LC Paper No. CB(2)747/01-02(02)

Information requested by the Bills Committee at its meeting held on 22 October 2001 regarding the Karaoke Establishments Bill

The information requested by the Bills Committee is set out in the following paragraphs –

1. Under clause 5(3)(b) and (6), the licensing authority could take into account the views of persons whose place of residence and employment in the immediate vicinity of the place of proposed operation in considering an application for a licence/permit for operating a karaoke establishment. The Administration was requested to advise on the following –

(a) why was it necessary for the licensing authority to consider the suitability of the premises and the area for operating a karaoke establishment if the applicant had already been granted a liquor licence for the same premises;

(b) whether other licensing authorities would take into account the same factors in considering an application for a licence for operation and if so to provide the relevant regulations and guidelines for members' reference;

(c) what objective criteria would be adopted by the licensing authority in considering objections raised under clause 5(3)(b) and (6), bearing in mind that common grounds for objection such as fighting or urinating in public place were more related to the operation of the premises, and not the suitability of the premises and the area;

The answer to (a) is that it is not a prerequisite for an establishment to be granted a liquor licence before it may apply for a karaoke licence/permit, even though statistics indicate that some 95% of karaoke establishments also hold a liquor licence.

Besides, we cannot rule out the possibility that premises considered suitable for the grant of a liquor licence may not be suitable for the operation of a karaoke establishment.

On (b), there are similar provisions under Section 5(4)(b) and 5(5) of Amusement Games Centres Ordinance, Cap. 435 (reproduced below for easy reference) -

> "(4) (b) the place of proposed operation is-
>
> (i) suitable for the operation of an amusement game centre; and
>
> (ii) located in an area suitable for the operation of an amusement game centre.
>
> (5) In the making of a decision under subsection (4)(b) the Commissioner, without affecting the generality of that subsection, may take into account the views of persons whose place of residence or employment is within the District of the place of proposed operation."

Separately, Regulation 17(5) of the Dutiable Commodities (Liquor) Regulations (Cap. 109) stipulates that "the applicant [for a liquor licence] or 20 or more persons residing within a radius of 400 metres from the premises to which the application relates may appeal to the Municipal Services Appeals Board against the decision of the Liquor Licensing Board".

With regard to (c), as in the case of the Liquor Licensing Board, it is difficult if not impossible to set any hard and fast rules for determining to what extent the local views should be taken into account and when the objection should be accepted as valid grounds or otherwise. It all depends on the circumstances of the case and the judgement of the licensing authority. The licensing authority will be obliged to be reasonable and objective in exercising such judgement, which will be subject to appeal under clause 12.

Notwithstanding the above, we would like to point out that the licensing authority's power not to grant a permit or issue a licence under clause 5(3)(b) when circumstances so warrant will neither be enhanced nor reduced, or otherwise affected, by the provision in clause 5(6). In other words, as a matter of policy, the licensing authority can take into account the views of persons residing or working in the immediate vicinity of the place of proposed operation, with or without the statutory provision of clause 5(6), in exactly the same way as it is able to take into account in any other matter that, as a matter of policy, it considers to be relevant. In the light of Members' concern, the Administration is prepared to delete clause 5(6) altogether, if that is what Members prefer.

2. Whether the time taken by the licensing authority to advise a person applying for renewal of a licence/permit of its decision could be shortened; and

According to clause 8(2) of the KE Bill, a grantee or a licensee may, not less than 90 days before the expiration of his permit or his licence, apply to the licensing authority for his permit or his licence to be renewed. This is to allow sufficient time for the licensing authority to process the renewal applications particularly if a large number of licences/permits would expire around the same time.

The licensing authority would normally be able to advise the licensee/ grantee of its decision to renew the licence/permit within 30 days from the date of application unless, for example, there is a change in the layout of the KE requiring approval, the licensee/grantee has failed to submit relevant fire services maintenance certificates, or there is a change in the authorized person necessitating vetting by the Police.

3. Whether a karaoke establishment with a liquor licence was allowed to continue operation if its application for renewal of a karaoke establishment licence/permit was rejected.

Basically the liquor licence and KE permit/licence are matters under two separate licensing regimes. If an application for renewal of a KE licence/permit was rejected, the operation of KE should cease. However this should not prevent the consumption or sale of liquor at the premises if a valid liquor licence is still in force.

Security Bureau
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