

**Drug Dependent Persons Treatment and Rehabilitation
Centres (Licensing) Bill**

Commencement date of the Bill

At the Bills Committee meetings on 15 January 2001 and 22 January 2001, Members discussed the estimated costs and funding for existing drug treatment and rehabilitation centres (the Centres) to upgrade their premises in order to comply with the future licensing requirements. In this connection, Members requested the Administration to consider a suitable commencement date in order to allow sufficient time for Centres to conduct upgrading works.

Clause 1 (2) of the Bill

2. As explained verbally at the two Bills Committee meetings, under clause 1(2) of the Drug Dependent Persons Treatment and Rehabilitation Centres (Licensing) Bill (the Bill), the commencement date is proposed to be appointed by the Secretary for Security by notice published in the Gazette. Subject to the passage of the Bill, the Administration will propose a commencement date in due course, having regard to a variety of factors including the preparedness of the Centres for meeting the new licensing requirements. The Administration will consider the views of the Centres to be affected before finalizing its proposals on commencement date. The commencement order will be a subsidiary legislation subject to Legislative Council's scrutiny through negative vetting.

Assistance for drug treatment centres affected by the Bill

3. As explained before, while considering a commencement date of the Bill, the Administration will take account of the fact that the fire and building safety standards of some Centres are not satisfactory and may require upgrading. In this connection, the Administration will provide assistance to these Centres in various ways. In terms of land, support has been sought from the Government Property Agency and the Lands Department in identifying sites for centres in need of new land for

erecting or reprovisioning their premises. In respect of financial assistance, the Administration has approached a number of charitable funds and obtained their support in giving priority consideration to applications by Centres which will conduct upgrading works.

Exemption

4. In proposing a commencement date, the Administration will also take account of the certificate of exemption system proposed in the Bill. Under clause 8(1) of the Bill, a person who operates a Centre before the commencement of the Bill, may apply for a certificate of exemption in respect of the Centre. The certificate of exemption will last for a year and can be renewed on application.

5. Prior to the introduction of the Bill, existing drug treatment organisations had been consulted on the exemption period on the basis of four years for Centres subvented by Government, and a further four years for Centres which are not subvented by Government. Such organisations had generally accepted these proposals. The exemption period is not expressly stipulated in the Bill so as to allow more flexibility to cater for Centres which may require an exceptionally longer time to bring their premises up to standards with good reasons. Through the certificate of exemption mechanism, the Social Welfare Department will be able to monitor the progress made by Centres in moving towards fulfillment of the licensing requirements.

Delaying commencement of the new ordinance

6. In considering the commencement of the future Drug Dependant Person Treatment and Rehabilitation Centres (Licensing) Ordinance (the Ordinance), it is also important to note that the Ordinance will govern not only existing Centres, but also new Centres to be established in future. In the past three years, two new Centres had commenced operation. In the next one or two years, at least three centres are known to be coming on stream. The Administration does not consider it desirable that the Ordinance should commence only after all existing Centres comply with the licensing requirements. Should this be the case, during the period of time before the Ordinance comes into operation, Centres are not required

by law to co-operate with the Social Welfare Department and improve their safety and environmental standards. It is possible that some Centres may lack motivations to improve their premises, which would in turn undermine the objectives of the Ordinance. Second, before the commencement of the Ordinance, Centres will not be obliged to come forward to the Social Welfare Department for an exemption of certificate. The Government may lack the necessary information for providing advice and assistance to these Centres in complying with the licensing requirements. Third, some new Centres may be established before the Ordinance comes into operation. It would be most desirable as well as cost-effective to require these new Centres to comply with licensing conditions on the date they commence operation.

7. Apart from the above, other factors to be taken into account include staffing of the Licensing Office of the Social Welfare Department, especially whether additional staff would be required to cater for the investigations and prosecutions of offences under the new Ordinance, if it is so desired, and the timing when sufficient staff resources will be available.

Grouping the offence/penalty provisions under the Bill and delaying commencement of such provisions

8. As regards grouping the offences and penalty provisions under the Bill and deferring the commencement of such provisions to a date later than the main Ordinance, the Administration has reservation about this proposal.

9. The offence/penalty provisions of the Bill are as follows :-

- (i) clause 4 which provides that no person shall operate, exercise control over, or take part in the management of a treatment centre without a licence or certificate of exemption;
- (ii) clause 5 which makes it an offence if a treatment centre is operated in contravention of the conditions of its licence or certificate of exemption;
- (iii) clause 10 which provides that the supply of false or misleading information etc. in or in connection with an application made

under the Bill is an offence;

- (iv) clause 16 which makes it an offence for failing to comply with a direction given by notice in writing by the Director of Social Welfare (the Director);
- (v) clause 17 which makes it an offence for failing to comply with the order of the Director served in writing for cessation of use of any place as a treatment centre; and
- (vi) clause 18 which confers on the Director and authorised public officers certain powers for the purposes of the Bill, including the power to enter and inspect, with or (in certain cases) without, warrant; clause 19 which provides for offences in relation to clause 18.

10. If the above offence/penalty provisions did not come into force, the Ordinance would lack deterrent effect against those who contravene the provisions of the Ordinance. A Centre could continue to operate without a licence or certificate of exemption, resulting in a lack of control by Government, thereby defeating the primary objective of the Ordinance. As there would be no sanction against non-compliance of the Ordinance, delaying the commencement of offence/penalty provisions would be the same in effect as delaying the commencement of the entire Ordinance, which was undesirable for reasons stated in paragraph 6 above.

Security Bureau
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