



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

來函檔號 YOUR REF : FHB/H/23/1 Pt.9
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By Fax (2840 0467)

6 June 2014

Ms Ophelia LUI
Assistant Secretary for Food & Health (Health)2
Food and Health Bureau
19/F, East Wing
Central Government Offices
2 Tim Mei Avenue
Tamar, Hong Kong

Dear Ms LUI,

Re: Pharmacy and Poisons (Amendment) Bill 2014

I am scrutinizing the Bill with a view to advising Members on its legal and drafting aspects.

Please find attached a schedule listing my observations in relation to the Bill for your consideration. I would be grateful if you could let me have the Administration's reply in bilingual form as soon as possible.

Yours sincerely,

(Wendy KAN)
Assistant Legal Adviser

cc. DoJ (Attn.: Miss Emma WONG (By Fax: 2869 1302) & Ms Carmen CHAN
(By Fax: 2845 2215))
Clerk to Bills Committee
LA
SALA3

Schedule

Clause 4(5) of the Bill

1. In the Chinese text of the clause, "廢除句點" should be "廢除句號".

Clause 12 of the Bill

2. In proposed revised section 11(1) of the Pharmacy and Poisons Ordinance (Cap. 138), please amend the Chinese text to provide for the Chinese rendition of "in his presence" in the English text, as in the current Chinese text of sections 11(1) and 21 of Cap. 138.

Clause 13(2) of the Bill

3. Section 13(4)(c) of Cap. 138 provides that one of the conditions that should be satisfied is that the actual sale of poisons will be conducted on the premises "by a registered pharmacist or in his presence or under his supervision" in accordance with section 11(1) of Cap. 138. Proposed revised section 11(1) of Cap. 138, however, states that the actual sale of poisons is conducted on premises "by a registered pharmacist or in his presence and under his supervision". Please clarify.

Clause 14 of the Bill

4. Please confirm whether it is the intention that "an offence under this Ordinance" under proposed new section 15(1)(c)(i) of Cap. 138 does not include an offence under any of the regulations made under section 29 of Cap. 138.

Clause 15 of the Bill

5. In the Chinese text of clause 15(11) of the Bill, open inverted commas should be added before "(ia)".

Clause 20(6) of the Bill

6. In the Chinese text of proposed new section 25(3B) of Cap. 138, should "委員會在指明該日期前" rather be "管理局在指明該日期前"?

Clause 23(11) of the Bill

7. In proposed new section 29(1)(jb) of Cap. 138, please consider to replace "註冊證明書及獲續期的註冊證明書發出時" with "註冊

證明書或獲續期的註冊證明書發出時" in the Chinese text as the rendition of "issue of a certificate of registration or renewed certificate of registration" in the English text.

Clause 26(2) of the Bill

8. Should "the registered medical practitioners" under section 31(1)(a) of Cap. 138 be changed to "the registered medical practitioner" given that there will only be one registered medical practitioner appointed pursuant to proposed revised section 3(2)(h) of Cap. 138?

Clause 43 of the Bill

9. With respect to "in whose presence or under whose supervision the actual sale of poisons will be conducted under section 11(1) of the Ordinance" in regulation 24B(b) of the Pharmacy and Poisons Regulations (Cap. 138A), please note Question 3 above.

Clause 45 of the Bill

10. In the Chinese text of proposed substituted regulation 25 of Cap. 138A, please explain the reason(s) for bracketing "或由毒藥組成或含有毒藥的物質或物品".

Clause 59(5) of the Bill

11. "(參閱附表 8 表格 12)" in the Chinese text of regulation 36B(3) of Cap. 138A will be repealed under the Chinese text of clause 59(4) of the Bill. Please amend the Chinese text of clause 59(5) of the Bill to provide for the amendment of the English text of regulation 36B(3) as specified in the English text of clause 59(5) of the Bill.

Clause 65(65) of the Bill

12. The amendment set out in the clause has already been made under section 2(1) of the Pharmacy and Poisons (Amendment) Regulation 2014 (L.N. 39 of 2014)¹.

¹ Please note that, with respect to this item, the marked-up copy of the Chinese text of Cap. 138A as amended by the Bill (LC Paper No. CB(2)1344/13-14(02)) shows the version of Cap. 138A prior to the gazettal of L.N. 39 of 2014 as amended by the Bill.

Clause 67(1) of the Bill

13. In the Chinese text of the proposed revised heading of the Fifth Schedule to Cap. 138A, should "為施行本條例的27(c)或(ca)條" rather be "為施行本條例第27(c)或(ca)條"?

Clause 70 of the Bill

14. The substances added to Division A of Part I of the Poisons List in the Schedule to the Poisons List Regulations (Cap. 138B) pursuant to the Poisons List (Amendment) Regulation 2014 (L.N. 40 of 2014) have not been included in the Poisons List contained in proposed new Schedule 10 to Cap. 138A. Please confirm whether Committee Stage amendments to the Bill will be proposed for this purpose.

Other matters

15. Please note the followings -
- (a) in the current issue of the Authorized Loose-leaf Edition of Cap. 138A, "Institutue" in the footnote to the Chinese text of regulation 30(1)(b) should be "Institute";
 - (b) in the computer version of the Third Schedule to Cap. 138A available at the Bilingual Laws Information System (BLIS), "Colchicum, alkaloids of₂ their salts" should be "Colchicum, alkaloids of₃ their salts"; and
 - (c) in the computer version of Division A of Part I of the Poisons List in the Schedule to Cap. 138B available at BLIS, "Bifonazole; its satls" should be "Bifonazole; its salts".