

**Bills Committee on
Motor Vehicle Idling (Fixed Penalty) Bill**

**List of Follow-up Actions Arising from
Discussion at Meeting on 2 December 2010**

Administration's Response

- (a) *To explain to the public the areas covered by the Motor Vehicle Idling (Fixed Penalty) Bill (the Bill) (in particular car parks wherein posters and notices should be posted to remind drivers of the idling prohibition).*
1. Car parks are already one of the target areas of the current publicity programme for promoting the environment-friendly driving practice of switching off the engine while a motor vehicle is stationary. As the Bill covers drivers of motor vehicles in car parks, we will, after its passage, step up the publicity efforts including encouraging operators to put up posters at conspicuous locations of their car parks.
- (b) *To consider amending clause 32 to stipulate that Schedule 1 to the Bill would be amended in the form of subsidiary legislation subject to the positive vetting procedure. If the negative vetting procedure is to be adopted, the Administration is required to ensure that (i) the effective date for the relevant subsidiary legislation to amend Schedule 1 would be after the expiry of its vetting period, (ii) the relevant Panel(s) be thoroughly consulted on any proposed amendments to Schedule 1, and (iii) the Legislative Council (LegCo) has the power to repeal or amend the relevant subsidiary legislation where necessary.*
2. We have carefully considered the Members' views and consider it appropriate to retain the proposed clause 32 of the Bill, which provides that the Secretary for the Environment (SEN) may amend Schedule 1 or 2 by publishing a notice in the Gazette.
 3. When proposing an amendment to Schedule 1 or 2, the Administration will firstly consult the Panel on Environmental Affairs and thoroughly consider the Members' views. Thereafter, under section 34 of the Interpretation and General Clauses Ordinance (Cap. 1), we will lay the notice on the table of LegCo at the next Council meeting after it is gazetted. The notice will be subject to amendment or repeal by LegCo through the negative vetting procedure. Any LegCo Member who finds the notice unsatisfactory may move a motion to amend or repeal it. Except in exceptional circumstances where the notice must take effect immediately, the Administration will set the commencement date in such

a way as to allow for the entire negative vetting period (i.e. the initial 28-day vetting period plus the 21-day extension, or if there is no Council sitting on that 21st day, to the first sitting after 21 days) to run its full course before the notice comes into effect.

(c) *To consider amending the proposed new section 1(2) of Schedule 1 to the Bill to put it beyond doubt that exemption applies in the following situations – vehicles queuing up for entry into a car park, a container terminal, a landfill or a petrol filling station. Consideration may be given to amending section 1(2) along the lines that “traffic conditions that may include” instead of quoting examples. The examples given in section 1(2) should, instead, be included in the relevant publicity materials.*

4. Having considered different views of the Bills Committee on using examples in the Bill, we will delete the new section 1(2) of Schedule 1 to the Bill [please refer to **Annex A** for the revised draft Committee Stage Amendments (CSAs)]. Instead, we will list out examples of relevant provisions, such as examples of “traffic conditions” under section 1(a) of Schedule 1 and examples of “vehicles necessarily idling for certain purposes” under section 7 of Schedule 1, in the publicity materials.

(d) *To consider amending section 2(1) of Schedule 1 to the Bill to stipulate that section 5 does not apply to a driver of a taxi that is stationary in a queue of taxis into a taxi stand or within the designated area of a taxi stand.*

5. The new section 2(1) of Schedule 1 to the Bill covers drivers of taxis that are at a taxi stand. As for drivers in taxis queuing into a taxi stand, they will be covered by section 1(a) of the same schedule. As explained in paragraph 4 above, we will list out these drivers as examples in the publicity materials instead of the Bill.

(e) *To consider amending section 2(4)(a) of Schedule 1 to the Bill by deleting the phrase “, other than a franchised bus”.*

6. We will revise the new clause 2(4)(a) of Schedule 1 to the Bill by deleting the phrase “, other than a franchised bus”. Please refer to **Annex A** for the revised draft CSAs.

(f) *To consider Members’ request for SEN to include in his speech at the resumption of the Second Reading debate on the Bill an explanation of the vehicles intended to be covered under section 7 of Schedule 1 to the Bill, including trucks installed with a tailboard. Information on the vehicles to be covered under section 7 of Schedule 1 should also be*

included in the relevant publicity materials.

7. SEN will include in his speech at the resumption of the Second Reading debate on the Bill an explanation of the types of motor vehicles intended to be covered under section 7 of Schedule 1 to the Bill, including trucks installed with a tailboard. We will also list out these drivers as examples in the publicity materials.

(g) *To consider granting further exemption from the idling prohibition as follows –*

(i) *to all drivers on days when the “Thunderstorm Warning” was issued; and*

(ii) *to all drivers during hot months.*

8. The Bill has already provided specific exemptions to the transport trades to cater for the operational needs of professional drivers. As for drivers in general, the Bill has provided a three-in-sixty-minute grace period, exemption when a motor vehicle is stationary because of traffic conditions, exemption when a motor vehicle is idling due to mechanical difficulties, exemption when a person is boarding or alighting from a motor vehicle, as well as exemption on days when the “Very Hot Weather Warning (VHWW)” or the “Amber, Red or Black Rainstorm Warning Signal (RWS)” has been issued. It is thus not justifiable to provide further exemptions, as they will inevitably dilute the effectiveness of the prohibition in reducing environmental nuisances caused by idling vehicles.

9. Regarding the two suggestions for further exemptions, we do not consider them tenable for the following reasons –

(a) “Thunderstorm Warning”

Thunderstorms may not necessarily come with heavy rain, which is the underlying concern for granting exemption from the idling prohibition. If the rain that comes with a thunderstorm is so heavy as to raise concern about difficulty of compliance with the idling prohibition, an appropriate RWS would have been issued and the exemption would take effect for the whole day as proposed in the draft CSAs.

(b) “Hot months”

We have already proposed to grant exemption to all drivers on days when VHWW has been issued. The exemption could

effectively address the difficulty in complying with the idling prohibition when the ambient temperature is very high. As compared with the suggestion of exempting all drivers during hot months, the VHWW exemption is a better balance between catering for the needs of drivers and protecting the public from environmental nuisances caused by idling vehicles.

(h) To address some members' concerns that private car drivers have expressed the view that the proposed exemption arrangements fail to take into account their practical needs in real-life situations, e.g. picking up children on rainy days and the waiting time exceeds three minutes.

10. Having considered all the views received, including those from drivers of private cars, we have proposed to include a three-in-sixty-minute grace period as well as an extensive list of exemptions covering drivers of different motor vehicles and various circumstances in the Bill. We have also proposed to grant exemption to all drivers on days when VHWW or the RWS has been issued. We trust that the legislative proposal would strike a reasonable balance between catering for the needs of drivers and reducing environmental nuisances caused by idling vehicles. If a longer grace period or further exemptions, for example exemption during rainy days (where there were as many as 210 days in 2009), are provided without considering whether there is any genuine need to idle the vehicle concerned and whether such idling is avoidable, the objective of the Bill would be defeated.

(i) To provide details of the arrangements planned for dissemination of real-time information to drivers on the issue of VHWW or RWS.

11. Currently, Hong Kong Observatory (HKO) mainly disseminates weather warnings, including RWS and VHWW, to the public through four channels – radio, TV, HKO websites and HKO Dial-a-weather service. The information about the issuance of RWS and VHWW will also be disseminated by HKO when it holds press briefings on severe weather such as tropical cyclones, red or black rainstorms as necessary. Please refer to **Annex B** for the details about the dissemination of information about weather warnings, in particular RWS and VHWW, by HKO.

12. Variable Message Signs (VMS) are installed along strategic road corridors at appropriate locations to inform motorists about warning messages relating to enhancing road safety and facilitating traffic management. Examples of warning messages include congestion, accident, road works, diversion, strong wind, slippery road, fog, rainstorm, etc. At present, the warning message about the issuance of RWS, among other road safety or traffic management related messages,

will be displayed on VMS to remind motorists to drive with extra care during rainstorms. As VHWW does not impose imminent driving hazards ahead for motorists, its issuance is currently not displayed by VMS.

13. In view of the exemption to be provided to motorists upon issuance of VHWW under the Bill, TD would consider displaying such warning on VMS when the display of traffic and road / vehicle safety and other related messages are not required. However, to serve the primary objective of VMS, messages relating to enhancing road safety and facilitating traffic management will always take priority in the display of VMS.

Environmental Protection Department
January 2011

MOTOR VEHICLE IDLING (FIXED PENALTY) BILL

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A BILL

To

Prohibit the idling of motor vehicles; provide exemptions from the prohibition; impose a fixed penalty for contravention of the prohibition; provide for recovery of the fixed penalty and provide for incidental and related matters.

Enacted by the Legislative Council.

PART 1

PRELIMINARY

1. Short title and commencement

(1) This Ordinance may be cited as the Motor Vehicle Idling (Fixed Penalty) Ordinance.

(2) This Ordinance comes into operation on a day to be appointed by the Secretary for the Environment by notice published in the Gazette.

2. Interpretation

~~(1)~~—In this Ordinance –

“Authority” (當局) means a person specified in column 1 of Schedule 2;

“authorized officer” (獲授權人員) means a person specified in column 2 of Schedule 2;

“complaint” (申訴) means a complaint under Division 4 of Part 3;

“demand notice” (繳款通知書) means a notice served under section 11(2);

“Director” (署長) means the Director of Environmental Protection;

“driver” (司機), in relation to a motor vehicle, means any person who is in charge of, or assisting in the control of, the vehicle;

“driving licence or permit” (駕駛執照或許可證) ~~authority~~ (駕駛權限) means a driving licence, a domestic driving permit, a domestic driving licence or

an international driving permit within the meaning of the Road Traffic Ordinance (Cap. 374);

“fixed penalty” (定額罰款) means the fixed penalty referred to in section 7;

“idling” (引擎空轉) has the meaning given by section 4;

“internal combustion engine” (內燃引擎) has the same meaning as in the Road Traffic (Construction and Maintenance of Vehicles) Regulations (Cap. 374 sub. leg. A);

“judgment amount” (判決款額) means an amount ordered by a magistrate to be paid by a person (other than a complainant) under this Ordinance, whether by way of fixed penalty, additional penalty or costs;

“motor vehicle” (汽車) means any mechanically propelled vehicle that is constructed or adapted for use on a road;

“passenger” (乘客), in relation to a motor vehicle, means a person carried in or on the vehicle other than the driver;

“penalty notice” (罰款通知書) means a notice referred to in section 8;

“proof of identity” (身分證明文件) has the same meaning as in section 17B of the Immigration Ordinance (Cap. 115);

“road” (道路) means –

(a) a road within the meaning of the Road Traffic Ordinance (Cap. 374); or

(b) a private road within the meaning of that Ordinance.

~~(2) Where this Ordinance includes an example of the operation of a provision –~~

~~(a) the example is not exhaustive; and~~

~~(b) if the example is inconsistent with the provision, the provision prevails.~~

3. Application

This Ordinance applies to all motor vehicles and drivers in the Hong Kong Special Administrative Region, including those of the Government and of the Offices set up by the Central People's Government in the Hong Kong Special Administrative Region.

PART 2

MOTOR VEHICLE IDLING PROHIBITED

4. What is idling

For the purposes of this Ordinance, a motor vehicle is idling if any internal combustion engine forming part of, attached to or situated in or on the vehicle is operating while the vehicle is stationary.

5. Idling prohibited

(1) The driver of a motor vehicle must not cause or permit the vehicle to be idling on a road for more than 3 minutes in any 60-minute period.

(2) This section does not apply to –

(a) a driver referred to in Schedule 1; or

(b) a driver who is exempted, or is in a class of drivers that is exempted, under section 6.

6. Exemptions by Director

(1) The Director may exempt a driver or class of drivers from section 5 subject to any conditions the Director thinks fit, if the Director is satisfied that exceptional circumstances exist that make it impractical or unreasonable for the driver or drivers of the class to comply with section 5.

(2) For the purposes of subsection (1), the Director may determine a class of drivers in any manner the Director chooses, including a class determined by the type of motor vehicle or the type of activity in which the driver is engaging.

(3) An exemption may apply generally or be limited to a particular area or a particular time or both.

(4) If the Director exempts a driver, the Director must give the driver written notice of the exemption.

(5) If the Director exempts a class of drivers, the Director must publish notice of the exemption in the Gazette.

(6) A notice of exemption is not subsidiary legislation.

PART 3

FIXED PENALTY

Division 1 – Liability for Fixed Penalty

7. Fixed penalty

(1) A person who contravenes section 5 does not commit an offence but is liable to pay a fixed penalty of \$320 for the contravention.

(2) The Legislative Council may, by resolution, amend the amount of the fixed penalty specified in subsection (1).

Division 2 – Penalty Notices and Demand Notices

8. Authorized officer may give penalty notice

(1) If an authorized officer has reason to believe that a person is contravening or has contravened section 5, the officer may give the person a notice in the prescribed form requiring him or her to pay the fixed penalty for the contravention.

(2) The notice may be given to the person personally or by affixing it to the motor vehicle.

9. Power to demand personal details, proof of identity and driving licence or permitauthority

(1) If an authorized officer has reason to believe that a person is contravening or has contravened section 5, the officer may, for the purpose of issuing or serving a summons or other document in relation to the contravention, require the person to –

- (a) supply his or her name, date of birth, address and contact telephone number (if any); and
- (b) produce for inspection his or her proof of identity and driving licence or permitauthority (if any).

(2) A person who, without reasonable excuse, fails to comply with a requirement made under subsection (1) commits an offence and is liable to a fine at level 2.

10. Supply of false information

A person who, in purported compliance with a requirement made under section 9(1), supplies any information that he or she knows is false or misleading commits an offence and is liable to a fine at level 2.

11. Demand notice if person fails to pay fixed penalty or refuses to accept penalty notice

(1) This section applies if a person –

- (a) fails to pay the fixed penalty within 21 days after being given a penalty notice; or
- (b) refuses to accept a penalty notice intended to be given to him or her.

(2) The Authority may serve on the person a notice in the prescribed form –

- (a) demanding payment of the fixed penalty;
- (b) informing the person that he or she must notify the Authority in writing if he or she wishes to dispute liability

for the contravention to which the fixed penalty relates;
and

(c) stating that the payment or notification must be made within 10 days after the date of service of the notice.

(3) A demand notice cannot be served later than –

(a) if subsection (1)(a) applies, 6 months after the date on which the penalty notice was given; or

(b) if subsection (1)(b) applies, 6 months after the date of the refusal.

(4) A demand notice may be served by sending it by post to the person's address.

(5) A certificate of posting in the prescribed form purporting to be signed by or for the Authority is admissible in evidence in any proceedings under this Ordinance and, unless there is evidence to the contrary, it must be presumed that –

(a) the certificate was signed by or for the Authority; and

(b) the demand notice to which the certificate relates was duly served.

12. Withdrawal of penalty notice or demand notice

(1) The Authority may withdraw a penalty notice or demand notice at any time –

(a) before an order is made under section 13; or

(b) before the issuing of a summons commencing proceedings under Division 4.

(2) If a penalty notice or demand notice is withdrawn –

(a) the Authority must serve notice of the withdrawal on the person to whom the penalty notice or demand notice applied; and

- (b) on application by the person, the Authority must refund, through the Director of Accounting Services, any amount paid in respect of the fixed penalty.

Division 3 – Recovery of Fixed Penalty if Default

13. Recovery of fixed penalty if default

(1) This section applies if a person on whom a demand notice has been served fails to pay the fixed penalty or notify the Authority in accordance with the notice.

(2) On an application made in the name of the Secretary for Justice and production of the documents referred to in subsection (3), a magistrate must order the person to pay, within 14 days after the date of service of notice of the order –

- (a) the fixed penalty;
 - (b) an additional penalty equal to the amount of the fixed penalty; and
 - (c) \$300 by way of costs.
- (3) The documents are –
- (a) a copy of the demand notice;
 - (b) a certificate of posting the demand notice under section 11(5); and
 - (c) a certificate under section 24.

(4) The magistrate must cause notice of the order to be served on the person to whom it applies and it may be served by sending it by post to the person's address.

(5) An application under this section may be made in the absence of the person and the Secretary for Justice may appoint any person or class of persons to make it.

(6) The Legislative Council may, by resolution, amend the amount specified in subsection (2)(c).

14. Application for review of magistrate's order

(1) A person to whom an order made under section 13 applies may apply to a magistrate for review of the order.

(2) An application must be made within 14 days after the date on which the order first came to the personal ~~notice~~~~attention~~ of the applicant.

(3) The applicant must give reasonable notice of the application to the Authority.

(4) An application may be made in person or by counsel or solicitor and the magistrate, for the purpose of securing the attendance of witnesses and generally for conducting the proceedings, has all the powers of a magistrate hearing a complaint under the Magistrates Ordinance (Cap. 227).

15. Outcome of review

(1) On application under section 14, a magistrate may rescind an order made under section 13 if the magistrate is satisfied that the demand notice did not come to the personal ~~notice~~~~attention~~ of the applicant without any fault on the part of the applicant.

(2) If the magistrate rescinds the order and the applicant wishes to dispute liability for the contravention to which the order relates, the magistrate must order that the matter be determined in accordance with Division 4.

(3) If the magistrate rescinds the order and the applicant does not wish to dispute liability for the contravention, the magistrate –

(a) must order the applicant to pay the fixed penalty within 10 days after the date of the order; and

(b) must order that, if the applicant fails to pay the fixed penalty within that period, the applicant must immediately pay –

(i) the fixed penalty;

(ii) an additional penalty equal to the amount of the fixed penalty; and

(iii) \$300 by way of costs.

(4) The Legislative Council may, by resolution, amend the amount specified in subsection (3)(b)(iii).

Division 4 – Proceedings if Person Disputes Liability

16. Proceedings if person disputes liability

(1) This section applies if –

(a) a person who is given a penalty notice notifies the Authority in writing, before being served with a demand notice, that he or she wishes to dispute liability for the contravention to which the penalty notice relates;

(b) a person on whom a demand notice is served notifies the Authority in accordance with the demand notice that he or she wishes to dispute liability for the contravention to which the demand notice relates; or

(c) a magistrate makes an order under section 15(2).

(2) If this section applies, the matter is to be determined in accordance with this Division by a magistrate in a summary way, on a complaint made in the name of the Secretary for Justice.

(3) The Secretary for Justice may appoint any person or class of persons to make a complaint.

(4) A complaint cannot be made later than –

(a) if subsection (1)(a) or (b) applies, 6 months after the person notifies the Authority that he or she wishes to dispute liability; or

(b) if subsection (1)(c) applies, 6 months after the date of the order under section 15(2).

17. Summons to defendant

A summons may be issued and served on the defendant in relation to the person who is the subject of a complaint in accordance with section 8 of the Magistrates Ordinance (Cap. 227).

18. Proceedings in absence of defendant

(1) If the defendant a person served with a summons does not appear at the time and place appointed for the hearing of a complaint, or at any adjourned hearing, the magistrate may, subject to this section, proceed to hear and determine the complaint in the absence of the defendant person.

(2) The magistrate must not hear the complaint in the absence of the defendant person unless –

- (a) service of the summons on the defendant is proved under section 8 of the Magistrates Ordinance (Cap. 227) and the magistrate is satisfied that it was served a reasonable time before the time appointed for the hearing; or
- (b) the defendant person has appeared on a previous occasion to answer the complaint.

(3) If the complaint is heard in the absence of the defendant person, the substance of the complaint may be proved by production of –

- (a) a copy of the demand notice;
- (b) a certificate of posting the demand notice under section 11(5); and
- (c) a certificate under section 24.

(4) If the complaint is heard in the absence of the defendant person, the magistrate must send by post to the defendant's person's address a copy of any order made in relation to the complaint.

19. Hearing of complaint

(1) The magistrate must hear and determine the complaint and, for that purpose, the magistrate has all the powers of a magistrate hearing a complaint under the Magistrates Ordinance (Cap. 227), including –

- (a) the power to issue a summons for the appearance of witnesses; and
- (b) the power to adjourn the hearing.

(2) If the defendant does not admit the truth of the complaint at the hearing, the defendant must state the nature of his or her defence and, if the defendant does not at that stage expressly put in issue any allegation of fact stated in a certificate under section 24 that has been produced by the complainant, the defendant cannot at any later stage dispute or adduce evidence to contradict that fact without the leave of the magistrate.

~~(3) — If the defendant does not at that time expressly put in issue any allegation of fact stated in a certificate under section 24 that has been produced by the complainant, the defendant cannot at any later time dispute or adduce evidence to contradict that fact.~~

20. Additional penalty

(1) This section applies if –

- (a) a complaint is heard in the absence of the defendant; or
- (b) the defendant offers no defence to a complaint or a defence that is frivolous or vexatious.

(2) If this section applies, the magistrate must order that the defendant pay a penalty equal to the amount of the fixed penalty, in addition to the fixed penalty and any costs ordered in the proceedings under section 21(2).

21. Costs orders

(1) If a magistrate dismisses a complaint, the magistrate may at the same time make an order for the payment of costs by the complainant of not less than \$600 or more than \$1,500.

(2) If, on a complaint, a magistrate orders ~~the defendant a person~~ to pay a fixed penalty (with or without an additional penalty), the magistrate may at the same time make an order for the payment of costs by the ~~defendant person~~ of not less than \$600 or more than \$1,500.

(3) The Legislative Council may, by resolution, amend an amount specified in subsection (1) or (2).

22. Discontinuance of complaint

(1) A complainant may discontinue the complaint at any stage before the magistrate has commenced to hear it, on giving written notice to the defendant and the magistrate.

(2) Leave of the magistrate is not required for the complainant to do so.

23. Payment of fixed penalty after summons

(1) A ~~defendant who has been person who is~~ served with a summons ~~in relation to~~ ~~to answer~~ a complaint may pay the following amounts in accordance with subsection (2) –

- (a) the fixed penalty;
- (b) an additional penalty equal to the amount of the fixed penalty; and
- (c) \$500 by way of costs.

(2) Payment must be made to a magistrate's court not later than 2 clear working days before the day specified in the summons for the hearing of the complaint and the ~~defendant person~~ must produce the summons when making the payment.

(3) Payment in accordance with this section terminates the proceedings on the complaint.

(4) The Legislative Council may, by resolution, amend the amount specified in subsection (1)(c).

(5) In this section –

“clear working days” (整個工作天) excludes the day specified in the summons for the appearance of the defendantperson and intervening public holidays.

Division 5 – General Provisions for Proceedings

24. Evidentiary certificate

(1) A certificate in the prescribed form stating the matters in subsection (2) and purporting to be signed by or for the Authority is admissible in evidence in any proceedings under this Ordinance.

(2) The matters are –

- (a) that a specified motor vehicle was at a specified time idling at a specified location in contravention of section 5;
- (b) that a specified person was at a specified time the driver of a specified motor vehicle;
- (c) that a specified address was at a specified time the address of the specified person referred to in paragraph (b);
- (d) that payment of the fixed penalty for a contravention specified in a specified demand notice had not been made before a specified date; and
- (e) (if applicable) that the person specified in the demand notice referred to in paragraph (d) had not notified the Authority before a specified date of his or her wish to dispute liability for the contravention.

(3) Unless there is evidence to the contrary –

- (a) it must be presumed that the certificate was signed by or for the Authority; and
- (b) the certificate is evidence of the facts stated in it.

25. Distress for non-payment

(1) If a person fails to pay any part of a judgment amount within one month after the date of the order to pay the amount, a magistrate, on an

application made in the name of the Secretary for Justice, may order that the following amounts be levied on any goods of the person by distress and sale –

- (a) the judgment amount or, if the application under this section is in respect of more than one judgment amount, the total of those amounts; and
- (b) the costs of the application for an order under this section (being an amount not less than \$50 or more than the amount of the fixed penalty).

(2) An application under this section may be made in the absence of the person and the Secretary for Justice may appoint any person or class of persons to make it.

26. Power to rescind order on application by the Authority

At any time, a magistrate may for good cause, on an application made by the Authority, rescind –

- (a) any order for the payment of a fixed penalty, an additional penalty or costs; and
- (b) any other order made under this Ordinance in the same proceedings.

PART 4

GENERAL

27. Powers and functions of authorized officers

(1) The powers and functions of authorized officers under this Ordinance may be exercised or performed on all roads including private roads.

(2) The powers and functions of traffic wardens and senior traffic wardens under this Ordinance are in addition to any powers and functions they have under the Road Traffic Ordinance (Cap. 374) or any other Ordinance.

28. Protection of the Authority and authorized officers

(1) The Authority or an authorized officer is not personally liable for anything done or omitted to be done by the Authority or officer in good faith in the exercise of a power or performance of a function or purported exercise of a power or purported performance of a function under this Ordinance.

(2) The protection conferred by subsection (1) does not affect any liability of the Government for the act or omission.

29. Obstruction of authorized officers

A person who obstructs an authorized officer in the exercise of a power or performance of a function under this Ordinance commits an offence and is liable to a fine at level 4 and to imprisonment for 6 months.

30. Delegation by the Authority

The Authority may, in writing, delegate any power or function of the Authority under this Ordinance (including this power of delegation) to a public officer.

31. Regulations

The Secretary for the Environment may make regulations –

- (a) prescribing any notice or certificate for the purposes of this Ordinance;
- (b) specifying how fixed penalties and other amounts payable under this Ordinance may be paid, the information to be supplied by persons paying them and the duties of persons receiving them;
- (c) providing for the erection or placement of traffic signs for the purposes of this Ordinance; and
- (d) providing generally for the better carrying out of this Ordinance.

32. Amendment of Schedules

The Secretary for the Environment may, by notice published in the Gazette, amend Schedule 1 or 2.

33. Consequential amendments

(1) Section 113C(1)(c) of the Criminal Procedure Ordinance (Cap. 221) is amended by repealing “or the Fixed Penalty (Smoking Offences) Ordinance (Cap. 600)” and substituting “, the Fixed Penalty (Smoking Offences) Ordinance (Cap. 600) or the Motor Vehicle Idling (Fixed Penalty) Ordinance (No. of 2010)”.

(2) Section 2(1B) and (3) of the Rehabilitation of Offenders Ordinance (Cap. 297) is amended by repealing “or the Fixed Penalty (Smoking Offences) Ordinance (Cap. 600)” and substituting “, the Fixed Penalty (Smoking Offences) Ordinance (Cap. 600) or the Motor Vehicle Idling (Fixed Penalty) Ordinance (No. of 2010)”.

SCHEDULE 1

[ss. 5(2)(a) & 32]

DRIVERS TO WHOM IDLING PROHIBITION DOES NOT APPLY

1. Vehicles generally

Section 5 does not apply to –

- (a) a driver of a motor vehicle that is stationary because of traffic conditions;
- (b) a driver of a motor vehicle who cannot prevent the vehicle from idling because of a mechanical difficulty over which the driver has no control; or
- (c) a driver of a motor vehicle while a person (other than the driver) is boarding or alighting from the vehicle.

2. Passenger transport vehicles ~~Taxis, green and red minibuses and buses~~

- (1) Section 5 does not apply to a driver of a taxi that is at a taxi stand.—
~~(a) within the designated area of a taxi stand; or~~
~~(b) in a queue of taxis any of which is moving into a taxi stand.~~

(2) Section 5 does not apply to a driver of a green minibus at a green minibus stand if the minibus is the first or second minibus on a particular scheduled service at the stand.

(3) Section 5 does not apply to a driver of a red minibus at a red minibus stand if –

- (a) the minibus is the first or second red minibus at the stand;
 (b) any passenger is on board; or
 (c) the minibus is immediately behind another red minibus at the stand that has any passenger on board.

(4) Section 5 does not apply to a driver of either of the following vehicles ~~a bus, other than a franchised bus,~~ that has any passenger on board –

- (a) a bus; or
(b) a school private light bus.

(5) Section 5 does not apply to a driver of a franchised bus at any time when the bus is available for boarding by passengers.

~~(56)~~ In this section –

“bus” (巴士) has the same meaning as in the Road Traffic Ordinance (Cap. 374);

~~“designated area” (指定範圍) of a taxi stand, means an area at the taxi stand indicated by traffic signs erected or placed in accordance with a regulation made under section 31(e);~~

“franchised bus” (專利巴士) means a bus in respect of which a franchise is in force under the Public Bus Services Ordinance (Cap. 230);

“green minibus” (綠色小巴) means a public light bus on a scheduled service;

“green minibus stand” (綠色小巴士站) means, subject to subsection (6), an area of road that is designated under the Road Traffic (Public Service Vehicles) Regulations (Cap. 374 sub. leg. D) as a stand for public light buses on a scheduled service only;

“public light bus” (公共小巴) has the same meaning as in the Road Traffic Ordinance (Cap. 374);

“red minibus” (紅色小巴) means a public light bus on a service other than a scheduled service;

“red minibus stand” (紅色小巴士站) means, subject to subsection (6), an area of road that is designated under the Road Traffic (Public Service Vehicles) Regulations (Cap. 374 sub. leg. D) as a stand for public light buses on a service other than a scheduled service;

“scheduled service” (專線服務) has the same meaning as in the Road Traffic (Public Service Vehicles) Regulations (Cap. 374 sub. leg. D);

“school private light bus” (學校私家小巴) has the same meaning as in the Road Traffic Ordinance (Cap. 374);

“taxi” (的士) has the same meaning as in the Road Traffic Ordinance (Cap. 374);

“taxi stand” (的士站) has, subject to subsection (6), the same meaning as in the Road Traffic (Public Service Vehicles) Regulations (Cap. 374 sub. leg. D).

(6) For the purposes of this section, an area of road is not a taxi stand, green minibus stand or red minibus stand at any time when a suspension is in force in relation to the area under regulation 32 of the Road Traffic (Public Service Vehicles) Regulations (Cap. 374 sub. leg. D).

3. **Vehicles idling for medical, emergency or law enforcement purposes**

(1) Section 5 does not apply to –

(a) a driver of a medical, emergency or law enforcement vehicle if idling the vehicle is necessary for conducting an

operational activity (including a training activity) for or related to medical, emergency or law enforcement purposes; or

- (b) a driver of a motor vehicle who is assisting in an emergency or accident if idling the vehicle is necessary for that purpose.

(2) In this section –

“medical, emergency or law enforcement vehicle” (醫療、緊急或執法車輛)

means a motor vehicle used by any of the following bodies –

- (a) the Auxiliary Medical Service;
- (b) the Civil Aid Service;
- (c) the Correctional Services Department;
- (d) the Customs and Excise Department;
- (e) the Fire Services Department;
- (f) the Fish Marketing Organization;
- (g) the Government Flying Service;
- (h) the Hong Kong Police Force;
- (i) the Hong Kong St. John Ambulance;
- (j) the Hospital Authority;
- (k) the Immigration Department;
- (l) the Independent Commission Against Corruption.

4. **Vehicles carrying live animals idling for operational needs or protecting public health**

(1) Section 5 does not apply to a driver of a motor vehicle for a specified body, or for or as a contractor of a specified body, if –

- (a) the vehicle is carrying any live animals; and
- (b) idling the vehicle is necessary for conducting an operational activity or protecting public health.

(2) In this section –

“contractor” (承辦商) includes service provider;

“operational activity” (運作活動) –

- (a) in relation to a specified department, means an activity conducted for the purpose of the operations of the department;
- (b) in relation to a specified licence or permit holder, means an activity conducted under the holder’s licence, permit or special permit;

“specified body” (指明團體) means –

- (a) a specified department; or
- (b) a specified licence or permit holder;

“specified department” (指明部門) means –

- (a) the Agriculture, Fisheries and Conservation Department;
- (b) the Food and Environmental Hygiene Department; or
- (c) the Leisure and Cultural Services Department;

“specified licence or permit holder” (指明牌照或許可證的持有人) means the holder of a licence, permit or special permit granted or issued under any of the following provisions –

- (a) regulation 57A of the Public Health (Animals and Birds) Regulations (Cap. 139 sub. leg. A);
- (b) regulation 5(1) of the Public Health (Animals and Birds) (Animal Traders) Regulations (Cap. 139 sub. leg. B);
- (c) regulation 4(1) or 8(1) of the Public Health (Animals and Birds) (Exhibitions) Regulations (Cap. 139 sub. leg. F);
- (d) regulation 5(1) of the Public Health (Animals) (Boarding Establishment) Regulations (Cap. 139 sub. leg. I);
- (e) regulation 5(1) of the Public Health (Animals) (Riding Establishment) Regulations (Cap. 139 sub. leg. J);
- (f) section 12 of the Rabies Regulation (Cap. 421 sub. leg. A).

5. Security transit vehicles

(1) Section 5 does not apply to a driver of a security transit vehicle if idling the vehicle is necessary for providing armoured transportation services.

(2) In this section –

“security transit vehicle” (護衛押運車輛) means a motor vehicle operated by a licensee within the meaning of the Security and Guarding Services Ordinance (Cap. 460) for the provision of armoured transportation services.

6. Garrison vehicles

Section 5 does not apply to a driver of a motor vehicle of the Hong Kong Garrison of the Chinese People’s Liberation Army if idling the vehicle is necessary for conducting an operational activity (including a training activity) of the Garrison.

7. Vehicles necessarily idling for certain purposes

Section 5 does not apply to a driver of a motor vehicle if –

- (a) the vehicle is lawfully designed primarily for a purpose other than the carriage of the driver, any passengers and their personal effects; and
- (b) idling the vehicle is necessary for a purpose for which the vehicle is primarily designed.

Examples:

1. ~~A refrigerator truck carrying perishable freight that is required to be kept at a low temperature.~~
2. ~~A tipper lorry that is required to idle to operate a tipping system for loading and unloading refuse.~~
3. ~~A recovery vehicle that is required to idle to provide vehicle recovery and towing services.~~

~~4. A refuse collection vehicle that is required to idle to provide refuse collection services.~~

~~5. A street washing vehicle that is required to idle to provide street washing services.~~

8. **Emissions-Vehicles necessarily idling for compliance testing or repairs**

Section 5 does not apply to a driver of a motor vehicle if idling the vehicle is necessary for –

- (a) testing the vehicle in accordance with a requirement under ~~section 77B of~~ the Road Traffic Ordinance (Cap. 374) or to determine whether the vehicle complies with the Air Pollution Control Ordinance (Cap. 311) or the Noise Control Ordinance (Cap. 400)~~(Vehicle Design Standards) (Emission) Regulations (Cap. 311 sub. leg. J)~~; or
- (b) carrying out on the vehicle any maintenance, repairs or other works that is or are necessary to enable the vehicle to be removed without undue delay.

9. **Rainstorms and very hot weather**

(1) Section 5 does not apply to a driver of a motor vehicle –

- (a) at any time when a rainstorm warning or very hot weather warning is in force; and
- (b) if the warning is in force for part of a day only, at any time after the warning has ceased to be in force until midnight on that day.

(2) In this section –

“rainstorm warning” (酷熱天氣警告) means a warning issued by the Director of the Hong Kong Observatory by the use of the heavy rainstorm signal commonly referred to as Amber, Red or Black;

“very hot weather warning” (暴雨警告) means a warning issued by the Director of the Hong Kong Observatory commonly referred to as a very hot weather warning.

SCHEDULE 2

[ss. 2 & 32]

THE AUTHORITY AND AUTHORIZED OFFICERS

Column 1

Column 2

Authority

Authorized officers

Director of Environmental Protection

Traffic Warden

Senior Traffic Warden

Environmental Protection Inspector

Senior Environmental Protection Inspector

Chief Environmental Protection Inspector

Dissemination of Weather Warnings to Public

1. The dissemination of weather warnings by Hong Kong Observatory (HKO) to the public, including “Rainstorm Warning Signals” (RWS) and “Very Hot Weather Warning” (VHWW), is essentially made through four channels – radio, TV, HKO websites and HKO Dial-a-weather service. The details of warning dissemination are given below.

- (a) Radio

The issuance, change and cancellation of weather warnings will be transmitted to the radio stations via fax, web or SMS service depending on the type of warnings and the requirements of the individual radio station. There could be a time lag of a few minutes in the transmission process. For RWS, the radio stations will normally broadcast the issuance, change and cancellation of RWS as soon as practicable, as well as announce RWS in force after the news. For VHWW, the radio stations will normally announce VHWW in force after the news.

- (b) TV

The issuance, change and cancellation of weather warnings will be transmitted to the TV companies via fax, web or SMS service depending on the type of warnings and the requirements of the individual TV company. There could be a time lag of a few minutes in the transmission process. For RWS, the TV companies will normally display on the TV screen the issuance, change and cancellation of RWS as well as the corresponding RWS icon in force as soon as practicable, and announce the RWS in force during the news. For VHWW, the TV stations will occasionally announce VHWW in force during the news.

- (c) HKO websites

All weather warnings in force are shown on HKO websites including PDA website, smartphone applications and Twitter. The weather warnings will be removed from the websites as soon as they are cancelled. There is normally a time

lag of a few minutes in the update of the display of the warnings on the websites.

(d) HKO Dial-a-weather service

All weather warnings in force are recorded in HKO Dial-a-weather service for access by members of the public. The weather warnings will be removed from the Dial-a-weather service as soon as they are cancelled. There is normally a time lag of a few minutes in the update of the recording.

2. The media and HKO will only display or broadcast a weather warning that is in force. HKO will also hold press briefings on severe weather such as tropical cyclones, red or black rainstorms as necessary. The press briefings are normally held at scheduled time periods during the day, viz. 11:30 a.m. and 4:30 p.m.

**Environmental Protection Department
January 2011**