

LEGISLATIVE COUNCIL BRIEF

PREVENTION OF COPYRIGHT PIRACY (NOTICES) REGULATION

INTRODUCTION

This brief explains the Prevention of Copyright Piracy (Notices) Regulation (“the Regulation”) at the Annex.

BACKGROUND

2. In June 2000, the Legislative Council passed the Intellectual Property (Miscellaneous Amendments) Ordinance 2000 (“the Ordinance”). To prevent bootlegging of copyright works in places of public entertainment, the Ordinance amends the Prevention of Copyright Piracy Ordinance (PCPO) to create an offence for any person who, without lawful authority or reasonable excuse, has in his possession in a place of public entertainment any video recording equipment. A place of public entertainment means any building that is –

- (a) used primarily as a cinema, theatre or concert hall for the showing or playing of films or the performance of literary, dramatic or musical works; and
- (b) required to be licensed under the Places of Public Entertainment Ordinance.

3. The offender is liable on a first conviction to a fine of \$5,000, and on a second or subsequent conviction to a fine of \$50,000 and 3 months' imprisonment.

4. We will commence the Ordinance on 1 April 2001. To ensure that the public will not be caught unawares, we have been publicising the new law widely through various channels. These include announcements over the radio and TV, putting up posters and distributing pamphlets. We have also uploaded some frequently asked questions and answers on the Internet. In addition, the new law will require the display of warning notices at the relevant places of public entertainment.

5. Under section 31E of the amended PCPO, the manager of a place of public entertainment is required to display notices in the prescribed manner and locations, and which shall be in the prescribed form and include the prescribed statements. Failure to do so will be an offence with a maximum fine of \$5,000. Section 38 of PCPO empowers the Secretary for Commerce and Industry to make regulations for anything to be prescribed under the PCPO.

REGULATION

6. The Regulation prescribes the form of the notice, the statements in the notice and the manner and locations for displaying the notice. The notice specifies that it is an offence to bring video recording equipment into a cinema, theatre or concert hall without the express consent of the manager. The locations for display are such that the notice may be readily seen and read by any person entering that place. The notice is modelled on that in the Smoking (Public Health) (Notices) Order.

PUBLIC CONSULTATION

7. We have consulted the Hong Kong Theatres Association, the Hong Kong Arts Centre and the Hong Kong Academy for Performing Arts. They are content with the specifications of the notice. The Hong Kong Theatres Association has expressed its strong support of the Ordinance and has asked its members to adopt supporting measures including the provision of facilities for patrons to store their video recording equipment.

BASIC LAW IMPLICATIONS

8. The Department of Justice advises that the proposed Regulation does not conflict with those provisions of the Basic Law carrying no human rights implication.

HUMAN RIGHTS IMPLICATIONS

9. The Department of Justice advises that the proposed Regulation is consistent with the human rights provisions of the Basic Law.

BINDING EFFECT OF THE REGULATION

10. The Department of Justice advises that the proposed Regulation will not affect the current binding effect of the PCPO.

FINANCIAL AND STAFFING IMPLICATIONS

11. The Customs and Excise Department will be responsible for enforcing the Ordinance. The additional workload will be absorbed within its existing resources.

LEGISLATIVE TIMETABLE

12. The proposed Regulation will be gazetted on 9 February 2001 and tabled at the Legislative Council on 14 February 2001.

PUBLICITY

13. We will inform the operators of the places of public entertainment affected by the PCPO immediately after the Regulation is gazetted.

ENQUIRIES

14. For enquiries on this brief, please contact Mr Philip Chan of the Commerce and Industry Bureau at 2918 7480.

Commerce and Industry Bureau
February 2001

**PREVENTION OF COPYRIGHT PIRACY (NOTICES)
REGULATION**

(Made under section 38 of the Prevention of Copyright Piracy
Ordinance (Cap. 544))

1. Commencement

This Regulation shall come into operation on 1 April 2001.

**2. Notices prohibiting unauthorized possession
of video recording equipment in places of
public entertainment**

- (1) The notices required by section 31E of the Ordinance shall -
 - (a) be at least 38 cm in length and at least 20 cm in width; and
 - (b) be in the form, and include the statements, as set out in the Schedule.

- (2) The statements referred to in subsection (1) shall -
 - (a) be printed in plain and readily legible letters and characters;
 - (b) be printed in a colour that contrasts with the colour of the background;
and
 - (c) occupy not less than 30% of the total area of the notice.

**3. Locations in which notices are to be
displayed**

The manager of a place of public entertainment shall display the notices referred to in section 2 in such locations outside that place as will ensure that such a notice may be readily seen and read by any person entering that place.

SCHEDULE

[s. 2]

NOTICE REQUIRED TO BE DISPLAYED
UNDER SECTION 31E OF ORDINANCE警告
WARNING

任何人未得管理人的明示同意而攜帶攝錄器材進入電影院、劇院或音樂廳，即屬犯罪。

最高刑罰：

初犯 - 港幣\$5,000

再犯 - 港幣\$50,000 及監禁 3 個月

It is an offence to bring video recording equipment into a cinema, theatre or concert hall without the express consent of the manager.

Maximum Penalty:

HK\$5,000 (first offence)

HK\$50,000 and 3 months' imprisonment (second and subsequent offences)

Secretary for Commerce and Industry

5 February 2001

Explanatory Note

For the purpose of section 31E of the Prevention of Copyright Privacy Ordinance (Cap. 544), this Regulation makes provisions relating to -

- (a) the form of, and the statements to be included in, the notices displayed by the manager of a place of public entertainment for prohibiting unauthorized possession of video recording equipment in that place; and
- (b) the locations in which the manager is required to display the notices.