

**For information
on 22 April 2008**

**Bills Committee on the
Prevention and Control of Disease Bill**

**Response to Members' questions raised
at the meeting on 18 April 2008**

At the meeting on 18 April 2008, the Administration has undertaken to provide written response on the following regarding the draft provisions of the Prevention and Control of Disease Regulation (draft Regulation):

- (a) Explain the reason for including “constitutes a separate household unit” in the definition of “residential premises” in clause C1(6); and
- (b) Consider an alternative Chinese text for “operator” (營運人) to avoid confusion as to who has the obligation to notify a health officer if a person dies on a cross-boundary conveyance under clause F5.

Definition of “residential premises”

2. In drafting the definition of “residential premises” (住用處所), we have made reference to the definitions of this term (or similar terms) in other local legislation, such as:

(a) *Section 38A of Immigration Ordinance (Cap 115)*

“Domestic premises” (住用處所) means premises used or intended to be used solely or principally for residential purposes and constituting a separate household unit.

(b) *Section 60A of Shipping and Port Control Ordinance (Cap 313)*

“Domestic premises” (住宅處所) means any premises used wholly or mainly for residential purposes and constituting a separate household unit.

(c) *Section 2 of Noise Control Ordinance (Cap 400)*

“Domestic premises” (住用處所) means-

- (a) any premises used wholly or mainly for residential purposes and constituting a separate household unit;...

3. The inclusion of “constitutes a separate household unit” in the definition of “residential premises” in clause C1(6) will help identify the part of a premises used for both residential and non-residential, e.g. commercial purposes that requires a warrant for entry. Our intention is that a warrant is required to enter the part of such a premises that is used principally for residential purposes and is separated from the rest of the premises by a barrier, walls, etc. No warrant is required if the part used for residential purpose is not separated from the rest of the premises, unless the whole premises is used principally for residential purpose.

Chinese text for “operator”

4. The Chinese text of the word “operator” is “營運人” in a number of local legislation, e.g. Travel Agents Ordinance (Cap 218), Airport Authority Ordinance (Cap 483), Merchant Shipping (Security of Ships and Port Facilities) Ordinance (Cap 582), etc.

5. The draft Regulation defines “operator”, in relation to a conveyance, to mean its owner, charterer, master, pilot, commander or driver (as the case may be) or the person in charge of the conveyance or a person who is acting as an agent of the owner or the charterer or the person in charge of the conveyance.

6. The meaning of “operator” has to be understood in the context of the individual clause in which it appears, as signified by the phrase “as the case may be” in the definition. Normally, we would expect that the person who has direct knowledge of the matter concerned to notify the

health officer. In the case of clause F5, we expect that the pilot of the aircraft, the master of the vessel or the driver of the vehicle to notify the health officer. However, so long as the health officer is notified by any person who falls under the definition of “operator”, the legal obligation will be considered as being discharged.

Food and Health Bureau

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