

LEGISLATIVE COUNCIL BRIEF

Magistrates Ordinance
(Cap. 227)

Fixed Penalty (Public Cleanliness Offences) Ordinance
(Cap. 570)

MAGISTRATES ORDINANCE (AMENDMENT OF FOURTH SCHEDULE) ORDER 2002

FIXED PENALTY (PUBLIC CLEANLINESS OFFENCES) ORDINANCE (AMENDMENT OF SCHEDULES 2) ORDER 2002

INTRODUCTION

At the meeting of the Executive Council on 28 May 2002, the Council ADVISED and the Chief Executive ORDERED that -

 A

(a) the Magistrates Ordinance (Amendment of Fourth Schedule) Order 2002, at Annex A, should be made under section 135 of the Magistrates Ordinance; and

 B

(b) the Fixed Penalty (Public Cleanliness Offences) Ordinance (Amendment of Schedule 2) Order 2002, at Annex B, should be made under section 19 of the Fixed Penalty (Public Cleanliness Offences) Ordinance,

to empower certain officers to enforce the provisions of these Ordinances.

BACKGROUND AND ARGUMENT

2. Officers from both the Amenities Officer (AO) and the Recreation and Sport Officer (RSO) grades of the Leisure and Cultural Services Department are authorized to issue -

(a) notice to appear before a magistrate (Form 1A) under the Magistrates Ordinance (Cap. 227); and

(b) fixed penalty tickets under the Fixed Penalty (Public Cleanliness Offences) Ordinance (Cap. 570), which has come into effect on 27 May 2002.

3. The Finance Committee of the Legislative Council approved the merging of the AO and RSO grades on 6 July 2001 and a new grade of Leisure Services Manager (LSM) has since then been created. Existing officers from the AO and RSO grades may choose to join the new LSM grade.

4. As a new LSM grade has been created, there is a need to include officers of the new grade as authorized public officers for the scheduled offences in the Fourth Schedule of the Magistrates Ordinance (Cap. 227) and in Schedule 2 of the Fixed Penalty (Public Cleanliness Offences) Ordinance (Cap. 570) respectively. The proposed amendments are consequential and technical in nature which are needed as a result of the merging of the AO and RSO grades that has the support of the Legislative Council.

5. We also take this opportunity to rectify the Chinese title of the Amenities Officer in the Fourth Schedule to the Magistrates Ordinance (Cap. 227) from "康樂市容主任" to "康樂事務主任".

THE ORDER

6. The Chief Executive in Council ordered that-

(a) the Magistrates Ordinance (Amendment of Fourth Schedule) Order 2002, at Annex A, should be made under section 135 of the Magistrates Ordinance; and

B

(b) the Fixed Penalty (Public Cleanliness Offences) Ordinance (Amendment of Schedule 2) Order 2002, at Annex B, should be made under section 19 of the Fixed Penalty (Public Cleanliness Offences) Ordinance,

to empower certain officers to enforce the provisions of these Ordinances

PUBLIC CONSULTATION

7. The amendments are technical and non-controversial, and no public consultation is considered necessary.

BASIC LAW IMPLICATIONS

8. The Department of Justice advises that the Orders are consistent with the Basic Law.

HUMAN RIGHTS IMPLICATIONS

9. The Department of Justice advises that the Orders have no human rights implications.

BINDING EFFECT OF THE ORDERS

10. The Department of Justice advises that the proposed Orders will not affect the current binding effect of the Magistrates Ordinance, the Fixed Penalty (Public Cleanliness Offences) Ordinance or their subsidiary legislation.

FINANCIAL AND STAFFING IMPLICATIONS

11. Implementation of the Orders will not give rise to any additional financial or staffing implications.

SUSTAINABILITY IMPLICATIONS

12. The amendments do not have any significant sustainability implications.

LEGISLATIVE TIMETABLE

13. The Chief Executive in Council approved the following legislative timetable:

Publication in the Gazette	7 June 2002
Tabling at the Legislative Council	12 June 2002

PUBLICITY

14. A press release was issued on 31 May 2002 and the Orders will be published in the Gazette on 7 June 2002.

OTHERS

15. For any enquiries on this brief, please contact Ms. Ms. Eva TO, Principal Assistant Secretary for Home Affairs (Recreation and Sport) of the Home Affairs Bureau (Tel: 2594 6616), Mrs. Loran MAO, Assistant Director (Leisure Services)¹ of Leisure and Cultural Services Department (Tel: 2601 8966) or Ms. Stella Chan, Government Counsel of Department of Justice (Tel: 2867 4750).

June 2002
Home Affairs Bureau

MAGISTRATES ORDINANCE (AMENDMENT OF FOURTH SCHEDULE) ORDER 2002

(Made by the Chief Executive in Council under section 135 of the Magistrates Ordinance (Cap. 227))

4. Fourth Schedule amended

The Fourth Schedule to the Magistrates Ordinance (Cap. 227) is amended in the first column under the heading “Leisure and Cultural Services Department” –

- (a) in the entries against paragraph (a) in the second column by adding –
“(v) Leisure Services Manager”;
- (b) in the entries against paragraph (b) in the second column by adding –
“(ix) Leisure Services Manager”;
- (c) in the entries against paragraph (c) in the second column by adding –
“(vi) Leisure Services Manager”;
- (d) by repealing “市容” wherever it appears and substituting “事務”.

Clerk to the Executive Council

COUNCIL CHAMBER

2002

Explanatory Note

This Order amends the Fourth Schedule to the Magistrates Ordinance (Cap. 227) to empower officers of the grade Leisure Services Manager of the Leisure and Cultural Services Department to serve a notice under section 8A(1) of that Ordinance in relation to an offence under Part III of the Public Health and Municipal Services Ordinance (Cap. 132), the Public Cleansing and Prevention of Nuisances Regulation (Cap. 132 sub. leg.) and section 4D(1) of the Summary Offences Ordinance (Cap. 228).

**FIXED PENALTY (PUBLIC CLEANLINESS OFFENCES)
ORDINANCE (AMENDMENT OF SCHEDULE 2) ORDER 2002**

(Made by the Chief Executive in Council under section 19 of the
Fixed Penalty (Public Cleanliness Offences) Ordinance (Cap. 570))

1. Authorities and public officers

Schedule 2 to the Fixed Penalty (Public Cleanliness Offences) Ordinance (Cap. 570) is amended in column 3, in the entries against "Director of Leisure and Cultural Services" in column 2, by adding at the end –
"Leisure Services Manager".

Clerk to the Executive Council

COUNCIL CHAMBER

2002

Explanatory Note

This Order amends Schedule 2 to the Fixed Penalty (Public Cleanliness Offences) Ordinance (Cap. 570) to enable officers of the grade Leisure Services Manager to exercise the powers of a public officer under that Ordinance in relation to the offences referred to in column 1 of that Schedule opposite the reference to "Director of Leisure and Cultural Services". The offences are those under sections 4(1), 8A(1) and 13(1)(a) of the Public Cleansing and Prevention of Nuisances Regulation (Cap. 132

sub. leg.) and section 4D(1) of the Summary Offences Ordinance (Cap. 228).