

立法會

Legislative Council

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Paper for the House Committee meeting on 16 May 2003

Report of the Subcommittee on Prevention of the Spread of Infectious Diseases (Amendment) Regulation 2003

Purpose

This paper reports on the deliberations of the Subcommittee on Prevention of the Spread of Infectious Diseases (Amendment) Regulation 2003.

Background

2. The Quarantine and Prevention of Disease Ordinance (Cap. 141) (the Ordinance) and its subsidiary legislation provide a legislative framework for the prevention of communicable diseases of public health importance.

3. On 27 March 2003, the Director of Health (the Director) made the Quarantine and Prevention of Disease Ordinance (Amendment of First Schedule) Order 2003 and the Prevention of the Spread of Infectious Diseases Regulations (Amendment of Form) Order 2003 to include Severe Acute Respiratory Syndrome (SARS) as one of the infectious diseases to which the Ordinance and its subsidiary legislation apply.

4. The Administration has reviewed the Prevention of the Spread of Infectious Diseases Regulations (Cap. 141B) (the PSID Regulations) to ascertain if amendments are required to enable it to implement further precautionary measures to control the spread of SARS. The Prevention of the Spread of Infectious Diseases (Amendment) Regulation 2003 (the amendment Regulation) was made by the Chief Executive in Council under section 8 of the Ordinance and came into effect on the date of its gazettal on 17 April 2003.

The Amendment Regulation

5. The main provisions are -

- (a) regulation 27A empowers a health officer to make a written direction prohibiting a person from leaving Hong Kong without the written permission of a health officer, if a health officer has reason to believe or suspect that the person is suffering from SARS or has been exposed to the risk of infection of that disease by contact with a person suffering from that disease or is a carrier of the disease;
- (b) regulation 27B empowers certain public officers to stop and detain a person seeking to leave Hong Kong in contravention of a health officer's direction; and
- (c) regulation 27C empowers an authorized person to take the body temperature of a person arriving in or leaving Hong Kong, and empowers a health officer or an authorized medical practitioner to carry out a medical examination on a person arriving in or leaving Hong Kong for the purpose of ascertaining whether the person is likely to be infected with SARS.

The Subcommittee

6. At the House Committee meeting on 25 April 2003, Members agreed that a Subcommittee should be formed to study the Regulation. The membership list of the Subcommittee is in **Appendix I**.

7. Under the chairmanship of Hon Michael MAK Kwok-fung, the Subcommittee has held one meeting with the Administration.

Deliberations of the Subcommittee

The Amendment Regulation

8. Members unanimously support the Amendment Regulation which they agree is necessary. However, members have raised a number of questions about regulation 27C(1) and the implementation arrangements in general.

SARS to be specified in regulation 27C(1)

9. Hon Margaret NG has asked the Administration to specify SARS in regulation 27C(1) to make it absolutely clear that the control of the disease is a pre-condition for the exercise of the powers under regulation 27C.

10. The Administration has explained that SARS is already specified in the heading of the new Part VIA comprising regulations 27A, 27B, 27C and 27D. Nevertheless, the Administration has agreed to Miss NG's request and will move a

textual amendment to regulation 27C(1) to tie the provision explicitly to the control of SARS outbreak. The Administration's draft resolution to that effect is in **Appendix II**.

Practicality of a sunset clause

11. In view of the wide powers of restriction on departure from Hong Kong, Hon Cyd HO has suggested that there should be a specified effective period for the provisions, which could be extended at a later stage if necessary. Ms HO has also pointed out that the changing situation and possible new developments may render the taking of body temperature outdated and hence her suggestion for a sunset clause.

12. The Administration has explained that it is not practicable to specify a time limit as it is unable to forecast developments at the present stage. However, should any new methods to detect SARS more effectively come up in the future, the Administration would propose amendments accordingly.

13. Following discussion, members have accepted the Administration's explanation in paragraph 12 above.

Implementation details

Methods to be used for taking body temperature of passengers

14. In response to the Chairman's question, the Administration has explained that various options, including both ear and mouth thermometers, are available for measuring body temperature. The Department of Health is still exploring other possible options with a view to finding a reliable method that will cause the least inconvenience. Infra-red body temperature scanners have been installed at different immigration control points for more efficient mass screening of passengers in order to reduce the number of people who need to have their body temperature taken by thermometers.

Whether diplomatic immunity or exemption will be granted

15. The Administration has clarified that basically no exemption will be allowed. However, in individual cases such as deaf people using hearing aids or people objecting for religious reasons, special arrangements to have their body temperature taken could be made.

Guidelines for implementation of provisions

16. Noting that the methods to be used for taking the body temperature of passengers is not specified in the Amendment Regulation, Hon James TO has asked for the relevant information such as guidelines on steps to be taken by the

officers concerned to be provided to the Subcommittee for members' reference. Hon Margaret NG shares the view that such guidelines, although without legal effect, will be very useful reference.

17. The Administration has agreed to provide the relevant guidelines for members' information.

Review of the Ordinance

18. As the original Ordinance dated back to 1936, Hon Margaret NG is of the view that an overall review should be made and amendments proposed where necessary. Miss NG has suggested that an opportune time would be when a review of the SARS epidemic is carried out.

19. The Administration has agreed to consider Miss NG's suggestion.

Follow-up action by the Administration

20. The Administration has undertaken to -

- (a) provide the guidelines requested by members in paragraph 16 above; and
- (b) conduct an overall review of the Ordinance as soon as practicable, as discussed in paragraphs 18 and 19 above.

Recommendation

21. The Subcommittee recommends support of the Administration's proposed amendment in paragraph 10 above.

Advice sought

22. The House Committee is invited to note the Subcommittee's recommendation in paragraph 21 above.

Council Business Division 2
Legislative Council Secretariat
14 May 2003

Appendix I

**Subcommittee on Prevention of the Spread of
Infectious Diseases (Amendment) Regulation 2003**

Membership List

Chairman	Hon Michael MAK Kwok-fung
Members	Hon Cyd HO Sau-lan Hon Margaret NG Hon James TO Kun-sun Hon CHAN Kam-lam, JP Hon Mrs Sophie LEUNG LAU Yau-fun, SBS, JP Dr Hon LAW Chi-kwong, JP Hon LI Fung-ying, JP Hon Albert CHAN Wai-yip Dr Hon LO Wing-lok Hon Audrey EU Yuet-mee, SC, JP (Total : 11 Members)
Clerk	Ms Doris CHAN
Legal Adviser	Miss Anita HO
Date	5 May 2003

INTERPRETATION AND GENERAL CLAUSES ORDINANCE

RESOLUTION OF THE LEGISLATIVE COUNCIL

**PREVENTION OF THE SPREAD OF INFECTIOUS DISEASES
(AMENDMENT) REGULATION 2003**

Resolution made and passed by the Legislative Council under section 34(2) of the Interpretation and General Clauses Ordinance (Cap. 1) on [] May 2003.

RESOLVED that the Prevention of the Spread of Infectious Diseases (Amendment) Regulation 2003, published in the Gazette as Legal Notice No. 107 of 2003 and laid on the table of the Legislative Council on 30 April 2003, be amended in section 3 in the new regulation 27C(1) by repealing "Any" and substituting "As a measure for preventing the introduction into, the spread in and the transmission from Hong Kong of Severe Acute Respiratory Syndrome, any".

Clerk to the Legislative Council

May 2003

DRAFT

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