

**Bills Committee on the
Adaptation of Laws (No.2) Bill 1998**

**The Administration's response to
Issues raised by Members at the meeting on 10.12.98**

Dangerous Drugs Ordinance (Cap. 134)

Members requested that the Administration should consider setting out in the Bill the standard adopted in deciding whether raw opium was for medicinal use so as to reflect the actual practice, for example, "in accordance with the Pharmacopoeia of the country of origin of the relevant drug".

2. Having regard to Members' views, the Administration now proposes to replace "... in accordance with the requirements of the British Pharmacopoeia" by "... in accordance with the requirements of the European Pharmacopoeia or the U.S. Pharmacopoeia".

3. At present, Hong Kong imports "medicinal opium" from UK, USA, Canada and Australia. These countries are adopting either the standard specified in the European Pharmacopoeia or the U.S. Pharmacopoeia. The proposal is therefore in line with the existing practice. Should there be other countries that export "medicinal opium" to Hong Kong in future, it is reasonable to require them to follow the requirements in the European Pharmacopoeia or the U.S. Pharmacopoeia, which are both internationally

accepted. The quality of the drugs specified therein is generally very high, thereby providing a guarantee as regards the efficacy of the drug concerned.

Crimes Ordinance (Cap. 200)

4. Members requested a written response to the points raised by the Hong Kong Bar Association in its letter dated 21 November 1998 and Members' comments regarding the proposed repeal of section 41 (i.e. the power of a judge or magistrate to direct a prosecutions for perjury).

5. The Administration has explained to Members that there is no conflict between the Secretary for Justice's independent prosecution power under Article 63 of the Basic Law and the right of private prosecution. The Administration would, however, study further the views of the Members and the Hong Kong Bar Association before reverting with a more detailed response.

Firearms and Ammunition Ordinance (Cap. 238)

6. Members asked the Administration to -

a) advise whether the phrase "any person or class or description of persons" in section 4(2) of Cap. 238 was used in other legislation; and

- b) how the then Governor exercised his power in similar circumstances in the past, e.g. whether the matter in respect of a person was dealt with by the Governor and a class of persons dealt with by the Governor in Council.

7. The questions in paragraph 6 are raised as a result of Members' queries over the interpretation of BL56 and how it should be reflected in individual Ordinances i.e. whether the term "the Governor" should be adapted to "the Chief Executive in Council" in certain cases and "the Chief Executive" in other cases. The Department of Justice is studying Members' views and will revert later with a more detailed response.

Public Order Ordinance (Cap. 245)

8. Members asked the Administration to -
- a) explain the legislative intent of sections 31(1), 31(6) and 31(7) of Cap. 245;
 - b) advise the definition of "servant of the Crown, other than public officers", together with a list of such persons, in relation to section 31(6)(j);
 - c) review the drafting of section 36(1) having regard to Members' comments; and
 - d) provide examples on "The Chief Executive in Council reasonably believes ...".

9. On (a), the legislative intent of sections 31(1), 31(6) and 31(7) is self-explanatory and has already been reflected in the respective provisions. Section 31(1) provides that the then Governor may by order impose a curfew over such areas and during such hours as may be specified in the order if he is satisfied that it is in the interests of public order. On the other hand, section 31(6) exempts a list of persons from complying with a curfew order when on duty or proceeding to or from duty. Section 31(7) provides that whenever the then Governor considers it necessary, subsection (6) may not apply in the case of a curfew order with respect to the list of persons in that subsection as may be prescribed by the curfew order.

10. On (b), the Administration is currently reviewing the position and will provide a detailed reply to Members in due course.

11. We have already explained that “Chief Executive in Council” is defined in section 3 of Cap. 1 as the Chief Executive acting after consultation with the Executive Council. It refers to a person and accordingly he may “reasonably believe” so. We therefore do not see the need to amend the draft provision in section 36(1).

Security Bureau
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