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From : Clerk to the Legislative Council

To : All Members of the Legislative Council

Council meeting of 15 June 2011

Residential Care Homes (Persons with Disabilities) Bill

Committee stage amendments

The Second Reading debate on the above Bill will be resumed on 15 June 2011. Subject to the Bill receiving a Second Reading, the President has given permission for the Secretary for Labour and Welfare to move amendments to the Bill at its Committee stage.

2. As directed by the President, the amendments are attached for Members' consideration.

(Ms Doris LO)
for Clerk to the Legislative Council

Encl.

RESIDENTIAL CARE HOMES (PERSONS WITH DISABILITIES) BILL

COMMITTEE STAGE

Amendments to be moved by the Secretary for Labour and Welfare

<u>Clause</u>	<u>Amendment Proposed</u>
2	In the definition of “person with disabilities” and “PWD”, by deleting paragraph (c).
8(6)	In the Chinese text, by deleting “決定” and substituting “定奪”.
8	By adding – “ (9) If a decision to refuse to renew a licence under subsection (3)(b) is appealed against under section 14(d) and the licence would, but for this subsection, expire before the determination of the appeal, the licence remains in force until the appeal is disposed of, withdrawn or abandoned unless – (a) it would, in the opinion of the Director, be contrary to the public interest for the licence to remain in force; and (b) the order on the decision contains a statement to that effect.”.

9 By adding –

“(1A) A decision under subsection (1) that is appealed against under section 14(e) is suspended in its operation as from the day on which the appeal is made until the appeal is disposed of, withdrawn or abandoned unless –

- (a) the suspension would, in the opinion of the Director, be contrary to the public interest; and
- (b) the order on the decision contains a statement to that effect.”.

12(5) In the Chinese text, by deleting “決定” and substituting “定奪”.

16(2) (a) In paragraph (a), by adding “(*suspected premises*)” before the semicolon.

(b) In paragraph (b), by deleting “a residential care home for PWDs” and substituting “the residential care home or suspected premises”.

(c) By deleting paragraph (b)(i) and substituting –

“(i) produce any book, document or other article relating to the operation or management of the residential care home or suspected premises, or to any other activity in respect of the residential care home or suspected

premises; or”.

(d) By deleting paragraph (c) and substituting –

“(c) remove for further examination from the residential care home or suspected premises any book, document or other article which the specified person has reason to suspect is evidence of the commission of an offence against this Ordinance;”.

(e) By adding –

“(ca) remove for further examination from the residential care home any book, document or other article which the specified person has reason to suspect is evidence of a ground for the cancellation of the licence issued in respect of it; and”.

(f) In paragraph (d)(i), by deleting “a residential care home for PWDs” and substituting “the residential care home”.

(g) In paragraph (d)(ii), by deleting “a residential care home for PWDs” and substituting “the residential care home”.

17 In the heading, by adding “**liability for**” before “**certain acts**”.

17(1) By adding “any civil liability in respect of” after “liable for”.

17(2) In the Chinese text, by deleting “為有關” and substituting

“就有關”。

19(2) By deleting paragraph (b) and substituting –

“(b) takes effect at the following time –

- (i) if it is delivered personally to the person to whom it is to be sent, when it is so delivered;
- (ii) if it is sent by registered post to the last known address of the person, when it would in the ordinary course of post be delivered to that address; or
- (iii) if it is posted in a conspicuous place inside or outside the premises to which it relates, when it is so posted.”.

19 By deleting subclause (3).

20(3) By adding “any civil liability in respect of” after “liable for”.

20(5) In the Chinese text, by deleting “為有關” and substituting “就有關”。

34 By adding –

“(3) Section 4 is amended by adding –

“(3) A person to whom this subsection applies is not personally liable for any civil liability in respect of anything done or omitted to be done by the person in good faith in the exercise of a function or purported exercise of a function under this Ordinance.

(4) Subsection (3) applies to –

- (a) the Director;
- (b) any Deputy Director of Social Welfare; and
- (c) any public officer authorized under subsection (2).

(5) The protection conferred by subsection (3) does not affect any liability of the Government for the act or omission.”.”.

39(4) By adding –

“(1A) A decision under subsection (1) (other than a decision to refuse to renew a licence) that is appealed against under section 12 is suspended in its operation as from the day on which the appeal is made until the appeal is disposed of,

withdrawn or abandoned unless –

- (a) the suspension would, in the opinion of the Director, be contrary to the public interest; and
- (b) the order on the decision contains a statement to that effect.

(1B) If a decision to refuse to renew a licence under subsection (1) is appealed against under section 12 and the licence would, but for this subsection, expire before the determination of the appeal, the licence remains in force until the appeal is disposed of, withdrawn or abandoned unless –

- (a) it would, in the opinion of the Director, be contrary to the public interest for the licence to remain in force; and
- (b) the order on the decision contains a statement to that effect.”.

New By adding –

“41A. Section 18 substituted

Section 18 is repealed and the following substituted –

“18. Inspection of residential care homes

- (1) In this section, “specified person” (指明人士) means –

- (a) the Director;

- (b) an officer of the Fire Services Department; or
- (c) an inspector.

(2) If a specified person produces, if so required, proof of identity as the specified person, and the specified person's identity card issued under the Registration of Persons Ordinance (Cap. 177), the specified person may –

- (a) at all reasonable times enter and inspect any residential care home or any premises which the specified person has reason to suspect are used as or for the purposes of a residential care home (*suspected premises*);
- (b) require any person taking part in the operation or management of the residential care home or suspected premises to –
 - (i) produce any book, document or other article relating to the operation or management of the

residential care home or suspected premises, or to any other activity in respect of the residential care home or suspected premises; or

(ii) give any information relating to the operation, management or activity mentioned in subparagraph (i);

(c) remove for further examination from the residential care home or suspected premises any book, document or other article which the specified person has reason to suspect is evidence of the commission of an offence against this Ordinance;

(d) remove for further examination from the residential care home any book, document or other article which the specified person

has reason to suspect is evidence of a ground for the cancellation of the licence issued in respect of it; and

(e) do any other things that are necessary for –

(i) the inspection of the residential care home; or

(ii) the inspection or testing of any equipment, works or system used for or in connection with the operation, keeping, management or other control of the residential care home.”.”.

New By adding –

“41B. Section 18A added

The following is added –

“18A. Protection of specified persons from liability for certain acts and omissions

(1) A specified person under section 18 is not personally liable for any civil liability in respect of

anything done or omitted to be done by the specified person in good faith in the exercise of a function or purported exercise of a function under this Ordinance.

(2) The protection conferred by subsection (1) does not affect any liability of the Government for the act or omission.””.