

Residential Care Homes Legislation (Miscellaneous Amendments) Bill 2022

Committee Stage

Amendments to be moved by the Secretary for Labour and Welfare

<u>Clause</u>	<u>Amendment Proposed</u>
1(2)	By adding “, (4A)” after “(4)”.
1	By adding— “(4A) Sections 51(1A) and 106(1A) come into operation on the 2nd anniversary of the material date.”.
1(5)	By deleting “2nd” and substituting “4th”.
14	By deleting the proposed section 11J(3)(a)(i) and (ii) and substituting— “(i) a prosecution is started against the operator or the responsible person of the residential care home for an indictable offence in Hong Kong; (ii) a prosecution is started against the operator or the responsible person for an offence punishable with imprisonment (however described) in a place outside Hong Kong; (iia) the operator or the responsible person is convicted of an indictable offence in Hong Kong; (iib) the operator or the responsible person is sentenced to imprisonment (however described) in a place outside Hong Kong, whether or not the sentence is suspended;”.
14	By deleting the proposed section 11J(3)(b)(i) and (ii) and substituting— “(i) a prosecution is started against the operator or the responsible person of the residential care home for an indictable offence in Hong Kong; (ii) a prosecution is started against the operator or the responsible person for an offence punishable with imprisonment (however described) in a place outside Hong Kong;

- (iia) the operator or the responsible person is convicted of an indictable offence in Hong Kong;
- (iib) the operator is convicted of an offence punishable with imprisonment (however described) in a place outside Hong Kong;
- (iic) the responsible person is sentenced to imprisonment (however described) in a place outside Hong Kong, whether or not the sentence is suspended;”.

- 14 By deleting the proposed section 11J(3)(c)(i) and (ii) and substituting—
- “(i) a prosecution is started against any partner in the partnership (*partner*) or the responsible person of the residential care home for an indictable offence in Hong Kong;
 - (ii) a prosecution is started against any partner or the responsible person for an offence punishable with imprisonment (however described) in a place outside Hong Kong;
 - (iia) any partner or the responsible person is convicted of an indictable offence in Hong Kong;
 - (iib) any partner (being an individual) or the responsible person is sentenced to imprisonment (however described) in a place outside Hong Kong, whether or not the sentence is suspended;
 - (iic) any partner (being a body corporate) is convicted of an offence punishable with imprisonment (however described) in a place outside Hong Kong;”.
- 24(5) In the Chinese text, in the proposed definition of 局長, by deleting “*Secretary*” and substituting “Secretary”.
- 26 In the proposed section 3J(1)(b), by adding “and the responsible person” after “operator”.
- 26 In the proposed section 3K(4)(b), by deleting “or reverse the decision.” and substituting “, vary or reverse the decision and, if the decision is reversed, substitute for the decision a decision that the Secretary considers appropriate.”.
- 26 In the proposed section 3K, by adding—

- “(4A) If the Secretary varies, or substitutes another decision for, the Director’s decision, the decision as varied or the substituted decision must be one that the Director had power to make.”.
- 26 In the proposed section 3K(5)(b), by adding “and the responsible person” after “operator”.
- 26 In the proposed section 3K, by adding—
- “(6) The notice referred to in subsection (5) must state the reason for the determination.”.
- 26 In the proposed section 3U(1)(b), by adding “and the responsible person” after “operator”.
- 26 In the proposed section 3V(4)(b), by deleting “or reverse the decision.” and substituting “, vary or reverse the decision and, if the decision is reversed, substitute for the decision a decision that the Secretary considers appropriate.”.
- 26 In the proposed section 3V, by adding—
- “(4A) If the Secretary varies, or substitutes another decision for, the Director’s decision, the decision as varied or the substituted decision must be one that the Director had power to make.”.
- 26 In the proposed section 3V(5)(b), by adding “and the responsible person” after “operator”.
- 26 In the proposed section 3V, by adding—
- “(6) The notice referred to in subsection (5) must state the reason for the determination.”.
- 26 By deleting the proposed section 3W(1)(a) and (b) and substituting—
- “(a) a prosecution is started against the manager for an indictable offence in Hong Kong;
- (b) a prosecution is started against the manager for an offence punishable with imprisonment (however described) in a place outside Hong Kong;
- (ba) the manager is convicted of an indictable offence in Hong Kong;

- (bb) the manager is sentenced to imprisonment (however described) in a place outside Hong Kong, whether or not the sentence is suspended;”.

- 26 In the proposed section 3W(2)(a)(i), by adding “, (ba), (bb)” after “(b)”.
- 30 In the proposed section 7(1), in the Chinese text, by deleting “該” and substituting “該項”.
- 33 In the proposed section 9(1)(b), by adding “and the responsible person” after “operator”.
- 34 In the proposed section 10(4)(b), by deleting “or reverse the decision.” and substituting “, vary or reverse the decision and, if the decision is reversed, substitute for the decision a decision that the Secretary considers appropriate.”.
- 34 In the proposed section 10, by adding—
“(4A) If the Secretary varies, or substitutes another decision for, the Director’s decision, the decision as varied or the substituted decision must be one that the Director had power to make.”.
- 34 In the proposed section 10(5)(b), by adding “and the responsible person” after “operator”.
- 34 In the proposed section 10, by adding—
“(6) The notice referred to in subsection (5) must state the reason for the determination.”.
- 35 By deleting the proposed section 10B(1)(a) and (b) and substituting—
“(a) a prosecution is started against the health worker for an indictable offence in Hong Kong;
(b) a prosecution is started against the health worker for an offence punishable with imprisonment (however described) in a place outside Hong Kong;
(ba) the health worker is convicted of an indictable offence in Hong Kong;

- (bb) the health worker is sentenced to imprisonment (however described) in a place outside Hong Kong, whether or not the sentence is suspended; or”.
- 35 In the proposed section 10B(2)(a)(i), by deleting “or (b)” and substituting “, (b), (ba) or (bb)”.
- 44 By deleting the proposed section 33(2) and substituting—
- “(2) A medicine that is prescribed by a registered medical practitioner, a registered Chinese medicine practitioner or a listed Chinese medicine practitioner for a resident in a residential care home may only be administered to the resident in accordance with the prescription.”.
- 50 In the proposed Schedule 1, in section 3, in Table 1, in item 1, in column 2, by deleting “13” and substituting “11”.
- 50 In the proposed Schedule 1, in the Chinese text, in section 6(4)(b), by deleting “間。” and substituting “間，”.
- 51 By adding before subclause (1)—
- “(1A) Schedule 1, section 3, Table 1, item 1, column 2—
- Repeal**
- “11”
- Substitute**
- “13”.”.
- 64 By deleting the proposed section 10J(3)(a)(i) and (ii) and substituting—
- “(i) a prosecution is started against the operator or the responsible person of the residential care home for an indictable offence in Hong Kong;
- (ii) a prosecution is started against the operator or the responsible person for an offence punishable with imprisonment (however described) in a place outside Hong Kong;
- (ia) the operator or the responsible person is convicted of an indictable offence in Hong Kong;

- (iib) the operator or the responsible person is sentenced to imprisonment (however described) in a place outside Hong Kong, whether or not the sentence is suspended;”.

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By deleting the proposed section 10J(3)(b)(i) and (ii) and substituting—

- “(i) a prosecution is started against the operator or the responsible person of the residential care home for an indictable offence in Hong Kong;
- (ii) a prosecution is started against the operator or the responsible person for an offence punishable with imprisonment (however described) in a place outside Hong Kong;
- (iia) the operator or the responsible person is convicted of an indictable offence in Hong Kong;
- (iib) the operator is convicted of an offence punishable with imprisonment (however described) in a place outside Hong Kong;
- (iic) the responsible person is sentenced to imprisonment (however described) in a place outside Hong Kong, whether or not the sentence is suspended;”.

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By deleting the proposed section 10J(3)(c)(i) and (ii) and substituting—

- “(i) a prosecution is started against any partner in the partnership (*partner*) or the responsible person of the residential care home for an indictable offence in Hong Kong;
- (ii) a prosecution is started against any partner or the responsible person for an offence punishable with imprisonment (however described) in a place outside Hong Kong;
- (iia) any partner or the responsible person is convicted of an indictable offence in Hong Kong;
- (iib) any partner (being an individual) or the responsible person is sentenced to imprisonment (however described) in a place outside Hong Kong, whether or not the sentence is suspended;
- (iic) any partner (being a body corporate) is convicted of an offence punishable with imprisonment (however described) in a place outside Hong Kong;”.

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In the proposed section 3J(1)(b), by adding “and the responsible person” after “operator”.

- 77 In the proposed section 3K(4)(b), by deleting “or reverse the decision.” and substituting “, vary or reverse the decision and, if the decision is reversed, substitute for the decision a decision that the Secretary considers appropriate.”.
- 77 In the proposed section 3K, by adding—
- “(4A) If the Secretary varies, or substitutes another decision for, the Director’s decision, the decision as varied or the substituted decision must be one that the Director had power to make.”.
- 77 In the proposed section 3K(5)(b), by adding “and the responsible person” after “operator”.
- 77 In the proposed section 3K, by adding—
- “(6) The notice referred to in subsection (5) must state the reason for the determination.”.
- 77 In the proposed section 3U(1)(b), by adding “and the responsible person” after “operator”.
- 77 In the proposed section 3V(4)(b), by deleting “or reverse the decision.” and substituting “, vary or reverse the decision and, if the decision is reversed, substitute for the decision a decision that the Secretary considers appropriate.”.
- 77 In the proposed section 3V, by adding—
- “(4A) If the Secretary varies, or substitutes another decision for, the Director’s decision, the decision as varied or the substituted decision must be one that the Director had power to make.”.
- 77 In the proposed section 3V(5)(b), by adding “and the responsible person” after “operator”.
- 77 In the proposed section 3V, by adding—
- “(6) The notice referred to in subsection (5) must state the reason for the determination.”.
- 77 By deleting the proposed section 3W(1)(a) and (b) and substituting—

- “(a) a prosecution is started against the manager for an indictable offence in Hong Kong;
- (b) a prosecution is started against the manager for an offence punishable with imprisonment (however described) in a place outside Hong Kong;
- (ba) the manager is convicted of an indictable offence in Hong Kong;
- (bb) the manager is sentenced to imprisonment (however described) in a place outside Hong Kong, whether or not the sentence is suspended;”.

- 77 In the proposed section 3W(2)(a)(i), by adding “, (ba), (bb)” after “(b)”.
- 81 In the proposed section 7(1), in the Chinese text, by deleting “該” and substituting “該項”.
- 84 In the proposed section 9(1)(b), by adding “and the responsible person” after “operator”.
- 85 In the proposed section 10(4)(b), by deleting “or reverse the decision.” and substituting “, vary or reverse the decision and, if the decision is reversed, substitute for the decision a decision that the Secretary considers appropriate.”.
- 85 In the proposed section 10, by adding—
- “(4A) If the Secretary varies, or substitutes another decision for, the Director’s decision, the decision as varied or the substituted decision must be one that the Director had power to make.”.
- 85 In the proposed section 10(5)(b), by adding “and the responsible person” after “operator”.
- 85 In the proposed section 10(5), in the Chinese text, by adding “關乎” before “該項”.
- 85 In the proposed section 10, by adding—
- “(6) The notice referred to in subsection (5) must state the reason for the determination.”.

- 86 By deleting the proposed section 10B(1)(a) and (b) and substituting—
- “(a) a prosecution is started against the health worker for an indictable offence in Hong Kong;
 - (b) a prosecution is started against the health worker for an offence punishable with imprisonment (however described) in a place outside Hong Kong;
 - (ba) the health worker is convicted of an indictable offence in Hong Kong;
 - (bb) the health worker is sentenced to imprisonment (however described) in a place outside Hong Kong, whether or not the sentence is suspended; or”.
- 86 In the proposed section 10B(2)(a)(i), by deleting “or (b)” and substituting “, (b), (ba) or (bb)”.
- 87(2) In the Chinese text, by deleting “從。 ”” and substituting “從。 ”。 ”.
- 101 By deleting the proposed section 34(2) and substituting—
- “(2) A medicine that is prescribed by a registered medical practitioner, a registered Chinese medicine practitioner or a listed Chinese medicine practitioner for a resident in a residential care home for PWDs may only be administered to the resident in accordance with the prescription.”.
- 105 In the proposed Schedule 1, in section 3, in Table 1, in item 1, in column 2, by deleting “13” and substituting “11”.
- 105 In the proposed Schedule 1, in the Chinese text, in section 6, in the heading, by deleting “點” and substituting “點， ”.
- 106 By adding before subclause (1)—
- “(1A) Schedule 1, section 3, Table 1, item 1, column 2—
- Repeal**
- “11”
- Substitute**
- “13”. ”.