

立法會
Legislative Council

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**Paper for the House Committee Meeting
of the Legislative Council
on 18 May 2001**

**Legal Service Division Report on
Massage Establishments (Amendment) Bill 2001**

Object of the Bill

To exempt certain types of massage establishments from the licensing control under the Massage Establishments Ordinance (Cap. 266) and to streamline the existing licensing procedures.

LegCo Brief Reference

2. SBCR9/2801/83 dated 2 May 2001 issued by the Security Bureau.

Date of First Reading

3. 16 May 2001.

Background

4. At present, the Massage Establishments Ordinance (Cap. 266) ("the Ordinance") provides for the control and licensing of massage establishments with a view to controlling vice activities in those establishments. A massage establishment is defined in the Ordinance as "any place used or intended to be used or represented as being used for the reception or treatment of persons requiring massage or other similar service or treatment". Certain places which offer such service or treatment are exempted from the application of the Ordinance. These exempted places are hospitals, maternity homes, clinics operated by registered medical practitioners, physiotherapy centres operated by registered physiotherapists and hairdressing or beauty parlours where face or scalp massage is administered to female customers only or in full view of customers.

5. Under the Ordinance, all massage establishments, unless exempted, are required to apply for a licence for its operation. Any person who operates, keeps or manages a massage establishment without a licence commits an offence and is liable on first conviction to a fine of \$50,000 and to imprisonment for 6 months and on a second or subsequent conviction to a fine of \$100,000 and to imprisonment for 2 years.

6. In February 1999, the Business and Services Promotion Unit commissioned a consultancy study to review the Ordinance and the related regulatory control exercised by the Police. The consultant pointed out that the present scope of control is too wide and may unnecessarily regulate establishments that do not appear to be prone to vice activities. This may in turn inhibit the growth of bona fide massage businesses which promote health and relaxation

Comments

7. The Bill seeks to amend the Ordinance to exempt certain types of massage establishments from the application of the Ordinance and to narrow down the scope of control of those establishments to premises offering full-body massage by persons to customers of the opposite sex. Full-body massage is defined in the Bill as a massage service or treatment provided to a person covering that part of his body below the neck and above the knees, including or excluding arms.

8. Under the Bill, a massage establishment where only face, scalp, neck, hand, arm or foot (up to knee) massage is administered to customers, or where no full-body massage is administered to a customer by a person of the opposite sex, will be exempted from licensing. According to the LegCo Brief, the reason for proposing the exemption is that foot massage establishments or spa and health clubs where full-body massage services are provided to customers by massage assistants of the same sex are less prone to vice activities. Should vice activities or other illegal activities take place in these proposed exempted massage establishments, the Police would take appropriate enforcement action if they receive information about any illegal activity.

9. The Bill also proposes to streamline the existing licensing procedures by empowering the Commissioner of Police to renew a licence for a period of 24 months if the relevant licensee has not been in breach of any conditions of the licence. At present, a licence may be renewed for a period of 12 months only.

10. If enacted, the Bill will come into operation on a day to be appointed by the Secretary for Security by notice published in the Gazette.

Public Consultation

11. A public consultation exercise was conducted from 23 February to 22 March 2001 on the proposed amendments. The vast majority of comments received support the proposal. In particular, the trade welcomes the proposal which may facilitate the development of bona fide massage businesses by exempting them from licensing control.

Consultation with the LegCo Panel

12. The Administration consulted the LegCo Panel on Security on the proposed amendments at its meeting on 3 April 2001. While members of the Panel generally supported the proposed amendments, some members suggested further relaxation of the scope of control.

Conclusion

13. We are seeking clarification from the Administration on certain technical points. Members may wish to form a Bills Committee to study the policy aspects of the Bill, in particular, the extent of the proposed relaxation of control over massage establishments and the effectiveness of police control over vice activities in those massage establishments where licensing control will be lifted.

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