

政制事務局政府總部的信頭
Letterhead of CONSTITUTIONAL AFFAIRS BUREAU GOVERNMENT
SECRETARIAT
香港下亞厘華道
LOWER ALBERT ROAD HONG KONG

Our Ref: CAB C4/17/7

21 May 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**

Thank you for your letter of 15 May 1999.

Our response to your questions are set out below.

- (a) **Explain the legislative/administrative arrangements required for the transfer of powers from the former authority to the new authority, e.g. whether gazette notice of the new delegation of powers will be necessary when the Ordinance comes into operation.**

In the Provision of Municipal Services (Reorganization) Bill (“the Bill”), the term “former authority” is used to refer to the person who immediately before the transfer of a function had the authority to exercise that function and the term “new authority” is used to refer to the person to whom the function is transferred. Under the Bill, the transfer of functions is effected by the **specific statutory amendments in Schedules 3 to 7** of the Bill. For example, paragraph 84 of Schedule 3 of the bill deals with transfer of authority to exercise certain functions under various sections of the Public Health and Municipal Services Ordinance (Chapter 132).

In relation to a particular function, the Bill only changes the person who is authorized to perform the relevant function. If the former authority had delegated any of its statutory powers which is to be transferred to the new authority, such delegation will be saved by virtue of

clause 8(2)(e) of the Bill as if it was a delegation made by the new authority in so far as it is consistent with the Bill and the continuation of such delegation is required.

When the transfer of a function takes place upon the relevant amendment in the Bill coming into operation, the new authority may make a fresh delegation under the relevant statutory provisions. For delegation under the Public Health and Municipal Services Ordinance (Cap.132), the relevant provision is section 142 which authorizes delegation of powers and functions other than a power to make regulations. Gazette notice of the new delegation of powers is not required.

- (b) Provide a list of functions/powers of the two Provisional Municipal Councils (PMCs) to be transferred to the new authority, and the necessary legislative/administrative arrangements for each function.**

As far as we understand, Members asked for an elaboration of how the Consultant's recommendations are to be implemented, whether by administrative means or legislative amendments. A table listing the main recommendations accepted by the Administration and whether they are to be implemented by legislative or administrative means is at **Appendix I**.

- (c) Explain why it proposes to repeal regulations in the Public Health and Municipal Services Ordinance (Cap. 132) relating to labourers' lines, since labourers' lines still exist in some remote areas.**

Section 41 of the Public Health and Municipal Services Ordinance (the Ordinance) empowers the Authority (i.e. the Provisional Municipal Councils) to make regulations in relation to labourers' lines, prescribing or providing for the prevention of nuisances and the control of sanitary condition therein and the construction thereof and the facilities to be provided therein.

The Labourers' Lines (New Territories) Regulations prescribing the health, environmental hygiene and construction standards of labourers' lines were made in 1953. A copy of the Regulations (English version only) is at **Appendix II**. The Regulations were repealed in 1971. Since then, no similar regulation has been made under Section 41 of the Ordinance.

We propose in the Bill the repeal of section 41 of the Ordinance, because health and sanitary nuisances in labourers' lines, if

any, are adequately dealt with under other relevant provisions in the Ordinance such as sections 12, 32, 47, 87 and 127, and relevant Regulations made under the Ordinance including the Sanitation and Conservancy Regulation and the Public Cleansing and Prevention of Nuisances Regulation. As far as building standards of the labourers' lines are concerned, they are adequately dealt with by the Buildings Ordinance (Cap. 123) and its subsidiary legislation. We therefore consider that section 41 of the Ordinance to be obsolete and can be repealed.

Please let me know if any further information is needed.

Yours sincerely,

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

**Consultancy Study on Food Safety and Environmental Hygiene Services and
Consultancy Study on Culture, the Arts, Recreation and Sports Services:
Legislative/Administrative Means to Implement the Consultant's Main Recommendations**

Consultant's Main Recommendation	Legislative/Administrative Means
<p>I Setting up a new Bureau for the Environment and Food</p>	<ul style="list-style-type: none"> ● This mainly involves administrative arrangements and approval of the establishment ceiling and directorate posts by the Legislative Council (LegCo) Finance Committee. It also involves legislative amendments to transfer certain powers currently performed by the two Provisional Municipal Councils, and Secretary for Planning, Environment and Lands, etc. to the new Policy Secretary.
<p>II Setting up a new Department of Food and Environmental Hygiene and a new Leisure and Cultural Services Department</p>	<ul style="list-style-type: none"> ● This mainly involves administrative arrangements and approval of the establishment ceiling and directorate posts by the LegCo Finance Committee. It also involves legislative amendments to transfer certain powers currently performed by the two Provisional Municipal Councils, Director of Urban Services and Director of Regional Services etc. to the new Directors.
<p>III Setting up an Advisory Council on Food and Environment Hygiene</p>	<ul style="list-style-type: none"> ● This is a non-statutory advisory body and will be established administratively.
<p>IV Setting up a Culture and Heritage Commission</p>	<ul style="list-style-type: none"> ● This is a non-statutory advisory body and will be established administratively.

Consultant's Main Recommendation	Legislative/Administrative Means
<p>V Enhancing the role of the Legislative Council in monitoring food and environmental hygiene services, and culture, the arts, recreation and sports services, namely:</p> <ul style="list-style-type: none"> - vetting of the annual Estimates of Revenue and Expenditure of the new Departments, the new Bureau and the Home Affairs Bureau; - proposed capital works items to be subject to the normal Public Works Programme procedure and considered by the Public Works Sub Committee; - requests for civil service posts will be subject to the scrutiny of the Establishment Sub Committee; - other mechanisms for the Administration's accountability to LegCo will apply to the new Departments and the new Bureau, e.g. LegCo Panel, LegCo questions and audit reports. 	<ul style="list-style-type: none"> ● This mainly involves established mechanisms of the Legislative Council. It also involves some legislative amendments which give additional powers to LegCo. For example, some of the fees and charges will be prescribed in subsidiary legislation and subject to negative vetting by the LegCo.

Consultant's Main Recommendation	Legislative/Administrative Means
<p>VI New licensing and appeals arrangements</p> <ul style="list-style-type: none"> - The two existing Liquor Licensing Boards should be merged to form a new Liquor Licensing Board. - A Licensing Appeals Committee, to hear appeals against the Director's decisions on licensing and related matters. - The Municipal Services Appeals Boards should be merged into one and continue to serve as the "final appellant" body for all appeals against licensing decisions by the Directors, the Licensing Appeals Committee, and the Liquor Licensing Board. 	<ul style="list-style-type: none"> ● This involves legislative amendments to the Dutiable Commodities Ordinance (Chapter 109) and the Dutiable Commodities (Liquor Licensing) Regulations as set out in Schedule 5 of the Provision of Municipal Services (Reorganization) Bill. ● This involve legislative amendments to the Public Health and Municipal Services Ordinance (Chapter 132) as set out in paragraph 66 of Schedule 3 of the Provision of Municipal Services (Reorganisation) Bill. ● This involves legislative amendments to the Municipal Services Appeals Boards Ordinance (Chapter 220) as set out in Schedule 4 of the Provision of Municipal Services (Reorganisation) Bill.

Consultant's Main Recommendation	Legislative/Administrative Means
VII Reviewing the financial ceiling for Minor Works to enable more projects to be built for local communities	● This may require approval from the Legislative Council Finance Committee.
VIII Implementing certain environmental hygiene priorities such as reviewing the cleansing service and contracting out of services, stepping up actions against unauthorised posters and banners; etc. in public places and rationalising refuse collection vehicle routes, etc.	● These priorities mainly involve administrative arrangements and will be followed up by the new Bureau and new Department.
IX Increasing the membership of the Hong Kong Arts Development Council and the Hong Kong Sports Development Board to 27 and 17 members respectively	● This will involve legislative amendments to the Hong Kong Arts Development Council Ordinance (Cap. 472) and the Hong Kong Sports Development Board Ordinance (Cap. 1149). The amendment bills will be submitted to the Legislative Council as soon as they are ready.
X Transfer of the Music Office to the Hong Kong Academy for Performing Arts	● This mainly involves administrative arrangements and consultation with the parties concerned.

[Subsidiary]

C.N.A. 100/33.
30 of 1960.LABOURERS' LINES (NEW TERRITORIES)
REGULATIONS.

(Cap. 132, sections 41 and 149).

[24th July, 1953.]

Citation.

1. These regulations may be cited as the Labourers' Lines
(New Territories) Regulations.

Interpretation.

2. In these regulations, unless the context otherwise requires—
"employer" includes every person who and every firm which enters
into a contract of personal service, written or verbal, for any
period of time with any labourer, and the agent of such person
or firm;

(Cap. 39.)

"inspector" has the same meaning as it has in section 2 of the
Factories and Industrial Undertakings Ordinance."labourer" includes every person employed for the purpose of
personally performing any manual labour, except a domestic
servant, gardener or agricultural labourer;Lines to
conform to the
directions of
D.M.H.S.3. (1) All lines shall at all times conform in all respects
to the directions of the Director of Medical and Health Services
as regards the prevention and abatement of nuisances and the
promotion of domestic cleanliness.(2) No person shall occupy, or cause or suffer to be occupied,
lines which do not conform to the directions of the Director of
Medical and Health Services given under paragraph (1).Health
standards in
lines.

4. In every lines—

(a) unless the Governor in Council directs otherwise in any
particular case because exceptional circumstances exist,
every labourer shall be allotted not less than 35 square
feet of habitable floor space and no cover to such space
shall be less than 10 feet high;(b) all bunks shall be placed to the satisfaction of a health
officer;(c) unless the Governor in Council directs otherwise in any
particular case because exceptional circumstances exist,
windows of a total area of not less than one-tenth of the
floor area and ventilation to the satisfaction of a health
officer shall be provided;*Note:* These regulations are deemed to have been made under section
41 of the Public Health and Urban Services Ordinance, Chapter
132—see section 149(1) of that Ordinance.

[Subsidiary]

- (d) water used for domestic purposes derived from sources not included in the term "waterworks" as defined in section 2 of the Waterworks Ordinance shall first be tested and prior approval of a health officer shall be obtained before its use;
- (e) adequate ablution facilities shall be provided to the satisfaction of a health officer;
- (f) adequate latrine accommodation of a type approved by a health officer shall be provided to his satisfaction;
- (g) satisfactory means for the disposal of sewage or nightsoil shall be provided to the satisfaction of a health officer;
- (h) a sufficient number of sanitary dustbins, which shall be emptied daily shall be provided to the satisfaction of a health officer.

(Cap. 132.)

5. In every lines—

Composition of ground surfaces and construction.

- (a) the ground surface shall be composed of cement concrete or other impervious material approved by a health officer;
- (b) the kitchen shall be constructed of fire-resisting materials throughout; if the main structures are not built of fire-resisting materials the kitchen shall be a separate structure distant at least 20 feet from any living accommodation;
- (c) every kitchen shall be provided with a cooking slab with hood and chimney or brick-built cooking stoves with flues;
- (d) the ground surface of every kitchen shall be rendered smooth and impervious with a fall to an approved drainage outlet;
- (e) drainage channels shall be provided to carry away all sullage and rain water, and shall be kept in constant working order;
- (f) all channels shall be led to outlets approved by a health officer;
- (g) if sumps are permitted these shall be of a sufficient size to contain one day's sullage, shall be fitted with flyproof covers and shall be emptied daily.

6. (1) Without prejudice to the generality of regulation 3, the Director of Medical and Health Services may for the prevention and abatement of nuisances and promotion of domestic cleanliness by notice in writing left with some adult person at the lines in connexion with which the notice is given, or at the residence or business address of the employer concerned require such employer to cleanse, disinfect, whitewash, demolish, remove, alter, repair, enlarge or replace any lines belonging to him.

Notice as to cleansing, disinfecting, whitewashing, etc.

[Subsidiary]

(2) Without prejudice to the generality of the foregoing, notice given under paragraph (1) may prescribe—

- (a) the time within which any requirement of the Director of Medical and Health Services shall be fulfilled;
- (b) the site to which the lines in connexion with which notice has been given shall be removed;
- (c) the nature of the alterations, repairs, enlargements or replacements;
- (d) that no labourer, or not more than the number of labourers stated in the notice, shall be permitted to occupy the lines in connexion with which the notice has been given pending compliance with any requirement of the Director of Medical and Health Services.

**Prevention of
mosquito
breeding.**

7. (1) The employer in control of any lines shall keep the premises and any curtilage under his control, or any unleased Crown land, within 200 feet of them, in such a state as not to favour the breeding or harbouring of mosquitoes and in particular shall—

- (a) keep the premises and any curtilage under his control, or any unleased Crown land, within 200 feet of them, clear of empty tins and other receptacles capable of retaining water and prevent the accumulation of such receptacles except in a place suitable for their disposal and in such manner that they do not retain water;
- (b) prevent the formation of pools containing water and any excavation calculated to retain water;
- (c) keep every cistern, water-butt or other receptacle used for storing water clean and covered or protected in such manner as to prevent the breeding of mosquitoes;
- (d) provide sufficient mosquito-proofing to the satisfaction of the Director of Medical and Health Services.

(2) The Director of Medical and Health Services may by notice in writing left with some adult person at the lines in connexion with which the notice is given, or at the residence or business address of the employer concerned require such employer to take such action as may be specified in the notice, within a stated time, to prevent the breeding or harbouring of mosquitoes in or near any pond, tank, well, spring, seepage, drain, stream, water-logged ground or swamp or other collection of water on any land in such employer's control on which any lines are erected, or on any unleased Crown land within 1,000 yards of any lines under his control.

1970 Ed.]

Labourers' Lines (New Territories) Regulations.

[CAP. 132

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8. Every employer, his agents and servants shall allow any health inspector or inspector at all reasonable times to enter and inspect the lines and curtilages under the employer's control.

9. Any person who acts in contravention of regulation 3, 4, 5, 6, 7 or 8 shall be guilty of an offence and shall be liable to a fine of one thousand dollars or imprisonment for six months.

[Subsidiary]

Power of entry.
30 of 1960.
Eight Schedule.

Penalty.