

Provision of Municipal Services (Reorganization) Bill

**Further Proposed Committee Stage Amendments to be moved by
the Secretary for Constitutional Affairs in respect of Schedule 3 (Amendments to
the Public Health and Municipal Services Ordinance and Subsidiary Legislation)**

I. Amendments to the Main Ordinance (Cap.132)

● **Use of civic centres (new Clauses 49A, 49C, 89A)**

Proposed CSA : To repeal section 105R which defines “public meeting” and section 105T which provides for the prevention of unauthorised public meetings in civic centres. The penalties in respect of section 105S(1) in the Ninth Schedule are also repealed.

Remarks : Consequential amendments upon the repeal of section 105S proposed in the CSAs circulated earlier. (now new clause 49B).

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

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

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

● **Penalties (new Clause 89A)**

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

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

II. Fees and charges for leisure and cultural services

**(Clause 1 - C1721) (Clause 63 - C1737-1739) (Clause 84 - C1749-1755)
(new Clauses 83A & 94A)**

- Proposed CSA** : - To add a new section 124 IA which provides that the Authority (i.e. Secretary for Home Affairs) may by regulation prescribe certain fees and charges payable by an individual as a member of the public in connection with the matter specified in a new Schedule 16. Such fees and charges will be subject to negative vetting by the Legislative Council. Subsection (2) specifically excludes fees and charges payable by members of a club, institution, association or other organization, or payable for games, sports or other activity organized by such organizations, for trading or advertising, or for a commercial purpose;
- subsections (4) and (5) provide that the Authority may by order published in the Gazette amend Schedule 16 and that such an order is subject to the approval of LegCo;
- Section 124J(1) is amended to the effect that other than those fees and charges prescribed under section 124IA(1), all fees or charges payable in connection with the admission to or the use of a venue, service or facility relating to a cultural and leisure activity provided by the Director of Leisure and Cultural Services (DLCS) or which is under the control and management of DLCS, may be determined by DLCS with the approval of the Financial Secretary.
- Consequential amendments upon the insertion of the new section 124IA are to be made to the definition of “prescribed fee”, the newly added transitional provision to preserve the existing fees and charges (i.e., the new clause 83A), and the Third Schedule on the designated authority.
- Remarks** : This is to implement the system for the setting of fees and charges for leisure and cultural services set out in the paper submitted to the Bills Committee on 14 October (Paper No. CB(2)109/99-00(03)).

III. Amendments to Subsidiary Legislation

Advertisement Regulation

- **Penalties** (Clause 151 - C1775)

Proposed CSA : To repeal the offence provision in respect of section 3(1), in addition to those concerning other sections.

Remarks : Consequential amendment upon the repeal of section 3 proposed in the CSAs circulated earlier.

Designation of Libraries Order

- **Heading amended** (Clause 224 - C1797-1801)

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

Remarks : To rectify a drafting error.

- **Designation of library** (Clause 224 - C1797-1801)

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

Remarks : To update the list of designated libraries.

Food Business Regulation

- **Definition of “Shell fish”** (Clause 233 - C1803-1805)

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

Remarks : To be in line with the definition in the repealed set of UC Bylaws. Sushi is controlled under separate provisions in the Regulation. Proposed by the PUC Public Health Select Committee.

- **Definition of “Wholesale market”** (Clause 233 - C1803-1805)

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

Remarks : To be in line with the definition in the repealed set of UC Bylaws. Proposed by the PUC Public Health Select Committee.

Hawker Regulation

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

*see Chinese text.

Places of Amusement Regulation

- **Offences and penalties** (Clause 481 - C1885)

Proposed CSA : To repeal the offence provision concerning section 28 with regard to public table tennis saloon.

Remarks : Consequential amendment upon the repeal of section 28 proposed in the CSAs circulated earlier.

**Further Proposed Committee Stage Amendments to Schedule 3 of the
Provision of Municipal Services (Reorganisation) Bill**

I. Proposed CSAs to Main Ordinance (Cap. 132)

Schedule 3 By adding -

“49A. **Public meetings**

Section 105R is repealed.”.

Schedule 3 By adding -

“49B. **Consent of Chief Secretary for Administration**

Section 105S is repealed.”.

Schedule 3 By adding -

“49C. **Prevention of unauthorized public meetings in civic
centres**

Section 105T is repealed.”.

Schedule 3 By deleting section 75 and substituting -

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

Section 135 is amended -

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

(b) by adding -

“(3) Notwithstanding the amendments made to this section by the Provision of Municipal Services (Reorganization) Ordinance (of 1999), on and after the commencement of those amendments, subsection (2) applies to any order, notice, demand, certificate or other document made and signed before that commencement and to which that subsection would have applied if not for such commencement, as if those amendments had not been made.”.”.

Schedule 3 By adding -

“89A. **Penalties**

The Ninth Schedule is amended by repealing -

“105F(3) level 2 -

105S(1) level 3 and 3 -”.”.

months imprisonment

II. Proposed CSAs concerning Fees and Charges for Leisure and Cultural Services

Schedule 3, (c) In paragraph (d) -
section 1

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

Schedule 3, (b) By adding -
section 63

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

(1) The Authority may by regulation provide for the fees
and charges payable by an individual as a member of the
public in connection with the matters specified in Schedule 16.

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

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

- (i) of members of a club, institution,

association or other

organization as members thereof; or

(ii) for a commercial purpose; or

(b) fees and charges payable in

connection with the use of a venue,

service or facility specified in

Schedule 16 -

(i) by members of a club, institution,

association or other organization as

members thereof;

(ii) for games, sports or other activity

organized or arranged by or on behalf

of a club, institution, association or

other organization;

(iii) for trading or advertising; or

(iv) for a commercial purpose.

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

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

(5) An order under subsection (4) is subject to the approval of the Legislative Council.”.

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

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

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

Schedule 3 By adding -

“83A. Section added

The following is added -

“154. Transitional

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

Schedule 3, (d) by adding -
section 84

“124IA Secretary for Home
Affairs”.

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

“94A. Schedule added

The following is added -

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

1. Public swimming pools
Admission
2. Museums
Admission
3. Libraries
Admission
4. Public pleasure grounds
 - (a) Hire of tennis courts
 - (b) Hire of basketball courts
 - (c) Hire of squash courts
 - (d) Hire of football pitches
 - (e) Hire of table tennis tables
 - (f) Hire of badminton courts
5. Holiday camps
Camp fees”.

III. Proposed CSAs to Subsidiary Legislation

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

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

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

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

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

Schedule 3, By adding -
section 233 (a)

“(iia) in the definition of “shell fish” by repealing everything after
“include” and substituting “molluscs or crustaceans in the
form of sashimi or forming part of sushi, or oyster to be eaten
in its raw state;

(iib) in the definition of “wholesale market” by adding”, but does
not include the Western Wholesale Food Market” after
“Fisheries”;”.

Schedule 3

By deleting section 481 and substituting -

“481. Offences and penalties

Section 19 is amended -

(a) by repealing “bylaw” and substituting
“section”;

(b) by repealing “, 26 or 28” and substituting “or
26”.’.