

立法會
Legislative Council

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Tel : 3919 3300

Date : 2 February 2018

From : Clerk to the Legislative Council

To : All Members of the Legislative Council

Council meeting of 21 March 2018

Proposed resolution under the Housing Ordinance

The Secretary for Transport and Housing will move the proposed resolution in **Appendix 1** under section 30 of the Housing Ordinance (Cap. 283) at the above meeting. The President has directed that the proposed resolution be printed in the terms in which it was handed in on the Agenda of the Council.

2. The speech, in both Chinese and English, which the Secretary will deliver when moving the proposed resolution is in **Appendix 2**.

(Dora WAI)
for Clerk to the Legislative Council

Encl.

Housing Ordinance

Resolution

(Under section 30 of the Housing Ordinance (Cap. 283))

Resolved that the Housing (Traffic Contraventions) (Fixed Penalty) (Amendment) Bylaw 2018, made by the Housing Authority on 29 January 2018, be approved.

Housing (Traffic Contraventions) (Fixed Penalty) (Amendment) Bylaw 2018

(Made by the Housing Authority under section 30 of the Housing Ordinance (Cap. 283) subject to the approval of the Legislative Council)

1. Commencement

This Bylaw comes into operation on 1 June 2018.

2. Housing (Traffic Contraventions) (Fixed Penalty) Bylaw amended

The Housing (Traffic Contraventions) (Fixed Penalty) Bylaw (Cap. 283 sub. leg. C) is amended as set out in sections 3, 4 and 5.

3. Section 9 amended (payment of fixed penalty)

(1) Section 9(1)(a)—

Repeal

everything after “Treasury”

Substitute a semicolon.

(2) Section 9(1)—

Repeal paragraph (b)

Substitute

“(b) personally or through the person’s agent at a counter of any post office other than a mobile post office;”.

(3) Section 9(1)(c), Chinese text—

Repeal the semicolon

Substitute

“繳付；”.

(4) Section 9(1)(d)—

Repeal

“or”.

(5) Section 9(1)(e)—

Repeal the full stop

Substitute

“; or”.

(6) After section 9(1)(e)—

Add

“(f) through the phone-banking service provided by a bank.”.

4. Section 9A added

After section 9—

Add

“9A. Transitional provision—Housing (Traffic Contraventions) (Fixed Penalty) (Amendment) Bylaw 2018

(1) Despite section 9(1), if a person receives a notice in Form 1 or 2 in the pre-amended Schedule 3 issued before 1 June 2018, the person may pay the fixed penalty within the period of time stated in the notice, personally or through the person’s agent, at any magistracy specified in the notice.

(2) If a person pays a fixed penalty under subsection (1), section 9(2), (3), (4) and (6) applies to the payment as if it were made under section 9(1) as in force immediately before 1 June 2018.

(3) In this section—

pre-amended Schedule 3 (原有附表 3) means Schedule 3 as in force immediately before 1 June 2018.

(4) This section expires at midnight on 21 June 2018.”.

5. Schedule 3 amended (forms)

- (1) Schedule 3, Form 1, payment instructions, paragraph 1(c), Chinese version—

Repeal

everything after “庫務署網站” and before “繳款時”

Substitute

“(URL 位址：<http://www.try.gov.hk>)。”.

- (2) Schedule 3, Form 1, payment instructions, paragraph 1(c), English version—

Repeal

everything after “Treasury’s” and before “Please select”

Substitute

“website (URL address: <http://www.try.gov.hk>).”.

- (3) Schedule 3, Form 1, payment instructions, paragraph 1, Chinese and English versions—

Repeal everything after subparagraph (d)

Substitute

“(e) 在郵政局櫃位繳款

親自或由代理人在任何郵政局(流動郵政局除外的)櫃位繳款。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 位址：<https://www.hongkongpost.hk>)。”.

“(e) At Post Office Counters

Payment may be made personally or by an agent at a counter of any post office (other than a mobile post office). For addresses and opening hours, please call the Hongkong Post Hotline:

本通知書必須保持完整並於繳款時出示。

2921 2222 or visit their website (URL address: <https://www.hongkongpost.hk>). This notice must be kept intact and produced at the time of payment.

(f) 透過電話理財服務繳款

使用銀行提供的電話理財服務，透過有關的繳費服務繳款。詳情請瀏覽庫務署網站 (URL 位址：<http://www.try.gov.hk>)。”.

(f) Through Phone-banking Service

Pay through bill payment services by using the phone-banking service provided by banks. For details, please visit Treasury’s website (URL address: <http://www.try.gov.hk>).”.

- (4) Schedule 3, Form 2, payment instructions, paragraph 1(c), Chinese version—

Repeal

everything after “庫務署網站” and before “繳款時”

Substitute

“(URL 位址：<http://www.try.gov.hk>)。”.

- (5) Schedule 3, Form 2, payment instructions, paragraph 1(c), English version—

Repeal

everything after “Treasury’s” and before “Please select”

Substitute

“website (URL address: <http://www.try.gov.hk>).”.

- (6) Schedule 3, Form 2, payment instructions, paragraph 1, Chinese and English versions—

Repeal everything after subparagraph (d)

Substitute

“(e) 在郵政局櫃位繳款

親自或由代理人在任何郵政局(流動郵政局除外)的櫃位繳款。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 位址：
<https://www.hongkongpost.hk>)。本通知書必須保持完整並於繳款時出示。

(f) 透過電話理財服務繳款

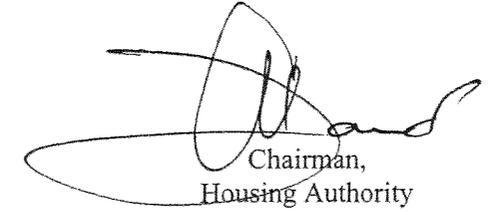
使用銀行提供的電話理財服務，透過有關的繳費服務繳款。詳情請瀏覽庫務署網站(URL 位址：
<http://www.try.gov.hk>)。

(e) At Post Office Counters

Payment may be made personally or by an agent at a counter of any post office (other than a mobile post office). For addresses and opening hours, please call the Hongkong Post Hotline: 2921 2222 or visit their website (URL address: <https://www.hongkongpost.hk>). This notice must be kept intact and produced at the time of payment.

(f) Through Phone-banking Service

Pay through bill payment services by using the phone-banking service provided by banks. For details, please visit Treasury's website (URL address: <http://www.try.gov.hk>).



Chairman,
Housing Authority

29 January 2018

Explanatory Note

This Bylaw amends the Housing (Traffic Contraventions) (Fixed Penalty) Bylaw (Cap. 283 sub. leg. C) (*principal Bylaw*)—

- (a) to remove certain references related to the magistracies in the principal Bylaw, so that the fixed penalty payable under the principal Bylaw may no longer be paid at the magistracies;
- (b) to specify that the fixed penalty may be paid through the phone-banking service provided by banks;
- (c) to update Forms 1 and 2 in Schedule 3 to the principal Bylaw; and
- (d) to provide for transitional arrangements.

(Refer to the final speech to be delivered at LegCo)

**Speech by the Secretary for Transport and Housing
for Moving of the Motion proposed pursuant to
the Housing (Traffic Contraventions) (Fixed Penalty) Bylaw (Cap. 283C)
at the Legislative Council Meeting on 21 March 2018**

Mr President,

I move that the motion under my name, as printed on the Agenda, be passed.

Currently, in accordance with the Fixed Penalty (Traffic Contraventions) Regulations (Cap. 237A), the Fixed Penalty (Criminal Proceedings) Regulations (Cap. 240A) or the Housing (Traffic Contraventions) (Fixed Penalty) Bylaw (Cap. 283C), a notice of fixed penalty and demand notice in relation to traffic contraventions may be issued. Persons involved in such traffic contraventions may pay the fixed penalty prior to the commencement of court proceedings by any of the means specified in the above regulations or bylaw and the relevant notices. The means of payment include by post addressed to the Treasury; personally or through an agent at any Post Office (other than a post office letter box or a mobile post office), or at any magistracy specified in the relevant notices; through any automated teller machine of a bank; by phone by using the service commonly known as PPS; or through the Internet.

2. The Judiciary has recently reviewed the matter in relation to

fixed penalty payments in the light of its institutional independence. As a matter of principle, if no court proceeding is initiated, any collection of fixed penalty payments is a matter between the Government and the person concerned. The Judiciary should not collect such payments, which are not court payments, on behalf of the Government. Moreover, as the Government will become one of the parties to a court case if so initiated later, the Judiciary does not consider it appropriate for the Magistrates' Courts to be involved in the payment processes before the initiation of the court case. This may affect the neutrality of the Judiciary, perceived or real. On the other hand, after a court case is initiated, the Judiciary considers it appropriate for the Magistrates' Courts to collect such payments. This is similar to the arrangements for other payments that may be ordered by the court arising from court proceedings.

3. Based on the above reasons, the Judiciary has proposed to remove the present payment collection functions of the Magistrates' Courts for fixed penalty in respect of traffic contraventions before any court proceedings are initiated. In practice, with various means of making fixed penalty payments in respect of traffic contraventions before any court proceedings are initiated, as set out above, the proposal should not cause any significant inconvenience to persons who intend to make such payments. On the Judiciary's proposal, the Transport and Housing Bureau and the Judiciary Administration submitted an information paper to the Legislative Council Panel on Administration of Justice and Legal Services on 18 July 2017. The members did not object to this proposal.

4. In addition, the means of payment specified in the relevant notices is not updated, including that fixed penalty payment can no longer be made through the website or kiosks under the “Electronic Service Delivery” Scheme; the URL addresses of websites of the Treasury and Hongkong Post have been changed; the means of payment through phone-banking service provided by banks has been provided under relatively newer statutory provisions; and it is proposed to delete the postal address of the Treasury to maintain flexibility.

5. In light of the above, I hereby move a motion under Section 30(1) of the Housing Ordinance to amend the relevant provisions, notice of fixed penalty, and demand notice of the Housing (Traffic Contraventions) (Fixed Penalty) Bylaw (Cap. 283C), to (a) remove references to Magistrates’ Courts in respect of the collection of fixed penalty, including their addresses and office hours; (b) clearly specify that the fixed penalties may be paid through the phone-banking service provided by banks; and (c) update the means of payment via (i) the Internet and (ii) Hongkong Post. If this motion is passed, the amended Bylaw will come into effect on 1 June 2018.

6. Mr President, with these remarks, I invite Members to support this motion.

- End -