



HONG KONG BAR ASSOCIATION

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22nd January 2009

Ms. Alice Leung,
Clerk to the Bills Committee on the Public Health
and Municipal Services (Amendment) Bill 2008,
Legislative Council,
Legislative Council Building,
8 Jackson Road, Central,
Hong Kong.

Dear Ms. Leung,

Re: Bills Committee on Public Health and Municipal Services (Amendment) Bill 2008:
Meeting on 5 February 2009

I refer to your letter dated 14 January 2009 inviting the Hong Kong Bar Association to attend the meeting of the Bills Committee on 5 February 2009 to give views on the proposed Draft Code of Practice on Section 78B orders under Part VA of the Public Health and Municipal Services Ordinance (Cap 132).

The Bar Council has considered the invitation and the draft Code of Practice (COP) in a meeting on 22 January 2009 and resolved that no representative of the Hong Kong Bar Association will attend the meeting of the Bills Committee on 5 February and that the Hong Kong Bar Association has the following comments on the draft COP:

- Paragraphs 2.3 and 2.4: Given that the Amendment Bill seeks to empower the Director of Food and Environmental Hygiene (the Director) to make an order that is capable of being binding on all persons, it is necessary to point this matter out at the forefront, even though the COP might be intended primarily for the information and benefit of the food industry.

香港大律師公會

香港金鐘道三十八號高等法院低層二樓

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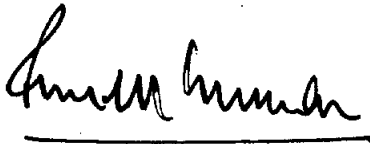
Mr. Robin Egerton 艾家敦

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- Paragraphs 5.3, 6.7 and 6.8: While the Administration might be referring to the typical situation of a recall order where the food industry usually takes the necessary action in these paragraphs, it is not difficult to imagine a situation where the final consumer has the primary responsibility to take the necessary action, such as a case where the foodstuff concerned carries the agent of a contagious disease. The Administration may wish to set out in the COP its contingency plan for handling such a situation for the information of the general public.
- Paragraph 8.2: The Hong Kong Bar Association has made submissions in relation to the compensation scheme under the Amendment Bill. These submissions are maintained.

I trust that these comments will assist the Bills Committee in its deliberations.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Russell Coleman', written over a horizontal line.

Russell Coleman SC
Chairman