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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.

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