

政府總部經濟局的信頭

本函檔號 Our Ref: ECON 2/3231/97
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12 March 1999

Clerk to Bills Committee
(Attn : Ms Estella Chan)
LegCo Secretariat
Council Business Division 1
3/F., Citibank Tower
Garden Road
Central, Hong Kong

Dear Estella,

**Bills Committee on
Electricity (Amendment) Bill 1999**

Meeting on 15 March 1999

Thank you for your letter of 4 March 1999. Our response to your three points is as follows.

Samples of plans to be made available by the power companies to parties responsible for works

2. The power companies have supplied typical drawings identifying the location of their underground cables and overhead lines. Five sets of the drawings were passed to your office on 4 March 1999.

Imprisonment as a proposed penalty

3. We are proposing possible imprisonment as part of the maximum penalty for certain offences under the proposed Electricity Supply Lines (Protection) Regulation, as follows -

- (a) failure to take reasonable measures to prevent the occurrence of an electrical accident or interruption to the electricity supply (up to 6 or 12 months imprisonment, in addition to a possible fine, depending upon the circumstances); and

- (b) failure to take reasonable steps to ascertain the alignment or other relevant particulars of an electricity supply line (up to 6 months imprisonment, in addition to a possible fine).

4. We have considered carefully whether there is any justification for removing imprisonment as a penalty in favour of a higher fine.

5. We believe that, in the first meeting of the Bills Committee, Members recognised the need for consistency with the penalties set down in December 1996 in the Gas Safety (Gas Supply) Regulations for similar offences relating to works in the vicinity of gas pipes. As with such offences, the offences in paragraph 3 above may lead to fatalities or other serious consequences. We therefore maintain the view that imprisonment as a possible penalty is necessary and appropriate for the offences in paragraph 3 above. In addition, of course, we have provided for defences of due diligence specifically in relation to these offences.

6. We noted in the Public Consultation paragraph (para. 19) of the Legislative Council Brief on the Electricity (Amendment) Bill 1999 that the construction industry had no objection in principle to the proposals, but had suggested that possible imprisonment, in addition to a fine, was too heavy a penalty for an offence of failure to take all reasonable steps to ascertain the alignment or other relevant particulars of an electricity supply line (paragraph 3(b) above). We addressed this point in paragraph 10 of the Brief, where we said that failure to take all reasonable steps to ascertain the alignment or other relevant particulars of an electricity supply line may include failure to engage a competent person, which is one of the central elements of the proposals; that we would regard such failure as being particularly serious; and that we considered that the maximum penalty for this particular offence should include liability to imprisonment. We maintain this view.

7. We consider that the availability of both imprisonment and a fine as possible penalties provides both an appropriate deterrent and flexibility for the court in weighing up all of the relevant factors and circumstances in any particular case.

Points raised by the Assistant Legal Adviser

8. On the three points raised by the Assistant Legal Adviser -

- (a) we intend to amend “房產” in the Electricity Ordinance and the subsidiary legislation to “處所”. We intend to include the amendment in an order made under section 4D of the Official Languages Ordinance (Cap. 5). We intend to gazette the order in April 1999;
- (b) we intend to amend the Chinese rendition for “warrant” to “令狀” in section 14(a) of the draft Regulation to achieve consistency with the Electricity Ordinance; and

(c) we see no need to render in Chinese the words “from a code of practice approved under this section” in section 15(5) of the draft Regulation. Section 15(5) of the draft Regulation made reference to subsection (4). It provides that “Where under subsection (4) the Director withdraws his approval” (凡署長根據第(4)款撤回核准)。Subsection (4) (Chinese text) provides that “署長可隨時撤回他根據第(1)款給予的核准。” .When one reads the Chinese text of section 15(4) and (5) together, it is clear that the withdrawal refers to the withdrawal of approval from any code of practice approved under subsection (1). The policy intent and the specific context are therefore clear.

9. I attach at the Annex our attendance list for the forthcoming Bills Committee meeting.

Yours sincerely,

(E. A. Johnson)
for Secretary for Economic Services

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