

**Hazardous Chemicals Control Bill**

**List of follow-up actions arising from the discussion  
at the meeting on 10 May 2007**

**The Administration's Responses**

- (1) To provide all the proposed Committee Stage amendments (CSAs) as far as practicable within one week or in good time before the next meeting scheduled for 25 May 2007.

The proposed amendments to specify a time frame of 10 working days for the permit holder to return the original permit to the Director under clauses 16(2), 21(1), 29(1), 31(3)(a) and 31(4)(a) are shown at the Annex. We also propose a minor amendment to the Chinese text of clause 31(4)(c)(ii)(A). Please see Annex.

The outstanding proposed amendments will be provided as soon as practicable before the next meeting scheduled for 25 May 2007.

- (2) To include an express provision on the immunity of the Government and public officers under clause 4. Reference should be made to the CSAs to the Unsolicited Electronic Messages Bill and to Section 15I(1) under the Smoking (Public Health) Ordinance (Cap. 371).

We propose to include an express provision on the immunity of the Government and public officers to criminal liability under clause 4, modeled on the CSAs to the Unsolicited Electronic Messages Bill. We propose to also provide an express provision on the immunity of public officers to civil liability under the Bill.

The relevant proposed amendments will follow shortly.

- (3) To review the English text and the Chinese text of clause 10(4) regarding the use of the expression "may not" and "不得" to ensure consistency. In the event that a decision is made on the appropriate wording, this should apply throughout the Bill for the sake of consistency.

We propose to adopt the Chinese rendition of "不可" for the expression "may not" in clause 10(4). The expression would only appear once in the Ordinance (if enacted) if the Administration's proposed CSAs to clauses 10, 11, 13, 19, 22, 23, 27 and 47 as reflected in the Annex to the Administration's letter to LegCo dated 8 March 2007 are passed.

The relevant proposed amendments will follow shortly.

- (4) To advise other legislation which have provisions similar to clause 36 regarding search by the same sex.

Some examples of provisions similar to clause 36 regarding search by the same sex include: section 152(3) of the Crimes Ordinance (Cap. 200); section 10C(2) of the Independent Commission Against Corruption Ordinance (Cap. 204); section 90(3) of the Education Ordinance (Cap. 279); and section 17A(4) of the Customs and Excise Service Ordinance (Cap. 342).

- (5) To consider the feasibility of incorporating the proposed CSA to clause 2 regarding incidental production of scheduled chemicals in the definition of "manufacture".

The purpose of including a new clause 2(2) in the proposed amendments is to clarify the scope of application of clause 6 which prohibits the "manufacture" of a scheduled chemical unless with or in accordance with a permit issued under the Ordinance (if enacted).

In the light of Members' views and to be more user friendly to

readers, we propose to take out the definition of "manufacture" from new clause 2(1) and provide an interpretation provision for the term "manufacture" after new clause 2(1). The originally proposed new clause 2(2) will then be renumbered as new clause 2(3).

The relevant proposed amendments will follow shortly.

- (6) To consider placing definitions which appear only once in the Bill under the relevant clauses or putting all the definitions under clause 2 to ensure consistency.

We propose to remove the definitions of "function" and "notice of suspension" from clause 2 and place them under clauses 48 and 28, respectively. We also propose to simply delete the definition of "duplicate permit" from clause 2 because the term only appears in clause 39 which is self-explanatory.

The relevant proposed amendments will follow shortly.

**Environmental Protection Department**  
**May 2007**

**16. Return of permits to Director after  
variation of permit conditions takes effect**

(1) After a variation of the conditions of a permit takes effect, the conditions of the permit shall be read subject to the variation.

(2) Notwithstanding subsection (1), ~~as soon as practicable~~ not later than 10 working days after the variation takes effect, the permit holder shall return the permit to the Director.

(3) A person who, without reasonable excuse, contravenes subsection (2) commits an offence and is liable on conviction to a fine at level 1 and to imprisonment for 6 months.

**21. Return of permits to Director on  
cancellation of permits**

(1) ~~As soon as practicable~~ Not later than 10 working days after a cancellation of a permit takes effect, the permit holder shall return the permit to the Director.

(2) A person who, without reasonable excuse, contravenes subsection (1) commits an offence and is liable on conviction to a fine at level 1 and to imprisonment for 6 months.

**29. Return of permits to Director on  
suspension of permits**

(1) ~~As soon as practicable~~ Not later than 10 working days after a suspension of a permit takes effect, the permit holder shall return the permit to the Director.

(2) A person who, without reasonable excuse, contravenes subsection (1) commits an offence and is liable on conviction to a fine at level 1 and to imprisonment for 6 months.

### 31. Supplementary provisions regarding cancellation or suspension of permits

(1) In exercising his power under section 19 or 27, the Director may cancel or suspend a permit to the extent that it relates to one or more scheduled chemicals that are authorized to be manufactured, exported, imported or used under the permit.

(2) Where there is a partial cancellation or partial suspension of a permit, subject to subsections (3) and (4), the provisions of this Ordinance that apply to or in relation to the cancellation or suspension of a permit shall, with necessary modifications, apply to the partial cancellation or partial suspension to the extent that the permit is so cancelled or suspended.

(3) Where there is a partial cancellation of a permit –

(a) section 21(1) shall be construed as requiring the permit holder to return the permit to the Director ~~as soon as practicable~~ not later than 10 working days after the partial cancellation takes effect; and

(b) the Director shall, on receiving the permit so returned, issue to the permit holder, free of charge, a permit in respect of the scheduled chemicals that are authorized to be manufactured, exported, imported or used under the permit so returned but are not chemicals to which the partial cancellation relates.

(4) Where there is a partial suspension of a permit –

(a) section 29(1) shall be construed as requiring the permit holder to return the permit to the Director ~~as soon as~~

~~practicable~~ not later than 10 working days after the partial suspension takes effect;

- (b) the Director shall, on receiving the permit so returned, issue to the permit holder, free of charge, a permit in respect of the scheduled chemicals that are authorized to be manufactured, exported, imported or used under the permit so returned but are not chemicals to which the partial suspension relates; and
- (c) section 30 shall be construed as –
  - (i) requiring the permit holder to return the permit issued to him under paragraph (b); and
  - (ii) empowering the Director to send to the permit holder, in such manner as the Director considers appropriate, the permit returned under paragraph (a) if the permit holder –
    - (A) does not collect the permit so returned within 10 working days after the partial suspension ceases to have effect; or
    - (B) has requested in writing that the permit be sent to him.

(5) A permit issued under subsection (3)(b) or (4)(b) is to be regarded as a permit issued under section 10(1).

(6) In this section –

“partial cancellation” (局部取消), in relation to a permit, means the cancellation of the permit to the extent that it relates to one or more, but



not all, scheduled chemicals that are authorized to be manufactured, exported, imported or used under the permit;

“partial suspension” (局部暫時吊銷), in relation to a permit, means the suspension of the permit to the extent that it relates to one or more, but not all, scheduled chemicals that are authorized to be manufactured, exported, imported or used under the permit.