

**Information requested by the Bills Committee
at its meeting held on 7 March 2002 regarding
the Karaoke Establishments Bill**

The information requested by the Bills Committee is set out in the following paragraphs –

1. On clause 5(3)(b) and (c), to consider –

- (a) some members' view that the criteria for assessing "suitable place", "suitable area" and "public interest" under clause 5(3)(b) and (c) should be expressly provided in the Bill, e.g. fire and building safety requirements, zoning area and nuisance caused to the public; and**

The meanings of "suitable place" and "suitable area" have been explained in the Administration's response (LC Paper Nos. CB(2)1153/00-01(02) and CB(2)1408/00-01(02)). Detailed requirements will be specified in subsidiary legislation or in guidelines to be promulgated by the licensing authority. We do not consider it necessary to expressly provide the criteria for assessing "suitable place" and "suitable area" in the Bill.

The term "public interest", where laid down in a statute as one of the relevant criteria to be considered by a licensing authority, is an expression with no precise scope of application. The general sense of the term is that it refers to matters wider than the merits of an individual case and embraces matters of concern to the society at large. What exactly is of relevance is a matter of factual judgement and depends on the circumstances of each case.

The question of whether or not the criteria for assessing "public interest" could be expressly provided for in clause 5(3)(c) of the Bill is of itself a matter of "public interest". This is because by restricting the licensing authority's power to consider only certain factors in issuing a licence or permit, the authority will be precluded from considering other factors which may have been brought to its attention by those affected. It is a question of whether or not power should be preserved for the licensing authority to ensure that concerns of the society at large will be taken into account when required.

The term "public interest" has been used in 250 provisions in ordinances and in 59 provisions in subsidiary legislation. The term, being fluid in itself, is rarely qualified. We are of the view that it is neither appropriate nor necessary to set out the

criteria for assessing "public interest" under clause 5(3)(c) which should remain as presently drafted in the Bill. Any person who felt aggrieved or prejudiced by the decision of the licensing authority in making a "wrongful" use of the "public interest" clause may appeal to the Administrative Appeals Board under clause 12 or seek judicial review through the courts.

- (b) a member's view that clause 5(3)(b) and (c) should be deleted altogether because of the unrestricted power it conferred on the licensing authority to refuse to issue or renew licences/permits and the absence of an open hearing to handle appeals against the decision of the licensing authority.**

The factors for consideration under clause 5(3)(b) are important in determining whether a permit should be granted or a licence issued for the operation of a karaoke establishment.

The need for 5(3)(c) has been explained in the fore-going paragraphs. We do not think it is appropriate to delete clause 5(3)(b) and (c).

- 2. To consider extending the duration of the licence or permit for KE specified under clause 5(8)(c), having regard to the provision in the Massage Establishments (Amendment) Ordinance and advantages such as reduction in operating cost for the licensing authority.**

We expect that when the karaoke licencing regime is implemented, the majority of cases will be KE permit issued in relation to another "parent" licence viz. a restaurant licence, a hotel or guesthouse licence or a certificate of compliance issued under the Clubs (Safety of Premises) Ordinance. A KE permit will be valid only if the corresponding "parent" licence or certificate of compliance is also in force.

Having regard to the potential benefits in facilitating the trade and reducing the operating cost for the licensing authority, the Administration proposes to extend the duration of the licence or permit under clause 5(8)(c) from 12 months to 2 years, subject to the condition that, in the case of a permit, the "parent" licence or certificate of compliance to which the KE permit relates must remain valid throughout the duration of the KE permit.

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