Bills Committee on Provision of Municipal Services (Reorganization) Bill

List of concerns (as at 29 September 1999)

	Subject		Date of meeting	Administration's response	Remarks
1.		asfer of powers and delegation of ority			
	1.1	The Administration to explain the legislative or administrative arrangements in relation to the transfer of powers from the former authority to the new authority when the Ordinance comes into operation (e.g. whether gazette notice of new delegations is required).	13.5.1999	CB(2)2088/98-99(01)	
	1.2	The Administration to provide a list of legislative or administrative means to implement the main recommendations of the Consultancy Report.	13.5.1999	CB(2)2088/98-99(01)	
	1.3	The Administration to elaborate on the procedures for delegation of statutory powers to new categories of public officers after the transfer of authority.	25.5.1999	CB(2)2204/98-99(01)	
	1.4	The Administration to provide a comparison table showing the delegation and authorization arrangements for the statutory powers and the categories of authorized officers under different sections of the Public Health and Municipal Services Ordinance (Cap. 132).	4.6.1999	Appendix III to Paper No. CB(2)2387/98-99(01)	

	1.5	The Administration to consider whether designation of one single authority will suffice in respect of section 83A under paragraph 84 of Schedule 3.	15.9.1999		Response awaited.
2.	Fees	and charges			
	2.1	The Administration to provide a list of existing fees and charges, categorized by their subsidy levels (including those on full cost-recovery), together with the rationale on the subsidy levels or charging principles.	25.5.1999	CB(2)2204/98-99(01)	
	2.2	The Administration to respond to some members' suggestion of a two-tier fee-setting mechanism (requiring LegCo approval of the subsidy range) for cultural and recreational services.	25.5.1999	CB(2)2204/98-99(01)	
	2.3	The Administration to provide a paper on the proposed mechanism to facilitate LegCo's monitoring over setting the fees for cultural and recreational services.	11.6.1999	CB(2)2374/98-99(01)	
	2.4	The Administration to propose a mechanism, for example, by way of subsidiary legislation, to enable the LegCo to vet and approve certain fees and charges for "basic" services.	25.6.1999		To discuss at future meetings.
	2.5	The Administration to consider a "CPI-x" model for the determination of subsidy level.	25.6.1999	CB(2)2522/98-99(02)	
	2.6	The Administration to provide information on the frequency of the fee revisions approved by the municipal councils.	25.6.1999	CB(2)2522/98-99(02)	

	2.7	The Administration to clarify whether the District Councils will have a role in approving fees and charges. The Administration to provide a	25.6.1999 30.7.1999	CB(2)2522/98-99(02) CB(2)2747/98-99(05)	
	2.0	paper on the existing and proposed mechanism to determine the market stall rentals and the appeal systems.		CD(2)2111190 95(00)	
3.		l savings to be achieved by the re- nization			
	3.1	The Administration to provide information on the total savings to be achieved by the re-organization upon passage of the Bill.	25.5.1999	CB(2)2204/98-99(01) The Administration is studying the staffing establishments of the new structure and will inform Members when details are available.	To discuss at future meetings.
4.	Tran	sfer of property, rights and liabilities			
	4.1	The Administration to examine the legal effect of clauses 4, 5 and 6 concerning the transfer of property, rights and liabilities of the PMCs to the Government as to whether it can adequately deal with requests for re-negotiation of contracts or claims for compensation by parties to the contracts or by the third party affected by the transfer.	4.6.1999	CB(2)2374/98-99(02)	
	4.2	The Administration to provide a list of contracts which were now under negotiation by PMCs or their executive departments and which will likely take effect or continue to be in force after 31 December 1999.	4.6.1999	Appendices I and II to Paper No. CB(2)2387/98-99(01) and CB(2)2522/98- 99(03)	

4.3	The Administration to respond whether the Government can be sued by PMCs under clause 5(3) and (4), and whether the Government is currently exempted from certain obligations and liabilities under existing legislation.	4.6.1999	CB(2)2374/98-99(02)	
4.4	The Administration to clarify the arrangements for the use of "UC" and "RC" in car numbers after 31 December 1999, and the transfer of intellectual property including the armorial bearings of PMCs and the artistic work of artists having contracts with PMCs.	4.6.1999	CB(2)2374/98-99(02)	
4.5	The Administration to explain whether the employees of the municipal councils will continue to enjoy the protection of the Employment Ordinance (Cap. 57) after the transfer.	4.6.1999	CB(2)2522/98-99(02)	
4.6	The Administration to explain the possibility for a party to rescind contract upon the transfer of the contractual rights and liabilities to the Government.	25.6.1999	CB(2)2522/98-99(02)	
4.7	The Administration to clarify whether contracts or agreements signed by committees of the municipal councils will have the same status as contracts signed by the councils.	25.6.1999	CB(2)2522/98-99(02)	
4.8	The Administration to ascertain whether any of the existing contracts signed by the municipal councils contain provisions against transfer of rights and liabilities.	25.6.1999	CB(2)2522/98-99(02)	

	4.9	The Administration to clarify whether the Bill can adequately deal with contractual relationship between the councils and other territories or governments after the transfer.	25.6.1999	CB(2)2522/98-99(02)	
	4.10	The Administration to provide details of a court case relating to recovery of rental arrears after transfer of ownership.	25.6.1999	CB(2)2510/98-99	
	4.11	The Administration to confirm whether the court judgement on the above case has any impact on the Bill.	6.7.1999	CB(2)2598/98-99(02)	
5.		sequential, transitional and savings isions (clauses 10 and 11)			
	5.1	The Administration to explain the purpose of clause 10 in respect of offences and to improve clarity of the drafting.	6.7.1999	CB(2)2598/98-99(02)	
	5.2	The Administration to provide a copy of the relevant sections in other legislation which contain similar provisions as clause 11 .	6.7.1999	Enclosures I to IV to Annex A to Paper No. CB(2)2598/98-99(02)	
	5.3	The Administration to provide a paper on the purpose and legal effects of clause 11.	6.7.1999	Annex A to Paper No. CB(2)2598/98-99(02)	
	5.4	The Administration to provide examples on how continuing offences were dealt with after the enactment of the Hong Kong Reunification Ordinance.	20.7.1999	CB(2)2630/98-99(02)	

	5.5	The Administration to limit the scope of clause 11 to consequential, savings and transitional provisions only.	20.7.1999	CB(2)2630/98-99(02)	
	5.6	The Administration to explain why clause 11 is necessary and who can seek a judicial review if the provisions made exceeds the enabling powers.	20.7.1999	CB(2)2630/98-99(02)	
6.		onciliation of differences between idiary legislation (Schedules 1 and 2)			
	6.1	The Administration to provide a comparison table on the provisions of the subsidiary legislation as listed in Schedules 1 and 2 .	6.7.1999	Annex B to Paper No. CB(2)2598/98-99(02)	
7.	gove	sion of responsibilities among ernment departments and nizations (Schedule 3)			
	7.1	The Administration to explain the division of responsibilities among the Department of Health, the Agriculture and Fisheries Department and the proposed Food and Environmental Hygiene Department.	20.7.1999	CB(2)2630/98-99(02)	
	7.2	The Administration to elaborate division of responsibilities in respect of food and drug hygiene under Cap. 132.	23.7.1999	CB(2)2747/98-99(03)	
	7.3	The Administration to elaborate in detail the procedures and authorities under the proposed organizational structure in dealing with outbreak of foodborne diseases.	27.7.1999	CB(2)2747/98-99(04)	

7.4	The Administration to provide a comparison of the existing and proposed procedures in dealing with food and environmental hygiene matters.	27.7.1999	CB(2)2747/98-99(02)	
7.5	The Administration to explain the existing and proposed arrangements for secondment of health officers from the Department of Health.	27.7.1999	CB(2)2747/98-99(02)	
7.6	The Administration to explain the authorities for identification and control of communicable diseases, including those involving bathing beaches, livestock and seafood.	27.7.1999	CB(2)2747/98-99(02)	
7.7	The Administration to consider transferring the control and management of public cemeteries under paragraph 56 to another department.	27.7.1999	CB(2)2747/98-99(02)	
7.8	The Administration to consider transferring the responsibilities for exhumations under paragraph 58 to another department.	27.7.1999	CB(2)2747/98-99(02)	
7.9	The Administration to provide a paper on the role of the proposed Advisory Council on Food and Environmental Hygiene.	30.7.1999	CB(2)2747/98-99(02)	
7.10	The Administration to provide supplementary information to elaborate the proposed division of responsibilities for food and environmental hygiene matters.	10.9.1999		Response awaited.

8.	Repo	eal of subsidiary legislation			
	8.1	The Administration to explain why it proposes to repeal sections 40 and 40A in the Public Health & Municipal Services Ordinance (Cap. 132) relating to labourers' lines, since labourers' lines still exist in some remote areas.	13.5.1999	CB(2)2088/98-99(01)	
	8.2	The Administration to provide supplementary information on whether existing legislation can adequate cover those by-laws to be repealed in Schedule 2 .	20.7.1999	Annex A to Paper No. CB(2)2646/98-99(02)	
	8.3	The Administration to advise whether there are other by-laws under Cap. 132 which have been repealed.	23.7.1999	CB(2)2646/98-99(02)	
9.		ements, Hotels and Boarding Houses edule 3)			
	9.1	The Administration to explain whether section 87 need to be retained.	23.7.1999	CB(2)2646/98-99(02)	
10.	Othe	er provisions in Schedule 3			
	10.1	The Administration to clarify the various authorities for granting permission to post bills, posters and billboards under paragraph 42 .	27.7.1999	CB(2)2747/98-99(02)	
	10.2	The Administration to clarify the policy and arrangements for the display of art collections in places other than the museums under paragraph 45.	27.7.1999	CB(2)2747/98-99(02)	

10.3	The Administration to clarify the need to retain the word "organized" in reference to games and sports under paragraph 50 .	27.7.1999	CB(2)2747/98-99(02)	
10.4	The Administration to explain its initial views on the Consultant Report on streamlining food business licensing.	30.7.1999	CB(2)2747/98-99(02) and (06)	
10.5	The Administration to provide a paper on the existing regulatory systems and the feasibility of providing uniform standards for public and private swimming pools.	30.7.1999	CB(2)2747/98-99(07)	
10.6	The Administration to provide a paper on the rationale for applying different regulatory requirements to public markets in Government and Housing Authority premises and markets in private premises.	30.7.1999	CB(2)2747/98-99(05)	
10.7	The Administration to provide more details on the future arrangement/policy considerations for fixing the public market rental in urban areas and in the New Territories.	10.9.1999		Response awaited.
10.8	The Administration to advise whether section 94 under paragraph 84 will be retained or deleted.	15.9.1999		Response awaited.
10.9	The Administration to provide information in the practice of the Provisional Urban Council in vetting applications in respect of section 105P under paragraph 84 .	15.9.1999		Response awaited.

	10.10 The Administration to comparison table to differences between a proposed authorities initiate proceedings under section 131(1) 87).	explain the existing and who will for offences (paragraph	15.9.1999 15.9.1999	CB(2)2886/98-99	Pagnongo
	10.11 The Administration to licensing criteria for tennis saloon an establishment under 91.	public table d billiard	13.9.1999		Response awaited.
11.	Proposed appeal mechanism (Schedules 3 and 4)	-			
	11.1 The Administration to paper on the ration existing and proposition mechanisms and the membership.	nale of the sed appeal	30.7.1999	CB(2)2747/98-99(02)	
12.	Advertisement Regulation (paragraphs 145 - 152)				
	12.1 The Administration section 11 under para		15.9.1999		Response awaited.
13.	Bathing Beaches Regulation (paragraphs 153 - 168)	-			
	13.1 The Administration deleting section 13 165) on public me assemblies on bathing there are already legislation governing assemblies and procee	(paragraph eetings and g beaches as y separate ng public	15.9.1999		Response awaited. See also 15.2 and 25.3.

14.	(para	mercial Bathhouses Regulation (agraphs 180 - 194) The Administration to explain the licensing policy, standards and procedures for bathhouses in private clubhouses, fitness centres and large private residential estates.	17.9.1999	Response awaited.
15.	<u>Crem</u> <u>Reme</u> <u>195 -</u> 15.1	embrance Regulation (paragraphs	17.9.1999	Response
	13.1	why there is a residency requirement for disposal of ashes at a crematorium under section 13 (paragraph 207).	11.5.1555	awaited.
	15.2	The Administration to consider deleting the provisions governing public meetings and clothings as these provisions under section 15 (paragraph 209) are out-dated and redundant.	17.9.1999	Response awaited. See also 13.1 and 25.3.
	15.3	The Administration to provide further information on the registration policy, procedures and monitoring of private crematoria in respect of New Part IIIA (paragraph 212).	17.9.1999	Response awaited.
	15.4	The Administration to provide further information on the proposed arrangement for cremation of the dead bodies of pets, and incineration of animal carcasses and clinical waste, etc.	17.9.1999	Response awaited.

16.		Business Regulation agraphs 231 - 266)		
	16.1	The Administration to provide further information on the rationale/policy for exemptions.	17.9.1999	Response awaited.
	16.2	The Administration to provide further information on the purpose of proposed amendment and the legal effects of paragraph 248 .	17.9.1999	Response awaited.
	16.3	The Administration to provide reasons for adopting the Regional Council By-laws which imposed more stringent licensing conditions than the Urban Council under paragraph 260 .	17.9.1999	Response awaited.
	16.4	The Administration to consider reinserting "accidentally defaced" under section 31(6) for the issue of a duplicate licence under paragraph 250(e).	17.9.1999	Response awaited.
	16.5	The Administration to review the licensing policy and requirements for the sale of various types of prohibited/restricted food in restaurants under Schedules 1 and 2 of the Regulation.	17.9.1999	Response awaited.
17.		en Confections Regulation ngraph 277)		
	17.1	The Administration to advise whether hawkers of frozen confections are actually required to wear uniforms and display numbers.	17.9.1999	Response awaited.

	17.2	The Administration to confirm that the existing policies of Provisional Urban Council and Provisional Regional Council for itinerant hawkers in urban areas and the New Territories will remain unchanged for, say, two years, after the reorganization.	17.9.1999	Response awaited.
	17.3	The Administration to consider reinserting section 18(1)(i) of the Frozen Confections (Regional Council) By-laws under section 18 of the proposed Regulation (for prohibiting manufacture and storage of frozen confections near soil fitments or latrine fitments).	17.9.1999	Response awaited. See also 22.1.
18.		ral Parlours Regulation graph 304)		
	18.1	The Administration to consider deleting "under the age of 21 years" as a condition for revocation of licence.	17.9.1999	Response awaited.
19.		ter Regulation graphs 315 - 318)		
	19.1	The Administration to provide a comparison table to illustrate the differences between the existing and proposed provisions, and to provide the reasons for adopting the proposed provisions.	17.9.1999	Response awaited. To discuss at future meetings.
20.		ries Regulation graphs 372 - 404)		
	20.1	The Administration to consider whether the Regulation should be renamed as Public Libraries Regulation.	22.9.1999	Response awaited.

	whether it v librarian to	istration to consider was necessary for the impose restriction on f writing implements ry.	22.9.1999	Response awaited.
21.	whether the out the comp	istration to consider Schedule should set elete list of markets in and English.	22.9.1999	Response awaited.
22.	22.1 Tthe Admin re-inserting prohibiting reconstituting milk or milk of the premis fitment or lat the licensing	the processing, g or storage of any beverage in any part ses containing any soil trine fitment as one of requirements.	22.9.1999 22.9.1999	Response awaited. See also 17.3.
23.	adding the pl to which th beverage is to section 19 Museums Regulation (paragraphs 442 23.1 The Admin requiring m	on 454) istration to consider useums to open on	22.9.1999	Response awaited. Response awaited.
	Sunday and legislation.	public holidays in the		

	23.2	The Administration to review the necessity to include provision regarding absolute exclusion of liabilities for lose or damage in all relevant Regulations under the Public Health and Municipal Services Ordinance.	22.9.1999	Response awaited. See also 27.2.
	23.3	The Administration to explain the rationale of the 20% surcharge under section 11.	22.9.1999	Response awaited.
24.		nsive Trades Regulation ngraphs 456 - 468)		
	24.1	The Administration to consider the implications of introducing additional licensing conditions to offensive trades under section 10(1) in the existing jurisdiction of the Provisional Urban Council and whether a grace period should be allowed for implementation.	22.9.1999	Response awaited.
	24.2	The Administration to consider deleting the word "absolute" before "discretion" in section 19.	22.9.1999	Response awaited.
	24.3	The Administration to explain the rationale for setting the age limit at 14 under section 21 (Restrictions as to certain persons).	22.9.1999	Response awaited. See also 34.1.
25.		ure Grounds Regulation agraphs 491 - 514)		
	25.1	The Administration to consider whether the amendment to add "statue or other sculpture" to section 20(1) is necessary.	22.9.1999	Response awaited.

	25.2	The Administration to consider whether it is necessary to add "hand cart" to section 14(1).	24.9.99	Response awaited.
	25.3	The Administration to consider whether it is necessary to retain section 28 (Public addresses, etc.) as there are other legislation governing public addresses, public meeting or procession.	24.9.99	Response awaited. See also 13.1 and 15.2.
26.		te Cemeteries Regulation ngraphs 517 - 530)		
	26.1	The Administration to consider whether it is necessary to retain section 9(2) in respect of prohibition to leave any coffin or urn deposited on the surface of the ground.	24.9.99	Response awaited.
27.		c Cemeteries Regulation agraphs 550 - 564)		
	27.1	The Administration to review the drafting of the Chinese version of section 7A (Size of grave covering and restriction on interments) to provide greater clarity.	24.9.99	Response awaited.
	27.2	The Administration to provide background information on section 9 (Government or Council not liable for loss of or damage to articles) introduced in 1996.	24.9.99	Response awaited. See also 23.2.
	27.3	The Administration to provide a list of provisions in the Public Health and Municipal Services Ordinance and the Regulations and examples in other legislation which contain similar disclaimer clause.	24.9.99	Response awaited.

28.	Public Cleansing and Prevention of Nuisances Regulation (paragraphs 565 586) 28.1 The Administration to consider whether a uniform age, say, 14 or 16, should be adopted for section 15 and in other Regulations.	24.9.99	Response awaited.
29.	Public Convenience (Conduct and Behaviour) Regulation (paragraphs 58 - 597) 29.1 The Administration to consider whether section 4, section 5(d) section 8 and section 12 are necessary.	24.9.99	Response awaited.
30.	Public Markets Regulation (paragraphs 610 - 622) 30.1 The Administration to consider whether "any one person" is appropriate and adequate for the purpose of section 6.		Response awaited.
31.	Public Swimming Pools Regulation (paragraphs 623 - 635) 31.1 The Administration to consider deleting "or so sparsely clad" from section 4(k).		Response awaited.
	31.2 The Administration to review the age limit (8 years old) or the height restriction (1.35 metres) under section 7 (Exclusion from dressing rooms allocated to persons of the other sex).		Response awaited.

32.	_	chterhouses Regulation ngraphs 648 - 685)		
	32.1	The Administration to consider imposing more stringent licensing conditions to reduce noise pollution and nuisance caused to the neighbourhood of Tsuen Wan Slaughterhouse.	24.9.99	Response awaited.
33.		nming Pools Regulation ngraphs 700 - 714)		
	33.1	The Administration to consider adding provision of equivalent latrine accommodation such as aquaprives and chemical closets under section 6(1)(h).	24.9.99	Response awaited.
	33.2	The Administration to consider whether more stringent licensing requirements contained in the existing Regional Council By-laws for private swimming pools should be adopted, provided that a grace period for implementation is allowed.	24.9.99	Response awaited.
	33.3	The Administration to consider deleting the obsolete provisions regarding hire of towels in section 15.	24.9.99	Response awaited.
34.		rtakers of Burials Regulation agraphs 715 - 726)		
	34.1	The Administration to consider removing the age limit in section 7 (Refusals and revocations).	24.9.99	Response awaited. See also 24.3.

	34.2 The Administration to consider improving the drafting of section 8 by adopting the version in the existing Urban Council By-laws.			Response awaited.
--	--	--	--	-------------------

Legislative Council Secretariat 2 October 1999