

PUBLIC HEALTH AND MUNICIPAL SERVICES (AMENDMENT) BILL 2008

COMMITTEE STAGE

Amendments to be moved by the Honourable Vincent FANG Kang, SBS, JP

<u>Clause</u>	<u>Amendment Proposed</u>
2	<p>(a) In the proposed section 78A, by adding -</p> <p>""hazard" (危害) means a biological, chemical or physical agent in, or condition of, food with the potential to cause an adverse health effect;".</p> <p>(b) By deleting the proposed section 78H(1) and substituting -</p> <p>"(1) A person bound by a section 78B order may apply for an amount of compensation, recoverable as a civil debt due from the Government, that is just and equitable in all the circumstances of the case, for any loss of a kind set out in subsection (1B).</p> <p>(1A) The person is entitled to compensation only if the person proves that -</p> <p>(a) the results of any analysis or examination, referred to under section 78HA, of any food that is subject of a section 78B order, show that there is no hazard in the food; and</p> <p>(b) the person has suffered the relevant loss.</p>

(1B) The losses referred to in subsection (1) are the following losses arising as a direct result of compliance with the section 78B order or as a direct result of the exercise of a power under section 78I(1) in relation to the section 78B order -

- (a) total or partial loss of the food that is the subject of the order and that -
 - (i) has been destroyed or otherwise disposed of;
 - (ii) is no longer fit for human consumption; or
 - (iii) is depreciated in value;
- (b) costs or expenditure actually and directly incurred.

(1C) The amount of compensation recoverable -

- (a) in relation to a loss of a kind set out in subsection (1B)(a), must not exceed the market value of the food immediately before the time of making the section 78B order or immediately before the time of the variation, as the case may be; and
- (b) in relation to a loss of a kind set out in subsection (1B)(b), must not exceed the actual amount of the costs or expenditure incurred."

(c) By adding a new section -

"78HA Duty of the Authority to provide certain information

(1) If the Authority has carried out any analysis or examination of any food that is subject of a section 78B order, the Authority shall, upon request, provide a document to be signed by the Authority or other person authorized by him stating results of the

analysis or examination to a person bound by a section 78B order.

(2) In any proceedings under section 78H, the document purporting to be signed by the Authority or other person authorized by him under subsection (1) -

- (i) until the contrary is proved, shall be presumed that the document is so signed; and
- (ii) shall be prima facie evidence of the facts stated therein."