



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

本函檔案 Our ref. : FH CR 2/3231/03  
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By Fax: 2869 6794

27 June 2013

Ms Amy Yu  
Clerk to Bills Committee  
Council Business Division 2  
Legislative Council Secretariat  
Legislative Council

Dear Ms Yu,

**Bills Committee on Pesticides (Amendment) Bill 2013 (the Bill)**

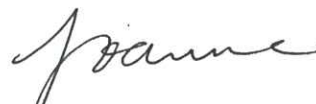
At the meeting on 24 June 2013, the Bills Committee discussed and passed the English version of the draft Committee Stage Amendments (CSAs) submitted by the Administration, and supported the Administration to resume the Second Reading Debate on the Bill on 17 July 2013. The Bills Committee also asked the Assistant Legal Adviser (ALA) to vet the Chinese version of the CSAs in consultation with the Law Draftsman.

After the meeting, the ALA had seen the Chinese version of the CSAs and raised no further comment on it after seeking clarifications from the Law Draftsman. ALA also suggested the Administration to consider deleting the word “routine” from the phrase “routine inspection” in the long title of the Bill, in the light of a CSA on the proposed section 15A in which the phrase “for routine inspection” would be deleted and substituted by “without warrant” in the section heading.

We have considered ALA’s suggested amendment to delete the word “routine” from the phrase “routine inspection” in the long title of the Bill. On the basis that the suggested CSA to the long title of the Bill is made necessary as a result of a textual amendment to the section heading of the

proposed section 15A of the Bill and is a consequential and technical amendment for clarifying or improving the language used in the long title of the Bill, we have taken into account ALA's suggestion and revised the CSAs accordingly. The revised CSAs in Chinese and English are at Annex.

Yours sincerely,



( Miss Jeanne Cheng )  
for Secretary for Food and Health

c.c. AFCD ( Attn.: Dr Thomas Sit  
Mr Clive Lau  
Mr Stephen Lai )

DoJ ( Attn.: Ms Carmen Chu  
Miss Karen Lee )

(中文譯本)

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立法會  
立法會秘書處  
議會事務部 2  
法案委員會秘書  
余蕙文女士

余女士：

**《2013年除害劑（修訂）條例草案》法案委員會（《條例草案》）**

在二零一三年六月二十四日的會議上，法案委員會討論及通過了政府所提交的委員會審議階段修正案（修正案）擬稿的英文本，並支持政府在二零一三年七月十七日恢復《條例草案》的二讀辯論。法案委員會亦要求助理法律顧問在與法律草擬專員商議下，審閱修正案的中文本。

助理法律顧問於會後已審閱修正案的中文本，經與法律草擬專員澄清個別事宜後，助理法律顧問沒有就修正案的中文本提出進一步的意見。由於修正案對擬議的第 15A 條作出了修訂，在該條文的標題中，刪去“進入處所作例行視察”，並以“無需手令進入處所”代之；有鑑於此，助理法律顧問建議政府考慮在《條例草案》的詳題中，從“例行視察”一詞組刪去“例行”一詞。

我們考慮了助理法律顧問的建議，在《條例草案》的詳題中，從“例行視察”一詞組刪去“例行”一詞。由於《條例草案》擬議第 15A 條的標題已作出文字修訂，因此建議就《條例草案》的詳題提出修正案也是必要的，而這也是一項技術性的相應修訂，用以澄清或改善《條例草案》詳題的用語。基於以上理由，我們已參考助理法律顧問的建議，對修正案作了相應修訂。經修訂的修正案的中英文本載於附件。

食物及衛生局局長

( 鄭建瑩代行 )

副本送： 漁農自然護理署 ( 經辦人： 薛漢宗獸醫  
劉紹基先生  
黎宇匡先生 )  
律政司 ( 經辦人： 朱映紅女士  
李茄慧女士 )

二零一三年六月二十七日

**Pesticides (Amendment) Bill 2013**

**Committee Stage**

Amendments to be moved by the Secretary for Food and Health

<u>Clause</u>	<u>Amendment Proposed</u>
Long title	By deleting “routine”.
3(8)	By adding in alphabetical order to the proposed definitions—  “ <i>authorized officer</i> (獲授權人員) means a public officer appointed to be an authorized officer under section 14;  <i>function</i> (職能) includes duty;”.
5	By deleting the proposed section 3A and substituting—  <b>“3A. Ordinance applies to Government etc.</b>  (1) This Ordinance applies to the Government.  (2) Despite subsection (1), the Government—  (a) is not liable to be prosecuted for an offence under this Ordinance; and  (b) is not required to pay any prescribed fee.  (3) If the Director has reasonable grounds to believe that there has been or is a contravention by the Government of this Ordinance, the Director must report the matter to the Secretary for Food and Health.  (4) The report must contain the advice of the Director on—  (a) whether the contravention has been terminated; and

- (b) if the contravention has been terminated, whether it has been terminated to the Director's satisfaction.
- (5) On receiving the report from the Director, the Secretary for Food and Health must enquire into the matter to which the report relates.
- (6) If the enquiry shows that there has been a contravention referred to in subsection (3) and the contravention is likely to be repeated, the Secretary for Food and Health must take the best practicable steps to avoid the recurrence of a like contravention.
- (7) If the enquiry shows that there is a contravention referred to in subsection (3) and the contravention is continuing, the Secretary for Food and Health must take the best practicable steps to stop the contravention.”.

New

By adding—

**“7A. Section 7 amended (control of registered pesticides)**

After section 7(2)—

**Add**

- “(3) Subsection (1) does not apply to an authorized officer or a member of the Customs and Excise Service who is—
  - (a) exercising a power or purporting to exercise a power under this Ordinance or doing anything in connection with or incidental to the exercise or purported exercise of the power; or
  - (b) performing a function or purporting to perform a function under this Ordinance or doing anything in connection with or incidental to the performance or purported performance of the function.

- (4) Subsection (1) does not apply to a public officer who is—
  - (a) exercising a power or purporting to exercise a power under—
    - (i) the Import and Export Ordinance (Cap. 60);
    - (ii) the Public Health and Municipal Services Ordinance (Cap. 132);
    - (iii) the Dangerous Goods Ordinance (Cap. 295); or
    - (iv) any Ordinance other than this Ordinance; or
  - (b) doing anything in connection with or incidental to the exercise or purported exercise of the power.”.”.

8

In the proposed section 8, by adding—

- “(8) Subsections (1) and (2) do not apply to an authorized officer or a member of the Customs and Excise Service who is—
  - (a) exercising a power or purporting to exercise a power under this Ordinance or doing anything in connection with or incidental to the exercise or purported exercise of the power; or
  - (b) performing a function or purporting to perform a function under this Ordinance or doing anything in connection with or incidental to the performance or purported performance of the function.
- (9) Subsection (1) does not apply to a public officer who is—
  - (a) exercising a power or purporting to exercise a power under—

- (i) the Import and Export Ordinance (Cap. 60);
  - (ii) the Public Health and Municipal Services Ordinance (Cap. 132);
  - (iii) the Dangerous Goods Ordinance (Cap. 295); or
  - (iv) any Ordinance other than this Ordinance; or
- (b) doing anything in connection with or incidental to the exercise or purported exercise of the power.”.

New

By adding—

**“10A. Section 14 substituted**

Section 14—

**Repeal the section**

**Substitute**

**“14. Appointment of inspectors and authorized officers**

The Director may appoint in writing a public officer to be an inspector or authorized officer (or both) for the purposes of this Ordinance.”.

12

In the proposed section 15A, in the heading, by deleting “**for routine inspection**” and substituting “**without warrant**”.

12

In the proposed section 15A(3)(c), in the Chinese text, by adding “**及**” after the semicolon.



- 14 In the proposed section 16A(1)(a), by deleting “section 5(3)” and substituting “section 5(3)(b)”.
- 14 In the proposed section 16A(1)(d), by deleting “section 9(2)” and substituting “section 9(2)(b)”.
- 18 In the proposed section 19A(1)(a), in the English text, by deleting “CAS” and substituting “Chemical Abstracts Service (*CAS*)”.
- 18 By deleting the proposed section 19B(3).
- 20 In the proposed Schedule 2, in Part 1, by adding—  
“4A. Azinphos-methyl 86-50-0”.
- 25(1) By deleting the proposed item 7 and substituting—  
“7. For issue of a permit under regulation 7(1) for the purpose of importing or possessing a scheduled pesticide or any other unregistered pesticide only for re-export without re-packaging (including transshipment of a scheduled pesticide in Hong Kong) ..... 700”.
- 25(2) In the proposed item 8, by deleting paragraph (a) and substituting—  
“(a) for any purposes not specified in item 7; or”.

- 25(3) By deleting the proposed item 13 and substituting—
- “13. For extension of a permit under regulation 7(3) for the purpose of importing or possessing a scheduled pesticide or any other unregistered pesticide only for re-export without re-packaging (including transshipment of a scheduled pesticide in Hong Kong)..... 395”.
- 25(4) In the proposed item 14, by deleting paragraph (a) and substituting—
- “(a) for any purposes not specified in item 13; or”.
- 26 In the proposed item 73, in paragraph (a), by deleting “section 5(3)” and substituting “section 5(3)(b)”.
- 26 In the proposed item 73, in paragraph (d), by deleting “section 9(2)” and substituting “section 9(2)(b)”.

《2013年除害劑(修訂)條例草案》

委員會審議階段

由食物及衛生局局長動議的修正案

條次

建議修正案

詳題

刪去“例行”。

3(8)

在建議的定義中，按筆劃數目順序加入 —

“**獲授權人員** (authorized officer)指根據第 14 條委任為獲授權人員的公職人員；

**職能** (function)包括責任；”。

5

刪去建議的第 3A 條而代以 —

**“3A. 本條例適用於特區政府等**

- (1) 本條例適用於特區政府。
- (2) 儘管有第(1)款的規定，特區政府 —
  - (a) 不得被控犯本條例所訂的罪行；及
  - (b) 無須繳付任何訂明費用。
- (3) 如署長有合理理由相信，特區政府曾經或正在違反本條例，署長須向食物及衛生局局長報告此事。
- (4) 上述報告須載有署長對以下事宜的意見 —
  - (a) 有關違例事項是否已終止；及
  - (b) (如該違例事項已終止)該違例事項是否在令署長滿意的情況下終止。

- (5) 在接獲署長就某事宜作出的報告後，食物及衛生局局長須對該事宜進行查訊。
- (6) 如查訊顯示曾有第(3)款提述的違例事項發生，而該違例事項相當可能會再度發生，食物及衛生局局長須採取最佳的切實可行步驟，以避免相類似的違例事項再度發生。
- (7) 如查訊顯示正有第(3)款提述的違例事項發生，而該違例事項持續，食物及衛生局局長須採取最佳的切實可行步驟，以制止該違例事項。”。

新條文 加入 —

**“7A. 修訂第 7 條(對註冊除害劑的管制)**

在第 7(2)條之後 —

**加入**

- “(3) 第(1)款不適用於作出以下作為的獲授權人員或海關人員 —
  - (a) 根據本條例行使權力或本意是根據本條例行使權力，或作出任何與行使該權力或本意是行使該權力有關或因此而附帶的事情；或
  - (b) 根據本條例執行職能或本意是根據本條例執行職能，或作出任何與執行該職能或本意是執行該職能有關或因此而附帶的事情。
- (4) 第(1)款不適用於作出以下作為的公職人員 —
  - (a) 根據下列條例行使權力或本意是根據下列條例行使權力 —

- (i) 《進出口條例》(第 60 章)；
- (ii) 《公眾衛生及市政條例》(第 132 章)；
- (iii) 《危險品條例》(第 295 章)；或
- (iv) 任何其他條例(本條例除外)；或

(b) 作出任何與行使該權力或本意是行使該權力有關或因此而附帶的事情。”。

8 在建議的第 8 條中，加入 —

“(8) 第(1)及(2)款不適用於作出以下作為的獲授權人員或海關人員 —

- (a) 根據本條例行使權力或本意是根據本條例行使權力，或作出任何與行使該權力或本意是行使該權力有關或因此而附帶的事情；或
- (b) 根據本條例執行職能或本意是根據本條例執行職能，或作出任何與執行該職能或本意是執行該職能有關或因此而附帶的事情。

(9) 第(1)款不適用於作出以下作為的公職人員 —

- (a) 根據下列條例行使權力或本意是根據下列條例行使權力 —
  - (i) 《進出口條例》(第 60 章)；
  - (ii) 《公眾衛生及市政條例》(第 132 章)；
  - (iii) 《危險品條例》(第 295 章)；或
  - (iv) 任何其他條例(本條例除外)；或

- (b) 作出任何與行使該權力或本意是行使該權力有關或因此而附帶的事情。”。

新條文 加入 —

**“10A. 取代第 14 條**

第 14 條 —

**廢除該條**

**代以**

**“14. 督察及獲授權人員的委任**

為施行本條例，署長可藉書面委任公職人員為督察或獲授權人員（或兼任兩職）。”。

- 12 在建議的第 15A 條中，在標題中，刪去“**進入處所作例行視察**”而代以“**無需手令進入處所**”。
- 12 在建議的第 15A(3)(c)條中，在中文文本中，在分號之後加入“及”。
- 14 在建議的第 16A(1)(a)條中，刪去“5(3)條”而代以“5(3)(b)條”。
- 14 在建議的第 16A(1)(d)條中，刪去“9(2)條”而代以“9(2)(b)條”。
- 18 在建議的第 19A(1)(a)條中，在英文文本中，刪去“CAS”而代以“**Chemical Abstracts Service (CAS)**”。
- 18 刪去建議的第 19B(3)條。

- 20 在建議的附表 2 中，在第 1 部中，加入 —  
“4A. 谷硫磷 86-50-0”。
- 25(1) 刪去建議的第 7 項而代以 —  
“7. 根據第 7(1)條，發出准許以下作為的許可證：輸入或管有未經重新包裝而僅供再出口用途的附表所列除害劑或任何其他未經註冊除害劑(包括在香港轉運的附表所列除害劑)…………… 700”。
- 25(2) 在建議的第 8 項中，刪去(a)段而代以 —  
“(a) 第 7 項沒有指明的任何用途；或”。
- 25(3) 刪去建議的第 13 項而代以 —  
“13. 根據第 7(3)條，延長准許以下作為的許可證的有效期：輸入或管有未經重新包裝而僅供再出口用途的附表所列除害劑或任何其他未經註冊除害劑(包括在香港轉運的附表所列除害劑)…………… 395”。
- 25(4) 在建議的第 14 項中，刪去(a)段而代以 —  
“(a) 第13 項沒有指明的任何用途；或”。
- 26 在建議的第 73 項中，在(a)段中，刪去“5(3)條”而代以“5(3)(b)條”。
- 26 在建議的第 73 項中，在(d)段中，刪去“9(2)條”而代以“9(2)(b)條”。