

By circulation

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

Proposed amendments to clause 12 of the Bill

At the meeting on 5 May 2008, the Administration informed Members that we were consulting the Hong Kong Bar Association and the Law Society of Hong Kong on the proposal to amend clause 12(2) of the Bill and insert new sub-sections (3) and (4) as follows:

(2) Any dispute arising from an order of the Director under subsection (1) on the question whether compensation is payable or the amount of compensation shall, in the absence of agreement, be resolved or determined according to this section.

(3) The dispute shall be resolved or determined by arbitration under the Arbitration Ordinance (Cap. 341) if the party disputing the Director's order ("the claimant"), within 3 months after the Director makes the order, serves a notice on the Director notifying the Director that the dispute will be referred to arbitration and proceeds to arbitration in accordance with the Arbitration Ordinance.

(4) The claimant may, within 3 months after the Director makes the order, instead of proceeding under subsection (3), institute civil proceedings for the determination of the dispute.

We have also consulted Members on the above draft provisions at the meeting.

2. Members and the two professional bodies suggested that the proposed three months' period within which the claimant had to indicate his preferred mode of dispute resolution should be lengthened. In addition, the Legal Adviser of the Bills Committee suggested that the order made by the Director should be made in writing.

3. Taking into account the above comments, we propose further amending the provisions in paragraph 1 above. The whole clause 12 of the Bill after the proposed amendments will appear as follows:

12. Compensation

(1) Where any article is damaged, destroyed, seized, surrendered or is submitted to any person pursuant to this Ordinance, the Director may order the payment of such compensation as is just and equitable in the circumstances.

(2) The Director shall serve an order made under subsection (1) on the person in respect of whom it is made, either personally or by post, within 7 days after the order is made.

(3) Any dispute arising from an order made under subsection (1) on the question whether compensation is payable or the amount of compensation shall, in the absence of agreement, be resolved or determined according to this section.

(4) The dispute shall be resolved or determined by arbitration under the Arbitration Ordinance (Cap. 341) if the party disputing the Director's order ("the claimant"), within 6 months after the Director makes the order, serves a notice on the Director notifying the Director that the dispute will be referred to arbitration and proceeds to arbitration in accordance with the Arbitration Ordinance (Cap. 341).

(5) Instead of proceeding to arbitration in accordance with the Arbitration Ordinance (Cap. 341) pursuant to subsection (4), the claimant may, within 6 months after the Director makes the order, institute civil proceedings for the determination of the dispute.

(6) Subsection (1) does not apply to cases for which compensation is provided for by regulations made under section 8.

4. We will provide for a similar mechanism for resolving compensation dispute with respect to requisition of properties in the Public Health Emergency Regulation.

Food and Health Bureau
May 2008