

**立法會**  
**Legislative Council**

LC Paper No. LS89/02-03

**Paper for the House Committee Meeting  
on 11 April 2003**

**Legal Service Division Report on  
Subsidiary Legislation Gazetted on 27 March 2003**

**Date of Tabling in LegCo** : 2 April 2003

**Amendment to be made by** : 30 April 2003 (or 21 May 2003 if extended by resolution)

**Quarantine and Prevention of Disease Ordinance (Cap. 141)**

**Quarantine and Prevention of Disease Ordinance (Amendment of First Schedule) Order 2003 (L.N. 79)**

**Prevention of the Spread of Infectious Diseases Regulations (Amendment of Form) Order 2003 (L.N. 80)**

The Quarantine and Prevention of Disease Ordinance (Cap. 141) ("the Ordinance") consolidates the law relating to quarantine and the prevention of disease among human beings. In the Ordinance, "infectious disease" is defined as any disease specified in the First Schedule of the Ordinance. The Quarantine and Prevention of Disease Ordinance (Amendment of First Schedule) Order 2003 amends the First Schedule of the Ordinance to include "Severe Acute Respiratory Syndrome" as an infectious disease. The effect is that provisions in the Ordinance and regulations made under the Ordinance apply to "Severe Acute Respiratory Syndrome".

2. The Prevention of the Spread of Infectious Diseases Regulations (Cap. 141 sub. leg. B) ("the Regulations") were made under the Ordinance for the purpose of preventing the introduction into, the spread in and the transmission from, Hong Kong of any disease. Under section 4 of the Regulations, a medical practitioner or medical officer is required to notify the Director of Health forthwith in a form specified in the Regulations if he has reason to suspect the existence of a case of an infectious disease or, in the case of death, that an infectious disease existed. Consequential to the addition of "Severe Acute Respiratory Syndrome" into the list of infectious diseases, the Prevention of the Spread of Infectious Diseases Regulations (Amendment of Form) Order 2003 adds "Severe Acute Respiratory Syndrome" to the specified form.

3. Both Orders came into operation on 27 March 2003.
4. Members may refer to the LegCo Brief issued by the Health, Welfare and Food Bureau on 27 March 2003 (File Ref.: HWF/H/21/4 Pt.3 (96) for background information. According to the Brief, the Administration expects that the public would welcome the Orders which extend the coverage of the infectious disease surveillance system so that the Director of Health can better monitor the occurrence of "Severe Acute Respiratory Syndrome".
5. At the House Committee meeting on 28 March 2003, a subcommittee was formed to study the Orders.
6. An information paper entitled "Atypical Pneumonia Incident" was issued by the Health, Welfare and Food Bureau to the Panel on Health Services ("the Panel") on 28 March 2003. At the special meeting of the Panel on the same day, the Secretary for Health, Welfare and Food (SHWF) briefly referred to the Orders as part of the new package of measures announced by the Chief Executive the day before to tackle the spread of atypical pneumonia in the community. The Director of Health also outlined the main purposes of the Orders. A member asked whether an emergency fund would be set up to provide assistance to those affected by the Orders who needed financial assistance. SHWF said he would consider the need. There was no further discussion on the Orders at the meeting as it was noted that a subcommittee had been formed to scrutinise the Orders.
7. The Legal Service Division has asked the Administration to clarify certain technical issues relating to the scope of atypical pneumonia and "Severe Acute Respiratory Syndrome", and provide information relating to the number of health officers appointed for the purpose of the Ordinance. These would be relevant to the enforcement of the Ordinance and the Regulations. Legal Service Division's letter (Annex B) and the reply of the Administration (Annex A) are attached to this Report.

Encl

Prepared by

LAI Shun wo, Monna  
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Legislative Council Secretariat  
8 April 2003

*Our ref.:* ( ) in HWF/H/21/4 Pt.3 (96)  
*Your ref.:* LS/S/25/02-03

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4 April 2003

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Central  
Hong Kong

Dear Miss Cheng,

**Quarantine and Prevention of Disease Ordinance  
(Amendment of First Schedule) Order 2003  
Prevention of the Spread of Infectious Diseases Regulations  
(Amendment of Form) Order 2003**

Thank you for your letter of 29 March 2003.

“Infectious disease” is defined in section 2(1) of Cap. 141 as “any disease specified in the First Schedule” to the Ordinance. Atypical pneumonia is a general term to describe other forms of pneumonia which are not caused by the common typical organisms. The term atypical pneumonia was used to describe the recent cluster of respiratory illnesses before the term “Severe Acute Respiratory Syndrome” was used by World Health Organisation (WHO).

Our response to the specific issues you raised is as follows :-

- (a) To effectively control the spread of Severe Acute Respiratory Syndrome, all persons exposed to the risk of such infection will be subject to the provisions of the Ordinance. In its case definition of Severe Acute Respiratory Syndrome, WHO made reference to the disease spreading through close contact. According to WHO, close contact is defined as having cared for or having lived with, or having had direct contact with the respiratory secretions and body fluids of persons with Severe Acute Respiratory Syndrome.
- (b) & (c) Severe Acute Respiratory Syndrome is a new disease which also presents as pneumonia. WHO has been providing diagnostic criteria, which are evolving, to define a case of Severe Acute Respiratory Syndrome. Suspected atypical pneumonia may or may be included depending on whether it fulfils the WHO criteria, which include :
- (1) high fever ( $>38^{\circ}\text{C}$ ), AND
  - (2) one or more respiratory symptoms including cough, shortness of breath, difficulty in breathing, AND
  - (3) close contact with a person who has been diagnosed with Severe Acute Respiratory Syndrome.

Confirmation of whether a patient has contracted Severe Acute Respiratory Syndrome is subject to diagnostic tests and X-ray investigation.

As defined by section 2(1) of the Ordinance, "health officer" includes "the Director, any medical officer appointed by the Chief Executive as a health officer or port health officer, and any officer for the time being performing the duties of a health officer of port health officer". In this regard, there is no fixed number of health officers appointed for the purpose of Cap. 141.

Yours sincerely,

(Peter Kwok)  
for Secretary for Health, Welfare and Food

c.c. Director of Health (Attn.: Dr Constance CHAN)

LS/S/25/02-03  
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By Fax (2840 0467) and By Post

29 March 2003

Dear Mr Kwok,

**L.N. 79 of 2003**

I refer to the above subsidiary legislation.

L.N. 79 adds "Severe Acute Respiratory Syndrome" to the list of infectious diseases specified in the First Schedule to the Quarantine and Prevention of Disease Ordinance (Cap. 141). The intended effect of the specification is to apply the provisions relating to infectious diseases in Cap. 141 and the Spread of Infectious Diseases Regulations (Cap. 141 sub. leg. B) to the aforesaid disease.

Please correct me if I am wrong, it seems that the terms "disease" and "infectious disease" are not defined in Cap. 141. I would be pleased if you could clarify the following issues :-

- (a) Is it the intention of the Administration to include all people with suspected atypical pneumonia and those who are susceptible to atypical pneumonia in the operation of Cap. 141?
- (b) From the medical point of view, is it possible that people having contracted atypical pneumonia may or may not develop severe acute respiratory syndrome?
- (c) From the medical point of view, is it possible that patients who develop severe acute respiratory syndrome are actually suffering from disease(s) other than atypical pneumonia?

In addition, the provisions of Cap. 141 in relation to infectious diseases are mainly enforced by health officers who, under the definition of section 2 of Cap. 141, include "the Director (of Health), any medical officer appointed by the Chief Executive as a health officer or port health officer, and any officer for the time being

performing the duties of a health officer or port health officer" but not other medical practitioners and paramedics including those who are under the employment of the Hospital Authority. Please kindly provide information on the number of health officers appointed for the purpose of Cap. 141.

I would be most grateful if you let me have a reply to the above questions in bilingual form on or before 1 April 2003.

Yours sincerely,

Kitty Cheng  
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c.c. Legal Adviser  
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