

For Information
9 June 2020

**The Legislative Council Subcommittee on
Pleasure Grounds (Amendment) Regulation 2020**

PURPOSE

This paper briefs Members on the background and recommendations in respect of the amendment of the Pleasure Grounds Regulation (Cap 132BC) (the Regulation) to step up regulation of noise nuisance in parks managed by the Leisure and Cultural Services Department (LCSD).

BACKGROUND

2. LCSD manages public pleasure grounds (PPGs) in accordance with the Regulation. LCSD has all along been exercising flexibility where possible and facilitating users' enjoyment in PPGs in different ways as long as they do not cause safety or hygiene problems, or create unacceptable nuisance to others. In the process, we have to strike a fine balance between the diverse and conflicting needs of the users.

3. However, members of the public often carry out in PPGs managed by LCSD the following activities (music activities): operating or playing, or making any sounds by means of, musical or other instrument, or singing songs. Some singing groups use loudspeakers or amplifiers and generate excessive noise, thereby causing nuisance to nearby residents. Whilst LCSD has implemented various noise control measures, such as putting up banners and notices to remind members of the public to be mindful of the level of sounds emitted from their activities, carrying out joint operations with the Hong Kong Police Force, strengthening manpower to monitor the music activities, noise problems are still prevalent in a few PPGs. LCSD has received from time to time complaints from members of the public in respect of noise nuisance arising from music activities in PPGs. LCSD is very concerned about the situation and considers it necessary to amend the relevant provisions in the Regulation for effective tackling of noise nuisance in PPGs.

4. The Secretary for Home Affairs, in his capacity as the Authority under

section 109 of Public Health and Municipal Services Ordinance (Cap. 132), may, in relation to public pleasure grounds (PPGs), make regulations prescribing or providing for preservation of good order and prevention of abuses and nuisances. We propose to introduce amendments to the Regulation to enhance the regulation of the carrying out of music or singing activities and other related acts in PPGs. The Amendment Regulation, i.e. the Pleasure Grounds (Amendment) Regulation 2020, is at **Annex A** to this information paper.

A

5. We consulted the Legislative Council Panel on Home Affairs (the Panel) on 11 May 2020 regarding the proposed amendment and obtained the Panel's support. The consultation paper is attached at **Annex B**.

B

JUSTIFICATIONS FOR LEGISLATIVE AMENDMENT

6. Currently, LCSD takes enforcement actions against noise nuisance in its PPGs under section 25 of the Regulation. However, in order to take enforcement action under that section, it has to be established that “any other user thereof” (venue user) has been annoyed, and the venue user will normally be required to serve as a prosecution witness. As LCSD staff and nearby residents are not regarded as venue users, LCSD cannot initiate or take enforcement action solely based on the observations of the LCSD staff or complaints received (mostly from nearby residents) unless a venue user is willing and able to serve as a prosecution witness. To address the public’s demand for proper and effective regulation of noise nuisance in PPGs, we proposed an amendment to replace “user thereof” with “person” in section 25 of the Regulation at the meeting of the Panel on 29 April 2019. With the proposed amendment, venue users, LCSD staff and any other persons (including nearby residents) who are annoyed by the noise nuisance may act as prosecution witnesses, thereby enabling more proactive enforcement and prosecution.

C

7. The motion appended at **Annex C** was endorsed by the Panel and the Administration was requested to conduct a comprehensive review of the Regulation and to study the adoption of additional measures to step up control of noise problems in PPGs, including raising the maximum penalty for the offence of contravening section 25 of the Regulation, combating tipping of performers and introducing a “blacklisting” system to prohibit repeated offenders of the Regulation from entering the PPGs for a certain period of time. A reply by the Home Affairs Bureau to the Panel is attached at **Annex D**.

D

8. We attach great importance to the suggestions made by the Panel and have worked closely with the Department of Justice to consider different proposed

amendments in terms of enhancing the effectiveness of law enforcement, stepping up control of music activities and increasing the deterrent effect through a multi-pronged approach. After reviewing comprehensively the relevant provisions in the Regulation and seeking legal advice on the proposed amendments, we are putting forth proposed legislative amendments in the following three aspects:

(1) Enhance the effectiveness of law enforcement

(a) Expand the scope of affected persons

Section 25 of the Regulation prohibits a person from carrying out a music activity to the annoyance of certain persons (affected persons) unless the Director of Leisure and Cultural Services (Director) has permitted in writing the carrying out of the music activity. The scope of the affected persons is currently limited to “any other user thereof” (i.e. any other venue user). For reasons set out in paragraph 6, we propose to expand the scope of the affected persons by replacing “user thereof” with “person” to enhance the effectiveness of enforcement actions against noise nuisance arising from music activities in PPGs.

(2) Step up control of music activities

(b) Prohibit solicitation of, acceptance of or agreement to receive reward for music activity or related activity

The root of noise nuisance problems in some PPGs lies in that persons who carry out music activities there are often rewarded for such activities. At present, the Regulation does not prohibit such persons from accepting rewards for their music activities. Hence, they can do so in PPGs without contravening the Regulation. To tackle the situation, we propose to include a new provision in section 25 to prohibit a person from soliciting, or accepting, or agreeing to receive in a PPG any reward for a music activity or related activity (e.g. setting up instruments used in the music activity, acting as a host for the music activity, or dancing, or any other similar act, that accompanies the music activity) carried out there unless the person has obtained the Director’s written permission to do so. It is also proposed that a contravention of this provision be made a criminal offence under section 30 of the Regulation. We believe that this new provision can tackle the problem of people being rewarded for carrying out the above-mentioned activities in PPGs. Persons who carry out music activities or related activities in PPGs without soliciting, accepting or agreeing to receive rewards there (e.g. for self-entertainment) will not be affected by this new provision.

(c) Display notice to specify requirements in relation to the carrying out of music activities in PPGs and prohibit persons from carrying out music activities there that do not comply with the requirements

It is observed that musical instruments and amplifiers are often used for music activities in some PPGs, causing excessive noise and thereby affecting other PPG users and sometimes even nearby residents. In view of this, we propose to include a new provision in section 25 of the Regulation to empower the Director to display notices in a PPG with noise problems and specify requirements in relation to the carrying out of any music activity there.

We understand that the public expects the Government to tackle noise problems in PPGs more proactively. This provision, which aims to prevent noise nuisance, is specifically introduced so that faster and more flexible measures can be made to cater for conditions of different PPGs. For instance, if there are often music activities in a PPG at night, causing nuisance to nearby residents, notice may be displayed in the PPG to restrict persons from bringing large bulky amplifier there for use at night. Moreover, if music activities which cause nuisance to nearby residents often take place at a particular location in a PPG, notices may be displayed in the PPG to prohibit the carrying out of such activities at a designated location in the PPG.

To effectively respond to changes in forms of music activities in PPGs, targeted revisions can be made to the requirements specified in a notice displayed there on need basis. In devising the requirements, regard will be given to the actual situation of each PPG.

Furthermore, we propose to introduce a new provision in section 25 of the Regulation to prohibit persons from carrying out there a music activity that does not comply with a requirement specified in a notice displayed in the PPG unless the person has obtained the Director's written permission to do so. It is also proposed that a contravention of this provision be made a criminal offence under section 30 of the Regulation.

(3) Increase the deterrent effect

(d) Raise the fine level

At present, under section 30 of the Regulation, a person who contravenes section 25 of the Regulation is liable on conviction to a fine at level 1 (i.e. a maximum fine of \$2,000) and imprisonment for 14 days. LCSD has reviewed this arrangement in response to the Panel's request for the Administration to study raising the maximum penalty for the offence of contravening section 25 (Offence). Currently, sections 4 and 5 of the Noise Control Ordinance (Cap. 400) regulate the noise from public places with the maximum penalty of a HK\$10,000 fine, which is 5 times the maximum fine for the Offence. Besides, having reviewed the convictions in respect of the Offence since 2010, LCSD found that the fines imposed in these cases ranged from \$300 to \$1,200, with the average being \$700. Based on the above information, it seems that the current level of fines for the Offence is low and has an insufficient deterrent effect. Hence, we propose to raise the fine level for the Offence to level 3 (i.e. a maximum fine of \$10,000), but recommend no change to the imprisonment term of 14 days.

AMENDMENT OF THE REGULATION

9. Currently, sections 25 and 30 of the Regulation read as follows –

“25. Music and singing

Save where the Director has, in writing, permitted the operation or playing of, or the making of any sounds by means of, any such instrument or the singing of any song, no person shall, in any pleasure ground, to the annoyance of any other user thereof operate or play, or make any sounds on, any musical or other instrument, including any gramophone or radio apparatus or sing any song.”

“30. Offences and penalties

Any person who—

- (a) contravenes any of the provisions of section 6, 7, 8, 9, 10, 11, 12, 13, 14(1) or (3), 15, 16, 18(1) or (2), 19, 20, 21, 22, 23, 23A, 25, 26, 27 or 29;
- (b) when driving any vehicle in a pleasure ground, refuses or wilfully fails to stop when called upon to do so, by signal or otherwise, by any

keeper or other public officer acting in the execution of his duty; or

- (c) to comply with any of the requirements of any notice displayed under the provisions of section 17 or 24,

shall be guilty of an offence and shall be liable on summary conviction to a fine at level 1 and to imprisonment for 14 days.”

10. In line with the proposed amendments at paragraph 8, the Amendment Regulation replaces section 25 and amends section 30 to, mainly, provide that—

- (a) the Director may specify any requirement in relation to the carrying out of any music activity in a pleasure ground by notice conspicuously displayed there (new section 25(1));
- (b) a person is prohibited from carrying out in a pleasure ground a music activity that does not comply with a requirement specified under section 25(1) unless the person has obtained the Director’s written permission to do so (new section 25(2));
- (c) a person must not carry out in a pleasure ground a music activity to the annoyance of “any other person” (as opposed to “any other user thereof” as provided under the existing section 25) unless the first-mentioned person has obtained the Director’s written permission to carry out the activity there (new section 25(3));
- (d) a person must not solicit, or accept, or agree to receive, in a pleasure ground, any reward for any music activity or related activity carried out there unless the person has obtained the Director’s written permission to do so (new section 25(4)); and
- (e) the maximum fine for the Offence is a level 3 fine (i.e. \$10,000)(as opposed to a level 1 fine of \$2,000 as provided under the existing section 30) (new section 30(2)).

LEGISLATIVE TIMETABLE

11. The Amendment Regulation was published in the Gazette on 22 May

2020 and tabled at the Legislative Council for negative vetting on 27 May 2020. The effective date of the Amendment Regulation is set on 24 July 2020.

IMPLICATIONS OF THE AMENDMENTS

12. The amendments are in conformity with the Basic Law, including the provisions concerning human rights. It has no civil service, economic, productivity, sustainability, family or gender implication.

13. The amendments have financial and environmental implications. Since the financial implications are unlikely to be significant, LCSD will absorb any additional financial resources incurred from the enforcement of the Amendment Regulation. Besides, we expect the amendments will have positive environmental implications as the enhanced measures in regulating music activities in PPGs through a multi-pronged strategy can help prevent neighbourhood noise in the community.

14. LCSD is preparing for the implementation of the above-mentioned Amendment Regulation, including strengthening staff training, drawing up enforcement guidelines, and reviewing the existing manpower of the parks with noise problems, etc. LCSD is also reviewing the situation of the PPGs with noise problems and will seek legal advice in drawing up notices to stipulate the requirements for compliance by music activities in these venues.

**Home Affairs Bureau
Leisure and Cultural Services Department
June 2020**

Pleasure Grounds (Amendment) Regulation 2020

(Made by the Secretary for Home Affairs under section 109 of the Public Health and Municipal Services Ordinance (Cap. 132))

1. Commencement

This Regulation comes into operation on 24 July 2020.

2. Pleasure Grounds Regulation amended

The Pleasure Grounds Regulation (Cap. 132 sub. leg. BC) is amended as set out in sections 3 and 4.

3. Section 25 substituted

Section 25—

Repeal the section

Substitute

“25. Music activities etc.

- (1) The Director may, by notice conspicuously displayed in a pleasure ground, specify any requirement in relation to the carrying out of any music activity there.
- (2) A person must not carry out in a pleasure ground a music activity that does not comply with a requirement specified under subsection (1) unless the person has obtained the Director's written permission to do so.
- (3) A person must not carry out in a pleasure ground a music activity to the annoyance of any other person unless the first-mentioned person has obtained the Director's written permission to carry out the activity there.

(4) A person must not solicit or accept, or agree to receive, in a pleasure ground any reward for any music activity or related activity carried out there unless the person has obtained the Director's written permission to do so.

(5) For subsection (4), it does not matter—

- (a) to whom and in what way the reward is or is to be given; and
- (b) by whom the music activity or related activity is carried out.

(6) In this section—

music activity (音樂活動) means—

- (a) the operation or playing of, or the making of any sounds by means of, any musical or other instrument (including a gramophone, radio apparatus, amplifier or loudspeaker); or
- (b) the singing of any song;

related activity (相關活動), in relation to a music activity, means any activity to prepare for, facilitate or accompany the music activity, and includes—

- (a) the setting up of any musical or other instrument used in the music activity;
- (b) the acting as a host for the music activity; or
- (c) any dancing, or any other similar act, that accompanies the music activity;

reward (酬賞) includes any gift, payment, service, favour, benefit or advantage.”

4. Section 30 amended (offences and penalties)

(1) Section 30—

Renumber the section as section 30(1).

- (2) Section 30(1)(a)—

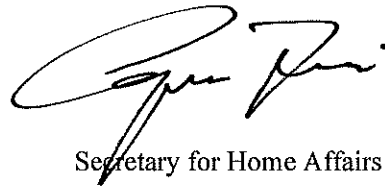
Repeal

“25,”.

- (3) After section 30(1)—

Add

- “(2) A person who contravenes section 25(2), (3) or (4) commits an offence and is liable on conviction to a fine at level 3 and to imprisonment for 14 days.”.



Secretary for Home Affairs

2020 May 15

Explanatory Note

This Regulation amends the Pleasure Grounds Regulation (Cap. 132 sub. leg. BC) (*principal Regulation*) to enhance the regulation of music or singing activities (*music activities*) and other related acts carried out in pleasure grounds so as to tackle noise nuisance problems caused by such music activities.

2. In particular, section 3 replaces section 25 of the principal Regulation to prohibit the following acts done without the written permission of the Director of Leisure and Cultural Services—
 - (a) carrying out in a pleasure ground a music activity that does not comply with a requirement specified in a notice conspicuously displayed there (new section 25(2));
 - (b) carrying out in a pleasure ground a music activity to the annoyance of “any other person” (as opposed to “any other user thereof” as provided under the existing section 25 of the principal Regulation) (new section 25(3)); and
 - (c) soliciting or accepting, or agreeing to receive, in a pleasure ground any reward for any music activity or related activity carried out there (new section 25(4)).
3. Section 4 amends section 30 of the principal Regulation to increase the maximum fine for the offence of contravening section 25 of the principal Regulation from level 1 (i.e. \$2,000) to level 3 (i.e. \$10,000).

LC Paper No. CB(2)724/19-20(05)

For discussion on
23 March 2020

Legislative Council Panel on Home Affairs**Amendment of Pleasure Grounds Regulation to step up control of
noise nuisance in parks managed by
Leisure and Cultural Services Department****Purpose**

This paper sets out the Government's proposal to further amend the Pleasure Grounds Regulation (Cap 132BC) (the Regulation) to step up regulation of noise nuisance in parks managed by the Leisure and Cultural Services Department (LCSD) and seek Members' advice on the proposed amendments to the Regulation.

Background

2. LCSD manages public pleasure grounds in accordance with the Regulation to ensure that activities therein are conducted in a safe and orderly manner. The department has all along been exercising flexibility where possible and justified to facilitate users' enjoyment of the public open space in different ways provided that they neither cause safety or hygiene problems, nor create unacceptable nuisance to others.
3. Singing activities, however, are found at some public pleasure grounds managed by LCSD from time to time. Some singing groups use loudspeakers or amplifiers during their activities and generate excessive noise causing noise nuisance to nearby residents. Whilst LCSD has implemented various noise control measures, noise problems are still prevalent in a few venues. LCSD has received from time to time complaints from members of the public against noise nuisance arising from musical performances or singing activities in parks. LCSD is very concerned about the situation and considers it necessary to amend the relevant provisions in the Regulation for effective control of noise nuisance in parks.

Original proposed legislative amendment

4. Currently, LCSD takes action against noise nuisance at its parks under Section 25 (the relevant provision is set out at **Annex 1**) of the Regulation. However, in order to take enforcement action under Section 25 of the Regulation, it has to be established that a “venue user” has been annoyed, and the venue user will normally be required to serve as a prosecution witness. As park keepers of LCSD (as management staff of park) and nearby residents are not regarded as venue users, LCSD cannot initiate or take enforcement action solely based on the staff's observations or complaints (mostly lodged by nearby residents) received unless a venue user is willing and is able to serve as a prosecution witness. To address the public demand for proper and effective regulation of noise nuisance in parks, we proposed an amendment to replace “user thereof” with “person” in the Regulation at the meeting of the Legislative Council Panel on Home Affairs (the Panel) on 29 April 2019. With the proposed amendment, venue users, LCSD venue staff and any other persons (including nearby residents) who are annoyed by the noise nuisance may act as prosecution witnesses in LCSD's enforcement action, thereby enabling more proactive prosecution.

5. The Panel passed the motion at **Annex 2** and requested LCSD to conduct a comprehensive review of the Regulation and adopt additional measures to step up the control of noise problems in parks, including exploring raising the maximum penalty under Section 25 of the Regulation, introducing additional mode of prosecution, combating the acts of pecuniary reward and introducing a “blacklisting” system to prohibit repeated offenders of the Regulation from entering the venues for a certain period of time. A reply by the Home Affairs Bureau to the Panel is at **Annex 3**.

Latest proposed legislative amendment

6. We attach great importance to the suggestions made by the Panel and have worked closely with the Department of Justice (DoJ) to consider different proposed amendments to enhancing the effectiveness of law enforcement, stepping up control of musical performances and singing activities and increasing the deterrent effect through a multi-pronged approach. After reviewing the relevant provisions in the Regulation comprehensively and seeking legal advice on the proposed amendments, we put forth the proposed legislative amendments in the following three aspects:

(1) Enhance the effectiveness of law enforcement

(a) Expand the definition of persons subject to annoyance

We propose to expand the definition of persons subject to annoyance in Section 25 from “any other user thereof” to cover “any person” so that LCSD officers can invoke the said provision for more effective law enforcement. Currently, LCSD takes action against noise nuisance at its parks under Section 25. However, in order to take enforcement action under Section 25, it has to be established that a “user thereof” has been annoyed, and the venue user will normally be required to stand as a prosecution witness. As park keepers of LCSD (management staff of parks) and nearby residents are not regarded as users of pleasure grounds, LCSD cannot initiate or take enforcement action solely based on the staff's observations or complaints (mostly lodged by nearby residents) received unless the venue user is willing and is able to stand as a prosecution witness. In view of the above, it is difficult for LCSD to invoke Section 25 to regulate noise nuisance effectively. Under the proposed amendment, if LCSD park keepers and any other persons (in particular the nearby residents) are annoyed by the noise, they may act as prosecution witnesses in LCSD's enforcement action, enabling more effective regulation of noise nuisance in public pleasure grounds.

(2) Step up control of musical performances and singing activities

(b) Prohibit acceptance of pecuniary reward

The root of noise nuisance problems in some parks lies in the acts of accepting pecuniary reward for musical performances and singing activities. At present, the Regulation does not prohibit members of the public from tipping others in the form of “lai see” in parks. Hence, persons who play music, sing songs or stage performances accept “lai see” from members of the public in parks are not in breach of the regulation. To tackle the situation, LCSD proposes to include a new provision in Section 25 prohibiting unauthorised persons from playing music, singing songs or carrying out other music-related activities (including dancing with background music) in parks and accepting any money or reward (e.g. “lai see”). Persons who play music, sing songs or carry out other music-related activities, regardless of whether they initiate the solicitation of money or reward or not, will be deemed to have contravened the new provision and hence, violated the Regulation. We believe that the new provision would be able to stop persons seeking to obtain money or reward through the above-mentioned activities in parks.

Those persons who play music or sing songs in parks for self-entertainment without accepting money or reward will not be affected by the new provision as long as they do not cause nuisance to others.

(c) Put up notice to stipulate venue rules

It is observed that musical instruments and amplifiers are used for musical performances and singing activities in some parks, causing excessive noise and affecting other park users. Should such activities be carried out in the vicinity of residential areas, it will even cause noise nuisance. In view of this, LCSD proposes to include a new provision in Section 25 empowering the Director of Leisure and Cultural Services to put up notices in parks with noise problems and stipulate the need to comply with the provisions in the playing of musical instruments and singing activities.

LCSD understands that there is an expectation that the Government has to be more proactive in tackling the noise problems in parks. This provision in relation to the prevention of noise nuisance is therefore specifically introduced so that faster and more flexible response can be made to cater for the situation of different venues. For instance, if there are often singing activities in a park at night causing nuisance to nearby residents, LCSD may restrict members of the public from bringing large bulky amplifiers into the park for use during a specific period. Moreover, if there are singing activities at a location in a park causing nuisance to nearby residents, LCSD may put up notices to stipulate rules prohibiting the public to engage in such activities at a designated location inside the park. With the provision in effect, any person (whether causing noise nuisance or not) who does not comply with the provision stipulated in the notices will be deemed to be in breach of the provision. LCSD officers may prosecute the offenders in light of the circumstances. To effectively respond to the change in form of musical performances and singing activities in parks, revisions on the provisions stipulated in the notices can be tailor-made as necessary. The provisions in the notices in relation to prevention of noise nuisance will be drawn up with regard to the actual circumstances of each park.

(3) Increase the deterrent effect

(d) Raise the penalty level

At present, an offender of Section 25 of the Regulation is liable on conviction to a fine at Level 1 (maximum fine of HK\$2,000) and

imprisonment for 14 days. LCSD has reviewed such arrangement in response to the Panel's request of raising the penalty level. Currently, Sections 4 and 5 of the Noise Control Ordinance (Cap. 400) regulate noise from public places with the maximum fine of \$10,000, which is five times the maximum penalty under Section 25 of the Regulation. Besides, having reviewed the convicted cases under Section 25 of the Regulation since 2010, LCSD notices that the penalties for these cases range from \$300 to \$1,200 and the average fine is \$700. Based on the above information, LCSD acknowledges that the current level of fines under Section 25 is on the low side and is insufficient in deterring persons from violating the Regulation. Hence, LCSD has proposed to raise the fine level under the provision (including the above-mentioned amendments proposed to be included in Section 25) to Level 3 (maximum fine of \$10,000) and maintain the imprisonment term of 14 days.

Other control measures

7. Apart from amending the Regulation, LCSD will also improve its guidelines on venue management to assist its staff in monitoring singing activities in parks. For instance, in handling applications for hiring outdoor leisure venues of LCSD for activities of non-designated uses, LCSD will make reference to the “Noise Control Guidelines for Music, Singing and Instrument Performing Activities” issued by the Environmental Protection Department in formulating the Noise Control Guidelines. For activity involving the use of amplifiers (e.g. stage performance), the organiser is required to comply with the related Noise Control Guidelines to control the sound level of the activity (including rehearsal and main event) and ensure that it does not exceed the background noise level for more than 10 decibels. The organiser is also required to deploy staff to monitor the sound level of the activity and bring it down immediately in case of excessive sound level detected or upon receipt of complaints.

8. As for parks with frequent singing activities by members of the public, venue staff are equipped with devices for measuring decibel level to measure the sound level of the activities from time to time. If the sound level from the activities is excessive, venue staff will immediately advise the person involved to bring down the sound level. As regards those parks which have received complaints of noise nuisance from members of the public from time to time, LCSD has drawn reference to past complaints as well as views of nearby residents and concerned

District Councils and work out a corresponding sound level standard having due regard to the situation of individual parks for reference of the staff in issuing advice. The staff in the park will also closely monitor the activities and take timely follow-up actions. Advice will be given by staff immediately when the sound level from singing activities is found to be exceeding a certain level of decibel above the background noise level.

9. On publicity and education, LCSD has put up banners in parks and displayed notices at prominent locations reminding members of the public to be mindful of the sound emitted from their activities in order not to cause nuisance to others. Besides, LCSD will monitor closely noise nuisances in parks and carry out joint operations with the Police in those parks with noise problem from time to time for combating violation of the provisions. On the other hand, Section 32 of the Regulation empowers LCSD officers to remove persons contravening the Regulation from the venues. LCSD officers will take law enforcement actions in light of the actual situation and apply the provision where appropriate to follow up on noise-related complaints and remove persons contravening the Regulation from venue by virtue of the power vested under Section 32 where necessary.

The Way Forward

10. We are working closely with DoJ to finalise the proposed legislative amendments, with a view to putting forth the proposed amendments to the Regulation for the Legislative Council meeting in May for negative vetting for early implementation of the amended Regulation.

Advice Sought

11. Members are invited to note the proposed legislative amendments and express their views.

Leisure and Cultural Services Department
March 2020

《遊樂場地規例》(第 132BC 章) 第 25 條

25.

音樂及唱歌

除非署長已以書面准許操作或彈奏某種樂器，或利用某種樂器發出任何聲響，或唱歌，否則任何人不得在對任何其他使用遊樂場地的人造成煩擾的情況下，在遊樂場地內操作或彈奏任何樂器或其他器具(包括唱機或無線電器具)，或利用該等樂器或其他器具發出任何聲響，或唱歌。

(1999 年第 78 號第 7 條)

Section 25 of Pleasure Grounds Regulation (Cap. 132BC)

25.

Music and singing

Save where the Director has, in writing, permitted the operation or playing of, or the making of any sounds by means of, any such instrument or the singing of any song, no person shall, in any pleasure ground, to the annoyance of any other user thereof operate or play, or make any sounds on, any musical or other instrument, including any gramophone or radio apparatus or sing any song.

(78 of 1999 s. 7)



立法會
LEGISLATIVE COUNCIL

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(By fax and by post)
(Total : 3 pages)

30 April 2019

Mr LAU Kong-wah, JP
Secretary for Home Affairs
Home Affairs Bureau
12/F, West Wing
Central Government Offices
2 Tim Mei Avenue
Tamar
Hong Kong

Dear Mr LAU,

Panel on Home Affairs

Motion passed at the meeting on 29 April 2019

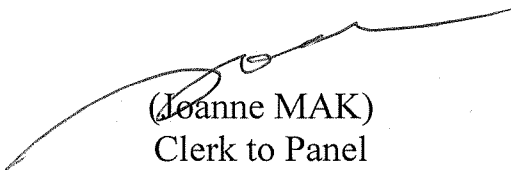
At its meeting on 29 April 2019, the Panel passed a motion under agenda item IV "Use and management of public open space managed by the Leisure and Cultural Services Department". The wording of the motion is enclosed.

I should be grateful if the Administration could provide its written response (bilingual version) to the above motion via e-mail (mmskwok@legco.gov.hk) by **Wednesday, 15 May 2019** for circulation to Panel members.

Please note that in line with usual practice, the Administration's paper will be made available to the media/public and placed in the Library of the Legislative Council ("LegCo"), unless you advise otherwise. It will also be made available on the LegCo website.

With best regards,

Yours sincerely,


(Joanne MAK)
Clerk to Panel

Encl

c.c. Miss Iris WONG, Home Affairs Bureau (E-mail: ihtm Wong@hab.gov.hk)

民政事務委員會

在2019年4月29日會議上就議程項目IV
"康樂及文化事務署轄下公眾休憩用地的使用及管理"
通過的議案

近年經常有市民投訴指有表演者於公園內使用音響或樂器作唱歌、跳舞等表演，在表演過程中發出的聲浪對公園其他使用者與附近居民構成嚴重滋擾，當中部分更涉及金錢打賞行為。儘管康文署建議修訂《遊樂場地規例》，讓公園附近居民及康文署職員等人士都可成為控方證人，以加強規管場內噪音，但由於政府未有全面檢討《遊樂場地規例》，相信即使落實新建議後噪音滋擾問題亦無法根治。就此，本委員會促請政府：

- 一、全面檢討《遊樂場地規例》，積極處理表演活動引致噪音滋擾及金錢打賞等問題，就何謂滋擾制訂客觀的標準，以平衡不同場地使用者的權益，並為前線人員制訂清晰的指引，在場地出現混亂而前線人員難以自行處理時應該尋求警方協助執法；
- 二、研究提高《遊樂場地規例》第25條的最高罰則，包括設立遞進式的定額罰款，接觸犯規例次數提高罰款款額，以阻嚇多次造成噪音滋擾的人士；及
- 三、研究賦權前線人員對違例者作出不同程度的執法，包括要求不聽勸籲者離開公園，以"黑名單"制禁止多次觸犯《遊樂場地規例》的人士在一定時期內進入公園等。

動議人：劉國勳議員, MH

和議人：鄭泳舜議員, MH

(Translation)

Panel on Home Affairs

Motion passed under agenda item IV

**"Use and management of public open space managed by the Leisure and Cultural Services Department"
at the meeting on 29 April 2019**

In recent years, members of the public have often complained that the use of audio equipment or musical instruments by performers in their singing, dancing or other performances in parks has created excessive noise and caused serious nuisances to other park users and nearby residents, and the giving of tips was involved in some performances. The Leisure and Cultural Services Department ("LCSD") has proposed to amend the Pleasure Grounds Regulation ("the Regulation") to include nearby residents and LCSD staff as the prosecution witness so as to step up the control of noise nuisances in parks. However, in the absence of a comprehensive review of the Regulation, the implementation of the new proposal is not expected to solve the noise nuisance problem at its roots. In this connection, this Panel urges the Government to:

1. conduct a comprehensive review of the Regulation to actively address, among other issues, noise nuisances caused by performing activities and the giving of tips to performers, prescribe an objective standard of "nuisance" to balance the interests of various venue users, and formulate clear guidelines and enable frontline staff to seek assistance from the Police in taking enforcement actions in case the venues are in chaotic situations beyond the control of the staff;
2. study raising the maximum penalty under section 25 of the Regulation, including setting up a progressive fixed penalty system to increase the penalty level according to the number of times of breaches to deter repeated offenders of noise nuisance; and
3. study empowering frontline staff to take enforcement actions with various severity, such as requesting park users who ignore advice from park staff to leave and drawing up a "blacklist" to prohibit repeated offenders of the Regulation to enter the parks within a certain period of time.

Moved by: Hon LAU Kwok-fan, MH

Seconded by : Hon Vincent CHENG, MH

政府總部
民政事務局

香港添馬添美道二號
政府總部西翼十二樓



GOVERNMENT SECRETARIAT
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本函檔號 Our Ref: HAB/R&S 4035/1/3
來函檔號 Your Ref: CB2/PL/HA

電話號碼 Tel. No.: 3509 8062
傳真號碼 Fax No.: 2519 7404

28 May 2019

Ms Joanne MAK
Clerk to the Panel on Home Affairs
Legislative Council Complex
1 Legislative Council Road
Central, Hong Kong

Dear Ms Mak,

Panel on Home Affairs
Motion passed at the meeting on 29 April 2019

Thank you for your letter dated 30 April 2019. With regard to the motion passed under agenda item IV “Use and management of public open space managed by the Leisure and Cultural Services Department”, our response is set out below.

1. At present, if enforcement action is taken by the Leisure and Cultural Services Department (LCSD) under section 25 of the Pleasure Ground Regulation (Cap. 132BC) (the Regulation), it has to be established that a “venue user” had been annoyed, and the venue user has to be willing and able to serve as a prosecution witness. Otherwise, LCSD cannot take enforcement action solely based on staff observation or complaints received. To address public demand for proper and effective regulation of noise nuisance in parks, we propose a legislative amendment to section 25 of the Regulation by replacing “user thereof” with “person”. Under the proposed amendment, venue users, LCSD venue staff and any other persons (including nearby residents) who are annoyed by the noise may act as prosecution witnesses in LCSD’s enforcement action, making the prosecution action more proactive.

LCSD provides staff with guidelines for monitoring and regulating noise from activities carried out by groups at outdoor leisure venues. In setting up the guidelines, reference has been made to the Noise Control Ordinance (Cap. 400) regarding the regulation for different venues, natures of activities and situation, and objective criteria are adopted as far as possible, e.g. sound measuring device is used to measure and monitor the noise level generated from activities. If the sound level is too high, venue staff will prompt the users to be mindful of the sound volume and keep it reasonably low. LCSD will make reference to the arrangements adopted by the departments concerned in monitoring and regulating noise, and seek legal advice in improving the existing guidelines. Meanwhile, LCSD will, in light of circumstances of individual prosecution cases, collect sufficient evidence as far as possible, e.g. photos and video footage taken on the spot, noise measurement records and witness statements (e.g. in what ways the witness was annoyed by the noise, duration and intensity of noise exposure, etc.), which will be used as evidence for prosecution.

Members of the public are not prohibited from tipping others in the form of “lai see” in parks by the Regulation or other legislation at present. Hence, performers who accept “lai see” from members of the public in parks are not in breach of the legislation. However, it is up to the court to adjudicate each prosecution case with regard to the circumstances of the case and evidence found. LCSD will continue to seek legal advice regarding pecuniary reward given in appreciation of singing activities.

2. At present, any person in breach of the Regulation is liable to a fine at level 1 (maximum \$2,000) and an imprisonment for 14 days on conviction. The court will determine the appropriate level of penalty taking into account the circumstances of the case. LCSD is open-minded to the suggestion of increasing the penalty level in section 25 of the Regulation or introducing new means of prosecution and will actively study it.
3. Section 32 of the Regulation empowers authorised LCSD officers to remove persons who contravene the provisions of the Regulation from the venues concerned. LCSD will seek legal advice and define clearly how venue management staff will use the power effectively for proper regulation of venues. Such action by venue management staff may lead to unnecessary confrontation between

law enforcement officers and performers as well as other persons, the department must therefore act with caution. LCSD officers will assess the actual situation at the time of enforcement and seek assistance from the Police as necessary.

LCSD had sought legal advice on the suggestion of prohibiting repeated violators of the Regulation from entering the venues concerned for a certain period of time, and was advised that it might involve complicated judicial procedures, such as filing an application to the court for an injunction, and should therefore be handled carefully. Nonetheless, LCSD will seek legal advice and consider other feasible means to step up measures against non-compliant activities in venues.

Yours sincerely,



(Ms Elania Luk)
for Secretary for Home Affairs

c.c.:

Director of Leisure & Cultural Services
[Attn: Sr Staff Offr(HQ) (Fax no: 2602 1480)]



中華人民共和國香港特別行政區
Hong Kong Special Administrative Region of the People's Republic of China



立法會
LEGISLATIVE COUNCIL

來函檔號 YOUR REF : CB2/PL/HA
本函檔號 OUR REF : 3919 3203
電 話 TELEPHONE : 2869 6794
圖文傳真 FACSIMILE :
電郵地址 E-mail : mmskwok@legco.gov.hk

(By fax and by post)
(Total : 3 pages)

30 April 2019

Mr LAU Kong-wah, JP
Secretary for Home Affairs
Home Affairs Bureau
12/F, West Wing
Central Government Offices
2 Tim Mei Avenue
Tamar
Hong Kong

Dear Mr LAU,

Panel on Home Affairs

Motion passed at the meeting on 29 April 2019

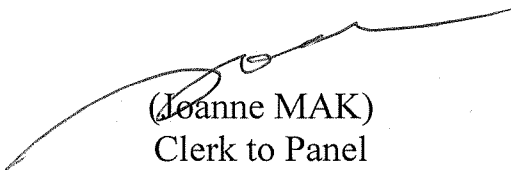
At its meeting on 29 April 2019, the Panel passed a motion under agenda item IV "Use and management of public open space managed by the Leisure and Cultural Services Department". The wording of the motion is enclosed.

I should be grateful if the Administration could provide its written response (bilingual version) to the above motion via e-mail (mmskwok@legco.gov.hk) by **Wednesday, 15 May 2019** for circulation to Panel members.

Please note that in line with usual practice, the Administration's paper will be made available to the media/public and placed in the Library of the Legislative Council ("LegCo"), unless you advise otherwise. It will also be made available on the LegCo website.

With best regards,

Yours sincerely,


(Joanne MAK)
Clerk to Panel

Encl

c.c. Miss Iris WONG, Home Affairs Bureau (E-mail: ihtm Wong@hab.gov.hk)

民政事務委員會

在2019年4月29日會議上就議程項目IV
"康樂及文化事務署轄下公眾休憩用地的使用及管理"
通過的議案

近年經常有市民投訴指有表演者於公園內使用音響或樂器作唱歌、跳舞等表演，在表演過程中發出的聲浪對公園其他使用者與附近居民構成嚴重滋擾，當中部分更涉及金錢打賞行為。儘管康文署建議修訂《遊樂場地規例》，讓公園附近居民及康文署職員等人士都可成為控方證人，以加強規管場內噪音，但由於政府未有全面檢討《遊樂場地規例》，相信即使落實新建議後噪音滋擾問題亦無法根治。就此，本委員會促請政府：

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動議人：劉國勳議員, MH

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(Translation)

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Moved by: Hon LAU Kwok-fan, MH

Seconded by : Hon Vincent CHENG, MH

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c.c.:

Director of Leisure & Cultural Services
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