



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

5 July 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**


Further to our letter dated 27 June 2013, we have identified need to make two technical revisions to the proposed Committee Stage Amendments (CSAs) previously circulated to the Bills Committee. The technical revisions are as follows –

- (a) To revise the existing CSA to the long title by replacing “刪去“例行”。” with “刪去“例行視察”而代以“視察”。” in the Chinese version of the CSAs. This is necessary because the words “例行” appear more than once in the long title and the revised version will make it clear the specific term to be amended. No corresponding change to the English version of the CSAs is necessary.
- (b) To add a new CSA under Clause 3 to amend the definition of “署長” under section 2 in the Chinese text of the Ordinance by repealing the full stop and substituting a semicolon in the definition. This is necessary because the order of the definitions under section 2 of the Chinese text of the Ordinance is arranged according to the number of strokes of the first Chinese character of the definitions. With the

proposed addition of the definition of “職能 (function)” in the Chinese text under Clause 3(8), the term will be placed after the definition of “署長” and accordingly there is a need to repeal the full stop and substitute a semicolon in the definition of “署長” .

The final version of the proposed CSAs in Chinese and English with the above technical revisions incorporated is at Annex for perusal by the Bills Committee please.

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**

繼我們於二零一三年六月二十七日的信函，我們認為有需要就較早前提提交法案委員會傳閱的擬議委員會審議階段修正案（修正案）提出兩項技術性修訂。該兩項技術性修訂如下：

- (a) 修訂就詳題提出的現有修正案，在修正案的中文文本中，廢除“刪去‘例行’。”而代以“刪去‘例行視察’而代以‘視察’。”。這是因為“例行”兩字在詳題中出現多於一次，經修訂的版本有助清晰指出須予以修訂的是哪一組詞彙。修正案的英文文本無須作出相應改動。
- (b) 在草案第 3 條加入一項新的修正案，以修訂《條例》的中文文本第 2 條之下“署長”的定義，廢除該定義中的句號而代以分號。這是因為在《條例》的中文文本第 2 條之下的定義，是按各詞彙首個中文字的筆劃數目排序。因應在草案第 3(8) 條下，在《條例》的中文文本中建議加入“職能(function)”的定義，該詞將會置於“署長”的定義之後。因此，有需要廢除“署長”的定義中的句號而代以分號。

已納入上述技術性修訂的擬議修正案的中英文文本定稿現載於附件，供法案委員會審閱。

食物及衛生局局長

(鄭建瑩代行)

二零一三年七月五日

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)

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	By adding— “(6A) Section 2(1), Chinese text, definition of <del>署長</del> <b>Repeal the full stop</b> <b>Substitute a semicolon.”.</b>
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“例行視察”而代以“視察”。

3

加入 —

“(6A) 第 2(1)條，中文文本，**署長**的定義 —  
**廢除句號**  
**代以分號。**”。

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”。