

LEGISLATIVE COUNCIL BRIEF

Noise Control Ordinance (Chapter 400)

Noise Control (Construction Work Designated Areas) Notice

Technical Memorandum on Noise from Construction Work in Designated Areas

INTRODUCTION

The Secretary for the Environment and Food has made a new Noise Control (Construction Work Designated Areas) Notice, at Annex 1, under section 8A(1) of the Noise Control Ordinance (Chapter 400). The Notice seeks to extend the “Designated Areas” to include newly developed areas. A revised Technical Memorandum on Noise from Construction Work in Designated Areas has also been made in accordance with section 9(1) of the Ordinance as a consequential amendment (Annex 2).

BACKGROUND AND ARGUMENT

Designated Areas

2. Under the Noise Control Ordinance (NCO), a construction company has to obtain a Construction Noise Permit from the Noise Control Authority (“the Authority”) in order to carry out general construction work using powered mechanical equipment between 7 pm and 7 am, or at any time on a general holiday (“the restricted hours”). The validity of the permits usually ranges from a few days to a maximum of six months. The Authority will apply more stringent criteria when assessing applications for the permits where the applicant proposes to carry out “prescribed construction work”, i.e. noisy manual work, or use “specified powered mechanical equipment” within “Designated Areas”. “Designated Areas” are populated areas which are established by the Secretary for the Environment and Food by way of notice in the Gazette. Before the Environment and Food Bureau was set up,

the former Secretary for Planning, Environment and Lands (SPEL) was responsible for establishing “Designated Areas” under the NCO. In January 1996, the former SPEL issued the first such Gazette Notice establishing the locations marked red on the map at Annex 3 as “Designated Areas”. Many new residential areas that have been developed since then call for an update.

The Proposal

3. We propose that the locations marked green on the map at Annex 3 be established as “Designated Areas”.

REVISION OF NOTICE

4. A new Noise Control (Construction Work Designated Areas) Notice has been issued by the Secretary for the Environment and Food under section 8A(1) of the NCO for the purpose of expanding the “Designated Areas” to include the newly developed areas. The Notice shows that both the existing “Designated Areas” and the new areas are established as “Designated Areas” (Annex 4).

5. The Notice shall come into effect on 1 December 2001 and on the same date the Noise Control (Construction Work Designated Areas) Notice issued in 1996 mentioned in paragraph 2 above shall be repealed.

CONSEQUENTIAL AMENDMENTS

6. The Technical Memorandum on Noise from Construction Work in Designated Areas (the “TM”) came into operation in March 1996. It is necessary to amend the TM to bring it in line with the new Notice. To avoid future consequential amendment of the TM whenever the “Designated Areas” are revised, references to specific Gazette Notice in the TM have been deleted. The opportunity is also taken to touch up a few wordings/expressions of the TM. The revised TM will not result in any changes to the control procedures detailed in the TM.

BASIC LAW IMPLICATIONS

7. The Department of Justice advises that the proposed revision of the Notice does not conflict with those provisions of the Basic Law carrying no human rights implications.

HUMAN RIGHTS IMPLICATIONS

8. The Department of Justice advises that the proposed revision of the Notice is consistent with the human rights provisions of the Basic Law.

ENVIRONMENTAL IMPLICATIONS

9. The proposal will provide residents in the new “Designated Areas” with the same protection as those in the existing “Designated Areas”. It is estimated that more than 150,000 residents will benefit from the implementation of the proposal.

FINANCIAL AND STAFF IMPLICATIONS

10. There are no financial and staffing implications.

ECONOMIC IMPLICATIONS

11. The control on “prescribed construction work” and use of “specified powered mechanical equipment” in “Designated Areas” is not new and has been implemented for more than four years. As can be seen from Annex 3, the proposal involves the addition of only a number of small pockets of land to a large area already established as “Designated Areas”. Most construction works are carried out outside the restricted hours. Moreover, since a grace period will be given to the construction industry, we expect that the impact of the proposal on the construction industry would be small.

PUBLIC CONSULTATION

12. We have consulted the trades concerned (including trade associations, public utility companies and railway operators) and professional bodies on the proposal. They were generally supportive.

13. Indicating its appreciation of the need to minimise the construction noise impact on populated areas, the Hong Kong General Building Contractors Association did not object to the proposal. The Hong Kong Construction Association indicated that they had no objection to the proposal provided that the construction works already started and are being carried out in the new “Designated Areas” would not be affected. The MTR Corporation Limited (MTRCL) agreed with the need for an update to take account of new residential developments, but was opposed to establishing as “Designated Areas” those areas the new residential blocks at which have yet to start taking in population.

14. We have carefully considered these views. We propose to establish the new “Designated Areas” marked green at Annex 3 with effective from 1 December 2001 so as to give the construction industry a grace period to make the necessary preparations. The new “Designated Areas” exclude locations where the new residential blocks are not expected to start taking in population for at least three years. These should address the concerns of the construction industry and MTRCL without compromising the well being of residents. As a routine arrangement, we will review the need for establishing more “Designated Areas” once every three years. During the interim, we will closely monitor new residential developments and other construction works, and conduct ad hoc reviews if the situation so warrants.

15. We have consulted the Advisory Council on the Environment and the Legislative Council Panel on Environmental Affairs on our proposal in April and May this year respectively, and obtained their support of the proposed additions.

PUBLICITY

16. A press release on the proposal will be issued when the new Notice and the revised TM are published in the Gazette on 1 June 2001.

ENQUIRIES

17. For any enquires about this brief, please contact Mr Edwin Chui, Assistant Secretary (C), Environment and Food Bureau, at 2136 3355.

Environment and Food Bureau
June 2001