

**Comments by the Privacy Commissioner and Response from the Administration on
the Drug Dependent Persons Treatment and Rehabilitation Centres (Licensing) Bill**

Clause of the Bill	Privacy Commissioner's Comments	Administration's Response
<p>Clause 18 and clause 23 of the current Bill (Clause 18 and clause 22 of the Bill introduced in February 2000)</p>	<p>It is conceivable that the books or documents removed and transferred to the Police pursuant to clause 18 may contain personal data relating to previous or even current drug-related activities of those individuals. If so, this may give rise to apprehension on the part of those individuals about their personal data falling into the hands of the Police, resulting in prosecution against them.</p> <p>Clause 22 provides for some sort of safeguard but may not be sufficient. Suggest the Administration to consider whether it will be necessary to extend the scope of clause 22 to render inadmissible as evidence in proceedings under the Dangerous Drugs Ordinance all information relating to an individual acquired in the exercise by the Director of Social Welfare (the Director) of his power under clause 18.</p>	<p>Comments taken on board. Clause 23 of the current Bill provides that a statement or admission made by a person for the purpose of being admitted to a treatment centre for treatment and rehabilitation, or while he is undergoing treatment or rehabilitation at a treatment centre is inadmissible as evidence under any proceedings against him under the Dangerous Drugs Ordinance (Cap. 134). It also provides that any information obtained in the course of or as a result of the production or removal of any book, document or other article by the Director of Social Welfare (the Director) or any public officer authorized by him in relation to the licence or certificate of exemption of a drug treatment and rehabilitation centre is inadmissible as evidence against a rehabilitating or rehabilitated addict under Cap. 134.</p>
<p>Clause 6 and clause 8 of the current Bill</p>	<p>In clauses 6(6) and 8(5) of the current Bill, the Director is given power to require an applicant for a licence to operate a treatment centre or applicant for</p>	<p>These clauses specifically provide that the Director may require only such particulars as he considers relevant for determining whether or not to issue a</p>

	<p>a certificate of exemption to furnish him with such information relevant for his consideration whether to make the grant. Such information includes, inter alia, “particulars relating to the applicant”. It is not, however, specified what kind of particulars may be required. The required particulars may include “personal data” within the meaning of the Personal Data (Privacy) Ordinance (Cap. 486) in the event of the applicant being an individual. If that is the case, there would likely to be a collection of personal data on the part of the Director making him a “data users”, thereby subject to the requirements of the Ordinance.</p> <p>Data Protection Principle in Schedule 1 of the Personal Data (Privacy) Ordinance is directly relevant :</p> <p>“(1) Personal data shall be collected unless-</p> <p style="padding-left: 40px;">(c) the data are adequate but not excessive in relation to that purpose.”</p> <p>We suggest the particulars that may be required under clauses 6(6) and 8(5) should be expressly stated.</p>	<p>licence or a certificate of exemption. These provisions, as they are presently drafted have already delimited the scope of information to be sought by the Director and the purpose of seeking such information, and have already echoed Data Protection Principle 1 in Schedule 1 of the Personal Data (Privacy) Ordinance (Cap. 486). In case a person considered that the information sought by the Director was in excess of the purpose of the Bill, he could always resort to Cap. 486 for remedy. In addition, we are prepared to specify the “particulars relating to the applicant” in a Code of Practice to be issued under clause 25 of the Bill. The purpose of the Code is to give, among others, detailed guidelines on licensing procedures. In promulgating the Code, the Director will consult all parties concerned including drug treatment and rehabilitation centres to be affected by the Bill, and take their views into account. The proposal of building in the Bill an express provision to specify the particulars to be sought may not be necessary.</p>
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