

民政事務總署
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Home Affairs Department

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20 June 2014

Clerk to Panel on Home Affairs
Legislative Council Secretariat
Legislative Council Complex
1 Legislative Council Road
Central, Hong Kong
(Attn.: Ms Alice Leung)

By Fax : 2509 9055

Dear Ms Leung,

**Panel on Home Affairs
Follow-up to Meeting on 24 March 2014**

Shop Front Extensions

At the meeting of the Panel on Home Affairs held on 24 March 2014, the Administration was requested to advise whether goods or articles causing obstruction and left unattended on streets could be removed or confiscated under existing laws. Having consulted the relevant departments namely, the Food and Environmental Hygiene Department (FEHD), the Hong Kong Police Force (HKPF) and the Lands Department (Lands D), we set out our consolidated reply as follows.

Where goods or articles are found causing obstruction, the enforcement departments, such as FEHD and HKPF, are empowered under existing laws to remove them as such obstructive behavior may, depending on the availability of evidence, have breached relevant legislation. They are also empowered to apply to the court for forfeiture in the following scenarios.

Where an article or a thing placed on street causes obstruction or is likely to cause obstruction to any cleansing operations, FEHD may, pursuant to section 22(2)(a) of the Public Health and Municipal Services Ordinance (Cap 132), cause to be served upon the owner of such article or thing, or where the owner cannot be found or ascertained, cause to be attached to such article or thing, a notice requiring removal of the same within a period of four hours after the notice is served or

attached and to prevent the recurrence of such obstruction during such period as may be specified in the notice. If the notice is unheeded after four hours, the article may be seized pursuant to section 22(2)(b) of Cap 132. If the seized article is not claimed within seven days after seizure, such seized article or thing shall become the property of the Government pursuant to section 22(4) of Cap. 132. If the obstruction is persistent (i.e. it occurs frequently) or is serious in nature (i.e. it occupies a large area or is in large quantity) and the owner who causes or permits the obstruction of the scavenging operation is present at the scene, FEHD may initiate prosecution against the owner under section 22(1)(a) of Cap. 132 and seize the article causing obstruction as an exhibit, to be adduced in court if and when necessary. FEHD would make an application to the court for confiscation of the article upon the owner being convicted of the offence concerned.

Where any person hawks on the street without a licence, FEHD may, in warranted cases, take enforcement action under sections 83B(1) and 83B(3) of Cap 132 and seize the hawking equipment or commodities involved pursuant to section 86(1) of Cap 132. In accordance with section 86(5) of Cap 132, the equipment or commodities seized will be retained pending disposal under section 86A. Upon convicting the person of the hawker offence, the court will be informed of the seizure and asked to make an order to dispose of the seized equipment or commodities.

Where there is illegal extension of food business onto public places caused by licensed food premises, FEHD could take enforcement action under section 34C of the Food Business Regulation (Cap 132X) and, in warranted cases, seize the articles used in the operation of business as exhibits, to be adduced in court if and when necessary. FEHD would make an application to the court for confiscation of the articles upon the licensee being convicted of the offence concerned.

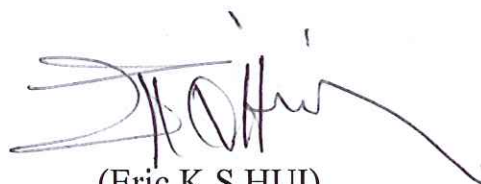
FEHD may pursuant to section 104C(1) of Cap. 132 remove any commercial publicity materials that are displayed without permission under section 104A of Cap 132. If any illegal commercial publicity materials on easy-mount frames or other display apparatus are found, FEHD may seize the easy-mount frames / display apparatus as exhibits and subject to the availability of sufficient evidence, consider prosecution against anyone who is found putting up such publicity materials at the scene and the person who may benefit from the publicity given by the display of such publicity materials. If prosecution action is taken, FEHD would make an application to the court for confiscation of the exhibits upon the accused's conviction of the offence concerned.

Where there is general obstruction of public places, FEHD and HKPF are empowered to take enforcement action under section 4A of the Summary Offences Ordinance (Cap 228). In warranted cases, goods or articles (including filth) that cause obstruction could be removed by HKPF pursuant to powers given under section 32 of Cap 228. HKPF is also empowered under section 102 of the Criminal Procedure Ordinance (Cap 221) to apply to the court for forfeiture of the removed goods or articles in connection with the offence under section 4A of Cap 228, if these are not claimed.

Where there is occupation of unleased Government land by objects such as concrete platforms, ramps and steps on pavements, LandsD may, pursuant to section 6 of the Land (Miscellaneous Provisions) Ordinance (Cap 28), post a notice requiring the occupier to cease occupation before a date specified in the notice, failing which LandsD may take possession of any property or structure on the land according to the said Ordinance.

Should you have any general enquiry, please contact the undersigned at 2835 1005. For specific enquiries relevant to FEHD, HKPF and Lands D, please contact Mr FORK Ping-lam, Senior Superintendent (Operations)3 of FEHD at 2867 5364, Mr YEUNG Man-pun, Superintendent (Operations Wing) of HKPF at 2860 2223 and Mr NG Chung-lai, Principal Land Executive (Village Improvement and Lease Enforcement/Land Control Section) at 2231 3570 respectively.

Yours sincerely,



(Eric K S HUI)

for Director of Home Affairs

c.c. Secretary for Home Affairs

(Attn.: Mr Paul CHENG)

(Fax: 2537 6319)

Director of Food and Environmental Hygiene

(Attn.: Mr SIN Kwok-hau)

(Fax: 2530 1368)

Commissioner of Police

(Attn.: Mr Joseph TUNG)

(Fax: 2865 6546)

Director of Lands

(Attn: Ms Olga LAM)

(Fax: 2868 4707)