

**Legislative Council Bills Committee on
the Provision of Municipal Services (Reorganization) Bill
(for the meeting on 25 May 1999)**

Fees and Charges Provisions

This paper describes the existing mechanisms for setting and revising fees and charges of the two Provisional Municipal Councils (PMCs) and the proposed fees and charges provisions in the Provision of Municipal Services (Reorganization) Bill (the Bill).

Background

2. The PMCs are financially autonomous and are empowered by the following legislation to determine fees and charges relating to various licences and permits, and the use of their facilities and services -

- Public Health and Municipal Services Ordinance (Chapter 132)
- Provisional Urban Council Ordinance (Chapter 101)
- Provisional Regional Council Ordinance (Chapter 385)
- Dutiable Commodities Ordinance (Chapter 109)
- Places of Public Entertainment Ordinance (Chapter 172)
- Waste Disposal Ordinance (Chapter 354)

3. There are in total over 880 types of fees, of which around 490 are collected by the Provisional Urban Council (PUC) and some 390 by the Provisional Regional Council (ProRC). The types of fees concerning food and environmental hygiene services, arts and cultural services and leisure services are respectively around 200, 270 and 410 in number. These have not included admission charges for some 2,000 cultural performances presented by PMCs each year. Except for a few minor fees that are prescribed in the enactments such as fees to be paid for a replacement library card under the Library (Urban Council) Bylaws and Library (Regional Council) Bylaws (Cap. 132 sub. leg.), the PMCs may determine all the fees and charges and cause these to be published, for information, in such manner as they think fit.

4. Most of the fees for licences and permits are based on full cost recovery. Other fees (mainly admission and course fees for cultural and recreational programmes and hire charges of cultural and recreational venues) are currently set at heavily subsidized levels on policy considerations such as promoting arts, culture and sports. Moreover, price setting for leisure and cultural services is often based on a “market-oriented” approach, taking into account various factors such as the locations of venues, popularity of programmes, changing market situations, inflation rate, and users’ affordability,

in addition to operating costs. As a result, there is an enormous diversity of price levels for the same type of leisure and cultural services. For example, while the theatres of Hong Kong City Hall and Ngau Chi Wan Civic Centre are of similar seating capacity, their hiring charges differ due to difference in location, popularity, etc..

5. There are differences in fee setting policies and fee levels between the two PMCs. The key differences are -

- (a) **different pricing policies**, for example, the policy for cremation and columbarium fees in the PUC is not exceeding 50% subsidy level while that for burial fee is not exceeding 30% subsidy. In the ProRC, the fees for cremation and columbarium are to be progressively adjusted upwards to a 30% subsidy level while fees for all other cemetery services are set at full cost recovery level;
- (b) **different fee levels** due to differences in costs of services, demand and supply conditions or subsidy levels, etc.;
- (c) **different fee review cycles**, for example, different effective dates for licence and permit fee revision, namely, 1 April for ProRC and 1 July for PUC; and
- (d) **different delegation of fee setting powers**, for example, ProRC has delegated to the directorate officers of Regional Services Department the power to set admission fees for cultural and arts performances and hire charges for civic centres but there is no similar delegation in the PUC.

The Proposal

6. The different fee levels and fee setting mechanisms of the PMCs have to be reconciled after the dissolution of the two Councils. Given the time constraint, it would not be possible to align all the fee levels before the reorganisation. We have therefore proposed to preserve the fees and charges in force immediately before the appointed day (i.e. 1 January 2000) under clause 9 of the Bill. We aim to complete the alignment exercise within two years.

7. On the future fee setting/revision mechanism, we propose that fees and charges for licensing and regulatory schemes should be prescribed by regulation and subject to LegCo's scrutiny (see proposed Section 124I in paragraph 63 of Schedule 3 to the Bill.) On the other hand, the enormous diversity of price levels for leisure and cultural services and the sheer volume of fees for such services would make it difficult, if not impossible, for these fees

and charges to be subject to LegCo scrutiny on each occasion. We therefore propose in the Bill that these fees and charges should be determined by the Director of Leisure and Cultural Services subject only to the approval of the Financial Secretary (see proposed section 124J in paragraph 63 of Schedule 3 to the Bill). Nevertheless, the general pricing principles and subsidy levels will be discussed in the relevant Panel in LegCo.

8. Under proposed Section 124L in paragraph 63 of Schedule 3 to the Bill, the Financial Secretary or any public officer under his delegated authority may generally or in a particular case reduce or waive any of the fees or charges under the Public Health and Municipal Services Ordinance, Cap. 132 (such as group-booking discounts).

9. After the reorganisation, the Administration will continue to follow the well established policies for setting fees and charges, based on full cost recovery or partial subsidy, depending on the nature of the services provided. We will continue to subsidise fees and charges for leisure and cultural services on policy grounds to promote arts and culture and recreation and sports activities. We will ensure that the fees are kept at reasonable levels.

The Provisions

10. In amending the fees and charges provisions in the Public Health and Municipal Services Ordinance (Cap.132), we propose to remove the provisions which are now scattered in different sections of the Ordinance and consolidate them in three new sections (sections 124I, 124J and 124K). This would improve clarity and transparency. A table at Annex compares the existing provisions with the proposed provisions in the Bill. We have generally followed the wording of the existing provisions except in the following cases -

- (a) sections 40A on fees and charges relating to laundries and dry cleaning establishments and section 90A on fees and charges relating to boarding houses are to be deleted without replacement as the controls are now obsolete (see Annex C to the LegCo Brief on the Bill);
- (b) in substituting section 35A by section 124I(1)(b), we have deleted the reference to fees and charges relating to registration and licensing of washhouses or the use of washhouses as there are now no longer any washhouses (*Washhouses are structures erected in open spaces alongside streams or rivers for washing clothes for commercial purposes. Licences for washhouses have not been issued for many years.*);

- (c) in substituting section 105LA on fees relating to use of library facilities and services by section 124J(1)(i), a broader formulation covering the use of any services or facilities provided in a library is adopted.

11. In the proposed section 124I(1)(f), the phrase “the registration or licensing of public slaughterhouses or” is inadvertently included. As public slaughterhouses are not subject to any registration or licensing control and therefore no fees or charges are applied, we will make a Committee Stage Amendment to the Bill to delete the phrase.

Constitutional Affairs Bureau

21 May 1999

**Proposed Provisions on Fees and Charges
in the Provision of Municipal Services (Reorganization) Bill**

A. Public Health and Municipal Services Ordinance Cap. 132

I. Fees and charges to be prescribed by the Secretary for the Environment and Food by regulation

Description of service	Section to be repealed	Proposed provision (see paragraph 63 in Schedule 3 of the Bill)
Scavenging and conservancy services	s.15A (Note)	s.124I(1)(a)
Bathhouses and latrines	s.35A	s.124I(1)(b)
Licensing and registration of swimming pools	s.42AA(1)(a)	s.124I(1)(d)
Registration and licensing of offensive trades	s.49A	s.124I(1)(c)
Licensing of food premises	s.56B	s.124I(1)(e)
Relating to slaughterhouses	s.77A	s.124I(1)(f),(g)&(h)
Licensing of operation of private markets	s.80A	s.124I(1)(i)

Note Section 15A stipulates that “the Authority may determine the fees and charges payable in connection with any scavenging or conservancy services” and that “the Authority shall cause a determination made by it to be published, for information, in such manner as it thinks fit.” Other fees and charges provisions in Cap.132 adopt similar formulation.

Description of service	Section to be repealed	Proposed provision (see paragraph 63 in Schedule 3 of the Bill)
Licensing of hawkers	s.83AA	s.124I(1)(j)
Licensing of undertakers of burial	s.92BA	s.124I(1)(k)
Burial of human remains	s.116A	s.124I(1)(l)
Public Cemetery	s.116A(1)(b)	s.124I(1)(m)
Permission to exhume human remains	s.118A	s.124I(1)(n)
Licensing of mortuaries	s.123AA	s.124I(1)(o)
Use of public funeral halls	123D	s.124I(1)(p)
Cremation of human remains	124EA(1)(a)	s.124I(1)(q)
Disposal of ashes	124EA(1)(b)	s.124I(1)(r)
Placing ornaments in a crematorium	124EA(1)(c)	s.124I(1)(s)
Planting trees etc. in a crematorium	124EA(1)(d)	s.124I(1)(t)

II. Fees and charges to be prescribed by the Secretary for Home Affairs by regulation

Description of service	Section of Cap. 132 to be repealed	Proposed provision (see paragraph 63 in Schedule 3 of the Bill)
Licensing of billiard establishments, public bowling alleys, public skating rinks and public tennis saloons	s.92BA	s.124K

III. Fees and charges to be determined by the Director of Leisure and Cultural Services with approval of the Financial Secretary

Description of service	Section to be repealed	Proposed provision (see paragraph 63 in Schedule 3 of the Bill)
Use of facilities in a swimming pool	s.42AA(I)(b)	s.124J(1)(a)
Use of stadia	s.105E	s.124J(1)(b),(c)&(d)
Relating to museums	s.105J	s.124J(1)(e),(f),(g)&(h)
Use of library facilities and services	s.105LA	s.124J(1)(i)
Use of facilities in civic centres	s.105P	s.124J(1)(j),(k)(l)
Use of public pleasure grounds	s.109A	s.124J(1)(m)