

**Bills Committee on
the Public Health and Municipal Services (Amendment) Bill 2008**

Effective Time of a Section 78B Order

Purpose

At the meeting of the Bills Committee on 25 February 2009, Members discussed the effective time of a section 78B order which is addressed to a class of persons or all persons, as stipulated under section 78C(6). This paper sets out the Administration's response.

Effective Time of Section 78B Order Published by Gazette

2. Section 78C(6) provides that a section 78B order addressed as referred to in section 78C(1)(b) or (c) takes effect at the beginning of the day on which it is published in the Gazette. Members raised concern that persons subject to the section 78B order might unknowingly contravene the order if the start time of the period of a prohibition/action specified in the order fell on the same day on which the order was published in the Gazette.

3. The following options were discussed at the Bills Committee meeting –

(a) 00:00 option

To provide that the section 78B order would take effect at the beginning of the day (i.e. 00:00) on which it is published in the Gazette.

(b) 12:00 noon option

To provide that the section 78B order will take effect at 12 noon on the day on which it is published in the Gazette.

(c) Leave-it-blank option

To provide that the section 78B order will take effect at the time specified in the order. It means that the effective time of each section 78 order will vary.

Under all the options, the Director of Food and Environmental Hygiene (DFEH) would stipulate in the section 78B order (as required under section 78B(3)(e)),

the actual period for the prohibition/action required (e.g. food recall), including the start time for the prohibition/action required.

4. Having noted Members' view, we have worked out a draft Committee Stage Amendment (CSA) along option (c) in paragraph 3 above for Members' consideration.

“A section 78B order addressed as referred to in subsection (1)(b) or (c) takes effect at the time specified in it. ~~the beginning of the day on which it is published under subsection (3).~~”

“如第(1)(b)或(c)款所提述般致予某類別人士或所有人的第78B條命令，
於該命令根據第(3)款刊登當日開始之時所指明的時間生效。”

5. We note some Members' concern that sufficient time should be allowed for the traders to take action in accordance with the section 78B order. In this regard, Members might wish to note that in practice, there would always be a time lag between preparation of the Gazette and actual publication. Public announcements through the media and electronic means will be made immediately to notify the public and the trade of the section 78B order once a decision has been made by DFEH to make the order. Hence, there should be sufficient time for the traders to take action before the section 78B order is formally published in the Gazette. We will also work with the Government Printer to publish the Gazette by uploading it onto the Government's website of Gazette notice¹ at the earliest possible time.

Advice Sought

6. Members are invited to note the above.

Food and Health Bureau
March 2009

¹ www.gld.gov.hk/egazette/