

**For information
on 5 May 2008**

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

Response to outstanding issues

At the meeting on 22 April 2008, the Administration has undertaken to provide written response on the following outstanding issues regarding the Bill and the draft provisions of the Prevention and Control of Disease Regulation (draft Regulation):

- (a) review the proposed mechanism for resolving disputes over compensation claims under clause 12 of the Bill and the Public Health Emergency Regulation, taking into account the views of the Hong Kong Bar Association and the Law Society of Hong Kong;
- (b) consider the appropriateness to confer the power of arrest on public officers or persons other than police officers under clauses 5 and 6 of the Bill;
- (c) consider the need of replacing the words “走進” in the Chinese text of clause J4(1) of the draft Regulation with more appropriate ones;
- (d) provide a comparison of the fees contained in Schedule 1 to the draft Regulation and in the existing Quarantine and Prevention of Disease (Scale of Charges) Regulations (Cap. 141 sub. leg. D); and
- (e) review the existing procedures in the labelling of infected dead bodies to see if any areas should be improved to avoid errors.

Dispute resolution mechanism for compensation claims

2. Please refer to a separate paper on this subject prepared for this meeting.

Power of arrest under clauses 5 and 6 of the Bill

3. In LC Paper No. CB(2)1654/07-08(02), we have set out the justifications for giving the power of arrest to public officers and persons other than police officers, e.g. health officers, staff of hospitals, members of the Auxiliary Medical Service (AMS) and Civil Aid Service (CAS) under the Bill. The main reason is to ensure that a person who has committed or is committing an offence that may pose public health risk, e.g. escaping from the place where he is being isolated, removing an infected article that is placed under isolation, etc. can be arrested by a health officer or an appropriate person when there is no police officer at the scene to ensure effective prevention and control of infectious diseases.

4. Whilst agreeing to the need for empowering a wider scope of public officers and persons in addition to health officers and police officers with arrest power under clauses 5(2) and 6(1), Members are concerned about conferring the power of arrest to non-public officers and non-uniformed persons. Having critically review the roles of all the public officers and persons mentioned above in enforcing the Bill and the draft Regulation, and the actions that are absolutely required to be taken by them to prevent and control the spread of disease, we propose to amend clauses 5(2) and 6(1) to provide for the power of arrest of health officers, police officers, public officers appointed under the Ordinance (e.g. Immigration Officer), and members of AMS and CAS only. Under our new proposal –

- (a) Clause 5(1) will provide that a health officer or a police officer may arrest a person who has committed or is committing an offence under the Ordinance;
- (b) Clause 5(2) will be amended to provide that a health officer, a police officer, an appointed public officer, or a member of AMS

or CAS may arrest a person who obstructs, or assists in obstructing, the exercise of power under the Ordinance;

- (c) Clause 6(1) will be amended to provide that an appointed public officer, a police officer, or a member of AMS or CAS may arrest a person who escapes from a place where he is detained and convey him to the place from which he escaped or any other place authorized by a health officer; and
- (d) Hospital staff will be given the power to stop and detain a person who is committing or have committed an offence in relation to isolation or quarantine in the draft Regulation.

5. Persons who only have the power to stop and detain will seek the assistance of the Police where necessary. The Department of Health (DH) will work with the Hospital Authority (HA) to prepare operational guidelines on the exercise of the power by hospital staff.

6. Our proposal should be able to address Members' concern about conferring the power of arrest to non-public officers and non-uniformed persons, and at the same time ensure that measures for prevention and control of disease can be effectively implemented.

Chinese text of clause J4(1) of the draft Regulation

7. We will replace the words “走進” by “進入” in the Chinese text of clause J4(1) of the draft Regulation.

Comparison of existing and new fees for issue of certificates and administration of vaccination or prophylaxis

8. Currently, the Quarantine and Prevention of Disease (Scale of Charges) Regulations (Cap 141 sub. leg. D) provide for the fees for issuing deratting certificate (DC) and deratting exemption certificate (DEC). The International Health Regulations (IHR) (2005) of the World Health Organization replaces these two certificates with the Ship Sanitation Control Certificate (SSCC) and the Ship Sanitation Control

Exemption Certificate (SSCEC) respectively. Schedule 1 of the draft Regulation provides for the fees for issuing the two new certificates under clauses I3 and I4 of the draft Regulation.

9. A table comparing the existing and new fees is given below:

Existing fee	New fees for issue of SSCC/SSCEC	
For issue of DC: \$11,620 For issue of DEC: \$2,130	Vessels below 1 001 net tonnage	\$2,030
	Vessels between 1 001 and 10 000 net tonnage	\$2,850
	Vessels above 10 000 net tonnage	\$3,940

10. Before issuing a SSCC or SSCEC, health inspection of the vessel is required. As compared with the scope of DC and DEC, which only concerns rodent infestation, the scope of SSCC and SSCEC is much broader, covering the overall sanitation and medical facilities of cross-boundary vessels. The resources needed to perform a thorough inspection depend mainly on the vessel size. Therefore, instead of charging a uniform fee for all vessels regardless of the size as in the case of DC and DEC, we propose to charge different levels of fee for the issue of SSCC and SSCEC based on vessel size.

11. Furthermore, unlike the case of DC and DEC, we propose to charge the same fee for issuing a SSCC and a SSCEC for the same vessel size. The fee for issuing a DC is much higher than a DEC because the former includes the cost of the Government to perform deratting for the vessel. However, for issuing a SSCC under the draft Regulation, the operator of the vessel is required to carry out the necessary disease control measures. Only when the operator is unable to do so will the Government carry out the control measures for the operator. The Government will then recover the cost from the operator under clause G4 of the draft Regulation. The fees for issuing SSCC and SSCEC only cover the cost of health inspection, which are the same in both cases.

12. Schedule 1 to the draft Regulation will also prescribe the fee for the administration and certification of vaccination or prophylaxis against

yellow fever¹. The Director of Health has published a general notice in the Gazette of 16 June 2006 that, with effect from 1 July 2006, the fee for official certificate for vaccination against yellow fever for international travel is \$200. We do not propose to change the fee in the new legislative regime.

Labelling of infected dead bodies

13. “Precautions for Handling and Disposal of Dead Bodies” jointly issued by DH, HA and the Food and Environmental Hygiene Department (FEHD) provides guidelines on handling and disposal of infected dead bodies. According to the guideline, tags with labels of different colours are attached to the dead body to identify the precautions that have to be taken in its handling based on the risk category of the disease with which the dead body is infected:

Colour of label	Recommended precautions
Blue (Category 1)	Standard precautions
Yellow (Category 2)	Additional precautions
Red (Category 3)	Stringent infection precautions

14. Depending on the risk category, the label will show the level of precautions that have to be taken, and additional precautions with respect to bagging, viewing in funeral parlour, embalming, and hygienic preparation in funeral parlour.

15. DH will review the above guideline and the procedures for handling dead bodies from time to time in collaboration with HA and FEHD to minimize the risk of infection and human error during the process.

Food and Health Bureau May 2008

¹ IHR (2005) specifically designates yellow fever as a disease for which proof of vaccination or prophylaxis may be required for travellers as a condition of entry to a State Party. Accordingly, the Director of Health will designate yellow fever as a designated disease under clause D2(1) of the draft Regulation and the draft Regulation will provide for the fee for administering vaccination or prophylaxis against the disease.