

Air Pollution Control (Amendment) Bill 2024

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# A BILL

## To

Amend the Air Pollution Control Ordinance and its subsidiary legislation to amend the air quality objectives; to empower the Secretary for Environment and Ecology to amend those objectives by notice published in the Gazette; to provide for the issue of closure notices in respect of a contravention of section 13 of the Ordinance; to revise the scope of cement works and the definition of *premises*; to provide for the defence of emergency for certain offences under the Ordinance; to extend the period for making applications to renew licences for the conduct of specified processes; and to provide for consequential and related amendments.

Enacted by the Legislative Council.

### Part 1

#### Preliminary

##### 1. Short title and commencement

- (1) This Ordinance may be cited as the Air Pollution Control (Amendment) Ordinance 2024.

(2) This Ordinance comes into operation on 11 April 2025.

**2. Enactments amended**

The enactments specified in Parts 2, 3 and 4 are amended as set out in those Parts.

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## Part 2

### Amendments to Air Pollution Control Ordinance (Cap. 311)

#### 3. Section 2 amended (interpretation)

Section 2—

**Repeal the definition of *premises***

**Substitute**

**“*premises* (處所)—**

(a) includes—

(i) a place, building or relevant plant; and

(ii) a part of any premises, or a part of any place, building or relevant plant; and

(b) in relation to the conduct of a specified process specified in item 3 of Schedule 1, also includes—

(i) a ship or barge; and

(ii) a part of a ship or barge;”.

#### 4. Part VA added

After Part V—

**Add**

### “Part VA

### Issue of Closure Notices for Suspected Contravention of Section 13

**30C. Interpretation of Part VA**

In this Part—

***closure notice*** (封閉通知) means a notice issued under section 30D(1);

***specified person*** (指明人士), in relation to any premises used for the conduct of a specified process, means the person who conducts the specified process on the premises;

***subject premises*** (標的處所), in relation to a closure notice issued in respect of any premises, means the premises.

**30D. Authority may issue closure notices**

- (1) If the Authority has reasonable cause to believe that an offence under section 13 has been committed or is being committed in respect of any premises, the Authority may issue a notice in respect of the premises.
- (2) The closure notice—
  - (a) is to be in the specified form; and
  - (b) is to contain the following information—
    - (i) the name and address of the specified person of the subject premises;
    - (ii) the address or location of the subject premises;
    - (iii) a description of the specified process to which the offence relates;
    - (iv) the date on which the closure notice comes into force; and
    - (v) the right of the specified person to apply for the cancellation of the closure notice



under section 30N and a person aggrieved by the closure notice to appeal under section 31 against the decision to issue the closure notice.

- (3) A copy of the closure notice is to be—
  - (a) served on the specified person of the subject premises in accordance with section 30E; and
  - (b) affixed at a conspicuous place on the subject premises by the Authority.
- (4) For the purposes of subsection (2)(a), the Authority may, by notice published in the Gazette, specify the form of the closure notice.
- (5) A notice published under subsection (4) is not subsidiary legislation.

### **30E. Service of closure notices**

- (1) A copy of a closure notice is served on the specified person of any subject premises—
  - (a) by delivering the copy personally to the specified person;
  - (b) by leaving the copy at the last known place of business or residence of the specified person; or
  - (c) by sending the copy by post addressed to the last known place of business or residence of the specified person.
- (2) If the specified person of the subject premises is a registered non-Hong Kong company as defined by section 2(1) of the Companies Ordinance (Cap. 622), a copy of a closure notice may also be served on the specified person by serving the copy in the manner described in section 803 of that Ordinance as if it

were a process or notice required to be served on a registered non-Hong Kong company under that Ordinance.

- (3) If the specified person of the subject premises is a company as defined by section 2(1) of the Companies Ordinance (Cap. 622), a copy of a closure notice may also be served on the specified person—
  - (a) by leaving the copy at the registered office of the specified person; or
  - (b) by sending the copy by post addressed to the registered office of the specified person.
- (4) A copy of the closure notice served under subsection (1), (2) or (3) is, in the absence of evidence to the contrary, to be regarded as having been so served on the specified person—
  - (a) if the copy is delivered personally—on the day on which the copy is so delivered;
  - (b) if the copy is left at a place—on the day on which the copy is left at the place; or
  - (c) if the copy is sent by post—on the second working day after the day on which the copy is posted.
- (5) In this section—

**working day** (工作天) means any day other than—

  - (a) a public holiday; or
  - (b) a gale warning day or black rainstorm warning day as defined in section 71(2) of the Interpretation and General Clauses Ordinance (Cap. 1).

**30F. Period while closure notices are in force**

- (1) A closure notice comes into force on the date specified by the Authority in the closure notice under section 30D(2)(b)(iv).
- (2) However, the date so specified must not be earlier than whichever is the later of the following dates—
  - (a) the date on which a copy of the closure notice is served in accordance with section 30E;
  - (b) the date on which a copy of the closure notice is affixed at a conspicuous place on the subject premises under section 30D(3)(b).
- (3) A closure notice remains in force until it is cancelled under section 30N.

**30G. Authority's power to close subject premises**

During the period while a closure notice issued in respect of any subject premises is in force, the Authority may—

- (a) lock or seal, or cause to be locked or sealed, the subject premises; and
- (b) disconnect, or cause to be disconnected, all gas, water and electricity supplies to the subject premises.

**30H. Prohibition on conducting specified process on subject premises**

- (1) During the period while a closure notice issued in respect of any subject premises is in force, the specified person of the subject premises must ensure that no specified process described in the closure notice is conducted on the subject premises.

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- (2) A person who contravenes subsection (1) commits an offence and is liable—
- (a) on conviction on indictment—to a fine of \$1,000,000 and to imprisonment for 12 months; or
  - (b) on summary conviction—to a fine at level 6 and to imprisonment for 6 months,
- and in the case of a continuing offence—to a further fine of \$50,000 for each day during which the offence continues.
- (3) It is a defence for a person charged with an offence under subsection (2) to establish that—
- (a) the conduct of the specified process in question on the subject premises was under circumstances beyond the control of the specified person; and
  - (b) the specified person had taken all reasonable precautions, and had exercised due diligence, to ensure that no such specified process was conducted on the subject premises.
- (4) The person is taken to have established a matter that needs to be established for the defence under subsection (3) if—
- (a) there is sufficient evidence to raise an issue with respect to the matter; and
  - (b) the contrary is not proved by the prosecution beyond reasonable doubt.

**30I. Prohibition on entering or remaining on subject premises**

- (1) Subject to subsection (3) and section 30J, during the period while a closure notice issued in respect of any subject premises is in force, a person must not enter or remain on the subject premises.
- (2) A person who contravenes subsection (1) commits an offence and is liable on conviction—
  - (a) to a fine of \$200,000 and to imprisonment for 6 months; and
  - (b) in the case of a continuing offence—to a further fine of \$20,000 for each day during which the offence continues.
- (3) Subsection (1) does not apply to a public officer who enters or remains on the subject premises in good faith in the course of the public officer's duty.

**30J. Authority may permit people to enter or remain on subject premises**

- (1) The Authority may, in writing, permit any person to enter or remain on any subject premises.
- (2) In granting a permission under subsection (1), the Authority—
  - (a) must specify in the permission the purpose for which the person is permitted to enter or remain on the subject premises; and
  - (b) may impose any condition that the Authority considers appropriate on the permission.
- (3) The Authority may revoke a permission if the Authority has reasonable cause to believe that—
  - (a) the purpose specified under subsection (2)(a) in the permission no longer exists; or

- (b) a condition imposed under subsection (2)(b) on the permission has been breached.

**30K. Prohibition on removing or defacing closure notices**

- (1) During the period while a closure notice issued in respect of any subject premises is in force, a person must not remove or deface any copy of the closure notice affixed at a place under section 30D(3)(b).
- (2) A person who contravenes subsection (1) commits an offence and is liable on conviction to a fine of \$200,000 and to imprisonment for 6 months.

**30L. Prohibition on breaking or interfering with lock or seal attached to subject premises**

- (1) During the period while a closure notice issued in respect of any subject premises is in force, a person must not break or otherwise interfere with any lock or seal attached to any part of the subject premises under section 30G(a).
- (2) A person who contravenes subsection (1) commits an offence and is liable on conviction to a fine of \$200,000 and to imprisonment for 6 months.

**30M. Defence for contravention of section 30I, 30K or 30L**

- (1) It is a defence for a person charged with an offence under section 30I, 30K or 30L to establish that the person had a reasonable excuse for the contravention.
- (2) The person is taken to have established a matter that needs to be established for the defence under subsection (1) if—
  - (a) there is sufficient evidence to raise an issue with respect to the matter; and

- (b) the contrary is not proved by the prosecution beyond reasonable doubt.

**30N. Authority may cancel closure notices**

- (1) The specified person of, or any person having an interest in, any subject premises may apply in writing to the Authority for the cancellation of a closure notice issued in respect of the subject premises.
- (2) The Authority may, on an application made under subsection (1), cancel a closure notice if satisfied that—
  - (a) the specified person is the holder of a licence to use the subject premises for the conduct of the specified process described in the closure notice;
  - (b) the chimney, relevant plant, machinery or equipment used for the conduct of the specified process on the subject premises has been removed from the subject premises; or
  - (c) the subject premises have been abandoned and no specified process is being conducted on the subject premises.
- (3) The Authority may, on the Authority's own initiative, cancel a closure notice if satisfied that the subject premises have been abandoned and no specified process is being conducted on the subject premises.
- (4) If the Authority refuses to cancel a closure notice on an application made under subsection (1), the Authority must—
  - (a) serve a notice of refusal on the applicant as soon as reasonably practicable; and
  - (b) provide the reasons for refusal in the notice.”.

**5. Section 31 amended (when appeal may be brought; and effect thereof)**

(1) After section 31(1)(q)—

**Add**

“(qa) section 30D(1) (issuing a closure notice);

(qb) section 30N(4) (refusing to cancel a closure notice);”.

(2) Section 31(2)—

**Repeal**

“An appeal under subsection (1) shall”

**Substitute**

“Subject to subsections (2A) and (2B), an appeal under subsection (1) is to”.

(3) After section 31(2)—

**Add**

“(2A) An appeal against a decision under section 30D(1) to issue a closure notice is to be made by lodging a notice of appeal in the prescribed manner and form within 21 days after the day on which the closure notice comes into force under section 30F.

(2B) An appeal against a decision under section 30N(4) to refuse to cancel a closure notice is to be made by lodging a notice of appeal in the prescribed manner and form within 21 days after the day on which the notice of refusal is served under section 30N(4)(a).”.

**6. Section 33 amended (exercise of Appeal Board’s jurisdiction)**

(1) Section 33(6)—

**Repeal**



“under section 31(1)(a) or (w) where the appellant was required to cease operations in order to comply with an abatement notice pending the hearing of the appeal”

**Substitute**

“described in subsection (6A)”.

- (2) Section 33(6), English text—

**Repeal**

“his”

**Substitute**

“the appellant’s”.

- (3) After section 33(6)—

**Add**

“(6A) The appeal mentioned in subsection (6) is—

- (a) an appeal under section 31(1)(a) or (w), where the appellant was required to cease operations in order to comply with an abatement notice, pending the hearing of the appeal; or
- (b) an appeal under section 31(1)(qa) or (qb), where the subject premises as defined by section 30C was locked or sealed, pending the hearing of the appeal, because of the decision to issue a closure notice or to refuse to cancel a closure notice.”.

**7. Section 37D amended (amendment of Schedules)**

After section 37D(2)—

**Add**

“(3) The Secretary may, after consultation with the Advisory Council on the Environment, amend any air quality objective by amending Schedule 5 by notice published in the Gazette.”.

**8. Section 46 amended (limit of time for laying informations, etc.)**

(1) Section 46(1), after “in respect of an offence”—

**Add**

“other than an indictable offence”.

(2) Section 46(1)—

**Repeal**

“shall”

**Substitute**

“may only”.

**9. Section 48A added**

After section 48—

**Add**

**“48A. Defence of emergency**

(1) Subject to subsection (4), this section applies in relation to the proceedings for an offence under section 10(7), 12(2), 13(2), 20AA(3), 30A, 69(9), 73(2) or 79(7).

(2) In those proceedings, it is a defence for a person charged with an offence mentioned in subsection (1) to establish that the commission of the offence was for any or all of the following purposes—

(a) the prevention of injury to, or the saving of the life of, any person;

- (b) the prevention of damage to any property in an emergency situation;
  - (c) the prevention of a serious interruption or disruption to any public transport systems or public utilities in an emergency situation.
- (3) The person is taken to have established a matter that needs to be established for the defence under subsection (2) if—
  - (a) there is sufficient evidence to raise an issue with respect to the matter; and
  - (b) the contrary is not proved by the prosecution beyond reasonable doubt.
- (4) If a person commits an offence mentioned in subsection (1) before the date on which this section comes into operation, this section does not apply in relation to the proceedings for the offence brought against the person.”.

**10. Section 50 amended (service of notices)**

Section 50, after “Ordinance”—

**Add**

“(except section 30D)”.

**11. Section 78 amended (defences)**

- (1) Section 78(1)(a), after “life”—

**Add**

“, placing any property in danger of being damaged”.

- (2) Section 78(2)—

**Repeal**

“fact” (wherever appearing)

**Substitute**

“matter”.

- (3) After section 78(2)—

**Add**

“(3) If a person commits an offence under section 77 before the date on which section 11(1) and (2) of the Air Pollution Control (Amendment) Ordinance 2024 ( of 2024) (*specified provision*) comes into operation (*commencement date*)—

- (a) subsections (1) and (2) as amended by the specified provision do not apply in relation to the proceedings for the offence brought against the person; and
- (b) subsections (1) and (2) as in force immediately before the commencement date continue to apply in relation to the proceedings for the offence brought against the person as if the specified provision had not been enacted.”.

**12. Schedule 1 amended (specified processes)**

Schedule 1, item 3—

**Repeal**

“Works in which the total silo capacity exceeds 50 tonnes and in which cement is handled or in which argillaceous and calcareous materials are used in the production of cement clinker, and works in which cement clinker is ground.”

**Substitute**

“(1) Works—

- (a) in which—

- (i) cement is handled;
    - (ii) argillaceous and calcareous materials are used in the production of cement clinker; or
    - (iii) cement clinker is ground; and
  - (b) in which—
    - (i) the total bulk storage capacity exceeds 50 tonnes;
    - (ii) the total installed capacity of concrete mixers exceeds 3m<sup>3</sup>; or
    - (iii) the total hourly concrete production rate exceeds 20m<sup>3</sup> (expressed as volume of concrete) per hour.
- (2) For the purposes of paragraph (1)(b)(i)—
- (a) the total bulk storage capacity is the aggregate of the storage capacity of any fixed or mobile form of installed storage facilities (***relevant installed storage facility***) that are—
    - (i) connected to (whether temporarily or permanently) any operational equipment involved in the operation of the works (***relevant operational equipment***); and
    - (ii) intended to be used for the storage of bulk cementitious materials;
  - (b) a relevant installed storage facility may be—
    - (i) a storage facility on land (including a storage facility on a mobile storage tanker connected to the relevant operational equipment); or
    - (ii) a storage facility on a ship or barge;

- (c) if the total storage capacity of all storage facilities on a mobile storage tanker connected to the relevant operational equipment does not exceed 50 tonnes, that storage capacity may be excluded from the calculation of the total bulk storage capacity; and
  - (d) for the purposes of subparagraph (c), if the storage facilities on more than one mobile storage tanker are connected to the relevant operational equipment at the same time, the total storage capacity of the storage facilities on only 1 mobile storage tanker may be excluded from the calculation of the total bulk storage capacity.
- (3) For the purposes of paragraph (2), in calculating the storage capacity of a storage facility, the absolute space or volume of the storage facility would be counted regardless of the setting of any high-level or overflow alarm established for the storage facility.
  - (4) For the purposes of paragraph (1)(b)(ii), the total installed capacity of concrete mixers is the total capacity of all concrete mixers installed for the production of concrete.
  - (5) For the purposes of paragraph (1)(b)(iii), the total hourly concrete production rate is the maximum total production output capacity of concrete per hour.”.

### 13. Schedule 5 amended (air quality objectives)

- (1) Schedule 5—

#### **Repeal**

“[s. 7A]”

#### **Substitute**

“[ss. 7A & 37D]”.

- (2) Schedule 5, section 4(2)—

**Repeal**

“50  $\mu\text{g}/\text{m}^3$ ”

**Substitute**

“40  $\mu\text{g}/\text{m}^3$ ”.

- (3) Schedule 5, section 5(1)—

**Repeal**

“100  $\mu\text{g}/\text{m}^3$ ”

**Substitute**

“75  $\mu\text{g}/\text{m}^3$ ”.

- (4) Schedule 5, section 5(2)—

**Repeal**

“50  $\mu\text{g}/\text{m}^3$ ”

**Substitute**

“30  $\mu\text{g}/\text{m}^3$ ”.

- (5) Schedule 5, section 6(1)—

**Repeal**

“50  $\mu\text{g}/\text{m}^3$ ”

**Substitute**

“37.5  $\mu\text{g}/\text{m}^3$ ”.

- (6) Schedule 5, section 6(1)—

**Repeal**

“35 per calendar year”

**Substitute**

“18 per calendar year”.

- (7) Schedule 5, section 6(2)—

**Repeal**

“25  $\mu\text{g}/\text{m}^3$ ”

**Substitute**

“15  $\mu\text{g}/\text{m}^3$ ”.

- (8) Schedule 5, after section 7(1)—

**Add**

“(1A) The concentration limit of nitrogen dioxide in air averaged over a day is 120  $\mu\text{g}/\text{m}^3$  and the number of days on which the limit is exceeded should not be more than 9 per calendar year.”.

- (9) Schedule 5, after section 8(1)—

**Add**

“(1A) The peak season concentration of ozone in air of a calendar year should not exceed 100  $\mu\text{g}/\text{m}^3$ .”

(1B) For the purposes of subsection (1A), the peak season concentration of ozone in air of a calendar year is the highest value of the 6-month running averages in the year calculated by averaging the maximum daily 8-hour mean concentration of ozone in air within the 6-month period concerned.

(1C) Each 6-month running average calculated for the purposes of subsection (1B) is assigned to the third month (*specified month*) of the 6-month period, that is—

(a) the first 6-month calculation period of a calendar year is the period beginning on 1 November of the calendar year immediately before the calendar year and ending on 30 April of that calendar year, and the specified month



of that period is the period beginning on 1 January and ending on 31 January; and

- (b) the last 6-month calculation period of a calendar year is the period beginning on 1 October of the calendar year and ending on 31 March of the following calendar year, and the specified month of that period is the period beginning on 1 December and ending on 31 December of that calendar year.”.

- (10) Schedule 5, section 8(2)—

**Repeal**

“subsection (1)”

**Substitute**

“subsections (1) and (1B)”.

- (11) Schedule 5, after section 9(1)—

**Add**

“(1A) The concentration of carbon monoxide in air averaged over a day should not exceed 4 000 µg/m<sup>3</sup>.”.

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## **Part 3**

### **Amendments to Air Pollution Control (Specified Processes) Regulations (Cap. 311 sub. leg. F)**

#### **14. Regulation 4 amended (form of applications, etc.)**

- (1) Regulation 4(2), English text—

**Repeal**

“shall”

**Substitute**

“must”.

- (2) Regulation 4(2)—

**Repeal**

“60 days”

**Substitute**

“1 day”.

#### **15. Regulation 6 amended (late applications for renewal)**

- (1) Regulation 6—

**Repeal paragraph (1).**

- (2) Regulation 6(2), English text—

**Repeal**

“Notwithstanding”

**Substitute**

“Despite”.

- (3) Regulation 6(2)—

**Repeal**

“within 60 days after the date of expiry of the licence, the Authority shall”

**Substitute**

“on the expiry date of the licence or within 60 days after such date, the Authority must”.

**16. Regulation 9 amended (status of licences pending decision on applications for renewal under regulation 4(2))**

- (1) Regulation 9(a), before “before”—

**Add**

“on,”.

- (2) Regulation 9(a)—

**Repeal**

“shall continue”

**Substitute**

“continues to be”.

- (3) Regulation 9(b), before “before”—

**Add**

“on,”.

- (4) Regulation 9(b)—

**Repeal**

“shall continue”

**Substitute**

“continues to be”.

**17. Regulation 10 amended (status of licences pending decision on applications for renewal under regulation 6)**

Regulation 10—

**Repeal paragraph (1).**

**18. Regulation 17 added**

After regulation 16—

**Add**

**“17. Transitional provisions—Part 3 of 2024 Ordinance**

(1) In this regulation—

**2024 Ordinance** (《2024年條例》) means the Air Pollution Control (Amendment) Ordinance 2024 ( of 2024);

**commencement date** (生效日期) means the date on which Part 3 of the 2024 Ordinance comes into operation;

**pre-amended Regulations** (《原有規例》) means these regulations as in force immediately before the commencement date.

(2) Regulations 4(2) and 6(1) of the pre-amended Regulations continue to apply in relation to an application for renewal of a licence made or received by the Authority before the commencement date, as if sections 14 and 15(1) of the 2024 Ordinance had not been enacted.

(3) Regulation 10(1) of the pre-amended Regulations continues to apply in relation to a licence that is the subject of an application for renewal made in accordance with regulation 6(1) before the commencement date, as if section 17 of the 2024 Ordinance had not been enacted.”.

**19. Second Schedule amended**

(1) Second Schedule, Form 1—

**Repeal**

“day of ..... 19 .....”

**Substitute**

“day of .....”.

- (2) Second Schedule, Form 1, paragraph 4, the table—

**Repeal**

“

Name of the Premises (if any)		Address	Telephone Number
English	Chinese		

”

**Substitute**

“

Name of the Premises (if any)		Address or Location of the Premises	Telephone Number
English	Chinese		

”.

- (3) Second Schedule, Form 1, paragraph 5, the table—

**Repeal**

“Silo Capacity”

**Substitute**

“Total Bulk Storage Capacity”.

- (4) Second Schedule, Form 2—

**Repeal**

“day of ..... 19 .....”

**Substitute**

“day of .....”.

- (5) Second Schedule, Form 2, paragraph 3, the table—

**Repeal**

“

Name of the Premises (if any)		Address	Telephone Number
English	Chinese		

”

**Substitute**

“

Name of the Premises (if any)		Address or Location of the Premises	Telephone Number
English	Chinese		

”.

(6) Second Schedule, Form 2, paragraph 4, the table—

**Repeal**

“Silo Capacity”

**Substitute**

“Total Bulk Storage Capacity”.

(7) Second Schedule, Form 3—

**Repeal**

“day of ..... 19 .....”

**Substitute**

“day of .....”.

(8) Second Schedule, Form 3, paragraph 4, the table—

**Repeal**

“

Name of the Premises (if any)		Address	Telephone Number
English	Chinese		

”

**Substitute**

“

Name of the Premises (if any)		Address or Location of the Premises	Telephone Number
English	Chinese		

”.

(9) Second Schedule, Form 3, paragraph 5(1), the table—

**Repeal**

“Silo Capacity”

**Substitute**

“Total Bulk Storage Capacity”.

(10) Second Schedule, Form 4—

**Repeal**

“day of ..... 19 .....”

**Substitute**

“day of .....”.

(11) Second Schedule, Form 4, paragraph 3, the table—

**Repeal**

“

Name of the Premises (if any)		Address	Telephone Number
English	Chinese		

”

**Substitute**

“

Name of the Premises (if any)		Address or Location of the Premises	Telephone Number
English	Chinese		

”.

(12) Second Schedule, Form 4, paragraph 4, the table—

**Repeal**

“Silo Capacity”

**Substitute**

“Total Bulk Storage Capacity”.

(13) Second Schedule, Form 5, paragraph 3, after “Address”—

**Add**

“or Location”.

- (14) Second Schedule, Form 5—

**Repeal**

“day of ..... 19 .....”

**Substitute**

“day of .....”.

- (15) Second Schedule, Form 6, Part A, after “*Address*”—

**Add**

“*or Location*”.

- (16) Second Schedule, Form 6, Part A—

**Repeal**

“day of ..... 19 .....” (wherever appearing)

**Substitute**

“day of .....”.

- (17) Second Schedule, Form 6, Part A, the note, paragraph (c)—

**Repeal**

“and not later than 60 days after”

**Substitute**

“but not later than 1 day before”.

- (18) Second Schedule, Form 6, Part B—

**Repeal**

“day of ..... 19 .....”

**Substitute**

“day of .....”.

- (19) Second Schedule, Form 6, Part B, paragraph 3—

**Repeal**

“Silo Capacity”



**Substitute**

“Total Bulk Storage Capacity”.

- (20) Second Schedule, Form 7, Part A, after “*address*”—

**Add**

“*or location*”.

- (21) Second Schedule, Form 7, Part A—

**Repeal**

“day of ..... 19 .....”

**Substitute**

“day of .....”.

- (22) Second Schedule, Form 7, Part B, paragraph 3—

**Repeal**

“Silo Capacity”

**Substitute**

“Total Bulk Storage Capacity”.

- (23) Second Schedule, Form 7, Part C—

**Repeal**

“day of ..... 19 .....”

**Substitute**

“day of .....”.

**20. Fourth Schedule amended**

- (1) Fourth Schedule, item 3, after “Address”—

**Add**

“or location”.

- (2) Fourth Schedule, item 8, after “the address”—

**Add**

“or location”.

**21. Fifth Schedule amended**

Fifth Schedule, item 2, after “Address”—

**Add**

“or location”.

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## **Part 4**

### **Consequential and Related Amendments**

#### **Division 1—Amendments to Air Pollution Control (Appeal Board) Regulations (Cap. 311 sub. leg. D)**

##### **22. Schedule amended**

- (1) The Schedule, Form 1, paragraph 4—

**Repeal**

“dated ..... 19 .....”

**Substitute**

“dated .....”.

- (2) The Schedule, Form 1, paragraph 5, after “Address”—

**Add**

“or location”.

- (3) The Schedule, Form 1—

**Repeal**

“Dated ..... 19 .....”

**Substitute**

“Dated .....”.

- (4) The Schedule, Form 2—

**Repeal**

“Appeal No.: ..... of 19 .....”

**Substitute**

“Appeal No.: ..... of .....”.

- (5) The Schedule, Form 2—

**Repeal**

“day of ..... 19 .....” (wherever appearing)

**Substitute**

“day of .....”.

- (6) The Schedule, Form 3—

**Repeal**

“Appeal No.: ..... of 19 .....”

**Substitute**

“Appeal No.: ..... of .....”.

- (7) The Schedule, Form 3—

**Repeal**

“day of ..... 19 .....” (wherever appearing)

**Substitute**

“day of .....”.

**Division 2—Amendments to Environmental Impact  
Assessment Ordinance (Cap. 499)**

- 23. Section 13 amended (application for variation of an  
environmental permit)**

- (1) After section 13(5)—

**Add**

“(5A) Schedule 5 has effect in relation to the criterion for evaluating air quality impact under the technical memorandum for the purpose of an environmental impact assessment report required to be submitted under subsection (4) or a requirement mentioned in subsection (5)(b).”.

(2) After section 13(6)—

**Add**

“(7) The Secretary may, by notice published in the Gazette, amend Schedule 5 to make any provisions or amendments, or repeal any provisions, that the Secretary considers appropriate on account of any amendment to the air quality objective by any enactment.”.

**24. Schedule 1 amended (interpretation)**

Schedule 1—

**Add in alphabetical order**

“*air quality objective* (空氣質素指標) means the air quality objectives prescribed in Schedule 5 to the Air Pollution Control Ordinance (Cap. 311);”.

**25. Schedule 5 added**

After Schedule 4—

**Add**

## “Schedule 5

[s. 13]

### **Arrangements Regarding Evaluation of Air Quality Impact for Section 13(5A) on Account of Amendments to Air Quality Objectives by Section 13 of Air Pollution Control (Amendment) Ordinance 2024**

#### **1. Interpretation**

In this Schedule—

**2024 Ordinance** (《2024年條例》) means the Air Pollution Control (Amendment) Ordinance 2024 ( of 2024);

**amended air quality objectives** (經修訂空氣質素指標) means the air quality objectives as amended by section 13 of the 2024 Ordinance;

**commencement date** (生效日期) means the date on which section 13 of the 2024 Ordinance comes into operation;

**pre-amended air quality objectives** (原有空氣質素指標) means the air quality objectives as in force immediately before the commencement date;

**transitional period** (過渡期) means the period of 36 months beginning on the commencement date.

#### **2. Application of air quality objectives to applications under section 13(1)**

- (1) This section applies to an application for a variation of the conditions of an environmental permit under section 13(1) if—

- (a) the environmental permit was issued before the commencement date; and
  - (b) the application is made before the expiry of the transitional period.
- (2) For an application mentioned in subsection (1)—
  - (a) the pre-amended air quality objectives continue to have effect as a criterion for evaluating air quality impact under section 1.1(a) of Annex 4 to the technical memorandum for the purposes of—
    - (i) sections 5, 6, 7 and 8, as applied in relation to the application because of section 13(4); and
    - (ii) section 13(5)(b); and
  - (b) the amended air quality objectives do not have effect as such a criterion for those purposes.”.

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## Explanatory Memorandum

The main object of this Bill is to amend the Air Pollution Control Ordinance (Cap. 311) (*principal Ordinance*) and the Air Pollution Control (Specified Processes) Regulations (Cap. 311 sub. leg. F) (*Cap. 311F*)—

- (a) to amend the air quality objectives (*AQOs*) and to facilitate revision of the AQOs in future;
- (b) to combat against the conduct of unlicensed specified process by introducing a statutory closure notice mechanism;
- (c) to prevent any attempt to bypass the specified process licensing regime by revising the scope of cement works and the definition of *premises*;
- (d) to provide for the defence of emergency for certain offences under the principal Ordinance; and
- (e) to extend the period for making applications to renew licences for the conduct of specified processes.

### Part 1—Preliminary

2. Clause 1 sets out the short title and provides for commencement.



## Part 2—Amendments to Principal Ordinance

### *Revision of definition of premises*

3. Clause 3 amends section 2 of the principal Ordinance to revise the definition of *premises* so that it includes ships or barges in relation to the conduct of the specified process specified in item 3 of Schedule 1 to the principal Ordinance (that is, the cement works).

### *Closure notices*

4. Clause 4 amends the principal Ordinance by adding new Part VA (containing new sections 30C to 30N) to the principal Ordinance to provide for matters concerning a closure notice. The new sections added are as follows—
  - (a) the new section 30C of the principal Ordinance adds the definitions of *closure notice*, *specified person* and *subject premises*;
  - (b) the new section 30D of the principal Ordinance provides for the issue of closure notice by the Authority (as defined by section 2 of the principal Ordinance) (*Authority*), matters concerning the form of the closure notice and the information that it must contain. Also, the closure notice must be served to the specified person of the subject premises and affixed at a conspicuous place on the subject premises;
  - (c) the new section 30E of the principal Ordinance provides for the service of the closure notice;
  - (d) the new section 30F of the principal Ordinance provides for the period while the closure notice is in force;

- (e) the new section 30G of the principal Ordinance provides for the Authority's power to close the subject premises;
- (f) the new section 30H of the principal Ordinance requires the specified person of the subject premises to ensure that no specified process described in the closure notice may be conducted on the subject premises;
- (g) the new section 30I of the principal Ordinance prohibits any person from entering or remaining on the subject premises;
- (h) the new section 30J of the principal Ordinance empowers the Authority to permit any person to enter or remain on the subject premises for certain purposes;
- (i) the new section 30K of the principal Ordinance prohibits any person from removing or defacing any copy of the closure notice that is affixed at a place on the subject premises;
- (j) the new section 30L of the principal Ordinance prohibits any person from breaking or interfering with any lock or seal attached to any part of the subject premises;
- (k) the new section 30M of the principal Ordinance provides for the reasonable excuse defence for the contravention of the new section 30I, 30K or 30L of the principal Ordinance; and
- (l) the new section 30N of the principal Ordinance provides that the Authority may cancel a closure notice.

5. Clause 5 amends section 31 of the principal Ordinance to provide for the rights of a person to apply for an appeal against the Authority's decision to issue a closure notice or to refuse to cancel a closure notice.

### *Revision of AQOs*

6. Clauses 7, 13, 23, 24 and 25 relate to the revision of AQOs—
  - (a) clause 7 amends section 37D of the principal Ordinance to empower the Secretary for Environment and Ecology (***Secretary***) to amend the AQOs by amending Schedule 5 to the principal Ordinance by notice published in the Gazette;
  - (b) clause 13 amends Schedule 5 to the principal Ordinance by revising the AQOs prescribed in that Schedule; and
  - (c) clauses 23, 24 and 25 under Part 4 contain the related amendments to the Environmental Impact Assessment Ordinance (Cap. 499) (***Cap. 499***)—see paragraph 12.

### *Defence of emergency*

7. Clause 9 adds new section 48A to the principal Ordinance to provide for a defence of emergency for a person charged with an offence under section 10(7), 12(2), 13(2), 20AA(3), 30A, 69(9), 73(2) or 79(7) of the principal Ordinance.
8. Clause 11 amends section 78(1)(a) of the principal Ordinance by adding the defence of emergency in relation to the damage to property for keeping consistency with the new section 48A of the principal Ordinance.

***Revision of meaning of cement works***

9. Clause 12 amends item 3 of Schedule 1 to the principal Ordinance to revise the meaning of cement works.

**Part 3—Amendments to Cap. 311F**

***Streamlining applications for renewal of licences to conduct specified process***

10. Clauses 14 to 21 contain amendments to Cap. 311F to extend the period for making an application for the renewal of a licence to conduct a specified process—
- (a) clause 14 amends regulation 4 of Cap. 311F to extend the period for application for the renewal of a licence from not later than 60 days before the expiry of the licence to 1 day before such expiry;
  - (b) clause 15(1) consequentially repeals regulation 6(1) of Cap. 311F that provides for the discretion of the Authority to entertain any late application received less than 60 days before the expiry of the licence; and
  - (c) clause 17 consequentially repeals regulation 10(1) of Cap. 311F that deals with the validity of a licence that is the subject of an application for renewal made in accordance with regulation 6(1) of Cap. 311F.

**Part 4—Consequential and Related Amendments**

11. Division 1 of Part 4 (clause 22) contains related amendments to the forms contained in the Schedule to the Air Pollution Control (Appeal Board) Regulations (Cap. 311 sub. leg. D).

12. Division 2 of Part 4 (clauses 23, 24 and 25) contains the following related amendments to Cap. 499—
- (a) clause 23(1) adds new section 13(5A) to Cap. 499 to provide that new Schedule 5 added to Cap. 499 sets out the arrangements regarding certain requirements for evaluating air quality impact under the technical memorandum on account of amendments made to the AQOs (*arrangements*);
  - (b) clause 23(2) adds new section 13(7) to Cap. 499 to empower the Secretary to amend the new Schedule 5 added to Cap. 499, by notice published in the Gazette; and
  - (c) clause 25 adds the new Schedule 5 to Cap. 499 that contains the arrangements.