

Amend the Noise Control Ordinance.

Enacted by the Legislative Council.

1. Short title and commencement

(1) This Ordinance may be cited as the Noise Control (Amendment) Ordinance 2000.

(2) This Ordinance shall come into operation on a day to be appointed by the Secretary for the Environment and Food by notice in the Gazette.

2. Sections added

The Noise Control Ordinance (Cap. 400) is amended by adding---  
"28A. Liability of directors

(1) Where an offence under this Ordinance has been committed by a body corporate, any person who at the time of the offence was---

(a) a director concerned in the management of the body corporate;

(b) a director who has delegated his authority for the management of the body corporate to an officer; or

(c) an officer---

(i) concerned in the management of the body corporate; and

(ii) acting under the immediate authority of a director of the body corporate,  
shall be guilty of the like offence.

(2) For the purpose of subsection (1), a body corporate means any company or other body corporate incorporated in Hong Kong or elsewhere, but does not include any corporation registered under the Building Management Ordinance (Cap. 344).

(3) It is a defence to a charge brought under any provision of this Ordinance (other than section 6(1)(a), (2)(a) or (3)(a)) for a person charged under subsection (1) to prove that he took reasonable precautions and exercised due diligence to prevent the commission of the offence by the body corporate.

(4) Without affecting the generality of subsection (3), a person establishes a defence under that subsection if he proves that he had---

(a) established a proper system to prevent the commission of the offence concerned; and

(b) ensured the effective operation of the system

28B. Codes of practice

(1) The Authority may issue codes of practice containing such practical guidance as he thinks fit for the purpose of providing industries with good management practice in respect of section 28A(3).

(2) The Authority may from time to time revise the whole or any part of any code of practice issued under subsection (1) by revoking, varying or adding to its provisions or requirements.

(3) A code of practice or any revision to a code of practice shall be published in the Gazette.

(4) A code of practice or any revision to a code of practice commences at the beginning of the day on which it is published. "

#### Explanatory Memorandum

The purpose of this Bill is to amend the Noise Control Ordinance

(Cap. 400) to---

(a) provide that where an offence under the Ordinance has been committed by a body corporate, any person who at the time of the offence was---

(i) a director concerned in the management of the body corporate;

(ii) a director who has delegated his authority for the management of the body corporate to an officer; or

(iii) an officer---

(A) concerned in the management of the body corporate; and

(B) acting under the immediate authority of a director of the body corporate,

shall be guilty of the like offence;

(b) provide a general defence to a charge brought under any provision of the Ordinance (other than section 6(1)(a), (2)(a) or (3)(a)) for the person charged under the proposed section 28A(1) to prove that he took reasonable precautions and exercised due diligence to prevent the commission of the offence; and

(c) empower the Noise Control Authority to issue codes of practice for the purpose of providing industries with good management practice in respect of the proposed section 28A(3).