

政制事務局政府總部的信頭
Letterhead of CONSTITUTIONAL AFFAIRS BUREAU GOVERNMENT
SECRETARIAT

Our Ref: CAB C4/17/7

28 July 1999

Mrs Constance LI
Clerk to Bills Committee
Legislative Council Secretariat
Legislative Council Building
8 Jackson Road
Central

Dear Mrs Li,

**Bills Committee on
Provision of Municipal Services (Reorganization) Bill**

Follow-up to meeting on 23 July 1999

Thank you for your letter of 23 July 1999, conveying the Bills Committee's request for information. Our response is set out below.

- (a) *To provide a paper to elaborate the division of responsibilities in respect of food and drug hygiene under the Public Health and Municipal Services Ordinance, Cap. 132 and other relevant legislation such as the Chinese Medicine Ordinance.*

We are still working on the paper which will be passed to you as soon as possible.

- (b) *Whether section 87 of Cap. 132 need to be retained when all other sections (sections 88-92) in Part VII concerning overcrowding are repealed.*

Section 87 of Cap. 132 provides that any premises used for the purpose of human habitation or any part of any such premises which are so overcrowded as to be dangerous or injurious to the health of the inmates thereof shall be a nuisance which may be dealt with summarily under the provisions of section 127. The provision can be traced to at least 1960 when the then Public Health and Urban Services Ordinance (Cap. 132) was enacted. The purpose was to prevent overcrowding and spread of communicable diseases. In 1961, both the Basement (Urban Council) Bylaws and the Ventilation

(Urban Council) Bylaws were made to control basements used for human habitation and obstruction to natural ventilation respectively. In view of the general improvement in sanitation and environmental hygiene and increase in use of mechanical ventilation since the 1960s, the provisions concerning abatement of overcrowding are of little practical use nowadays. (Please also see the supplementary information on the repeal of the Bylaws at **Annex A**.)

According to the records of the Urban Services Department and Regional Services Department, no complaints about overcrowding have been received and section 87 has not been invoked in recent years. In a rare case where the sanitary conditions of extremely overcrowded premises have deteriorated to become in such a state as to be a nuisance or injurious or dangerous to health, actions can be taken under sections 12 and 127 of Cap. 132 to deal with the nuisances (including the issue of nuisance notice, abatement order, prohibition order or closing order). Subject to Members' views, we propose to delete section 87 in a Committee Stage Amendment.

- (c) *Whether there are other Bylaws under Cap. 132 which have been repealed in the past years.*

It appears that Members are concerned whether any other Bylaws made under section 88 (concerning overcrowding) have been repealed in the past years. As far as we understand, no Bylaws have been so repealed.

Repeal of Bylaws

At the meeting of 20 July, Members asked us to provide supplementary information on whether and how existing legislation can adequately substitute those Bylaws to be repealed in Schedule 2 of the Bill. A note providing the information is at **Annex A**.

Discussion papers on significant changes

Discussion papers on the proposed establishment of the Licensing Appeals Board and changes of designated authorities in the Third Schedule are at **Annex B** and **Annex C** respectively. We will provide discussion papers on other subjects as requested in due course.

Yours sincerely,

(John C. Y. Leung)
for Secretary for Constitutional Affairs

**Supplementary Information on the Repeal of Bylaws in Schedule 2 of
the Provision of Municipal Services (Reorganization) Bill**

In Schedule 2 of the Bill, the following Bylaws made under the Public Health and Municipal Services Ordinance (PHMSO) (Cap. 132) are proposed to be repealed as they are either obsolete or adequately covered by other enactments -

- (i) Basements (Urban Council) Bylaws;
- (ii) Mosquito Prevention (Urban Council) Bylaws;
- (iii) Ventilation (Urban Council) Bylaws; and
- (iv) Wells and Water Storage (Urban Council) Bylaws.

Copies of the Bylaws are at **Enclosures I to IV**. They only apply to the Urban Council area and have not been invoked in recent years. There are no similar Bylaws in the Regional Council area. The reasons for repealing each Bylaws are set out below.

(i) Basements (Urban Council) Bylaws

2. The Basements Bylaws, made under section 88 of the PHMSO, empower the court, on application by the Provisional Urban Council (PUC), to order the closure of any basement used for human habitation if it is found to be a nuisance or injurious or dangerous to health, or such use is contrary to the purpose for which it was constructed under the Building Ordinance (Cap. 123).

3. The Bylaws were first made in 1961. The use of basement for human habitation is now uncommon. Upon the repeal of the Bylaws, actions can be taken by the Department of Food and Environmental Hygiene under sections 12 and 127 of the PHMSO if a basement is in such a state as to be a nuisance or injurious or dangerous to health (including the issue of nuisance notice, abatement order, prohibition order or closing order). In addition, under section 25(2) of the Building Ordinance, where in the opinion of the Building Authority that any building (including a basement) is not suitable by reason of its construction for its present or intended use (such as human habitation), he may serve an order prohibiting such use or requiring the owner or occupier to discontinue such use.

(ii) Mosquito Prevention (Urban Council) Bylaws

4. The Mosquito Prevention (Urban Council) Bylaws, made under section 28 of Cap. 132, were first made in 1935. The Bylaws control any land or premises and the cultivation of crop (e.g. Sai Yeung Choi, Ung Choi) which are favourable to the existence or propagation of mosquitoes. Under the Bylaws, any person who grows such crop has to obtain a permit from the PUC and be subject to a number of conditions. As a result of urban development, there is hardly any cultivation of such crop in the urban areas.

5. There are already provisions in the PHMSO which prevent mosquitoes and control water likely to contain larvae or pupae of mosquitoes. In particular, under section 27, the Authority (i.e. the future Director of Food and Environmental Hygiene) is empowered to issue a notice requiring the occupier or appointed contractor to take appropriate rectification actions where it appears that any accumulation of water in any premises may contain larvae or pupae of mosquitoes.

(iii) Ventilation (Urban Council) Bylaws

6. The Ventilation (Urban Council) Bylaws, made under section 88 of Cap.132, provide for the control of obstruction to access to natural ventilation and light to any building or any part thereof for human habitation, workplace, shop or office.

7. Part IV of the Building (Planning) Regulations (Cap. 123 sub.leg.) contains provisions to ensure that any building used for the purpose of an office or for habitation is provided with effectual means of lighting and ventilation and that no building is erected in such manner as to reduce the quantity of light and air available to any other building below required standards. Sections 33 and 34 of the Factories and Industrial Undertakings Regulations (Cap.59, sub. leg.) safeguard the hygiene of workplaces including sufficient ventilation and lighting. Moreover, any premises in such a state as to be injurious or dangerous to health can be dealt with under sections 12 and 127 of the PHMSO as mentioned above.

(iv) Wells and Water Storage (Urban Council) Bylaws

8. The Wells and Water Storage (Urban Council) Bylaws, made under section 26 of Cap.132, were first made in 1961. The Bylaws provide for the clean and wholesome maintenance of wells, water storage tanks and cisterns as well as the control of water installations. Under the Bylaws, the PUC may serve notice to the

owner or occupier of the premises on which the well, water storage tank or cistern is situated to require him to take necessary steps to render the well, water storage tank or cistern clean.

9. There is already adequate control on water used for human consumption under other sections of the PHMSO. Sections 24 empowers the Authority (i.e. the future Director of Food and Environmental Hygiene) to control the use of the water in a spring, well, pool and ponds, watercourse or other source which is used or likely to be used for human consumption or domestic purposes, or for manufacturing food or drink for human consumption. Notice may be served to the owner or occupier of the concerned premises to close the well, pool, etc. permanently or temporarily, or to take other necessary actions to prevent injury or danger to the health of persons drinking or using such water. Under section 25, any wilful damage of any fountain, well or pump or any act or neglect which causes the water of the fountain, well or pump used or likely to be used for human consumption or domestic purposes to become polluted or fouled is made an offence.

Constitutional Affairs Bureau
28 July 1999

**Paper for the Legislative Council Bills Committee on
the Provision of Municipal Services (Reorganization) Bill**

The Licensing Appeals Board

Purpose

To brief Members on the setting up of the Licensing Appeals Board for hearing appeals against decisions on licensing and related matters (such as the suspension or cancellation of licence) made by the Director of Food and Environmental Hygiene or the Director of Leisure and Cultural Services.

Background

2 Under section 125(9) of the Public Health and Municipal Council Ordinance (Cap. 132), applicants for licences can request for review of the licensing decisions made by the licensing authorities [i.e. the Provisional Urban Council (PUC) and Provisional Regional Council (PRC)]. The review is conducted by the Review Select Committee of the PUC or the Review Sub-Committee of the PRC, made up of members of PUC and PRC respectively and involves the Councils' executive departments (i.e. the Urban Services Department (USD) and Regional Services Department (RSD)) to put up papers, giving details of their original decisions and the reasons therefor. In reviewing the original decision, the Committees can uphold, reverse or modify the original decision.

3 Normally, most of the applicants would accept the review decisions made by these committees but for those who remain dissatisfied, they may, if they wish, take their case to the Municipal Services Appeals Boards (MSAB)

(namely the Urban Services Appeals Board and Regional Services Appeals Board) as provided under section 125(10) of Cap. 132.

4 In the past, the above review mechanism adopted by the PUC and PRC has successfully served the following purposes:

- it effectively helps to reduce the caseload of the MSABs and save the two municipal departments' staff resources and time in preparing submissions and instructing government counsels; and
- it provides a less formal channel for appeal by an ordinary man in the street and a small business operator and is less cumbersome than appealing to the MSABs.

The Licensing Appeals Board

5 The Consultant in his Report on 'Food Safety and Environmental Hygiene Services in Hong Kong' suggested that in future the current machinery for review of decisions in relation to licensing matters be replaced by a Licensing Appeals Board made up of non-officials. The provision for the new Licensing Appeals Board is contained in sections 64 to 66 of Schedule 3 to the Bill (page C1741 - C1743).

6 It is proposed that the Licensing Appeals Board should consist of a Chairman, a Vice-chairman* and a panel of not less than **14** members. They are to be appointed by the Chief Executive and none of them should be public

*Note: The proposed creation of the 'Vice-chairman' will be included in a proposed Committee Stage Amendment subject to consideration by the Bills Committee. The arrangement will enable a suitable person to preside at hearing during the temporary absence of the Chairman.

officer.

7 The function of the Board is to hear and determine any appeal by applicant against decision made by the licensing authorities. The scope of licences and permits issued under Cap. 132 which come under the jurisdiction of the Licensing Appeals Board is at **Annex I.**

8 For the purpose of hearing an appeal, it is proposed that:

- the Board should be presided by either the Chairman or Vice-chairman and should consist of 4 other members nominated from the panel (section 125C);
- the decision of the Board shall be taken by a majority vote and when there is an equality of votes (which will arise only if one member is unable to continue with the hearing after commencement), the Chairman or Vice-chairman presiding at the meeting shall have a casting vote (section 125E);
and
- the Board may make rules regulating the making of appeals to the Board, specifying documents to be lodged, providing for the hearing of those appeals and enforcement of its decision (section 125F).

9 According to the Bill, any party to the appeal which is dissatisfied with the decision of the Board may appeal to the MSAB within 14 days after receiving notice of the decision. The proposed Licensing Appeals Board therefore in effect provides a form of first tier appeal mechanism against the

departments' decision on licensing matters - please see chart at **Annex II** which shows the channel of appeal an applicant may take under the new arrangement.

Comparison

10 For members' reference, a table of comparison between the existing 'review board' system and our proposed 'licensing appeals board' system in terms of function, composition, membership etc. is at **Annex III**.

11 With regard to the licensing authorities for the licences/permits listed at Annex I, they are at present vested with PUC and PRC. It is proposed in the Provision of Municipal Services (Reorganization) Bill that such authorities be transferred to the Director of Food and Environment Hygiene with effect from 1.1.2000 except for those in relation to licences/permits issued under the Places of Amusement Regulation, which will be transferred to the Director of Leisure and Cultural Services.

The Way Forward

12 Subject to enactment of the Bill by LegCo, we will proceed to set up the Licensing Appeals Board with a view to putting it in place by 1.1.2000.

Constitutional Affairs Bureau
Government Secretariat
July 1999

Jurisdiction of the Licensing Appeals Board under section 125 of Cap 132

(A) Director of Food and Environmental Hygiene as the licensing authority

<u>Licences/permits</u>	<u>Regulations under Cap 132</u>
1. Licence for commercial bathhouses	<i>Commercial Bathhouses Regulation</i>
2. Cremation Permit	<i>Cremation and Gardens of Remembrance Regulation</i>
3. Licence for food business, such as restaurant and factory canteen	<i>Food Business Regulation</i>
4. Licence in relation to funeral parlour business	<i>Funeral Parlours Regulation</i>
5. Hawker Licence	<i>Hawker Regulation</i>
6. Licence for offensive trades	<i>Offensive Trades Regulation</i>
7. Licensing for stalls in private markets	<i>Private Markets Regulation</i>
8. Licence for slaughterhouses	<i>Slaughterhouses Regulation</i>
9. Licence for swimming pool	<i>Swimming Pools Regulation</i>
10. Undertaker's Licence	<i>Undertakers of Burials Regulation</i>
11. Licence for the manufacture of frozen confections	} <i>Frozen Confections Regulation</i>
12. Permit to sell frozen confections	
13. Permit to sell milk / milk beverage	} <i>Milk Regulation</i>
14. Licence for the operation of milk factory	

(B) Director of Leisure and Cultural Services as the licensing authority

<u>Licences/permits</u>	<u>Regulations under Cap 132</u>
15. Billiard Establishment Licence	} <i>Places of Amusement Regulation</i>
16. Public Bowling-Alley Licence	
17. Public Skating Rink Licence	
18. Public Table Tennis Saloon Licence	

對發牌當局就根據第 132 章
發出的牌照或許可證
所作決定提出上訴的途徑

市政服務
上訴委員會

(聆訊對牌照上訴委員會所作決定提出的上訴的第二層上訴機構)

牌照上訴
委員會

(聆訊對發牌當局所作決定提出的上訴的第一層上訴機構)

發牌當局

(根據第 132 章簽發牌照／許可證的決策當局 — 詳情見附件 I)

**Comparison between the Existing “Review Committee” System
and the Proposed “Licensing Appeals Board” System**

Features	Existing “Review Committee” System of PRC/PUC	Proposed “Licensing Appeals Board” System
Function	<ul style="list-style-type: none"> ● to review licensing decisions relating to Cap. 132 ● Review Committee of PUC also considers cases in connection with termination of market stall tenancies 	<ul style="list-style-type: none"> ● performs quasi-judicial functions to serve as the first-tier appeal body to consider licensing decisions relating to Cap. 132 ● future Board will <u>only</u> consider appeals against decisions relating to licensing matters
Board composition	<ul style="list-style-type: none"> ● Chairman, Vice-chairman plus 7 members in the case of PUC ● Chairman, Vice-chairman plus 2 members in the case of PRC 	<ul style="list-style-type: none"> ● Chairman, Vice-chairman* plus a panel of at least 14 members ● Chairman or Vice-chairman* plus 4 members to hear an appeal
Membership	<ul style="list-style-type: none"> ● PUC/PRC members 	<ul style="list-style-type: none"> ● all non-officials
Appointment of board members	<ul style="list-style-type: none"> ● voluntary participation by PUC/PRC members 	<ul style="list-style-type: none"> ● appointment by the Chief Executive

Features	Existing “Review Committee” System of PRC/PUC	Proposed “Licensing Appeals Board” System
Quorum for hearing	<ul style="list-style-type: none"> ● not less than 1/4 members in the case of PUC ● not less than 3 members in the case of PRC 	<ul style="list-style-type: none"> ● Chairman or Vice-chairman* together with not less than 2 members with the consent of all parties concerned after the commencement of the hearing
Conduct of meeting	<ul style="list-style-type: none"> ● public hearing follows by private session 	<ul style="list-style-type: none"> ● no change
Mode of voting	<ul style="list-style-type: none"> ● by majority vote and the presiding Chairman/ Vice-chairman has a casting vote 	<ul style="list-style-type: none"> ● no change
Appeal	<ul style="list-style-type: none"> ● to MSAB within 14 days upon receipt of notice of decision 	<ul style="list-style-type: none"> ● no change
Suspension of operation of decisions during appeals	<ul style="list-style-type: none"> ● licensing authorities may suspend operation of the decisions pending outcome of the appeal 	<ul style="list-style-type: none"> ● no change

Note: The proposed creation of the ‘Vice-chairman’ will be included in a proposed Committee Stage Amendment subject to consideration by the Bills Committee. The arrangement will enable a suitable person to preside at hearing during the temporary absence of the Chairman.

**Proposed Changes of Designated Authorities under the Third Schedule to
Public Health and Municipal Services Ordinance (Cap. 132)**

Section	Main Functions / Power	New Authority	Former Authority	Remarks
4	Causing the construction, repair and maintenance of public sewers and drains	Director of Drainage Services	Director of Drainage Services	No change
5	Cleansing of public sewers	- ditto -	- ditto -	- ditto -
6	Prosecuting for offences concerning damaging, altering, interfering with and discharging chemicals and the trade waste into public sewers or drains, etc.	- ditto -	- ditto -	- ditto -
7	Serving notices in relation to obstruction of sewers and drains	- ditto -	- ditto -	- ditto -
9	Granting permission to enter public sewers, etc.	- ditto -	- ditto -	- ditto -

Section	Main Functions / Power	New Authority	Former Authority	Remarks
10	Receiving notices of the existence of disused drains	Director of Drainage Services	Director of Drainage Services	No change
13	Cleansing and covering offensive ditches, drains, etc.; serving notices in case of nuisance; executing work for abatement of nuisance and recovering expenses from the owner of the premises	Director of Food and Environmental Hygiene	Provisional Urban Council (PUC)/Provisional Regional Council (PRC)	These are operational and enforcement functions to be performed by the new Department of Food and Environmental Hygiene (DFEH)
14	Serving notices requiring the owner or occupier to limework, cleanse, and disinfect premises in a state of being a nuisance etc.	- ditto -	- ditto -	- ditto -
15	Making regulations as to cleansing and prevention of nuisances	Secretary for the Environment and Food	- ditto -	The power to make regulations should be vested in the Policy Secretary
20	Serving notices in relation to the removal of litter or waste and cleaning of area	Director of Food and Environmental Hygiene	- ditto -	These are operational and enforcement functions to be performed by the DFEH

Section	Main Functions / Power	New Authority	Former Authority	Remarks
22	Serving notices and seizure of articles in relation to obstructions to scavenging or conservancy operations	Director of Food and Environmental Hygiene	Provisional Urban Council/Provisional Regional Council	These are operational and enforcement functions to be performed by the DFEH
22A	Serving notices requiring the occupier of premises to remove litter or waste on canopies or the canopy	- ditto -	- ditto -	- ditto -
23	Authorizing any public officers to arrest persons who contravenes regulations as to cleansing and prevention of nuisances, etc.	- ditto -	- ditto -	These are operational and enforcement functions to be performed by the DFEH
23A	Causing notification of convictions of offences concerning general sanitation and cleanliness in newspaper	- ditto -	- ditto -	- ditto -
24	Serving notices to close, permanently or temporarily, polluted wells and water sources etc. used for human consumption	- ditto -	- ditto -	- ditto -

Section	Main Functions / Power	New Authority	Former Authority	Remarks
26	Making regulations relating to the use and quality of water from wells and other sources	Secretary for the Environment and Food	Provisional Urban Council/Provisional Regional Council	The power to make regulations should be vested in the Policy Secretary
27	Serving notices requiring occupier of premises to remove accumulation of water and take steps to prevent the existence of larvae or pupae of mosquitoes	Director of Food and Environmental Hygiene	- ditto -	These are operational and enforcement functions to be performed by the DFEH
28	Making regulations for destruction and prevention of mosquitoes	Secretary for the Environment and Food	Provisional Urban Council/Provisional Regional Council	The power to make regulations should be vested in the Policy Secretary
29	Making of Regulations as to latrine accommodation	Secretary for the Environment and Food	- ditto -	The power to make regulations should be vested in the Policy Secretary
30	Serving notices requiring the owner or occupier of premises to provide effective and sufficient latrine accommodation	Director of Food and Environmental Hygiene	- ditto -	These are operational and enforcement functions to be performed by the DFEH

Section	Main Functions / Power	New Authority	Former Authority	Remarks
32	Serving notices requiring the owners occupier of premises to remove, reconstruct, screen or alter sanitary conveniences	Director of Food and Environmental Hygiene	Provisional Urban Council/Provisional Regional Council	- ditto -
33	Examining sanitary conveniences and serving notices to recover from the owner occupier of premises the expenses of examination and requiring them to repair such work	- ditto -	- ditto -	These are operational and enforcement functions to be performed by the DFEH
34	Making opinion on sanitary conveniences or the approaches thereto being in a state as to be a nuisance for want of proper cleansing	Director of Food and Environmental Hygiene	Provisional Urban Council/Provisional Regional Council	- ditto -
35	Making regulations as to public latrines and bathhouses	Secretary for the Environment and Food	- ditto -	The power to make regulations should be vested in the Policy Secretary

Section	Main Functions / Power	New Authority	Former Authority	Remarks
36	Providing or granting licence to provide public latrines and bathhouses	Director of Food and Environmental Hygiene	PUC/PRC	These are operational and licensing functions to be performed by the DFEH
37	Removing members of the public from public latrines and bathhouses	- ditto -	- ditto -	- ditto -
38	Refusing admittance to certain members of the public to public latrines and bathhouses	- ditto -	- ditto -	- ditto -
42	Making regulations in relation to swimming pools	Secretary for Home Affairs in respect of public swimming pools; Secretary for the Environment and Food in respect of other swimming pools	- ditto -	Public swimming pools will be operated by the new Leisure and Cultural Services Department. The power to make regulations in respect of them is vested in the Secretary for Home Affairs. Other swimming pools are licensed by the DFEH which monitors their hygiene conditions. The Secretary for the Environment and Food (SEF) will make the respective regulations.

Section	Main Functions / Power	New Authority	Former Authority	Remarks
42A	Designating public swimming pools by order published in the Gazette	Director of Leisure and Cultural Services	Provisional Urban Council / Provisional Regional Council	The power to designate public swimming pools is vested in the new Director of Leisure and Cultural Services (DLCS)
42B	Managing public swimming pools	- ditto -	- ditto -	These are operational and enforcement functions to be performed by the Licensing and Leisure Services Department (LCSD)
43	Making rules of a subsidiary nature in relation to any public swimming pool for better control, direction and information	Director of Leisure and Cultural Services	Director of Urban Services /Director of Regional Services	The power to make rules should be vested in the Director
44	Granting use of public swimming pools for schools or clubs, etc.	Director of Leisure and Cultural Services	Provisional Urban Council /Provisional Regional Council	These are operational and enforcement functions to be performed by the LCSD

Section	Main Functions / Power	New Authority	Former Authority	Remarks
46	Causing filthy or verminous articles to be cleansed, disinfected, disinfested, destroyed or removed	Director of Food and Environmental Hygiene	Provisional Urban Council /Provisional Regional Council	These are operational and enforcement functions to be performed by the DFEH
47	Serving notices requiring owner/occupier to cleanse premises and to destroy or remove vermin and destroying or removing vermin without serving notice	- ditto -	- ditto -	- ditto -
48	Declaring offensive trades by notification in the Gazette	- ditto -	- ditto -	The power to declare offensive trades is vested in the new Director
49	Making regulations as to the licensing and operation of offensive trades	Secretary for the Environment and Food	- ditto -	The power to make regulations should be vested in the Policy Secretary
51A	Authorizing public officers to seize and remove any instrument designed or adapted for the injection of water or other liquid into the tissues of the carcass, meat, or offal of any animal,	Director of Food and Environmental Hygiene	- ditto -	These are operational and enforcement functions to be performed by the DFEH

Section	Main Functions / Power	New Authority	Former Authority	Remarks
	bird or reptile intended for sale for human consumption			
56	Making regulations in connection with food and drugs hygiene	Director of Food and Environmental Hygiene; Director of Health in respect of drugs	Provisional Urban Council / Provisional Regional Council; but Director of Health in respect of drugs	The regulations involve operational details which could be prescribed by the respective Directors
56A	Prescribing fees to be paid in respect of registration or licensing of premises, businesses or persons engaging in the sale, manufacture, etc. of drugs for use by man	Director of Health	Director of Health	No change
58	Calling for information as to the substances used in the preparation of food or drugs	Director of Food and Environmental Hygiene; Director of Health in respect of drugs	Provisional Urban Council / Provisional Regional Council; Director of Health in respect of drugs	These are operational and enforcement functions to be performed by the respective Directors
59	Authorizing public officers to examine, seize, mark and destroy food or drugs	Director of Food and Environmental Hygiene; Director of Health in respect of drugs	Provisional Urban Council / Provisional Regional Council; Director of Health in respect of drugs	- ditto -

Section	Main Functions / Power	New Authority	Former Authority	Remarks
62	Taking samples of food or drugs	Director of Food and Environmental Hygiene; Director of Health in respect of drugs	Provisional Urban Council / Provisional Regional Council; Director of Health in respect of drugs	- ditto -
69	Authorizing public officers to give direction to persons in possession of imported food or drugs and prohibiting and restricting their removal or delivery	- ditto -	- ditto -	- ditto -
70	Causing proceedings to be taken against some other person whose act or default lead to an offence by the original defendant under the Part on Food and Drugs	Director of Food and Environmental Hygiene; Director of Health in respect of drugs	Provisional Urban Council / Provisional Regional Council; Director of Health in respect of drugs	These are operational and enforcement functions to be performed by the respective Directors
75	Causing notification of convictions relating to the sale or preparation for sale of any food for human consumption or drug for use by man in newspaper	- ditto -	- ditto -	- ditto -

Section	Main Functions / Power	New Authority	Former Authority	Remarks
76A	Designating public slaughterhouses by order published in the Gazette	Director of Food and Environmental Hygiene	Provisional Urban Council / Provisional Regional Council	The power to designate slaughterhouses is vested in the new Director
76B	Managing public slaughterhouses	- ditto -	- ditto -	These are operational functions to be performed by the new DFEH
77	Making regulations as to slaughtering and slaughterhouses	Secretary for the Environment and Food	- ditto -	The power to make regulations should be vested in the Policy Secretary
78	Seizing and disposing unfit carcasses of slaughtered animals	Director of Food and Environmental Hygiene	- ditto -	These are operational and enforcement functions to be performed by the DFEH
79(1),(3)and (5)	Designating public markets by order published in the Gazette	Director of Food and Environmental Hygiene	Provisional Urban Council / Provisional Regional Council	The power to designate public markets is vested in the new Director
79A	Managing public markets	- ditto -	- ditto -	These are operational functions to be performed by the DFEH

Section	Main Functions / Power	New Authority	Former Authority	Remarks
80	Making regulations in relation to public and private markets	Secretary for the Environment and Food	Provisional Urban Council / Provisional Regional Council	The power to make regulations should be vested in the Policy Secretary
81	Making market rules for better control, direction and information	Director of Food and Environmental Hygiene	Director of Urban Services/Director of Regional Services or other public officer authorised by the Chief Executive	The power to make rules should be vested in the Director
82	Seizing and forfeiting articles used or sold in markets	- ditto -	Provisional Urban Council / Provisional Regional Council	These are operational and enforcement functions to be performed by the DFEH
83A	Making regulations in relation to hawkers	Secretary for the Environment and Food, but Director of Food and Environmental Hygiene for section 83A(1)(g) and (i)	- ditto -	<ul style="list-style-type: none"> • The power to make regulations should be vested in the Policy Secretary • Section 83A(1)(g) and (i) cover operational matters, namely, specifying conditions for licensed hawkers and power to cancel and suspend

Section	Main Functions / Power	New Authority	Former Authority	Remarks
				hawker licences, the Director is designated as the Authority
83B	Advising the Commissioner for Transport on setting aside streets for hawking purposes; allocating pitches in the streets to hawkers	Secretary for the Environment and Food [On reflection, these functions should be performed by the Director of Food and Environmental Hygiene]	Provisional Urban Council / Provisional Regional Council	<ul style="list-style-type: none"> • These are operational functions to be performed by the DFEH • A Committee Stage Amendment will be introduced.
84	Authorizing public officers to arrest without warrant persons committing offences in the First Schedule of Cap.132	Director of Food and Environmental Hygiene	- ditto -	The scheduled offences are related to food safety, food hygiene and hawking without licence, etc., the enforcement of which will be undertaken by the DFEH
86	Authorizing public officers to seize hawker equipment and commodities from alleged offenders	- ditto -	- ditto -	These are enforcement functions to be performed by the DFEH

Section	Main Functions / Power	New Authority	Former Authority	Remarks
86B	Authorizing public officers to seize abandoned hawker equipment and commodities	Director of Food and Environmental Hygiene	Provisional Urban Council / Provisional Regional Council	- ditto -
92A	Issuing licences in relation to activities specified in the Eleventh Schedule (i.e. billiard establishment, public bowling-alley, public skating rink and public table tennis saloon)	Director of Leisure and Cultural Services	Provisional Urban Council / Provisional Regional Council	These are licensing functions to be performed by the LCSD
92AA	Making regulations exempting any class or description of billiard establishment from licensing requirements under section 92A	Secretary for Home Affairs	Provisional Urban Council / Provisional Regional Council	The power to make regulations should be vested in the Policy Secretary
92AB	Issuing licences in relation to activities specified in Schedule 11A (i.e. undertakers of burials)	Director of Food and Environmental Hygiene	--	The licensing function is to be performed by the DFEH
92B	Making regulations in relation to licensed activities specified in the Eleventh Schedule or Schedule 11A	Secretary for Home Affairs in respect of any activity specified in the Eleventh Schedule;	- ditto -	The power to make regulations should be vested in the respective Policy Secretaries

Section	Main Functions / Power	New Authority	Former Authority	Remarks
		Secretary for the Environment and Food in respect of any activity specified in Schedule 11A		
93	Serving notices requiring the owner or licensee of scheduled premises (i.e. restaurants, dancing establishments, theatres, cinemas, funeral parlours and factory canteens) to provide a ventilating system; and revoking the licence of any scheduled premises in case of failure to comply with the requirements	Director of Food and Environmental Hygiene	Provisional Urban Council / Provisional Regional Council	These are operational and enforcement functions to be performed by the DFEH
94	Accepting certificates from the suppliers of the ventilating systems	Director of Food and Environmental Hygiene	Provisional Urban Council / Provisional Regional Council	- ditto -
94A	Making regulations relating to ventilating systems	Secretary for the Environment and Food	- ditto -	The power to make regulations should be vested in the Policy Secretary

Section	Main Functions / Power	New Authority	Former Authority	Remarks
100	Authorizing public officers to carry out tests of ventilating system	Director of Food and Environmental Hygiene	Provisional Urban Council / Provisional Regional Council	These are operational functions to be performed by the DFEH
101	Granting exemption from or modifications of the provisions concerning ventilation upon application of control to ventilating systems existing prior to the commencement of the Ordinance	- ditto -	- ditto -	- ditto -
104	Making regulations for control of advertisements restricting, regulating or prohibiting the exhibition thereof in such places which may affect injuriously or disfigure the amenities of any place or locality and the natural beauty of a landscape, etc. Under sub-section (3), the Authority may sign plans showing the application of regulations to certain areas and make available such plans for public inspection	Secretary for the Environment and Food	Chief Executive in Council in relation to section 104(1) and Director of Lands in relation to section 104(3)	It would facilitate enforcement if the power to make regulations and prepare plans showing the application of the regulations to certain areas is transferred to the Policy Secretary

Section	Main Functions / Power	New Authority	Former Authority	Remarks
105	Serving notices, execution of necessary work or prosecution for offences as to dangerous advertisement hoardings	Director of Buildings	Director of Buildings	No change
105A	Setting aside of premises for use as stadia by order published in the Gazette	Director of Leisure and Cultural Services	Provisional Urban Council / Provisional Regional Council	The power to set aside premises for use as stadia is vested in the new DLCS
105B	Management of stadia	Director of Leisure and Cultural Services	Provisional Urban Council / Provisional Regional Council	These are operational and enforcement functions to be performed by the LCSD
105C	Allocating and granting of stadium and any parts thereof for exclusive use	- ditto -	Provisional Urban Council / Provisional Regional Council	- ditto -
105D	Making regulations relating to stadia	Secretary for Home Affairs	Provisional Urban Council / Provisional Regional Council	The power to make regulations should be vested in the Policy Secretary

Section	Main Functions / Power	New Authority	Former Authority	Remarks
105E	Specifying conditions for the use of stadia	Director of Leisure and Cultural Services <i>[Inadvertently omitted in the Bill. To be added in a Committee Stage Amendment]</i>	Provisional Urban Council / Provisional Regional Council	These are operational and enforcement functions to be performed by the LCSD
105G	Designation of museums by order published in the Gazette	- ditto -	- ditto -	The power should be vested in the new Director
105H	Managing museums	- ditto -	- ditto -	These are operational functions to be performed by the LCSD
105I	Making regulations in respect of museums	Secretary for Home Affairs	Provisional Urban Council / Provisional Regional Council	The power to make regulations should be vested in the Policy Secretary
105K	Designating libraries by order published in the Gazette	Director of Leisure and Cultural Services	- ditto -	The power should be vested in the new Director

Section	Main Functions / Power	New Authority	Former Authority	Remarks
105L	Making regulations in relation to libraries	Secretary for Home Affairs	Provisional Urban Council / Provisional Regional Council	The power to make regulations should be vested in the Policy Secretary
105M	Setting aside premises for use as civic centres by order published in the Gazette	Director of Leisure and Cultural Services	Provisional Urban Council / Provisional Regional Council	The power should be vested in the new Director
105N	Managing civic centres	- ditto -	- ditto -	These are operational functions to be performed by the LCSD
105O	Making regulations relating to civic centres	Secretary for Home Affairs	- ditto -	The power to make regulations should be vested in the Policy Secretary
105P	Specifying conditions for the use of civic centres	Director of Leisure and Cultural Services	- ditto -	These are operational functions to be performed by the LCSD
105Q	Granting exclusive use of civic centres or any parts thereof	Director of Leisure and Cultural Services	Provisional Urban Council / Provisional Regional Council	- ditto -

Section	Main Functions / Power	New Authority	Former Authority	Remarks
106(1) and (6)	Setting aside places for use as public pleasure grounds by order	Director of Leisure and Cultural Services	Provisional Urban Council / Provisional Regional Council	The power should be vested in the new Director
106(3) and (4)	Preparing plan of public pleasure grounds	Director of Lands	Director of Lands	No change
107	Managing public pleasure grounds	Director of Leisure and Cultural Services	Provisional Urban Council / Provisional Regional Council	These are operational functions to be performed by the LCSD
108	Temporary closure of public pleasure grounds; Granting of their exclusive use by schools, clubs etc.	Director of Leisure and Cultural Services	- ditto -	- ditto -
109	Making regulations relating to public pleasure grounds	Secretary for Home Affairs	- ditto -	The power to make regulations should be vested in the Policy Secretary

Section	Main Functions / Power	New Authority	Former Authority	Remarks
110	Making public pleasure ground rules for better control, director and information	Director of Leisure and Cultural Services	Director of Urban Services/Director of Regional Services or other public officer authorised by the Chief Executive	The power should be vested in the Director
111	Appointing keepers for public pleasure grounds	- ditto -	Provisional Urban Council / Provisional Regional Council	There are operational functions to be performed by the LCSD
111B	Receiving proposals of private street name and making declaration where appropriate	Director of Lands	Director of Urban Council in the PUC Area Director of Lands in the PRC area	It would be tidier for the Director of Lands to be responsible for such functions in the whole territory
111C	Assigning or changing street names by declaration in the Gazette	Director of Lands	Director of Urban Council in the PUC Area Director of Lands in the PRC area	- ditto -

Section	Main Functions / Power	New Authority	Former Authority	Remarks
112	Granting permission for keeping of dead bodies in domestic premises for a longer period	Director of Food and Environmental Hygiene	Provisional Urban Council / Provisional Regional Council	These are operational and enforcement functions to be performed by the DFEH
112A	Serving notices requiring the lawful burial or cremation of human remains; and arranging for the disposal of human remains	- ditto -	- ditto -	- ditto -
114	Preparing of plan of cemetery and marking the boundaries thereof	Director of Lands	Director of Lands	No change
115	Managing and controlling public cemeteries; Declaring closure of public cemeteries by Gazette notice	Director of Food and Environmental Hygiene	Provisional Urban Council/Provisional Regional Council	These are operational and enforcement functions to be performed by the DFEH
116	Making regulations relating to cemeteries	Secretary for the Environment and Food	- ditto -	The power to make regulations should be vested in the Policy Secretary

Section	Main Functions / Power	New Authority	Former Authority	Remarks
117	Making rules in relation to public cemeteries and Commonwealth War Graves Commission Cemeteries	Director of Food and Environmental Hygiene	Director of Urban Services or other public officer authorized by the Chief Executive	The power should be vested in the Director
118(1) and (4)	Granting permission for burials and removing human remains buried	Director of Food and Environmental Hygiene	Provisional Urban Council/Provisional Regional Council	These are operational and enforcement functions to be performed by the DFEH
118(2)	Granting permission for exhumations	- ditto -	- ditto -	- ditto -
119A	Directing removal and disposal of human remains	- ditto -	- ditto -	- ditto -
121	Providing for reburial or disposal of exhumed body	- ditto -	- ditto -	- ditto -

Section	Main Functions / Power	New Authority	Former Authority	Remarks
123	Making regulations in relation to mortuaries	Secretary for the Environment and Food	Provisional Urban Council / Provisional Regional Council	The power to make regulations should be vested in the Policy Secretary
123A	Designating of mortuary as public funeral hall by order published in the Gazette	Director of Food and Environmental Hygiene	- ditto -	The power should be vested in the new Director
123B	Managing public funeral halls	- ditto -	- ditto -	These are operational and enforcement functions to be performed by the DFEH
123C	Making regulations as to public funeral halls	Secretary for the Environment and Food	Provisional Urban Council / Provisional Regional Council	The power to make regulations should be vested in the Policy Secretary
124	Disposing unclaimed dead bodies	Director of Food and Environmental Hygiene	- ditto -	These are operational functions to be performed by the DFEH

Section	Main Functions / Power	New Authority	Former Authority	Remarks
124A	Amending, adding to or deleting from Parts V (Government crematoria), VI (private crematoria) and VII (Gardens of Remembrance) of the Fifth Schedule by order published in the Gazette	Director of Food and Environmental Hygiene	Provisional Urban Council / Provisional Regional Council	The power should be vested in the new Director
124B	Managing Government crematoria and Gardens of Remembrance	Director of Food and Environmental Hygiene	Provisional Urban Council / Provisional Regional Council	These are operational functions to be performed by the DFEH
124C	Granting permission for use building or place as crematoria	- ditto -	- ditto -	- ditto -
124D	Causing publication of Gazette notice of the application for crematorium in certain locations and considering objection to the application	- ditto -	- ditto -	- ditto -
124E	Making regulations in respect of cremation and crematoria	Secretary for the Environment and Food	Provisional Urban Council / Provisional Regional Council	The power to make regulations should be vested in the Policy Secretary

Section	Main Functions / Power	New Authority	Former Authority	Remarks
124I	Prescribing fees and charges relating to food and environmental hygiene services	Secretary for the Environment and Food	Provisional Urban Council/Provisional Regional Council may determine fees and charges	This provision replaces the existing empowering provisions to determine fees and charges concerning food and environmental hygiene
124J(1)	Determining fees and charges with approval of Financial Secretary	Director of Leisure and Cultural Services	Provisional Urban Council/Provisional Regional Council may determine fees and charges	This provision replaces the existing empowering provisions to determine fees and charges concerning leisure, arts and cultural services
124J(3)	Publishing fees or charges determined for information	- ditto -	- ditto -	- ditto -
124K	Prescribing fees and charges in connection with the licensing of activities specified in the Eleventh Schedule (i.e. billiard establishment, public bowling-alley, public skating rink and public table tennis saloon)	Secretary for Home Affairs	Provisional Urban Council/Provisional Regional Council may determine fees and charges	This provision replaces the existing section 92BA

Section	Main Functions / Power	New Authority	Former Authority	Remarks
127	Serving nuisance notice or nuisance order to require compliance with requirements to abate nuisance, to prohibit the recurrence of nuisances, or to prohibit the use of premises	Director of Food and Environmental Hygiene	Provisional Urban Council / Provisional Regional Council	These are operational and enforcement functions to be performed by the DFEH