

Letterhead of Environment and Food Bureau Government Secretariat

LC Paper No. CB(2) 1699/00-01(01)

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30 May 2001

Clerk to Bills Committee on
Public Health and Municipal Services
(Amendment) Bill 2001
(Attn: Mrs Constance Li)
Legislative Council Building
8 Jackson Road
Central, Hong Kong
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Dear Mrs Li

**Bills Committee on
Public Health and Municipal Services (Amendment) Bill 2001**

Thank you for your letter of 25 May 2001. Our comments on the issues raised by Members at the last Bills Committee meeting are set out below for your consideration.

- (a) Amending the proposed new section 128A(3)(b) to set out more explicitly what is meant by "contaminated water source"

We note Members' concern regarding the need to state more explicitly the circumstances under which "water source" in the new section 128A(3)(b) would be regarded as "contaminated source". In this regard, we are prepared to introduce CSA to change the wordings of the new section 128A(3)(b) along the line of 128A(3)(c). The relevant draft CSA will follow shortly for Members' consideration.

(b) To consider amending the proposed new section 128B(1)

As stated clearly at our last meeting, for licensed food premises where certain activity is required to be permitted but not permitted, the Government will take out enforcement action under the Food Business Regulation (Cap 132, sub leg) against the food premises instead of applying for a closure order. Our main concern is that food premises should be properly regulated, either through licences or permits, to ensure food safety and public health. Having considered Members' views, we are prepared to introduce CSA to state explicitly that licensed premises under such circumstance would not be subject to a closure order under the proposed new section 128B. The relevant draft CSA will follow shortly for Members' consideration.

(c) Operation of closure order should not prevent any person (including a servant, watchman or caretaker) to continue residing in the closed premises

We are prepared to move CSA to the effect that if at the date of the issue of application for a closure order (under the proposed new section 128B) or the date when an immediate closure order is made (under the proposed new section 128C) the premises are used for the purpose of human habitation, the closure order will not operate to prevent such use. The relevant draft CSA will follow shortly for Members' consideration.

(d) To consider stipulating a maximum period for an appeal under the proposed new section 128C to be heard

We have considered carefully Members' views and the legal advice rendered and concluded that it would be inappropriate to require an appeal under the proposed new section 128C to be heard within a specified period. As we have stated at our last meeting, it is the Judiciary's discretion to fix a date for an appeal hearing. Stipulating a maximum period would unduly interfere with the independence of the Judiciary to manage the cases which come before it. The setting of time limits would also have consequences for the interest of other persons wishing to use the court system who - depending on the circumstances of their case - possibly should be given higher priority than an appellant under the proposed new section 128C.

(e) To allow the appellant to seek further appeals under the proposed new section 128C

As stated in our letter of 18 April, we are prepared to allow further appeal against the magistrate's decision under the proposed new section 128C so long as a further appeal will not absolve the aggrieved party for eliminating the immediate health hazard while awaiting the outcome of the appeal. The relevant draft CSA will follow shortly for Members' consideration.

Yours sincerely,

(David K K Lau)
for Secretary for the Environment and Food

c.c.

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