

LEGISLATIVE COUNCIL BRIEF

FIXED PENALTY (PUBLIC CLEANLINESS OFFENCES) BILL

INTRODUCTION

At the meeting of the Executive Council on 13 February 2001, the Council **ADVISED** and the Chief Executive **ORDERED** that the Fixed Penalty (Public Cleanliness Offences) Bill, at the **Annex**, should be introduced into the Legislative Council, to introduce a fixed penalty system for certain minor public cleanliness offences.

BACKGROUND AND ARGUMENT

General Background

2. Provisions for public cleanliness offences are mainly contained in the Public Health and Municipal Services Ordinance (Cap. 132) and the Public Cleansing and Prevention of Nuisances Regulation (Cap. 132 sub. leg.). Penalty ranges from a fine at level 2 (\$5,000) to a fine at level 4 (\$25,000) and 6 months' imprisonment. Offenders are prosecuted by summons, and the average fine imposed by the Court in the past with respect to minor public cleanliness offences was around \$500.

3. In December 1998, the Steering Committee on Healthy Living chaired by the Chief Secretary for Administration endorsed a proposal recommended by the former Director of Regional Services to introduce a fixed penalty system for minor public cleanliness offences, similar to that for various traffic offences, with a view to enhance the deterrent effect against such offences. Members of the former Joint Provisional Urban Council/Provisional Regional Council Keep Hong Kong Clean Steering Committee subsequently considered the proposal and suggested that a two-tier fixed penalty system, i.e. \$600 for first-time offenders and

\$1,000 for repeated offenders, should be introduced. Members also recommended that the fixed penalty system should be applicable to the following eight types of minor public cleanliness offences:

- a) Throwing/depositing litter in public places;
- b) Beating/cleaning carpet in public places;
- c) Depositing in a litter container anything capable of causing ignition;
- d) Spitting in public places;
- e) Raking and picking over waste deposited;
- f) Dog fouling;
- g) Permitting waste containers to remain in a public place exceeding 10 minutes; and
- h) Dumping refuse into the sea.

4. We have reviewed the proposed fixed penalty system and come to the view that to reinforce our effort to clean Hong Kong, the proposed system should be introduced. It also demonstrates the Government's determination in tackling the littering problem. In addition, it will reduce the number of minor offences that have to be handled by the Courts.

Proposal

5. We propose that the fixed penalty system should include the following main provisions set out below.

(A) Types of offences

6. It will cover the minor public cleanliness offences as specified in the Bill: depositing of litter in public places or into the sea, spitting in public places, and unauthorized display of bills or posters. These offences are recommended because they are the most frequently committed by the public. In 2000, the numbers of convictions for littering, spitting and unauthorized display of bills or posters were 15 231, 2 881 and 357 respectively. Although the number of convictions for unauthorized display of bills or posters is comparatively small, the problem is becoming more serious and is a constant source of complaint.

7. We propose to exclude the other minor public cleanliness offences previously recommended by the former Provisional Municipal Councils (PMCs) in order to focus on offences that are most common or pose fewer enforcement difficulties. Other offences will continue to be prosecuted using summons under the Public Health and Municipal Services Ordinance (Cap. 132) and the Public Cleansing and Prevention of Nuisances Regulation (Cap. 132 sub. leg.). We will review the list of offences covered at an appropriate time.

(B) Fixed penalty level

8. We are of the view that the penalty should be set at a level sufficient to achieve the desired deterrent effect without arousing too much public objection. We support the former PMC's proposal of fixing the level at \$600. It is slightly higher than the fines for some common traffic offences (\$320 and \$450) and the average fine imposed by the Court for littering (\$468) and spitting (\$570). We also propose that Legislative Council may increase the fine level by resolution, as in the case of fines for traffic offences.

9. We do not favour a two-tier penalty system as proposed by the former PMCs because this will present serious administrative and operational problems, such as the keeping and checking of conviction records for the purpose of issuing notification letters to repeated offenders for additional fines. Not only will this increase the cost of implementing the system, it will also defeat the purpose of having a simple and effective means to combat littering.

(C) Inspection of proof of identity and power of arrest

10. At present, enforcement officers sometimes encounter difficulties in ascertaining the true identities and addresses of alleged offenders. This has resulted in abortive summons or nugatory efforts in tracing the offenders. To ensure effective enforcement, we propose that an enforcement officer who has reasonable cause to believe that a person has committed any of the offences should be given the power to inspect the Hong Kong Identity Card or other proof of identity for the purpose of

ascertaining the true identity of the person. A person will commit an offence if he fails to comply, without reasonable excuse, with a request by such officer to produce his HKIC or other proof of identity for inspection. The enforcement officer will also be empowered to arrest such person and take him to the police station or put him under the custody of a police officer.

(D) Enforcement departments

11. At present, certain grades of public officers in the Food and Environmental Hygiene Department (FEHD), Agriculture, Fisheries and Conservation Department, Marine Department, Housing Department and Leisure and Cultural Services Department, are empowered under section 8A of the Magistrates Ordinance (Cap. 227) to prosecute public cleanliness offenders. We propose that these public officers should be authorized to issue fixed penalty notices. We also propose that officers of Environmental Protection Department, which is currently not empowered to prosecute public cleanliness offenders under the Magistrates Ordinance, be authorized to issue fixed penalty notices as the department also conducts prosecutions against environmental nuisances and pollution from time to time.

Staff training and support

12. The effectiveness of the proposed fixed penalty system will, to a large extent, depend on the enforcement capability of the enforcement officers. FEHD, as the main department responsible for enforcing the proposed fixed penalty system, will prepare a comprehensive training programme for the staff, covering gathering of evidence, handling of confrontations, operational procedures, giving evidence in court, conduct and discipline.

13. To ensure that all enforcement officers from departments concerned will adopt a consistent enforcement standard, FEHD will prepare an Operational Manual and invite other enforcement departments to nominate selected officers to join the training programme who will then serve as trainers for their departments.

THE BILL

14. The main provisions of the Bill are -

- a) **Clause 3** empowers any public officer in Schedule 2 to issue fixed penalty notice to a person who is committing or has committed any of the offence in Schedule 1 ("the person"). The person may discharge his liability to conviction for that offence by paying a fixed penalty.
- b) **Clause 4** empowers the public officer to request the person to produce proof of identity for inspection, and to arrest him if he fails to comply with the requirement.
- c) **Clause 5** provides for the issue of a subsequent notice to the person if the fixed penalty is not paid within 21 days from the date of the offence, demanding for payment within 10 days after the date of the notice. The person must also notify the Authority if he wants to dispute liability for the offence.
- d) **Clause 6** provides that the fixed penalty notice or the subsequent notice may be withdrawn.
- e) **Clause 7** provides that an application may be made in the name of the Secretary for Justice to the magistrate for an order to recover the fixed penalty if the person has not paid the fixed penalty as demanded by the subsequent notice, and has not indicated his wish to dispute liability.
- f) **Clause 9** deals with the situation where the magistrate is satisfied that the subsequent notice has not come to the personal notice of the person without any neglect by that person.
- g) **Clause 10** provides for the service of summons if the person has not paid the fixed penalty and has indicated that he wishes to dispute liability.
- h) **Clause 11** provides for the imposition of an additional penalty

where the person liable offers no defence or one which is frivolous or vexatious.

- i) **Clause 12** provides for payment of fixed penalty after issue of summons.
- j) **Clause 13** provides for distress in case of default of payment.
- k) **Clauses 14 and 15** provide for protection for public officers acting in good faith and the offence of obstructing the officers in the exercise of their powers.
- l) **Clause 16** empowers the Secretary for the Environment and Food to make regulations.
- m) **Clause 17** empowers Legislative Council to increase the fixed penalty by resolution.
- n) **Clause 18** empowers the Chief Executive in Council to amend Schedule 2.
- o) **Schedule 1** contains the list of offences that are subjected to the fixed penalty.
- p) **Schedule 2** is the list of public officers authorized to issue fixed penalty notices.

PUBLIC CONSULTATION

15. We have consulted the advisory Council on Food and Environmental Hygiene, the Steering Committee on Clean Hong Kong and Legislative Council Panel on Food Safety and Environmental Hygiene on 14 September 2000, 10 November 2000 and 8 January 2001 respectively. Members generally supported the proposal. A few Legislative Council Members suggested including dog fouling into the fixed penalty system and recommended a lower fine level. We maintain the view that we would like to focus on those most common offences at

the outset and set the fine at a level which can create sufficient deterrent effect. However, we are prepared to consider these suggestions further at the Bills Committee stage.

BASIC LAW IMPLICATIONS

16. The Department of Justice advises that the Bill does not conflict with those provisions of the Basic Law carrying no human rights implications.

HUMAN RIGHTS IMPLICATIONS

17. The Department of Justice advises that the Bill is consistent with the human rights provisions of the Basic Law.

BINDING EFFECT OF THE LEGISLATION

18. The Bill does not contain any express provision on binding effect.

FINANCIAL AND STAFFING IMPLICATIONS

19. The Bill does not have any staffing or significant financial implications. As regards capital cost implications, a computer system will be installed to process the fixed penalty notices. The estimated cost is about \$700,000, and will be funded under the Capital Works Reserve Fund (CWRP) Head 710 Computerisation Subhead A007GX - New Administrative Computer System (Block Allocation) administered by the Secretary for Information Technology and Broadcasting.

LEGISLATIVE TIMETABLE

20. The legislative timetable is as follows:

Publication in the Gazette	16 February 2001
First Reading and commencement of Second Reading debate	28 February 2001
Resumption of Second Reading debate, committee stage and Third Reading	To be notified

PUBLICITY

21. A press release will be issued, and a spokesman will be available to answer press enquiries.

OTHERS

22. For enquires on this brief, please contact Ms Eva TO, Principal Assistant Secretary for the Environmental Food (A)3, at 2136 3333.

Environment and Food Bureau
14 February 2001

**FIXED PENALTY (PUBLIC CLEANLINESS OFFENCES)
BILL**

CONTENTS

Clause		Page
PART 1		
PRELIMINARY		
1.	Short title and commencement	1
2.	Interpretation	1
PART 2		
FIXED PENALTY		
3.	Fixed penalty notice given by public officer	2
4.	Power of inspecting proof of identity	2
5.	Fixed penalty notice issued by Authority	3
6.	Withdrawal of notice of fixed penalty	4
7.	Recovery of fixed penalty	4
8.	Proof in proceedings under section 7	5
9.	Review of proceedings	5
10.	Service of summons	7
11.	Additional penalty in proceedings on dispute of liability	7
12.	Payment of fixed penalty after issue of summons	7
13.	Distress in case of default	8

PART 3

MISCELLANEOUS

14.	Protection for public officers acting in good faith	8
15.	Obstruction of officers in the exercise of their duty	9
16.	Power to make regulations	9
17.	Revision of fixed penalty	9
18.	Amendment of Schedule 2	9

Consequential Amendments

Criminal Procedure Ordinance

19.	Provision for fines for offences	10
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Rehabilitation of Offenders Ordinance

20.	Protection of rehabilitated individual	10
Schedule 1	Scheduled offence	11
Schedule 2	Authorities and public officers	12

A BILL

To

Provide for a fixed penalty to be payable for certain offences, for the recovery of the fixed penalty, and for connected purposes.

Enacted by the Legislative Council.

PART 1

PRELIMINARY

1. Short title and commencement

(1) This Ordinance may be cited as the Fixed Penalty (Public Cleanliness Offences) Ordinance.

(2) This Ordinance shall come into operation on a day to be appointed by the Secretary for the Environment and Food by notice in the Gazette.

2. Interpretation

(1) In this Ordinance, unless the context otherwise requires -
"fixed penalty" (定額罰款), in relation to a scheduled offence, means the fixed penalty set out opposite to the offence in column 4 of Schedule 1;

"proceedings" (法律程序) means proceedings before a magistrate in respect of a scheduled offence;

"scheduled offence" (表列罪行) means an offence that is described in columns 2 and 3 of Schedule 1.

(2) A description in column 3 of Schedule 1 indicates for convenience of reference only the general nature of the offence under the provision set out opposite to that description in column 2 of the Schedule.

(3) In applying a provision of this Ordinance in relation to a scheduled offence -

- (a) a reference to "Authority" in that provision shall be construed as a reference to the Authority set out in column 2 of Schedule 2 opposite to the offence; and
- (b) a reference to "public officer" in that provision shall be construed as a reference to a public officer set out in column 3 of Schedule 2 opposite to the offence.

PART 2 FIXED PENALTY

3. Fixed penalty notice given by public officer

(1) If a public officer has reason to believe that a person is committing or has committed a scheduled offence, he may give the person a notice in the prescribed form offering him an opportunity to discharge his liability to conviction for that offence by payment of the fixed penalty for that offence.

(2) A notice under subsection (1) shall be given by the public officer personally to the person.

(3) Subject to section 6, where a person has received a notice under subsection (1) and has paid the full amount of the fixed penalty shown in the notice, he shall not be liable to be prosecuted or convicted for the scheduled offence specified in the notice.

4. Power of inspecting proof of identity

(1) In exercising his power under section 3(1), the public officer may require a person to whom the notice is to be given to state his name and address and produce proof of identity for inspection.

(2) A person who fails to comply with a requirement made under subsection (1) commits an offence and is liable on conviction to a fine at level 2.

(3) A public officer may arrest a person who, without reasonable excuse, fails to comply with a requirement made under subsection (1).

(4) A public officer who arrests any person under subsection (3) shall forthwith take him to the nearest police station or give him into the custody of a police officer.

(5) In this section, "proof of identity" (身分證明文件), in relation to the person referred to in subsection (1), has the same meaning as in section 17B of the Immigration Ordinance (Cap. 115).

5. Fixed penalty notice issued by Authority

(1) If the fixed penalty for a scheduled offence in respect of which a notice has been given to a person under section 3(1) is not paid within 21 days from the date of the giving of the notice, the Authority shall serve on the person a notice in the prescribed form

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- (a) demanding payment of the fixed penalty;
- (b) informing the person that if he wishes to dispute liability for the offence he should notify the Authority in writing; and
- (c) stating that the payment or notification (as the case may be) shall be made within 10 days from the date of the notice so served.

(2) No notice shall be served under subsection (1) after the expiry of 6 months from the date of the notice given under section 3(1).

(3) A notice under subsection (1) may be served on the person by sending it by post to his address.

(4) Subject to section 6, where a person has received a notice under subsection (1) and has paid the full amount of the fixed penalty shown in the notice, he shall not be liable to be prosecuted or convicted for the scheduled offence specified in the notice.

6. Withdrawal of notice of fixed penalty

(1) Where a notice under section 3(1) or 5(1) has been given or served on a person, the Authority may, at any time before the commencement of any proceedings against that person in respect of the offence specified in the notice and whether or not an order under section 7(1) has been applied for, but before such order is made, withdraw that notice, and may serve on that person a notice in writing informing him that the notice has been withdrawn.

(2) Where such a notice is withdrawn under this section and any sum of money has been paid pursuant to the notice, the Director of Accounting Services shall, on demand by the person on whom the notice was given or served, repay him the sum so paid.

(3) A notice withdrawn under this section shall not be a bar to any proceedings in respect of the scheduled offence specified in the notice.

7. Recovery of fixed penalty

(1) Where a person on whom a notice under section 5(1) has been served has not paid the fixed penalty and has not notified the Authority, in accordance with that notice, that he wishes to dispute liability for the offence, a magistrate shall, on an application mentioned in subsection (2), order him to pay the fixed penalty, together with an additional penalty equal to the amount of the fixed penalty, within 14 days from the date of service of notice of the order.

(2) An application under subsection (1) -

- (a) may be made in the absence of the person on whom the notice under section 5(1) has been served;
- (b) shall be made in the name of the Secretary for Justice, who may appoint any person or class of persons to make the application.

(3) Where an order is made under subsection (1) against a person, the magistrate shall cause notice of the order to be served on that person.

(4) Notice of the order made under subsection (1) may be served on that person by sending it by post to his address.

8. Proof in proceedings under section 7

(1) Notwithstanding any provisions of the Magistrates Ordinance (Cap. 227), in an application under section 7(1), an order under that section shall be made upon the production by the applicant to the magistrate of -

- (a) a copy of the notice served under section 5(1) together with a certificate of posting of that notice under section 29 of the Evidence Ordinance (Cap. 8); and
- (b) a certificate referred to in subsection (2).

(2) In an application under section 7(1), a certificate in the prescribed form stating -

- (a) that payment of the fixed penalty in respect of the offence specified in a notice under section 5(1) was not made before the date specified in the certificate;
- (b) that the person specified in that notice had not, before the date specified in the certificate, notified the Authority that he wished to dispute liability for the offence; and
- (c) that the address specified in it was at the time so specified the address of that person,

and purporting to be signed by or for the Authority shall be admitted in evidence without further proof on its production to the magistrate and, unless there is evidence to the contrary

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- (i) it shall be presumed that the certificate is so signed; and
- (ii) the certificate shall be evidence of the facts stated in it.

9. Review of proceedings

(1) Where a magistrate is satisfied that a notice served under section 5(1) has not come to the personal notice of the person to whom it relates without

any neglect by that person, the magistrate may, on an application of which reasonable notice has been given to the Authority, rescind the order made under section 7(1) in respect of the notice and -

- (a) if that person wishes to dispute liability for the offence, give leave to that effect; or
- (b) if he does not wish to dispute liability -
 - (i) order him to pay the fixed penalty concerned within 10 days from the date of the order; and
 - (ii) order that, if he fails to pay that fixed penalty within that period, he shall be liable to pay immediately that fixed penalty, together with an additional penalty equal to the amount of the fixed penalty.

(2) An application under subsection (1) may be made in person or by counsel or solicitor on behalf of the applicant and the magistrate, for the purpose of securing the attendance of witnesses and generally for conducting the proceedings, shall have all the powers of a magistrate hearing a complaint under the Magistrates Ordinance (Cap. 227).

(3) An application under subsection (1) shall be made within 14 days from the date that the magistrate is satisfied is the earliest date on which the order mentioned in section 7(1) came to the personal notice of the person to whom that order relates.

(4) Where a magistrate gives leave under subsection (1)(a), proceedings may be taken, notwithstanding section 26 of the Magistrates Ordinance (Cap. 227), within 6 months from the date when the magistrate gives the leave.

(5) A magistrate may for good cause, on an application by the Authority at any time, rescind any order for the payment of a fixed penalty and any other order made in the same proceedings.

10. Service of summons

Where -

- (a) a person fails to pay the fixed penalty in accordance with a notice served on him under section 5(1);
- (b) he notifies the Authority that he wishes to dispute liability for the scheduled offence specified in the notice, or he is given leave under section 9(1)(a); and
- (c) proceedings are taken against him in respect of the offence,

then a summons issued in those proceedings may be served on the person by sending it by post to his address.

11. Additional penalty in proceedings on dispute of liability

Where a person-

- (a) having notified the Authority, in accordance with a notice under section 5(1), that he wished to dispute liability for the scheduled offence concerned; or
- (b) having been given leave under section 9(1)(a),

and having been served with a summons and appeared before a magistrate, offers no defence or a defence which is frivolous or vexatious, the magistrate shall, in addition to any other penalty and costs, impose an additional penalty equal to the amount of the fixed penalty for that offence.

12. Payment of fixed penalty after issue of summons

(1) Notwithstanding that proceedings have been instituted against a person who has notified the Authority in accordance with the notice served on him under section 5(1) that he wishes to dispute liability, the person may pay the fixed penalty concerned together with an additional penalty equal to the amount of the fixed penalty in accordance with subsection (2), and, if at the same time

the person also pays the sum of \$500 by way of costs, the proceedings shall thereupon terminate.

(2) Payment under subsection (1) shall be made at any magistracy not less than 2 days before the day specified in the summons for the person's appearance, and the summons shall be produced at the time of payment.

(3) No public holiday shall be included in the computation of the 2 days' period mentioned in subsection (2).

13. Distress in case of default

(1) If a person who has been ordered under this Ordinance to pay any penalty fails within 1 month from the date of the order to pay the penalty, an application may be made in the absence of that person to a magistrate for an order directing that -

- (a) the penalty to be paid, or where the application for an order under this section is in respect of more than one penalty to be paid, the total of such penalties; and
- (b) the costs of the application for an order under this section, be levied on any goods and chattels of the person by distress and sale thereof.

(2) An application under subsection (1) shall be made in the name of the Secretary for Justice, who may appoint any person or class of persons to make the application.

PART 3

MISCELLANEOUS

14. Protection for public officers acting in good faith

(1) A public officer shall not be personally liable in respect of any act done by him while exercising any of his powers under this Ordinance and within

the scope of his employment, if he did that act in the honest belief that he was entitled to do it.

(2) Nothing in this section shall be construed as relieving the Government from liability in respect of the acts of public officers.

(3) In this section, "public officer" includes any Authority set out in column 2 of Schedule 2.

15. Obstruction of officers in the exercise of their duty

A person who wilfully obstructs or resists a public officer exercising his powers under this Ordinance commits an offence and is liable on conviction to a fine at level 4 and to imprisonment for 6 months.

16. Power to make regulations

The Secretary for the Environment and Food may by regulation -

- (a) prescribe any notice or certificate which under this Ordinance is to be or may be prescribed;
- (b) specify the persons to whom and the places at which a fixed penalty or an additional penalty may be paid;
- (c) specify the manner of payment of a fixed penalty or an additional penalty; and
- (d) provide for the better carrying out of the provisions of this Ordinance.

17. Revision of fixed penalty

The Legislative Council may increase by resolution, the fixed penalty in relation to a scheduled offence.

18. Amendment of Schedule 2

The Chief Executive in Council may by order amend Schedule 2.

Consequential Amendments

Criminal Procedure Ordinance

19. Provision for fines for offences

Section 113C of the Criminal Procedure Ordinance (Cap. 221) is amended, in subsection (1)(c), by repealing "or the Fixed Penalty (Criminal Proceedings) Ordinance (Cap. 240)" and substituting ", the Fixed Penalty (Criminal Proceedings) Ordinance (Cap. 240) or the Fixed Penalty (Public Cleanliness Offences) Ordinance (of)".

Rehabilitation of Offenders Ordinance

20. Protection of rehabilitated individual

Section 2(1B) and (3) of the Rehabilitation of Offenders Ordinance (Cap. 297) is amended, by repealing "or the Fixed Penalty (Criminal Proceedings) Ordinance (Cap. 240)" and substituting ", the Fixed Penalty (Criminal Proceedings) Ordinance (Cap. 240) or the Fixed Penalty (Public Cleanliness Offences) Ordinance (of)".

SCHEDULE 1
SCHEDULED OFFENCE

[s.2 & Sch. 2]

Item	Section or Regulation	Description	Fixed Penalty
Public Health and Municipal Services Ordinance (Cap. 132)			
1.	Section 104A(2)	Display of bills or posters without permission	\$600
Public Cleansing and Prevention of Nuisances Regulation (Cap. 132 sub. leg.)			
2.	Section 4(1)	Depositing of litter or waste in public places	\$600
3.	Section 8A(1)	Spitting in public places	\$600
Country Parks and Special Areas Regulations (Cap. 208 sub.leg.)			
4.	Regulation 12(1)(c)	Depositing of litter in country parks and special areas	\$600
5.	Regulation 12(1)(e)	Spitting in country parks and special areas	\$600
Summary Offences Ordinance (Cap. 228)			
6.	Section 4D(1)	Marine littering	\$600
Waste Disposal Ordinance (Cap. 354)			
7.	Section 16A(1)	Unlawful depositing of waste	\$600

SCHEDULE 2

[ss. 2, 14 & 18]

AUTHORITIES AND PUBLIC OFFICERS

Scheduled Offence*	Authority	Public Officer
4,5,6	Director of Agriculture, Fisheries and Conservation	Forestry Officer Field Officer Field Assistant Forest Guard Fisheries Officer Fisheries Supervisor
7	Director of Environmental Protection	Environmental Protection Officer Assistant Environmental Protection Officer Assistant Pollution Control Officer Chief Environmental Protection Inspector Senior Environmental Protection Inspector Environmental Protection Inspector Pollution Control Inspector
1,2,3,6	Director of Food and Environmental Hygiene	Senior Superintendent of Environmental Health Superintendent of Environmental Health Chief Health Inspector Senior Health Inspector Health Inspector I

		Health Inspector II
		Senior Overseer
		Overseer
		Senior Foreman
		Foreman
		Principal Hawker Control Officer
		Chief Hawker Control Officer
		Senior Hawker Control Officer
		Hawker Control Officer
		Assistant Hawker Control Officer
2,3	Director of Housing	Housing Manager
		Assistant Housing Manager
		Housing Officer
2,3,6	Director of Leisure and Cultural Services	Amenities Officer
		Amenities Assistant
		Senior Foreman
		Foreman
		Librarian
		Manager, Cultural Services
		Recreation and Sports Officer
6	Director of Marine	Marine Officer
		Marine Controller
		Assistant Marine Controller
		Senior Assistant Shipping Master
		Marine Inspector I
		Marine Inspector II

- * In this column, a scheduled offence is described by reference to the item number set out opposite to the scheduled offence in column 1 of Schedule 1.

Explanatory Memorandum

The purpose of this Bill is to enable a person who has committed certain offences relating to public cleanliness to discharge his liability to conviction by the payment of a fixed penalty.

2. Clause 3 provides that a public officer who has reason to believe that a person is committing or has committed a scheduled offence may give the person an opportunity to discharge his liability to conviction by the payment of a fixed penalty. This is done by giving the person a notice requiring the payment of the fixed penalty within 21 days. The scheduled offences for which fixed penalties are so payable are set out in Schedule 1 to the Bill.

3. Clause 4 empowers a public officer to require a person to state his name and address and proof of identity for giving a fixed penalty notice. A person who fails to comply with the requirement commits an offence.

4. Clause 5 provides that where a person fails to pay a fixed penalty within 21 days from the date of the giving of a notice under section 3(1), the Authority may issue a further notice. This notice will not only demand payment of the fixed penalty but also require the person to notify the Authority if he wishes to dispute liability. The respective Authorities in respect of the offences are set out in Schedule 2 to the Bill.

5. Clause 6 provides that a notice given under clause 3(1) or 5(1) may be withdrawn. The clause also provides for the repayment of a penalty paid under a withdrawn notice.

6. Clause 7 provides that where the notice served under clause 5(1) is not acted upon, the magistrate may order payment of the fixed penalty and an additional penalty equal to the fixed penalty. Notice of this order is to be served on the person liable.
7. Clause 8 provides for the proof in proceedings in an application under clause 7(1).
8. Clause 9 provides for the review of an order made under clause 7(1).
9. Clause 10 provides for postal service of a summons in proceedings instituted following a person's notification to the Authority that he wishes to dispute liability for the offence, or where a person has been given leave to dispute liability for the offence.
10. Clause 11 provides for the imposition of an additional penalty where the person liable offers no defence or one which is frivolous or vexatious.
11. Clause 12 enables a person to pay the fixed penalty after the institution of proceedings, but he must also pay an additional penalty equal to the amount of the fixed penalty and the fixed costs of five hundred dollars.
12. Clause 13 provides for distress to recover amounts due.
13. Clause 14 exempts a public officer from personal liability in respect of any act done by him while exercising his powers under the Bill if the requirements set out in that clause are satisfied.
14. Clause 15 creates an offence. It is an offence for a person to wilfully obstruct or resist a public officer exercising his powers under the Bill.
15. Clause 16 enables regulations to be made by the Secretary for the Environment and Food for the carrying out of the provisions of the Bill.
16. Clause 17 empowers the Legislative Council to increase the fixed penalty by resolution.
17. Clause 18 empowers the Chief Executive in Council to amend Schedule 2 to the Bill.
18. Clauses 19 and 20 deal with consequential amendments necessitated by the Bill.