



立法會秘書處 法律事務部  
LEGAL SERVICE DIVISION  
LEGISLATIVE COUNCIL SECRETARIAT

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By Fax (2136 3281)  
11 June 2013

Mr Philip CHAN, JP  
Deputy Secretary for Food and Health (Food)  
Food and Health Bureau  
Food Branch  
17/F, East Wing, Central Government Offices  
2 Tim Mei Avenue, Tamar  
Hong Kong

Dear Mr CHAN,

### **Pesticides (Amendment) Bill 2013**

At its meeting on 7 June 2013, the Administration, in explaining why "routine" inspection is referred to in the heading of proposed section 15A, informed the Bills Committee that at present, routine inspection is carried out for licences and permits issued under the Pesticides Ordinance (Cap.133).

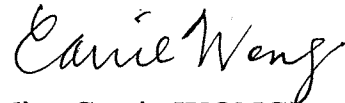
The Administration may wish to clarify whether, when such "routine" inspection is conducted, the power to enter the premises concerned is or would be engaged under section 15(3) or proposed section 15A respectively. Either way, the power is engaged only when there is "reasonable suspicion". A relevant premises stated as premises on which a pesticide is to be manufactured etc. may give rise to "reasonable suspicion" that at the time of inspection, a pesticide is actually being manufactured etc. at the premises. Under these circumstances, it is possible that inspection targeted against such stated premises may indeed be conducted under the power on a "routine" basis because of the presence of such a "reasonable suspicion".

However, with regard to premises which is not so stated (i.e. "relevant premises" as defined in the proposed section 15A(7)(b)), a "reasonable suspicion" will have to be established before the power is engaged. In this case, it may not be possible to identify any "routine" element until after such premises have been targeted for inspection for the first time. The Administration may wish to clarify its understanding in this regard.

The Administration may agree that if a "routine" inspection is carried out on a consensual basis (i.e. without resort to section 15(3) or proposed section 15A), then it may not be correct to relate such routine inspection to section 15(3) or proposed section 15A. In this connection, please confirm whether any of the "routine" inspections described by the Administration at the Bills Committee on 7 June 2013 are carried out or to be carried out on a consensual basis respectively, rather than based on the statutory coercive power under section 15(3) or proposed section 15A.

I should be grateful if you would let me have the Administration's reply in both languages by 14 June 2013.

Yours sincerely,



(Miss Carrie WONG)  
Assistant Legal Adviser

c.c. Clerk to Bills Committee