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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

Our ref.: FHB/H/23/1 Pt.9

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Your ref.: LS/B/12/13-14

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13 June 2014

Ms Wendy KAN
Assistant Legal Advisor
Legal Service Division
Legislative Council Secretariat
Legislative Council Complex
1 Legislative Council Road
Central, Hong Kong

Dear Ms KAN,

Re: Pharmacy and Poisons (Amendment) Bill 2014 ("Bill")

Thank you for your letter dated 6 June 2014 with your observations on the Bill. Our response to the 15 questions on the schedule to your letter is as attached for your consideration please.

Yours sincerely,

(Ophelia LUI)
for Secretary for Food and Health

c.c. Department of Justice (Attention to Miss Emma WONG; Ms Carmen CHAN)
Clerks to Bills Committee on the Pharmacy and Poisons (Amendment) Bill 2014

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Annex

**The Administration's response to the questions raised by
the Assistant Legal Advisor of the Legislative Council**

Clause 4(5) of the Bill

1. It is the current drafting practice of the Administration to adopt the term "句點" as the Chinese equivalent of a full stop in the English text (whereas "句號" is the punctuation mark actually used in the Chinese text). You may wish to take reference to clause 3(1) of the Shipping Legislation (Control of Smoke Emission) (Amendment) Bill 2014. Therefore, we consider no amendment is required.

Clause 12 of the Bill

2. Committee stage amendments ("CSAs") will be introduced to make the proposed amendments to the Chinese text of the clause.

Clause 13(2) of the Bill

3. It is our policy intent that the actual sale of poisons will be conducted on the registered premises of the Authorized Sellers of Poisons by a registered pharmacist or in his/her presence and under his/her supervision. Therefore, CSAs will be introduced to make amendments to section 13(4)(c) of the Pharmacy and Poisons Ordinance (Cap. 138) ("Ordinance") accordingly.

Clause 14 of the Bill

4. It is our policy intent that "an offence under this Ordinance" under the proposed section 15(1)(c)(i) of the Ordinance includes an offence under any of the regulations made under section 29 of the Ordinance. By virtue of section 3 of the Interpretation and General Clauses Ordinance (Cap. 1), a reference to an "Ordinance" includes subsidiary legislation made under it. Hence we consider it unnecessary to specifically mention the regulations in the proposed section 15(1)(c)(i) of the Ordinance.

Clause 15 of the Bill

5. CSAs will be introduced to make the proposed amendments to the Chinese text of the clause.

Clause 20(6) of the Bill

6. CSAs will be introduced to make the proposed amendments to the Chinese text of the sub-clause.

Clause 23(11) of the Bill

7. CSAs will be introduced to make the proposed amendments to the Chinese text of the sub-clause.

Clause 26(2) of the Bill

8. CSAs will be introduced to make the proposed amendments to the English text of the sub-clause.

Clause 43 of the Bill

9. CSAs will be introduced to make the proposed amendments to align with section 11(1) of the Ordinance.

Clause 45 of the Bill

10. The reasons for bracketing “或由毒藥組成或含有毒藥的物質或物品” is to improve the readability and the clarity of the sentence. It is common to include brackets in the Chinese text but not the English text due to their different language structures. You may wish to take reference to sections 111(3) and 346(1)(b) of the Companies Ordinance (Cap. 622).

Clause 59(5) of the Bill

11. CSAs will be introduced to make amendments to the Chinese text of clause 59(4) and no amendment is required for the Chinese text of clause 59(5).

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Clause 65(65) of the Bill

12. CSAs will be introduced to repeal this sub-clause.

Clause 67(1) of the Bill

13. CSAs will be introduced to make the proposed amendments to the Chinese text of the sub-clause.

Clause 70 of the Bill

14. CSAs will be introduced to include the substances added to Division A of Part I of the Poisons List in the Schedule to the Poisons List Regulations (Cap. 138B) as per the Poisons List (Amendment) Regulation 2014.

Other matters

- 15(a)-(c). We agree with the proposed amendments and will make relevant amendments to the existing Authorized Loose-leaf Edition of the Regulations and the Bilingual Laws Information System accordingly.