

LEGISLATIVE COUNCIL BRIEF

Public Health and Municipal Services Ordinance
(Cap. 132)

DECLARATION OF MARKETS (AMENDMENT) NOTICE 2013

PUBLIC HEALTH AND MUNICIPAL SERVICES ORDINANCE (PUBLIC MARKETS) (AMENDMENT OF TENTH SCHEDULE) ORDER 2013

INTRODUCTION

This paper briefs Members on two pieces of subsidiary legislation made by the Director of Food and Environmental Hygiene (“DFEH”) to cease the declaration of Mong Kok Market (“MKM”) and Kwong Choi Market (“KCM”) to be markets to which the Public Health and Municipal Services Ordinance (Cap. 132) (“the Ordinance”) applies, and to cease the designation of both markets as public markets under the Ordinance, following the decommissioning of the two markets on 1 March 2010 and 1 April 2011 respectively.

BACKGROUND AND JUSTIFICATIONS

2. Section 79(1) of the Ordinance stipulates that the Ordinance shall apply to every market which is declared by DFEH to be a market to which the Ordinance applies. The markets so declared are listed in the Schedule to the Declaration of Markets Notice (Cap. 132AN). Section 79(3) of the Ordinance specifies that, DFEH may, by order published in the Gazette, designate as a public market any market to which the Ordinance applies. The public markets so designated are listed in the Tenth Schedule to the Ordinance. DFEH is empowered under section 79(5) of the Ordinance to amend, add to or delete from the Tenth Schedule to the Ordinance.

Mong Kok Market

3. MKM, located on Canton Road, Mong Kok, was commissioned in 1977, with a total of 129 stalls selling mainly fresh provisions and vegetables to serve the residents in the vicinity. However, within half a kilometre from MKM, two public markets, namely Fa Yuen Street Market and Tai Kok Tsui Market, were subsequently built in 1988 and 2005 respectively to provide some 180 and 130 stalls respectively selling fresh provisions, food-related commodities and other dry and wet goods. With the alternatives available in the vicinity, the demand for fresh food supply from MKM was low. The competitiveness of MKM had diminished and the patronage was low. The stall vacancy rate at MKM was consistently high (exceeding 60%).

4. Based on the above assessment, the Food and Environmental Hygiene Department (“FEHD”) had consulted the Yau Tsim Mong District Council (“YTMDC”) on various occasions on the proposed closure of MKM. The Food and Environmental Hygiene Committee under YTMDC, at its meeting in September 2008, supported the proposed closure of the market and the proposed concessionary and resiting arrangements for the affected tenants. Accordingly, FEHD resumed all the market stalls and MKM ceased operation on 1 March 2010.

Kwong Choi Market

5. KCM, located on Tseng Choi Street, Tuen Mun, was commissioned in 1982, with a total of 81 stalls selling mainly fresh provisions, dry and wet goods. Within less than a kilometre from KCM, there is another public market, the San Hui Market. Also built in 1982, San Hui Market provides more than 320 stalls selling fresh provisions, food-related commodities and other dry and wet goods. With the alternative available in the vicinity, the competitiveness of the smaller KCM had diminished. The patronage was low and the stall vacancy rate was consistently high (exceeding 70%).

6. Based on the above assessment, FEHD consulted the Environment, Hygiene and District Development Committee under the Tuen Mun District Council (“TMDC”) and the Committee at its meeting in November 2010 agreed to the proposed closure of KCM and the proposed concessionary and resiting arrangements for the affected tenants. FEHD had resumed all the market stalls accordingly and KCM ceased operation on 1 April 2011.

THE SUBSIDIARY LEGISLATION

7. Both MKM and KCM are listed in the Schedule to the Declaration of Markets Notices and the Tenth Schedule to the Ordinance. DFEH has accordingly made –

- (a) the **Declaration of Markets (Amendment) Notice 2013**, at Annex A, to cease the declaration of MKM and KCM as markets to which the Ordinance applies and to delete them from the Schedule to the Declaration of Markets Notice; and
- (b) the **Public Health and Municipal Services Ordinance (Public Markets) (Amendment of Tenth Schedule) Order 2013**, at Annex B, to cease the designation of MKM and KCM as public markets and to delete them from the Tenth Schedule to the Ordinance.

LEGISLATIVE TIMETABLE

8. The legislative timetable is as follows –

Publication in the Gazette	14 June 2013
Tabling at the Legislative Council	19 June 2013
Commencement	1 November 2013

IMPLICATIONS OF THE PROPOSAL

9. The two pieces of subsidiary legislation are in conformity with the Basic Law, including the provisions concerning human rights. They will not affect the current binding effect of the Ordinance and will not have any productivity and environmental implications.

10. The closure of MKM and KCM does not have significant economic implications. As the daily management of MKM and KCM had been outsourced, their closure does not have any civil service implications. On the financial implications to the Government, the closure of the two markets would result in reduction of annual operating cost of \$3.3 million and the annual revenue forgone would be \$0.4 million.

PUBLIC CONSULTATION

11. The YTMDC, TMDC and the affected tenants had been thoroughly consulted and were supportive of the decommissioning of MKM and KCM. All the affected tenants had accepted the arrangements offered to them and had all moved out from MKM and KCM by 1 March 2010 and 1 April 2011 respectively. The Legislative Council Panel on Food Safety and Environmental Hygiene was informed of the planned closure of MKM and KCM at its meeting on 11 November 2008 (LC Paper No. CB(2)217/08-09(03)).

PUBLICITY

12. The Declaration Notice and Order will be published in the Gazette on 14 June 2013. A spokesperson will be available to answer enquiries on this subject.

ENQUIRIES

13. For enquiries relating to this brief, please contact Miss Vinci CHAN, Assistant Secretary for Food and Health (Food) 7, at 3509 8707.

Food and Health Bureau
June 2013

(FH CR 3/3801/06)

Declaration of Markets (Amendment) Notice 2013

(Made by the Director of Food and Environmental Hygiene under section 79(1) of the Public Health and Municipal Services Ordinance (Cap. 132))

1. Commencement

This Notice comes into operation on 1 November 2013.

2. Declaration of Markets Notice amended

The Declaration of Markets Notice (Cap. 132 sub. leg. AN) is amended as set out in section 3.

3. Schedule amended

(1) The Schedule—

Repeal

“Kwong Choi Market

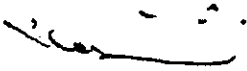
廣財街市”.

(2) The Schedule—

Repeal

“Mong Kok Market

旺角街市”.


(Gloria TAM)
Acting Director of Food and
Environmental Hygiene


5 June 2013

Explanatory Note

This Notice amends the Schedule to the Declaration of Markets Notice (Cap. 132 sub. leg. AN) so that the declarations of the Kwong Choi Market and the Mong Kok Market as markets to which the Public Health and Municipal Services Ordinance (Cap. 132) applies are to cease.

**Public Health and Municipal Services Ordinance
(Public Markets) (Amendment of Tenth Schedule)
Order 2013**

(Made by the Director of Food and Environmental Hygiene under section 79(3) and (5) of the Public Health and Municipal Services Ordinance (Cap. 132))


(Gloria TAM)
Acting Director of Food and
Environmental Hygiene

5 June 2013

1. Commencement

This Order comes into operation on 1 November 2013.

2. Cessation of designation as public markets

The Mong Kok Market and the Kwong Choi Market cease to be designated as public markets.

3. Public Health and Municipal Services Ordinance amended

The Public Health and Municipal Services Ordinance (Cap. 132) is amended as set out in section 4.

4. Tenth Schedule amended (public markets)

(1) Tenth Schedule—

Repeal

“Mong Kok Market

旺角街市”.

(2) Tenth Schedule—

Repeal

“Kwong Choi Market

廣財街市”.

Explanatory Note

This Order provides that the Mong Kok Market and the Kwong Choi Market cease to be designated as public markets and amends the Tenth Schedule to the Public Health and Municipal Services Ordinance (Cap. 132) accordingly.