

**For information
on 18 April 2008**

**Bills Committee on the
Prevention and Control of Disease Bill**

General framework of the Public Health Emergency Regulation

This paper provides a general framework of the Public Health Emergency (PHE) Regulation that may be made by the Chief Executive in Council (CE in Council) under clause 8 of the Prevention and Control of Disease Bill (the Bill) where there is a public health emergency.

Making and repealing of the PHE Regulation

2. Under clause 8 of the Bill, on any occasion which the CE in Council considers to be an occasion of a public health emergency, he may make regulations for the purposes of preventing, combating or alleviating the effects of the public health emergency and protecting public health. Without limiting the generality of these purposes, clause 8(2) provides for matters for which the PHE Regulation may provide.

3. The CE in Council may make a declaration of public health emergency at the same time when the PHE Regulation is made, and the public health emergency situation may be reviewed or caused to be reviewed by the CE in Council from time to time.

4. The PHE Regulation will be repealed when the state of public health emergency for which the Regulation was made has ceased.

Framework of the PHE Regulation

5. Depending on the circumstances of a particular public health emergency, the PHE Regulation may provide for the following:

Access to information

A health officer may require any person to give him access to any information possessed or controlled by the person that is relevant to the handling of a state of public health emergency.

Disclosure of information

The Secretary for Food and Health, or a public officer authorized by him, may disclose any information relating to the public health emergency if he considers it necessary for the protection of public health.

Power to requisition property

- (a) For the purpose of handling a public health emergency, the Director of Health (the Director) or any officer authorized by him may –
 - (i) requisition any property (to be listed in a Schedule);
 - (ii) give such direction and take such steps as to be necessary to secure effective use or possession of the requisitioned property; and
 - (iii) use and deal with the property as if he were the owner of the property.
- (b) The Director is obliged to notify the person from whom the property was requisitioned as soon as practicable after the use of it has ceased.
- (c) As far as possible, requisitioned property will be returned to the owner or the person from whom it was requisitioned.

Compensation for requisitioned property

- (a) Any person who sustains loss or damage in consequence of or arising out of the exercise of requisition power, or is entitled to the use of or rent from any requisitioned property, is entitled to recover such compensation as is just and equitable in the circumstances.
- (b) Any compensation claim should be made in writing to the Director

within three months after the Director has notified the person that the use of the property has ceased. The Director may extend the period for making claims.

- (c) Upon receipt of the compensation claim, the Director will assess the amount of compensation and notify the claimant of the amount as soon as practicable.
- (d) The amount will be paid to the claimant if he agrees in writing that he accepts the amount as a full settlement of his claim.
- (e) Any dispute as to whether compensation is payable or the amount of compensation, may, in default of agreement, be resolved or determined by arbitration in accordance with the Arbitration Ordinance (Cap 341).

Appointment of medical and health professional

- (a) The Director may appoint an unregistered person to act as a medical and health professional, subject to any condition or duty that the Director may specify.
- (b) The Director may only appoint an unregistered person whom the Director considers suitable to act as a medical and health professional by virtue of his qualifications.
- (c) An unregistered person appointed by the Director to act as a medical and health professional is deemed to be registered under the relevant Ordinance (e.g. a person appointed by the Director to act as a medical practitioner is deemed to be registered under the Medical Registration Ordinance (Cap 161)).
- (d) The Director may specify the period of the appointment and terminate the appointment at any time.
- (e) The appointed person will cease to be deemed to be registered if he fails to comply with any of the conditions or duties specified by the Director.

6. We must emphasize that the above is only a general framework of the PHE Regulation. The actual provisions will be made having regard to the particular circumstances of the state of public health emergency. We will brief the Legislative Council after the PHE Regulation has been made, and provide the Legislative Council with updates on its implementation until it is repealed by the CE in Council.

Food and Health Bureau
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