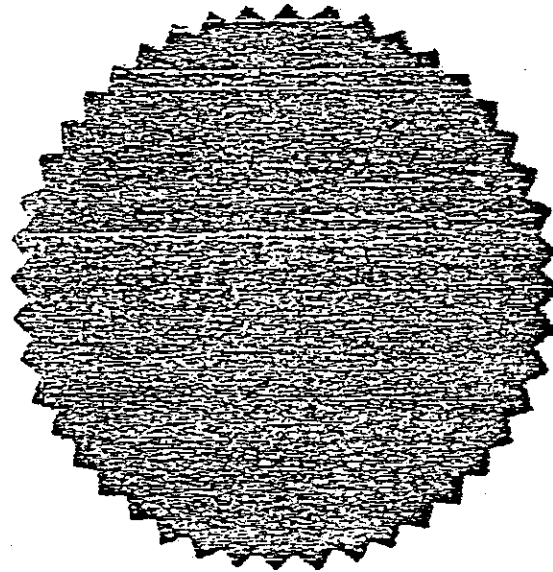


HONG KONG

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ORDINANCE No. 2 OF 1994



I assent.

Christopher PATTEN

*Governor.*

*13 January 1994*

An Ordinance to amend the Noise Control Ordinance.

[ ]

Enacted by the Governor of Hong Kong, with the advice and consent of the Legislative Council thereof.

### 1. Short title and commencement

(1) This Ordinance may be cited as the Noise Control (Amendment) Ordinance 1994.

(2) This Ordinance shall come into operation on a day to be appointed by the Governor by notice in the Gazette.

### 2. Interpretation

Section 2 of the Noise Control Ordinance (Cap. 400) is amended by adding—

“designated area” means an area established under section 8A;”.

### 3. Noise from construction sites

Section 6 is amended—

(a) in subsection (2) by adding “within a designated area” after “place”; and

(b) by repealing subsection (6) and substituting—

“(6) The owner, tenant or occupier of domestic premises may perform construction work in those premises without a construction noise permit being in force in respect thereof provided that—

- (a) the construction work is performed only by the owner, tenant or occupier, as the case may be;
- (b) the only powered mechanical equipment used for the construction work is portable and designed for operation while held by hand without any other form of support; and
- (c) only one item of powered mechanical equipment is in use in the premises at any one time.”.

### 4. Section added

The following is added—

#### “8A. Designated areas

(1) The Secretary may, by notice published in the Gazette, establish an area as a designated area.

(2) Where a designated area has been established, the Secretary may, under section 9(1), issue Technical Memoranda applicable to one or more designated areas and, where there is a conflict between Technical Memoranda issued for a designated area and Technical Memoranda issued for the entire territory, the former shall apply.”.

### 5. Manufacture, etc. of products not in compliance with noise standards

Section 14 is amended—

(a) in subsection (2) by adding “or (3)” after “(1)”; and

(b) by repealing subsection (3)(a) and (b) and substituting—

“(a) intended for use in Hong Kong; and

(b) required by regulations made under section 27(1) to be—

(i) fitted or equipped with any prescribed device or prescribed equipment so as to prevent, reduce or minimize the emission of noise; or

(ii) fitted with a prescribed plate, label or other marking relating to noise emission;” and

(c) by adding—

“(4A) Notwithstanding this section, a regulation made under section 27(1) may provide that the offence under one or more of subsections (1), (3) and (4) does not apply to one or more of the following—

(a) importing;

(b) manufacturing;

(c) supplying or offering or exposing for supply, and, in that case, no offence is committed by a person who contravenes the relevant subsection in a manner which has been excluded by the regulation.

(4B) A regulation referred to in subsection (4A) may specify that it is effective for a limited period of time.

(4C) Notwithstanding subsection (3), a regulation made under section 27(1) may provide a period of time, after the importing or manufacturing, as the case may be, of a product prescribed for the purposes of this Part but before the product is supplied or offered or exposed for supply, during which time an offence will not be committed by a person who has imported or manufactured the product without it being fitted or equipped as required by either subsection (3)(b)(i) or (ii) or both.”

5. Appeals against refusal of Authority to issue construction noise permit, etc. under section 8

Section 18(1) and (2) is repealed and the following substituted—

“(1) Subject to subsection (3), if any person who applies for a construction noise permit under section 8 to carry out percussive piling between the hours of 7 a.m. and 7 p.m. on any day, not being a general holiday, is aggrieved—

(a) where the Authority refuses to issue the construction noise permit, by that refusal;

(b) where the Authority issues the construction noise permit subject to any condition, or amends or varies any such condition or imposes a new condition, by that imposition, amendment or variation; or

(c) where the Authority issues the construction noise permit and subsequently cancels the permit, by that cancellation,

he may appeal to the Appeal Board.

(2) No appeal shall lie under this section except in respect of a construction noise permit for the purpose set forth in subsection (1).”

Regulations

Section 27 is amended—

(a) in subsection (1) by repealing “The” and substituting “Subject to subsection (1A), the”; and

(b) by adding—

“(1A) The Secretary may, after consultation with the Environmental Pollution Advisory Committee, by regulation, prescribe anything required or permitted to be prescribed for the purposes of Parts II and III other than the fee prescribed for the purposes of section 8(2).”

8. Exemptions from provisions of the Ordinance

Section 35 is amended by adding—

“(3) Notwithstanding this section, where conditions or limitations are attached to an order made under this section, a person who contravenes such a condition or limitation commits an offence and shall be liable—

(a) on first conviction to a fine of \$50,000; \*

(b) on second or subsequent conviction, to a fine of \$100,000, and in any case to a fine of \$10,000 for each day during which the offence continues.

(4) For the purposes of determining whether or not an offence has been committed under subsection (3), Part V applies.

(5) Section 33(b), (c) and (d) applies to an offence under subsection (3).”

9. Amendments

The provisions of the Ordinance specified in column 1 of the Schedule are amended by repealing the amounts specified in column 2 and substituting the amounts specified in column 3—

Section	SCHEDULE	
	Repeal	Substitution
4(3)	5,000	10,000
5(5)	5,000	10,000
6(5)(a)	50,000	100,000
6(5)(b)	100,000	200,000
6(5)	10,000	20,000
7(2)(a)	50,000	100,000
7(2)(b)	100,000	200,000
7(2)	10,000	20,000
13(7)(a)	50,000	100,000
13(7)(b)	100,000	200,000
13(7)	10,000	20,000
14(5)(a)	50,000	100,000
14(5)(b)	100,000	200,000
14(5)	10,000	20,000

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Section	Repeal	Substitution
15(5)(a)	50,000	100,000
15(5)(b)	100,000	200,000
15(5)	10,000	20,000
16(6)(a)	50,000	100,000
16(6)(b)	100,000	200,000
17(5)(a)	50,000	100,000
17(5)(b)	100,000	200,000
17(5)	10,000	20,000
17A(3)(a)	50,000	100,000
17A(3)(b)	100,000	200,000
17A(3)	10,000	20,000
27(3)	100,000	200,000
28(4)	10,000	20,000

*I certify that this is a true copy of the bill passed by the Hong Kong Legislative Council this 12th day of January 1994.*

*Clerk to the Legislative Council.*