

立法會

Legislative Council

LC Paper No. CB(2)75/01-02
(These minutes have been seen
by the Administration)

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**Legislative Council
Bills Committee on Karaoke Establishments Bill**

**Minutes of the third meeting
held on Thursday, 2 April 2001 at 8:30 am
in Conference Room A of the Legislative Council Building**

Members Present : Hon James TO Kun-sun (Chairman)
Hon Fred LI Wah-ming, JP
Hon Howard YOUNG, JP
Hon LAU Kong-wah
Hon Tommy CHEUNG Yu-yan, JP
Hon Michael MAK Kwok-fung
Hon LAU Ping-cheung
Hon Audrey EU Yuet-mee, SC, JP

Member Absent : Hon David CHU Yu-lin
Hon Andrew WONG Wang-fat, JP

Public Officers Attending : Security Bureau
Mrs J CHOK
Deputy Secretary for Security

Mr S H AU
Principal Assistant Secretary for Security

Fire Services Department

Mr C C LEE
Chief Fire Officer/Fire Safety

Mr N H HO
Senior Divisional Officer/Commercial Buildings and
Premises

Buildings Department

Mr K M MO
Assistant Director/New Buildings 1

Mr C K LO
Chief Building Surveyor/Legal

Home Affairs Department

Mr H K YUEN
Chief Officer (Licensing Authority)

Food and Environmental Hygiene Department

Mr W H CHEUK
Assistant Director (Headquarters)

Mr K S NG
Senior Superintendent (Licensing)

Department of Justice

Ms F LAM
Government Counsel

**Clerk in
Attendance** : Mrs Percy MA
Chief Assistant Secretary (2)3

**Staff in
Attendance** : Miss Connie FUNG
Assistant Legal Adviser 3

Mr Paul WOO
Senior Assistant Secretary (2)7

I. Meeting with the Administration

(LC Paper Nos. CB(2)1153/00-01(02) and CB(2)1204/00-01(01))

Final Report on Regulatory Impact Assessment on the Licensing Control of Karaoke Establishments (RIA Report)

(LC Paper No. CB(2)1204/00-01(01))

Mr Howard YOUNG said that, based on the Administration's estimate, it would cost approximately \$2.5 million for an existing karaoke establishment with 50 entertainment rooms to carry out the necessary alteration works. He asked whether such an amount would account for a substantial part of the capital costs for such establishments, and whether the majority of existing karaoke establishments in Hong Kong had similar number of entertainment rooms.

2. Deputy Secretary for Security (DS/S) responded that the Administration did not have detailed information. Nonetheless, according to the findings of the RIA Report prepared by the consultants, the costs involved would be acceptable to the trade and would not have significant impact on their operating capital and profits as a whole. However, those karaoke establishments operating in highly unsuitable buildings might face considerable financial difficulties during the first one and two years because of their limited amount of cash in hand. Nonetheless, establishments operating in highly unsuitable premises warranted regulation and special attention.

3. Mr Howard YOUNG requested further explanation from the Administration as to how Karaoke establishments could bear the financial burden. Principal Assistant Secretary for Security ("PAS/S") advised members that tables 5.11 and 5.12 of the RIA Report set out in detail the impact of the regulatory control on the affordability of karaoke establishments with and without sprinkler systems. The Consultants made a specific comparison of karaoke establishments with different layouts and number of entertainment rooms. As the Administration was inclined to allow karaoke establishments to meet the requirements in phases, the affordability of these karaoke establishments in years one, two and three would be different. He drew members' attention to the footnotes which indicated that, if a karaoke establishment chose to install the partition walls having one-hour fire resistance period (FRP) in year three, only 15% of the alteration and renovation works would be completed in year one, and it would cost about 15% of its profit. Furthermore, based on the consultant's assumption that the karaoke establishment would save a third of available profit in years one and two for the works to be undertaken in year three, the costs involved in year three would be only 53% of its profit. As for those karaoke establishments without sprinkler systems, the costs to them in year two would account for just 50% of their profits.

4. Ms Audrey EU enquired about the average floor area of a karaoke establishment with 50 entertainment rooms. Chief Fire Officer/Fire Safety responded that the karaoke establishment with 50 entertainment rooms cited in the RIA Report was a real example and its total floor area was 1,172 square metres.

5. Mr Howard YOUNG pointed out that under normal circumstances, the costs involved in carrying out improvement and decoration works in karaoke establishments without sprinkler systems would be relatively higher than those with sprinkler systems. However, according to the RIA Report, such costs accounted for a higher percentage of the profits of karaoke establishments with sprinkler systems. He requested the Administration to elaborate on this.

6. The Chairman also pointed out that as shown in the two tables, the floor area of the largest karaoke establishment without sprinkler systems was only 230 square metres, which was much smaller than those with sprinkler systems. He requested further explanation from the Administration.

7. PAS/S responded that as far as karaoke establishments with Club or Restaurant Licenses were concerned, the average costs in year three for those with sprinkler systems would account for only 34% or 30% of their profits, while the average costs in year two for those without sprinkler systems would account for 35% or 45% of their profits. It was therefore obvious that the costs to karaoke establishments without sprinkler systems were relatively higher. In response to the Chairman's question, PAS/S advised that at present, a karaoke establishment with a floor area of over 230 square metres must have sprinkler systems installed. That was why the floor areas of karaoke establishments without sprinkler systems were no more than 230 square metres.

8. Mr Tommy CHEUNG queried the accuracy of the Administration's estimates of the costs involved in carrying out the necessary alteration works to the entertainment rooms of karaoke establishments. He pointed out that the estimates did not take into account the costs involved in modifying vents, fire hose, fire services sprinkler heads, etc., as well as those for replacing wallpapers, soundproof or audio equipment after the installation of fire resistance walls. Therefore, he considered that the figures provided by the Administration did not truly reflect the costs involved in carrying out the necessary alteration works. Moreover, the loss in turnover, other expenses such as employees' salary and so on during the course of the alteration works had also been neglected. In view of this, he suggested to invite the trade and the consultancy firm which had prepared the RIA Report to attend a meeting of the Bills Committee to discuss the cost estimates in detail.

9. DS/S responded that table 5.6 of the RIA Report set out in detail the economic impacts to be brought about by the imposition of licensing control on

karaoke establishments, including costs for upgrading works, relocation, time loss, training, fire service installation and video production. On Mr Tommy Cheung's suggestion that the consultants be invited to attend the Bills Committee's meeting, she advised that the consultancy fees did not cover such a requirement and she believed that it would be very costly to do so. The Administration would have to consider the request carefully.

10. The Chairman suggested that a list of members' questions on RIA Report could be forwarded to the Administration which could then request the consultants to provide further explanations. The consultants should be obliged to answer questions related to the Report. As to whether the consultants should be invited to attend the Bills Committee's meeting, he considered that the decision could be made after receiving the consultant's reply. Mr Tommy CHEUNG agreed.

11. Mr Tommy CHEUNG pointed out that there had only been one case of arson in a karaoke establishment resulting in 17 deaths in the past decade. The RIA Report had based on this single incident and come up with the estimate that no fire would occur in 139 years should legislation be enacted to regulate karaoke establishments, otherwise, a fire would occur every three months. He was not convinced of the rationale behind the consultant's estimate.

12. Ms Audrey EU considered that while the trade's views on cost estimates could be sought, other subjective issues raised in the RIA Report such as how to avoid casualties were difficult to quantify and should not be further discussed by the Bills Committee. Any further discussion in this respect would waste the Bills Committee's time.

13. The Chairman said that table 5.11 indicated that alteration and renovation works could be undertaken in phases. However, the trade had advised that phased implementation would not be practicable as some karaoke establishments would have to cease operation, transfer their staff internally or even lay them off. Moreover, footnote 4 of table 5.11 in the Report also assumed that a karaoke establishment would have to bear 85% of the alteration and renovation costs in year 3 while the loss in profits would be a mere 10%. He requested the Administration to seek clarification on these points from the consultant.

14. Mr Howard YOUNG was sceptical about whether karaoke establishments could carry out alteration works in phases. He pointed out that if some of the entertainment rooms underwent alteration while other rooms on the same floor remained open for business, it would pose practical problems and potential risk in operation.

15. Assistant Director/New Buildings 1("AD/NB") explained that whether a

karaoke establishment could carry out alteration and renovation works in phases would depend on its design and floor area. If a karaoke establishment occupied more than one floor, then the works could be carried out floor by floor. Otherwise, it would not be suitable to carry out the works in phases in karaoke establishments with a smaller floor area.

16. Mr Tommy CHEUNG pointed out that many existing karaoke establishments occupied only one floor. Any alteration would affect the central air-conditioning, ventilation system and fire installation etc. within the karaoke establishment, he therefore considered it impracticable to undertake works in phases.

17. Mr Tommy CHEUNG also pointed out that dead-ends existed in many existing karaoke establishments. For those establishments whose dead-ends were not due to building design, they must alter their layouts immediately after the passage of the Bill. By that time, they might be required to widen the width of the corridors from 1.05m to 1.2m as well as to install fire resistant walls in the internal corridors, which would render the grace periods proposed by the Administration meaningless.

18. With regard to Mr Tommy Cheung's question, the Chairman asked the Administration whether those karaoke establishments with dead-ends not due to building design would be required to alter their layouts immediately after the passage of the Bill. AD/NB responded that the Administration considered that the provision of access panel giving access to an adjacent room in such karaoke establishments would be an acceptable solution to their dead-end situations.

19. The Chairman asked the Administration to explain how it would deal with dead-end situations arising from building design. AD/NB responded that a dead-end situation where alteration works to comply with the requirements could not be carried out due to the constraint of the original building design would be tolerated, provided that the karaoke establishment concerned was fitted with automatic sprinkler system and every room facing the dead-end of the corridor was equipped with portable fire extinguishers and additional manual fire alarm bells.

20. Ms Audrey EU pointed out that karaoke establishments with sprinkler systems would be given a grace period of 36 months to carry out improvement works and asked whether the provisions were set out in the Bill. In response, DD/S said that the provisions for the grace periods concerning the installation of fire resistant walls and various requirements in connection with the issue of licence had not been incorporated in the Bill as they would be set out in detail in the subsidiary legislation. The Administration would arrange for both the Bill and its subsidiary legislation to come into effect concurrently to avoid confusion.

The holder of a karaoke establishment licence

21. Mr Tommy CHEUNG said that at present an application for a karaoke establishment permit or licence must be made by an individual person, but not a body corporate. He asked whether the applicant must be vetted by both the Police and the Home Affairs Department (“HAD”) for operating karaoke establishment before the Food and Environmental Hygiene Department (“FEHD”), the Fire Services Department (“FSD”) and the Buildings Department (“BD”) could carry out the necessary inspection for verification. As far as he knew, at present, it normally took several weeks for the Administration to vet an application for a liquor licence. Delay would be inevitable should similar procedures be adopted in respect of an application for karaoke establishment licence. Therefore, he asked whether the Administration would accede to the trade’s request that an application for karaoke establishment licence could be made by a body corporate.

22. Mr Tommy CHEUNG pointed out that at present it took about 4 months for an application for a club licence to be processed. He was worried that it would take a long time for a licensed club/guesthouse to apply for a permit to operate a karaoke establishment, which would have a serious impact on their operation.

23. Assistant Director (Headquarters)/FEHD responded that under clause 5(3) of the Bill, the applicant for a permit/licence must fulfil certain conditions. For example, he must be a fit and proper person to operate the karaoke establishment and would adequately supervise the operation of the establishment. The Administration, having taken into account the fact that it was common for karaoke establishments to sell or supply alcoholic drinks, considered it necessary to introduce licensing requirements for karaoke establishments similar to those for liquor licence. The application was therefore required to be made by an individual person.

24. In response to Mr Tommy Cheung’s second question, Assistant Director (Headquarters)/ FEHD said that the department must wait for the clearance from both the Police and HAD before it could take follow-up actions. However, he assured members that under the Ordinance, applicants were not required to apply for a provisional licence within 12 months of the commencement of the legislation. They would be exempted from the licensing requirements during the transitional period. If the application was not approved within 12 months of the commencement of the legislation, a further exemption period of 12 months would be given to the establishment concerned. If the application was not approved within 24 months, the establishment concerned could also apply for a provisional licence to operate.

25. Chief Officer (Licensing Authority)/HAD added that his department would issue an order for the required upgrading works to an applicant for a karaoke establishment permit within 50 working days after receiving the application. It would be for the applicant to decide when the upgrading works should be completed. In addition, the department would conduct an inspection within 7 working days of being informed by the applicant of the completion of the upgrading works.

26. Mr Tommy CHEUNG said that as many karaoke establishments operated on a 24 hours basis, it was unreasonable for the Administration to require an licensee to be responsible for the operation of his karaoke establishment 24 hours a day. He pointed out that in the United Kingdom, a liquor licence could be held by 3 or 4 persons concurrently under existing legislation.

27. Assistant Director (Headquarters)/FEHD advised that the Administration would, depending on practical situation, require the presence of a liquor licensee on the premises for 4 or 8 hours a day. The Administration appreciated that it was not possible for a karaoke establishment licensee to remain on the premises for 24 hours a day. Therefore, a karaoke establishment licensee would be required to remain on the premises for a few hours a day, similar to the requirement in respect of a liquor licensee .

28. Mr Tommy CHEUNG opined that the Administration was inflexible in dealing with karaoke establishments. Since a restaurant licence was not required to be held by an individual person, he could not understand the Administration's insistence that a karaoke establishment licence must be held by an individual person. He added that the Liquor Licensing Board had identified many problems with the requirement for liquor licences to be held by individual persons. For example, if the liquor licensee passed away without a will, the premises would become an unlicensed operation immediately. In the case where the licensee had left his job for various reasons before completing the procedures for the transfer of the licence, it would create a lot of problems for the establishment concerned.

29. The Chairman asked why the Administration favoured the approach of liquor licence rather than restaurant licence when dealing with karaoke establishment licence. Assistant Director (Headquarters)/FEHD responded that the purpose of enacting legislation on karaoke establishments was to strengthen the regulation of such establishments. If the licensee was not required to be present on the premises during peak hours, it would reduce the effectiveness of the regulation.

30. The Chairman asked whether the proposed requirement for a karaoke establishment licensee to be an individual person was too harsh for those establishments without a liquor licence. Assistant Director

(Headquarters)/FEHD explained that although karaoke establishments without liquor licences were not allowed to sell alcoholic drinks, their layouts and the noisy environment had made them more susceptible to fire risk. Karaoke establishments were quite different from ordinary restaurants. Therefore, the Administration was of the view that these establishments should be subject to a higher standard than that required of ordinary restaurants.

31. DS/S added that the licensing system would not apply to restaurants if the aggregate area of all cubicles not exceeding 30% of its total seating area. On the requirement that karaoke establishment licensee must be an individual person, she explained that it was necessary for the Administration to ensure public safety, apart from fire and building safety. That was why it was so important that the licensee was a “fit and proper” person.

32. Ms Audrey EU pointed out that many karaoke establishments were now operated jointly by a number of persons or in the form of partnership. The requirement that the licensee must be an individual person would pose difficulties to the trade in case of death and disappearance of the licensee, or disputes among the partners. She therefore suggested that the Administration should consider allowing a body corporate to be the licensee but with certain conditions attached. For example, to require a director or an employee of a certain category or rank of the karaoke establishment to be a “fit and proper” person to operate such establishment. This could resolve the problem in connection with the requirement for the licensee to stay on the premises to oversee the operation 24 hours a day. She pointed out that there were differences between liquor licence and karaoke establishment licence in that a karaoke establishment would not be allowed to operate without a karaoke establishment licence, whereas a licensed karaoke establishment could operate before obtaining a liquor licence, although it was not allowed to sell alcoholic drinks.

33. The Chairman said that Ms Audrey Eu’s suggestion was a new idea. But as the suggestion required more than one director or employee to be a “fit and proper” person to operate a karaoke establishment, the trade might find it even more difficult to accept than the original proposal for an individual person to be the licensee.

34. DS/S agreed with members’ view that there were practicable problems for a licensee to stay in the karaoke establishment 24 hours a day to oversee the operation. Therefore, she agreed to study the feasibility of allowing the licensee to be present in the karaoke establishment for less than 24 hours a day. Assistant Director (Headquarters)/ FEHD added that by designating an individual person as the licensee, it would be easier for the Administration to take follow-up actions on complaints concerning noise nuisance, gathering of patrons and nuisance to other users of the buildings. However, if a body corporate was allowed to be a licensee and a number of employees could

represent it concurrently, this might result in evasion of responsibility.

35. Mr Howard YOUNG said that he served on the Liquor Licensing Board more than 10 years ago. It was out of consideration for public order (e.g. patrons might, under the influence of alcohol, harrass the residents) that the Administration had stipulated that someone from a bar must be responsible for supervision. However, as far as he understood, the Karaoke Establishments Bill was introduced out of concern for fire safety and structural safety of buildings. He therefore had reservations about the Administration's proposal that the karaoke establishment licensee must be an individual person. He was of the view that, apart from Ms Audrey Eu's suggestion, other proposals could also be considered. For example, a subsidiary could be set up under the company concerned and that the employee of the subsidiary must be a "fit and proper" person for the purpose of holding the licence.

36. DS/S responded that the introduction of the Bill was not only for ensuring fire safety and structural safety of buildings, but also for public safety which had included the element of public order.

The system for issuing karaoke establishment licence

37. Mr LAU Kong Wah pointed out that, as indicated in the two flow charts showing the licensing procedures (LC Paper No. CB(2)1153/00-01(02) annex A1 and A2), the Administration had proposed two different systems for issuing karaoke establishment licence: one for the application for a karaoke establishment permit in licensed restaurants and the other for application for a karaoke establishment licence or permit in certified clubs/ licensed guesthouses. He was concerned that the two systems might differ in terms of licensing procedures and time taken for issuing licence, which could result in unfairness. He raised the following three points for the Administration to respond:

- (a) District Offices under the HAD would conduct public consultation on applications for karaoke establishment permit in certified clubs/ licensed guesthouses, but the FEHD, as the licensing authority for licensed restaurants applying for karaoke establishments, would only refer the applications to the HAD and consult the latter. He pointed out that the consultation conducted by the two departments were different and asked whether the consultation was compatible with the existing stringent procedures in respect of liquor licence applications;
- (b) The FEHD could issue a provisional karaoke establishment permit to licensed restaurants but the HAD did not have such an arrangement; and

- (c) Licensed restaurants applying for karaoke establishment permit were subject to verification inspections conducted by the FSD, but the FSD played no part in an application for a karaoke establishment permit in certified clubs/ licensed guesthouses.

38. Chief Officer (Licensing Authority)/HAD responded that the Administration had yet to decide on the format of public consultation but it would come up with a more specific proposal later. Like clubhouse at present, no provisional permit would be issued in respect of karaoke establishments in future.

39. Assistant Director (Headquarters)/FEHD added that upon receipt of an application for a restaurant licence, the department would consult other departments to ensure that the restaurant concerned would meet all the requirements in respect of building and fire safety etc. In view of the time required for processing an application, the Administration would issue a 6-month provisional permit for a restaurant which satisfied the basic requirements so that the restaurant concerned could undertake the necessary works during that period. Moreover, if the restaurant failed to complete the works within that period, the Administration would extend the deadline by another 6 months should it be satisfied that the restaurant had made genuine efforts in this respect.

40. Chief Officer (Licensing Authority)/HAD advised that as officers from both the FSD and BD had been seconded to the HAD, HAD was in a position to vet the applications for karaoke establishment permit in certified clubs/ licensed guesthouses and to issue such permits without having to refer the applications to the FSD and BD for vetting. This also provided an answer to Mr Lau Kong Wah's last question.

41. Mr LAU Kong Wah pointed out that the proposal to issue a provisional permit to a restaurant but not a karaoke establishment could be perceived as an unfair arrangement.

42. The Chairman said that for the sake of equity, the Bills Committee was of the view that if a certified club/licensed guesthouse had met the basic requirements when it submitted an application for a karaoke permit, the HAD should issue a provisional permit to it. DS/S agreed to study the issue with the HAD with a view to reaching a consensus on this issue.

Adm

43. Mr LAU Kong Wah reiterated his dissatisfaction at the Administration's failure to formulate any specific proposal for the public consultation. DS/S explained that the licensing authority would take into account the opinions of the nearby residents if necessary. The HAD would follow the existing procedures when conducting the public consultation.

44. In response to Mr Lau Kong Wah's question about who should decide whether a particular application required public consultation, DS/S said that it would be too harsh if the views of the residents nearby were sought on all applications. Therefore, the licensing authority should be empowered to conduct public consultation if it considered necessary to do so.

45. DS/S added that the public consultation would not involve seeking public views on whether the karaoke establishment licensee was a "fit and proper" person but would focus on certain matters, such as noise nuisance and suitability of the location for operating a karaoke establishment, etc.

46. Mr LAU Kong Wah requested the Administration to provide the Bills Committee with past information on complaints against karaoke establishments concerning public order, noise, etc. to facilitate its consideration on whether the procedure for public consultation should be the same as that for the issuing of a liquor license. Ms Audrey EU also requested the Administration to provide information on the length of time expected for completing each stage of the licensing process so that members would have a better idea about how long it would take to apply for a karaoke establishment permit or a provisional one. DS/S undertook to provide the relevant information to the Bills Committee.

Adm

Interpretation and application of karaoke establishment

47. Mr LAU Ping-cheung said that the abuse of soft drugs had been rampant in recent years, particularly among young people, who sometimes took soft drugs in karaoke establishments. He therefore asked whether certain provisions could be added to the Bill to prevent the situation from getting worse. Mr LAU said that some rave parties bore certain characteristics of karaoke activities and asked whether the premises for holding such parties should also be brought under the regulation of the Bill.

48. DS/S responded that whether a rave party would come under the regulation of the Bill would depend on where it was held. If a rave party was held in a karaoke establishment, it would be subject to regulation under the Bill. Government Counsel added that a karaoke establishment meant any place opened, kept or used for the purpose of karaoke by way of trade or business. Therefore, if the karaoke activities took place on a night inside one of the rooms in a private clubhouse, then the premises in question would not fall under the definition of a karaoke establishment and would not be subject to regulation under the Bill. In determining whether a place for holding a rave party would fall under the definition of a karaoke establishment, it would be necessary to ascertain if the place was opened, kept or used for the purpose of karaoke activities. It was difficult to make a generalization in this regard.

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II. Date of next meeting

49. Members agreed that the date of the next meeting would be decided between the Clerk and the Administration.

(Post-meeting note : the next meeting was subsequently scheduled for 4:30 pm on 3 May 2001)

50. The meeting ended at 10:40 a.m.

Legislative Council Secretariat
15 October 2001