

**立法會**  
***Legislative Council***

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**Paper for the House Committee**

**Report of the Subcommittee on  
Resolution of the Board of Directors of the Po Leung Kuk**

**Purpose**

This paper reports on the deliberations of the Subcommittee on Resolution of the Board of Directors of the Po Leung Kuk ("the Subcommittee").

**Background**

2. The Po Leung Kuk ("PLK") was established in 1878 under the Po Leung Kuk Incorporation Ordinance, which was repealed and replaced by the Po Leung Kuk Ordinance (Cap. 1040) ("the PLK Ordinance") in 1973. PLK has been providing a variety of welfare, educational, recreational and cultural services since its establishment in 1878.

3. According to the Legislative Council Brief, one of the core businesses of PLK is to provide social services for the underprivileged groups, including children, youth, elderly and disabled. In recent years, PLK has been providing medical and health services for the users of its social service units, including Chinese medical services for its elderly users, dental services for the users with mental deficiency, as well as general out-patient services, health assessment services, physiotherapy services and speech therapy services for targeted service recipients of PLK's social service units through its Integrated Health Centre ("IHC") in Prince Edward, Kowloon. In view of the positive comments received and the increasing need of the community especially the elderly for medical and health services, PLK proposes to make these services available to the general public.

## **The Resolution**

4. The Resolution of the Board of Directors of the Po Leung Kuk ("the Resolution") was made by PLK's board of directors on 16 January 2014 pursuant to section 9 of the PLK Ordinance and with the prior approval of PLK's advisory board established by virtue of paragraph 18 of the Schedule to the PLK Ordinance. The Resolution is to amend the Schedule to the PLK Ordinance to enable PLK to establish, maintain and manage medical and health care institutions in Hong Kong and to provide all kinds of medical and health services (including dental services) ("medical and health services") for the Hong Kong community, with effect from 1 June 2014.

5. To allow sufficient time for the Subcommittee to scrutinize the Resolution, the scrutiny period of the Resolution has been extended from the Council meeting of 26 March 2014 to that of 16 April 2014 by a resolution of the Council passed on 26 March 2014.

## **The Subcommittee**

6. At the House Committee meeting on 28 February 2014, Members agreed to form a subcommittee to scrutinize the Resolution. Under the chairmanship of Hon MA Fung-kwok, the Subcommittee has held one meeting with the Administration and PLK. The membership list of the Subcommittee is in **Appendix I**.

## **Deliberations of the Subcommittee**

### Justifications for making the Resolution

7. Members are advised that PLK has been providing medical and health services for the users of its social service units in recent years. In view of the positive comments received and the aging population and the community's increasing need for health care services, PLK proposes to expand its scope of services to medical and health services for the general public. However, medical and health services are not presently covered in the objects under paragraph 1 of the Schedule to the PLK Ordinance. To avoid any future dispute, it is therefore prudent to amend the PLK Ordinance to expressly include medical and health services so as to allow PLK to better meet the needs of the community by providing diversified and comprehensive services for the general public.

8. Regarding the existing legal basis for PLK to provide medical and health services to users of its social service units, members note the Administration's explanation that it is one of the objects of PLK, under paragraph 1(g) of the Schedule to the PLK Ordinance, to provide all kinds of social services for the Hong Kong community. Paragraph 2(o) of the Schedule to the PLK Ordinance stipulates that PLK has the power to do all such other lawful things as are incidental or conducive to the attainment of the objects set out under paragraph 1 of the Schedule. The term "social services" is not defined in the PLK Ordinance and the ordinary dictionary meaning should apply to it which, in context, shall receive such fair and liberal construction and interpretation as will best ensure the attainment of the objects of the PLK Ordinance according to its true intent, meaning and spirit. As advised by PLK, the medical and health services currently provided to the users of PLK's social service units are ancillary and supportive in nature so as to enable PLK to better provide comprehensive social services to them. Therefore, the provision of medical and health services to users of its social service units falls under the object stipulated in paragraph 1(g) of the Schedule.

9. Members also note the Administration's advice that PLK's proposal to provide medical and health services to the general public has the in-principle policy support of the Food and Health Bureau. It is in line with the Government's policy in welcoming the private and non-governmental sector to develop and increase the supply of medical and related services to meet the increasing demand and needs of the community.

#### Provision for medical and health services to the general public

10. Members in general support the Resolution to expand PLK's scope of services to medical and health services for the general public. Members note PLK's advice that as a start, PLK plans to expand those services in its IHC in Prince Edward, Kowloon and the Chinese medical services and dental services in its social service units, and also to establish more IHCs, in order to serve a wider sector of the public. PLK's plan is to provide medical and health services at low charges to the general public and for free to the underprivileged.

11. The Administration has advised that in providing any specific medical or health services, PLK is required to comply with all applicable statutory requirements, as well as the relevant land lease conditions. The Administration has also assured members that PLK has undertaken not to seek additional Government funding for this self-financing new initiative, and that none of its existing services will be affected. According to PLK, the medical and health services will be financed by the relevant service charges, the fund raised from the "PLK Medical Assistance Fund Raising Programme" and PLK's

general reserve, and will not be cross-subsidized by any Government subvention provided for PLK's education and social services. PLK may seek financial support from suitable trust funds if necessary.

12. Members have enquired about the definition of the expression "medical and health care institutions in Hong Kong" in the proposed new paragraph 1(da) of the Schedule to the PLK Ordinance and whether PLK is allowed to expand its scope of services to establish private hospitals in future. PLK has advised that it does not have any plan to expand into private hospital services in the short and medium term. However, PLK is prepared to explore the opportunity and feasibility of collaborating with suitable partner to expand into affordable private hospital services. PLK will have to review its service development with experience gained after the amendment of the PLK Ordinance, and assess the demands for services in the community as well as availability of PLK's resources and expertise.

13. In the light of members' enquiry and to enhance the clarity of the provision, the Administration has advised that it will introduce an amendment to the proposed new paragraph 1(da) to set out explicitly that one of the objects of PLK is to establish, maintain and manage hospitals, clinics, dispensaries, health centres and other medical and health care institutions in Hong Kong.

14. Regarding the proposed new paragraph 1(fa) of the Schedule to the PLK Ordinance, members note that specific reference is made to include "dental services" in the medical and health services to be provided by PLK. Members have enquired whether it will reduce the flexibility for PLK to introduce in future other forms of medical and health services not explicitly specified in the proposed new paragraph 1(fa).

15. The Administration has explained that according to the Medical Clinics Ordinance (Cap. 343), "medical treatment" means medical treatment of any description but excludes the treatment given by a dentist registered, deemed to be registered or exempt from registration under the Dentists Registration Ordinance (Cap. 156). Furthermore, section 59ZA of the Mental Health Ordinance (Cap. 136) has separate definitions for "dental treatment" and "medical treatment". As the scope of "medical treatment" does not necessarily cover "dental treatment" in some existing legislation relating to medical treatment and dental treatment, stipulating in the PLK Ordinance that "medical and health services" include "dental services" will enhance clarity of the provision and avoid any future dispute. The Administration has stressed that according to the legal advice sought, the express provision that "medical and health services" include "dental services" will not undermine the scope of the term "medical and health services".

PLK's fee-charging policy for medical and health services

16. Regarding PLK's plan to provide medical and health services to the general public at low costs and for free to the underprivileged, the Legal Adviser to the Subcommittee has sought clarification from the Administration on how the charging of fees is to be effected by the Resolution and whether the Resolution as drafted will allow PLK to provide the services on a commercial basis.

17. The Administration has explained that according to PLK, the Resolution is drafted in a way consistent with the existing formulation of the PLK Ordinance. Currently, only the objects and hence the scope of services of PLK are stipulated by the PLK Ordinance. There is no provision in the PLK Ordinance which provides for the details of how each of the individual services is to be provided by PLK, including the charging of fees or otherwise. According to paragraph 2(o) of the Schedule to the PLK Ordinance, PLK shall have the power to do all such other lawful things as are incidental or conducive to the attainment of the objects set out under paragraph 1 of the Schedule.

18. The Administration has also advised that PLK is one of the charitable institutions which are exempt from tax under section 88 of the Inland Revenue Ordinance (Cap. 112). While the details of the charging of fees are not stipulated in the PLK Ordinance, PLK has undertaken that PLK will provide medical and health services at low charges to the general public and for free to the underprivileged.

19. In the light of the Administration's explanation, Hon WONG Ting-kwong and Hon Christopher CHUNG consider that there is no need to provide explicitly in the Schedule PLK's fee charging policy for the provision of medical and health services. However, Hon Emily LAU and HON IP Kin-yuen remain concerned that the Resolution as presently drafted will allow PLK to expand its scope of services to provide medical and health services on a commercial basis. They consider that for the sake of clarity and to avoid any possibility of departing from its object, PLK's fee charging policy on the provision of medical and health services should be expressly stated in the Schedule to the PLK Ordinance.

20. After considering members' views, the Administration has proposed to amend the Resolution to stipulate under paragraph 1 of the Schedule to the PLK Ordinance that one of the objects of PLK is to provide all kinds of medical and health services, free of charge or at low charges, for the Hong Kong community. The Administration will also propose to add a general fee charging provision for

the services provided in the carrying out of the objects of PLK under the newly proposed paragraph 2(ha) of the Schedule.

Provisions on PLK's board to manage corporation and power to make regulations

21. Members note that paragraphs 16 and 27 of the Schedule to the PLK Ordinance are provisions which relate to the power of the PLK's board to manage the corporation and to make regulations. Some members including Hon Emily LAU, Hon Abraham SHEK and Dr Hon Priscilla LEUNG have expressed the view that the expression of "institutions of any of the kinds set out in paragraph 1" in the proposed amended paragraphs 16 and 27(1) of the Schedule to the PLK Ordinance may give rise to a misconception that PLK is allowed to manage and operate whatever kinds of institutions it likes. Hon Emily LAU and Hon Abraham SHEK have suggested that for the purpose of enhancing clarity and removing any possible ambiguities regarding the institutions that are under the control of PLK, the Administration should consider proposing amendments to the Resolution to specify clearly in the amended paragraphs 16 and 27(1) the types of institutions that the board of PLK may maintain, manage, operate, regulate or supervise and make regulations for. Some other members including Hon WONG Ting-kwong and Hon Christopher CHUNG consider that amendments to paragraphs 16 and 27(1) may not be necessary since the types of organizations and institutions that the board of PLK may maintain, manage, operate, regulate or supervise and make regulations for are already bound by paragraph 1 of the Schedule to the PLK Ordinance in which the types of organizations and institutions are listed.

22. After considering members' views and suggestion, the Administration agrees to propose amendments to set out in detail that these institutions include accommodations, homes, nurseries, schools and other educational institutions, charitable organizations, hospitals, clinics, dispensaries, health centres and other medical and health care institutions under the control of PLK as set out in paragraph 1 of the Schedule to the PLK Ordinance.

**Recommendation**

23. The Subcommittee supports the Resolution and members have not raised any queries to the amendments proposed by the Administration in **Appendix II**. The Subcommittee does not propose any amendments to the Resolution. The Chairman of the Subcommittee has made a verbal report on the deliberations of the Subcommittee at the House Committee meeting on 28 March 2014.

**Advice sought**

24. Members are invited to note the deliberations of the Subcommittee.

Council Business Division 2  
Legislative Council Secretariat  
7 April 2014

**Subcommittee on  
Resolution of the Board of Directors of the Po Leung Kuk**

**Membership List**

<b>Chairman</b>	Hon MA Fung-kwok, SBS, JP
<b>Members</b>	Hon Emily LAU Wai-hing, JP Hon Abraham SHEK Lai-him, GBS, JP Hon WONG Ting-kwong, SBS, JP Dr Hon Priscilla LEUNG Mei-fun, SBS, JP Hon IP Kin-yuen Dr Hon Elizabeth QUAT, JP Hon Christopher CHUNG Shu-kun, BBS, MH, JP
	(Total : 8 Members)
<b>Clerk</b>	Ms Alice LEUNG
<b>Legal adviser</b>	Mr Timothy TSO
<b>Date</b>	19 March 2014



## **Interpretation and General Clauses Ordinance**

### **Resolution of the Legislative Council**

#### **Resolution of the Board of Directors of the Po Leung Kuk**

Resolution made and passed by the Legislative Council under section 34(2) of the Interpretation and General Clauses Ordinance (Cap. 1) on 2014.

**Resolved** that the Resolution of the Board of Directors of the Po Leung Kuk, published in the Gazette as Legal Notice No. 24 of 2014 and laid on the table of the Legislative Council on 26 February 2014, be amended as set out in the Schedule.

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## Schedule

### Amendments to Resolution of the Board of Directors of the Po Leung Kuk

#### 1. Schedule amended (Amendments to Po Leung Kuk Ordinance)

- (1) The Schedule, paragraph 1(1), before “medical”—  
**Add**  
“hospitals, clinics, dispensaries, health centres and other”.
- (2) The Schedule, paragraph 1(2), before “for”—  
**Add**  
“, free of charge or at low charges,”.
- (3) The Schedule, after paragraph 1(2)—  
**Add**  
“(2A) The Schedule, after paragraph 2(h)—  
**Add**  
“(ha) to charge fees, as the corporation thinks fit, for the services provided in the carrying out of any of the objects of the corporation;”.”.
- (4) The Schedule, paragraph 1(3)—  
**Repeal**  
“institutions of any of the kinds”  
**Substitute**  
“accommodations, homes, nurseries, schools and other educational institutions, charitable organizations, hospitals, clinics, dispensaries, health centres and other medical and health care institutions”.

- (5) The Schedule, paragraph 1(4)—

**Repeal**

“institutions of any of the kinds”

**Substitute**

“of the accommodations, homes, nurseries, schools and other educational institutions, charitable organizations, hospitals, clinics, dispensaries, health centres, and other medical and health care institutions”.

Clerk to the Legislative Council

2014