

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

Proposed Committee Stage Amendments

Clause 18

At the Bills Committee meeting on 5 February 2001, Members agreed that the Director of Social Welfare should be the investigation and prosecution authority for offences under the Drug Dependent Persons Treatment and Rehabilitation Centres (Licensing) Bill (the Bill), subject to the relevant delegation of authority by the Secretary for Justice. As such, the Director of Social Welfare shall not be required to deliver the information obtained from treatment centres to the Commissioner of Police as currently stipulated in clauses 18(5) and 18(6), thereby offering greater protection for personal data of residents in such centres. The CSA to effect this proposal is at **Annex I**.

New consequential amendment

2. Section 49D of the Dangerous Drugs Ordinance (Cap. 134) stipulates that except where a disclosure is made under a few exceptional cases, any person who discloses any record of confidential information which is kept by the Central Registry of Drug Abuse (CRDA) or a reporting agency, or permits access to any such record commits an offence and is liable to a fine of \$5000 and imprisonment for 6 months. The “confidential information” referred to under this section is defined in section 49A of Cap. 134 to mean information which is recorded by the CRDA or a reporting agency in respect of any person and which relates to any one or more of the following : -

- (a) the use, or alleged use, by that person of a dangerous drug;
- (b) the conviction of that person for an offence under the Dangerous Drugs Ordinance, Cap. 134;
- (c) the care, treatment or rehabilitation of that person by reason of his use of a dangerous drug.

Such records kept by a treatment centre may be inspected by the Director of Social Welfare to ensure the centre's compliance of the requirements of the Bill. Section 49D and Section 49A of Cap. 134 are at **Annex II**.

3. The Department of Justice has advised that clause 18 of the Bill conflicted with section 49D of the Dangerous Drugs Ordinance as the latter makes disclosure illegal and subject to criminal sanction, whereas clause 18 of the Bill when read with clause 19, makes the refusal to disclose illegal and subject to criminal sanction.

4. To allow drug treatment centres to provide information to the Director of Social Welfare in accordance with the Bill, it is proposed that a CSA be moved to amend section 49D of the Dangerous Drugs Ordinance so that the provision of relevant information for complying the requirements of the Bill will not be in breach of section 49D. The proposed CSA is at **Annex III**.

Other textual amendments

5. The Administration has also proposed a few textual amendments to the Chinese version of the Bill. The amendments are purely textual in nature to make the wordings adopted in the Bill more consistent. They will not change the English version, and will not affect the substance of the Bill. The proposed CSAs are at **Annex IV**.

Security Bureau
February 2001

DRUG DEPENDENT PERSONS TREATMENT AND REHABILITATION
CENTRES (LICENSING) BILL

COMMITTEE STAGE

Amendment to be moved by the Secretary for Security

Clause

Amendment Proposed

18 By deleting subclauses (5) and (6).

**BLIS ON
INTERNET**

Section of Enactment



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|----------|------------|----------|--|-----------------|---------------------|
| Chapter: | 134 | Title: | DANGEROUS DRUGS ORDINANCE | Gazette Number: | L.N. 362 of 1997 |
| Section: | 49D | Heading: | Prohibition against disclosure of records | Version Date: | 01/07/1997 |

- (1) Subject to subsection (2), any person who-
- (a) discloses any record of confidential information which is kept by the Registry or a reporting agency, or supplies to any person information obtained from any such record; or
 - (b) permits access to any such record,
- commits an offence and is liable to a fine of \$5000 and to imprisonment for 6 months.
- (2) Subsection (1) shall not apply where the disclosure is made, or access is permitted-
- (a) in accordance with an authorization given under section 49E;
 - (b) in accordance with an authorization given under section 49F;
 - (c) in accordance with an order of the Secretary for Justice made under section 49G;
- (Amended L.N. 362 of 1997)
- (d) to the Commissioner or a reporting agency director, or to an employee of the Registry or of a reporting agency, for the purpose of treating a drug abuser for his drug addiction or of assisting him in his rehabilitation;
 - (e) to a medical practitioner for the purpose of providing medical treatment for any person, or to a coroner or a medical practitioner for the purpose of inquiring into the cause of death of a drug abuser;
 - (f) in proceedings for an offence under this Part.

(Part VIIA added 65 of 1981 s.2)

**BLIS ON
INTERNET**

Section of Enactment

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Chapter: 134 Title: DANGEROUS DRUGS Gazette Number: L.N. 362 of
ORDINANCE 1997
Section: 49A Heading: Interpretation Version Date: 01/07/1997

PART VIIA

CONFIDENTIALITY OF RECORDS

In this Part, unless the context otherwise requires-

"Commissioner" (專員) means the Commissioner for Narcotics;

"confidential information" (機密資料) means information which is recorded by the Registry or a reporting agency in respect of any person and which relates to any one or more of the following-

- (a) the use, or alleged use, by that person of a dangerous drug;
 - (b) the conviction of that person for an offence under this Ordinance;
 - (c) the care, treatment or rehabilitation of that person by reason of his use of a dangerous drug; "drug abuser" (濫用藥物者) means a person who is the subject of any confidential information; "employee" (僱員)-
 - (a) in relation to the Registry, means any public officer employed in-
 - (i) the Narcotics Division of the Security Bureau of the Government; or (Amended L.N. 362 of 1997)
 - (ii) the Information Technology Services Department of the Government; and (Amended 80 of 1997 s. 102)
 - (b) in relation to a reporting agency, means any person employed in the agency, whether full-time or part-time and whether paid or unpaid, in-
 - (i) the care, treatment or rehabilitation of persons who use, or have used, dangerous drugs;
 - (ii) the preparation, maintenance or analysis of records of confidential information, and also means any person who is being trained by the agency in any such matter;
- "Registry" (檔案室) means the Central Registry of Drug Abuse referred to in section 49B;
- "reporting agency" (呈報機構) means any body or organization specified in the Fourth Schedule; "reporting agency director" (呈報機構負責人)-
 - (a) in relation to the Department of Health of the Government, means the Director of Health and any person to whom he has delegated the supervision of any records of confidential information which are kept by that Department; (Amended L.N. 76 of 1989)
 - (b) in relation to the Social Welfare Department of the Government, means the Director of Social Welfare and any person to whom he has delegated the supervision of any records of confidential information which are kept by that Department; and
 - (c) in relation to any other reporting agency, means the person who is for the time being in charge of

the administration of that agency and any person to whom he has delegated the supervision of any records of confidential information which are kept by that agency.

(Part VIIA added 65 of 1981 s. 2)

COMMITTEE STAGE

Amendment to be moved by the Secretary for Security

Clause

Amendment proposed

New

By adding immediately after the subheading of
"Consequential Amendments" -

"Dangerous Drugs Ordinance

31A. Prohibition against disclosure of records

Section 49D(2) of the Dangerous Drugs Ordinance (Cap. 134)
is amended -

- (a) in paragraph (f), by repealing the full stop and substituting a semicolon;
- (b) by adding -
 - "(g) to the Director of Social Welfare or any public officer under section 18 of the Drug Dependent Persons Treatment and Rehabilitation Centres

(Licensing) Ordinance
(of 2001).".".

COMMITTEE STAGE

Amendments to be moved by the Secretary for Security

| <u>Clause</u> | <u>Amendment proposed</u> |
|---------------|---|
| 16(3) | By deleting "指明" and substituting "示明". |
| 17(1)(b) | By deleting "指明" and substituting "示明". |
| 30(2)(b)(i) | By deleting "為止" and substituting "之時". |