

**PUBLIC HEALTH AND MUNICIPAL SERVICES
(AMENDMENT) ORDINANCE 2002**

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HONG KONG SPECIAL ADMINISTRATIVE REGION

ORDINANCE No. 1 OF 2002

L.S.

TUNG Chee-hwa
Chief Executive
31 January 2002

An Ordinance to amend the Public Health and Municipal Services Ordinance.

[]

Enacted by the Legislative Council.

1. Short title and commencement

(1) This Ordinance may be cited as the Public Health and Municipal Services (Amendment) Ordinance 2002.

(2) This Ordinance shall come into operation on a day to be appointed by the Secretary for the Environment and Food.

**2. Power to close premises used in
contravention of provisions
of Ordinance**

Section 128 of the Public Health and Municipal Services Ordinance (Cap. 132) is amended—

(a) in subsection (1), by repealing “Where” and substituting “Subject to subsection (1B), where”;

(b) by repealing subsection (1A);

(c) by adding—

“(1B) This section does not apply to any premises to which sections 128A, 128B and 128C apply.”;

(d) in subsection (10)(c), by repealing “撕去” and substituting “移去”.

3. Sections added

The following are added—

**“128A. Application and interpretation of
this section and sections 128B,
128C and 128D**

- (1) This section and sections 128B, 128C and 128D apply to—
 - (a) any premises used as food premises that are required to be licensed under the Food Business Regulation (Cap. 132 sub. leg.);
 - (b) any premises—
 - (i) on or from which any restricted food specified in Schedule 2 to the Food Business Regulation (Cap. 132 sub. leg.) is sold or offered or exposed for sale; or
 - (ii) on which any such food is possessed for sale or for use in the preparation of any article of food for sale;
 - (c) any premises used as a slaughterhouse that is required to be licensed under the Slaughterhouses Regulation (Cap. 132 sub. leg.);
 - (d) any premises on which there is carried on a business as a milk factory as mentioned in section 14(2) of the Milk Regulation (Cap. 132 sub. leg.);
 - (e) any premises on which any frozen confection as defined in section 3 of the Frozen Confections Regulation (Cap. 132 sub. leg.) is manufactured.

(2) For the purposes of this section and sections 128B, 128C and 128D, unless the context otherwise requires—

“Appeal Board” (上訴委員會) means the Appeal Board on Closure Orders (Immediate Health Hazard) established under section 128D;

“Chairman” (主席) means the Chairman of the Appeal Board appointed under section 128D(3);

“closed premises” (已封處所) means any premises mentioned in subsection (1) in respect of which a closure order has come into force and remains in force;

“closure order” (封閉令) means an order made under section 128B(1) or 128C(1), as the case may be;

“Deputy Chairman” (副主席) means the First Deputy Chairman or the Second Deputy Chairman of the Appeal Board appointed under section 128D(3);

“immediate health hazard” (對健康的即時危害) means any circumstances that cause or are likely to cause any food supplied on or from, or handled or possessed on, any premises to be or to become a source of food-borne infection, contamination, intoxication or disease transmission;

“premises” (處所) includes any place, vessel and any part of a place or vessel;

“use” (用、使用), in relation to any premises referred to in subsection (1)(c), includes occupy.

(3) The circumstances referred to in the definition of “immediate health hazard” include the following—

(a) because of the location, construction or state of the premises, the condition of the premises is such that it renders any food supplied on or from, or handled or possessed on, the premises to be so contaminated or tainted that it is unfit for human consumption;

(b) the water used in preparing food or in washing utensils comes from an unapproved source or from a source that, as shown from inspection findings, data from epidemiological investigation or other laboratory evidence, is contaminated with pathogens, biotoxins, chemicals or other substances, rendering any food supplied on or from, or handled or possessed on, the premises to be unfit for human consumption;

(c) as shown from inspection findings, data from epidemiological investigation or other laboratory evidence, any food supplied on or from, or handled or possessed on, the premises is contaminated with pathogens, biotoxins, chemicals or other substances rendering the food unfit for human consumption; and

(d) the premises are infested with vermin to such extent that any food supplied on or from, or handled or possessed on, the premises is contaminated or tainted, and becomes unfit for human consumption.

(4) In subsections (2) and (3)—

(a) a reference to food supplied on or from any premises includes food sold, or offered or exposed for sale, on or from the premises;

(b) a reference to food handled on any premises includes food manufactured on the premises; and

(c) a reference to food possessed on any premises means food possessed on the premises for sale or for use in the preparation of any article of food for sale.

128B. Power to close premises used without licence, permit or permission

(1) Where under the Food Business Regulation (Cap. 132 sub. leg.), the Frozen Confections Regulation (Cap. 132 sub. leg.), the Milk Regulation (Cap. 132 sub. leg.) or the Slaughterhouses Regulation (Cap. 132 sub. leg.)—

- (a) the use of any premises to which this section applies; or
- (b) any activity mentioned in section 128A(1),

is required to be licensed or permitted, a court on application by the Authority and on proof that the premises are so used or the activity is conducted on any premises (as the case may be) without the requisite licence, permit or permission shall, subject to subsections (2) and (3), make a closure order in Form H in the Seventh Schedule.

(2) Subsection (1) does not apply if—

- (a) the use or the activity is required under section 30(1) of the Food Business Regulation (Cap. 132 sub. leg.) to be permitted;
- (b) a food business within the meaning of that Regulation is carried on on or from the premises; and
- (c) the food business is required under that Regulation to be licensed and is licensed under that Regulation.

(3) The court shall not make a closure order unless it is satisfied that—

- (a) at least 7 days before the date fixed for the hearing of the application, a copy of the notice of intention to apply for the closure order, in both English and Chinese—
 - (i) was affixed at a conspicuous place on the premises; and
 - (ii) was served on the owner of the premises by sending the copy by registered post addressed to that owner's last known place of business or residence;
- (b) the notice stated the time and place set for the hearing of the application and advised that any person having a reasonable cause to be heard on the application was entitled to appear at the hearing and request to be heard; and
- (c) every person having a reasonable cause to be heard on the application and requesting to be heard has had an opportunity to be heard.

(4) At the place and time set for the hearing of an application made under subsection (1) or such other time as soon as practicable thereafter, the court shall hear the applicant and every person who—

- (a) is present at the hearing;
- (b) has a reasonable cause to be heard; and

(c) wishes to be heard,
and then proceed to make a decision.

(5) A closure order shall not operate—

- (a) if, at the date of application for the order, the premises are used for human habitation, to prevent such habitation on the premises; or
- (b) to affect the use of any common area in any building or public place so as to cause obstruction to public passage or fire escape.

(6) A closure order comes into force on the beginning of the 8th day after the day on which a copy of it is affixed at a conspicuous place on the premises in respect of which it is made.

(7) A closure order shall remain in force until the court rescinds it on application by the Authority or any person having an interest in the premises in respect of which the order is made.

(8) The court shall rescind a closure order if it is satisfied that—

- (a) the use of, or the activity to be conducted on, the premises in respect of which the order has been made has been licensed or permitted under any of the subsidiary legislation mentioned in subsection (1); or
- (b) the premises will not be used for any purpose mentioned in section 128A(1) and no activity mentioned in subsection (1) will be conducted on the premises in contravention of any of the subsidiary legislation mentioned in subsection (1).

(9) Subject to subsection (5), when a closure order in respect of any premises comes into force, the Authority shall lock or seal, or cause to be locked or sealed, all or any of the entrances to or exits from the premises and may disconnect or cause to be disconnected all gas, water and electricity supplies to those premises.

(10) Subject to subsection (11), no person, other than a public officer in the course of his duty, may enter or remain on any closed premises.

(11) The Authority may—

- (a) permit in writing any person to enter and remain on any closed premises for such purpose as is specified in the permission;
- (b) impose such conditions on the permission as he thinks fit;
- (c) revoke the permission if he thinks that the purpose for which the permission was granted no longer exists or any condition imposed under paragraph (b) has been breached;

(d) request any person found on any closed premises to leave the premises, and if the person refuses to leave, remove the person from the premises with or without the assistance of police officers and use such force as is reasonably necessary.

(12) Any person who, without lawful authority or reasonable excuse—

(a) removes or defaces any copy of a closure order affixed under subsection (6);

(b) breaks or interferes with any lock or seal made under subsection (9) ; or

(c) contravenes subsection (10),

commits an offence.

(13) The Authority may—

(a) dispose of—

(i) any article or thing or any perishable food found on any closed premises that requires to be immediately disposed of as he thinks fit;

(ii) any live bird, fish or animal that is found on the premises as he thinks fit;

(b) remove—

(i) any article, thing or food found on any closed premises that is likely to create a fire hazard or constitute a danger to life or health if left on the premises;

(ii) any live bird, fish or animal found on the premises;

(c) make such arrangements with regard to any live bird, fish or animal removed under paragraph (b) as he thinks fit;

(d) affix a notice in both English and Chinese at a conspicuous place on the closed premises—

(i) setting out the details of any article, thing, food, live bird, fish or animal removed under paragraph (b) that he thinks can be returned; and

(ii) calling for the submission to him of any claim for the return of such article, thing, food, live bird, fish or animal within 7 days of the affixing of the notice.

(14) Where a claim mentioned in subsection (13)(d)(ii) is made, the Authority—

(a) shall refuse to return the article, thing, food, live bird, fish or animal if he is not satisfied that the claimant is either the owner or a person entitled to the possession of it or the live bird, fish or animal is dead; or

- (b) may return the article, thing, food, live bird, fish or animal as claimed and recover as a civil debt from a claimant to whom it is returned any expenses incurred in the removal and storage of it or in any arrangement made in respect of it.

(15) Any article, thing, food, live bird, fish or animal removed by the Authority under subsection (13)(b) and not claimed within the time specified in subsection (13)(d)(ii), or which the Authority refuses to return in accordance with subsection (14)(a), may be sold by public auction or, upon the order of a court, otherwise sold or disposed of as the court directs, and any proceeds arising from the sale shall be retained by the Authority and applied in payment of any expenses incurred in connection with the enforcement of the closure order and the surplus (if any) paid, on demand made within 90 days of the sale, to the owner of the article, thing, food, live bird, fish or animal.

(16) Any surplus not demanded in accordance with subsection (15) shall be paid into the general revenue.

(17) The Authority may recover as a civil debt from the person having the management or control of any premises (or the master of the vessel if the premises are a vessel or any part of a vessel) immediately before the closure order in respect of the premises came into force the cost of—

- (a) any work carried out on the premises under subsection (9);
- (b) removing any article, thing, food, live bird, fish or animal from the closed premises under subsection (13)(b); and
- (c) any arrangements made under subsection (13)(c),

which is not met out of the proceeds of any sale under subsection (15).

128C. Power to close premises posing immediate health hazard

(1) If the Authority has reasonable cause to believe that the use of any premises to which this section applies or any activity conducted on those premises poses an immediate health hazard, he may make a closure order in Form I in the Seventh Schedule to close the premises immediately.

(2) A closure order shall not operate—

- (a) if, at the date of making of the order, the premises are used for human habitation, to prevent such habitation on the premises; or

- (b) to affect the use of any common area in any building or public place so as to cause obstruction to public passage or fire escape.
- (3) A closure order comes into force immediately after a copy of it—
 - (a) is affixed at a conspicuous place on the premises in respect of which the order is made; and
 - (b) is served on the owner of those premises by sending the copy by registered post addressed to that owner's last known place of business or residence.
- (4) A closure order shall remain in force until a notice is issued by the Authority made under subsection (6).
- (5) Any person having an interest in any premises in respect of which a closure order has been made may apply in writing to the Authority to rescind the order.
- (6) Whether or not an application has been made under subsection (5), if the Authority is satisfied that—
 - (a) in respect of any premises in respect of which a closure order has been made, the immediate health hazard has been eliminated and the use of the premises or the activity to be conducted on the premises has been licensed or permitted under any of the subsidiary legislation mentioned in section 128B(1); or
 - (b) the premises will not be used for any purpose mentioned in section 128A(1) and no activity mentioned in section 128A(1) will be conducted on the premises in contravention of any of the subsidiary legislation mentioned in section 128A(1),the Authority shall issue a notice in Form J in the Seventh Schedule to rescind the closure order with immediate effect.
- (7) If the Authority refuses to issue a notice under subsection (6) as applied, he shall serve a notice of his refusal on the applicant and the applicant may, within 7 days of such service or such longer time as the Chairman may allow, appeal to the Appeal Board against the Authority's decision.
- (8) The making of an appeal under subsection (7) does not operate as a stay of execution of a closure order unless the Chairman otherwise orders.
- (9) Subject to subsection (2), when a closure order in respect of any premises comes into force, the Authority shall lock or seal, or cause to be locked or sealed, all or any of the entrances to or exits from the closed premises and may disconnect or cause to be disconnected all gas, water and electricity supplies to those premises.

(10) Subject to subsection (11), no person, other than a public officer in the course of his duty, may enter or remain on any closed premises.

(11) The Authority may—

- (a) permit in writing any person to enter and remain on any closed premises for such purpose as is specified in the permission;
- (b) impose such conditions on the permission as he thinks fit;
- (c) revoke the permission if he thinks that the purpose for which the permission was granted no longer exists or any condition imposed under paragraph (b) has been breached;
- (d) request any person found on any closed premises to leave the premises, and if the person refuses to leave, remove the person from the premises with or without the assistance of police officers and use such force as is reasonably necessary.

(12) Any person who, without lawful authority or reasonable excuse—

- (a) removes or defaces any copy of a closure order affixed under subsection (3)(a);
- (b) breaks or interferes with any lock or seal made under subsection (9); or
- (c) contravenes subsection (10),

commits an offence.

(13) The Authority may—

- (a) dispose of—
 - (i) any article or thing or any perishable food found on any closed premises that requires to be immediately disposed of as he thinks fit;
 - (ii) any live bird, fish or animal found on the premises as he thinks fit;
- (b) remove—
 - (i) any article, thing or food, found on any closed premises that is likely to create a fire hazard or constitute a danger to life or health if left on them;
 - (ii) any live bird, fish or animal found on the premises;
- (c) make such arrangements with regard to any live bird, fish or animal removed under paragraph (b) as he thinks fit;
- (d) affix a notice in both English and Chinese at a conspicuous place on the closed premises—
 - (i) setting out the details of any article, thing, food, live bird, fish or animal removed under paragraph (b) that he thinks can be returned; and

- (ii) calling for the submission to him of any claim for the return of such article, thing, food, live bird, fish or animal within 7 days of the affixing of the notice.

(14) Where a claim mentioned in subsection (13)(d)(ii) is made, the Authority—

- (a) shall refuse to return the article, thing, food, live bird, fish or animal if he is not satisfied that the claimant is either the owner or a person entitled to the possession of it or the live bird, fish or animal is dead; or
- (b) may return the article, thing, food, live bird, fish or animal as claimed and recover as a civil debt from a claimant to whom it is returned any expenses incurred in the removal or storage of it or in any arrangement.

(15) Any article, thing, food, live bird, fish or animal removed by the Authority under subsection (13)(b) and not claimed within the time specified in subsection (13)(d)(ii), or which the Authority refuses to return in accordance with subsection (14)(a), may be sold by public auction or, upon the order of a court, otherwise sold or disposed of as the court directs, and any proceeds arising from the sale shall be retained by the Authority and applied in payment of any expenses incurred in connection with the enforcement of the closure order and the surplus (if any) paid, on demand made within 90 days of the sale, to the owner of the article, thing, food, live bird, fish or animal.

(16) Any surplus not demanded in accordance with subsection (15) shall be paid into the general revenue.

(17) The Authority may recover as a civil debt from the person having the management or control of any premises (or the master of the vessel if the premises are a vessel or any part of a vessel) immediately before the closure order in respect of the premises came into force the cost of—

- (a) any work carried out on the premises under subsection (9);
- (b) removing any article, thing, food, live bird, fish or animal from the closed premises under subsection (13)(b); and
- (c) any arrangements made under subsection (13)(c),

which is not met out of the proceeds of any sale under subsection (15).

(18) A person who is aggrieved by an order made under subsection (1) may, within 7 days after the day on which the order was made or such longer time as the Chairman may allow, appeal to the Appeal Board against the order.

(19) The making of an appeal under subsection (18) does not operate as a stay of execution of a closure order unless the Chairman otherwise orders.

**128D. Appeals to Appeal Board on Closure Orders
(Immediate Health Hazard)**

(1) There is established an appeal board to be known as the Appeal Board on Closure Orders (Immediate Health Hazard).

(2) The functions of the Appeal Board are to hear and determine any appeal made to the Appeal Board under section 128C(7) or (18).

(3) The Chief Executive shall appoint from among persons who are qualified for appointment as District Judges under section 5 of the District Court Ordinance (Cap. 336)—

(a) a Chairman of the Appeal Board;

(b) a First Deputy Chairman of the Appeal Board; and

(c) a Second Deputy Chairman of the Appeal Board.

(4) The Chief Executive shall appoint a panel of not less than 18 persons, not being public officers, whom he considers suitable for appointment under subsection (8)(b) as members of the Appeal Board to hear an appeal.

(5) An appointment under subsection (3) or (4) shall be notified in the Gazette and shall be for a term of not more than 3 years. A person appointed under subsection (3) or (4) may be re-appointed, and may resign by notice in writing to the Chief Executive.

(6) The Secretary for the Environment and Food may appoint—

(a) a secretary to the Appeal Board; and

(b) such other staff to assist the secretary as the Secretary considers necessary.

(7) The parties to an appeal to the Appeal Board are the appellant and the Authority. A party to an appeal may be present at the hearing of the appeal and may—

(a) make representations in person; or

(b) be represented by counsel or solicitor or, with the approval of the Chairman, by any other person authorized by the party in writing.

The Authority may also be represented by a legal officer within the meaning of the Legal Officers Ordinance (Cap. 87).

(8) For the purposes of hearing an appeal, the members of the Appeal Board are—

(a) the Chairman or a Deputy Chairman, who shall preside; and

(b) 2 other persons, selected in rotation from the panel referred to in subsection (4), who are appointed by the Chairman to hear the appeal.

(9) If, for any period, the Chairman is precluded by illness, absence from Hong Kong or any other cause from performing his functions, the First Deputy Chairman of the Appeal Board shall act as Chairman and as such perform all the functions of the Chairman during that period.

(10) If, for any period, a Deputy Chairman is precluded by illness, absence from Hong Kong or any other cause from performing his functions, the other Deputy Chairman shall act in the place of the Deputy Chairman precluded from performing his functions and in so acting perform all the functions of that Deputy Chairman, including any functions that Deputy Chairman would have been required to perform under subsection (9), during that period.

(11) If, for any period, a person appointed under subsection (8)(b) or this subsection to hear an appeal is precluded by illness, absence from Hong Kong or any other cause from performing his functions, the Chairman may appoint another person, selected in rotation from the panel referred to in subsection (4), to act in the place of the person precluded from performing his functions and in so acting, to perform all the functions of that person during that period.

(12) The hearing of an appeal may, with the consent of the parties to the appeal, continue notwithstanding a change in the membership of the Appeal Board.

(13) For the purposes of an appeal, the Appeal Board—

- (a) may receive and consider any material, whether by way of oral evidence, written statements, documents or otherwise, and whether or not it would be admissible in evidence in civil or criminal proceedings; and
- (b) may—
 - (i) on an appeal under section 128C(7), confirm the Authority's decision or order the Authority to issue a notice under section 128C(6); or
 - (ii) on an appeal under section 128C(18), confirm, suspend or disallow the closure order.

(14) The decision of the Appeal Board on an appeal shall be that of the majority of the members hearing the appeal.

(15) The Appeal Board shall give reasons in writing for its decisions. The secretary to the Appeal Board shall serve a copy of the Appeal Board's decision and of the reasons for the decision on the parties to an appeal.

(16) A person who appeals to the Appeal Board, if dissatisfied with the decision of the Appeal Board, may appeal to the Court of First Instance within 14 days after receiving a copy of the decision and the reasons for the decision. The Court of First Instance may confirm or reverse the decision appealed against. The decision of the Court of First Instance is final.

(17) The making of an appeal under subsection (16) does not operate as a stay of execution of a closure order unless the Court of First Instance otherwise orders.

(18) Subject to this section and to rules made under subsection (20), the person presiding may determine the procedure at the hearing of an appeal made to the Appeal Board.

(19) The Chairman may, on application in writing by a person and if satisfied that there is good reason for doing so—

- (a) extend the time within which that person may appeal to the Appeal Board under section 128C(7) or (18); and
- (b) order a stay of execution of the closure order to which an appeal made by that person under section 128C(7) or (18) relates, pending the determination of the appeal.

(20) The Chairman may, in consultation with the Secretary for the Environment and Food, make rules—

- (a) regulating the making of appeals to the Appeal Board;
- (b) specifying the documents to be lodged or served in relation to appeals; and
- (c) providing for the hearing and determining of those appeals and the enforcement of the decisions of the Appeal Board.

The rules so made are subsidiary legislation.”.

4. Designated Authorities

The Third Schedule is amended by adding—

- “128B Director of Food and Environmental Hygiene
- 128C Director of Food and Environmental Hygiene
- 128D Director of Food and Environmental Hygiene”.

5. Names in which proceedings for offences may be brought under section 131(1)

The Sixth Schedule is amended by adding—

- “128B Director of Food and Environmental Hygiene
- 128C Director of Food and Environmental Hygiene”.

6. Forms

The Seventh Schedule is amended—

- (a) in Form F, in Note 3, by repealing “撕去” and substituting “移去”;
- (b) in Form G, in Note 2, by repealing “撕去” and substituting “移去”;
- (c) by adding—

“FORM H

[s. 128B(1)]

PUBLIC HEALTH AND MUNICIPAL SERVICES ORDINANCE

(Chapter 132)

(section 128B(1))

Closure Order

TO the Director of Food and Environmental Hygiene.

You have applied to me for a closure order in respect of the premises situated at
/vessel* on the ground that the premises are/vessel is* used or occupied/certain activity is conducted* on the premises/in the vessel* without a licence, permit or permission under the Public Health and Municipal Services Ordinance (Cap. 132) (“the Ordinance”);

NOW on proof to my satisfaction of this ground and that a copy of the notice of intention to apply for this order was affixed at a conspicuous place on the premises/vessel* and served on the owner of the premises/vessel* as required by section 128B(3) of the Ordinance, I DO, in exercise of my powers under section 128B(1) of the Ordinance, authorize you, subject to the requirement of section 128B(6) of the Ordinance, to close the premises/vessel* in the manner prescribed by the Ordinance.

Dated this day of ,

[L.S.]

(Signed)

Magistrate.

- Note: 1. It is an offence for any unauthorized person to enter or remain on the premises/in the vessel* to which this order relates after it has come into force. The penalties are a fine at level 6 and imprisonment for 12 months and a fine of \$1,750 for each day during which the offence continues.
2. The penalties for removing or defacing a copy of this order affixed to any premises/vessel* or for breaking or interfering with any lock or seal made or caused to be made by the Director on the premises/in the vessel* without lawful authority or reasonable excuse are a fine at level 4 and imprisonment for 6 months.

* Delete as appropriate.

FORM I

[s. 128C(1)]

PUBLIC HEALTH AND MUNICIPAL SERVICES ORDINANCE

(Chapter 132)

(section 128C(1))

Closure Order

TO the owner and occupier of the premises situated at
..... /owner and master of the vessel
.....*

I now have reasonable cause to believe that an immediate health hazard exists on the premises/in the vessel/in of the vessel*, I DO, in exercise of my powers under section 128C(1) of the Public Health and Municipal Services Ordinance (Cap. 132) (“the Ordinance”), order to close the premises/vessel/that part of the vessel* with immediate effect in the manner prescribed by the Ordinance.

The details of the immediate health hazard are:

This order remains in force until a notice to rescind it is issued by me upon proof to my satisfaction that—

- (a) the immediate health hazard on the premises/in the vessel/in that part of the vessel* has been eliminated and the use or occupation of/the activity to be conducted on or in* the premises/vessel/that part of the vessel* has been licensed or permitted; or
- (b) the premises/vessel/that part of the vessel* will not be used or occupied for a purpose that requires a licence, permit or permission under any subsidiary legislation mentioned in section 128A(1) of the Ordinance and no activity mentioned in that section will be conducted on the premises/in the vessel/in that part of the vessel*.

Any person who feels aggrieved by this order may, within 7 days after the day on which this order was made or such longer time as the Chairman of the Appeal Board on Closure Orders (Immediate Health Hazard) may allow, appeal to that Appeal Board against this order.

Dated this day of ,

(Signed)
Director of Food and Environmental Hygiene.

- Note: 1. It is an offence for any unauthorized person to enter or remain on the premises/in the vessel* to which this order relates after it has come into force. The penalties are a fine at level 6 and imprisonment for 12 months and a fine of \$1,750 for each day during which the offence continues.
2. The penalties for removing or defacing a copy of this order affixed to any premises/vessel* or for breaking or interfering with any lock or seal made or caused to be made by the Director on the premises/in the vessel* without lawful authority or reasonable excuse are a fine at level 4 and imprisonment for 6 months.

* Delete as appropriate.

FORM J

[s. 128C(6)]

PUBLIC HEALTH AND MUNICIPAL SERVICES ORDINANCE

(Chapter 132)

(section 128C(6))

Notice of Rescission of Closure Order

TO the owner and occupier of the premises situated at
..... /owner and master of the vessel

NOW on proof to my satisfaction that—

- (a) the immediate health hazard on the premises/in the vessel/in the of the vessel* has been eliminated and the use or occupation of/the activity to be conducted on or in* the premises/vessel/that part of the vessel* has been licensed or permitted; or
- (b) the premises/vessel/that part of the vessel* will not be used or occupied for a purpose that requires a licence, permit or permission under any subsidiary legislation mentioned in section 128A(1) of the Public Health and Municipal Services Ordinance (Cap. 132) (“the Ordinance”) and no activity mentioned in that section will be conducted on the premises/in the vessel/in that part of the vessel*.

I DO, in exercise of my powers under section 128C(6) of the Ordinance, rescind the closure order in respect of the premises/vessel/that part of the vessel* with immediate effect.

Dated this day of,

(Signed)
Director of Food and Environmental Hygiene.

* Delete as appropriate.”.

7. Penalties

The Ninth Schedule is amended by adding—

“128B(12)(c) and 128C(12)(c)	level 6 and 12 months imprisonment	\$1,750 fine
128B(12)(a) and (b) and 128C(12)(a) and (b)	level 4 and 6 months imprisonment	—”.

8. Transitional

(1) Any proceedings in respect of any offence under section 128 of the Public Health and Municipal Services Ordinance (Cap. 132) committed or alleged to have been committed before the commencement of the Public Health and Municipal Services (Amendment) Ordinance 2002 (1 of 2002) (“the amending Ordinance”) may be instituted, continued or enforced, and any penalty, forfeiture or punishment incurred in respect of such offence may be imposed, as if the amending Ordinance had not been enacted.

(2) Nothing in the amending Ordinance affects the validity of a Closure Order issued under section 128 of the Public Health and Municipal Services Ordinance (Cap. 132) before the commencement of the amending Ordinance.