

**立法會**  
***Legislative Council***

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**Paper for the House Committee meeting  
on 22 June 2001**

**Report of the Bills Committee on  
Fixed Penalty (Public Cleanliness Offences) Bill**

**Purpose**

This paper reports on the deliberations of the Bills Committee on Fixed Penalty (Public Cleanliness Offences) Bill.

**Background**

2. At present, offences relating to public cleanliness are provided for in various Ordinances such as the Public Health and Municipal Services Ordinance (Cap. 132) and the Country Parks Ordinance (Cap. 208). Penalty for these offences range from a fine at level 2 (\$5,000) to a fine at level 4 (\$25,000) and six months' imprisonment. Currently, prosecution for these offences is instituted by way of summons at the magistrates' courts. The average fine imposed by the court for conviction of minor public cleanliness offences is about \$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 these offences similar to that for minor traffic offences. The proposal was to enhance the deterrent effect against minor public cleanliness 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 for eight types of minor public cleansing offences.

4. The Administration has reviewed the proposed fixed penalty system and has come to the view that the proposed fixed penalty system should be introduced to reinforce the Administration's efforts to clean up the city. It will

also relieve the courts from handling these minor offences. The Administration proposes that the fixed penalty system should cover three minor public cleanliness offences, namely, depositing of litter in public places or into the sea, spitting in public places, and unauthorised display of bills or posters. The Administration also recommends that the fixed penalty be set at \$600. Certain grades of public officers in six enforcement departments will be authorised to issue fixed penalty notices.

### **The Bill**

5. The Bill seeks to implement the proposal of the Steering Committee on Healthy Living with a view to reinforcing the Administration's efforts to clean Hong Kong. The Bill proposes that a person who is committing or has committed certain offences relating to public cleanliness, as set out in Schedule 1 to the Bill, may discharge his liability to conviction for the offences by the payment of a fixed penalty. The proposed fixed penalty for these offences is \$600 which may be increased by the Legislative Council (LegCo) by resolution.

6. The Bill proposes that the fixed penalty notices will be issued by public officers set out in Schedule 2 to the Bill. For this purpose, the Bill empowers these public officers to require a person to produce proof of identity for inspection, and to arrest him if he fails to comply with the requirement without reasonable excuse. Failure to comply with the requirement will be an offence liable to a fine at level 2 (\$5,000).

7. The Bill also provides for the recovery of fixed penalty and the proceedings before a magistrate when a person wishes to dispute liability for the offences specified in the fixed penalty notice. Consequential amendments are also made to the related Ordinances.

8. The Bill, if enacted, will come into operation on a day to be appointed by the Secretary for the Environment and Food by notice published in the Gazette.

### **The Bills Committee**

9. Members agreed at the House Committee meeting on 2 March 2001 to form a Bills Committee to study the Bill. Chaired by Hon Fred LI Wah-ming, the Bills Committee has held five meetings to discuss with the Administration. The membership list of the Bills Committee is in **Appendix I**.

## **Deliberations of the Bills Committee**

10. The Bills Committee supports the Bill which proposes a fixed penalty system for minor public cleanliness offences in order to increase deterrence against such offences. The Bills Committee has examined in detail the scope of the proposed fixed penalty system, the proposed enforcement arrangements, and the procedures for recovery of payments from persons who fail to pay the fixed penalty. The deliberations of the Bills Committee are summarised below.

### Scope of the fixed penalty system

#### *Dog fouling*

11. The Bills Committee has noted that the proposed fixed penalty system presently covers only three main types of minor public cleanliness offences, namely, display of bills or posters without permission; depositing of litter or waste in country parks, public places and into the sea; and spitting in country parks and public places. Some members of the Bills Committee are of the view that dog fouling is a common public cleanliness offence which causes much nuisance to the public. They also point out that dog fouling was included in the previous fixed penalty proposal of the former municipal councils. These members suggest that dog fouling should also be included in the proposed fixed penalty system.

12. The Administration has accepted members' views and has proposed draft Committee Stage amendments (CSAs) to include the offence of dog fouling in Schedule 1 to the Bill. A member has, however, pointed out that it is difficult to control small dogs from urinating in public places and that dog urine poses a relatively less serious problem than dog faeces. In view of this concern, the Administration has agreed to delete "dog urine" from the proposed CSAs.

#### *Marine littering*

13. One member is of the view that the proposed fixed penalty system should not include marine littering and spitting because it is often difficult for fishermen and people living on boats to find litter bins and toilets while on sea. Some other members, however, disagree that this should be a reason for littering because such facilities can be provided on boats and ships. These members consider that the culture and habits of some people can be changed, and that the fixed penalty system can educate/deter people from committing littering offences.

14. As regards spitting into the sea, the Administration has clarified that the present definition of "marine littering" under the Summary Offences Ordinance

(Cap. 228) is not wide enough to include spitting. While there is no general provision against marine spitting in the statute books, spitting from a public place on land, and from certain locations at sea (such as ferries) into the sea is covered under existing laws, and where appropriate, the proposed fixed penalty scheme (item 3 of schedule 1 to the Bill). Most members of the Bills Committee are of the view that spitting on land and spitting into the sea should not be treated differently. Considering that certain infectious diseases can spread through spitting, the Bills Committee urges the Administration to consider amending the relevant provisions in the Summary Offences Ordinance in order to make marine spitting an offence as well. The Administration has agreed to consider the proposal as a separate exercise.

15. To address members' concern about the problem of marine littering at certain blackspots, the Administration has advised that the Marine Department will set up a task force to take enforcement actions in major blackspots, such as seafront promenades and public piers, after office hours and on Sundays and public holidays. The Marine Police will also assist in joint operations with the Marine Department to prosecute marine littering offenders.

#### *Disposal of waste*

16. A member points out that the definition of "waste" under the Waste Disposal Ordinance (Cap. 354) covers a wide range of substances including animal waste, chemical waste, household waste, livestock waste, street waste and trade waste. As the disposal of chemical waste and trade waste may cause environmental nuisance and pollution, he has reservations that these offences should be dealt with by the fixed penalty system.

17. The Administration has clarified that under section 16A(1) of the Waste Disposal Ordinance, it is an offence if any person, without lawful authority or excuse, deposits or permits to be deposited any waste in a public place, on Government land, or on any other land without the consent of the owner or occupier. Any person who has committed the offence is liable to prosecution. However, the proposed fixed penalty system is mainly to prosecute minor littering offences. There is no intention to issue fixed penalty notices to those who deposit chemical waste illegally in view of the serious nature of such offences, which will continue to be prosecuted by summons. The Administration will make this point very clear in the Operational Manual and guidelines for enforcement staff.

#### Level of fixed penalty

18. Members have enquired about the rationale for setting the level of fixed penalty at \$600. A member has suggested a lower penalty in line with that for minor traffic offences. The Administration has explained that the fixed penalty should be set at a level sufficient to achieve the desired deterrent effect

without arousing too much public objection. The Administration has also advised that about 20 000 minor public cleanliness offences were prosecuted last year. For convicted cases, the average fine imposed by courts is \$468 for littering and \$570 for spitting. The Administration also points out that for minor traffic offences, the offenders are also subject to the Driving Offence Points System which may lead to suspension or cancellation of driving licence.

19. Some other members have suggested introducing a heavier fine for repeated offenders to provide greater deterrence against littering and spitting. The Administration has responded that a two-tier system will present serious administrative and operational problems, such as keeping and checking of conviction records for the purpose of issuing notification letters to repeated offenders for additional penalty. This will increase the cost for implementing the system and defeat the purpose of having a simple and effective means to combat littering.

### Enforcement

#### *Public officers empowered to issue fixed penalty notices*

20. The Bills Committee has detailed discussion on the enforcement of the proposed fixed penalty system. Members have noted that a total of 44 grades (over 10 000 public officers) in six government departments will be empowered to issue fixed penalty notices. As some of these public officers are not in uniform and they belong to different departments, members are worried that the arrangement may cause confusion to the public, and that there may be inconsistent standards of enforcement. Members have asked whether these public officers are authorised to enforce the fixed penalty system on a territory-wide basis and how the Administration can ensure consistency in enforcement.

21. The Administration has explained that at present, certain public officers in Food and Environmental Hygiene Department (FEHD), Agriculture, Fisheries and Conservation Department, Housing Department (HD), Leisure and Cultural Services Department and Marine Department are already empowered under section 8A of the Magistrates Ordinance (Cap.227) to prosecute public cleanliness offenders. They will therefore be authorised to issue fixed penalty notices. While officers in the Environmental Protection Department are currently not empowered to prosecute public cleanliness offenders under the Magistrates Ordinance, they also conduct prosecutions against environmental nuisances and pollution from time to time. The Administration therefore proposes that officers of the Environmental Protection Department be included in the list of authorised officers. These public officers will only enforce the fixed penalty system according to the jurisdiction of their respective departments, and only when they are on duty. These public officers must carry their warrants while on duty, and persons who

are to be issued fixed penalty notices can request to see the warrants of the enforcement officers or check their identities by contacting the department(s) concerned.

22. The Administration also advises that to ensure that all enforcement officers from the six departments will adopt a consistent enforcement standard, FEHD will prepare a set of guidelines for enforcement officers, covering various aspects such as gathering of evidence, dealing with confrontation, operational procedures, evidence in court and conduct and discipline. Moreover, FEHD will provide training programme for its enforcement officers and a 'train-the-trainer' programme for other enforcement departments. FEHD will also consult the Independent Commission Against Corruption on incorporating corruption prevention practices in the proposed procedures. As the major department responsible for environmental hygiene, FEHD will take up the coordinating role for the implementation of the fixed penalty system and evaluate the effectiveness of the system from time to time.

23. The Chairman and some members have expressed particular concern about the enforcement in those public housing estates where the management had been contracted out to private management companies. The Administration has advised that in principle, the Housing Department will only take enforcement action against littering and public cleanliness offences in those public housing estates where it has the ultimate management responsibility, i.e. where no owners' corporations have been formed. For those housing estates where the actual management work has been contracted out to property service companies, the responsibility for ensuring cleanliness in these estates will be vested in these companies. However, a mobile task force led by Housing Department staff has been set up to take enforcement actions in these estates as and when necessary, with the support of these property service companies. Joint operations will also be taken with other departments in littering blackspots in and around public housing estates.

24. Members note that only a few grades in the Housing Department, namely, the Housing Manager, Assistant Housing Manager and Housing Officer, will be authorised to enforce the fixed penalty system. Given that half of the population in Hong Kong lives in public housing estates, members are concerned that there may not be sufficient staff in the Housing Department to carry out effective enforcement in the public housing estates. Some members have suggested that other grades in Housing Department be also empowered to assist in the enforcement, or the authority be delegated to the property service companies, where appropriate.

25. The Administration has advised that to ensure consistency in enforcement and the quality and credibility of the enforcement team, it is desirable to empower officers in the Housing Officer and Housing Manager grades to issue fixed penalty notices. As there are more than 2 000 officers in

these grades, the Housing Department will ensure that appropriate manpower will be deployed to enforce the fixed penalty system. The Administration has expressed reservations about delegating the authority to issue fixed penalty notices to private property service companies.

26. Given that each of the six enforcement departments has its own jurisdiction, members are concerned that there may be “grey areas” which do not fall within the responsibility of any of these departments. They are of the view that the Police (and Marine Police), being a highly disciplined and credible enforcement agency, should also be empowered to issue fixed penalty notices for minor public cleanliness offences on a territory-wide basis.

27. The Police have advised that their broad strategy is to concentrate on core areas of responsibility, while providing the greatest possible support to departments requesting police assistance in situations where there is a possibility of criminal activity or the potential for disorder. During the early stage of discussion, the Police did not consider it necessary for them to be empowered to issue fixed penalty notices. They were of the view that the proposal to empower more than 10 000 Government officers from six departments would already create a highly effective enforcement unit, which, together with effective public education programmes, would be more than adequate to carry on the campaign against littering. Moreover, the Police could still issue summons for littering offences under existing legislation as and when necessary.

28. Members, however, have disagreed that there should be different enforcement actions to be taken by the Police and the six departments in respect of the same minor public cleanliness offences. Moreover, the fixed penalty system is a much simpler system than issuing summons. While agreeing that the Police's priority should be to maintain law and order and to curb criminal activities, the Bills Committee considers that to ensure consistency in enforcement, the Police should also be empowered to issue fixed penalty notices for minor public cleanliness offences. After further discussion with the Bills Committee, the Police have subsequently agreed that they should be empowered to issue fixed penalty notices for the scheduled minor public cleanliness offences, and the Administration will move CSAs to this effect. The Bills Committee welcomes the Police's decision.

#### *Verification of identity and address*

29. Members note that at present, enforcement officers sometimes encounter difficulties in ascertaining the true identities and addresses of alleged offenders, which has resulted in abortive or nugatory efforts in tracing the offenders. It is therefore proposed in the Bill that an enforcement officer, who has reasonable cause to believe that a person is committing or has committed any of the scheduled offences, should be empowered to require a person to produce

proof of identity for inspection. A person who fails to produce proof of identity will commit an offence and is liable on conviction to a fine at level 2. The enforcement officer will be empowered to arrest the person and take him to the Police station or put him under the custody of a Police officer.

30. The Administration has clarified that the proof of identity is defined in section 17B of the Immigration Ordinance, which includes a valid identity card, a document issued by the Commissioner of Registration, and a valid travel document. To address members' concern that a person may forget to bring along or have lost his identity card, the Administration has agreed to move a CSA to the effect that a person will only commit an offence if he fails to produce proof of identity "without reasonable excuse".

31. Since the accuracy of address is important for tracing the alleged offender if he fails to pay the fixed penalty, members have sought clarification on the procedure to verify information provided by an alleged offender. Some members have requested that the verification procedures be detailed in the enforcement guidelines to ensure consistency and to avoid disputes. They have also suggested that the alleged offender should be required to verify the address stated on the notice. To avoid disputes and to provide a legal basis for the enforcement officer to also obtain the telephone number for verification of address, members propose that "telephone number" should be included in clause 4(1) of the Bill. The Administration has agreed to move a CSA to this effect.

32. Some members consider that there should be sufficient deterrence against the provision of false information. A member has suggested requiring the person concerned to make a declaration that the information provided is true and accurate. The Administration has advised that only a "justice, notary, commissioner [for oaths] or other person authorized by law to administer an oath" can take and receive statutory declarations. As this will pose operational difficulties, the Administration proposes that instead of adopting the use of statutory declarations, a provision will be added to the Bill to make it an offence for a person to knowingly provide false or misleading information. The maximum penalty will be a fine of \$5,000 and imprisonment for six months on conviction. The Administration has advised that there are similar provisions in existing legislation that criminalise deliberate provision of false information. It also assures members that any decision to prosecute an offender for the provision of false information will only be taken by a senior officer and after careful consideration.

#### *Display of bills and posters*

33. The Chairman has sought clarification as to whether a fixed penalty notice will be issued to the person who displays the bills or posters without permission, or to the publisher or person(s) who will benefit from the display of

such bills or posters. The Administration has explained that the enforcement officer will be required to observe for a while to ascertain that a person "is committing or has committed" an offence before issuing a fixed penalty notice. The fixed penalty notice will therefore be issued to a person who actually displays the bills or posters. However, if there is evidence that any person who is to benefit from display of the bills or posters is involved in the offence, the person may also be prosecuted by summons under the Public Health and Municipal Services Ordinance (Cap. 132).

#### *Refusal to accept a fixed penalty notice*

34. Members have enquired whether a person who refuses to receive a fixed penalty notice commits an offence under clause 15 which deals with "obstruction of officers in the exercise of their duty". The Administration has advised that a person who refuses to receive a fixed penalty notice may not necessarily be held liable for an offence under clause 15, as it will depend on the circumstances of each case.

35. The Administration also clarifies that under the Bill, a person to whom a fixed penalty notice is served will have the right to dispute liability. If a person believes that he has not committed a scheduled offence, he should notify the department concerned that he wishes to dispute liability instead of refusing to accept the fixed penalty notice. However, to ensure that the operation of the fixed penalty system will not be affected by, e.g. a refusal on the part of the offender to receive the notice, the Administration will move a CSA to add a new clause 3(4) to this effect.

#### *Tourists*

36. Members have sought clarification as to whether tourists and visitors in Hong Kong will also be subject to the fixed penalty system. The Administration has advised that the Bill has not proposed any exemptions; hence visitors or tourists will also be subject to the fixed penalty system. However, as offenders will be allowed 21 days for payment of the fixed penalty, the Administration agrees that there will be practical difficulties in sending demand notes to tourists as they would most likely have left Hong Kong after 21 days. As to the suggestion of prohibiting the entry or departure of visitors who fail to pay the fixed penalty, the Administration has said that this may be considered separately as the Bill is mainly targetted at local residents. To avoid any misunderstanding, members have reminded the Administration of the need to publicise the fixed penalty system.

#### Review of the issue of fixed penalty notice

37. Members note that all cases where a fixed penalty notice has been issued will be reviewed by an officer who is at least one rank senior to the officer who

issued the notice. Clause 6 of the Bill provides that the fixed penalty notice may be withdrawn or be substituted by other legal proceedings as appropriate. The authority to initiate prosecution for provision of false information will rest with a senior officer, preferably a directorate officer. In this connection, a member has asked whether a person who cannot afford to pay the fixed penalty can seek a review on compassionate grounds.

38. The Administration disagrees that there should be a waiver or deduction on compassionate grounds as this will pose difficulties to enforcement departments in determining whether or not a particular application for waiver or reduction is genuine. Moreover, the proposal will give too much discretionary power to the enforcement departments and this will be open to abuse or corruption. More importantly, it will go against the principle of having a fixed penalty. The Administration has advised that an offender has a right of not discharging his liability by payment of the fixed penalty and put his case before the magistrate if he wishes to dispute liability.

#### Recovery of payments

39. Some members are of the view that there should be sufficient deterrence against non-payment of the fixed penalty in order to ensure effectiveness of the proposed fixed penalty system. They have expressed concern about the procedure to recover the fixed penalty if an offender does not pay the fixed penalty within the specified period.

40. The Administration has explained that under clause 5 of the Bill, a person is allowed 21 days to pay the fixed penalty. If the fixed penalty is not paid within 21 days from the date of the issue of the fixed penalty notice, a demand note will be issued to the offender requiring him to pay the penalty within 10 days or to notify the department concerned of his intention to dispute liability. If the offender still does not pay the fixed penalty or makes no indication that he will dispute liability within 10 days after the issue of the demand note, an application will be made to a magistrate under clause 7 of the Bill for an ex parte order to be issued. The offender issued with the court order will have to pay the fixed penalty and an additional penalty equal to the amount of the fixed penalty within 14 days to the court. If no payment is received within one month from the date of the court order, an application will be made to the magistrate for an order under clause 13 of the Bill, to recover the penalty by distress and sale of any goods and chattels of the person. However, if a person disputes liability within 10 days after receiving the demand note, the department will apply for the issue of summons and arrange for a court hearing. If a person decides to withdraw before the commencement of proceedings, he will have to pay double of the amount of the fixed penalty plus \$500 by way of costs. If the offender who disputes liability offers no defence or a defence which is frivolous or vexatious, he will have to pay double penalty plus costs.

41. Members agree that an offender who fails to pay the fixed penalty within the specified period should be required to pay double penalty and also costs if he wishes to dispute liability. Based on the same principle, some members consider that if an ex parte court order has to be applied because a person fails to pay the fixed penalty within 31 days and makes no indication to dispute liability, that person should also be required to pay the costs for the issue of the court order in addition to the double penalty. In view of members' views, the Administration has agreed to consider introducing an additional payment of \$300 to recover the costs for the issue of court order in these cases. The Administration will move amendments in this regard.

42. To provide greater deterrence against non-payment, the Administration will also move CSAs to clause 7 to allow a magistrate to impose imprisonment on a person for non-payment in accordance with section 68 of the Magistrates Ordinance.

#### Revision of fixed penalty

43. With regard to clause 17 of the Bill which provides that LegCo may, by resolution, increase the fixed penalty in relation to a scheduled offence, members are of the view that LegCo should have the flexibility to increase or decrease the fixed penalty as necessary. The Administration has agreed to the suggestion and will move CSAs to this effect.

#### Guidelines on enforcement

44. At the request of the Bills Committee, the Administration has provided draft guidelines on the enforcement of the fixed penalty system. Members have made suggestions on the contents particularly those in relation to the verification of identity, the power of arrest, as well as the need to explain to the offender of his rights to dispute liability and to caution him about the consequences of non-compliance with the requirements in the Bill.

45. Members have stressed that the enforcement officers should receive training on how to handle conflicts and disputes, and how to deal with old people, children and the illiterate to avoid misunderstanding. The Administration has agreed to incorporate these points in the enforcement guidelines and to provide suitable training for enforcement officers.

46. To assist the enforcement officers in determining whether a summons or a fixed penalty notice should be issued for a littering offence, the Administration has proposed that a reference point of 0.5 m<sup>3</sup>, which is roughly the size of two fruit carton boxes, be adopted. Depositing litter of a size larger than 0.5m<sup>3</sup> will justify consideration by the court for imposition of a penalty as the court deems fit. The Bills Committee, however, considers that

a smaller size of about 0.2 m<sup>3</sup> (one fruit carton box) may be more appropriate, as the fixed penalty system is to target at minor littering offences. The Administration has agreed to the suggestion and will include the revised reference point in the enforcement guidelines.

#### Public education and publicity

47. To ensure that the general public and visitors in Hong Kong are well aware of the proposed fixed penalty system, members have requested the Administration to step up publicity before the Bill comes into operation. Members have reminded the Administration that its publicity efforts must cover the airport and control points in order to alert visitors to the fixed penalty system for littering offences.

48. The Administration has advised that the proposed fixed penalty system will likely be put into operation at the end of 2001. The Administration has undertaken that there will be wide publicity, including television and radio announcement of public interest, posters and banners, to enable the public and visitors to understand the provisions of the new legislation and to solicit their support in keeping Hong Kong clean.

#### **Committee Stage amendments (CSAs)**

49. The Administration has accepted most of the suggestions of the Bills Committee and has proposed amendments accordingly. Some technical amendments and textual improvements are also proposed after discussion with the Assistant Legal Adviser. A full set of the Administration's proposed CSAs is in **Appendix II**. The Bills Committee has not proposed any CSAs.

#### **Recommendation**

50. The Bills Committee supports the resumption of the Second Reading debate on the Bill on 11 July 2001.

#### **Advice sought**

51. Members are invited to support the recommendation of the Bills Committee in paragraph 50.

Legislative Council Secretariat

21 June 2001

**Bills Committee on  
Fixed Penalty (Public Cleanliness Offences) Bill**

**Membership list**

**Chairman** Hon Fred LI Wah-ming, JP

**Members** Hon James TIEN Pei-chun, JP  
Hon CHEUNG Man-kwong  
Hon WONG Yung-kan  
Hon Andrew CHENG Kar-foo  
Dr Hon TANG Siu-tong, JP  
Hon Tommy CHEUNG Yu-yan, JP  
Hon Michael MAK Kwok-fung  
Dr Hon LO Wing-lok  
Hon WONG Sing-chi  
Hon Audrey EU Yuet-mee, SC, JP

(Total : 11 Members)

**Clerk** Mrs Constance LI

**Legal Adviser** Miss Connie FUNG

**Date** 4 May 2001

## Appendix II

# 42276 v5

1<sup>st</sup> draft: 4 June 2001

2<sup>nd</sup> draft: 7 June 2001

3<sup>rd</sup> draft: 15 June 2001

4<sup>th</sup> draft: 18 June 2001

5<sup>th</sup> draft: 19 June 2001

### FIXED PENALTY (PUBLIC CLEANLINESS OFFENCES) BILL

#### COMMITTEE STAGE

##### Amendments to be moved by the Secretary for the Environment and Food

<u>Clause</u>	<u>Amendment Proposed</u>
3	<p>(a) In subclause (2), by deleting "面交發出對象" and substituting "當面交付該人".</p> <p>(b) By adding -</p> <p style="padding-left: 40px;">"(4) The operation of this section and sections 5, 7 and 10 shall not be affected by a failure to comply with subsection (2).".</p>
4	<p>(a) In subclause (1), by deleting "state his name and address" and substituting "supply his name, address and contact telephone number (if any)".</p> <p>(b) In subclause (2), by adding ", without reasonable excuse," after "who".</p> <p>(c) In subclause (4), by deleting "A" and substituting "Without prejudice to the generality of section 51 of the Police Force Ordinance (Cap. 232), a".</p>

ClauseAmendment Proposed

- (d) In subclause (5), by adding "to whom the notice is to be given as" after "the person".

New

By adding -

**"4A. Supply of false information**

A person who, in complying with a requirement made under section 4(1), supplies any particular of his name, address or contact telephone number which he knows to be false or misleading, commits an offence and is liable on conviction to a fine at level 2 and to imprisonment for 6 months."

5

(a) In subclause (1) -

(i) by deleting "翌日" where it first appears;

(ii) in paragraph (c) -

(A) by deleting "不論是該項繳款或通知" and substituting "該項繳款或通知(視屬何情況而定)";

(B) by deleting "翌日".

(b) In subclause (2), by deleting "翌日".

6

By deleting subclause (1) and substituting -

ClauseAmendment Proposed

"(1) Where a notice under section 3(1) or 5(1) has been given or served on a person, the Authority may -

- (a) at any time before the commencement of any proceedings against that person in respect of the offence specified in the notice; and
- (b) where an order under section 7(1) has been applied for, 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."

7

- (a) In subclause (1) -
  - (i) by deleting "together with";
  - (ii) by adding "and the sum of \$300 by way of costs" before ", within";
  - (iii) by deleting "翌日".
- (b) By adding -
  - "(5) Where a person against whom an order under subsection (1) has been made fails to pay the amount of the fixed penalty, additional penalty and costs, he shall, for the purposes of

ClauseAmendment Proposed

section 68 of the Magistrates Ordinance (Cap. 227), be deemed to have failed to pay the sum adjudged to be paid by a conviction and shall be liable to be imprisoned under that section.

(6) Where a person against whom an order under subsection (1) has been made pays the full amount of the fixed penalty, additional penalty and costs shown in the order, he shall not be liable to be prosecuted or convicted for the scheduled offence to which the order relates."

9

- (a) In subclause (1) -
- (i) in paragraph (b)(i), by deleting "翌日";
  - (ii) in paragraph (b)(ii) -
    - (A) by deleting "together with";
    - (B) by adding "and the sum of \$300 by way of costs" before the full stop.
- (b) In subclauses (3) and (4), by deleting "翌日".
- (c) By adding -
- "(6) Where a person against whom an order under subsection (1)(b) has been made fails to pay the amount of the fixed penalty, additional penalty and costs, he shall, for the purposes of section 68 of the Magistrates Ordinance (Cap.

ClauseAmendment Proposed

227), be deemed to have failed to pay the sum adjudged to be paid by a conviction and shall be liable to be imprisoned under that section.

(7) Where a person against whom an order under subsection (1)(b) has been made pays in compliance with the order the full amount ordered to be paid by him, he shall not be liable to be prosecuted or convicted for the scheduled offence to which the order relates."

- 10 (a) in paragraph (c) -
- (i) by deleting "已有法律程序";
  - (ii) and adding "法律程序" after "起".
- (b) By deleting "by sending it by post to his address" and substituting "in accordance with section 8 of the Magistrates Ordinance (Cap. 227)".
- 11 By deleting "答辯" where it twice appears and substituting "免費辯護".
- 13(1) By deleting "翌日".
- 15 By deleting "wilfully obstructs or resists" and substituting "resists or wilfully obstructs".

<u>Clause</u>	<u>Amendment Proposed</u>								
17	By deleting "increase" and substituting "vary".								
Schedule 1	By adding immediately after item 3 - <table border="0" style="margin-left: 40px;"> <tr> <td style="padding-right: 20px;">"3A.</td> <td style="padding-right: 20px;">Section</td> <td style="padding-right: 20px;">Fouling of street by dog</td> <td style="padding-right: 20px;">\$600".</td> </tr> <tr> <td></td> <td>13(1)(a)</td> <td>faeces</td> <td></td> </tr> </table>	"3A.	Section	Fouling of street by dog	\$600".		13(1)(a)	faeces	
"3A.	Section	Fouling of street by dog	\$600".						
	13(1)(a)	faeces							
Schedule 2	<p>(a) In column 1 -</p> <ul style="list-style-type: none"> <li>(i) in the entry opposite to "Director of Agriculture, Fisheries and Conservation", by adding "3A" before "4";</li> <li>(ii) in the entry opposite to "Director of Food and Environmental Hygiene", by adding ", 3A" after "3";</li> <li>(iii) in the entry opposite to "Director of Housing", by adding ", 3A" after "3";</li> <li>(iv) in the entry opposite to "Director of Leisure and Cultural Services", by adding ", 3A" after "3".</li> </ul> <p>(b) By adding before the entry in relation to Director of Agriculture, Fisheries and Conservation -</p> <table border="0" style="margin-left: 40px;"> <tr> <td style="padding-right: 20px;">"1, 2, 3, 3A,</td> <td style="padding-right: 20px;">Commissioner of</td> <td style="padding-right: 20px;">Police</td> </tr> <tr> <td>4, 5, 6, 7</td> <td>Police</td> <td>Officer".</td> </tr> </table>	"1, 2, 3, 3A,	Commissioner of	Police	4, 5, 6, 7	Police	Officer".		
"1, 2, 3, 3A,	Commissioner of	Police							
4, 5, 6, 7	Police	Officer".							