

電話號碼 Tel no.: 2136 3355  
傳真號碼 Fax no.: 2136 3321  
本檔函號 Our Ref.: EFB 9/55/02/28  
來檔函號 Your Ref. : LS/B/54/00-01

28 June 2001

Legislative Council Secretariat  
Legal Services Division  
Legislative Council Building  
8 Jackson Road, Central  
Hong Kong

**(Attn.: Mr LEE Yu-sung)**

Dear Mr Lee,

**Noise Control (Amendment) Bill 2001**

I refer to your letter dated 26 June. Our comments are as follows -

- (a) It is our legislative intent that compliance with the requirements of the codes of practice issued under the proposed section 28C could be used as evidence of having taken reasonable precaution or established a proper system. However, whether or not such evidence is accepted as a due diligence defence by the Court is a matter for the Court to decide.
- (b) We do not intend to make the codes of practice a subsidiary legislation. Our legal advice is that it is not necessary to state this in the Bill because, in the absence of express legislative provisions to the contrary, codes of practice cannot be subsidiary legislation.

Should you have any query, please contact the undersigned.

Yours sincerely,

( Miss Winnie Leung )  
for Secretary for the Environment and Food

c.c.

D of J	(Attn.:Mr. Geoffrey Fox) 2869 1302
	(Attn.:Ms. Sandra Chiu) 2136 8277
	(Attn.:Miss Vinci Lam) 2877 0171
DEP	(Attn.:Mr. K S Chan) 2802 4511