

立法會

Legislative Council

LC Paper No. LS62/04-05

Paper for the House Committee Meeting on 6 May 2005

Legal Service Division Report on Public Health and Municipal Services (Amendment) Bill 2005

I. SUMMARY

- 1. Object of the Bill** To amend the Public Health and Municipal Services Ordinance (Cap. 132) (“the Ordinance”) in order to confer additional powers on the Government to deal with the problem of mosquito.
- 2. Comments**
 - (a) In relation to premises where there is accumulation of water likely to contain larvae or pupae of mosquitoes, or an article capable of causing accumulation of water which allows the breeding of mosquitoes, the Authority (defined under the Ordinance to mean the Director of Food and Environmental Hygiene) would be empowered to serve a notice on the person responsible for such premises requiring him to take remedial actions;
 - (b) Where a person fails to comply with any requirement of a notice served under (a) or where there is upon premises any accumulation of water or any article posing a mosquito-related health hazard, the Authority may take necessary actions to remove any accumulation of water or prevent the breeding of mosquitoes on such premises and to recover the costs incurred by the Authority in the taking of such actions from specified persons; and
 - (c) Create new offences.
- 3. Public Consultation** No public consultation.
- 4. Consultation with LegCo Panel** The Administration briefed the Panel on Food Safety and Environmental Hygiene (“the Panel”) on the legislative proposal on 14 December 2004. The Panel was generally in support of the proposal.
- 5. Conclusion** The Legal Service Division has written to the Administration on certain legal and drafting aspects of the Bill. Some of the questions are related to policy issues, such as whether power of entry is to be given to the Authority in exercising his powers for preventing the breeding of mosquitoes upon premises. Members may wish to consider forming a Bills Committee to study the Bill.

II. REPORT

Object of the Bill

To amend the Public Health and Municipal Services Ordinance (Cap. 132) (“the Ordinance”) to—

- (a) in relation to premises where there is accumulation of water likely to contain larvae or pupae of mosquitoes, or an article capable of causing accumulation of water which allows the breeding of mosquitoes, empower the Authority (defined under the Ordinance to mean the Director of Food and Environmental Hygiene) to serve a notice on the person responsible for such premises requiring him to take remedial actions (clause 2(a), (b) and (c));
- (b) where a person fails to comply with any requirement of a notice served under (a) or where there is upon premises any accumulation of water or any article posing a mosquito-related health hazard, empower the Authority to take necessary actions to remove any accumulation of water or prevent the breeding of mosquitoes on such premises and to recover the costs incurred by the Authority in the taking of such actions from specified person (clause 2 (c) and (d)); and
- (c) create new offences (clauses 2(d), (e) and 3).

LegCo Brief Reference

2. HWF(F)CR 7/7/1 Pt. 2 issued by the Health, Welfare and Food Bureau on 20 April 2005.

Date of First Reading

3. 4 May 2005.

Comments

4. Section 27(1) of the Ordinance provides that where it appears to the Authority that there is, or likely to be, upon any premises any accumulation of water likely to contain larvae or pupae of mosquitoes, the Authority may serve a notice upon the occupier, or under specified circumstances upon the owner, 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 to take certain remedial actions.

5. The Bill amends section 27(1) of the Ordinance by extending the classes of persons on whom a notice may be served. It introduces the expression “the person responsible for the premises” which is defined under new section 27(1AA) to include the persons referred to in the existing section and the person responsible for the management of the premises (clause 2(a) and (b)).

6. The Bill adds new section 27(1A) (clause 2(c)) to provide that, 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 serve a notice on the person responsible for the premises requiring him to take specified steps to prevent the breeding of mosquitoes upon the premises.

7. The Bill adds new section 27(1B) (clause 2(c)) to provide that 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 take such action as he considers necessary to remove such accumulation of water or the article or prevent the breeding of mosquitoes upon the premises. The expression “mosquito-related health hazard” is defined under new section 27(1AA) to mean 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.

Where such hazard is attributable to any act, default or sufferance of any person, the Authority may recover from the person any costs incurred by the Authority in the taking of such action.

8. The Bill adds new section 27(2B) (clause 2(c)) to provide that when a person fails to comply with any requirement of the notice served under section 27(1) or (1A), the Authority may take necessary actions to remove such accumulation of water or prevent the breeding of mosquitoes on the premises and to recover the costs incurred by the Authority in the taking of such actions from such person.

9. The Bill makes it an offence, subject to certain defences, for a person to fail to comply with any requirement of a notice served under section 27(1) or 27(1A) (clause 2(d)). The Bill also makes it an offence for a person or appointed contractor whose act, default or sufferance has caused the existence of any larvae or pupae on any premises or building site (clause 2(e)). The penalty for these offences is a fine at level 4 (\$25,000) or a daily fine of \$450 (clause 3).

Public Consultation

10. There was no public consultation.

Consultation with LegCo Panel

11. The Administration briefed the Panel on Food Safety and Environmental Hygiene (“the Panel”) on the legislative proposal on 14 December 2004. The Panel was generally in support of the proposal.

Conclusion

12. The Legal Service Division has written to the Administration on certain legal and drafting aspects of the Bill. Some of the questions are related to policy issues, such as whether power of entry is to be given to the Authority in exercising his powers for preventing the breeding of mosquitoes upon premises. Members may wish to consider forming a Bills Committee to study the Bill.

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