

KARAOKE ESTABLISHMENTS BILL

COMMITTEE STAGE

Amendments to be moved by the Secretary for Security

- | <u>Clause</u> | <u>Amendment Proposed</u> |
|---------------|--|
| 2(1) | <p>(a) In the definition of "卡拉OK", in paragraph (b), by deleting "其他表" and substituting "任何平".</p> <p>(b) In the definition of "licence", by adding "or a provisional licence" after "establishment".</p> <p>(c) In the definition of "permit", by adding "or a provisional permit" after "establishment".</p> |
| 3(1) | <p>By deleting paragraphs (a) to (e) and substituting -</p> <p>"(a) in premises where the karaoke activity is carried on in not more than 3 rooms with an aggregate floor area of not more than 30 square metres;</p> <p>(b) in concert halls, theatres, auditoria and community halls in respect of which a licence has been granted and is for the time being in force under section 4 of the Places of Public Entertainment Ordinance (Cap. 172) or which are the</p> |

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subject of an order made under section 3A of that Ordinance that is for the time being in force; or

(c) exempted by an order of the licensing authority under subsection (1A) that is for the time being in force."

3 By adding -

"(1A) Where, for reasons connected with the situation, means of ingress or egress, design (including the percentage of the area allocated for the karaoke activity), construction or size of, or the equipment, installations or facilities in, any karaoke establishment, the licensing authority is satisfied that the safety of persons using the karaoke establishment will not be adversely affected, he may by order in writing exempt the karaoke establishment from the application of this Ordinance."

3(2) By deleting "subsection (1)(e)" and substituting "subsection (1A)".

3(3) In paragraph (b), by deleting everything after "the date" and substituting "of the written order made under section 5(7)".

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4(1) By deleting everything after "is" and substituting -
"liable -

(a) on first conviction, to a fine
at level 5 and to imprisonment
for 6 months; and

(b) on a second or subsequent
conviction, to a fine at level
6 and to imprisonment for 1
year,

and in the case of a continuing offence, to a
further daily fine of \$2,000 for each day
during which the offence continues."

4 By deleting subclause (4).

5(1) In paragraph (iii), by adding "訂明" before "費".

5(3) (a) In paragraph (a)(iii), by adding "and" at the
end.

(b) In paragraph (b)(ii) -

(i) by deleting "; and" and substituting
a full stop;

(ii) by deleting "合" and substituting
"宜".

(c) By deleting paragraph (c).

5 By deleting subclause (6).

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5(8) In paragraph (c), by deleting "12" and substituting "24".

5 By adding -

"(9) Notwithstanding subsection (8)(c), a permit to operate a karaoke establishment shall cease to have effect when the licence referred to in subsection (4)(a) or (b) or the certificate of compliance referred to in subsection (4)(c) in respect of the restaurant, hotel, guesthouse or clubhouse in which the karaoke establishment is located is no longer in force."

7 In the heading, by deleting **"Grant or issue or transfer of permit or licence to"** and substituting **"Representatives of"**.

7 By adding -

"(3) A body corporate or a partnership may make an application to the licensing authority in such form and manner as the licensing authority may determine to substitute another person ("the substitute person") for the person whose name appears on the permit or the licence as the

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representative of the body corporate or the partnership.

(4) If the licensing authority is satisfied that the substitute person is a person who falls within section 5(3)(a), he shall grant the application and amend the permit or the licence to replace the name of the person specified therein with the name of the substitute person."

8(8) By deleting "12" and substituting "24".

9 By deleting subclause (2).

10 (a) In paragraph (i), by deleting "該持證人或持牌" and substituting "有關申請".

(b) By adding -

"(iia) in the case where the grantee or the licensee is a body corporate or a partnership, the person whose name appears on the permit or the licence as the representative of the body corporate or partnership has been convicted of an offence under this Ordinance or any

regulation made under section
20;".

- (c) In paragraph (iii), by adding "or" at the end.
- (d) In paragraph (iv), by deleting "; or" and substituting a full stop.
- (e) By deleting paragraph (v).

11(2) By adding ", as the case may be" after "licensee".

12 By deleting subclause (2).

New By adding in Part III -

**"12A. Coming into force of decisions
of licensing authority**

(1) Except as provided in subsection
(2), a decision of the licensing authority
that may be appealed against under section 12
shall not come into force -

- (a) subject to paragraph (b), until
the expiration of the period
during which an appeal under
that section against the
decision may be made; or
- (b) if an appeal under that section
against the decision is made,
until the appeal is disposed
of, withdrawn or abandoned.

(2) Where the licensing authority is of the opinion that the safety of persons using a karaoke establishment will be adversely affected if the operation of a decision is suspended under subsection (1) and inserts a statement to that effect in the notice of the decision, the decision shall come into force upon service of such notice."

- 13(1) (a) By deleting "this section" and substituting "ensuring compliance with the provisions of this Ordinance and the conditions imposed in respect of any permit or licence".
- (b) In paragraph (ii), by adding "and" at the end.
- (c) By deleting paragraph (iii).

13(2) By deleting "public officer authorized in writing for that purpose nor the Commissioner of Police or any police officer authorized by him" and substituting "authorized public officer nor the Commissioner of Police or any authorized police officer".

13 By adding -

"(3) Where a magistrate is satisfied by information on oath that there is a reasonable ground for suspecting that there is to be found in any karaoke establishment or any

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premises any thing that is evidence of the commission of an offence against this Ordinance, he may issue a warrant authorizing -

(a) any public officer authorized under subsection (1)(a); or

(b) the Commissioner of Police or any police officer authorized by him under subsection (1)(b),

with such assistants as may be necessary, at any time to search for, seize and remove for further examination or testing any such thing in the karaoke establishment or the premises specified in the warrant.

(4) Where any thing is seized and removed under subsection (3) and no prosecution is instituted in respect of the suspected offence to which the thing relates within 6 months after the day of its seizure and removal, the authorized public officer or the Commissioner of Police or the authorized police officer shall return or arrange for the return of the thing to the operator of the karaoke establishment concerned or the person from whom it was seized and removed, as the case may be."

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14 By adding before subclause (1) -

"(1A) The licensing authority may, in respect of any karaoke establishment in respect of which a permit or a licence has been granted or issued, by notice in writing, give such directions as appear to him to be required to secure that -

(a) the conditions of the permit or the licence, as the case may be, are complied with; or

(b) the provisions of this Ordinance are complied with."

14(1) (a) By adding "other" after "any".

(b) In paragraph (a), by deleting "on the premises being used as a" and substituting "using the".

14(2) By deleting "subsection (1)" and substituting "this section".

15(1) (a) By adding "or a specified part thereof ("specified part")" before "shall close".

(b) By deleting "until the licensing authority gives notice under subsection (4)".

15 By adding -

"(1A) An order under subsection (1) shall not operate -

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- (a) if, on the day the order is made, any part of the karaoke establishment is used for human habitation, to prevent such habitation in that part; or
- (b) to affect the use of any common area in any building or public place so as to cause obstruction to public passage or fire escape."

15(2) In paragraph (a), by adding "or specified part" after "establishment" wherever it appears.

15(3) By adding "or specified part" after "establishment".

15 By deleting subclause (4) and substituting -

"(4) At any time while an order under subsection (1) is in force -

- (a) the person being the operator, keeper, manager or otherwise having control of the karaoke establishment; or
- (b) any person having an interest in the premises to which an order under subsection (1) relates,

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may, by notice in writing served on the licensing authority, request the licensing authority to make a declaration under subsection (5).

(5) Where a request is made under subsection (4), the licensing authority shall as soon as practicable, and in any event within 28 days after receiving the request -

(a) if satisfied that the circumstances that gave rise to the making of the order no longer exist, by notice in writing served on the person who made the request, declare that the order shall cease to have effect; or

(b) in any other case, notify the person in such manner as he thinks fit of any outstanding matter that requires to be remedied.

(6) If the licensing authority -

(a) rejects a request; or

(b) fails to make a declaration under subsection (5)(a) within the specified period,

the person who made the request may apply to the District Court for the discharge of the order.

(7) A person who makes an application under subsection (6) shall give notice in writing of the application to the licensing authority within 7 days after making the application.

(8) On hearing an application for the discharge of an order, the District Court may discharge the order if it is satisfied that the circumstances that gave rise to the making of the order no longer exist."

16

By deleting subclause (2) and substituting -

"(2) Where a person charged with an offence under subsection (1)(a) is -

(a) a representative of a body corporate or a partnership whose name appears on the permit or the licence concerned; or

(b) a grantee or a licensee who is an individual,

it shall be a defence for the person to prove that -

(i) he did not know and had no reason to suspect the existence

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of the circumstances giving rise to the contravention; and

- (ii) he could not, by the exercise of reasonable supervision and reasonable diligence, have prevented those circumstances arising."

16(4) By deleting paragraph (e) and substituting -
"(e) contravenes section 15(3),".

16(5) By deleting everything after "is" and substituting -
"liable -

- (a) on first conviction, to a fine at level 5 and to imprisonment for 6 months; and

- (b) on a second or subsequent conviction, to a fine at level 6 and to imprisonment for 1 year,

and in the case of a continuing offence, to a further daily fine of \$2,000 for each day during which the offence continues."

- 18 (a) By renumbering the clause as clause 18(1).
- (b) In subclause (1), by adding ", other than a notice to be served under section 15(1)(a)," after "Ordinance".

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(c) By adding -

"(2) A notice to be served under section 15(1)(a) shall be served -

(a) by serving a copy by registered post addressed to the last known place of business or residence of the person to be served; and

(b) by leaving a copy with an adult occupier of the premises or part thereof to which the notice relates or by posting a copy in a prominent position upon or near such premises or upon a conspicuous part of such premises or part thereof,

and service of the copy of notice under paragraph (a) shall be deemed to have been effected on the day immediately following the day on which it is dispatched by registered post."

19

(a) By deleting "taken possession of and removed for further examination under section 13(1)(iii)" and substituting "seized and

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removed under a warrant issued under section 13(3)".

(b) By deleting everything after "of karaoke" and substituting a full stop.

20(1) (a) In paragraph (a), by adding ", maintenance, hygiene" after "suitability".

(b) By adding -
"(ba) factors to be taken into account by the licensing authority in deciding the suitability of places under section 5(3)(b);".

(c) In paragraph (c), by adding "maintenance," after "structure,".

20(3) By adding "不利" after "受到".

20 By deleting subclause (4) and substituting -

"(4) A regulation made under this section may provide that a contravention thereof shall be an offence punishable by a specified penalty not exceeding -

(a) on first conviction, a fine at level 5 and imprisonment for 6 months; and

(b) on a second or subsequent conviction, a fine at level 6 and imprisonment for 1 year,

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and in the case of a continuing offence,
punishable by a further daily fine not
exceeding \$2,000 for each day during which the
offence continues."

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