

**For Information on
3 November 2000**

**Subcommittee on Fixed Penalty
(Criminal Proceedings)(Amendment)(No.3) Regulation and
Resolution of the Legislative Council (L.N.206 of 2000)
(Commencement Notice) 2000**

INTRODUCTION

At the Legislative Council meeting on 31 May 2000, the Secretary for the Environment and Food moved a resolution under section 12 of the Fixed Penalty (Criminal Proceedings) Ordinance (Cap. 240) to increase the fixed penalty in relation to smoky vehicles from \$450 to \$1,000. In her speech moving the resolution, the Secretary stated the Administration's proposal to bring the new level of fixed penalty into operation on 1 December 2000. The resolution was passed by the Legislative Council by a majority vote, with thirty-eight in favour, two against and four abstentions.

2. The Secretary for the Environment and Food has made the Resolution of the Legislative Council (L.N. 206 of 2000) (Commencement) Notice 2000 (the "Commencement Notice") to bring the resolution into operation on 1 December 2001. The Secretary for Transport has made the Fixed Penalty (Criminal Proceedings) (Amendment) (No. 3) Regulation 2000 (the "Amendment Regulation") to make a corresponding amendment to Form 1 in the Schedule to the Fixed Penalty (Criminal Proceedings) Regulation.

BACKGROUND AND JUSTIFICATIONS

3. Our air quality objectives spell out the maximum safe levels of major air pollutants in the ambient air. At their existing levels, particulates and nitrogen oxides pose the greatest threat to the health of

members of the public. To protect public health, the Administration is implementing a series of measures to improve air quality, in particular to reduce particulates and nitrogen oxides.

4. Diesel vehicles are a major source of roadside air pollution. In the urban area, diesel vehicles account for about half of the particulates and 60% of the nitrogen oxide in the air. Visible smoke from vehicles is a nuisance and threat to public health. The standard of engine maintenance is a key factor determining the emission performance of a vehicle. A poorly maintained vehicle, irrespective of its age, can emit up to 10 times the pollutants emitted by a properly maintained one. For diesel vehicles, an obvious sign of poor maintenance is the emission of black smoke. The emission of excessive smoke from a motor vehicle is a scheduled offence under the Fixed Penalty (Criminal Proceedings) Ordinance. The vehicle owner is liable for the scheduled offence.

5. The Smoky Vehicle Control Programme is primarily implemented through two measures. The first is carried out by spotters trained by the Environmental Protection Department (EPD) to report smoky vehicle. The vehicles spotted are required to attend EPD's smoke test within a specified period. Failure to pass the test will result in cancellation of the licence of the vehicle concerned. Fixed penalty tickets will not be issued to owners of smoky vehicles spotted under this scheme.

6. The second measure is implemented through on-street checkpoints by the Police. A fixed penalty ticket will be issued to a vehicle founded to be emitting excessive smoke at the checkpoint. Since April last year, the Police have been provided with portable smokemeters to facilitate their enforcement action. In addition to issuing a fixed penalty ticket, the Police will refer the smoky vehicles to EPD for a smoke test. If the vehicles fail to pass the test within a designated period, its vehicle licence will be cancelled.

7. The current fixed penalty of \$450 for smoky vehicles was set in 1994. At the existing level, a smoky vehicle offence carries the same penalty to that for relatively minor traffic offences, for example loading/unloading goods or picking up/setting down passengers in a

restricted zone. Having regard to medical evidence that is available on the health impact of air pollution and the extent to which harmful air pollutants are associated with vehicle emissions, the existing penalty level is inadequate to reflect the serious health impact of smoky vehicles. On the basis of this reason and to enhance deterrent effect, we believe there are grounds to increase the penalty to a similar level as that for other traffic offences which threaten people's safety. Currently, an overloading offence carries a fixed penalty of \$1,000, which is the only penalty pitched at that level under the Fixed Penalty (Criminal Proceedings) Ordinance. The new fixed penalty level for smoky vehicle offence is therefore set at \$1,000.

8. To tie in with increase in the fixed penalty, the Secretary for the Environment and Food proposed, when moving the relevant motion on 31 May 2000, to allow six months for the vehicle maintenance trade and the transport trade to improve their maintenance standards. We are therefore appointing 1 December 2000 as the commencement date for the new fixed penalty level.

9. Over the past year, the Administration has worked together with the vehicle maintenance trade to improve their maintenance standards. A Working Group on Vehicle Maintenance Services comprising representatives from the trade, government departments and professional bodies was formed in January this year to consider ways to improve vehicle maintenance. In addition, we have organized a series of vehicle maintenance workshops and provided adequate training courses to the trade. EPD has organized jointly with the transport and vehicle maintenance trades a total of 18 seminars to enhance their knowledge on engine maintenance and the use of chassis dynamometer for testing smoky vehicles. The Vocational Training Council is also offering a training course, for up to 2,000 trainees a year, for the inspection and maintenance of smoky diesel vehicles.

10. To promote the use of chassis dynamometer for testing smoky vehicles and to explain the relevant legal requirements, EPD provided from last September to May this year on-site instruction and demonstration in its emission testing centres on the correct ways to tune

engines. EPD also allowed vehicle owners to take their vehicles to designated centres on a voluntary basis for smoke emission check. The preparations we have made produce satisfactory results.

11. As regards maintenance data, the Services Manager Association has released the technical data on emission from pre-Euro diesel vehicles. We will shortly mail these data to the vehicle maintenance trade associations and some 2,000 vehicle maintenance workshops. In addition, the Vocational Training Council plans to establish an Automotive Engineering Database Centre to enable the vehicle maintenance and transport trades to gain access to more detailed information on vehicle maintenance.

12. With the concerted efforts of all parties concerned, the standards of repairing smoky vehicles have greatly improved. In September 1999, only 40% vehicles which went through EPD's smoke emission test could pass the test. In September this year, over 90% of the vehicles passed the test. This proves that the maintenance trade has largely grasped the technique to repair smoky vehicles.

13. To protect public health, including members of the transport trade, it is important to require vehicle owners to ensure proper maintenance of their vehicles so as to prevent emissions of excessive smoke. The facts show that the maintenance trade has largely acquired the necessary techniques to repair smoky vehicles. We hope that the new penalty could be implemented on 1 December 2000 as scheduled. It will convey a clear message to all vehicle owners of their responsibility to ensure proper maintenance of their vehicles to reduce the impact on others. This will reinforce the message that vehicle owner should prevent his vehicle from emitting smoke. The Administration will continue to work together with the trades to promote awareness of car owners' responsibility to properly maintain their vehicles, provide training to the maintenance trade and address their concerns.

Environmental and Food Bureau
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