

A BILL

To

Amend the Public Health and Municipal Services Ordinance to confer additional powers on the Government to deal with the problem of mosquito.

Enacted by the Legislative Council.

1. Short title

This Ordinance may be cited as the Public Health and Municipal Services (Amendment) Ordinance 2005.

2. Control of water and article likely to cause mosquito breeding

Section 27 of the Public Health and Municipal Services Ordinance (Cap. 132) is amended—

(a) by adding before subsection (1)—

“(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.”;
- (b) in subsection (1)—
- (i) by repealing “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” and substituting “by a notice served on the person responsible for the premises, require”;
 - (ii) in paragraph (b), by repealing “or any further such accumulation of water upon premises” and substituting “accumulation of water upon the premises”;
 - (iii) in paragraph (c), by repealing “such premises” and substituting “the premises”;
- (c) by adding—
- “(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.”;
- (d) by repealing subsection (2) and substituting—
 - “(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).”;

- (e) by repealing subsection (3) and substituting—
- “(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.”;
- (f) in subsection (4), by repealing “subsections (1) and (2)” and substituting “this section”;
- (g) by repealing subsection (5);
- (h) in subsection (6), by repealing “subsection (1) or (3)” and substituting “this section”.

3. Penalties

The Ninth Schedule is amended by repealing “27(2)(a) or (3)” and substituting “27(2), (3) or (3A)”.

Explanatory Memorandum

This Bill amends the Public Health and Municipal Services Ordinance (Cap. 132) to—

- (a) empower the Government to deal with the mosquito breeding problems arising from the presence of articles capable of causing accumulation of water which allows the breeding of mosquitoes and create a related offence;
- (b) empower the Government to issue notice to the persons responsible for management of premises to do certain acts for preventing the breeding of mosquitoes; and
- (c) empower the Government to take necessary action for preventing the breeding of mosquitoes without notice where there is mosquito-related health hazard and to recover the associated costs.