

Chapter 7

Public Views on Proposed Sanctions

What We Consulted the Public on

7.1 In Chapter 9 of the Consultation Document, we consulted the public on the following proposed maximum penalties for PHFs (and the PICs in respect of imprisonment) contravening the proposed legislation –

(a) unregistered operation

- hospitals: a fine of **\$5,000,000** and imprisonment for **two years**
- other regulated PHFs: a fine of **\$100,000** and imprisonment for **three months**; and

(b) non-compliance with other provisions in the legislation

- hospitals: a fine of **\$1,000,000** and a daily fine of **\$10,000** for continuous contravention
- other regulated PHFs: a fine of **\$25,000** and a daily fine of **\$2,000** for continuous contravention.

How the Public Responded

(E19) Sanctions

7.2 It was generally agreed that the existing sanctions under the Hospitals, Nursing Homes and Maternity Homes Registration Ordinance (Cap. 165) and the Medical Clinics Ordinance (Cap. 343) were not commensurate with the scale of operation of and level of risks involved in PHFs, so there was little deterrent effect for non-compliance. The proposal to impose more severe sanctions on non-complying PHFs under the new regulatory regime was supported.

7.3 Respondents were generally supportive of introducing sanctions which were commensurate with certain benchmarks (e.g. risk levels involved) for the three categories of PHFs. Some submissions considered that the sanctions under our proposal remained inadequate, and suggested the Government to consider introducing sanctions that were more extensive and severe under the new regulatory regime.

7.4 Aside from the issue of penalty level as mentioned above, one of the views received suggested that non-compliance with the regulations or codes of practice issued by the regulatory authority (in addition to provisions in the main legislation) should also be subject to sanctions. On the other hand, there were concerns about casting the enforcement net too wide, and the extent of liabilities to be borne by officers like the PIC under different circumstances (e.g. malpractice of staff).