

LEGISLATIVE COUNCIL BRIEF

Fixed Penalty (Public Cleanliness Offences) Ordinance
(Chapter 570)

FIXED PENALTY (PUBLIC CLEANLINESS OFFENCES) (AMENDMENT) BILL 2015

INTRODUCTION

At the meeting of the Executive Council on 10 November 2015, the Council ADVISED and the Chief Executive ORDERED that the Fixed Penalty (Public Cleanliness Offences) (Amendment) Bill 2015 at A **Annex A** should be introduced into the Legislative Council (LegCo).

JUSTIFICATIONS

2. Shop Front Extensions (SFE) broadly refer to the occupation of public places by shops or food premises in front of or adjacent to their premises for conducting or facilitating business activities at the expense of road access, pedestrian safety, environmental hygiene, amenity or the quality of city life.

3. In most cases, SFE obstructs the pavements and causes nuisance, inconvenience and even hazard to pedestrians and traffic. Nevertheless, owing to the unique characteristics of Hong Kong (e.g. high shop rentals, general small retail space, keen competition of shops and trades on the streets, etc.), the problem cannot be effectively tackled across the territory despite enforcement operations mounted from time to time with the resources available. Furthermore, SFE is a common subject of complaints by the District Councils (DCs) and

members of the public¹.

Four-Pronged Approach

4. Currently, the Government tackles the problem of SFE through a four-pronged approach, namely -

- (a) law enforcement by individual departments using their powers under the relevant ordinances (see paragraph 6 below);
- (b) inter-departmental cooperation and joint operations led by District Officers (DOs) for more complex cases as necessary;
- (c) collaboration with DCs, among others, in identifying black spots and tolerated areas; and
- (d) public education and publicity.

5. While some SFE cases are accorded priority in enforcement by the departments concerned due to the severity of the problem, a small number of minor SFE cases, especially those that help enhance the diversity and vibrancy of the locality (e.g. Mongkok's flower market), are tolerated. In agreeing to tolerating SFE, enforcement departments will consult the relevant DCs. The tolerated SFE should also fulfil the conditions that they do not cause any danger to pedestrians and other road users, and that the shop operators can exercise self-discipline by adhering to a level of extension agreed with the departments.

Enforcement Regime

6. The present enforcement regime against SFE is a multi-disciplinary one in that a number of departments, including FEHD, the Hong Kong Police Force (HKPF), the Lands Department (LandsD) and the Buildings Department (BD), have powers under various ordinances to take action against SFE, as set out below -

¹ The Food and Environmental Hygiene Department (FEHD) which enforces the law against SFE involving illegal hawking activities received 15 206, 15 275 and 12 914 complaints about SFE (excluding those caused by restaurants) in 2012, 2013 and 2014 respectively.

- (a) Obstruction of public places: HKPF and FEHD can, under delegated authority, issue summons and/or take arrest action under section 4A of the Summary Offences Ordinance (Cap 228) for “obstruction of public places” (“public obstruction”) where such obstruction inconveniences or endangers road users;
- (b) Illegal hawking: For SFE cases that involve “illegal hawking”, FEHD can prosecute offenders under section 83B by way of summons, and/or take arrest and seizure action under sections 84 and 86 of the Public Health and Municipal Services Ordinance (Cap 132);
- (c) Conduct of food business outside licensed food premises: For SFE relating to food premises, FEHD can prosecute the licensees for conducting food business beyond the confines of their premises under section 34C of the Food Business Regulation (Cap 132X). For repeat offenders, the licence may be suspended or cancelled by FEHD under the Demerit Points System upon conviction of the offences;
- (d) Obstruction of scavenging operation: Where there is any article or thing so placed at shop front as to obstruct or to be likely to obstruct any scavenging or conservancy operation or any street sweeper acting in the performance of his duty, FEHD can take prosecution action under section 22 of Cap 132; and
- (e) Erection of unauthorized platforms on Government land at shop front and unauthorized building works (UBW) attached to and supported by buildings: LandsD can take enforcement action by way of summons under section 6 of the Land (Miscellaneous Provisions) Ordinance (Cap 28) for non-compliance with notices issued against unauthorized platforms on Government land at shop front, whereas BD can issue summons for non-compliance with removal orders issued against UBW attached to and supported by buildings under section 24 of the Buildings Ordinance (Cap 123).

7. Having considered the relevant legal provisions in paragraph 6

above, section 4A of Cap 228 (paragraph 6(a) above) appears to be a more effective piece of legislation to tackle SFE. However, the deterrent effect of issuing summons under section 4A of Cap 228 is limited by the long lead time of prosecution. Given the substantial amount of administrative work required, it takes about one to two months in general for a summons to be issued based on substantive evidence after the offending act is first committed. The time required between the issue of a summons and the Court hearing may take another one to two months, and it can take even longer time if the defendant chooses to plead not guilty in the first hearing. As of June 2015, the average prosecution lead time is about two to four months. The deterrent effect that a prosecution under section 4A of Cap 228 may bring is further diminished by the often low level of penalties imposed by the Court. For instance, in the first half of 2015, persons convicted of the offence were fined \$661 on average while the maximum level of fine under Cap 228 is \$5,000. As such, many offending shop operators simply include such penalties as part of their operating costs.

Public Consultation

8. In order to solicit public views on how to tackle problems associated with SFE more effectively, the Government conducted a four-month public consultation exercise from 14 March to 15 July 2014. Specifically, views were invited on various issues including the introduction of the proposed fixed penalty system. The key issues raised in the public consultation document are set out at **Annex B**.

B

9. During the consultation period, the inter-departmental team comprising representatives from the Home Affairs Department (HAD), FEHD, BD, LandsD, and HKPF attended consultation sessions with different stakeholders including the following -

- (a) the LegCo Panel on Home Affairs and 43 deputations who attended a special meeting organized by the Panel on Home Affairs;
- (b) the 18 DCs;
- (c) the Food Business and Related Services Task Force and the

Wholesale and Retail Task Force under the Business Facilitation Advisory Committee;

(d) representatives of the food and beverage industry; and

(e) residents of Sham Shui Po and Kwai Tsing districts.

The public views received are outlined in paragraphs 10 to 11 below.

Summary of Views Collected

10. Except for the industry stakeholders, the introduction of the proposed fixed penalty system as an additional legal tool to summons received general support from respondents, including the DCs, in the public consultation exercise. On the proposed level of fixed penalty, most of the respondents considered \$1,500 appropriate. Many respondents pointed out that the effectiveness of the proposed fixed penalty system lay in its implementation i.e. enforcement details for issuing fixed penalty notices (FPNs). Some respondents suggested that the fixed penalty level should be increased progressively for repeat offenders; while some others suggested the multiple/repeated issue of FPNs to offenders who failed to rectify SFE offences within a reasonable period of time.

11. A great majority of respondents strongly supported the relevant departments to strengthen enforcement against SFE. Some urged that, given the multifarious forms of SFE offences, respective enforcement departments should take prompt action on their own before the SFE problem deteriorated further. A great majority of DC Members considered that as the role of DC was advisory, it should be for the enforcement departments to determine their own enforcement priority instead of DCs. On public education and publicity, a great majority of respondents supported enhanced efforts on public education and publicity against SFE.

12. Subsequently, the Government reported the outcome of the public consultation exercise to the LegCo Panel on Home Affairs in January 2015. Except for a few LegCo Members who expressed concern about the impact of the proposed fixed penalty system on the

livelihood of shop owners, Members expressed general support for the introduction of the proposed fixed penalty system against SFE. The public views collected during the public consultation also reaffirmed the need to continue to strengthen our four-pronged approach against SFE (paragraph 4 above refers). In gist, relevant departments should enhance enforcement and inter-departmental cooperation to better tackle the SFE problem in a sustainable manner. The Government should also continue to engage DCs and step up public education and publicity against SFE.

THE BILL

13. To implement the proposed fixed penalty system, legislative amendments will be made to the title and scope of the Fixed Penalty (Public Cleanliness Offences) Ordinance (Cap 570) to include the offence under section 4A of the Summary Offences Ordinance (Cap 228) on obstruction of public places as a scheduled offence for the purpose of issuing fixed penalty notice. The title of Cap 570 will, accordingly, be amended to “Fixed Penalty (Public Cleanliness and Obstruction) Ordinance” upon enactment of the Bill. The fixed penalty level is proposed to be set at \$1,500. The departments which are already empowered to enforce section 4A of Cap 228, i.e. FEHD and HKPF, will be similarly empowered to enforce the proposed fixed penalty system.

14. The main provisions of the Bill are as follows –

- (a) Part 1 contains provisions for the short title and commencement of the Bill;
- (b) Part 2 amends the Ordinance and its subsidiary legislation to provide for a fixed penalty to be payable for the offence of public obstruction -
 - (i) Clause 3 amends the short title of Cap 570 to cover the offence of public obstruction in the fixed penalty system;
 - (ii) Clause 4 amends Schedule 1 to Cap 570 to add the offence of public obstruction to the list of scheduled offence under

that schedule;

(iii) Clause 5 amends Schedule 2 to Cap 570 to add the relevant Authorities and public officers empowered to enforce the fixed penalty system for the offence of public obstruction to the list of authorities and public officers under that Schedule; and

(iv) Clauses 6 and 7 contain consequential amendments to the subsidiary legislation of Cap 570.

(c) Part 3 contains consequential amendments to other pieces of legislation.

C The existing provisions being amended are at **Annex C**.

LEGISLATIVE TIMETABLE

15. The legislative timetable for the Bill is as follows –

Publication of Gazette	31 December 2015
First Reading and commencement of Second Reading Debate	6 January 2016
Resumption of Second Reading Debate, Committee Stage and Third Reading	To be notified

16. To allow sufficient time for publicizing the fixed penalty system and for the trade and other stakeholders to make the necessary preparations, we recommend that the Amendment Ordinance comes into operation on the expiry of six months beginning on the day on which the Amendment Ordinance is published in the Gazette.

IMPLICATIONS OF THE PROPOSAL

17. The proposal is in conformity with the Basic Law, including the

provisions concerning human rights. It has no productivity, environmental, sustainability, gender or family implications. The proposed fixed penalty system could maintain the level-playing field among the shop operators as we expect that most of them are law-abiding. The proposal does not affect the current binding effect of the relevant ordinances.

PUBLIC CONSULTATION

18. As set out in paragraph 8 above, the Government conducted a four-month public consultation exercise from March to July 2014 on how to tackle problems associated with SFE more effectively. Except for the industry stakeholders, the introduction of the proposed fixed penalty system received support from the respondents.

19. We briefed the LegCo Panel on Home Affairs on the legislative proposals for the proposed fixed penalty system on 22 December 2015. Members in general supported our proposals, and suggested that more detailed enforcement guidelines should be devised for frontline staff.

PUBLICITY

20. A press release will be issued with the gazettal of the Bill on 31 December 2015. A spokesperson will be available to answer enquiries.

ENQUIRY

21. Enquiries on this brief may be directed to Miss Charmaine WONG, Assistant Director of Home Affairs (2) at 2835 1005.

Home Affairs Department
December 2015

Fixed Penalty (Public Cleanliness Offences) (Amendment) Bill 2015

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A BILL

To

Amend the Fixed Penalty (Public Cleanliness Offences) Ordinance to provide for a fixed penalty to be payable for the offence of obstruction of public places and to make consequential amendments.

Enacted by the Legislative Council.

Part 1

Preliminary

1. Short title and commencement

- (1) This Ordinance may be cited as the Fixed Penalty (Public Cleanliness Offences) (Amendment) Ordinance 2015.
- (2) This Ordinance comes into operation on the expiry of 6 months beginning on the day on which this Ordinance is published in the Gazette.

2. Enactments amended

The enactments specified in Parts 2 and 3 are amended as set out in those Parts.

Part 2

Amendments to Fixed Penalty (Public Cleanliness Offences) Ordinance and its Subsidiary Legislation

Division 1—Amendments to Fixed Penalty (Public Cleanliness Offences) Ordinance (Cap. 570)

3. Section 1 amended (short title)

Section 1(1)—

Repeal

“Offences”

Substitute

“and Obstruction”.

4. Schedule 1 amended (scheduled offence)

Schedule 1, under heading “Summary Offences Ordinance (Cap. 228)”, before item 7—

Add

“6A. Section 4A Obstruction of public places \$1,500”.

5. Schedule 2 amended (Authorities and public officers)

(1) Schedule 2, column 1—

Repeal

“1, 2, 3, 4, 5, 6, 7, 8”

Substitute

“1, 2, 3, 4, 5, 6, 6A, 7, 8”.

(2) Schedule 2, column 1—

Repeal

“1, 2, 3, 4, 7”

Substitute

“1, 2, 3, 4, 6A, 7”.

Division 2—Amendments to Fixed Penalty (Public Cleanliness Offences) Regulation (Cap. 570 sub. leg. A)

6. Title amended

The title—

Repeal

“OFFENCES”

Substitute

“AND OBSTRUCTION”.

7. Schedule amended

(1) The Schedule, Form 1—

Repeal

“罪行”

Substitute

“及阻礙”.

(2) The Schedule, Form 1—

Repeal

“CLEANLINESS OFFENCES”

Substitute

“CLEANLINESS AND OBSTRUCTION”.

(3) The Schedule, Form 1, before “罪行的詳”—

Add

“或阻礙”.

(4) The Schedule, Form 1—

Repeal

“CLEANLINESS OFFENCE”

Substitute

“CLEANLINESS OR OBSTRUCTION OFFENCE”.

(5) The Schedule, Form 1, before “罪行”—

Add

“或阻礙”.

(6) The Schedule, Form 1, before “OFFENCE”—

Add

“OR OBSTRUCTION”.

(7) The Schedule, Form 1, before the following—

“07 海上棄置廢物(《簡易程序治罪條例》(第 228 章)第 4D(1)條)
Marine littering (section 4D(1) of the Summary Offences Ordinance (Cap. 228))”

Add

“06A 在公眾地方造成阻礙(《簡易程序治罪條例》(第 228 章)第 4A 條)
Obstruction of public places (section 4A of the Summary Offences Ordinance (Cap. 228))”.

(8) The Schedule, Form 2—

Repeal

“罪行”(wherever appearing)

Substitute

“及阻礙”.

(9) The Schedule, Form 2—

Repeal

“OFFENCES” (wherever appearing)

Substitute

“AND OBSTRUCTION”.

- (10) The Schedule, Form 2—

Repeal

“罪行，”

Substitute

“罪行/公眾地方阻礙罪行*，”。

- (11) The Schedule, Form 2, after “cleanliness offence”—

Add

“/a public obstruction offence*”。

- (12) The Schedule, Form 2—

Repeal

“Offences”

Substitute

“and Obstruction”。

- (13) The Schedule, Form 3—

Repeal

“罪行)” (wherever appearing)

Substitute

“及阻礙”。

- (14) The Schedule, Form 3—

Repeal

“OFFENCES”

Substitute

“AND OBSTRUCTION”。

- (15) The Schedule, Form 3—

Repeal

“Offences”

Substitute

“and Obstruction”。

Part 3

Consequential Amendments

Division 1—Amendment to Criminal Procedure Ordinance (Cap. 221)

8. Section 113C amended (provision for fines for offences)

Section 113C(1)(c)—

Repeal

“Cleanliness Offences”

Substitute

“Cleanliness and Obstruction”.

Division 2—Amendments to Rehabilitation of Offenders Ordinance (Cap. 297)

9. Section 2 amended (protection of rehabilitated individual)

Section 2(1B) and (3)—

Repeal

“Cleanliness Offences”

Substitute

“Cleanliness and Obstruction”.

Division 3—Amendment to Securities and Futures (Licensing and Registration) (Information) Rules (Cap. 571 sub. leg. S)

10. Section 2 amended (interpretation)

Section 2(1), definition of *minor offence*—

Repeal

“Offences”

Substitute

“and Obstruction”.

Explanatory Memorandum

This Bill amends the Fixed Penalty (Public Cleanliness Offences) Ordinance (Cap. 570) (*Ordinance*) to provide for a fixed penalty system for the offence of obstruction of public places under section 4A of the Summary Offences Ordinance (Cap. 228) (*public obstruction offence*).

2. Part 1 sets out the short title and provides for commencement.
3. Part 2 amends the Ordinance and its subsidiary legislation to provide for a fixed penalty to be payable for the public obstruction offence.
4. Clause 3 amends the short title of the Ordinance to cover the public obstruction offence in the fixed penalty system.
5. Clause 4 amends Schedule 1 to the Ordinance to add the public obstruction offence to the list of scheduled offences in that Schedule.
6. Clause 5 amends Schedule 2 to the Ordinance to add the relevant Authorities and public officers empowered to enforce the fixed penalty system against the public obstruction offence to the list of Authorities and public officers in that Schedule.
7. Clauses 6 and 7 contain consequential amendments to the subsidiary legislation of the Ordinance.
8. Part 3 contains consequential amendments to other pieces of legislation.

Key Issues raised in Public Consultation Document on “Enhanced Measures against SFE”

An inter-departmental team¹ jointly prepared a public consultation document on “Enhanced Measures against SFE” to invite public views on two major areas, namely “enforcement measures” and “community and DCs’ involvement”. The 4-month consultation period lasted from 14 March till 14 July 2014.

2. On “enforcement measures”, views were specifically invited on two key issues: (i) whether enforcement action against SFE should be stepped up; and (ii) whether a fixed penalty system should be implemented to tackle SFE and other related issues (e.g. level of fixed penalty, possible concerns etc.)

3. On “community and DCs’ involvement”, views were specifically invited on three key issues: (i) the extent of DC’s involvement in tackling SFE; (ii) the criteria to be considered by DC in advising the Government on the priority of enforcement against SFE; and (iii) how should public education and publicity efforts against SFE be enhanced.

¹ The inter-departmental team comprises representatives of HAD, FEHD, LandsD, HKPF and BD.

Chapter:	570	FIXED PENALTY (PUBLIC CLEANLINESS OFFENCES) ORDINANCE	Gazette Number	Version Date
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Section:	1	Short title	L.N. 52 of 2002	27/05/2002
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(1) This Ordinance may be cited as the Fixed Penalty (Public Cleanliness Offences) Ordinance.

(2) (Omitted as spent)

Chapter:	570	FIXED PENALTY (PUBLIC CLEANLINESS OFFENCES) ORDINANCE	Gazette Number	Version Date
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Schedule:	1	SCHEDULED OFFENCE	L.N. 158 of 2003	26/06/2003
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[section 2 & Schedule 2]

Item	Section or Regulation	Description	Fixed Penalty
Public Health and Municipal Services Ordinance (Cap 132)			
1.	Section 104A(2)	Display of bills or posters without permission	\$1500
Public Cleansing and Prevention of Nuisances Regulation (Cap 132 sub. leg. BK)			
2.	Section 4(1)	Depositing of litter or waste in public places	\$1500
3.	Section 8A(1)	Spitting in public places	\$1500
4.	Section 13(1)(a)	Fouling of street by dog faeces	\$1500
Country Parks and Special Areas Regulations (Cap 208 sub. leg. A)			
5.	Regulation 12(1)(c)	Depositing of litter in country parks and special areas	\$1500
6.	Regulation 12(1)(e)	Spitting in country parks and special areas	\$1500
Summary Offences Ordinance (Cap 228)			
7.	Section 4D(1)	Marine littering	\$1500
Waste Disposal Ordinance (Cap 354)			
8.	Section 16A(1)	Unlawful depositing of waste	\$1500 (Amended L.N. 158 of 2003)

Chapter:	570	FIXED PENALTY (PUBLIC CLEANLINESS OFFENCES) ORDINANCE	Gazette Number	Version Date
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Schedule:	2	AUTHORITIES AND PUBLIC OFFICERS	L.N. 20 of 2005	04/03/2005
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[sections 2, 15 & 19]

Scheduled
Offence*

Authority

Public Officer

1, 2, 3, 4, 5, 6, 7, 8	Commissioner of Police	Police Officer
4, 5, 6, 7	Director of Agriculture, Fisheries and Conservation	Forestry Officer Field Officer Field Assistant Forest Guard Fisheries Officer Fisheries Supervisor
8	Director of Environmental Protection	Environmental Protection Officer Assistant Environmental Protection Officer Assistant Pollution Control Officer Chief Environmental Protection Inspector Senior Environmental Protection Inspector Environmental Protection Inspector Pollution Control Inspector
1, 2, 3, 4, 7	Director of Food and Environmental Hygiene	Senior Superintendent of Environmental Health Superintendent of Environmental Health Chief Health Inspector Senior Health Inspector Health Inspector I Health Inspector II Senior Overseer Overseer Senior Foreman Foreman Principal Hawker Control Officer Chief Hawker Control Officer Senior Hawker Control Officer Hawker Control Officer Assistant Hawker Control Officer
2, 3, 4	Director of Housing	Housing Manager Assistant Housing Manager Housing Officer
2, 3, 4, 7	Director of Leisure and Cultural Services	Amenities Officer I Amenities Officer II Senior Amenities Assistant Amenities Assistant I Amenities Assistant II Amenities Assistant III Chief Librarian Senior Librarian Librarian Assistant Librarian Chief Manager, Cultural Services Senior Manager, Cultural Services Manager, Cultural Services Assistant Manager, Cultural Services Assistant Recreation and Sport Officer II Chief Leisure Services Manager

7	Director of Marine	Marine Officer Marine Controller Assistant Marine Controller Senior Assistant Shipping Master Marine Inspector I Marine Inspector II
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Chapter:	570A	FIXED PENALTY (PUBLIC CLEANLINESS OFFENCES) REGULATION	Gazette Number	Version Date
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[27 May 2002] *L.N. 53 of 2002*

Chapter:	570A	FIXED PENALTY (PUBLIC CLEANLINESS OFFENCES) REGULATION	Gazette Number	Version Date
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[sections 2, 3 & 4]

表格 1
FORM 1

[illegible]

中文全名 in Chinese

[illegible]

3

性別：男/女*

Sex : Male/Female*

地址 Address :

聯絡電話(如有的話) Contact Tel. No. (if any)

現涉嫌犯公眾地方潔淨罪行 IS ALLEGED TO HAVE COMMITTED A PUBLIC CLEANLINESS OFFENCE

定額罰款

一千五百元

FIXED
PENALTY

\$1500

編號
CODE NO.

罪行事項
LIST OF OFFENCES

罪行詳情 OFFENCE DETAILS

日期
Date

日 day 月 month 年 year

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時間上午/下午*
Time a.m./p.m.*

時 hours 分 minutes

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罪行編號
Offence Code No.

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棄置廢物的種類
Description of litter deposited

地點 Place

- 01 未經准許而展示招貼或海報(《公眾衛生及市政條例》(第132章)第104A(2)條)
Display of bills or posters without permission (section 104A(2) of the Public Health and Municipal Services Ordinance (Cap 132))
- 02 將扔棄物或廢物棄置在公眾地方(《公眾潔淨及防止妨擾規例》(第132章, 附屬法例BK)第4(1)條)
Depositing of litter or waste in public places (section 4(1) of the Public Cleansing and Prevention of Nuisances Regulation (Cap 132 sub. leg. BK))
- 03 在公眾地方吐痰(《公眾潔淨及防止妨擾規例》(第132章, 附屬法例BK)第8A(1)條)
Spitting in public places (section 8A(1) of the Public Cleansing and Prevention of Nuisances Regulation (Cap 132 sub. leg. BK))
- 04 犬隻糞便弄污街道(《公眾潔淨及防止妨擾規例》(第132章, 附屬法例BK)第13(1)(a)條)
Fouling of street by dog faeces (section 13(1)(a) of the Public Cleansing and Prevention of Nuisances Regulation (Cap 132 sub. leg. BK))
- 05 在郊野公園及特別地區棄置廢物(《郊野公園及特別地區規例》(第208章, 附屬法例A)第12(1)(c)條)
Depositing of litter in country parks and special areas (regulation 12(1)(c) of the Country Parks and Special Areas Regulations (Cap 208 sub. leg. A))
- 06 在郊野公園及特別地區吐痰(《郊野公園及特別地區規例》(第208章, 附屬法例A)第12(1)(e)條)
Spitting in country parks and special areas (regulation 12(1)(e) of the Country Parks and Special Areas Regulations (Cap 208 sub. leg. A))
- 07 海上棄置廢物(《簡易程序治罪條例》(第228章)第4D(1)條)
Marine littering (section 4D(1) of the Summary Offences Ordinance (Cap 228))
- 08 非法擺放廢物(《廢物處置條例》(第354章)第16A(1)條)
Unlawful depositing of waste (section 16A(1) of the Waste Disposal Ordinance (Cap 354))

簽署
Signature

日 day 月 month 年 year

發出日期
Date of issue

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職位及地區 Post and District

* 請刪去不適用者。 * Please delete where appropriate.

*發出通知書人員姓名(全名)
*Name (in full) of Issuing Officer

*編號
*Number

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部門 Department

請細心閱讀背頁所載的繳款辦法及附註。 Please read carefully the payment instructions and notes set out overleaf.

機印所示款項收訖。 Received the sum printed.

郵寄繳款回條 Slip for Payment by Post

CRC 122	表格 FORM	數字 SERIAL NUMBER										金額 AMOUNT
	1											
<div style="text-align: right;"> 日 day 月 month 年 year 發出日期 Date of issue </div>												
<div style="border: 1px solid black; padding: 5px; width: fit-content; margin: 0 auto;"> <<預印條紋碼 Pre-printed Bar Code>> </div>												

附註(請細心閱讀)

1. 如於本通知書發出日期起計21天內繳付定額罰款，可解除就本通知書所指定的罪行所須負的法律責任。必須按照繳款辦法繳付罰款。
2. 你若意欲就該罪行的法律責任提出爭議，可以書面方式通知主管當局。請註明本通知書左上角所示的10位數字檔號以作參考。
3. 如你不按照本通知書繳付罰款或通知主管當局你意欲就該罪行的法律責任提出爭議，則可能須繳付附加罰款。

繳款辦法：

1. 可按下列方式繳款—
 - (a) 透過銀行自動櫃員機繳款
在任何貼有“繳費服務”標誌的自動櫃員機繳款。繳款時，請選擇“食物環境衛生署”。
 - (b) 使用「繳費靈」繳款
繳款前，請先致電18013登記本通知書。請選擇“商戶編號”“9147”。如欲繳款，請致電18033，並按照指示輸入所需資料。如需查詢，請致電「繳費靈」熱線：2311 9876。
 - (c) 透過互聯網繳款
可透過銀行及「繳費靈」在互聯網上提供的繳費服務繳款。詳情請瀏覽「公共服務電子化」計劃的網站(URL位址：<http://www.esd.gov.hk>)或庫務署網站(URL位址：<http://www.try.gov.hk>)。亦可透過「公共服務電

NOTES (Please read carefully)

1. Liability for the offence specified in the notice may be discharged by paying the Fixed Penalty within 21 days of the date of issue of this notice. Payment must be made in accordance with the Payment Instructions.
2. If you wish to dispute liability for the offence, you may inform the Authority in writing. Please quote the 10-digit Reference No. shown at the top left hand corner of this notice for reference.
3. Failure to pay in accordance with this notice or to notify the Authority that you wish to dispute liability for the offence may result in an additional penalty being imposed.

PAYMENT INSTRUCTIONS:

1. Payment may be made-
 - (a) **Through Bank Automated Teller Machine (ATM)**
Payment can be made at any ATM affixed with "Bill Payment" signage. Please select "Food & Environ Hygiene Dept" for payment.
 - (b) **By Phone using PPS**
Before making payment, please dial 18011 to register this notice. Please select the "Merchant Code" of "9147". For making payment, please dial 18031 and follow the instructions to enter the information required. For enquiries, please call PPS Hotline: 2311 9876.
 - (c) **Through Internet**
Payment can be made through the bill payment services provided by banks and PPS on the Internet. For details, please visit the web site of the Electronic Service Delivery (ESD) Scheme (URL address: <http://www.esd.gov.hk>) or the web site of Treasury (URL address: <http://www.try.gov.hk>).

子化計劃的服務站繳款。繳款時，請選擇“食物環境衛生署”。

Payment could also be made at any of the ESD kiosks. Please select "Food & Environ Hygiene Dept" or "Food and Environmental Hygiene Department" as appropriate for payment.

(d) 透過電話理財服務繳款

可使用銀行提供的電話理財服務，透過有關的繳費服務繳款。繳款時，請選擇“食物環境衛生署”。

(d) Through Phone-banking Service

Payment can be made through the bill payment services by using the phone-banking service provided by banks. Please select "Food and Environmental Hygiene Department" for payment.

(e) 郵遞繳款

凡郵寄支票、匯票或本票繳款，請連同郵寄繳款回條郵寄香港告士打道郵政局信箱28000號庫務署收。請勿郵寄現金。請將本通知書下半部所示的16位數字編號寫在支票、匯票或本票背面。請注意：以郵遞方式繳款將不會獲發收據。有關的郵戳日期會被視為繳款的日期。

(e) By Post

A cheque, draft or cashier order should be sent together with the Slip for Payment by Post to the Treasury, P.O. Box No. 28000, Gloucester Road Post Office, Hong Kong. Cash should not be sent through the post. Please write the 16-digit serial number shown at the lower portion of this notice on the back of the cheque, draft or cashier order. Please note that no receipt will be issued for payment by post. The date of the relevant post mark is to be regarded as the date of payment.

(f) 親自繳款

可親自或透過代理人前往任何郵政局(郵政局信箱或流動郵政局除外)繳款，並出示完整的通知書，以便繳款後發還收據。如欲查詢有關地址及辦公時間，請致電香港郵政熱線：2921 2222 或瀏覽其網站 (URL 地址：<http://www.hongkongpost.com>)。

(f) In Person

Payment can be made in person or through an agent at any Post Office (other than a post office letter box or a mobile post office). This notice must be kept intact and produced at the time of payment. It will be receipted and returned to you upon payment. For addresses and opening hours, please call the Hongkong Post Hotline: 2921 2222 or visit the web site (URL address: <http://www.hongkongpost.com>).

2. 使用自動櫃員機、「繳費靈」、透過互聯網或電話理財服務繳款，請先行輸入本通知書下半部所示的16位數字編號。於到期日午夜前繳款會被視作準時繳交。

2. For payment through ATM, by PPS, through Internet or phone-banking service, please key in the 16-digit serial number shown at the lower portion of this notice for making payment. Payment made before mid-night on the due date will be regarded as on-time payment.

3. 支票、匯票或本票均須以“香港特別行政區政府”或“香港特區政府”為收款人，並加以劃線。以支票付款，須在支票首次提交付款銀行獲得兌現後，繳款方為有效。期票恕不接受。

3. Cheques, drafts or cashier orders should be made payable to "The Government of the Hong Kong Special Administrative Region" or "The Government of the HKSAR" and crossed. For payment made by cheque, payment is valid only when the cheque is honoured on the first presentation to the drawee bank. Post-dated cheques will not be accepted.

(L.N. 155 of 2003; 17 of 2004 s. 17; 10 of 2008 s. 55)

通知書編號
Notice Serial No.

表格2
FORM 2

《定額罰款(公眾地方潔淨罪行)條例》
(第570章)

FIXED PENALTY (PUBLIC CLEANLINESS OFFENCES) ORDINANCE

(Chapter 570)

繳付定額罰款通知書
(第6(1)條)

NOTICE DEMANDING PAYMENT OF FIXED PENALTY
(Section 6(1))

致

:

To: (先寫姓氏)
地址為 (Surname first)
of

於 年 月 日大約 在
發生一宗違反 (..... 條例) (第 章) / 規例 (第 章, 附屬法例)* 第 條的公眾地方潔淨罪
行, 即 , 你現涉嫌須對該罪行負責。
On at about at a public cleanliness offence contrary to
section/regulation* of Ordinance (Chapter) / Regulation/Regulations (Chapter sub. leg.)*,
namely, , has been committed for which you are alleged to be liable.

本人現要求你繳付定額罰款\$1500, 並通知你若意欲就該罪行的法律責任提出爭議, 你必須通知本人。

I hereby demand payment of the Fixed Penalty of \$1500 and inform you that, if you wish to dispute liability for the offence, you must inform me.

你必須在本通知書送達的日期起計的10天內——

You are required—

(a) 繳付定額罰款; 或

to pay the Fixed Penalty; or

(b) (使用附上的通知書) 通知本人你意欲就該罪行的法律責任提出爭議。

to notify me in writing that you wish to dispute liability for the offence (by using the attached notification form),

within 10 days from the date of service of this notice.

如你不按照本通知書繳付定額罰款或通知本人你意欲就法律責任提出爭議, 本人將向裁判官申請作出命令, 命令你繳付定額罰款、相等於該項定額罰款數額的附加罰款及訟費\$300。

If you do not pay the Fixed Penalty or notify me that you wish to dispute liability in accordance with this notice, an application will be made to a magistrate for an order that you pay the Fixed Penalty, an additional penalty equal to the amount of the Fixed Penalty and the sum of \$300 by way of costs.

日期:

Date:

主管當局(

..... 代行)
for the Authority

* 請刪去不適用者。 *Please delete where appropriate.

請注意 Please note:

1. 如你已繳付上述指明的定額罰款, 則無須理會本通知書。
If you have paid the Fixed Penalty specified above, you should ignore this demand notice.
2. 款項應按照背頁所載的指示繳付。
Payment should be made according to the instructions set out overleaf.

機印所示款項收訖。 Received the sum printed.

郵寄繳款回條 Slip for Payment by Post

CRC 122	表格 FORM	編號 SERIAL NUMBER														金額 /
	2															

<<預印條紋碼 Pre-printed Bar Code>>

繳款辦法：

1. 可按下列方式繳款—

- (a) **透過銀行自動櫃員機繳款**
在任何貼有“繳費服務”標誌的自動櫃員機繳款。繳款時，請選擇“食物環境衛生署”。
- (b) **使用「繳費靈」繳款**
繳款前，請先致電18013登記本通知書。請選擇“商戶編號”“9147”。如欲繳款，請致電18033，並按照指示輸入所需資料。如需查詢，請致電「繳費靈」熱線：2311 9876。
- (c) **透過互聯網繳款**
可透過銀行及「繳費靈」在互聯網上提供的繳費服務繳款。詳情請瀏覽「公共服務電子化」計劃的網站 (URL 位址：<http://www.esd.gov.hk>)或庫務署網站 (URL 位址：<http://www.try.gov.hk>)。亦可透過「公共服務電子化」計劃的服務站繳款。繳款時，請選擇“食物環境衛生署”。
- (d) **透過電話理財服務繳款**
可使用銀行提供的電話理財服務，透過有關的繳費服務繳款。繳款時，請選擇“食物環境衛生署”。
- (e) **郵遞繳款**
凡郵寄支票、匯票或本票繳款，請連同郵寄繳款回條郵寄香港告士打道郵政局信箱28000號庫務署收。請勿郵寄現金。請將本通知書下半部所示的16位數字編號寫在支票、匯票或本票背面。請注意：以郵遞方式繳款將不會獲發收據。有關的郵戳日期會被視為繳款的日期。
- (f) **親自繳款**
可親自或透過代理人前往任何郵政局(郵政局信箱或流動郵政局除外)繳款，並出示完整的通知書，以便繳款後發還收據。如欲查詢

PAYMENT INSTRUCTIONS:

1. Payment may be made-

- (a) **Through Bank Automated Teller Machine (ATM)**
Payment can be made at any ATM affixed with "Bill Payment" signage. Please select "Food & Environ Hygiene Dept" for payment.
- (b) **By Phone using PPS**
Before making payment, please dial 18011 to register this notice. Please select the "Merchant Code" of "9147". For making payment, please dial 18031 and follow the instructions to enter the information required. For enquiries, please call PPS Hotline: 2311 9876.
- (c) **Through Internet**
Payment can be made through the bill payment services provided by banks and PPS on the Internet. For details, please visit the web site of the Electronic Service Delivery (ESD) Scheme (URL address: <http://www.esd.gov.hk>) or the web site of Treasury (URL address: <http://www.try.gov.hk>). Payment could also be made at any of the ESD kiosks. Please select "Food & Environ Hygiene Dept" or "Food and Environmental Hygiene Department" as appropriate for payment.
- (d) **Through Phone-banking Service**
Payment can be made through the bill payment services by using the phone-banking service provided by banks. Please select "Food and Environmental Hygiene Department" for payment.
- (e) **By Post**
A cheque, draft or cashier order should be sent together with the Slip for Payment by Post to the Treasury, P.O. Box No. 28000, Gloucester Road Post Office, Hong Kong. Cash should not be sent through the post. Please write the 16-digit serial number shown at the lower portion of this notice on the back of the cheque, draft or cashier order. Please note that no receipt will be issued for payment by post. The date of the relevant post mark is to be regarded as the date of payment.
- (f) **In Person**
Payment can be made in person or through an agent at any Post Office (other than a post office letter box or a mobile post office). This notice must be kept intact and produced at the time of payment. It will be

有關地址及辦公時間，請致電香港郵政熱線：2921 2222 或瀏覽其網站 (URL 位址：<http://www.hongkongpost.com>)。

received and returned to you upon payment. For addresses and opening hours, please call the Hongkong Post Hotline: 2921 2222 or visit the web site (URL address: <http://www.hongkongpost.com>).

2. 使用自動櫃員機、「繳費靈」、透過互聯網或電話理財服務繳款，請先行輸入本通知書下半部所示的16位數字編號。於到期日午夜前繳款會被視作準時繳交。
3. 支票、匯票或本票均須以“香港特別行政區政府”或“香港特區政府”為收款人，並加以劃線。以支票付款，須在支票首次提交付款銀行獲得兌現後，繳款方為有效。期票恕不接受。

2. For payment through ATM, by PPS, through Internet or phone-banking service, please key in the 16-digit serial number shown at the lower portion of this notice for making payment. Payment made before mid-night on the due date will be regarded as on-time payment.
3. Cheques, drafts or cashier orders should be made payable to "The Government of the Hong Kong Special Administrative Region" or "The Government of the HKSAR" and crossed. For payment made by cheque, payment is valid only when the cheque is honoured on the first presentation to the drawee bank. Post-dated cheques will not be accepted.

欲就法律責任提出爭議者請注意

NOTES FOR THOSE WHO WISH TO DISPUTE LIABILITY

1. 若你意欲就上述罪行的法律責任提出爭議，可簽署附上的表格，並於通知爭議的最後日期或該日之前將之交付主管當局，以告知主管當局你有此意欲。
2. 如你告知主管當局欲就上述罪行的法律責任提出爭議，事件會以申訴方式交由裁判官按照本條例裁定，傳票將會在適當時候向你送達。
3. 如你在告知主管當局欲就上述罪行的法律責任提出爭議後，在裁判官席前應訊時你並沒有提出免責辯護或你提出瑣屑無聊或無理取鬧的免責辯護，則在任何其他罰則及訟費以外，可被判繳付相等於定額罰款數額的附加罰款。
4. 如不按照本通知書繳付罰款或通知主管當局你意欲就法律責任提出爭議，則可能須繳付附加罰款。

1. You may notify the Authority, if you wish to dispute liability for the offence, by signing the attached form and delivering it to the Authority on or before the last day for notification of dispute.
2. If you notify the Authority that you wish to dispute liability for the offence, the matter will be determined by a magistrate on complaint in accordance with the Ordinance and you will be served with a summons in due course.
3. If, having notified the Authority that you wish to dispute liability for the offence, you appear before a magistrate and offer no defence or a defence which is frivolous or vexatious, you are liable to, in addition to any other penalty and costs, an additional penalty equal to the amount of the Fixed Penalty.
4. Failure to pay or notify the Authority that you wish to dispute liability in accordance with this notice may result in additional penalty being imposed.

通知書編號
Notice Serial No.

《定額罰款(公眾地方潔淨罪行)條例》 (第570章)

FIXED PENALTY (PUBLIC CLEANLINESS OFFENCES) ORDINANCE (Chapter 570)

致主管當局
(第6(1)條)

NOTIFICATION TO AUTHORITY (Section 6(1))

致：主管當局

To: The Authority

就貴處/署*根據《定額罰款(公眾地方潔淨罪行)條例》第6(1)條所發出的通知書(詳情本人經已閱悉)，本人意欲就該通知書所指明的罪行的法律責任提出爭議，特此通知。

Take notice that I wish to dispute liability for the offence specified in your notice (particulars of which I have taken notice) issued under section 6(1) of the Fixed Penalty (Public Cleanliness Offences) Ordinance.

日期：
Date:

簽名
Signature
姓名(全名)
Name (in full)

* 請刪去不適用者。
* Please delete where appropriate.

(L.N. 155 of 2003; 10 of 2008 s. 55)

表格3
FORM 3

《定額罰款(公眾地方潔淨罪行)條例》
(第570章)

FIXED PENALTY (PUBLIC CLEANLINESS OFFENCES) ORDINANCE
(Chapter 570)

關於犯事人身分、地址及欠繳定額罰款的證明書
(第9(2)條)

CERTIFICATE OF IDENTITY OF OFFENDER, ADDRESS
AND NON-PAYMENT OF FIXED PENALTY
(Section 9(2))

現證明—
This is to certify that-

- (a) 於 年 月 日大約 , 發生一宗違
反 , 即 的罪
行, 涉嫌須對該罪行負責。

On the day of , at about , an offence
of contrary
to has been committed for
which is alleged to be liable.

- (b) 於 年 月 日, 的地址為

.....
On the day of , the address of
was

- (c) 於 年 月 日前，該人士未有就(a)段指明的以及根據《定額罰款(公眾地方潔淨罪行)條例》第6(1)條送達日期為 的通知書(編號.....)指明的罪行繳付定額罰款。

Before the day of, no payment was made of the Fixed Penalty in respect of the offence specified in paragraph (a) and in Notice Serial No. dated which was served under section 6(1) of the Fixed Penalty (Public Cleanliness Offences) Ordinance.

- (d) 於 年 月 日或以前， 沒有通知..... 他意欲就該罪行的法律責任提出爭議。

On or before the day of, had not notified that he wished to dispute liability for the offence.

日期：

Date:

主 管 當 局
(代行)
for the Authority

Chapter:	221	CRIMINAL PROCEDURE ORDINANCE	Gazette Number	Version Date
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Section:	113C	Provision for fines for offences	E.R. 1 of 2012	09/02/2012
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- (1) In this section, *excluded fine* (非規定罰款) means-
- a fine of an amount greater than the maximum amount set out in the table in subsection (2);
 - a daily fine or daily penalty; and
 - a fixed penalty within the meaning of the Housing Ordinance (Cap 283), the Fixed Penalty (Traffic Contraventions) Ordinance (Cap 237), the Fixed Penalty (Criminal Proceedings) Ordinance (Cap 240), the Fixed Penalty (Public Cleanliness Offences) Ordinance (Cap 570), the Fixed Penalty (Smoking Offences) Ordinance (Cap 600) or the Motor Vehicle Idling (Fixed Penalty) Ordinance (Cap 611). (Amended 24 of 2001 s. 20; 26 of 2008 s. 19; 3 of 2011 s. 33)
- (2) Where an Ordinance provides for a fine, other than an excluded fine, for an offence expressed as an amount of money, the fine shall be deemed to be a fine at the level relevant to the amount of the fine in the following table-

TABLE

Fine	Level applied
\$1 to \$2000	Level 1
\$2001 to \$5000	Level 2
\$5001 to \$10000	Level 3
\$10001 to \$25000	Level 4
\$25001 to \$50000	Level 5
\$50001 to \$100000	Level 6

- (3) Where a provision in an Ordinance specifies a fine, other than an excluded fine, expressed as an amount of money that may be prescribed under subsidiary legislation, the fine shall be deemed to be a fine at the level relevant to the amount of the fine in the table in subsection (2).
- (4) The Chief Executive in Council may by regulation amend the amounts set out in the table in subsection (2) to reflect his opinion of the effect of inflation on the value of the amounts set out in the table since the date that the

amounts in the table were last amended. (Amended 39 of 1999 s. 3)
(5) (Repealed 13 of 2011 s. 36)

(Added 58 of 1994 s. 2)

Chapter:	297	Rehabilitation of Offenders Ordinance	Gazette Number	Version Date
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Section:	2	Protection of rehabilitated individual	E.R. 1 of 2012	09/02/2012
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(1) Where-

- (a) an individual has been convicted in Hong Kong (before or after the commencement of this Ordinance) of an offence in respect of which he was not sentenced to imprisonment exceeding 3 months or to a fine exceeding \$10000; (Amended 24 of 1993 s. 22)
- (b) he has not been convicted in Hong Kong on any earlier day of an offence; and
- (c) a period of 3 years has elapsed without that individual being again convicted in Hong Kong of an offence, then-
 - (i) subject to section 3(3) and (4), no evidence shall be admissible in any proceedings which tends to show that that individual was so convicted in Hong Kong;
 - (ii) any question asked of that individual or any other person relating to, or any obligation imposed on that individual or any other person to disclose, that individual's previous convictions, offences, conduct or circumstances shall be treated as not referring to that conviction; and
 - (iii) that conviction, or any failure to disclose it shall not be a lawful or proper ground for dismissing or excluding that individual from any office, profession, occupation or employment or for prejudicing him in any way in that office, profession, occupation or employment.

(1A) Where-

- (a) an individual has been convicted in Hong Kong (before or after the commencement of this Ordinance) of an offence under section 19, 20, 21, 22 or 23 of the Societies Ordinance (Cap 151) in respect of an unlawful society within the meaning of section 18 of that Ordinance-
 - (i) in circumstances in which that unlawful society is, or is deemed to be, a triad society under that last mentioned section; and
 - (ii) in respect of which he was not sentenced to imprisonment exceeding 3 months or to a fine exceeding \$10000 but has subsequently renounced his membership of the triad society concerned under section 26G(1) of that Ordinance;
- (b) he has not been convicted in Hong Kong on any earlier day of an offence;
- (c) a period of 3 years has elapsed from the date of the conviction without that individual being again convicted in Hong Kong of an offence;
- (d) he has made a written request to the Triad Renunciation Tribunal established under section 26A of the Societies Ordinance (Cap 151) or, where sections 26A and 26B of that Ordinance are not in operation under section 26N of that Ordinance, to the Triad Renunciation Secretariat established under section 26BA of that Ordinance, to issue a certificate under section 26I(3) of that Ordinance to the Commissioner of Police that he has renounced membership of the triad society concerned and the date on which he renounced his membership; and
- (e) he has provided such information, including his fingerprints, as may be required by the Commissioner of Police to enable his conviction record to be verified and for this purpose, a police officer may take or record the individual's fingerprints and the fingerprints so taken or recorded shall be destroyed or delivered to the individual as soon as reasonably practicable after his conviction record has been verified, then-
 - (i) subject to section 3(3) and (4), no evidence shall be admissible in any proceedings which tends to show that that individual was so convicted in Hong Kong;
 - (ii) any question asked of that individual or any other person relating to, or any obligation imposed on that individual or any other person to disclose, that individual's previous convictions, offences, conduct or circumstances shall be treated as not referring to that conviction; and
 - (iii) that conviction, or any failure to disclose it shall not be a lawful or proper ground for dismissing or excluding that individual from any office, profession, occupation or employment or for prejudicing him in any way in that office, profession, occupation or employment. (Added 10 of 1996 s. 3)

- (1B) Where an individual pays or is ordered to pay a fixed penalty, or any additional penalty, under the Fixed Penalty (Traffic Contraventions) Ordinance (Cap 237), the Fixed Penalty (Criminal Proceedings) Ordinance (Cap 240), the Fixed Penalty (Public Cleanliness Offences) Ordinance (Cap 570), the Fixed Penalty (Smoking Offences) Ordinance (Cap 600) or the Motor Vehicle Idling (Fixed Penalty) Ordinance (Cap 611), then- (Amended 24 of 2001 s. 21; 26 of 2008 s. 19; 3 of 2011 s. 33)
- (a) subject to section 3(3) and (4), no evidence shall be admissible in any proceedings which tends to show that that individual has so paid or has been so ordered to pay;
 - (b) any question asked of that individual or any other person relating to, or any obligation imposed on that individual or any other person to disclose, that individual's previous convictions, offences, conduct or circumstances shall be treated as not referring to that payment or order to pay; and
 - (c) that payment or order to pay, or any failure to disclose it shall not be a lawful or proper ground for dismissing or excluding that individual from any office, profession, occupation or employment or for prejudicing him in any way in that office, profession, occupation or employment. (Added 10 of 1996 s. 3)
- (2) The period of 3 years mentioned in subsection (1)(c) or (1A)(c) shall be reckoned from the date on which the individual was sentenced for the offence mentioned in subsection (1)(a) or (1A)(a), as the case may be, save that, in the case of an individual sentenced to detention in a training, detention or rehabilitation centre, that period shall be reckoned from expiry of the period of supervision following release from that detention. (Amended 11 of 2001 s. 17)
- (3) The payment or recovery of a fixed penalty, or any additional penalty, under the Fixed Penalty (Traffic Contraventions) Ordinance (Cap 237), the Fixed Penalty (Criminal Proceedings) Ordinance (Cap 240), the Fixed Penalty (Public Cleanliness Offences) Ordinance (Cap 570), the Fixed Penalty (Smoking Offences) Ordinance (Cap 600) or the Motor Vehicle Idling (Fixed Penalty) Ordinance (Cap 611) is not a conviction for the purposes of subsection (1) or (1A). (Replaced 10 of 1996 s. 3. Amended 24 of 2001 s. 21; 26 of 2008 s. 19; 3 of 2011 s. 33)
- (4) For the purposes of subsection (1)(a) or (1A)(a)-
- (a) **imprisonment** (監禁) does not include detention in a reformatory school, in a detention centre, in a place of detention, in a training centre or in a rehabilitation centre; (Amended 11 of 2001 s. 17)
 - (b) a sentence of imprisonment or a fine shall be such a sentence, whether or not it is suspended or postponed;
 - (c) an individual is not sentenced to imprisonment where he is detained as a consequence of failing to pay a fine; and
 - (d) conviction of an offence in respect of which an individual is not sentenced to imprisonment exceeding 3 months or to a fine exceeding \$10000 includes convictions in the same proceedings or on the same day of more than one offence in respect of which he is not sentenced to an actual term of imprisonment exceeding 3 months (irrespective of whether the term or terms of imprisonment are wholly or partly consecutive or concurrent) or to fines exceeding \$10000 in total. (Replaced 10 of 1996 s. 3)
 - (e) (Repealed 10 of 1996 s. 3)
- (4A) For the purposes of subsection (1)(a), **offence** (罪、罪行) does not include an offence of contravening section 20(2) or 24 of the Societies Ordinance (Cap 151) or of contravening section 19, 20(1), 21, 22 or 23 of that Ordinance in circumstances in which the unlawful society is, or is deemed to be, a triad society. (Added 10 of 1996 s. 3)
- (5) For the purposes of this section and sections 3 and 4, **proceedings** (程序) means any proceedings in Hong Kong by any court, body or person having power to determine any application by, or any question affecting the rights, privileges, obligations or liabilities of, any person or to receive evidence affecting the determination of any such application or question.
- (6) For the purposes of subsections (1)(i), (ii) and (iii) and (1A)(i), (ii) and (iii) and section 3, a conviction shall include-
- (a) the offence which was the subject of that conviction;
 - (b) the conduct or circumstances constituting that offence; and
 - (c) anything relating to that conviction which, if disclosed, would tend to show that the individual committed, was charged with, was prosecuted for, was convicted of or was sentenced for the offence which was the subject of the conviction.
- (7) For the purposes of subsection (1B)(a), (b) and (c) and section 3, a payment or an order to pay shall include-
- (a) the offence or contravention which was the subject of that payment or order to pay;
 - (b) the conduct or circumstances constituting that offence or contravention; and

- (c) anything relating to that payment or order to pay which, if disclosed, would tend to show that the individual committed, was charged with, was prosecuted for, was convicted of or was sentenced for the offence or contravention which was the subject of the payment or order to pay. (Added 10 of 1996 s. 3)

(Enacted 1986)

(Amended 10 of 1996 s. 3)

Chapter:	571S	SECURITIES AND FUTURES (LICENSING AND REGISTRATION) (INFORMATION) RULES	Gazette Number	Version Date
Section:	2	Interpretation	L.N. 214 of 2002; L.N. 12 of 2003	01/04/2003

(1) In these Rules, unless the context otherwise requires-

"applicant" (申請人) means the person making an application under the Ordinance to the Commission;

"basic information" (基本資料) means the information referred to in Part 1 of Schedule 1;

"CE number" (中央編號) means the central entity identification number assigned by the Commission to an intermediary, a licensed representative or an associated entity of an intermediary;

"complaints officer" (投訴主任), in relation to an intermediary, means a person appointed by the intermediary to handle complaints made to the intermediary;

"controlling person" (控權人), in relation to a corporation, means each of the directors and substantial shareholders of the corporation;

"criminal investigatory body" (刑事調查機構) means the Hong Kong Police Force and the Independent Commission Against Corruption established under section 3 of the Independent Commission Against Corruption Ordinance (Cap 204), and public bodies in Hong Kong or elsewhere carrying out criminal investigations;

"minor offence" (輕微罪行) means an offence punishable by a fixed penalty under the Fixed Penalty (Traffic Contraventions) Ordinance (Cap 237), the Fixed Penalty (Criminal Proceedings) Ordinance (Cap 240) or the Fixed Penalty (Public Cleanliness Offences) Ordinance (Cap 570), or offence of similar nature committed in a place outside Hong Kong;

"permanent identity card" (永久性居民身分證) has the meaning assigned to it by section 1A of the Registration of Persons Ordinance (Cap 177);

"principal" (主事人) has the meaning assigned to it by section 113 of the Ordinance;

"regulatory body" (規管機構) includes the Commission, the Monetary Authority, a recognized exchange company, any professional body or association, an examination authority, an inspector appointed under any enactment, and other equivalent bodies or persons in Hong Kong or elsewhere;

"relevant information" (有關資料) means the information referred to in Part 2 of Schedule 1;

"reporting period" (申報期) means-

(a) the period of one year to each anniversary of the date on which a person is licensed by the Commission as a licensed corporation or licensed representative; or

(b) such other period as may be approved by the Commission by notice in writing;

"valid business registration certificate" (有效商業登記證) has the meaning assigned to it by section 2(1) of the Business Registration Ordinance (Cap 310).

(2) Where a person is a registered institution, a requirement in these Rules for a person to provide information or particulars (however described) to the Commission shall be construed as a requirement to provide information or particulars (however described) only in relation to the businesses which constitute any regulated activities for which it is registered.

(3) Where an associated entity is an authorized financial institution, a requirement in these Rules for a person to provide information or particulars (however described) to the Commission shall be construed as a requirement to provide information or particulars (however described) only in relation to its business of receiving or holding client assets in Hong Kong of any intermediary of which it is an associated entity.