

PUBLIC HEALTH AND MUNICIPAL SERVICES (AMENDMENT)

BILL 2005

0001

27. ~~Control of water likely to contain -
larvae or pupae of mosquitoes~~ <

△ Control of water and article likely to
cause mosquito breeding

□ (1AA) For the purposes of this section—
“the appointed contractor” (獲委任承建商), in relation to any
site, means—

- (a) the person who is the registered contractor appointed in respect of the site in accordance with the Buildings Ordinance (Cap. 123); or
- (b) where the site is owned by the Government, the person who has been appointed the contractor in respect of the site, if he has entered on the site at the relevant time;

“mosquito-related health hazard” (蚊致健康危害) means any circumstances that—

- (a) create favourable condition for the transmission of mosquito-borne diseases which constitute a danger to human health; or
- (b) are likely to create such a condition if immediate remedial action is not taken;

“the person responsible for the premises” (有關處所的負責人), in relation to any premises, means—

- (a) any one or more of the following persons—
 - (i) the occupier of the premises;
 - (ii) the owner of the premises;
 - (iii) the person responsible for the management of the premises; or
- (b) where the premises consist of a building site, the appointed contractor of the site.

PUBLIC HEALTH AND MUNICIPAL
SERVICES (AMENDMENT)

BILL 2005

0002

COMMITTEE STAGE

Amendments to be moved by the Secretary for
Health, Welfare and Food

(1) Where it appears to the Authority that there is, or is likely to be, upon any premises any accumulation of water, whether waste or otherwise, likely to contain larvae or pupae of mosquitoes, the Authority may, whether such accumulation of water is presently found to exist or not, ~~cause a notice to be served upon the occupier, or, where the occupier is absent from Hong Kong or cannot be readily found or ascertained by the Authority or is under disability, upon the owner, of such premises, or, where the premises consist of a building site or a building under construction, upon the appointed contractor in respect of the site, requiring him, within such time as may be specified in the notice—~~

- (a) to remove such accumulation of water, if existing; or
 (b) to take such other steps as may be specified in the notice to prevent any ~~or any further such accumulation of water upon premises; or~~
 (c) to take such other steps as may be specified in the notice to prevent the existence of larvae or pupae of mosquitoes upon ~~such premises.~~ (Amended 32 of 1963 s. 3; 9 of 1976 s. 3; 10 of 1986 s. 24)

↑ by a notice served on
the person responsible for the premises, require

↓ accumulation of water upon the premises

↑ the premises

△ (1A) Where it appears to the Authority that there is upon any premises any article capable of causing accumulation of water which allows the breeding of mosquitoes, the Authority may, by a notice served on the person responsible for the premises, require him to take such steps within such time as may be specified in the notice to prevent the breeding of mosquitoes upon the premises.

(1B) If the Authority has reasonable cause to believe that upon any premises any accumulation of water or any article poses a mosquito-related health hazard, the Authority may—

- (a) take such action as he considers necessary to—
 (i) remove such accumulation of water or the article; or
 (ii) prevent the breeding of mosquitoes upon the premises; and
 (b) where such hazard is attributable to any act, default or sufferance of any person, recover from the person any costs incurred by the Authority in the taking of such action.

PUBLIC HEALTH AND MUNICIPAL SERVICES (AMENDMENT)

BILL 2005

0003

Amendments to be moved by the Secretary for Health, Welfare and Food

(2) If the person upon whom a notice is served under the provisions of subsection (1) fails to comply with any of the requirements thereof—
(a) such person shall be guilty of an offence; and
(b) the Authority may remove, or cause to be removed, any such accumulation of water and may take such other steps as may be necessary to satisfy the requirements of such notice, and may recover any expenses thereby incurred from such person.

△

(2) Any person who without reasonable excuse—
(a) fails to comply with the requirements of a notice served on him under subsection (1); or
(b) fails to comply with the requirements of a notice served on him under subsection (1A), shall be guilty of an offence.

(2A) If a person is charged with an offence under subsection (2) for failure to comply with a notice served on him under subsection (1) in relation to a requirement referred to in subsection (1)(a), it shall be a defence for him to prove that he has taken all reasonable steps to comply with the requirement.

(2B) If, in relation to any premises—

(a) any requirement of a notice served under subsection (1) on a person is not complied with, the Authority may—

- (i) remove any accumulation of water upon the premises;
(ii) take such other action as he considers necessary to prevent any accumulation of water upon the premises; and

△

(iii) recover from the person any costs incurred by the Authority in the taking of the action under subparagraph (i) or (ii); or

(b) any requirement of a notice served under subsection (1A) on a person is not complied with, the Authority may—

- (i) take such action as he considers necessary to prevent the breeding of mosquitoes upon the premises; and
(ii) recover from the person any costs incurred by the Authority in the taking of the action under subparagraph (i).

△

(iia) take such other action as he considers necessary to prevent the existence of larvae or pupae of mosquitoes on the premises; and

▽

, (ii) or (iia)

PUBLIC HEALTH AND MUNICIPAL SERVICES (AMENDMENT)

BILL 2005 0004

Amendments to be moved by the Secretary for Health, Welfare and Food

~~(3) Where, in any accumulation of water on any premises, larvae or pupae of mosquitoes are found, the occupier of such premises or, where the occupier is absent from Hong Kong or cannot be readily found or ascertained by the Authority, the owner thereof or, where the premises consist of a building site or a building under construction, the appointed contractor in respect of the site, shall be guilty of an offence. (Amended 32 of 1963 s. 3; 9 of 1976 s. 3; 10 of 1986 s. 24)~~

(4) The Director of Health and any public officer authorized by him in that behalf may, in addition to the Authority, exercise any of the powers vested in the Authority by the provisions of ~~subsections (1) and (2):~~ (Amended L.N. 76 of 1989)

~~(5) In subsections (1) and (2) "the appointed contractor in respect of the site" (有關地盤的獲委任承建商) means—~~

(a) the person who is the registered contractor appointed in respect of the site in accordance with the Buildings Ordinance (Cap. 123); or

(b) in the case of a site which is owned by the Government, the person who has been appointed the contractor in respect of the site, if he has entered on the site at the relevant time. (Added 9 of 1976 s. 3. Amended 29 of 1998 s. 105)

(6) A document which purports—

(a) to be signed by a person authorized by the Building Authority and to certify that a person specified therein was at a time specified therein the registered contractor appointed in respect of a building site specified therein in accordance with the Buildings Ordinance (Cap. 123); or

(b) to be signed by a person authorized by the Director of Housing or the Director of Lands and to certify that at a time specified therein— (Amended L.N. 76 of 1982; L.N. 94 of 1986; L.N. 291 of 1993)

(i) a building site specified therein was owned by the Government; and (Amended 29 of 1998 s. 105)

(ii) a person specified therein was appointed the contractor in respect of that building site,

shall be admitted in evidence in any proceedings for an offence under ~~subsection (1) or (2)~~ on its production before the court without further proof. (Added 9 of 1976 s. 3)

(7) On the production of a document under subsection (6)—

(a) the court before which the document is produced shall, until the contrary is proved, presume that—

(i) the signature to the document is genuine;

(ii) the person signing it was duly authorized to sign at the time he signed it; and

(b) such document shall be prima facie evidence of the matters contained therein. (Added 9 of 1976 s. 3)

△ ~~(3)~~ If—
(a) any larvae or pupae of mosquitoes are found on any premises; and
(b) the existence of such larvae or pupae on the premises is attributable to any act, default or sufferance of any person,
such person shall be guilty of an offence.

~~(3A) Without prejudice to subsection (3), if any larvae or pupae of mosquitoes are found on any premises which consists of a building site, the appointed contractor of the site shall be guilty of an offence.~~

↑ this section

↑ (3A)

□ other than those mentioned in subsection (3)

↓ (3)

□ (3) If any larvae or pupae of mosquitoes are found on any premises consisting of a building site of which there is the appointed contractor