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**Paper for the House Committee meeting
on 8 March 2002**

**Report of the Subcommittee on
Drug Dependent Persons Treatment and
Rehabilitation Centres (Licensing) Ordinance (10 of 2001)
(Commencement) Notice 2002**

Purpose

This paper reports on the deliberations of the Subcommittee on the Drug Dependent Persons Treatment and Rehabilitation Centres (Licensing) Ordinance (10 of 2001) Commencement Notice 2002 (the Commencement Notice).

Background

2. The Drug Dependent Persons Treatment and Rehabilitation Centres (Licensing) Ordinance (Cap. 566) (the Ordinance) was passed by the Legislative Council on 25 April 2001. The Ordinance seeks to establish a licensing scheme for treatment centres providing accommodation for the treatment and rehabilitation of drug dependent persons. The objective of the licensing scheme is to provide a regulatory framework that is in line with present day requirements for voluntary residential drug treatment and rehabilitation centres, and protect the well-being of persons undergoing treatment in these centres through improvement in service. Section 1(2) of the Ordinance provides that the commencement date of the Ordinance will be on a day to be appointed by the Secretary for Security by notice published in the Gazette.

3. During scrutiny of the Bill, members of the bills committee asked the Administration to consider a suitable commencement date that would allow sufficient time for centres to conduct the upgrading works.

4. In response to members' concern, the Administration explained that in considering a commencement date, it would take into account the readiness of the centres to be affected, the certificate of exemption arrangement (an exemption period of four years for centres subvented by Government and eight years for centres not subvented by Government) and the staffing of the licensing

office of the Social Welfare Department (SWD).

The Commencement Notice

5. By the Commencement Notice, the Secretary for Security has appointed 1 April 2002 as the day on which the Ordinance will come into operation.

The Subcommittee

6. At the House Committee meeting on 1 March 2002, Members agreed to form a subcommittee to consider the Commencement Notice. Under the chairmanship of Hon Cyd HO Sau-lan, the Subcommittee has held two meetings with the Administration. It has also met with representatives of the Hong Kong Council of Social Service and 13 of the 14 non-government organisations (NGOs) operating drug treatment and rehabilitation centres to consider the land use issues in meeting the licensing requirements under the Ordinance. The membership list of the Subcommittee is in **Appendix I**.

Deliberations of the Subcommittee

Concerns of the deputations

7. Most centres have voiced concern as to whether they will be able to continue their operation under the exemption arrangement. A few centres which may need to relocate wish to be assured that they may continue to operate in their existing premises until the new centres are ready. A few centres have also expressed concern about difficulties in complying with town planning and land use requirements. One is also concerned about the amount of administrative work and the costs involved in complying with the various requirements, which will adversely affect the service provided to residents undergoing treatment. To ease their burden, they have asked for more assistance to be provided by the Government.

Town planning issues

8. The Administration has explained to the Subcommittee that in land use terms, drug treatment and rehabilitation centres are treated as a social welfare facility. On the basis of the existing information, 38 existing drug treatment and rehabilitation centres will be affected by the licensing scheme. These centres can be classified into five categories and only a total of eight centres in the last two categories are assessed as requiring applications for compliance with the Town Planning Ordinance (Cap. 131). The details are set out in **Appendix II**.

9. The Administration has pointed out that in processing applications under

section 16 of Cap. 131 (section 16 applications), the Town Planning Board (TPB) will take into account existing uses on the site and the relevant Government departments' comments. As regards deputations' concern about the expenses in appointing an authorised person to prepare the submission, the Administration has clarified that there is no need to appoint a professional town planner or authorised person for the purpose. As stated in the Guidance Notes to section 16 applications, applicants are welcome to seek guidance from the respective District Planning Office to identify and resolve key issues prior to the submission of the application. The SWD, which is the licensing authority under the Ordinance, is already in the process of notifying the District Planning Officers concerned to assist in this process. The SWD will also assist by relaying concerns on technical matters to the agencies concerned.

10. As to amendment to statutory plans, it is the Planning Department's pledge to submit such request to the TPB for consideration within three months of receipt. As part of an on-going review of the Master Schedule of Notes of Statutory Plans, the Planning Department has already taken the initiative to recommend to the TPB to amend the Notes of the "Green Belt" zone to incorporate social welfare facility as a Column 2 use. The proposal will be submitted to the TPB for consideration in March and if accepted by the TPB, follow up action will be taken to amend the relevant plans in accordance with the provision of the Town Planning Ordinance. By then, the four centres currently assessed to require application for rezoning will need to apply for section 16 permission only. This will greatly simplify the procedures for the four centres, and will minimise costs and time of the requisite applications.

Land

11. The Subcommittee notes that as explained at several meetings of the Bills Committee, the Administration has pledged to accord full assistance to centres which have a genuine need for land to relocate or rectify existing irregularities.

12. The Administration has pointed out that for the most part, the Lands Department has adopted a generally relaxed approach towards drug treatment and rehabilitation centres as most of the centres are in fairly remote locations and do not cause significant land control or lease enforcement problems. In case regularisation of irregularities is considered desirable on submission of detailed documents from the centres concerned, land administration measures such as the granting of short-term tenancies (in case of government land) or short-term waivers (in case of private land), could be implemented by the District Land Officers, depending on the circumstances of each centre. However, no assurances could be given that all irregularities would be capable of rectification by administrative means.

13. The Administration has also invited members to note that at present, at least five out of the 14 NGOs are leasing from the Government Property Agency (GPA) government premises at nominal rent for use as rehabilitation centres or half-way houses. As the sites for these premises are government, institution or

community facility sites, there should be no issue of land use restrictions affecting the NGOs' current uses. Although it has to be confirmed accurately whether these premises are technically suitable or can be made suitable for the current uses to meet licensing requirements, the GPA, as the landlord, should have no objection in principle to an NGO's proposal to make the premises suitable for licensing purpose. Should the centre affected by the licensing scheme require new premises in case relocation is necessary, the GPA will assist as it does now provided that it has suitable surplus government accommodation.

Relaxation of other requirements

14. The Administration has further pointed out that the Buildings Department and the Fire Services Department have both agreed to adopt a relaxed approach to requirements that drug treatment and rehabilitation centres have to comply with in relation to the issue of certificate of exemption. The Buildings Department has inspected 20 centres which may have more problems and found that although improvements are required, there is no immediate danger necessitating the closure of such centres. Such being the case, it has no objection in principle to the issue of exemption certificates to these centres. As the remaining 18 centres are likely to be similar or in better conditions, no major problem is anticipated.

Grace period and exemption

15. Under the Ordinance, the Director of Social Welfare may grant certificates of exemption to centres. The Administration has stated during the second reading debate on the Bill that all affected centres will be allowed a grace period of four to eight years to carry out the necessary improvements. During the grace period, centres can continue to operate by applying for a certificate of exemption from the licensing authority. The Administration has assured members that such exemption will normally be granted so long as the centre can demonstrate commitment and efforts in making improvements to comply with the licensing requirements.

16. The Administration has stressed that the grace period is an administrative measure and as such, it can be extended beyond four or eight years as the case may warrant.

Co-ordination

17. Since the passage of the Ordinance in April 2001, the SWD has taken on the role of a co-ordinator and made active preparation for the implementation of the licensing scheme. Following the establishment of a licensing office, the SWD has carried out field visits to the centres with representatives of the other relevant departments to better understand their concerns and to assist them in their applications. In addition, it has organised a series of seminars on the licensing requirements for centre operators and issued a set of Code of Practice to all centres in December 2001. Furthermore, a one-stop unit has been set up

in the Drug InfoCentre in the Queensway Government Offices to provide all relevant information on the licensing requirements to the centres.

Establishment of an inter-departmental working group

18. Taking into account the views of members and centre representatives, the Administration has agreed to establish an inter-departmental working group to further improve co-ordination in implementing the licensing scheme. The working group will review applications by the centres and provide the latter with the necessary guidance and assistance. Initially the working group can invite representation from interested Members of the Legislative Council, and representatives of the affected centres.

Funding assistance

19. Members note that the Lotteries Fund has already agreed to assist and the Beat Drugs Fund has set up a special funding scheme to provide assistance to those centres which encounter difficulties in seeking support from other funds. A briefing session on the funding scheme has been organised for the centre operators in January 2002. Consideration will be given by the SWD to streamlining the application procedures for the improvement works to be financially supported by different sources of funding.

20. As regards some centres' concern about the costs of hiring authorised persons to carry out inspection and estimates, the Administration has pointed out that under the Beat Drugs Fund, an applicant can elect to have the grant disbursed under the advance payment mode. Under such an arrangement, payment can be made by the Fund to the authorised person direct, provided that the claim and the amount involved have been properly verified.

Members' views

21. Hon James TO Kun-sun is of the view that the commencement of the Ordinance should be deferred until there is a clearer picture regarding the zoning issues. He has indicated that he will move a motion to repeal the Commencement Notice.

22. Dr Hon LO wing-lok is opposed to deferment of the commencement date when only a small number of centres may need to apply for rezoning and the Government has pledged to provide all necessary assistance.

23. Hon Cyd HO Sau-lan, Chairman of the Subcommittee, has urged the Administration to provide the following reassurances to centre operators to address their main concerns -

- (a) there will be no immediate closure of centres save temporary closures in very exceptional circumstances such as heavy rainfall causing danger of landslide;

- (b) centres which need to be relocated will be allowed to continue operation at their existing premises until the new premises are ready; and
- (c) communication with centre operators will be further enhanced to foster mutual trust. To this end, the Administration should consider inviting interested centre operators to join the inter-departmental working group referred to in paragraph 18 above.

The Administration's stance

24. The Administration has explained that unless and until the scheme is formally launched, applications for exemption certificate will not be made by the operators. Until such applications have been received, the Government will not be in a position to carry out an accurate assessment of the situation and to devise appropriate measures to help the centres to solve their specific problems. The Administration has also pointed out that delaying the commencement of the Ordinance by several months will not help change the requirements these centres will need to comply with. Indeed, where there is a need to address town planning and land administration issues, it is very much in the interests of the centre operators to make the applications at the earliest opportunity. With the assistance the Administration is rendering to the centres and the further measures to improve co-ordination and communications as set out in earlier paragraphs, the Administration is of the view that the licensing scheme should commence on 1 April 2002 as planned and agreed by all parties.

Extension of the scrutiny period

25. At the Council meeting on 6 March 2002, the Chairman of the House Committee moved a motion to extend the scrutiny period of the Commencement Notice to the Council meeting on 13 March 2002. The motion was passed by the Council.

Advice sought

26. The Subcommittee invites the House Committee to note its deliberations.

**Subcommittee on Drug Dependent Persons Treatment
and Rehabilitation Centres (Licensing) Ordinance (10 of 2001)
(Commencement) Notice 2002**

Membership List

Chairman

Hon Cyd HO Sau-lan

Members

Dr Hon David CHU Yu-lin, JP

Hon James TO Kun-sun

Hon LAW Chi-kwong, JP

Hon Michael MAK Kwok-fung

Dr Hon LO Wing-lok

(Total : 6 Members)

Clerk

Ms Doris CHAN

Legal Adviser

Mr LEE Yu-sung

Date

4 March 2002

Status	No. of Centres	Remarks
Existing Use Tolerated Under the Town Planning Ordinance	5	No planning action necessary.
Falling Within Area Not Covered by Statutory Plan	8	No planning action necessary
Comply With the Provision of Statutory Plans	17	No planning action necessary
Require S.16 Planning Application	4*	Planning permission application required (time for processing: within 2 months)
Require Amendment to Statutory Plan	4*	Centres fall within “Green Belt” zone. Rezoning application required (time for processing : 9 –12 months)
Total	38	

(* Tentative figures based on latest assessment by Planning Department)