

Fire Services (Amendment) Bill 2001

**Administration's response to issues raised at
the Bills Committee meeting held on 15 October 2002 (Part I)**

- (a) *statistics on the time lapse between the lodging and the hearing of an application for a rescission of a closure order under relevant sections of the Crimes Ordinance and the Dangerous Drugs Ordinance.*

According to the Judiciary, there are currently no statistics kept in respect of the time needed before an application for a rescission order under s.153C of the Crimes Ordinance is heard. However, based on their experience, it is estimated that the time taken would be in the region of 2 or 3 weeks, depending on the court diary. In exceptional cases and subject to court availability, a shorter time may be possible. There is no provision for closure orders in the Dangerous Drugs Ordinance.

- (b) *making reference to the provisions in the Public Health and Municipal Services Ordinance in respect of habitation of innocent residents on premises under a closure order.*

2. We consider that the situation in the case of the Public Health and Municipal Services Ordinance (PHMSO) can be distinguished from the present one, and the provisions in PHMSO should not be applicable here.

3. Firstly, according to section 27(2)(a) of the draft Fire Service (Fire Hazard Abatement) Regulation (FS(FHA)R), a magistrate must be satisfied that the relevant offence is a recurrence before a closure order could be made. In other words, the provision would only target premises that have been repeatedly used as illegal refuelling stations which pose grave safety threats to the people and properties in the vicinity as well as those in the premises.

4. Secondly, the very purpose of closing down the premises is to provide an effective measure to deal with "black spots" to protect the safety of the people in the vicinity. Allowing habitation of the premises when a closure order is in force would seriously undermine the enforcement efforts in ensuring eradication of the illegal refuelling activities in the premises. In this regard, it should be noted that the refuelling of vehicles is a very simple business

requiring minimal equipment and staff. Anything short of a total closure of the premises may pose serious enforcement difficulties to fire and police officers and inadvertently help the illicit operators to continue the unlawful business.

5. Last but not least, according to our experience and observation, the black spots we have identified are mostly small street-side stores with rapid change of operators and the illicit business is usually run on a make-shift, temporary basis for the maximisation of profits within the shortest possible period of time before it is cracked down. We believe that few, if any, bona fide innocent parties would be made homeless by a closure order.

(c) *the draft Fire Service (Fire Hazard Abatement) Regulation should specify the rank of the FSD officers who would be authorised to obtain personal particulars and the requirement that they should wear uniform whilst on duty.*

6. We will submit a reply as soon as possible.

Security Bureau
November 2002