

LEGISLATIVE COUNCIL BRIEF

KARAOKE ESTABLISHMENTS BILL

INTRODUCTION

A At the meeting of the Executive Council on 2 January 2001, the Council ADVISED and the Chief Executive ORDERED that the Karaoke Establishments Bill, at Annex A, should be introduced into the Legislative Council.

BACKGROUND AND ARGUMENT

Introduction into the previous Legislative Council

2. On 29 February 2000, the Chief Executive in Council directed that the Karaoke Establishments Bill should be introduced into the Legislative Council to provide for licensing control of karaoke establishments. The Bill was introduced on 15 March 2000 accordingly, but lapsed at the end of the 1999/2000 legislative session before the previous Legislative Council had time to scrutinize it. Re-introduction of the Bill in the current legislative session is necessary. The Bill at Annex A is the same as that introduced in March 2000 except for some minor textual changes.

General Background

3. A major fire at the Top One Karaoke in January 1997 killed 17 persons. Following the tragedy, an inter-departmental working group was set up to co-ordinate efforts to better control karaoke establishments.

4. At present, there is no specific control of karaoke establishments, other than some general requirements applicable to the premises in which they are located. For example, as most of the karaoke establishments also serve food or are attached to clubs or hotels, they are subject to some form of regulatory controls if –

- (a) the karaoke business is conducted in a place licensed as a general restaurant or a light refreshment restaurant under the Public Health and Municipal Services Ordinance, or is operated with a liquor licence under the Dutiable Commodities (Liquor) Regulations; or
 - (b) the karaoke business is conducted within a clubhouse the safety of which has been certified under the Clubs (Safety of Premises) Ordinance, or within a hotel or guesthouse licensed under the Hotel and Guesthouse Accommodation Ordinance.
5. If a karaoke establishment does not operate as any of the above, it can still conduct business with a simple business registration certificate.
6. Without proper fire safety construction and installations, the risk of fire in a karaoke establishment remains high in view of the unique characteristics of its operations. General alertness of the customers or patrons may be affected by the consumption of alcoholic drinks and loud music inside the premises. These premises are often partitioned into small cubicles and accessed through long and narrow passages. Such special layout will make it difficult to escape in case of fire. General fire safety provisions cannot adequately address the fire risk associated with, for example, the special closed-cubicle layout of most karaoke establishments. Therefore, a set of prescribed minimum standards to safeguard fire and public safety in karaoke establishments is essential.
7. The inter-departmental working group concluded that the most effective way to institute the necessary fire safety, building and public safety requirements on karaoke establishments is to introduce a statutory licensing system.

The Proposal

8. We propose that all establishments providing karaoke facilities, whether attached to restaurants or other licensed premises, should be brought under the control of a licensing scheme administered by a licensing authority, i.e. karaoke establishments should be required to obtain

a licence or permit for their operations. However, bona fide restaurants* will be exempted from the licence requirement. The licensing authority will adopt a pragmatic approach in enforcing the licensing conditions. In vetting an application from an existing karaoke establishment which has already been granted a separate licence for the purpose of, for example, restaurant, club, hotel or guesthouse, the authority will mainly focus on the applicant's compliance with the additional fire safety measures required to address the special layout and operation of the karaoke. For karaoke establishments in restaurants or premises serving light refreshment, the Director of Food and Environmental Hygiene will act as the licensing authority. In other cases where, for example, the karaoke establishments are attached to hotels or clubs, the Secretary for Home Affairs will be the licensing authority. The one-stop approach to focus the licensing responsibility on the same authority within the premises should help streamline the licence processing procedures, rendering the licensing scheme more user-friendly to the karaoke operators. It should also help minimize possible duplication of regulatory efforts by Government agencies.

9. An applicant for a karaoke licence will be required to meet the prescribed fire safety, building safety, public safety and health requirements. However, for existing karaoke establishments, a transitional period of 12 months will be granted in the first instance to allow time for their compliance work. Another grace period of 12 months will be given if their licence applications made within the transitional period were then refused. Details of the proposed licensing requirements will be laid down in regulations. An outline of these requirements is at Annex B.

B

10. Penalties will be imposed where karaoke activities are operated in premises without a licence or permit. The licensing authority may issue a direction if a karaoke operator fails to comply with the licensing conditions. The authority may further apply to the District Court for a closure order and prohibit the use of the premises as a karaoke establishment in the event that the operator fails to comply with a direction.

* **Note** A bona fide restaurant is one serving food and drinks as their main business with the aggregate area of all karaoke cubicles not exceeding 30% of its total seating area, and where the number of karaoke cubicles does not exceed its total seating area in square metres divided by 100.

Regulatory Impact Assessment

11. The Business and Services Promotion Unit of the Commerce and Industry Bureau has commissioned a consultant to carry out a Regulatory Impact Assessment (RIA) on the licensing control of karaoke establishments. The analysis reveals that the introduction of the proposed licensing arrangements will bring considerable benefits to the general public, whereas the impact on the trade will be small when compared to the turnover and profitability of the trade as a whole. However, some establishments, particularly those with poor cashflow and those in unsuitable buildings may face considerable financial constraints during the first year. To lessen the impact, the consultant recommended the introduction of additional flexibility into the regulations to facilitate the application of alternative fire and building safety measures for meeting the required standards. In addition, the consultant suggested a phased implementation programme to allow the trade to spread the cost of the required upgrading works over a longer period of time. We are reviewing and refining the licensing procedures and draft subsidiary legislation in the light of its findings and recommendations. We shall also take forward other measures recommended by the consultant to assist the karaoke operators in complying with the regulations, e.g. the issue of guidance materials on the licensing requirements and procedures.

THE BILL

12. The main provisions of the Bill are –
- (a) **Clause 2** provides for some key definitions e.g. karaoke establishments, licensing authority, licence and permit.
 - (b) **Clause 3** disapplies the Bill in relation to particular karaoke establishments and provides for exemption and transitional matters under the Ordinance.
 - (c) **Clause 4** prohibits any person from operating karaoke establishments unless authorized under a permit or licence.
 - (d) **Clause 5** provides for the application for and grant or issue of permits and licences. **Clauses 6 and 7** deal with the transfer of permits and licences. **Clause 8** deals with the renewal of permits and licences.

- (e) **Clause 9** provides for the grant or issue of a provisional permit or licence.
- (f) **Clauses 10 and 11** deal with revocation, suspension and refusal to renew or to allow transfer.
- (g) **Clause 12** provides for appeals to the Administrative Appeals Board against decisions to be made by the licensing authority under clauses 5, 6, 8, 9 and 10.
- (h) **Clause 13** deals with inspection of karaoke establishments, while **clause 14** enables the licensing authority to direct remedial measure to be taken.
- (i) **Clause 15** enables the licensing authority to obtain an order from the District Court to effect the closure and cessation of the use of premises as a karaoke establishment. **Clause 16** deals with offences and **clause 17** provides for aids for proof.
- (j) **Clause 18** provides for service of notices.
- (k) **Clause 19** provides powers for the court to order forfeiture.
- (l) **Clause 20** empowers the Chief Executive in Council to make regulations.
- (m) **Clause 21** makes consequential amendments.

PUBLIC CONSULTATION

13. A three-month public consultation on the proposed licensing scheme was conducted from February to May 1998. The karaoke trade and the general public were generally supportive of our objective to improve fire and public safety of karaoke establishments. Some also suggested that the fire safety management of karaoke establishments should be improved. Nevertheless, the trade raised concerns over the financial implications, particularly those in respect of the fire safety construction requirements.

14. We consulted the Provisional Urban Council and Provisional Regional Council in late 1998 and early 1999. The two Provisional Municipal Councils were generally supportive, but noted the concerns expressed by the karaoke trade. We briefed the Legislative Council Panel on Security in January 1999.

15. We have continued discussions with the karaoke trade, as a result of which we have refined the fire safety construction requirements and adopted a phased implementation approach to minimize the financial impact, while maintaining our objective of improving fire safety in karaoke establishments. For example, existing karaoke establishments may not be required to widen corridors to 1.2 metres if basic fire safety measures have been installed; dead-end situations might be tolerated subject to additional fire safety provisions as may be required by the authority; and as requested by the trade, the aggregate area of corridors will be excluded in calculating the permitted capacity of the premises.

BASIC LAW IMPLICATIONS

16. The Department of Justice advises that the Bill does not conflict with those provisions of the Basic Law carrying no human rights implications.

HUMAN RIGHTS IMPLICATIONS

17. The Department of Justice advises that the Bill is consistent with the human rights provisions of the Basic Law.

BINDING EFFECT OF THE LEGISLATION

18. The Bill does not contain any express binding effect provision.

FINANCIAL AND STAFFING IMPLICATIONS

19. We have provided additional resources for Fire Services Department and Buildings Department to step up inspections of karaoke establishments. The additional workload generated from the proposed licensing scheme for the other relevant departments and the Home Affairs Bureau will be absorbed by existing resources from within their global

allocations. Fees will be charged for the licences or permits to cover administrative costs.

ECONOMIC IMPLICATIONS

20. The additional costs incurred in meeting the various licensing requirements can be expected to be passed on to consumers. The consumers will in return be assured of a safer environment in such establishments.

21. According to the RIA, the licensing control would bring considerable benefits to the general public and the impact on the trade would be small when compared to the turnover and profitability of the trade as a whole. Some karaoke establishments, particularly those with poor cashflow or in unsuitable buildings requiring substantial improvement works, may face financial constraints during the first year of implementation of the licensing system, should they be required to complete all improvement works within that time frame. The phased implementation approach, as explained in paragraph 11 above, would help the trade to meet the cost of improvement works more easily.

LEGISLATIVE TIMETABLE

22. The legislative timetable is—

Publication in the Gazette	12 January 2001
First Reading and commencement of Second Reading debate	7 February 2001
Resumption of Second Reading debate, committee stage and Third Reading	to be notified

PUBLICITY

23. A press release will be issued on 10 January 2001. A spokesman will be available to answer press enquiries.

ENQUIRIES

24. For enquiries, please contact Mr D AU, Principal Assistant Secretary for Security at 2810 2003.

Security Bureau

10 January 2001

File Ref: SBCR 2/1866/97 Pt.20

LEGISLATIVE COUNCIL BRIEF

KARAOKE ESTABLISHMENTS BILL : ANNEXES

Annex A Karaoke Establishments Bill

Annex B Outline of proposed fire safety, building safety and health requirements

KARAOKE ESTABLISHMENTS BILL

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A BILL

To

Regulate karaoke establishments.

Enacted by the Legislative Council.

PART I

PRELIMINARY

1. Short title and commencement

(1) This Ordinance may be cited as the Karaoke Establishments Ordinance.

(2) This Ordinance shall come into operation on a day to be appointed by the Secretary for Security by notice published in the Gazette.

2. Interpretation

(1) In this Ordinance, unless the context otherwise requires -

"grantee" (持證人) means a person to whom a permit has been granted or transferred or whose permit has been renewed;

"karaoke" (卡拉 OK) means an activity in which a person, by himself or, together with one or more than one other person, chants, intones, sings or vocalizes in association with or in company with any music or other sound, or any visual image or other information where -

(a) the music or other sound or the visual image or other information is produced, distributed or conveyed by means of a film, laser disc, video tape or any other audio visual device;

(b) the visual image or other information is displayed or exhibited on a screen or any surface; and

- (c) the chant, intonation, song or vocalization is blended or mixed with the music or other sound or the visual image or other information by means of an amplifier, microphone, speaker or any other amplifying device;

"karaoke establishment" (卡拉 OK 場所) means, subject to section 3, any place opened, kept or used for the purpose of karaoke by way of trade or business, whether or not the trade or business is carried on exclusively or in association or connection with any other trade or business activity and whether or not the place is a place to which the public have or are permitted to have access;

"licence" (牌照) means a licence issued under section 5(2)(c) or renewed under section 8(1) to operate a karaoke establishment;

"licensee" (持牌人) means a person to whom a licence has been issued or transferred or whose licence has been renewed;

"licensing authority" (發牌當局) means -

- (a) in the case of a karaoke establishment -
 - (i) in premises in respect of which a licence has been issued under the Hotel and Guesthouse Accommodation Ordinance (Cap. 349); or
 - (ii) in premises in respect of which a certificate of compliance has been issued under the Clubs (Safety of Premises) Ordinance (Cap. 376),

and is for the time being in force, the Secretary for Home Affairs;

- (b) in the case of a karaoke establishment in premises in respect of which a licence for the operation of a

restaurant has been granted under the Public Health and Municipal Services Ordinance (Cap. 132) and is for the time being in force, the Director of Food and Environmental Hygiene;

- (c) in the case of a karaoke establishment in premises, other than of the description mentioned in paragraph (a) or (b), in respect of which a business registration certificate has been issued under the Business Registration Ordinance (Cap. 310) and is for the time being in force, the Secretary for Home Affairs;

"permit" (許可證) means a permit granted under section 5(2)(a) or renewed under section 8(1) to operate a karaoke establishment;

"provisional licence" (臨時牌照) means a provisional licence granted or renewed under section 9 to operate a karaoke establishment;

"provisional permit" (臨時許可證) means a provisional permit granted or renewed under section 9 to operate a karaoke establishment.

(2) For the purposes of this Ordinance and the definition "licensing authority", the licensing authority may authorize in writing any public officer to perform or exercise on behalf of the licensing authority all or any of the functions which are imposed or conferred on the licensing authority by this Ordinance.

3. Application, exemption and transitional

(1) This Ordinance shall not apply to any karaoke establishment -

- (a) in premises under the management of the Government, subvented welfare agencies, schools, academic institutions or member organizations of the Hong Kong Council of Social Services;

- (b) in premises under the management of any charitable institution or trust of a public character exempt from tax under section 88 of the Inland Revenue Ordinance (Cap. 112);
 - (c) in concert halls, theatres, auditoria and community halls in respect of which a licence has been granted and is for the time being in force under section 4 of the Places of Public Entertainment Ordinance (Cap. 172) or which are the subject of an order made under section 3A of that Ordinance that is for the time being in force;
 - (d) in premises in respect of which a licence for the operation of a restaurant has been granted under the Public Health and Municipal Services Ordinance (Cap. 132) which are the subject of an order made under paragraph (e) that is for the time being in force; or
 - (e) exempted by the licensing authority by order in writing that is for the time being in force.
- (2) An order under subsection (1)(e) may -
- (a) be made by reference to the type or description of a karaoke establishment;
 - (b) be made by reference to or in respect of any person;
 - (c) be made subject to such conditions;
 - (d) be made subject to such geographical limitations;
 - (e) have effect for such period; or
 - (f) have such general, particular or partial application,

as may be indicated in the order and, if made by reference to or in respect of any person, shall be served on the person by reference to or in respect of whom it is made.

- (3) A person who immediately before the date of commencement

of section 4 was operating, keeping, managing or otherwise controlling a karaoke establishment in any premises may continue to operate that karaoke establishment without having to comply with any of the conditions indicated in section 4(2) -

- (a) during the period of 12 months beginning with that date; and
- (b) if within that period application is made to the licensing authority under section 5(1) for the grant of a permit or the issue of a licence in respect of that karaoke establishment, until that application is finally disposed of or withdrawn and, if the application is refused under section 5(2), for a further period of 12 months beginning with the date that the written order, properly dated and signed to that effect, is made by the licensing authority under section 5(7).

(4) An application made to the licensing authority by virtue of subsection (3)(b), shall be acknowledged by the licensing authority in such form and manner as he may determine.

PART II

RESTRICTION ON OPERATION OF KARAOKE ESTABLISHMENTS

4. Restriction on operating karaoke establishment except with permit or licence

(1) Any person who on any occasion operates, keeps, manages or otherwise has control of a karaoke establishment in respect of which none of the conditions indicated in subsection (2) have been satisfied commits an offence and is liable on conviction to a fine at level 5 and to imprisonment for 6 months and in the case of a

continuing offence to a further daily fine of \$1,000 for each day during which the offence continues.

- (2) The conditions referred to in subsection (1) are -
- (a) that a provisional permit has been granted under section 9 in respect of the karaoke establishment and is for the time being in force;
 - (b) that a permit has been granted under section 5(2)(a) in respect of the karaoke establishment and is for the time being in force;
 - (c) that a provisional licence has been issued under section 9 in respect of the karaoke establishment and is for the time being in force; or
 - (d) that a licence has been issued under section 5(2)(c) in respect of the karaoke establishment and is for the time being in force.

(3) It shall not be a defence that a person charged with an offence under subsection (1) did not know that none of the conditions indicated in subsection (2) had been satisfied.

(4) For the purposes of subsection (1), "karaoke establishment", does not include premises used wholly for residential purposes and constituting a separate household unit to which only persons residing in the premises and their guests are admitted and where no fee is charged for the activity of karaoke.

PART III

APPLICATION FOR GRANT OF PERMIT OR ISSUE OF LICENCE

5. Application for permit or licence

- (1) An application by a person for -
- (a) the grant of a permit; or

- (b) the issue of a licence,

under this Ordinance in respect of a karaoke establishment shall be -

- (i) made to the licensing authority in such form and manner as the licensing authority may determine;
- (ii) accompanied by such prescribed information, particulars and plans as may be required; and
- (iii) accompanied by the prescribed fee payable for the grant of a permit or the issue of a licence, as the case may be.

(2) Subject to subsections (3) to (5) and to any prescribed requirements, the licensing authority may -

- (a) grant a permit;
- (b) refuse to grant a permit;
- (c) issue a licence; or
- (d) refuse to issue a licence,

and, where a permit is granted or a licence is issued, may impose such conditions, in relation to the operation, keeping, management or other control of a karaoke establishment, as he thinks fit.

(3) The licensing authority shall not grant a permit or issue a licence unless he is satisfied that the application has been made in accordance with subsection (1) and, in relation to the proposed operation of the karaoke establishment, that -

- (a) the person making that application is a person who -
 - (i) is a fit and proper person to operate the karaoke establishment;
 - (ii) will adequately supervise or will ensure the adequate supervision of the operation of the karaoke establishment;
 - (iii) is not the agent, representative or servant of any person whose permit or licence has

been revoked or whose application to renew a permit or a licence has been refused under section 10;

- (b) the place of the proposed operation is -
 - (i) suitable for the operation of the karaoke establishment;
 - (ii) located in an area suitable for the operation of the karaoke establishment; and
- (c) in all the circumstances the grant of the permit or the issue of the licence is not contrary to the public interest.

(4) A permit may only be granted in respect of a karaoke establishment the place of the proposed operation of which is located in -

- (a) premises in respect of which a licence for the operation of a restaurant has been granted under the Public Health and Municipal Services Ordinance (Cap. 132) and is for the time being in force;
- (b) a hotel or guesthouse in respect of which a licence has been issued under the Hotel and Guesthouse Accommodation Ordinance (Cap. 349) and is for the time being in force;
- (c) a clubhouse in respect of which a certificate of compliance has been issued under the Clubs (Safety of Premises) Ordinance (Cap. 376) and is for the time being in force.

(5) A licence may only be issued in respect of a karaoke establishment the place of the proposed operation of which is located in any place other than a place of the description mentioned in subsection (4).

(6) In the making of a decision under subsection (3)(b) the licensing authority, without affecting the generality of that subsection, may take into account the views of persons whose place of residence or employment is in the immediate vicinity of the place of the proposed operation.

(7) Subject to section 11(1), where the licensing authority refuses to grant a permit or to issue a licence he shall make a written order, properly dated and signed, to that effect adequately stating by reference to subsection (3), the matter in respect of which he is not satisfied and shall serve a copy thereof on the applicant.

(8) A grant of a permit or an issue of a licence under this section shall -

- (a) be in such form as the licensing authority may determine;
- (b) not take effect except on payment of the prescribed fee; and
- (c) authorize the grantee or the licensee to operate a karaoke establishment for a period of 12 months, or such lesser period, and at such place, as may be indicated in the permit or the licence, from the date on which it is granted or issued.

6. Transfer of permit and licence

(1) Except as provided in this section neither a permit nor a licence shall be transferable.

(2) Subject to subsection (6), the licensing authority may on application in writing to him, showing sufficient cause to his satisfaction, and on payment of the prescribed fee, allow the transfer from a grantee of an existing permit until its expiration

to another person or from a licensee of an existing licence until its expiration to another person, and the fact of such transfer shall be endorsed on the permit or the licence.

(3) Where a permit or a licence is transferred under subsection (2), a reference in this section and in sections 5, 8, 9, 10 and 11 and in any regulation made under section 20 to a grantee or a licensee shall be construed as a reference to the person to whom the permit or the licence has been transferred.

(4) Where a permit or a licence is transferred under subsection (2), the licensing authority may in respect of the permit or the licence impose any condition in addition to or instead of any condition previously imposed by him under section 5(2).

(5) Where the licensing authority refuses to allow the transfer of a permit or a licence under subsection (2), he shall give to the applicant, in writing, an adequate statement of the reasons for the refusal.

(6) Subsection (2) does not apply to a permit or a licence that is the subject of a notice served on a grantee or licensee under section 11.

7. Grant or issue or transfer of permit or licence to bodies corporate or partnerships

(1) Where a body corporate or a partnership wishes to obtain a permit or a licence under section 5, a person authorized by the body corporate or the partnership in that behalf shall apply as the representative of the body corporate or the partnership and, if a permit or a licence is granted or issued by the licensing authority, it shall be expressed to be granted or issued to that person on behalf of the body corporate or the partnership, as the case may be.

(2) Where a permit or a licence is transferred to a body

corporate or a partnership under section 6(2), it shall be expressed to be transferred to a person authorized by the body corporate or the partnership in that behalf as the representative of the body corporate or the partnership, as the case may be.

8. Renewal of permit or licence

(1) Subject to this section, the licensing authority may renew a permit or a licence.

(2) A grantee or a licensee may, not less than 90 days before the expiration of his permit or his licence, apply to the licensing authority for his permit or his licence to be renewed.

(3) This section does not apply to a grantee or a licensee whose permit or licence is revoked.

(4) An application by a grantee or a licensee for the renewal of a permit or a licence shall be made to the licensing authority in such form and manner as he may require.

(5) The renewal of a permit or a licence under this section shall not take effect except on payment of the prescribed fee and the licensing authority may in respect of the renewed permit or licence impose any condition in addition to or instead of any condition previously imposed by him under section 5(2) or 6(4), as the case may be.

(6) A renewal of a permit or a licence under this section before the expiration of the permit or the licence shall take effect on the day following the day of its expiration.

(7) Any permit or licence in respect of which an application for renewal is made under this section and which expires prior to the determination of such application shall, unless such application is withdrawn, or the permit or the licence is revoked or suspended under section 10, remain in force until the determination by the

licensing authority of such application.

(8) A renewal of a permit or a licence under this section shall have effect from the day following the day upon which the permit or the licence being renewed would have expired but for subsection (7), for a period of 12 months or such lesser period as may be indicated by the licensing authority at the time of renewal.

9. Provisional permits and provisional licences

(1) Where an application is made to the licensing authority under section 5(1) for the grant of a permit or the issue of a licence, as the case may be, in respect of a karaoke establishment, the licensing authority may on application grant a provisional permit or issue a provisional licence.

(2) A reference in this section and in sections 4, 5, 6, 7, 8, 10, 11, 13, 16 and 17 to a permit or a licence is to be construed as a reference to a provisional permit or a provisional licence, as the case may be.

(3) A provisional permit or a provisional licence shall authorize the grantee or the licensee to operate a karaoke establishment until -

- (a) the expiration of a period of 6 months or of such lesser period as may be indicated in the provisional permit or the provisional licence;
- (b) the licensing authority grants a permit or issues a licence to the applicant under section 5(2); or
- (c) the licensing authority serves a copy of a written order made under section 5(7) on the applicant notifying his refusal to grant a permit or to issue a licence,

whichever occurs first.

(4) A provisional permit or a provisional licence may, on one occasion only, be renewed on expiration for a period of 6 months or for such lesser period as may be indicated by the licensing authority at the time of renewal.

10. Revocation, suspension, refusal to renew or transfer; amendment or variation of conditions of permit or licence

The licensing authority may by notice in writing served on the grantee or licensee -

- (a) revoke a permit or a licence;
- (b) suspend a permit or a licence for such period of time as he may think fit;
- (c) refuse to renew or transfer a permit or a licence; or
- (d) amend or vary the conditions of a permit or a licence,

if -

- (i) he is satisfied that any false or misleading statement or information was made or furnished by an applicant in connection with the application to obtain, renew or transfer the permit or the licence;
- (ii) the grantee or the licensee has been convicted of an offence under this Ordinance or any regulations made under section 20;
- (iii) a condition of the permit or the licence is contravened, whether or not any person has been convicted of an offence under section 16;
- (iv) he ceases to be satisfied of any matter in respect of which he is required to be satisfied under section 5(3); or
- (v) in his opinion the karaoke establishment has on any

occasion since the date on which the permit or the licence was granted or issued been operated in a manner contrary to the public interest.

11. Notice of refusal of permit or licence or renewal and of revocation or suspension, etc.

(1) The licensing authority shall, before refusing an application for the grant of a permit or the issue of a licence under section 5(7) or before serving notice under section 10, serve on the applicant or the grantee or the licensee, as the case may be, notice of his intention to do so, stating the grounds on which he intends to refuse the application or to serve the notice, as the case may be, and containing an intimation that such applicant or such grantee or such licensee may make written representations to him.

(2) If the licensing authority decides to refuse an application for the grant of a permit or the issue of a licence under section 5(7) or serve a notice under section 10, he shall make a written order, properly dated and signed, to that effect and shall serve a copy thereof on the applicant or the grantee or the licensee.

12. Appeals

(1) Any person aggrieved by a decision of the licensing authority made in respect of him under section 5, 6, 8, 9 or 10 may, within 28 days of receiving notice of the decision, appeal to the Administrative Appeals Board.

(2) A decision that is appealed against under subsection (1) shall be suspended in its operation as from the day on which the appeal is made until such appeal is disposed of, withdrawn or

abandoned unless such suspension would, in the opinion of the licensing authority, be contrary to the public interest and the notice of the decision contains a statement to that effect.

PART IV

SUPERVISION OF KARAOKE ESTABLISHMENTS

13. Inspection of karaoke establishments

(1) For the purposes of this section -

- (a) any public officer authorized by the licensing authority in writing for that purpose may, without warrant and on production, if so required, of his written authorization and his identity card issued under the Registration of Persons Ordinance (Cap. 177); or
- (b) the Commissioner of Police or any police officer authorized by him may, without warrant and on production of his warrant card issued by the Commissioner of Police,

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- (i) at all reasonable times enter and inspect any karaoke establishment or any premises which he has reason to suspect are used as or for the purposes of a karaoke establishment;
- (ii) require any person taking part in the operation or management of a karaoke establishment to produce any book, document or other article relating to the operation or management of that karaoke establishment or to any other activity in respect of the karaoke establishment or to furnish any information relating

to such operation, management or activity;

- (iii) take possession of and remove for further examination any book, document, apparatus, equipment or any other article which he has reason to suspect is evidence of the commission of an offence against this Ordinance, or is evidence of a ground for the revocation or suspension of a permit or a licence granted or issued in respect of a karaoke establishment; and
- (iv) do such things as are necessary for the inspection of a karaoke establishment or for the inspection or testing of any apparatus, equipment or any other article, works or system used for or in connection with the operation, keeping, management or other control of the karaoke establishment.

(2) Without affecting the application of section 50(7) of the Police Force Ordinance (Cap. 232) insofar as it applies to any police officer, neither any public officer authorized in writing for that purpose nor the Commissioner of Police or any police officer authorized by him may enter any premises used wholly for residential purposes and constituting a separate household unit, in the exercise of the powers conferred by subsection (1), unless an adult occupier of the premises gives his consent.

14. Licensing authority may direct remedial works

(1) The licensing authority may, in respect of any karaoke establishment, by notice in writing, give such directions as appear to him to be required to secure that -

- (a) the safety of persons on the premises being used as a karaoke establishment is promoted in a proper manner;
- (b) adequate apparatus and equipment required as

safeguards against fire or other hazard are provided in the karaoke establishment; and

(c) the provisions of this Ordinance are complied with.

(2) A notice under subsection (1) shall -

(a) be served on the person being the operator, keeper, manager or otherwise having control of the karaoke establishment; and

(b) indicate a period within which the directions shall be complied with.

15. Order for closure and cessation of use of premises as a karaoke establishment

(1) Where it is proved to the satisfaction of the District Court on the sworn information of the licensing authority that -

(a) not less than 24 hours' notice in writing of his intention to swear the information was served by the licensing authority on the person being the operator, keeper, manager or otherwise having control of the karaoke establishment; and

(b) it appears to the licensing authority that -

(i) there is any danger or risk of danger to persons on the premises being used as a karaoke establishment; or

(ii) the requirements of a direction given under section 14 have not been complied with in respect of the karaoke establishment within the period of time indicated in the notice served under that section,

the District Court shall make an order in writing directing that the karaoke establishment shall close and shall cease to be used as a

karaoke establishment until the licensing authority gives notice under subsection (4).

- (2) On the making of an order under subsection (1) -
 - (a) any police officer or any public officer authorized by the licensing authority in writing may remove from the karaoke establishment any person found in the karaoke establishment and any person being in the karaoke establishment in contravention of subsection (3);
 - (b) the licensing authority may execute or cause to be executed any work necessary to give effect to the order made under subsection (1) and may recover in the District Court any expenses incurred by reason of such work from the person being the operator, keeper, manager or otherwise having control of the karaoke establishment as a debt due to the Government.
- (3) No person other than -
 - (a) any police officer or any public officer in the course of his duty; or
 - (b) any person authorized by the licensing authority in writing,

shall enter or be in the karaoke establishment while an order under subsection (1) is for the time being in force.

- (4) An order under subsection (1) shall remain in force until the licensing authority by notice in writing -
 - (a) served on the person being the operator, keeper, manager or otherwise having control of the karaoke establishment; or
 - (b) posted in a conspicuous part of the karaoke establishment,

declares that the karaoke establishment may open and may be used as a karaoke establishment.

PART V

MISCELLANEOUS

16. Offences in relation to permits and licences

(1) Any person who on any occasion operates, keeps, manages or otherwise has control of a karaoke establishment in respect of which a permit or a licence, as the case may be, has been granted or issued -

- (a) in contravention of any condition of the permit or the licence, as the case may be, so granted or issued;
- (b) in any premises other than the premises indicated in the permit or the licence, as the case may be, so granted or issued; or
- (c) under any name other than the name of the karaoke establishment indicated in the permit or the licence, as the case may be, so granted or issued,

commits an offence.

(2) Where any condition of a permit or a licence, as the case may be, is contravened, the person in whose name the permit or the licence, as the case may be, was granted or issued shall be guilty of an offence unless he adduces evidence which proves that -

- (a) he did not know and had no reason to suspect the existence of the circumstances giving rise to the contravention; and
- (b) he could not, by the exercise of reasonable supervision and reasonable diligence, have prevented

those circumstances arising.

(3) Where an offence under subsection (1) is alleged to have been committed, evidence that a defendant did any act in connection with the operation, keeping, management or other control of a karaoke establishment shall, unless the contrary is proved, be proof that the defendant operated, kept, managed or otherwise had control of the karaoke establishment.

(4) Any person who -

- (a) in or in connection with any application under this Ordinance makes any statement or furnishes information, whether such statement be oral or written, which is false in any material particular and which he knows or reasonably ought to know is false in such particular;
- (b) obstructs the licensing authority, any police officer or any public officer in the exercise of any of his powers under this Ordinance;
- (c) refuses to produce any book, document, or any other article upon being so required under section 13 or furnishes information which is false in a material particular and which he knows or reasonably ought to know is false in such particular;
- (d) fails to comply with the requirements of a direction given under section 14 within the period indicated in the notice served thereunder;
- (e) not being a police officer or a public officer in the course of his duty or a person authorized by the licensing authority in writing, enters or is in a karaoke establishment while an order under section 15 is for the time being in force,

commits an offence.

(5) Any person who commits an offence under this section is liable to a fine at level 5 and to imprisonment for 6 months and in the case of a continuing offence to a further daily fine of \$1,000 for each day during which the offence continues.

17. Proof of permit or licence

For the purpose of any proceedings under this Ordinance a document purporting to be a copy of a permit or a licence and of any conditions to which the permit or the licence is subject, and to be certified by a public officer appointed in writing by the licensing authority for that purpose to be a true copy, shall be received in evidence on its production without further proof and it shall be presumed that -

- (a) the document is a true copy of the permit or the licence;
- (b) the person who certified the document was a public officer appointed in writing by the licensing authority for that purpose; and
- (c) the permit or the licence was granted or issued in respect of the place stated in the document to the person stated in the document and is subject to those conditions.

18. Service of notices and orders

A notice or an order to be served under this Ordinance may be served by serving a copy -

- (a) personally;
- (b) by registered post addressed to the last known place of business or residence of the person to be served;

or

- (c) where the notice or the order relates to any premises or part thereof, by leaving the same with an adult occupier of the premises or part thereof to which the notice or the order relates or by posting the same in a prominent position upon or near such premises or upon a conspicuous part of such premises or part thereof.

19. Forfeiture of apparatus and equipment used for karaoke

The court may, on the conviction of any person of an offence under section 4 or 16 relating to a karaoke establishment, order the forfeiture of any apparatus, equipment or any other article together with all related or ancillary components including any cabinet or other casing in which that apparatus, equipment or other article is housed, if any, taken possession of and removed for further examination under section 13(1)(iii), being apparatus, equipment or any other article which was placed in the karaoke establishment for the purposes of karaoke, unless the owner of the apparatus, equipment or any other article, satisfies the court that there is special and exceptional reason not to order forfeiture, such as that the apparatus, equipment or other article had been stolen and the theft reported to the police as soon as practicable; but ownership of itself of any apparatus, equipment or other article by a person other than the person convicted or financial hardship to any person shall not be special and exceptional reason.

20. Regulations

- (1) The Chief Executive in Council may by regulation provide

for or in relation to -

- (a) the adequacy, suitability and use of apparatus or equipment in karaoke establishments;
 - (b) reports and information to be supplied to the licensing authority in respect of karaoke establishments;
 - (c) the design, structure, hygiene and sanitation of karaoke establishments;
 - (d) the precautions to be taken against fire or other hazard likely to endanger the lives of persons on premises being used as karaoke establishments;
 - (e) the fees to be charged for any matter prescribed or permitted by this Ordinance;
 - (f) the lodging of appeals under section 12;
 - (g) generally, carrying into effect the provisions of this Ordinance.
- (2) Any regulation made under this section may -
- (a) prohibit the performance of particular acts without the consent of the licensing authority;
 - (b) authorize the licensing authority to require or prohibit the performance of particular acts; and
 - (c) require particular acts to be performed to the satisfaction of the licensing authority.

(3) Where the licensing authority is satisfied that the safety of a person using a karaoke establishment will not be adversely affected, he may, by notice in writing served on the person being the operator, keeper, manager or otherwise having control of that karaoke establishment, waive wholly, partly or conditionally the requirements of any regulation in respect of that karaoke establishment and may amend or withdraw any such notice.

(4) Regulations made under this section may provide that a contravention thereof shall be an offence punishable by a fine at level 5 and a term of imprisonment not exceeding 6 months and in the case of a continuing offence punishable by a further daily fine not exceeding \$1,000 for each day during which the offence continues.

(5) Any regulation made under subsection (1)(e) may provide for a different fee to be payable having regard to -

- (a) the type or description of a karaoke establishment;
- (b) the number of persons able to be accommodated in a karaoke establishment;
- (c) the total floor area of a karaoke establishment;
- (d) whether or not a permit is to be granted, or a licence is to be issued in respect of a karaoke establishment and whether or not any such permit or licence is provisional, as the case may be,

and the amount of any fee so provided need not be limited by reference to the amount of administrative or other costs incurred or likely to be incurred by the licensing authority in the discharge of his functions under this Ordinance.

PART VI

CONSEQUENTIAL AMENDMENT

Administrative Appeals Board Ordinance

21. Schedule amended

The Schedule to the Administrative Appeals Board Ordinance (Cap. 442) is amended by adding -

- "47. Karaoke Establishments Ordinance (of 2001) A decision of the Secretary for Home Affairs or the Director of Food and Environmental Hygiene (as the case may be) under section 5, 6, 8, 9 or 10."

Explanatory Memorandum

The purpose of this Bill is to establish a scheme for the regulatory control of karaoke establishments.

2. Clause 3 disapplies the Bill in relation to particular karaoke establishments and provides for the exemption of karaoke establishments from the operation of the Bill.
3. Clause 4 prohibits any person from operating or assisting in the operation of a karaoke establishment unless that operation is authorized under a permit or a licence.
4. Clause 5 deals with the application for the grant and issue of permits and licences. The licensing authority is empowered to grant permits and issue licences. Those may not be granted or issued unless the licensing authority is satisfied as to certain matters concerning the proposed operation of the karaoke establishment, the character of the applicant and the location of the karaoke establishment. A permit or a licence authorizes the operation of the karaoke establishment for a period of up to 12 months.
5. Clauses 6, 7 and 8 deal with the transfer and renewal of permits and licences. Clause 6 allows the transfer of a permit or of a licence in limited circumstances. Clause 7 provides that in the case of the grant or the issue or the transfer of a permit or a licence to a body corporate or partnership, the permit or the

licence shall be expressed to be granted or issued or transferred to a person as representative of the body corporate or partnership. Clause 8 deals with the renewal of a permit or a licence.

6. Clause 9 provides for the grant or issue of a provisional permit or a provisional licence which will authorize the operation of a karaoke establishment for a period of up to 6 months.

7. Clauses 10 and 11 deal with revocation, suspension and refusal to renew or to allow transfer.

8. Clause 12 provides for appeals to the Administrative Appeals Board.

9. Clause 13 deals with inspection of karaoke establishments.

10. Clause 14 enables the licensing authority to direct remedial measures to be taken.

11. Clause 15 enables the licensing authority to obtain an order from the District Court to effect the closure and cessation of the use of premises as a karaoke establishment.

12. Clause 16 deals with offences.

13. Clause 17 provides for aids in proof.

14. Clause 18 provides various means for service of notices and orders.

15. Clause 19 provides powers for the court to order forfeiture.

16. Clause 20 empowers the Chief Executive in Council to make regulations.

15. Clause 21 is consequential.

Outline of the proposed Fire Safety, Building Safety and Health Requirements for Karaoke Establishments

(A) Fire Safety Requirements

Depending on the layout of the premises, the following fire safety requirements will be imposed where appropriate:-

- (a) karaoke establishments shall not be located on basement level 4 or below or in any industrial buildings;
- (b) stipulated standards for combustible materials used as false ceilings, partitions or wall furnishings, carpets within the protected means of escape, and upholstered furniture containing Polyurethane Foam;
- (c) provision of fire service installations and equipment (e.g. automatic sprinkler systems, fire extinguishers, etc.);
- (d) general fire safety requirements for ventilation system including automatic cut-off devices;
- (e) emergency lighting and low level directional signs capable of maintaining indication of exit direction in darkness;
- (f) alarm bells at individual rooms intended for use by customers;
- (g) audio-visual advisory system which can interrupt the musical system in case of alarm;
- (h) exit routes indication plans for each individual room intended for use by customers;
- (i) a short fire safety film should be shown to the customers before the karaoke activity is started; and
- (j) employees should have received fire safety training provided by the Fire Services Department at least once in every twelve months.

(B) Building Safety Requirements

Essential building safety requirements will include:-

- (a) premises to be structurally suitable;
- (b) minimum width of exit routes (including internal corridor) to be provided;
- (c) exit from every entertainment room to have at least 2 directions of travel to a staircase or a point of discharge to a street;
- (d) internal exit corridors to be protected by fire-resisting construction; and
- (e) the building safety requirements concerning means of escape, fire-resisting construction and means of access for firefighting and rescue laid down in the Codes of Practice published by the Building Authority.

(C) Health Requirements

The following health requirements will be imposed on karaoke establishments:-

- (a) provision of toilet and ablution facilities;
- (b) adequacy of fresh air supply to patrons; and
- (c) fitting-out of ventilation system on the premises.