An Ordinance to provide for the provision of municipal services by the Government; to repeal the Provisional Regional Council Ordinance and the Provisional Urban Council Ordinance; to make incidental and supplemental and connected provisions, including the vesting of property, rights and liabilities of the Provisional Regional Council and the Provisional Urban Council in the Government and the transfer of their functions; to amend the Public Health and Municipal Services Ordinance, the Municipal Services Appeals Boards Ordinance, the Dutiable Commodities Ordinance and the Places of Public Entertainment Ordinance and to make consequential and related amendments to enactments.


(Originally 78 of 1999)

Part: I PRELIMINARY

Section: 1 Short title

(1) This Ordinance may be cited as the Provision of Municipal Services (Reorganization) Ordinance.
(2) (Omitted as spent)

Section: 2 Interpretation

In this Ordinance, unless the context otherwise requires-
"appointed day" (指定日期) means the day appointed for the coming into operation of section 3;
"commencement date" (生效日期) means, in relation to-
(a) the transfer of a function, the date on which the transfer takes effect by the operation of this Ordinance;
(b) a repeal or amendment of an enactment by this Ordinance, the date on which the repeal or amendment comes into operation;
"a Council" (市政局) means the Provisional Regional Council established under section 3 of the Provisional Regional Council Ordinance (Cap 385) or the Provisional Urban Council established under section 3 of the Provisional Urban Council Ordinance (Cap 101) and accordingly references to "the Councils" (兩局) are to be construed as references to both those Councils;
"former authority" (前主管當局), in relation to a function which is transferred under this Ordinance, means the person who immediately before the commencement date had the authority to exercise that function;
"function" (職能) includes a power and a duty;
"new authority" (新主管當局), in relation to a function which is transferred under this Ordinance, means the person on whom that function is conferred by the operation of this Ordinance.
### Section 3
**Repeal of Provisional Regional Council Ordinance and Provisional Urban Council Ordinance**

L.N. 320 of 1999 01/01/2000

The Provisional Regional Council Ordinance (Cap 385) and the Provisional Urban Council Ordinance (Cap 101) and all subsidiary legislation made under those Ordinances are repealed.

### Section 4
**Vesting of property, rights and liabilities of the Councils in Government and saving of validity of their acts**

L.N. 320 of 1999 01/01/2000

1. All property, rights and liabilities of the Councils are vested in the Government as from the appointed day by virtue of this subsection.

2. Nothing in this Ordinance affects the validity of anything done by or in relation to a Council before the appointed day.

3. Anything which immediately before the appointed day is in the process of being done by or in relation to a Council may be continued to the extent that it is consistent with this Ordinance and in accordance with the provisions of this Ordinance.

### Section 5
**Provisions incidental and supplemental to section 4**

L.N. 320 of 1999 01/01/2000

1. Any agreement, arrangement or contract made or entered into or transaction effected or other thing done by, to or in relation to a Council which is in force or effective immediately before the appointed day or which is to take effect on or after that day has effect as from that day as if made, entered into, effected or done by, to or in relation to the Government to the extent that it is consistent with this Ordinance.

2. Accordingly, references to a Council-
   - (a) in any agreement, arrangement or contract or in any deed, bond or instrument;
   - (b) in any process or other document issued, prepared or employed for the purpose of any proceeding before a court, tribunal or similar body; and
   - (c) in any other document whatever (other than an enactment) relating to or affecting any property, right or liability of a Council which vests in the Government under section 4, are taken as from the appointed day as referring to the Government in whatever terms as may be appropriate in the circumstances and to the extent that it is consistent with this Ordinance.

3. The Government may be sued for the liabilities to which it is subject under section 4 and they may be recovered from the Government.

4. The Government may sue on, recover or enforce a chose in action vested in it under section 4 without having to give notice of the transfer to a person bound by the chose in action.

5. The record of property of a Council immediately before the appointed day that is in the form of an entry in the books of a bank, company or other corporation is to be transferred in those books to the Government on the request of the Government, by the bank, company or other corporation.

6. The legal claims including present, future, actual and contingent claims by or against a Council, including any accrued right of appeal, judicial and administrative proceedings instituted by or against a Council that existed immediately before the appointed day do not abate by reason of the repeal under section 3. They may be continued or enforced by or against the Government.

7. The guarantees and indemnities given by a Council become and are the liability of the Government. The guarantees and indemnities given to a Council become and are the property of the Government.

8. Any delegation or authorization made by a Council under an Ordinance repealed under section 3, in force immediately before the appointed day, is to continue in force to the extent that it is consistent with this Ordinance and in so far as it is necessary to continue its effect after the appointed day.

### Section 6
**Express saving of certain property of the Councils**

L.N. 320 of 1999 01/01/2000

Without limiting sections 4 and 5, the following as they existed immediately before the appointed day are expressly saved and transferred from the Councils to the Government-

- (a) land allocated to a Council by the Government for its use;
- (b) insurance policies held by a Council;
(c) the benefit of trade marks, copyright and other intellectual property rights held by a Council;
(d) the right to collect fees and other charges, and rates under any statutory or contractual authority held by a Council.

### Part: III
**SPECIFIC PROVISIONS RELATING TO TRANSFER OF FUNCTIONS AND CONSEQUENTIAL AND RELATED AMENDMENTS**

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(1) An enactment mentioned in column 2 of Schedule 1 is to be known by the title specified opposite to it in column 3 of that Schedule and accordingly the titles of subsidiary legislation made under the Public Health and Municipal Services Ordinance (Cap 132) specified in that column 2 are repealed and the titles specified opposite to them in that column 3 substituted therefor.

(2) The subsidiary legislation made under the Public Health and Municipal Services Ordinance (Cap 132) mentioned in column 2 of Schedule 2 are repealed.

(3) Any enactment mentioned in column 3 of Schedule 2 in relation to an enactment repealed under subsection (2) applies to and in relation to matters to which the repealed enactment applied immediately before the repeal and is taken to have replaced the repealed enactment.

(4) The Public Health and Municipal Services Ordinance (Cap 132) and its subsidiary legislation are amended to the extent and in the manner set out in Schedule 3.

(5) The Municipal Services Appeals Boards Ordinance (Cap 220) is amended to the extent and in the manner set out in Schedule 4.

(6) The Dutiable Commodities Ordinance (Cap 109) and its subsidiary legislation are amended to the extent and in the manner set out in Schedule 5.

(7) The Places of Public Entertainment Ordinance (Cap 172) and its subsidiary legislation are amended to the extent and in the manner set out in Schedule 6.

(8) The enactments mentioned in Schedule 7 are amended to the extent and in the manner set out in that Schedule.

### Section: 8
**Savings and transitional provisions for matters arising under section 7**

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(1) Section 7 does not affect the validity of anything lawfully done by or in relation to a former authority before the commencement date.

(2) The following applies without limiting the operation of subsection (1) and to the extent that it is consistent with this Ordinance-

(a) anything which immediately before the commencement date is in the process of being done by or in relation to a former authority, including in particular legal proceedings to which a former authority is a party or which are instituted on behalf of a former authority, may be continued by or in relation to the new authority;

(b) any right of appeal subsisting immediately before the commencement date against a former authority may be exercised and enforced against the new authority in accordance with this Ordinance;

(c) if section 7 operates to substitute, in relation to a right of appeal, a new authority to hear and determine the appeal-

(i) any right of appeal subsisting immediately before the commencement date is to be treated as a right of appeal to the new authority under the provisions of the relevant enactment as amended by this Ordinance;

(ii) any appeal pending immediately before the commencement date is to be treated and disposed of as being an appeal to the new authority under the provisions of the relevant enactment as amended by this Ordinance;

(d) if a provision under which a right of review was available immediately before the commencement date is repealed by section 7 and a new remedy provided in its place under that section-

(i) any right of review subsisting immediately before that date may be exercised as a right to the
new remedy under the provisions of the relevant enactment as amended by this Ordinance;
(ii) any review pending immediately before the commencement date is to be terminated on that date and the person to whom the right of review was available may exercise it as a right to the new remedy under the provisions of the relevant enactment as amended by this Ordinance;
(e) any licence, permit, registration, permission, approval, authorization, delegation, exemption, appointment, declaration, determination, designation, specification, notice, notification, prohibition, direction or requirement, granted, given, made or imposed by a former authority or having effect as if so granted, given, made or imposed, or a similar exercise of a power by or on behalf of the former authority which is in force immediately before the commencement date or which is to take effect on or after that date, has effect as if granted, given, made or imposed or done by the new authority in so far as that is required for continuing its effect after that date;
(f) if section 7 operates to substitute a new provision for a provision under which a power referred to in paragraph (e) has been exercised immediately before the commencement date, the power is taken to have been exercised under the new provision; accordingly on and after that date a reference in any enactment or document to the new provision in relation to the exercise of that power is to be construed as including acts done under the former provision;
(g) if immediately before the commencement date there is in existence an application for a licence, permit, registration, permission, approval, authorization or exemption or an application of a similar nature made to a former authority which has not been disposed of, it is to be taken to be an application to the new authority and is to be disposed of accordingly;
(h) any suspension of a licence or other permission in force immediately before the commencement date is to continue in force for the remainder of the period of suspension as if this Ordinance had not been enacted;
(i) documents or forms specified, prescribed, printed or duplicated for use in connection with any functions transferred by this Ordinance, including any written authorization issued by or on behalf of a former authority for the performance of a function and in force immediately before the commencement date, may be so used despite the fact that they contain references to a former authority, or to a former department, bureau or officer and those references shall be construed as references to the new authority, or the new department, bureau or officer, as the case may require;
(j) any reference made before the commencement date to an enactment repealed or renamed under section 7 or to a former authority or person authorized by the former authority, in any document, form or instrument, including any process or other document issued, prepared or employed for the purpose of any proceeding before a court, tribunal or similar body, is to be construed as a reference to the corresponding enactment (if any) or new authority or authorized person, as the case may require;
(k) except where it is expressly provided otherwise, section 7 is not to be construed as interrupting any period of time specified in any enactment or a notice or any other instrument given under an enactment and which is current on the commencement date and the period is to run as if that section had not been enacted.

Section: 9

Saving of subsidiary legislation, fees, etc.

L.N. 320 of 1999 01/01/2000

(1) Where this Ordinance operates to-
(a) transfer the power to make subsidiary legislation on any matter; or
(b) substitute a new provision for a provision under which subsidiary legislation may be made, subsidiary legislation (including an enactment replaced under section 7(3)) made or deemed to be made by the former authority in the exercise of that power or under that provision and in force immediately before the commencement date continues to be in force subject to the amendments made by this Ordinance (if a new title is given by this Ordinance to the subsidiary legislation, by that title), and to the extent that it is consistent with this Ordinance, as if made by the new authority in the exercise of the power conferred on the new authority to make subsidiary legislation on that matter or under that new provision, as the case may be, and may be amended, repealed or replaced by the new authority or under that new provision.

(2) Where this Ordinance operates to-
(a) transfer the power to determine or prescribe fees or charges (by way of subsidiary legislation or otherwise) for any matter; or
(b) substitutes a new provision for a provision under which the fees or charges in force immediately before
the commencement date were determined or prescribed, the fees or charges in force immediately before that date continue to be in force as if-
   (i) made by the new authority in the exercise of the power conferred on that authority; or
   (ii) made under that new provision,
and may be varied, amended, revoked or replaced by the new authority or under that new provision.

3. For the avoidance of doubt it is stated that the validity of a fee or charge continued in force under subsection (2) as a prescribed fee is not affected by it not being in the required form, until it is varied, amended or replaced by the new authority or under the new provision referred to in that subsection.

Part: IV GENERAL

Section: 10 Transitional provisions with respect to offences

1. All proceedings in respect of offences committed or alleged to be committed against an enactment repealed by this Ordinance (including an enactment mentioned in column 2 of Schedule 2), before the repeal came into effect, may be commenced or continued as if this Ordinance had not been enacted.

2. Where an offence, for the continuance of which a penalty was provided under any enactment repealed by this Ordinance (including an enactment mentioned in column 2 of Schedule 2), proceedings may be commenced under the enactment which corresponds to it, if any, in respect of the continuance of that offence in the same manner as if the offence had been committed under the corresponding enactment.

Section: 11 Chief Executive in Council to make consequential, transitional and savings provisions

1. The Chief Executive in Council may, by order published in the Gazette, make such consequential amendments to any enactment or provisions of a transitional or savings nature as are necessary for the better carrying out of the provisions of this Ordinance.

2. An order under subsection (1) may be made before or after the appointed day and provide for any provision of the order to take effect on a date earlier than the date of publication of the order but not earlier than the appointed day.

3. To the extent to which a provision in an order under this section takes effect on a date earlier than the date of publication of the order, the provision does not operate so as-
   (a) to affect, in a manner prejudicial to any person (other than the Government or a public body), the rights of that person before the date of its publication; or
   (b) to impose liabilities on a person (other than the Government or a public body) in respect of anything done, or omitted to be done, before the date of its publication.

4. An order under this section is subject to the approval of the Legislative Council.

Section: 12 Ordinance to be construed as continuing only valid and lawful acts

For the avoidance of doubt it is stated that nothing in this Ordinance is to be construed as giving validity, continuing in force or giving effect to-
   (a) anything which could not have validly been done or given effect to under an enactment amended or repealed by this Ordinance; or
   (b) anything done otherwise than in the lawful exercise of a power or performance of a duty.

Section: 13 Provisions of Ordinance not to derogate from section 23 of Interpretation and General Clauses Ordinance

The provisions of this Ordinance relating to repeal and amendment of enactments are in addition to and not in derogation from section 23 of the Interpretation and General Clauses Ordinance (Cap 1).
1. Abattoirs (Urban Council) By-laws Abattoirs Regulation
2. Advertisements By-laws Advertisements Regulation
3. Bathing Beach (Urban Council) By-laws Bathing Beaches Regulation
4. Civic Centres (Regional Council) By-laws Civic Centres Regulation
5. Commercial Bathhouses (Urban Council) By-laws Commercial Bathhouses Regulation
6. Cremation and Gardens of Remembrance (Urban Council) By-laws Cremation and Gardens of Remembrance Regulation
8. Food Business (Regional Council) By-laws Food Business Regulation
9. Food Business (Regional Council) By-laws (Exemption from Bylaw 31(1)) (Exemption from section 31(1)) Notice
10. Frozen Confections (Urban Council) By-laws Frozen Confections Regulation
11. Funeral Parlour (Regional Council) By-laws Funeral Parlours Regulation
12. Hawker (Permitted Place) (Urban Council) (Consolidation) Declaration Hawker (Permitted Places) Declaration
13. Hawker (Urban Council) By-laws Hawker Regulation
14. Library (Regional Council) By-laws Libraries Regulation
15. Declaration of Markets in the Regional Council Area Declaration of Markets Notice
16. Milk (Urban Council) By-laws Milk Regulation
17. Museums (Regional Council) By-laws Museums Regulation
18. Declaration of Offensive Trades in the Regional Council Area Notice
19. Offensive Trades (Regional Council) By-laws Offensive Trades Regulation
20. Places of Amusement (Urban Council) By-laws Places of Amusement Regulation
21. Pleasure Grounds (Urban Council) By-laws Pleasure Grounds Regulation
22. Private Cemeteries (Urban Council) By-laws Private Cemeteries Regulation
23. Private Markets (Regional Council) By-laws Private Markets Regulation
24. Public Cemeteries (Urban Council) By-laws Public Cemeteries Regulation
26. Public Conveniences (Conduct and Behaviour) (Urban Council) By-laws Public Conveniences (Conduct and Behaviour) Regulation
27. Public Funeral Hall (Urban Council) By-laws Public Funeral Halls Regulation
28. Public Market (Regional Council) By-laws Public Markets Regulation
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29. Public Swimming Pools (Urban Council) By-laws Public Swimming Pools Regulation
30. Restriction of Hawking in Special Areas (Regional Council Area) (Consolidation) Notification Restriction of Hawking in Special Areas Notification
31. Sanitation and Conservancy (Regional Council) By-laws Sanitation and Conservancy Regulation
32. Slaughterhouses (Regional Council) By-laws Slaughterhouses Regulation
33. Stadia (Urban Council) By-laws Stadia Regulation
34. Swimming Pools (Urban Council) By-laws Swimming Pools Regulation
35. Undertakers of Burials (Regional Council) By-laws Undertakers of Burials Regulation
36. Ventilation of Scheduled Premises (Urban Council) By-laws Ventilation of Scheduled Premises Regulation

Schedule: 2

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| (Omitted as spent) |

**Schedule: 4**

| AMENDMENTS TO MUNICIPAL SERVICES APPEALS BOARDS ORDINANCE | 02/01/2000 |
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