

SBCR 1/2/1866/97 Pt.5  
LS/S/4/02-03

Secretary for Security  
(Attention: Mr Damian CHAN, AS(S)B2)  
Security Bureau  
6/F Main and East Wings  
Central Government Offices  
Hong Kong

29 October 2002

**BY FAX**

Total Nos. of pages : (2)

Dear Mr. Chan,

**Karaoke Establishments (Licensing) Regulation (L.N. 153 of 2002)**

I am scrutinizing the above Regulation with a view to advising Members and should be grateful if you would clarify the following matters:

Section 3

- (a) Section 3(1), as currently drafted, appears to suggest that the factors listed in the provision are exhaustive in nature. Does this reflect the Administration's intention? Among the factors listed, are there any factors which are more important and hence the licensing authority must take into account in deciding whether certain premises are suitable for the operation of a karaoke establishment? If so, should this be provided clearly in the Regulation?
- (b) In cases where the provisions of Schedule 2 are not complied with, can the licensing authority consider other factors in order to decide whether the premises are structurally suitable, whether the premises have adequate means of escape, etc.? Section 3(2), (3) and (4), as currently drafted, when read together with section 3(1) would appear to suggest that the requirements set out in Schedule 2 provide the only standards of compliance with the necessary building safety and fire safety requirements. If it is intended that the licensing authority may take into account other factors apart from those set out in Schedule 2, should the relevant provisions be amended to reflect this intention more clearly?

Section 4

In section 4(4) and (5), should the Chinese text for "alteration or addition" be "更改或增添" in order to make the Chinese text consistent with that for a similar reference used in section 34D of the Food Business Regulation (Cap. 132 sub. leg.)?

Schedule 1

- (a) In section 2(12) of Schedule 1, should "或能代以其他聲音及影像" be amended to "或能蓋過由卡拉OK設備播放的音樂或其他聲響及影像" to reflect the meaning of an audio and visual alert system which can *override the music or other sound and visual images produced by the karaoke equipment* (my emphasis)?
- (b) Should the Chinese text for "provided" in section 2(6), (8), (10) and (12) and section 3 of Schedule 1 be "提供" instead of "裝設"? As you are aware, in section 1 of Schedules 1 and 2 to the Fire Safety (Buildings) Ordinance (21 of 2002) where the word "provide" is used in relation to items similar to the present context, i.e. fire hydrant and hose reel system, fire alarm system, emergency lighting, the Chinese text adopted is "提供". Should the same Chinese text be used in this Regulation for the sake of consistency?

Schedule 2

- (a) Section 3(1) of Schedule 2 provides that the width of exit routes including internal corridors within a karaoke establishment shall be at least 1.2m. When this requirement was discussed by the Bills Committee on Karaoke Establishments Bill, the Administration advised the Bills Committee that it was prepared to accept the reduction of the width of the corridor to not less than 1.05m subject to certain specified conditions. However, this option has not been provided in the Regulation. Please clarify whether the reduction of the width of corridor will still be acceptable to the licensing authority and if so, how the Administration will give effect to it.
- (b) Section 3(2) of Schedule 2 provides for the circumstances where a dead-end situation is permitted. The Administration has informed the Bills Committee on Karaoke Establishments Bill that it is prepared to accept other options to address the problem on dead-end. As these options have not been provided in the Regulation, please clarify how the Administration will give effect to them.

I would appreciate it if you could let me have your reply in both languages as soon as possible and preferably on or before *1 November 2002*.

Yours sincerely,

(Connie Fung)  
Assistant Legal Adviser

c.c. DoJ (Attention: Miss Monica LAW, SALD)  
LA

SBCR 1/2/1866/97 Pt.5  
LS/S/4/02-03

**Urgent by Fax**

Tel No.: 2810 3948  
Fax No.: 2868 9159 (Open)/ 2877 0636 (Conf.)

31 October 2002

Assistant Legal Adviser  
Legal Service Division  
Legislative Council Secretariat  
Legislative Council Building  
8 Jackson Road  
Hong Kong

(Attn: Ms Connie FUNG)

Dear Ms FUNG,

**Karaoke Establishments (Licensing) Regulation**

Thank you for commenting on the above Regulation. Attached is the Administration's Response to the issues you raised. The Chinese version of the response will follow shortly. Should you have any further questions, please feel free to contact the undersigned.

Yours sincerely,

( Damian Chan )  
for Secretary for Security

**Administration's response to issues raised by  
the Assistant Legal Adviser on 29.10.2002**

**Section 3**

**Question (a)**

We confirm that the legislative intent of section 3(1) is to include all the factors that may be considered in deciding whether premises to which an application relates are suitable for the operation of a karaoke establishment (KE) under section 5(3)(b)(i) of the Ordinance.

2. As to the weighting of the individual factors, it depends upon the circumstances of a particular case and the interaction between different factors. Thus, it is not possible to assign an order of importance to any individual factor.

**Question (b)**

3. The requirements set out in Schedule 2 to the Regulation are intended to enable an applicant for KE licence to know what requirements are considered acceptable by the licensing authority in determining the suitability of KE premises. If those requirements are complied with, the premises would be "deemed" to have satisfied sections 3(1)(b), (c) and (d) by virtue of sections 3(2), (3) and (4) of the Regulation for the purpose of determining suitability of KE premises.

4. Sections 3(2), (3) and (4) of the Regulation do not preclude the licensing authority from exercising its discretion to determine if the factors in sections 3(1)(b), (c) and (d) have been satisfied in the particular circumstances of each case even if the requirements in Schedule 2 have not been complied with. In other words, non-compliance with the requirements in Schedule 2 does not necessarily result in failure to satisfy sections 3(1)(b), (c) and (d) in determining the suitability of KE premises.

**Section 4**

5. Although section 34D of the Food Business Regulation (Cap.132 sub.leg.) and section 4 of the Regulation look similar, the former refers to alteration or addition to the matters specified in an approved plan whereas the latter refers to alteration or addition to the layout of premises.

Given that the contexts are different, it is considered inappropriate to adopt the same rendition as that in section 34D.

### Schedule 1

#### Question (a)

6. “Override” in the context of section 2(12) of the Schedule 1 bears the meaning of “replacing audio/visual signals for karaoke activities with alert signals”, not only “suppressing”. We consider that the current Chinese rendition is appropriate.

#### Question (b)

7. The Regulation deals with a particular kind of premises (namely, KE premises) while the Fire Safety (Buildings) Ordinance deals with two different kinds of buildings (pre-1987 composite and domestic buildings). Given that the location of the fire service installations and equipment would be more specific in the present case, we consider it more appropriate to use “裝設” as the rendition for “provide”. In any event, the same message is conveyed by the English and Chinese texts and so no amendment is considered necessary.

### Schedule 2

#### Question (a)

8. As discussed at the Bills Committee meetings, the acceptance of a corridor of 1.05m wide is a relaxation within the discretion of the licensing authority in the implementation of the Ordinance. As this is an administrative measure subject to the condition that the width of the corridor shall be widened to 1.2m upon the carrying out of major alteration works, we consider it inappropriate to provide for the arrangement in the Regulation. Nevertheless, the undertaking given by the Administration remains valid, and the fact of the possibility for relaxation will be clearly stipulated in the Guide to Application for Karaoke Establishment Licence/Permit.

#### Question (b)

9. Our comments in paragraphs 3 and 4 above are relevant. As in the case of the width of the corridor, the options proposed in the Bills Committee to address the problem of dead-end remain valid and may be accepted by the licensing authority in exercise of its administrative discretion. As such, we consider it inappropriate to provide for the options in the Regulation.