

**Legislative Council**  
**Panel on Food Safety and Environmental Hygiene**  
**Subcommittee on Issues Relating to the Improvement of**  
**Environmental Hygiene and Cityscape**

**Follow-up on the Meeting of 9 February 2021**

In consultation with the Home Affairs Bureau and the Security Bureau, a consolidated reply to Members' questions is provided as follows:

**(a) Enforcement figures concerning cases of (i) unauthorised hawking and illegal extension of business by shops causing street obstruction; (ii) unauthorised display or affixation of bills or posters; and (iii) graffiti in public places**

(i) Under section 83B(1) of the Public Health and Municipal Services Ordinance (Cap. 132), no person shall hawk in any street except in accordance with a licence issued under relevant regulations. Any person who contravenes the above shall be guilty of an offence and is liable to a maximum penalty of a fine of \$5,000 and 1-month imprisonment, as well as a daily fine of \$300 upon first conviction; and a maximum penalty of a fine of \$10,000 and 6-month imprisonment, as well as a daily fine of \$300 upon second or subsequent conviction. Moreover, under section 4A of the Summary Offences Ordinance (Cap. 228), any person who without lawful authority or excuse sets out or leaves any matter which obstructs, inconveniences or endangers any person or vehicle in a public place shall be liable to a fine of \$5,000 or imprisonment for 3 months.

According to the Food and Environmental Hygiene Department (FEHD), the maximum fine meted out by the court for the offences under section 83B(1) of Cap. 132 (concerning illegal hawking) and section 4A of Cap. 228 (concerning obstruction of public places) in the past two years are listed below respectively:

	<b>Illegal hawking (Section 83B(1) of Cap. 132)</b>	<b>Obstruction of public places (Section 4A of Cap. 228)</b>
<b>Maximum fine in 2019</b>	\$5,000	\$5,000
<b>Maximum fine in 2020</b>	\$4,700	\$5,000

- (ii) Under section 104A(1) of the Public Health and Municipal Services Ordinance (Cap. 132), any person displaying or affixing a bill or poster on Government land without permission commits an offence, and is liable to a maximum penalty of a fine of \$10,000 and a daily fine of \$300 upon conviction. The offence is also subject to a fixed penalty notice (FPN) of \$1,500 pursuant to the Fixed Penalty (Public Cleanliness and Obstruction) Ordinance (Cap. 570).

FEHD issued 3 647 and 3 455 FPNs respectively in the past two years against unauthorised display of bills or posters. In 2020, four prosecutions were instituted by FEHD against offenders for illegally displaying or affixing bills or posters, and the maximum fine meted out by the court for the offence was \$1,500.

- (iii) Under section 8(b) of the Summary Offences Ordinance (Cap. 228), any person who without the consent of the owner or occupier writes upon, soils, defaces or marks any building, wall, fence or paling with chalk or paint or in any other way whatsoever; or wilfully breaks, destroys or damages any part of any building, wall, fence or paling, or any fixture or appendage thereof, shall be liable to a fine of \$2,000 or imprisonment for 3 months.

According to the records of the Hong Kong Police Force (the Police), the maximum penalties meted out by the court for the offence of graffiti in public places were \$500 and \$2,000 in 2019 and 2020 respectively.

- (b) Figures of enforcement actions and inter-departmental joint operations conducted against shop front extensions (SFEs) in the past three years**

Shop front extension is a street management problem which falls within the purview of a number of government departments. At present, law enforcement against specific situations of street obstruction is generally taken by various enforcement departments (including FEHD, the Police,

the Lands Department and the Buildings Department) in accordance with their respective powers and responsibilities. Where a case is more complicated or involves several departments, the District Office concerned will assist in co-ordinating inter-departmental joint operations if necessary.

- (i) The number of complaints received by FEHD, prosecutions instituted and number of FPNs issued against SFEs in the past three years, with a breakdown by District Council (DC) districts, are set out at **Annex I**.
- (ii) In the past three years, FEHD conducted 3 590, 2 689 and 3 076 inter-departmental joint operations respectively against SFE-related offences with other government departments. The detailed figures of relevant operations with a breakdown by DC districts are set out at **Annex II**.

According to the records of the Home Affairs Department (HAD), District Offices coordinated a total of 227 joint operations for tackling SFEs from 2017 to 2020.

**(c) Assessment on the existing SFE-related offences**

The Fixed Penalty (Public Cleanliness and Obstruction) Ordinance (Cap. 570) came into operation on 24 September 2016. Law enforcement officers may issue FPNs to offenders causing obstruction as a result of the illegal extension of business by shops, and the current fixed penalty is \$1,500. At present, the fixed penalty system is mainly targeted at cases which are straightforward, clear-cut and capable of being easily established, so that problems associated with SFEs are tackled in a quicker and more effective manner.

Where the case is more serious or complicated (e.g. involving repeated offenders), consideration will be given to issuing summons and / or taking arrest action under section 4A of the Summary Offences Ordinance (Cap. 228). With the penalty level of FPN set at \$1,500, the Department of Justice and the relevant enforcement departments will consider applying to the court for handing down heavier penalties under the summons system. In addition to summons action against illegal hawking, FEHD may also take other enforcement actions such as arrest and seizure under sections 83B, 84 and 86 of the Public Health and Municipal Services Ordinance (Cap. 132).

In the past three years, the number of FPNs issued by FEHD against SFEs

have been increasing substantially, rising from a total of 7 586 in 2018 to 10 734 in 2020, which represents an increase of more than 40%. Nonetheless, the number of complaints received by FEHD during the same period has also increased. FEHD will continue to take strict enforcement action to combat illegal acts related to SFEs to minimise the nuisance caused to residents in public places. HAD considers the existing penalty level having sufficient deterring effect, and has taken note of the views on the review of relevant policies / legislation.

**Food and Health Bureau**  
**Food and Environmental Hygiene Department**  
**March 2021**

**Number of Complaints Received, Prosecutions Instituted and  
Number of Fixed Penalty Notices (FPNs) issued against Shop Front  
Extensions by the Food and Environmental Hygiene Department**

<b>District Council District</b>	<b>Year</b>	<b>No. of Complaints received</b>			<b>No. of Prosecutions instituted by Summons and Arrest action <sup>Note 1</sup></b> <b>(No. of FPNs issued)</b>		
		<b>2018</b>	<b>2019</b>	<b>2020</b>	<b>2018</b>	<b>2019</b>	<b>2020</b>
Central & Western		636	547	648	166 (235)	76 (221)	45 (200)
Wan Chai		654	978	648	189 (387)	162 (425)	91 (360)
Eastern		1 103	1 248	1 674	215 (229)	308 (291)	332 (587)
Southern		252	237	460	42 (166)	62 (80)	82 (136)
Islands		92	58	90	30 (3)	18 (4)	32 (2)
Yau Tsim Mong		1 506	2 567	2 723	337 (1 044)	295 (1 007)	227 (1 530)
Sham Shui Po		2 034	1 750	2 519	311 (834)	343 (946)	916 (1636)
Kowloon City		548	722	892	73 (325)	76 (278)	44 (377)
Wong Tai Sin		708	810	1 246	101 (272)	111 (295)	175 (341)
Kwun Tong		1 267	1 286	1 183	302 (353)	230 (404)	297 (796)
Kwai Tsing		306	371	616	138 (239)	156 (304)	63 (562)
Tsuen Wan		685	640	644	230 (684)	198 (664)	77 (624)
Tuen Mun		282	412	481	430 (240)	296 (202)	353 (500)

Yuen Long	856	1 597	2 772	570 (2 054)	238 (1 764)	366 (1 889)
North	356	381	633	67 (172)	51 (254)	44 (277)
Tai Po	707	941	1 033	117 (268)	129 (391)	97 (730)
Sha Tin	268	228	364	158 (63)	149 (70)	55 (137)
Sai Kung	198	249	278	101 (18)	100 (26)	58 (50)
<b>Total</b>	<b>12 458</b>	<b>15 022</b>	<b>18 904</b>	<b>3 577</b> <b>(7 586)</b>	<b>2 998</b> <b>(7 626)</b>	<b>3 354</b> <b>(10 734)</b>

Note 1: No breakdown by nature of business of the shops involved.

**Number of Inter-departmental Joint Operations  
against Shop Front Extensions-related Offences  
by the Food and Environmental Hygiene Department  
with other Government Departments**

<b>District Council District</b>	<b>Year</b>	<b>No. of Inter-departmental Joint Operations</b>		
	<b>2018</b>	<b>2019</b>	<b>2020</b>	
Central & Western	70	74	72	
Wan Chai	180	270	237	
Eastern	315	320	370	
Southern	172	67	327	
Islands	109	99	84	
Yau Tsim Mong	654	469	398	
Sham Shui Po	309	153	301	
Kowloon City	274	330	324	
Wong Tai Sin	98	49	45	
Kwun Tong	402	396	391	
Kwai Tsing	241	157	97	
Tsuen Wan	204	36	95	
Tuen Mun	26	18	20	
Yuen Long	131	24	99	
North	121	90	81	
Tai Po	84	56	54	
Sha Tin	171	44	36	
Sai Kung	29	37	45	
<b>Total</b>	<b>3 590</b>	<b>2 689</b>	<b>3 076</b>	