

Panel on Health Services

Subcommittee to monitor the implementation of the recommendations of the SARS Expert Committee and the Hospital Authority Review Panel on the SARS Outbreak

Review of existing legislation for the control of infectious diseases

This SARS Expert Committee Report recommended, among others, a review of the existing legislation for the control of infectious diseases. This paper reports on the progress made.

Background

2. On the whole we had been able to combat SARS with the powers provided in the existing legislation, as tabulated at **Annex**. When we identified areas where we lacked the necessary powers, such as conducting temperature checks at border control points, we had proposed relevant legislative amendments to the Prevention of the Spread of Infectious Disease Regulation (PSIDR) of the Quarantine and Prevention of Disease Ordinance (QPDO) (Cap. 141), which were passed by the Legislative Council in April 2003. There is, of course, room for further improvement. The Administration is therefore undertaking a review on the existing legislation to ensure its adequacy in dealing with threats posed by infectious diseases, having regard to the overall development in the control mechanism for communicable diseases in Hong Kong.

Existing legislation

3. The QPDO and its subsidiary legislation provide the

legislative framework for the notification, surveillance, prevention and control of infectious diseases within Hong Kong. The enactment of this piece of legislation was based on the principles stipulated in the International Health Regulations (IHR), which were adopted by the Fourth World Health Assembly in 1951 to prevent the international spread of designated infectious diseases and requirements for reports and notifications of cases of these diseases.

4. With inclusion of Severe Acute Respiratory Syndrome (SARS) in the First Schedule to the QPDO on 27 March 2003, there are now 28 notifiable diseases subject to, among other things, the following control –

- (a) Medical practitioners to report the disease to the Director of Health;
- (b) Master of an aircraft or a vessel to declare if the disease is found on board;
- (c) Health officers to medically examine persons on board;
- (d) Health officers to remove persons suspected with infection for further management;
- (e) Health officers to order disinfection and disinsection of contaminated areas;
- (f) Health officers to isolate or put contacts under surveillance.

Scope of the review

5. The scope of the current review on legislation pertaining to the control of infectious disease covers the following -

- (a) Examining the adequacy of the legal powers provided under the QPDO in the light of the operational experience in combating SARS and development in international best practices; and
- (b) Ensuring that the legal framework provided by the QPDO is consistent with the development of the overall control mechanism for communicable disease in Hong

Kong, especially the establishment of the Centre for Health Protection (CHP).

Progress made

6. The Administration has the following initial observations in respect of the adequacy of the QPDO taking into account the operational experience in combating the recent SARS epidemic and the changing patterns of international trade and people movement.

Application of the Ordinance

7. To prevent import and export of infectious diseases, certain terms contained in the QPDO need to be better defined so as to include all passengers traveling through air, sea or land control points. For that matter, “port” should cover also control points apart from sea-ports, river-ports and airports. Furthermore, all types of conveyances, not limiting to vessels, should be included for the purpose of preventing spread of infectious diseases.

Disinfection and cleansing

8. The existing powers provided under regulation 19 of PSIDR for a health officer to require disinfection of the buildings should be extended to cover vessels, aircrafts, vehicles and conveyances. For exigency, provision should be made for disinfection and cleansing to be carried out by persons authorized by a health officer.

Removal, treatment and detention of sick persons, contacts and carriers

9. In addition to sick persons, contacts or carriers of an infectious disease, regulations 10 to 12 of the PSIDR should be extended to cover persons whom a health officer or medical practitioner suspects to be sick. These persons may be removed/treated/detained in an infectious disease hospital or such other place, including a vessel or conveyance, as the health officer may appoint. Where persons fail to cooperate, police assistance could be sought to break into the premises to effect removal actions.

Home confinement

10. As shown in the fight against SARS, home confinement of close contacts was an effective and practical measure to cut off the path by which the virus spreads in the community. For clarity, relevant powers for implementing home confinement of close contacts should be spelt out in the PSIDR.

Review of the Penalties

11. To strengthen the deterrence effect, the penalties for non-compliance with reporting of infectious diseases, handling of sick persons, contacts and carriers, exposure or transport of sick persons, and disposal of infected bodies and objects as stipulated under regulations 7 and 29 of PSIDR should be increased.

Way Forward

12. Internationally, the World Health Organization is undertaking a review of the IHR to provide a stronger legal framework for global surveillance and reporting of infectious diseases and a mechanism by which measures to prevent international spread can be enforced. The Administration will closely follow developments in the international arena to keep abreast with international policy and practices.

13. Locally, active planning is underway to establish the CHP to strengthen our capacity in dealing with communicable diseases. As recommended by the SARS Expert Committee, the new CHP, backed by appropriate statutory powers, will have the responsibility, authority and accountability for the prevention and control of communicable diseases. For the CHP to effectively discharge its functions, which include, amongst others, public health surveillance and investigative capacity in communicable diseases and environmental epidemiology, we envisage that statutory powers of the Director of Health as now provided by the QPDO will eventually rest with the Head of the CHP.

14. Meanwhile, we shall continue with the review of the QPDO

to identify areas for early action and take forward the necessary legislative amendment exercise. However, as the IHR revision exercise will take up to 2005 to complete, a comprehensive revamp of the QPDO will not be possible in the short term.

15. Members are invited to note the contents of this paper.

Health, Welfare and Food Bureau
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The legal backing for public health measures implemented to combat SARS is provided by existing provisions or the making of amendment regulations (marked with asterisk**) as set out below -

<u>Public health measure</u>	<u>Relevant legal backing</u>
Adding SARS to the list of infectious diseases specified in the First Schedule to the Quarantine and Prevention of Disease Ordinance (Cap. 141) so that the principal ordinance and its subsidiary legislation can apply to this disease	The Quarantine and Prevention of Disease Ordinance (Amendment of First Schedule) Order 2003 made by the Director of Health (D of H) on 27 March 2003 provides the necessary legal power**
Medical practitioners to notify D of H of SARS cases in accordance with Regulation 4 of the Prevention of the Spread of Infectious Diseases Regulation (Cap. 141B)	The Prevention of the Spread of Infectious Diseases Regulations (Amendment of Form) Order 2003 made by D of H on 27 March 2003 provides the necessary legal power**
Close contacts of confirmed SARS patients to attend designated medical centres for medical surveillance on a daily basis	Regulation 9 of Cap. 141B
Household contacts of confirmed and suspected SARS patients may be removed to hospitals or such other place as a health officer may appoint e.g. holiday camps, or directed to stay at home	Regulations 10, 11 and 12 of Cap. 141B
Persons arriving in Hong Kong to complete health declaration at boundary crossings	Sections 22, 31 and 34 of the principal ordinance provide statutory powers to require persons arriving in Hong Kong by vessel and aircraft to

<u>Public health measure</u>	<u>Relevant legal backing</u>
	provide information on their health as required by a health officer; those arriving by land transport are dealt with administratively
Empowering authorized persons to take the body temperature of persons arriving in or leaving Hong Kong (including transit passengers)	Regulation 27C(1) of Cap. 141B as introduced through the making of the Prevention of the Spread of Infectious Diseases (Amendment) Regulation 2003 by the Chief Executive in Council on 15 April 2003**
Empowering health officers or authorized medical practitioners to carry out medical examination on persons arriving in or leaving Hong Kong (including transit passengers) for the purpose of ascertaining whether the persons concerned are likely to be infected with SARS	Regulation 27C(2) of Cap. 141B as introduced through the making of the Prevention of the Spread of Infectious Diseases (Amendment) Regulation 2003 by the Chief Executive in Council on 15 April 2003**
Empowering health officers to prohibit persons believed or suspected to be suffering from SARS, have been exposed to the risk of infection of SARS by contact with a person suffering from that disease or a carrier of SARS from leaving Hong Kong (e.g. barring close contacts of confirmed SARS patients from leaving Hong Kong during their confinement period)	Regulation 27A of Cap. 141B as introduced through the making of the Prevention of the Spread of Infectious Diseases (Amendment) Regulation 2003 by the Chief Executive in Council on 15 April 2003**
Isolating Block E of Amoy Gardens from 31 March 2003 to 9 April 2003	Isolation Order issued by D of H under Regulation 24 of Cap. 141B
Removing residents of Block E of Amoy Gardens to holiday camps	Removal Order issued by D of H under Regulations 10 and 12 of Cap.

<u>Public health measure</u>	<u>Relevant legal backing</u>
for temporary accommodation	141B
Disinfection of Block E of Amoy Gardens	Disinfection Order issued by a health officer with the approval of D of H under Regulation 19 of Cap. 141B
Disposal of the dead bodies of deceased SARS patients	Regulation 17 of Cap. 141B