

**立法會**  
***Legislative Council***

LC Paper No. LS125/01-02

**Paper for the House Committee Meeting  
on 28 June 2002**

**Legal Service Division Report on  
Proposed Resolution under section 3 of the  
Copyright (Suspension of Amendments) Ordinance 2001 (Cap. 568)**

The Secretary for Commerce and Industry (the Secretary) has given notice to move a motion at the Council meeting on 10 July 2002. The motion seeks the Legislative Council's approval of the Copyright (Suspension of Amendments) Ordinance 2001 (Amendment) Notice 2002 (the Notice). The purpose of the Notice is to amend the expiry date of the suspension provisions under section 3 of the Copyright (Suspension of Amendments) Ordinance 2001 (Cap. 568) (the Suspension Ordinance) from 31 July 2002 to 31 July 2003.

2. Members may recall that certain provisions in the Copyright Ordinance (Cap. 528) were amended by the Intellectual Property (Miscellaneous Amendments) Ordinance 2000 (the Amendment Ordinance). One of the amendments to the criminal provisions provides that any person who possesses an infringing copy of a copyright work in the course of trade or business without the licence of the copyright owner will commit an offence. Difficulties were encountered when the Amendment Ordinance commenced operation in April 2001. The Suspension Ordinance was subsequently passed in June 2001 to suspend the operation of the relevant provisions except in respect of four categories of work, i.e. computer programs, movies, television dramas, and musical recordings till 31 July 2002 so that the Administration would have about a year's time to conduct consultation and work out a long term solution. Section 3 of the Suspension Ordinance also provides that the Secretary can amend the expiry date of the suspension provisions by notice in the Gazette subject to the approval of the Legislative Council.

3. Following the completion of a consultation exercise, the Administration presented a Paper to the Panel on Commerce and Industry entitled "the Review of Certain Provisions of the Copyright Ordinance" (Paper ref.: CB(1)953/01-02(03)) in February 2002. One of the proposals in the Paper is to make the suspension arrangement permanent, i.e. the end-user criminal liability provisions will only apply to the four specified categories of work and not any other copyright work. In paragraph 32 of the Paper, the Administration also makes known its intention to introduce a Bill to the Legislative Council before July 2002. If examination of the Bill cannot be completed before the suspension expires, the Administration proposes to extend the suspension for 6 months, i.e. until the end of January 2003.

4. By the Notice, the Administration now proposes to extend the suspension period for 12 months till 31 July 2003.

5. A special meeting of the Panel was convened on 25 June 2002 to discuss this issue. At the meeting, the Administration explained that it was taking great care in drafting the Bill and intended to present the Bill in draft form to the Panel at its meeting on 8 July 2002. Meanwhile, the suspension period had to be extended for 12 months. The rationale for such extension was to ensure that the Legislative Council would have sufficient time to scrutinize the Bill. The Administration also informed the Panel that since February 2002, it had received further submissions on the suspension arrangements. One of the submissions is from the book publishing industry. In response to urging from Panel Members to expedite introduction of the Bill, the Administration said that the Bill was being finalized and would be introduced early in the next legislative session.

6. No difficulties in relation to the legal and drafting aspects of this Notice have been identified.

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