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HAZARDOUS CHEMICALS CONTROL BILL

COMMITTEE STAGE

Amendments to be moved by the Secretary for the Environment

<u>Clause</u>	<u>Amendment Proposed</u>
1(2)	By deleting "Secretary for the Environment, Transport and Works" and substituting "Secretary for the Environment".
2	(a) By renumbering the clause as clause 2(1). (b) In subclause (1) - <ul style="list-style-type: none">(i) in the definition of "Director", by deleting "or any Deputy Director of Environmental Protection";(ii) by deleting the definitions of "duplicate permit", "function", "manufacture" and "notice of suspension";(iii) in the definition of "Secretary", by deleting "Secretary for the Environment, Transport and Works" and substituting "Secretary for

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the Environment”;

- (iv) in the Chinese text, in the definition of “獲授權人員”, by deleting the semicolon and substituting a full stop.

2 By adding -

“(2) In this Ordinance, unless the context otherwise requires, a reference to manufacture, in relation to a scheduled chemical, includes causing the chemical to be manufactured.

(3) For the avoidance of doubt, a scheduled chemical is not regarded as having been manufactured if it is produced incidentally in the course of the manufacture of any other thing.”.

4(1) By deleting “subsection (2)” and substituting “this section”.

4 By adding -

“(1A) Neither the Government nor any public officer in the officer’s capacity as such is liable to be prosecuted for an

offence against this Ordinance.”.

10(3) By deleting everything after “regard to” and substituting “other enactments that govern the activity to which the application relates.”.

10 By deleting subclause (4) and substituting -

“(4) The Director may not issue or renew a permit authorizing the manufacture of any Type 1 chemical unless the chemical is only for -

- (a) use for laboratory-scale research purpose;
- (b) use as a reference standard for chemical analysis; or
- (c) use for laboratory-scale research purpose and as a reference standard for chemical analysis.”.

11(2) By deleting everything after “regard to” and substituting “other enactments that govern the activity authorized under the permit.”.

11 By deleting subclause (3).

- 13(2) By deleting everything after "regard to" and substituting "other enactments that govern the activity authorized under the permit."
- 13 By deleting subclause (3).
- 16(2) By deleting "as soon as practicable" and substituting "not later than 10 working days".
- 19(1) (a) In paragraph (b), by adding "or" after the semicolon.
(b) In paragraph (c), by deleting "; or" and substituting a full stop.
(c) By deleting paragraph (d).
- 21(1) By deleting "As soon as practicable" and substituting "Not later than 10 working days".
- 22(2) By deleting everything after "regard to" and substituting "other enactments that govern the disposal of the chemical concerned."
- 22 By deleting subclause (3).

- 23(2) By deleting everything after "regard to" and substituting "other enactments that govern the disposal of the chemical concerned."
- 23 By deleting subclause (3).
- 27(1) (a) In paragraph (b), by adding "or" after the semicolon.
(b) In paragraph (c), by deleting "; or" and substituting a full stop.
(c) By deleting paragraph (d).
- 28 By adding -
 "(3) In subsection (1), "notice of suspension" (暫時吊銷通知) means a notice referred to in section 27."
- 29(1) By deleting "As soon as practicable" and substituting "Not later than 10 working days".
- 31(3)(a) By deleting "as soon as practicable" and
and
(4)(a) substituting "not later than 10 working days".
- 31(4)(c) In the Chinese text, by adding "以" before "內".
(ii)(A)

41 By deleting the clause and substituting -

"41. Liability of employers

(1) Any act done or omission made by a person in the course of his employment (the "employee") is treated for the purposes of this Ordinance as done or made by his employer, as well as by him.

(2) In any proceedings for an offence under this Ordinance brought against an employer in respect of an act or omission of his employee, the employer is liable to be convicted of and be punished for that offence unless he establishes the defence described in subsection (3).

(3) Where any proceedings are brought against an employer by virtue of this section, it is a defence for the employer to prove that -

- (a) the act was done or the omission was made without his knowledge or consent; and
- (b) he exercised all reasonable diligence to prevent the employee from doing the act or making the omission, or

doing an act or making an omission of that description, in the course of his employment.”.

44(a)(i) By adding “addressed to the Director and” before “delivered”.

44(b)(i) By deleting “delivered to the individual” and substituting “addressed to the individual and delivered to him”.

44(c)(i) (a) By adding “addressed to the body corporation,” before “delivered”.

(b) In the English text, by deleting “giving it” and substituting “given”.

47 By deleting subclauses (3) and (4).

48(2) In the Chinese text, by deleting everything after “任何職能” and substituting “以書面轉授予任何公職人員，但本款及第38條委予的職能除外。”.

48 By adding -

"(3) In this section, "functions" (職能) includes powers and duties."

50 By deleting the clause and substituting -

"50. Power of Secretary to amend Schedules

(1) The Secretary may by order published in the Gazette -

- (a) add any Convention-regulated chemical, including its CAS registry number or other description, to Part 1 of Schedule 1 or 2;
- (b) remove any specified chemical, including its CAS registry number or other description, from Part 1 of Schedule 1 or 2;
- (c) make any amendment to Part 2 of Schedule 1 or 2 that only relates to a Convention-regulated chemical or the removal of a specified chemical; and
- (d) make any amendment to Schedule 1 or 2 that is

consequential, incidental or related to the addition, removal or amendment made under paragraph (a), (b) or (c).

(2) Subject to subsection (3), the Secretary may by order published in the Gazette make any other amendment to Schedule 1 or 2.

(3) An order made under subsection (2) is subject to the approval of the Legislative Council.

(4) An order made under subsection (2) may, where the Secretary considers desirable, include any matters that may be included in an order made under subsection (1).

(5) For the purposes of subsection (1) -

(a) a chemical is a Convention-regulated chemical if the chemical is subject to the regulation of the Rotterdam Convention or the Stockholm Convention on the relevant

day; and

(b) a chemical is a specified chemical if, at some time before the relevant day, the chemical has been subject to the regulation of the Rotterdam Convention or the Stockholm Convention but is no longer subject to such regulation on that day.

(6) In subsection (5), "relevant day" (有關日期) means the day on which the Secretary makes the order under subsection (1)(a) or (b) in respect of the chemical concerned."

New By adding -

"50A. Protection of public officers

(1) A public officer is not personally liable for any civil liability or claim whatever in respect of any act done or omitted to be done by the officer if the officer did or omitted to do the act in the honest belief that the act or omission was required or authorized by or under this

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Ordinance.

(2) The protection conferred by subsection (1) does not in any way affect the liability of the Government for the act or omission of the public officer."

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