

LS/B/54/00-01
2869 9207
2877 5029

Secretary for Environment and Food
Environment and Food Bureau
(Attn: Mr Howard CHAN, PAS)
10/F, Citibank Tower
Garden Road, Hong Kong

By Fax (2136 3321) & By Post
26 June 2001

Dear Mr CHAN,

Noise Control (Amendment) Bill 2001

I am scrutinizing the above Bill with a view to advise the House Committee on the legal aspects. I would be grateful if you could comment on the following :-

- (a) In the proposed section 28A(3), it is a defence for a director or officer charged to prove that he took reasonable precautions and exercised due diligence to prevent the commission of the offence by the body corporate. In the proposed section 28A(4), such a defence could be established if the director or officer proves that he had established a proper system to prevent the commission and had ensured the effective operation of the system. Is it intended that compliance with the requirements of the codes of practice issued under the proposed section 28C could be evidence of having taken reasonable precautions or established a proper system? If so, has the Administration considered stating this explicitly in the Bill?
- (b) The proposed section 28C(1) provides that the codes would contain practical guidance for the purpose of providing industries with good management practice. Is it intended that the codes would be subsidiary legislation? If not, has the Administration considered stating explicitly that they are not?

Yours sincerely,

(LEE Yu-sung)

Senior Assistant Legal Adviser