



中華人民共和國香港特別行政區政府總部食物及衛生局
Food and Health Bureau, Government Secretariat
The Government of the Hong Kong Special Administrative Region
The People's Republic of China

本函檔號 Our ref.:
來函檔號 Your ref.: LS/S/25/07-08

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31 March 2009

Mr Stephen Lam
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Legislative Council Secretariat
Legislative Council Building
8 Jackson Road
Hong Kong
(Fax : 2877 5029)

Dear Mr Lam,

Public Health and Municipal Services (Amendment) Bill 2008

Thank you for your letter of 30 March 2009.

We do not consider that express provisions should be added to sections 78G and 78H of the Amendment Bill to the effect that notwithstanding the decision of the Municipal Services Appeals Board (MSAB), the court may still determine the same issue under section 78H; and that notwithstanding the decision of the court, the MSAB may still proceed to determine the same issue under section 78G (and under the MSAB Ordinance (Cap 220)).

We do not think that it is necessary to include such a provision as suggested as the MSAB is not empowered to determine the issue of compensation under the new section 78G and neither is the court legally bound by the decision of the MSAB in determining the issue of compensation under section 78H. Order 35 rule 3 of the Rules of the District Court (Cap 336H)

provides that the judge may, if he thinks it expedient in the interest of justice, adjourn a trial for such time, and to such place, and upon such terms, if any, as he thinks fit. Section 26 of the Small Claims Tribunal Ordinance (Cap 338) also provides that the tribunal may at any time, either of its own motion or on the application of any party, adjourn the hearing of proceedings on a claim on such terms as it thinks fit. Such power of adjournment of court/tribunal proceedings may be exercised judiciously on good grounds. We would prefer to leave such flexibility to the court under the existing legal provisions. We are not aware of any legal provision in our laws which have similar effect to the provision suggested by you. Sections 78G and 78H as presently drafted are legally in order.

Yours sincerely,

A handwritten signature in black ink, appearing to be 'Angelina Cheung', written in a cursive style.

(Mrs Angelina Cheung)
for Secretary for Food and Health