

**立法會**  
***Legislative Council***

LC Paper No. LS133/00-01

**Paper for the House Committee Meeting  
of the Legislative Council on 29 June 2001**

**Legal Service Division Report on  
Noise Control (Amendment) Bill 2001**

**Objects of the Bill**

- (a) To provide that where an offence under the Noise Control Ordinance (Cap. 400) has been committed by a body corporate, certain directors and officers of the body corporate shall be guilty of the like offence where the body corporate commits a further offence at the same site; and
- (b) to empower the Noise Control Authority to issue codes of practice to provide industries with practical guidance of good management practice.

**LegCo Brief Reference**

- 2. The Environment and Food Bureau has issued a LegCo Brief dated June 2001. No reference number is stated in the Brief.

**Date of First Reading**

- 3. 27 June 2001.

**Comments**

- 4. A bill of substantially similar content, the Noise Control (Amendment) Bill 2000 ("the former Bill"), was submitted in February 2000. A Bills Committee was formed in respect of the former Bill, but it lapsed as there was no slot available up to the end of the term.

5. According to the LegCo Brief for the former Bill (reproduced in Annex B of the LegCo Brief for this Bill), the reason for the proposed amendments in the former Bill was that the situation of bodies corporate violating the Noise Control Ordinance ("the Ordinance") was serious. The Administration considered that repeated offences by bodies corporate indicated that their controlling persons gave less regard to compliance with the Ordinance due to a lack of personal liability. The Hong Kong Construction Association had reservations on the former Bill and suggested, inter alia, a non-punitive approach.

6. According to the LegCo Brief for this Bill, the Administration has since held further consultation with the Association. A new provision is added to the effect that a written warning would be served to the directors and officers concerned after a body corporate had been prosecuted for an offence under the Ordinance. If the body corporate committed a further offence at the same site after the warning, the following directors and officers may also be prosecuted for that further offence:-

- (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;
- (c) an officer to whom a director has delegated the authority for the management of the body corporate; and
- (d) an officer concerned in the management of the body corporate and acting under the immediate authority of a director.

Under the Ordinance, the penalty for an offence in respect of noise from construction work is \$100,000 on first conviction, \$200,000 on second or subsequent conviction, and \$20,000 for each day during which the offence continues.

### **Public Consultation**

7 According to the LegCo Brief, the Administration has consulted the Advisory Council on the Environment on 23 April 2001 and it supported the proposals in the Bill.

### **Consultation with LegCo Panel**

8. The Administration consulted the Panel on Environmental Affairs on 8 May 2001 (LC Paper No. CB(1) 1148/00-01(03) and paragraph 15 of the LegCo Brief refer). The Panel supported the proposals.

### **Conclusion**

9. The policy intent of the Bill is to make directors and officers who control or direct the activities of a body corporate criminally liable for offences committed by the body corporate. The Legal Service Division has raised certain technical drafting points with the Administration. While we are waiting for the reply of the Administration on the drafting points, Members may wish to consider at this stage whether a Bills Committee is necessary.

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