consideration. Clause 8(6) provides that the Board may withdraw

any matter referred or assigned to the Audit Committee and may revoke any appointment to the Audit Committee.

47. The Bills Committee has sought explanation on the need for clause 8(6) and under what circumstances the WKCDA Board may exercise the powers under this clause. The Administration has explained that clause 8(6)(a) seeks to enable the Board to withdraw a matter referred to or assigned to the Audit Committee when circumstances warrant such as when no further action is required of such matter, or if the matter has been overtaken by events. It would however be practically difficult to set out all the various circumstances under which this provision would be invoked. The Administration also points out that clause 8(2)(a) will ensure that the Audit Committee, on its own, has the power to consider a matter relating to the financial affairs of the Authority and conduct an audit as it considers necessary or desirable.

48. As regards the power of WKCDA Board to revoke any appointment to the Audit Committee under clause 8(6)(b), the Administration has explained that this provision seeks to facilitate the Board to adjust the appointments of members to the Audit Committee when circumstances warrant, such as to stagger the terms of committee members. It would however be practically difficult to set out all the various circumstances under which this provision would be invoked.

Amendments proposed by members of the Democratic Party

49. Members of the Democratic Party have indicated their intention to move CSAs (**Appendix IV**) to clause 8 to require the Audit Committee to conduct a comprehensive audit on the financial matters of WKCDA in 2015 and submit a report on the review to WKCDA, and that WKCDA shall cause the report to be laid on the table of LegCo. The members have explained that as WKCDA would be provided with substantial public resources including the upfront endowment, it would be opportune for the Audit Committee to conduct a comprehensive audit in 2015 when the first phase of the development of WKCD is scheduled to complete.

Investment Committee - clauses 8A and 20(1)

50. The Bills Committee has raised concern on whether there will be a dedicated committee under the WKCDA Board to oversee the management of the investment of the upfront endowment which, subject to the Finance Committee's approval, will be given to WKCDA upon its establishment. In view of members' concern, the Administration will move CSAs to require WKCDA to set up an Investment Committee to advise WKCDA on its investment and to oversee and monitor the management of such investment.

51. Initially, the Administration proposed that apart from advising the Authority in relation to its functions under clause 20 (i.e. investment of funds available to the Authority), the Investment Committee might also consider any other matter referred or assigned to it (whether relating to investment or otherwise) by the Board for consideration. In response to members' concern that the scope is too broad, the Administration has agreed to narrow it down so that the other functions of the Investment Committee are confined to any other matter relating to investment or finance (instead of "any other matter, whether relating to investment or otherwise") that is referred or assigned to it by the Board for consideration.

52. Correspondingly, the Administration will move a CSA to amend clause 20(1) to specify that WKCD A shall have regard to the advice of the Investment Committee when investing the funds available for investment.

Remuneration Committee - clauses 8B and 10

53. Clause 10 provides for the appointment of employees of WKCD A, and that the Authority may determine the terms and conditions of the employment of its employees, and make arrangements for the provision and maintenance of any schemes for the payment of pensions, gratuities etc. to its employees or former employees and their dependents. Some members have expressed the view that for the purpose of good governance, there should be mechanisms specified in the legislation for determining the remuneration packages for senior executives of WKCD A and for disclosure of their remuneration packages.

54. Taking into account members' views, the Administration will move CSAs to add a new clause 8B to require WKCD A to set up a Remuneration Committee to advise the Authority on the terms and conditions of employment and pension schemes, etc. and on any other matters relating to allowances, benefits and remuneration of the Authority's employees, former employees or their dependants that is referred or assigned to it by the Board for consideration. It will be specified in clause 8B that the CEO shall not be appointed as the chairman of the Remuneration Committee.

55. On the suggestion that the method for determining the remuneration packages of senior executives should be specified in the legislation, the Administration has explained that the details of the remuneration packages depend on a number of factors, including the experience of the relevant candidates, the need to offer a competitive package to attract talents, the special skills required of a particular position, etc. It would be practically difficult to set out all the relevant criteria for various senior executive posts in the legislation, as the job requirements could vary amongst positions on offer at any one time. It would also unduly restrict the flexibility of WKCD A in

offering market competitive packages for specific posts if the method for determining the remuneration packages is specified in the Bill.

56. As regards the disclosure of the remuneration packages of senior executives, the Administration has explained that it is an established practice for comparable statutory bodies to disclose the remuneration packages of their senior executives in the annual reports, although there is no specific provision in the relevant enabling legislation requiring such disclosure. The Administration believes WKCD A will follow the practices adopted by similar statutory bodies and considers it not appropriate to specify in the legislation the manner in which and the extent to which the remuneration packages are to be disclosed.

Delegation and sub-delegation of WKCD A's functions - clause 11

57. In considering the proposed new clauses to establish the Investment Committee and the Remuneration Committee, the Bills Committee considers that the functions of the committees should include those functions delegated by WKCD A under clause 11, and in delegating any function, WKCD A should have regard to the respective functions of the committees. Having regard to members' view, the Administration will revise clauses 8A(2) and 8B(2) so that the Investment Committee and the Remuneration Committee may deal with any such matter as may be delegated to them by WKCD A. In this connection, the Administration will also propose an amendment to clause 8(2) regarding the functions of the Audit Committee to the same effect. To regulate the scope of the functions that may be delegated to the committees, the Administration will propose an amendment to clause 11 such that when delegating any of its functions to any of the three committees, WKCD A shall have regard to the committee's functions as specified in the legislation.

Public consultation - clause 17 and new clause 17A

58. Clause 17 of the Bill provides that WKCD A shall, in relation to matters concerning the development or operation of arts and cultural facilities, related facilities, ancillary facilities and any other matters as WKCD A considers fit, consult the public at such time and in such manner as it considers appropriate.

59. Some members consider that the provisions on public consultation in the Bill are too loosely constructed. In effect, WKCD A is almost entirely free to decide when and how to consult. They opine that as the primary objective of setting up WKCD A is to enable the implementation of the WKCD project through bottom-up and community-driven approaches, the Bill should provide for an institutionalized mechanism for public engagement so that the stakeholders and the general public would be engaged in an ongoing and systematic manner throughout the development and operation of the project.

Hon Alan LEONG Kah-kit has proposed the establishment of a statutory consultation panel for the purposes. Recognizing that the main purpose of such a consultation panel is to facilitate ongoing and systematic public engagement, Mr LEONG has further suggested that while WKCD should be obliged to engage the panels openly, the recommendations of the panel will not bind the Authority. Some other members have suggested that the Administration should consider drawing up "best practices" for WKCD to follow in conducting public consultation.

60. The Administration initially responded that the development and operation of WKCD involve a wide range of matters. The stakeholders concerned would vary according to the matters requiring public consultation. It would be inappropriate and indeed difficult to prescribe in the legislation a pre-determined public consultation mechanism that would fit all purposes and all stakeholders' requirements which WKCD should follow in conducting any public consultation. WKCD should be given the flexibility to conduct public consultation in a manner most suitable to the circumstances at any time. The Administration also advised that it was not aware of any other enabling legislation of comparable overseas area-based management organizations which set out a prescribed mechanism for public consultation.

61. At the later stage of the Bills Committee's deliberation, the Administration, upon further consideration, has advised that WKCD may discharge this statutory duty through a regular public consultation mechanism. Making reference to the work of the Consultative Committee as well as its three Advisory Groups, the Administration considers that a similar consultative mechanism established under the Authority could provide a useful platform for soliciting views and building consensus among experts, stakeholders and the general public on major matters relating to the work of the Authority. The Administration, therefore, will move a CSA to introduce a new clause 17A, under which WKCD is required to set up a consultation panel to gather public views on matters relevant to the functions of the Authority. As the panel is intended to be a consultative mechanism, the results of its deliberations will not be binding on the decisions of the Authority.

62. Under clause 17A, the members of the consultation panel will be appointed by WKCD and the Authority shall have regard to the purpose for which the panel is established when appointing the members. The Authority shall, from time to time, issue guidelines on the functions, administration, proceedings and business and any other matters in relation to the panel, as the Authority considers appropriate. The guidelines shall be made public. The consultation panel is required to hold at least one meeting each year and its meetings are to be open to the public.

63. According to the Administration, clause 17A seeks to strike a reasonable balance between the need for a standing consultative mechanism

and the need to ensure adequate flexibility for the Authority in deciding how best to consult the public.

Amendments proposed by members of the Democratic Party

64. Members of the Democratic Party have indicated their intention to move a CSA (**Appendix IV**) to clause 17 to add the wording "regularly and extensively" such that WKCDA shall be required to consult the public on the matters specified under this provision in a regular and extensive manner.

Amendments proposed by Hon Alan LEONG Kah-kit

65. Prior to the introduction of clause 17A by the Administration, Hon Alan LEONG Kah-kit had proposed amendments to clause 17 for the establishment of a standing consultation panel, which WKCDA would be obliged to consult regularly and openly but WKCDA would not be bound by the decisions of the panel.

66. As the Administration subsequently indicates that it will introduce clause 17A to provide for a regular public consultation mechanism as mentioned above, Mr LEONG has suggested amendments to clause 17A for the Administration's consideration, instead of pursuing his initial proposed amendments. The suggested amendments mainly seek to specify that --

- (a) the function of the consultation panel is to provide a platform for soliciting views and building consensus among experts, stakeholders and the general public on major matters relating to the work of WKCDA;
- (b) in appointing the members of the consultation panel, WKCDA shall have regard to the function of the panel, and that the appointments should be consistent with the principles of transparency and equal opportunity;
- (c) WKCDA shall consult the consultation panel on the guidelines in relation to the functions and other matters of the panel; and
- (d) WKCDA shall give reasons for not adopting any recommendations supported by a majority of the members of the consultation panel.

67. After the conclusion of the deliberation of the Bills Committee, the Administration has responded to the above suggested amendments of Mr LEONG that clause 17A has already specified the objective of the consultation panel -- that is to gather public views on matters relevant to the functions of the Authority. The Administration has agreed, however, to

further provide that in appointing any member of the consultation panel, the Authority shall have regard to the purpose for which the panel is established. In order to retain adequate flexibility for the Authority in deciding on the proceedings and business of the panel, the Administration considers it not appropriate to specify the detailed arrangements regarding the operation of the panel in the Bill.

Preparation of development plan – clause 18

68. Clause 18 requires WKCD A to consult SHA and the public in preparing a development plan for consideration by the Town Planning Board (TPB). This clause also deems a development plan which TPB deems suitable for publication to be a draft plan prepared under the Town Planning Ordinance (Cap. 131) and relevant provisions of that Ordinance are to apply to the plan.

69. Members have expressed concerns on the scope of matters with respect to which SHA may impose requirements and conditions under clause 18(4), and whether the current drafting of sub-clauses 18(4) and 18(5)(a) may have the effect that SHA could impose requirements or conditions inconsistent with the future WKCD A Ordinance, and that the role and powers of SHA under these sub-clauses may be incompatible with those of other authorities such as TPB and government bodies responsible for public works.

70. The Administration has advised that the policy intention of the provisions under clause 18 regarding the consultation with SHA is for SHA to impose conditions and requirements mainly relating to public infrastructure, communal facilities and other matters on ground of protecting public interest if necessary. The Administration has also advised that it was not Government's intention to attach different weight to the consultation with the public and the consultation with SHA in the preparation of the development plan.

Amendments proposed by Hon CHAN Yuen-han

71. Hon CHAN Yuen-han has requested the Administration to consider amendments to clause 18(3)(a) to the effect that in relation to WKCD A's consultation with the public in preparing the development plan, the Authority is required to announce a specific consultation timetable. The consultation should be conducted in three stages: (a) to consult the public on conceptual planning, (b) to conduct public hearings, and (c) to further consult the public on various detailed planning proposals before finalizing the proposals. The subjects to be consulted should have a wide coverage, including community representatives, persons in the field of arts and culture, the academia and the professional sectors. The Administration has responded that while it appreciates Miss CHAN's concern about the need to conduct the public consultation in an extensive and systematic manner, it is difficult to prescribe

in the legislation the exact manner (including the stages of consultation and the persons/sectors to be consulted) that the consultation should be conducted. The Administration however would be prepared to undertake in the speech of SHA during the resumption of the Second Reading debate on the Bill that it would request WKCDA to conduct the public consultation in an extensive and systematic manner.

Corporate plan and business plan of WKCDA - clauses 29 and 30

72. Clauses 29 and 30 require WKCDA to send to SHA, for the purpose of record, a corporate plan and a business plan of the Authority before the end of each financial year.

73. On the issue of whether such corporate plans and business plans should be made public, the Administration has responded that it would not be appropriate to mandate WKCDA to do so because those work plans would contain sensitive information and comparable public statutory bodies are not subject to such requirements. Some members consider that in line with the principle of transparency, WKCDA should make public the information contained in the two work plans as far as possible. Some other members have expressed the view that as the corporate plan is a roll-forward three-year plan and the programmes contained therein may be in a state of flux, making it public may subject the Authority to undue restrictions.

74. The Administration however agrees with the Bills Committee's view that the annual report of WKCDA should include information on how the Authority conducted or implemented the activities and projects as set out in the corporate plan and the business plan submitted in the previous financial year, and the Administration will include relevant provisions in proposed new clause 30A.

Amendments proposed by members of the Democratic Party

75. By making reference to section 13 of the Securities and Futures Ordinance (Cap. 571), members of the Democratic Party have indicated their intention to move a CSA to clause 30 (**Appendix IV**) requiring that upon receipt of the business plan from WKCDA, SHA shall cause the estimated revenue and expenditure in the annual business plan to be laid on the table of LegCo.

Reports, etc. to be laid before LegCo - clause 31 and new clause 30A

76. Clause 31 requires WKCDA to submit to the Financial Secretary annually (a) a report on the activities of the Authority, (b) a copy of the statement of accounts and (c) a copy of the Auditor's report. The Administration has proposed to add new clause 30A to provide that all these

three documents shall be included in one single document - the annual report.

77. Taking into members' views, the Administration has agreed to specify in clause 30A that the annual report must --

- (a) specify the work and activities of the committees established by WKCDA for that financial year;
- (b) specify how the activities of the Authority for that financial year relate to the Authority's functions and objectives under clause 4; and
- (c) include information on how the Authority conducted or implemented the activities and projects as set out in the corporate plan and the business plan submitted in the previous financial year.

Meetings of the Board and committees of WKCDA

78. Section 17 of the Schedule to the Bill and clause 9(8) of the Bill provide that the WKCDA Board and any committee established under clause 9 may regulate their own proceedings and business relating to any Board or committee meeting.

79. Members of the Bills Committee in general have expressed a strong wish that WKCDA will operate with a high degree of transparency. Members have noted that section 2C of the Town Planning Ordinance (Cap. 131) provides that all meetings of the Board or any committee established under that Ordinance shall be open to the public, except for the circumstances specified under the same section. A similar provision is also available in the Construction Industry Council Ordinance (Cap. 587). On the other hand, members have noted that quite a number of deputations have expressed the view that mandating the Board and committees of WKCDA to hold meetings in public would not be conducive to the effective performance of their functions. In order to examine the issue in detail, the Bills Committee has requested the Administration to explicate its position on the issue, and to provide information on the relevant provisions of comparable local and overseas statutory bodies, including the two former Municipal Councils which had been responsible for the management of arts and cultural venues and organization of cultural programmes before dissolution.

80. The Administration has explained that unlike regulatory or consultative bodies, the Board and committees of WKCDA have the statutory duty to deliberate and make decisions on many matters concerning the development and operation of WKCD which include not only the management of arts and cultural facilities, the organization of arts, cultural and

entertainment programmes, but also the management of commercial facilities such as retail, dining and entertainment facilities. It is expected that a vast majority of the meetings of the Board and committees will involve discussions of the following sensitive matters --

- (a) facility management contracts, works tenders and other contractual agreements;
- (b) selection of programme organizers, arts organizations, artists or other project agents;
- (c) ideas and concepts of major programmes, such as arts and cultural festivals;
- (d) assessment and evaluation of the performance of individual artists or arts groups and the programme of museum exhibitions;
- (e) collection strategy and budget for museums and exhibition centre;
- (f) programming strategy for different venues, outdoor performance areas, and public open space;
- (g) pricing and budget for commissioning different programmes, procurement of services, venue management etc.

81. All the above matters are commercially and market sensitive matters, the disclosure of which will make it very difficult for WKCDA to operate effectively and efficiently. As the Board and committees have to deal with these matters as part of their on-going business, most of their meetings cannot be held openly. The Administration therefore considers it inappropriate to impose a statutory requirement on WKCDA to hold its meetings in public, while allowing it to hold closed meetings under certain specified exceptional circumstances.

82. The Administration has also stressed that holding meetings in public is just one of the many means of enhancing the transparency of the work of WKCDA. The Authority may adopt various transparency measures such as uploading information on its work regularly to its dedicated website, distributing regular newsletters, organizing meet-the-media sessions to report on discussions and decisions of the Board after Board meetings, etc. The Administration has also advised that it is a common feature in the relevant legislation for local statutory bodies, except for TPB, that the respective boards are allowed to decide whether to hold open meetings. In practice, a number of these bodies do open part of their meetings to the public through administrative

means. The Administration is also not aware of any comparable overseas organizations being required by statutes to hold their board meetings in public.

83. As regards the practices and procedures adopted by the two former Municipal Councils, the Bills Committee notes that for the former Urban Council/Provisional Urban Council, while it was not specified in the legislation, the meetings of the full Council and the select committees were open to the public except for matters of confidential nature and sensitive items which must be discussed in private. As for the former Regional Council/Provisional Regional Council, it was specified in the relevant legislation that the meetings of the Council and any committee were to be held in public unless the Chairman or a chairman of such committee otherwise ordered in accordance with a decision of the Council or that committee. The Administration has advised that while most of the Council meetings of the two former Municipal Councils were open to the public, almost all discussions of important matters on the management of arts and cultural venues as well as organization of cultural programmes were conducted at meetings of different relevant committees under the Councils which were not open to the public.

Amendments proposed by members of the Democratic Party

84. By making reference to section 9 of Schedule 3 to the Construction Industry Council Ordinance (Cap. 587), members of the Democratic Party have indicated their intention to move CSAs (**Appendix IV**) to section 11 of the Schedule to the Bill requiring the Board and committees of WKCDA to hold their meetings in public except under certain specified circumstances. The exceptional circumstances include premature release of information concerning any financial matter or investment; disclosure of information in breach of any law, duty of confidentiality or other legal obligation or duty; and discussions concerning personnel matters, assessment or approval of tenders or other sensitive information.

Disclosure of interest - clause 34

85. In view of the wide ranging functions and powers of WKCDA, the Bills Committee has examined whether the requirements for disclosure of interest on the members of the Board and committees of WKCDA are adequate to safeguard public interest and to ensure public accountability of WKCDA.

86. Clause 34 provides that a Board member or a committee member shall upon his first appointment, and on such occasion as the circumstances may require after the appointment, disclose his interest to WKCDA. WKCDA may determine the class or description and the details of the interest required to be disclosed and the manner in which such interest is to be disclosed.

87. Taking into account members' views and suggestions, the Administration has agreed to amend clause 34 to require (in addition to the existing requirement of disclosing interest upon first appointment) a Board or Committee member to disclose his interest (a) at the beginning of each calendar year after the appointment; (b) on becoming aware of the existence of an interest not previously disclosed; and (c) after the occurrence of any change to an interest previously disclosed.

88. Clause 34 only requires WKCDA to make available the register of the disclosures of interest for inspection by the public at any reasonable time. In response to members' view that the register should be easily accessible by the public, the Administration has indicated that it will move a CSA to amend clause 34(5) to require WKCDA to make public the register through appropriate means. In this regard, Hon Emily LAU Wai-hing has expressed the view that the register should be available for public access on the website of WKCDA.

Conflict of interest - Section 15 of the Schedule

89. Section 15 of the Schedule provides that where a Board member who is in any way directly or indirectly interested in any contract or matter which is to be discussed or considered at a Board meeting, he shall disclose at the meeting the nature of his interest and withdraw from the meeting while the matter is being discussed or considered (unless he is exempted). Also, he shall not vote on any question concerning the contract or matter (unless he is exempted) or influence a decision of the Board concerning the contract or matter.

90. The Bills Committee notes that this section was drafted by drawing reference from and refining the provisions of the legislation of comparable statutory bodies. Members consider that "conflict of interest" is a very sensitive issue and has asked the Administration to consider specifying in the Bill what would constitute direct and indirect interests for the purpose of the proceedings of the Board. The Administration has advised that as in the case of the enabling legislation for other statutory bodies, the Bill should only provide a general framework and should not include the detailed classification of interests. Taking note of the advice, the Bills Committee suggests that there should be an enabling provision to empower the WKCDA Board to determine what would constitute direct and indirect interests.

91. Taking into account members' suggestion, the Administration will move a CSA to introduce a new sub-section 1A under section 15 of the Schedule to provide that the WKCDA Board may issue a guideline to set out the circumstances where a Board member is to be regarded as directly or indirectly interested in any contract or matter, for deciding whether he shall be required to disclose his interest.

Appeal mechanism

92. Some members have requested the Administration to consider establishing a statutory appeal mechanism in respect of WKCDA's decisions. The Administration has explained that WKCDA is not a regulatory body, but is an executive organization with a wide scope of duties. It would not be practicable to identify and specify in the legislation the specific types of decisions of WKCDA which should be subject to appeal. The Administration has also advised that the legislation for comparable statutory bodies such as the Airport Authority and Hong Kong Arts Development Council does not contain any appeal mechanism. The Administration considers it more appropriate for WKCDA to set up a complaints handling mechanism or procedures in the light of operational experience, rather than stipulating an appeal mechanism in the legislation.

93. The Bills Committee notes that WKCDA may make bylaws under clause 33 to provide for an appeal mechanism, and that the WKCDA Board may set up a committee to handle appeals. In view of members' concern that there should be channels for appeal against the decisions of WKCDA, the Administration has indicated that SHA would make an appropriate undertaking in his speech at the resumption of the Second Reading debate on the Bill that the Administration would urge WKCDA to set up an appeal mechanism.

CEO not to take part in certain board meetings - Section 9 of the Schedule

94. Section 9(1) of the Schedule provides that where a matter relating to the terms and conditions of appointment or removal of the CEO is brought up for discussion or consideration in a board meeting, the CEO shall not take part in the deliberation of the Board and vote on any question concerning it, unless two-thirds of the other Board members present at the meeting decide otherwise.

95. The Bills Committee has queried the need for the exception. There is also a view that the exception may have the undesirable effect of allowing the CEO to exert influence on the decisions of other WKCDA Board members on matters relating to the terms and conditions of his appointment or removal. Having considered members' views, the Administration will move a CSA to remove the exception in the last part of section 9(1). As a consequential amendment, the Administration will also move a CSA to delete section 9(2) of the Schedule.

Authority may make bylaws - clause 33

96. On the coverage of the bylaws that may be made by WKCDA under clause 33, the Administration has advised that the current thinking is for WKCDA to enact bylaws to regulate the operation of certain major cultural and

communal facilities in WKCDA, such as museum services and matters concerning public safety; there is no intention to regulate the operation of retail/dining/entertainment facilities or the fees and operating hours of cultural facilities through bylaws.

Amendments proposed by members of the Democratic Party

97. Members of the Democratic Party have indicated their intention to move a CSA to clause 33 (**Appendix IV**) to require WKCDA to make bylaws regarding the handling and management etc. of collections and the use of public open space. The members have explained that proper regulation of the handling and management etc. of collections for museum facilities in WKCD is very important and crucial for inspiring confidence of the international and local communities in this regard. The bylaws in respect of the use of public open space should have regard to the right of all persons to use the space in a reasonable manner.

Committee Stage amendments to be moved by the Administration

98. Apart from the CSAs discussed in the above paragraphs, the Administration will move other amendments to the Bill for the purposes of clarity, refinement or consistency. A full set of the draft CSAs to be moved by the Administration is in **Appendix VIII**.

Resumption of Second Reading debate on the Bill

99. The Bills Committee supports the resumption of the Second Reading debate on the Bill. The Administration has given notice for the resumption of the Second Reading debate on the Bill at the Council meeting to be held on 2 July 2008.

Advice Sought

100. Members are invited to note the deliberations of the Bills Committee.

Bills Committee on West Kowloon Cultural District Authority Bill

Membership list

Chairman	Hon Mrs Selina CHOW LIANG Shuk-ye, GBS, JP
Deputy Chairman	Hon CHEUNG Hok-ming, SBS, JP
Members	Ir Dr Hon Raymond HO Chung-tai, SBS, S.B.St.J., JP Dr Hon LUI Ming-wah, SBS, JP Hon Margaret NG Hon James TO Kun-sun Hon CHAN Yuen-han, SBS, JP Hon Bernard CHAN, GBS, JP Hon CHAN Kam-lam, SBS, JP Hon SIN Chung-kai, SBS, JP Dr Hon Philip WONG Yu-hong, GBS Hon WONG Yung-kan, SBS, JP Hon Jasper TSANG Yok-sing, GBS, JP Hon Howard YOUNG, SBS, JP Hon Emily LAU Wai-hing, JP Hon CHOY So-yuk, JP Hon Timothy FOK Tsun-ting, GBS, JP Hon Abraham SHEK Lai-him, SBS, JP Hon Audrey EU Yuet-mee, SC, JP Hon WONG Kwok-hing, MH Hon LEE Wing-tat Hon Daniel LAM Wai-keung, SBS, JP Hon Jeffrey LAM Kin-fung, SBS, JP Hon Andrew LEUNG Kwan-yuen, SBS, JP Hon Alan LEONG Kah-kit, SC Hon LEUNG Kwok-hung Prof Hon Patrick LAU Sau-shing, SBS, JP

(Total: 27 members)

Clerk	Ms Anita SIT
Legal Adviser	Mr Arthur CHEUNG
Date	29 February 2008

Appendix II

Bills Committee on West Kowloon Cultural District Authority Bill

List of individuals/organizations that have made oral presentation/ written submissions to the Bills Committee

Oral presentation

1. Asia Art Archive
2. Association of Engineering Professionals in Society Ltd. *
3. C & G Artpartment
4. Chung Ying Theatre Company
5. Civic Act-up *
6. Community Cultural Concern *
7. Designing Hong Kong Ltd.
8. Dr Darwin CHEN
9. Hong Kong Arts Development Council *
10. Hong Kong Arts Festival Society Ltd.
11. Hong Kong Ballet
12. Hong Kong Curators Association *
13. Hong Kong Dance Company *
14. Hong Kong Philharmonic Orchestra *
15. Hong Kong Repertory Theatre
16. Hong Kong Society for Education in Art
17. Lan Kwai Fong Holdings Ltd.
18. Local Action *

19. Miss FONG Kwok-shan, Christine, Sai Kung District Council Member *
20. Mr HUNG Chiu-wah, Yau Tsim Mong District Council Member *
21. Mr Oscar HO, Department of Cultural and Religious Studies, The Chinese University of Hong Kong
22. Mr Frank LEE
23. Museum of Site Ltd. *
24. People's Democracy Foundation *
25. Professional Property Services Ltd. *
26. Prof Stephen CHAN Ching-kiu
27. Prof Stephen CHEUNG
28. Spring-Time Stage *
29. The Chinese Artists Association of Hong Kong
30. The Civic Party
31. The Composers & Authors Society of Hong Kong Ltd.
32. The Democratic Party *
33. The Hong Kong Academy for Performing Arts
34. The Hong Kong Institute of Architects *
35. The Hong Kong Institute of Surveyors
36. The Ink Society Ltd. *
37. The Lion Rock Institute
38. The People's Panel on West Kowloon *
39. The Professional Commons *
40. Zuni Icosahedron *

Written submissions

41. Hong Kong Arts Administrators' Association
42. Mr LEUNG Siu-tong, Islands District Council Member
43. Mr Vincent W S LO
44. The Fringe Club
45. The Hong Kong Construction Association Ltd.
46. The Hong Kong Institution of Engineers
47. The Law Society of Hong Kong
48. Western Harbour Tunnel Co., Ltd.

* Organizations/individuals that have also given written submissions

《西九文化區管理局條例草案》

劉慧卿議員就草案第 4 條第(2)款擬動議的修正案

當局修訂第 4 條第(2)款，加入執行職能的目標，包括「維護及鼓勵藝術表達自由及創作自由」；然而，《國際經濟社會及文化權利公約》中確認人人有權參與文化生活的文化權利概念則仍然沒有包括在法例之內。

為此，劉慧卿議員以當局修正案為基礎，就第 4 條第(2)款提出修正案，加入《國際經濟社會及文化權利公約》中確認文化權利的原素。

擬議的修正案載於後頁。

立法會議員劉慧卿

2008 年 6 月 11 日

WEST KOWLOON CULTURAL DISTRICT AUTHORITY BILL

COMMITTEE STAGE

Amendment to be moved by Hon. Emily Lau

Clause

Amendment Proposed

4 By deleting subclause (2) and substituting -

"(2) The Authority shall perform its functions under subsection (1) in ways which aim to achieve the following objectives -

- (a) to recognize and enhance the right of everyone to take part in cultural life;
- (b) to facilitate the long-term development of Hong Kong as an international arts and cultural metropolis;
- (c) to uphold and encourage freedom of artistic expression and creativity;
- (d) to enhance and promote excellence, innovation, creativity and diversity in arts and culture;
- (e) to enhance the appreciation of a diverse and pluralistic range of the arts;
- (f) to develop new and experimental works in arts and culture;
- (g) to cultivate and nurture local talents in the arts (including local artists), and local arts

- groups and arts-related personnel;
- (h) to encourage wider participation by the local community in arts and culture;
 - (i) to promote and provide arts education to the local community;
 - (j) to facilitate the development of cultural and creative industries;
 - (k) to facilitate and enhance cultural exchange and cooperation between the Mainland of China, Hong Kong and any other place;
 - (l) to facilitate and enhance cooperation between any government or non-government body or organization and providers of the arts, within and outside Hong Kong;
 - (m) to encourage commercial and corporate support and sponsorship of arts and culture;
 - (n) to provide or facilitate the provision of free and accessible open space within the leased area to the general public; and
 - (n) to strengthen the position of Hong Kong as a tourist destination."



民主黨立法會議員秘書處

Secretariat of Legislative Councillors of The Democratic Party

民主黨立法會議員對西九草案提出的修訂建議

民主黨對《西九文化區管理局條例草案》（“西九草案”）的修訂建議，主要包括完善管理局的職能、加強管理局向公眾問責及公眾參與、使管理局的運作更公開、透明，以及藉訂定合理附例，以規範收藏品的管理及保障公眾享用休憩用地的權利。有關建議的修正案，詳見附件，深色及間線部分為修訂條文。已獲政府接納的建議修訂將不會提出，其餘部分稍後正式於委員會審議階段提出時或會再作進一步修訂。

完善管理局的職能（第 4 條）

1. 民主黨原打算修訂草案，以加強管理局在推動藝術文化發展方面的承擔，但由於大部分內容已在政府的修正案中，故只提出“文化”部分：
 在管理局旨在達致的多項目標中（第 4(2)條），除了藝術範疇外，並加入文化範疇，例如“維護及鼓勵藝術及文化表達自由及創作自由”、“發掘及培育本地藝術文化界人才（包括本地藝術文化工作者）、本地藝術文化團體及與藝術文化有關的本地從業員”，以及“向本地社會推廣及提供藝術文化教育”等等。
2. 強化管理局的視野，不只鼓勵商界及企業，而是更全面地鼓勵社會各界包括商界及企業支持及贊助藝術文化，可以包括個人及志願團體等。（第 4(2)(i)條）
3. 新加條款，規定管理局須就各藝術文化場館及展覽中心的設計進行公開設計比賽，以選取最適合的設計，鼓勵更廣泛的公眾參與。

加強管理局向公眾問責及公眾參與（第 6 條、第 8 條及第 17 條）

4. 管理局的非公職成員有 2 名是立法會議員，由立法會互選。（第 6(3)(c) 條）
5. 就其他由行政長官委任的非公職成員的條件，作進一步修訂，包括加入“在藝術文化界內有良好聲望”及具備“測量”、“園境”、“資訊科技”的經驗。
6. 政府一直以時間不足、未有妥善的選舉機制為理由，不贊成現時在法例中規定，管理局的非公職成員由選舉產生。民主黨建議管理局的第一屆可由委任產生，但第二屆起，其非公職成員（立法會議員除外）中，最少有 2 名成員須由行政長官以附屬法例形式刊憲的選舉方法產生，而有關的選舉機制須容許使用西九文化區各持份者也有機會選出他們的代表進入管理局，參與管理事宜。（第 6(3)條）
7. 政府建議一筆過撥款 216 億元給管理局發展，數目龐大，公眾如何監察有否濫用公帑？除了每年一次的帳目報告外，審計委員會應於適當時間，如西九

發展第一期將完成時，就管理局的財政事宜進行詳細的財務檢討，並公開有關報告。根據政府提供的融資方案假設，2008-2015 年為第一期發展，民主黨建議管理局須於 2015 年向公眾提交管理局的財務檢討報告，交待管理局的財政狀況。(第 8 條)

8. 民主黨支持成立「西九諮詢委員會」以進行公眾諮詢，加強公眾參與，但有關修訂若未能通過，將提出修訂規定管理局須進行定期及廣泛諮詢公眾，包括考慮採用民調、公開論壇、工作坊、小組討論等方式，並須公布公眾諮詢的結果。(第 17 條)

管理局運作更公開、透明（第 30 條及附表第 11 條）

9. 在參考過《證券及期貨條例》（第 571 章）第 13 條後，民主黨建議管理局須每年向立法會提交下一個財政年度的收支預算，以供省覽，以加強管理局的透度。(第 30 條)
10. 草案委員會曾多次討論管理局公開會議的問題，在平衡不同意見，及參考過《建造業議會條例》（第 587 章）附表 3 第 9 條後，民主黨建議應原則上公開董事局及其屬下委員會的會議，指明情況則例外。條文規定，如公開會議會導致財務事宜或投資資料過早發放、違反任何法律或保密或其他法律義務、關乎人事事宜及審批別別合約，及涉及商業及敏感資料而不適宜公開，才不公開會議。

訂定合理附例（第 33 條）

11. 西九文化區內設有 M+博物館，需要大量收藏品，以吸引市民及遊客參觀及欣賞，並藉此提升公眾對各種類藝術文化的認知。而博物館如何管理收藏品很重要，影響國際及本地社會對博物館的信心。因此，民主黨建議管理局應參考國際專業守則（ICOM Code of Ethics for Museums）及其他地方的法例，透過訂定附例形式，專業地規管包括取得、出售、退回、保存、登記、註銷登記及註銷收藏品的安排。(新加條款)
12. 管理局就在其範圍內的所有人的行為訂立附例時，須為顧及所有人合理地享用公眾休憩用地的權利的目的。(第 33(1)(b)條)

民主黨

二零零八年六月十六日

完善管理局職能

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4 在第(1)(b)款後，加入 —

“(bb) 就批租地區上各藝術文化場館及展覽中心的設計進行公開設計比賽，以選取最適合的設計。”。

4 刪去第(2)款而代以 —

“(2) 管理局須以旨在達致以下目標的方式，執行它在第(1)款下的職能 —

- (a) 促進香港長遠發展為國際藝術文化大都會；
- (b) 維護及鼓勵藝術及文化表達自由及創作自由；
- (c) 提升及推展在各類藝術及文化方面的卓越表現、創新、創造力及多樣化；
- (d) 提升對種類廣泛而多元化的藝術及文化的欣賞；
- (e) 發展各類藝術及文化的新作品及實驗作品；
- (f) 發掘及培育本地藝術文化界人才(包括本地藝術文化工作者)、本地藝術文化團體及與藝術文化有關的本地從業員；
- (g) 鼓勵本地社會更廣泛地參與各類藝術及文化；
- (h) 向本地社會推廣及提供藝術文化教育；
- (i) 促進文化及創意產業的發展；
- (j) 促進並加強中國內地、香港與任何其他地方之間的文化交流及合作；
- (k) 促進並加強任何政府或非政府的團體或組織與香港及香港以外的藝術文化提供者之間的合作；
- (l) 鼓勵社會各界包括商界及企業支持及贊

- 助各類藝術及文化；
- (m) 向或協助向公眾提供位於批租地區內的
便於前往而又不收費的休憩用地；及
- (n) 強化香港作為遊客目的地的地位。”。

加強管理局向公眾問責及公眾參與

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6(3) 刪去第(3)款而代以 —

“(3) 在不抵觸第 6(12)條下，董事局由以下成員組成——

- (a) 可由公職人員或並非公職人員的人士
出任的主席；
- (b) 行政總裁；
- (c) 在不抵觸第 6(10)條下，不少於 **9名**及
不多於 15 名並非公職人員的其他成
員，包括 —

(i) 最少 5 名屬行政長官認為
是對藝術文化活動有深厚
知識、豐富經驗或廣泛閱
歷或於藝術文化界內有良
好聲望的成員；

(ii) 由立法會議員互選產生
的人士 2 名；及

(iii) 獲行政長官認為因具備
管理、工程、規劃、測量、
園境、建築、會計、財務、
資訊科技、教育、法律或
社區服務方面的經驗，或
因具備專業經驗或其他經
驗，而屬適宜委任的其他
成員；及

(d) 3 名屬公職人員的其他成員。”。

- 6(5) 刪去第(5)款而代以 —
- “(5) 所有董事（行政總裁及根據第 6(3)(c)(ii)條產生的成員除外）均須由行政長官委任。”。
- 6(9) 刪去第(9)款而代以 —
- “(9) 凡因董事局的成員職位有任何變動，或任何董事的身分有任何更改，而令第(3)款的規定未獲遵從，行政長官或立法會議員須在合理切實可行範圍內，盡快作出所需的委任或選舉（視乎情況而定），以確保該等規定獲遵從。”。
- 新條文 加入 —
- “(12) 在董事局成立 3 年之後，根據第 6(3)(c)條產生的成員中，其中最少 2 名成員（根據第 6(3)(c)(ii)條產生的成員除外）須由行政長官以選舉方法產生，而有關的選舉程序須容許各使用西九文化區的持份者有機會符合資格投票。
- (13) 第(12)款所指的選舉方法須以附屬法例藉憲報訂明。”。
- 8(2) 刪去第(2)款而代以 —
- “(2) 審計委員會的職能是——
- (a) 考慮關乎管理局財政事務的事宜，及在該委員會認為屬必需或適宜的情況下進行審計（不論是一般審計或就特定事宜進行審計）；
 - (b) 於 2015 年，就管理局的財政事宜進行及完成財務檢討報告；及
 - (c) 考慮由董事局轉介或指派予該委員會考慮的任何其他事宜（不論是財務事宜或其他事宜）。”。
- 8 加入 —
- “(10) 董事局須安排將已依據第(2)(b)款完成的報告提交立法會會議席上省覽。”。

“17. 公眾諮詢

在不損害第 18(3)(a)條的原則下，管理局須就關於發展或營運藝術文化設施、相關設施及附屬設施的事宜，及任何其他管理局認為合適的事宜，定期及廣泛諮詢公眾，包括考慮採用民調、公開論壇、工作坊、小組討論等方式進行諮詢，並須公布公眾諮詢的結果。”。

管理局運作更公開、透明

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加入 —

“(3) 民政事務局局長須安排將已依據第(1)(c)(i)款備案的收支預算提交立法會會議席上省覽。”。

附表

加入 —

第 11 條

“(3) 除第(4)款另有規定外，會議須向公眾人士開放。
(4) 在以下情況下，第(3)款不適用於某次會議或某次會議的某部分—

(a) 如董事局認為施行第(3)款相當可能導致—

(i) 關於董事局的財務事宜或投資的資料過早發放；或

(ii) 在違反任何法律、法庭或審裁處作出的命令或指示、保密責任或其他法律義務或責任的情況下披露資料；

(b) 如董事局認為有待在該會議或該會議的該部分討論或考慮的任何事宜相當可

能關乎—

(i) 人事事宜；或

(ii) 審批個別合約；或

(c) 如董事局在顧及待討論事項涉及商業及敏感資料後，合理地認為第(3)款不應適用於該會議或該會議的該部分。

(5) 第(3)款的規定適用於根據本條例而設立的委員會，而第(4)款所指的董事局則包括進行會議的委員會（視乎情況而定）。”。

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刪去第 33 條而代以 —

“33. 管理局訂立附例的權力

(1) 管理局可為以下一項或多於一項的目的而訂立附例——

(a) 藝術文化設施、相關設施或附屬設施的規管、營運或管理；

(b) 在符合第(3)款的規定下，在管理局持有或管理（不論在批租地區內或批租地區外）的任何處所、建築物、構築物、設施或土地（包括公眾地方）內的所有人的行為。

(2) 管理局須為收藏品的管理，包括其取得、出售、退回、保存、登記、註銷登記及註銷事宜訂立附例。

(3) 根據第(1) (b)款訂立的附例須顧及所有人合理地享用公眾休憩用地的權利的目的。

(4) 以下條文就根據第(1)及(2)款訂立的附例而適用——

(a) 任何該等附例可規定任何人

違反附例中任何指明條文，即屬犯罪，並可為此訂明不超過第 3 級罰款的刑罰；

- (b) 在不損害任何關乎刑事罪行的檢控的條例或律政司司長在檢控刑事罪行方面的權力下，根據任何該等附例而提出的檢控，可以管理局的名義提出；
- (c) 所有附例須經立法會批准。”。

急件！

檔號：LC-08/69

民政事務局副秘書長(西九)
梁悅賢女士鈞鑒：

就《西九文化區管理局條例草案》政府近日提出的擬議修正案，本人希望政府能夠接納建築、測量及都市規劃界專業人士的意見，提出進一步修正條文如下：

- (一) 進入西九文化區管理局（管理局）董事局的準則，應當包括“園境”這經驗類別，作為個別人士可獲行政長官認為適宜委任的其中一項經驗類別，因為園境是屬於獨立而重要的相關專業界別。
- (二) 規定管理局的職能包括“就西九文化區的規劃及其藝術文化設施的建築，進行公開設計比賽，以體現公平有序的競爭”，從而符合中國政府的建築工程管理辦法中訂明的“提高建築工程方案設計質量，體現公平有序競爭”的原則。

謹此提出修正建議，祈盼閣下接納，並由政府提出修正案，進一步完善相關法例，以維護公眾利益的最終目標。專此函達，務祈慨允。

順頌
時祺

劉秀成 謹啓

二零零八年六月十三日

附件：《西九文化區管理局條例草案》建議修正案文本

副本送：《西九文化區管理局條例草案》委員會秘書薛鳳鳴女士

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4 在第(1)(b)款後，加入—

“(bb) 就西九文化區的規劃及其藝術文化設施的建築，進行公開設計比賽，以體現公平有序的競爭。”。

6(3) 刪去(c)段而代以—

“(c) 不少於 8 名及不多於 15 名並非公職人員的其他成員，包括—

(i) 最少 5 名屬行政長官認為是—

(A) 在藝術文化方面具有良好聲望的成員；或

(B) 對藝術文化活動有深厚知識、豐富經驗或廣泛閱歷的成員；

(ii) 最少一名屬立法會議員的成員；及

(iii) 獲行政長官認為因具備管理、工程、規劃、建築、測量、園境、會計、財務、教育、法律或社區服務方面的經驗，或因具備專業經驗或其他經驗，而屬適宜委任的其他成員；及”。

WEST KOWLOON CULTURAL DISTRICT AUTHORITY BILL

COMMITTEE STAGE

Amendments to be moved by the Hon. Alan Leong Kah Kit

<u>Clause</u>	<u>Amendment Proposed</u>
6(3)	By deleting paragraph (c) and substituting – “(c) not fewer than 9 persons and not more than 15 other members who are selected by the Chief Executive according to the principles and procedures in SCHEDULE PART 5;and”.
6(3)	By adding – “(d) at least one member who is a member of the Legislative Council elected by members of the Legislative Council among themselves; and”.
7	By deleting “may, with the prior approval of the Chief Executive, appoint a person” and substituting “shall appoint a person according to the principles and procedures in SCHEDULE PART 5”.
Schedule New	By adding – <p style="text-align: center;">“PART 5</p> <p style="text-align: center;">THE APPOINTMENT OF MEMBERS OF THE BOARD AND CHIEF EXECUTIVE OFFICER OF THE AUTHORITY</p> <p>1. The Chief Executive in selecting a member of the Board and the Board in selecting a Chief Executive Officer of the Authority for appointment shall apply the following principles—</p> <p style="padding-left: 40px;">(a) the person is appointed on the basis of merit and appropriateness having</p>

regard to the requirement of the vacancy the appointment fills;

- (b) no person is appointed without the objective scrutiny by a body independent of the department in which the vacancy arises;
- (c) the procedure for appointment conforms with the principles of equal opportunity;
- (d) consideration is given to the person's commitment to the following principles of public service—
 - (i) holders of public office should act solely in terms of the public interest. They should not do so in order to gain financial or other benefits for themselves, their family or their friends;
 - (ii) holders of public office should not place themselves under any financial or other obligation to outside individuals or organizations that might seek to influence them in the performance of their official duties;
 - (iii) in carrying out public business, including making public appointments, awarding contracts, or

- recommending
individuals for rewards
and benefits, holders of
public office should
make choices on merit;
- (iv) holders of public office
are accountable for
their decision and
actions to the public
and must submit
themselves to whatever
scrutiny is appropriate
to their office;
- (v) holders of public office
should be as possible
about all the decision
and actions that they
take. They should give
reasons for their
decision and restrict
information only when
the wider public
interests clearly
demands;
- (vi) holders of public office
have a duty to declare
any private interests
relating to their public
duties and to take steps
to resolve any conflicts
arising in a way that
protects the public
interest;
- (vii) holder of public office
should promote and
support these principles
by leadership and
example.

2. The procedure for the selection of a member of the Board and a Chief Executive shall include the following steps—

- (a) public announcement of the particulars and requirements of the vacancy;
- (b) making available to the public procedure and criteria of appointment;
- (c) providing appropriate resources for the selection process;
- (d) keeping a written record of the entire selection process.

《西九文化區管理局條例草案》

陳婉嫻議員擬動議的修正案

對第 6 條(3)(c)(i)提出的修訂：

原條文：

「最少 5 名屬行政長官認為是對藝術文化活動有知識、經驗或閱歷的人士；」

修訂為：

「最少 7 名屬行政長官認為是：

(A) 在藝術文化方面，分別在香港、內地、國際具有良好聲望的成員；
或

(B) 對藝術文化活動有深厚知識，豐富經驗或廣泛閱歷的成員，其中
應包括以下經驗和知識的人士如下：

- a) 藝術／文化管理、教育、策劃
- b) 藝術／文化創作、演繹、評論
- c) 藝術／文化捐助

對第 18 條 3a 項提出的修訂：

原條文：

「在該局認為適當的時間，藉該局認為適當的方式，諮詢公眾；及」

修訂為

「~~在該局認為適當的時間，藉該局認為適當的方式，~~**必需在諮詢公眾的工作方面，公佈具體的諮詢時間表。諮詢方法應分三個階段進行：**

- a) **就規劃概念作公眾諮詢；**
- b) **舉行聽證會；**
- c) **在定案前就各項詳細規劃建議，再作公眾諮詢。**

諮詢公眾的對象層面需要廣泛，包括民意代表、文化藝術的人士及學術界、專業界；」

WEST KOWLOON CULTURAL DISTRICT AUTHORITY BILL

COMMITTEE STAGE

Amendments to be moved by the Secretary for
Home Affairs

<u>Clause</u>	<u>Amendment Proposed</u>
1	By deleting the heading and substituting - "1. Short title".
1	By deleting subclause (2).
2	(a) By deleting the definition of "approved development plan" and substituting - "approved development plan" (核准發展圖則) means - (a) subject to paragraph (b), the approved development plan referred to in section 18(11), as from time to time amended, revised or otherwise having effect as an approved plan under the Town Planning Ordinance (Cap. 131); or (b) where any approved plan under that Ordinance has replaced the plan, the approved plan currently having effect in respect of the plan area under

that Ordinance;" .

(b) In the definition of "committee member", by deleting "section 8 or 9" and substituting "this Ordinance".

(c) By deleting the definition of "development plan".

(d) By deleting the definition of "SWK approved plan" and substituting -

" "SWK approved plan" (西南九龍核准圖則) means the approved plan currently having effect in respect of the lay-out of South West Kowloon under the Town Planning Ordinance (Cap. 131); " .

(e) By deleting the definition of "SWK draft plan" and substituting -

" "SWK draft plan" (西南九龍草圖) means any draft plan for the lay-out of South West Kowloon -

(a) which is exhibited under section 5 of the Town Planning Ordinance (Cap. 131); or

(b) any amendment to which is exhibited under section 7 of that Ordinance;" .

(f) In the Chinese text, in the definition of "附屬設施", by deleting everything after "外" and substituting "附屬於為準備或提供藝術文化設施而提供的設施. " .

4(1) By deleting paragraph (a) and substituting -
 "(a) to prepare a development plan under section 18(1) and to perform the other functions imposed on it under section 18;".

4 By deleting subclause (2) and substituting -
 "(2) The Authority shall perform its functions under subsection (1) in ways which aim to achieve the following objectives -

- (a) to facilitate the long-term development of Hong Kong as an international arts and cultural metropolis;
- (b) to uphold and encourage freedom of artistic expression and creativity;
- (c) to enhance and promote excellence, innovation, creativity and diversity in arts and culture;
- (d) to enhance the appreciation of a diverse and pluralistic range of the arts;
- (e) to develop new and experimental works in arts and culture;
- (f) to cultivate and nurture local talents in the arts (including local artists), and local arts

groups and arts-related
personnel;

- (g) to encourage wider participation by the local community in arts and culture;
- (h) to promote and provide arts education to the local community;
- (i) to facilitate the development of cultural and creative industries;
- (j) to facilitate and enhance cultural exchange and cooperation between the Mainland of China, Hong Kong and any other place;
- (k) to facilitate and enhance cooperation between any government or non-government body or organization and providers of the arts, within and outside Hong Kong;
- (l) to encourage community, commercial and corporate support and sponsorship of arts and culture;
- (m) to provide or facilitate the provision of free and accessible open space within

the leased area to the general public; and

(n) to strengthen the position of Hong Kong as a tourist destination."

- 5(2)
- (a) In paragraph (f), by deleting "purposes under" and substituting "objectives specified in".
 - (b) In paragraph (h), by deleting "attainment of the purposes under" and substituting "achievement of the objectives specified in".
 - (c) In paragraph (j), by deleting "purposes under" and substituting "objectives specified in".
 - (d) In paragraph (m), by adding "and" at the end.
 - (e) By deleting paragraph (n).

5 By deleting subclause (3).

- 6(3) By deleting paragraph (c) and substituting -
- "(c) not less than 8 and not more than 15 other members who are not public officers, including -
 - (i) at least 5 members who, in the opinion of the Chief Executive -
 - (A) are of good standing in the field of arts and culture in the Mainland of China, Hong Kong or any other place; or
 - (B) have extensive knowledge of,

or wide experience in or
exposure to, arts and cultural
activities;

- (ii) at least one member who is a member of the Legislative Council; and
- (iii) such other members who possess experience in management, engineering, planning, architecture, landscape architecture, surveying, accounting, finance, education, law or community service, or such professional or other experience as would, in the opinion of the Chief Executive, render them suitable for appointment; and".

6 By deleting subclause (8).

6(9) By deleting "or (8)".

6(10) By deleting ", (8)".

8(2) (a) In paragraph (a), by deleting "and" at the end.

(b) By adding -

"(aa) to deal with any matter delegated to it
by the Authority under section 11; and".

8 By adding -

"(3A) At least one member of the Audit Committee is to be a member who, in the opinion of the Board, possesses such appropriate professional qualification or expertise in accounting or financial management as would render the member suitable for appointment.".

8 By deleting subclause (4) and substituting -

"(4) Each of the members of the Audit Committee, whether or not the member is a Board member, is to be appointed by the Board.".

8 By adding -

"(4A) A person is not eligible for appointment as a member of the Audit Committee if -

- (a) he is the Chief Executive Officer or any other employee of the Authority; or
- (b) he is the chairman of any other committee established under this Ordinance.".

8(7) In the English text, by deleting "as" and substituting "that".

New

By adding -

"8A. Investment Committee

(1) There is established by this section a committee to be known as the Investment Committee.

(2) The functions of the Investment Committee are -

- (a) to advise the Authority in relation to its functions under section 20;
- (b) for the purposes of paragraph (a), to monitor any investment made under section 20 and oversee the management of such investment;
- (c) to deal with any matter delegated to it by the Authority under section 11; and
- (d) to consider any other matter relating to investment or finance that is referred or assigned to it by the Board for consideration.

(3) The Investment Committee is to consist of -

- (a) the Director of Accounting Services, or his representative; and
- (b) such number of other members,

not being less than 2, as the Board may determine who, in the opinion of the Board, possess such expertise or experience as would render them suitable for appointment.

(4) Each of the members of the Investment Committee specified in subsection (3)(b), whether or not the member is a Board member, is to be appointed by the Board.

(5) The Board is to appoint a Board member to be the chairman of the Investment Committee.

(6) The Board may -

(a) withdraw any matter referred or assigned under subsection (2)(d); or

(b) revoke any appointment made under subsection (4) or (5).

(7) An appointment made under this section is to be made public in the manner that the Board considers fit.

(8) Meetings of the Investment Committee are to be held as often as may be necessary for the performance of its functions.

(9) The Investment Committee may, subject to the requirements of this Ordinance, regulate its own administration, proceedings and business in such manner as it considers

appropriate.".

New

By adding -

"8B. Remuneration Committee

(1) There is established by this section a committee to be known as the Remuneration Committee.

(2) The functions of the Remuneration Committee are -

- (a) to advise the Authority in relation to its functions under section 10(2) and (3);
- (b) to advise the Authority on any other matter relating to the remuneration, allowances or benefits made available to its employees, former employees or their dependants that is referred or assigned to it by the Board for consideration; and
- (c) to deal with any matter delegated to it by the Authority under section 11.

(3) The Remuneration Committee is to consist of such number of members, not being less than 3, as the Board may determine.

(4) Each of the members of the Remuneration Committee, whether or not the

member is a Board member, is to be appointed by the Board.

(5) The Board is to appoint a Board member (other than the Chief Executive Officer) to be the chairman of the Remuneration Committee.

(6) The Board may -

(a) withdraw any matter referred or assigned under subsection

(2)(b); or

(b) revoke any appointment made under subsection (4) or (5).

(7) An appointment made under this section is to be made public in the manner that the Board considers fit.

(8) Meetings of the Remuneration Committee are to be held as often as may be necessary for the performance of its functions.

(9) The Remuneration Committee may, subject to the requirements of this Ordinance, regulate its own administration, proceedings and business in such manner as it considers appropriate."

9(7) In the English text, by deleting "as" and substituting "that".

- 10 In the Chinese text, in the heading, by deleting "委任" and substituting "聘任".
- 10(1) In the Chinese text, by deleting "委任" and substituting "聘任".
- 10 By deleting subclause (2) and substituting -
"(2) The Authority may determine the terms and conditions of the employment of its employees, having regard to the advice of the Remuneration Committee established under section 8B."
- 10(3) By adding ", having regard to the advice of the Remuneration Committee established under section 8B" after "dependants".
- 11(1)(b) By deleting "section 8 or 9" and substituting "this Ordinance".
- 11 By adding -
"(1A) In delegating under subsection (1)(b) any function to a committee established under section 8, 8A or 8B, the Authority shall have regard to the committee's functions as specified under this Ordinance."

11(6) By deleting "section 8 or 9" and substituting "this Ordinance".

New By adding in Part 2 -

"17A. Establishment of consultation panel

(1) Without limiting the generality of section 17, the Authority shall establish a consultation panel to gather public views on matters relevant to the functions of the Authority.

(2) The consultation panel is to consist of a chairman and such number of other members as the Authority may determine.

(3) Each of the members of the consultation panel, including its chairman, is to be appointed by the Authority.

(4) In appointing any member of the consultation panel, the Authority shall have regard to the purpose for which the panel is established under subsection (1).

(5) The Authority shall from time to time issue guidelines in relation to -

- (a) the functions of the consultation panel;
- (b) subject to subsection (8), the administration, proceedings and business of the panel; and
- (c) any other matter relating to the panel that the Authority

considers appropriate.

(6) A guideline issued under subsection (5) is to be made public in the manner that the Authority considers fit.

(7) In performing its functions, the consultation panel is to have regard to any guidelines issued and published under this section.

(8) The consultation panel is to hold at least one meeting each year and any such meeting is to be open to the public."

18(2) In the Chinese text, by deleting paragraph (b) and substituting -

"(b) 可規定為所有或任何目的而言須根據該條例第 16 條取得批給許可。".

18 By adding -

"(13) Where the Chief Executive in Council refuses to approve a development plan which is deemed to be a draft plan by virtue of subsection (8), the Authority shall, as soon as reasonably practicable after such refusal, prepare another development plan for the purposes specified in subsection (1)(a), (b) and (c), and this section, other than subsection (1), applies to that other development plan."

20(1) By adding ", having regard to the advice of the Investment Committee established under section 8A," before "invest".

25(4) In the Chinese text, by deleting "管理局與該等附屬公司之間" and substituting "管理局及該等附屬公司".

25 By deleting subclause (5) and substituting -

"(5) The Authority shall ensure that the statement of accounts prepared under subsection (2) complies with -

- (a) the manner in which the statement is to be prepared;
- (b) any accounting standards; and
- (c) any other requirement,

as may be notified to the Authority in writing by the Financial Secretary."

New By adding -

"30A. Annual report

(1) The Authority shall, in respect of each financial year, prepare an annual report of the Authority for that financial year.

(2) Without limiting the matters that the Authority may include in it, the annual report must -

- (a) specify the work and activities of the Authority for that financial year and how they

relate to the Authority's functions and the objectives specified in section 4(2);

- (b) specify the work and activities of the committees established under this Ordinance for that financial year;
- (c) include the statement of accounts prepared under section 25(2) for that financial year;
- (d) include the report submitted under section 26(3)(b) for that financial year; and
- (e) include information on how the Authority, during the financial year, conducted or implemented the activities and projects set out -
 - (i) in the corporate plan sent in the previous financial year to the Secretary for Home Affairs under section 29(1); and
 - (ii) in the business plan sent in the previous financial year to the Secretary for Home Affairs under section 30(1).

(3) In this section, "previous financial

year" (前一個財政年度) means the year immediately preceding the financial year to which the annual report relates."

31 In the heading, by deleting "**Reports, etc.**" and substituting "**Annual report**".

31 By deleting subclause (1) and substituting -

"(1) The Authority shall, within 6 months after the end of each financial year, submit to the Financial Secretary the annual report prepared under section 30A(1) for that financial year."

31(2) By deleting "documents" and substituting "report".

32(1) In the Chinese text, by deleting "獲得穩當的營運、" and substituting "的安全運作或獲得穩當的".

34 By deleting subclause (1) and substituting -

"(1) A Board member or a committee member shall disclose to the Authority any interest that he has which is of a class or description determined by the Authority under subsection (2) -

- (a) on his first appointment;
- (b) at the beginning of each calendar year after the appointment;

(c) on becoming aware of the existence of an interest not previously disclosed under this subsection; and

(d) after the occurrence of any change to an interest previously disclosed under this subsection."

34(5) By adding ", by such means as it considers appropriate," before "make available".

Schedule,
section 4 By adding "(including any change of the status of the member by reference to which he has been appointed for the purpose of complying with section 6(3) of this Ordinance)" after "cause".

Schedule,
section 9(1) (a) By deleting "Without affecting the generality of section 15, where" and substituting "Where".

(b) By deleting everything after "it" and substituting a full stop.

Schedule By deleting section 9(2).

Schedule,
section 15(1) By deleting "who is in any way directly or indirectly interested in any contract or any other matter which is to be discussed or considered by the Board at a Board meeting" and substituting

"present at a Board meeting is in any way directly or indirectly interested in any contract or any other matter which is to be discussed or considered by the Board at the meeting".

Schedule,
section
15(1)(a)

By deleting "(if he is present at the Board meeting)".

Schedule,
section 15

By adding -

"(1A) The Board may from time to time issue a guideline to set out the circumstances in which a Board member is to be regarded as being directly or indirectly interested in any contract or any other matter for the purposes of subsection (1)".

Schedule,
section 15(3)

In the Chinese text, by deleting "該合約的各方須以董事局認為合適的方式公布" and substituting "須以董事局認為合適的方式，公布該合約的各方".