



中華人民共和國香港特別行政區政府總部食物及衛生局
Food and Health Bureau, Government Secretariat
The Government of the Hong Kong Special Administrative Region
The People's Republic of China

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Public Health and Municipal Services (Amendment) Bill 2008

Thank you for your letter of 11 December 2008.

Section 78H proposed under the Public Health and Municipal Services (Amendment) Bill 2008 provides for a statutory compensation mechanism in cases where the Director of Food and Environmental Hygiene did not make an order under section 78B with reasonable grounds.

There is no provision in the Amendment Bill which restricts or eliminates judicial review or other civil claims.

An aggrieved person may apply for judicial review or take other civil proceedings against the Government subject to such legal advice as he may seek. However, a finding by a court that the Director has breached a ground of judicial review does not of itself provide a basis for entitlement at common law to compensation. If there is no statutory compensation, the aggrieved person has to establish that he has a cause of action against the Government, e.g. negligence

or misfeasance in public office. Whether a person may get compensation e.g. by bringing other legal proceedings against the Government, which is better than that under the statutory compensation scheme would depend on the actual circumstances of the case.

Please let us know if you have further questions.



(Mrs Angelina Cheung)
for Secretary for Food and Health