



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

**Urgent By Fax**

3 April 2012

Clerk to Bills Committee  
(Attn.: Ms Betty Ma)  
Legislative Council Complex  
1 Legislative Council Road  
Central  
Hong Kong

Dear Miss Ma,

**Bills Committee on Fisheries Protection (Amendment) Bill 2011**

**Follow-up on Meeting on 27 March 2012**

We write to provide the information requested by Members at the Bills Committee meeting on 27 March 2012.

(a) **Statistics of recent cases handled by the Administrative Appeals Board (AAB)**

2. We set out below the statistics of recent cases handled by the AAB -

**Appeals handled by the AAB in 2011**

No. of Appeals Received	Decisions of the Board			Appeals Withdrawn
	Allowed	Dismissed	Decisions / Hearings Pending	
75	5	9	51	10

Note: The Government has not kept statistics on the judicial review cases subsequently filed

In gist, of the 14 cases already heard, five (36%) have been allowed and nine (64%) have been dismissed.

**(b) Appeal mechanism under the Agriculture, Fisheries and Conservation Department (AFCD) for applicants dissatisfied with decisions made by Director for Agriculture, Fisheries and Conservation (DAFC) in relation to permits**

3. Similar to the arrangements set out in the Amendment Bill, under section 22 of Cap. 476, any person aggrieved by the decision of the Authority (which is DAFC) in relation to the granting of or refusal to grant a licence or permit may, within 21 days of being notified of the decision, appeal to the AAB.

4. There is no appeal board established in AFCD itself for handling appeal cases in relation to fishing permits granted under the Marine Parks Ordinance (Cap. 476). There is an administrative Working Group on Fishing Permit established under the Country and Marine Parks Board (CMPB<sup>1</sup>). The Working Group, comprising AFCD's officers and three members of CMPB, is to consider the criteria and guidelines in granting and renewing marine park fishing permits. This is not an appeal mechanism.

**(c) Setting a limit on the number and / or size of cage traps in Schedule 2**

5. The Amendment Bill is not intended to regulate recreational fishing. Common fishing methods used by the public on board non-fishing vessels for recreational purposes are already permitted in Schedule 2 to the Amendment Bill.

6. We have considered Members' suggestion of setting a limit on the number and / or size of cage traps for fishing on board pleasure crafts but found it not feasible. The reasons are three-fold. First, there is a wide variety of cage traps and it is difficult to define rabbitfish traps as such. It is also difficult to ascertain whether rabbitfish traps are just being used to capture rabbitfish but not other species. Secondly, there is enforcement difficulty in tracking the recreational fishers who deploy cage traps beyond what is permitted on board the vessels. It is also difficult to ascertain the number of cage traps deployed by any particular person, when there is more than one person on board a vessel. Thirdly, we also anticipate a lot of problems in enforcing the limit on the number of cage traps on vessels, if one is set, as it would be difficult for the enforcement agent in ascertaining the number of cage traps used for fishing by a particular person on vessels when the traps have already been deployed underwater and the activity is conducted in open waters.

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<sup>1</sup> Section 5 of the Marine Parks Ordinance (Cap. 476) specifies that: For the purposes of this Ordinance, the Board shall (a) act as a consultative body to advise the Authority upon any matter referred to it by the Authority under this Ordinance; (b) consider and advise the Authority on the policy of and programmes prepared by the Authority in respect of marine parks and marine reserves, including proposed marine parks and proposed marine reserves; and (c) consider any objections that may be lodged under section 12.

7. We plan to assess the impact of recreational fishing on the fisheries resources of Hong Kong and the effectiveness of the proposed management measures in restoring the fisheries resources after enactment of the Amendment Bill. Where necessary and after thorough consultation with stakeholders, DAFC may amend Schedule 2 to the Amendment Bill by notice published in the Gazette to permit other types of fishing methods with the use or aid of vessels other than non-local fishing vessels.

**(d) Fishermen contacted regarding small scale fisheries conducted near Cheung Chau and Peng Chau**

8. Fishermen approached by officers of AFCD on Cheung Chau and Peng Chau subsequent to the meeting of 15 March 2012 to collect information on the fishing operations in the area are inshore fishermen engaging in small scale fishing methods including purse seining, longlining and gillnetting in waters such as Sai Wan (西灣) and Pak Tso Wan (白罽灣). They are members of local fishermen associations, including the 長洲漁民福利協進會, 長洲西灣機動罽仔漁民合作社, 長洲罽仔漁民合作社, 梅窩長洲罽仔漁民信用無限責任合作社 and 長洲漁民互助社.

**(e) Sending of documents in the new section 33(d) of the Amendment Bill**

9. We confirm that the notice of cancellation of a registration or a research fishing permit will be sent by registered mail.

**(f) Notification period for change of address in the new section 37(3) of the Amendment Bill**

10. It is our intention that section 37(3) of the Amendment Bill simply imposes a statutory obligation that an applicant should inform DAFC by notice in writing of his change of address within 7 days of the change. No penalties would be imposed for the breach of this statutory obligation. We can work out with the Marine Department to obtain information on addresses, where required, under the new section 35 of the Amendment Bill.

**(g) Committee Stage Amendments (CSAs) intended to be moved by the Administration**

12. The Committee Stage Amendments intended to be moved by the Administration are -

(a) Clause 4(5)

- In the English text, the proposed definition of *impoundment*, by deleting “removable or” and substituting “removable and”

- In the Chinese text, by deleting the proposed definition of **圍塘** and substituting —

“**圍塘** (impoundment)指用網或其他可移走的透水構築物圍起的香港水域範圍，其用途或設計用途是供作魚類養殖；”;

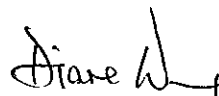
(b) Clause 10(1)

- In the Chinese text, by deleting “、”;

(c) Clause 15

- In the proposed section 16(1), in the Chinese text, by deleting “署長可按其認為合適而施加符合以下說明的條件：任何人可按照該等條件，使用或借助任何已登記船隻而捕魚。該等” and substituting “署長可就使用或借助已登記船隻捕魚施加署長認為合適的條件，如署長有施加該等條件，則該種形式的捕魚須按照該等條件進行。署長可施加的”。

Yours sincerely,



(Miss Diane Wong)  
for Secretary for Food and Health