

LEGISLATIVE COUNCIL BRIEF

Air Pollution Control Ordinance (Chapter 311)

AIR POLLUTION CONTROL (AMENDMENT) BILL 2024

INTRODUCTION

A At the meeting of the Executive Council on 12 November 2024, the Council **ADVISED** and the Chief Executive **ORDERED** that the Air Pollution Control (Amendment) Bill 2024 (the “Bill”) at Annex A should be introduced into the Legislative Council (“LegCo”).

JUSTIFICATIONS

(i) **Combat unlicensed specified process (“SP”) operations**

B 2. To regulate major sources that may cause serious air pollution, 31 SPs, including cement works, are specified in Schedule 1 to the Air Pollution Control Ordinance (Cap. 311) (“APCO”) (a full list of the SPs is at Annex B). Under section 13 of the APCO, subject to certain exemptions, the owner of any premises¹ commits an offence if the owner uses the premises, or permits the premises to be used, for the conduct of an SP without a licence to use the premises for the conduct of that SP (“SP licence”)². The APCO currently does not provide the Environmental Protection Department (“EPD”) with the power to lock or seal any premises where unlicensed SP is conducted.

¹ According to section 2 of the APCO, “premises (處所)” is defined to include “a part of the premises and a place, building or relevant plant”. “Owner (擁有人)” is defined to include, in relation to an SP, “a person carrying on a specified process in or on the premises”.

² Pursuant to section 13(2) of the APCO, any owner who contravenes section 13(1) of the APCO is liable to a fine of \$200,000 and to imprisonment for 6 months, and if the offence is a continuing offence, to a fine of \$20,000 for each day during which it is proved to the satisfaction of the court that the offence has continued.

Introducing a statutory closure notice (“CN”) mechanism

3. In recent years, EPD has repeatedly found that certain former SP operators have continued to conduct SP operation even though both the Director of Environmental Protection and the Air Pollution Control Appeal Board Panel (“Appeal Board”)³ had refused their applications for renewal of SP licences. Some operators attempted to delay cessation of unlicensed SP operations by initiating legal procedures, including applying for judicial reviews against the decisions of the Authority and the Appeal Board despite the lack of valid grounds.

4. Causing continual air pollution and voluminous complaints, all unlicensed SP operations are illegal and must be immediately stopped. The Bill proposes to introduce a statutory CN mechanism, empowering the air pollution control authority⁴ (the “Authority”) to issue a CN in respect of any premises if the Authority has reasonable cause to believe that an offence under section 13 of the APCO has been committed or is being committed in respect of the premises (the “subject premises”), so that the Authority may lock or seal the subject premises.

5. We propose to empower the Authority to issue a CN in respect of the subject premises, and on the CN coming into force, to —

- i. lock or seal the subject premises; and
- ii. disconnect all gas, water and electricity supplies to the subject premises.

³ Section 31(1)(e) of the APCO provides that a person may appeal to the Appeal Board if the person is aggrieved by the Authority’s decision to refuse to renew a licence.

⁴ Under section 4(1), the Chief Executive may appoint a public officer to be the air pollution control authority. The Director of Environmental Protection is the air pollution control authority.

To ensure effective deterrence, the Bill also proposes to introduce the following new offences in relation to the CN and subject premises —

Proposed offence	Proposed penalty	Proposed daily fine for continuing offence
Any person who:		
Enters or remains on the subject premises	A fine at \$200,000 and imprisonment for 6 months	\$20,000
Removes or defaces the CN affixed at a place on the subject premises		Not applicable
Breaks or interferes with a lock or seal attached to any part of the subject premises		
The person who carries on the relevant SP on the subject premises (the “specified person”) and the specified person’s management staff ⁵ who:		
Fails to ensure that no SP, that is described in the CN, is conducted on the subject premises	On conviction on indictment: a fine at \$1,000,000 and imprisonment for 12 months; On summary conviction: a fine at level 6 ⁶ and imprisonment for 6 months.	\$50,000

⁵ Section 47A(1) of the APCO provides that “Where a person convicted of an offence under this Ordinance is a body corporate and it is proved that the offence was committed with the consent or connivance of, or was attributable to any neglect or omission on the part of, a director, manager, secretary or other person concerned in the management of the body corporate, the director, manager, secretary or other person also commits the offence.”

⁶ Level 6 is \$100,000.

Revising the scope of “cement works” and the definition of “premises”

6. “Cement works” is one of the SPs specified in Schedule 1 to the APCO⁷, and “premises” is defined in section 2 of the APCO to include a place, building or relevant plant.

7. Recently, there have been attempts to (i) bypass the SP licence regime by reducing the size of silo and using mobile facilities as “extended storage facilities”, thus rendering the total silo capacity of *on-site* silos to fall below 50 tonnes and (ii) transfer cement works operations onto ships or barges. In order to tackle these attempts, it is necessary to amend the APCO by revising the scope of “cement works” and the definition of “premises” so as to regulate, in particular, the cement works conducted on ships or barges. To avoid misinterpretation and control circumvention, we propose to use the following three defining criteria to replace the “total silo capacity” in the description of “cement works”: (i) the total bulk storage capacity⁸, (ii) the total installed capacity of concrete mixer⁹ and (iii) the total hourly concrete production rate¹⁰. Also, in relation to cement works, the definition of “premises” is revised to include ships and barges. Following the established arrangement under section 19 of the APCO, there will be a six-month transitional period from the enactment of the Bill for relevant existing operators to apply for the necessary SP licence from the Authority.

⁷ Cement works is described in item 3 of Schedule 1 to the APCO as “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.”

⁸ The “total bulk storage capacity” is proposed to be the aggregate of the storage capacity of any fixed or mobile form of installed storage facilities physically connected to (whether temporarily or permanently) any operational equipment involved in the operation of the works for which bulk cementitious materials are stored on land and on ships or barges. Relevant capacity threshold of 50 tonnes will remain unchanged.

⁹ The total installed capacity of concrete mixers is proposed to mean the total capacity of all concrete mixers installed for the production of concrete.

¹⁰ The total hourly concrete production rate is proposed to mean the maximum total production output capacity of concrete per hour.

(ii) **Implementing recommendations of the latest Air Quality Objectives (“AQOs”) review**

8. Air pollutants can significantly impact health and lives of the public. The APCO vested the Government with the power to formulate AQOs¹¹ for establishing measures and requirements to prevent or abate the emission of air pollutants. The APCO also provides that the Secretary for Environment and Ecology (“SEE”) must, at least once every five years, review the AQOs for an air control zone¹² to ensure that the AQOs are those that should be achieved and maintained to promote the conservation and best use of air in the zone in the public interest.

Updating the AQOs

C 9. The prevailing AQOs (see **Appendix I of Annex C**) were benchmarked against the World Health Organization (“WHO”) Air Quality Guidelines (“AQGs”), covering 12 concentration limits of seven air pollutants¹³ over different time spans. In September 2021, the WHO updated the AQGs and their interim targets (“ITs”). With due regard to the updated WHO AQGs, the Environment and Ecology Bureau (“EEB”) commenced a review of the AQOs in early 2022.

10. To comply with the requirements under section 7A(4) of the APCO¹⁴, a report of the AQOs review was subsequently submitted to the Advisory Council on the Environment (“ACE”) in September 2023 with support obtained from the ACE.

C 11. The recommendations on updating the AQOs and the relevant justifications are at **Annex C**. We propose to update the AQOs accordingly.

¹¹ Schedule 5 to the APCO prescribes the AQOs for an air control zone (i.e. any part of Hong Kong declared under section 6 of the APCO to be an air control zone).

¹² The Air Pollution Control (Air Control Zones) (Declaration) (Consolidation) Order (Cap. 311E) stipulates 10 air control zones in Hong Kong. All air control zones adopt the same AQOs.

¹³ The seven key air pollutants are sulphur dioxide (“SO₂”), nitrogen dioxide (“NO₂”), respirable suspended particulates (“RSP/PM₁₀”), fine suspended particulates (FSP/PM_{2.5}), carbon monoxide (“CO”), ozone (“O₃”) and lead (“Pb”).

¹⁴ Section 7A(2) of the APCO provides that SEE may from time to time review the AQOs for an air control zone. Section 7A(4) provides that as soon as reasonably practicable after a review is carried out, SEE must submit to the ACE a report of the review.

Offering transitional arrangement for application for variation of the conditions of an environmental permit (“VEP”)

12. Similar to the last update of the AQOs in 2021, a 36-month transitional period, beginning on the commencement date of the Bill after it is enacted, will be provided to designated projects (“DPs”) with environmental permits (“EPs”) issued under the Environmental Impact Assessment Ordinance (Cap. 499) (“EIAO”) before the updated AQOs come into effect. During the transitional period, the pre-updated AQOs continue to apply to VEP applications.

13. The transitional arrangement can minimize uncertainties brought to those DPs with EPs issued, which are often already under construction or in operation. Applying the updated AQOs on them may cause substantial changes to their design and construction schedule, thus resulting in increase in costs and delays. We believe the length of the transitional period is appropriate according to the experience of similar arrangement and would not impact the regulatory effectiveness of the environmental impact assessment system.

Streamlining AQOs update procedures and corresponding transitional arrangements

14. The corresponding AQOs updates required for the implementation of the recommendations made by AQOs reviews usually involve simple numerical changes to the concentration limits of various air pollutants. Currently, updates of the AQOs prescribed in Schedule 5 to the APCO have to be made by an amendment bill. We consider it not efficient to render extensive resources and time to handle these technical revisions. Moreover, the need for an amendment bill results in a longer time gap between the completion of an AQOs review and the implementation of the relevant recommendations.

15. We propose to (i) amend the APCO to empower SEE to, by notice published in the Gazette, update the AQOs prescribed in Schedule 5 to the APCO, (ii) add a new Schedule 5 to the EIAO to provide for arrangements regarding the evaluation of air quality impact on accounts of any revisions made to the AQOs and (iii) empower SEE to amend the new Schedule 5 to the EIAO by notice published in the Gazette where there is an update of the AQOs under the APCO in the future. Both of the said notices will be subject to the negative vetting of the LegCo. The prevailing practice of conducting AQOs review, including consulting and reporting to the ACE

and the LegCo Panel on Environmental Affairs (“EA Panel”), will remain unchanged.

OTHER OPTIONS

16. Legislative amendment is the only option to implement the proposed statutory CN mechanism and update the AQOs. There is no alternative.

THE BILL

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

- (a) **clause 3** amends section 2 of the APCO to revise the definition of “premises” so that, in relation to cement works, it includes ships or barges;
- (b) **clause 4** amends the APCO by adding the new Part VA (containing the new sections 30C to 30N) to the APCO to provide for matters concerning a CN. The main provisions of the new Part VA are as follows –
 - (i) the new section 30D provides for the Authority’s power to issue a CN;
 - (ii) the new section 30G provides for the Authority’s power to close the subject premises;
 - (iii) the new section 30H requires the specified person of the subject premises to ensure that no SP specified in the CN may be conducted on the subject premises;
 - (iv) the new section 30I prohibits any person from entering or remaining on the subject premises;
 - (v) the new section 30K prohibits any person from removing or defacing any copy of a CN that is affixed at a place on the subject premises;

- (vi) the new section 30L prohibits any person from breaking or interfering with a lock or seal attached to any place of the subject premises;
- (c) **clauses 7 and 13 and 23 to 25** relate to the revision of AQOs—
- (i) **clause 7** amends section 37D of the APCO to empower SEE to revise the AQOs by amending Schedule 5 to the APCO by notice published in the Gazette;
 - (ii) **clause 13** amends Schedule 5 to the APCO by revising the AQOs prescribed in that Schedule;
 - (iii) **clause 23** adds the new section 13(5A) to the EIAO to provide that the new Schedule 5 to the EIAO sets out the arrangements regarding certain requirements for evaluating air quality impact under the technical memorandum in view of any revisions made to the AQOs, and adds the new section 13(7) to the EIAO to empower SEE to amend the new Schedule 5 to the EIAO by notice published in the Gazette; and
 - (iv) **clause 25** adds the new Schedule 5 to the EIAO;
- (d) **clause 9** adds the new section 48A to the APCO to provide for an emergency defence for a person charged with certain offences under the APCO;
- (e) **clause 12** amends item 3 of Schedule 1 to the APCO to revise the scope of cement works; and
- (f) **clauses 14 to 21** contain amendments to the Air Pollution Control (Specified Processes) Regulations (Cap. 311 sub. leg. F) to streamline the application for the renewal of a licence to conduct an SP.

 D 18. The existing provisions being amended are at **Annex D**.

LEGISLATIVE TIMETABLE

19. The legislative timetable will be as follows:

Publication in the Gazette	15 November 2024
First Reading and commencement of Second Reading debate	27 November 2024
Resumption of Second Reading debate, committee stage and Third Reading	To be notified

IMPLICATIONS OF THE PROPOSALS

E 20. The Bill will have environmental and sustainability, health and productivity, economic, Mainland relations and financial and civil service implications, as detailed at **Annex E**. The Bill has no family and gender implications and is in conformity with the Basic Law, including provisions concerning human rights. The Bill will not affect the current binding effect of the APCO and the EIAO, including their subsidiary legislations.

PUBLIC CONSULTATION AND ENGAGEMENT

21. On combating unlicensed SP operations, EPD has been working closely with the trade on the matter since September 2023. EPD has reached out to all 145 SP licence holders. With the participation of the Development Bureau, EPD separately engaged representatives of the cement works industry and construction sector. Relevant Government departments and key trade unions, including the Federation of Hong Kong Industries, the Hong Kong Construction Association, the Hong Kong Construction Materials Association, and the Construction Industry Council, were also consulted. Overall speaking, our consultation has fully covered relevant SP licence holders, local cement producers and users as well as relevant works departments. All the views received generally accepted the proposals¹⁵.

22. During the consultation, some trade associations had expressed concern over the risk of inadvertently violating offences involving emission of air pollutants, conducting an SP without a valid SP licence and

¹⁵ In June 2024, EPD confirmed clearly in writing with the trade on the consensus reached.

other non-compliance of licence conditions or asbestos handling requirements under the APCO during emergency operation. To address these concerns, we have taken the present legislative exercise to provide a statutory defence during emergency situation for the above offences.

23. Separately, with some SP licence holders asking for more flexibility and facilitation in SP licence renewal, EPD will extend the period for SP licence renewal application to fully cover the 120 days before an SP licence expires¹⁶. This extension will provide more time and flexibility for SP licence holders to renew their licences, thereby benefiting their business planning. In parallel, EPD is exploring with the trade to provide more facilitation in SP licence application procedures¹⁷, including suitably simplifying the air quality assessment process. Among other things, EPD is considering (i) setting up an online platform to assist the trade in conducting air quality modelling assessment and (ii) not requiring air quality assessment for applications for SP licences in relation to certain types of SP. By doing so, the trade should enjoy more convenience in making an SP licence application in the future.

24. On updating the AQOs, EEB completed a two-month public consultation in the second half of 2023¹⁸. Results demonstrated a general public support on the matter. We have also established various liaison platforms, including the AQOs Review Working Group, the Air Science and Health Task Force (“ASHTF”) thereunder and an Inter-departmental Liaison Group (“ILG”) to advise on the proposed AQOs update. These platforms comprise representatives from relevant trades, green groups, experts from related fields and Government departments. Views gathered are generally positive and support the updating of the AQOs.

25. During the respective consultations, Members of the ACE¹⁹ and the LegCo EA Panel²⁰ also generally supported our proposals.

¹⁶ Under the current SP licence renewal arrangement, SP licence holders have to make an application for a renewal of a licence not earlier than 120 days and not later than 60 days before expiry of the licence.

¹⁷ These facilitating measures do not require legislative amendments.

¹⁸ The public consultation period was from 31 August to 31 October 2023.

¹⁹ ACE was consulted on the tightened control on SPs and the AQOs update in July 2024 and September 2023 respectively.

²⁰ The LegCo EA Panel was consulted on the tightened control on SPs and the AQOs update in July 2024 and October 2023 respectively.

PUBLICITY

26. We will issue a LegCo brief and a press release upon the publication of the Bill in the Gazette. A spokesperson will also be made available to answer press enquiries.

ENQUIRIES

27. For enquiries on this brief, please contact Dr Sunny CHEUNG, Assistant Director (Environmental Compliance) of EPD at 2835 1122 or sunnycheung@epd.gov.hk.

Environment and Ecology Bureau
Environmental Protection Department
November 2024

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.

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.

- (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.

30L. 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 3m³; or

- (iii) the total hourly concrete production rate exceeds 20m³ (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 µg/m³”**Substitute**“40 µg/m³”.

- (3) Schedule 5, section 5(1)—

Repeal“100 µg/m³”**Substitute**“75 µg/m³”.

- (4) Schedule 5, section 5(2)—

Repeal“50 µg/m³”**Substitute**“30 µg/m³”.

- (5) Schedule 5, section 6(1)—

Repeal“50 µg/m³”**Substitute**“37.5 µg/m³”.

- (6) Schedule 5, section 6(1)—

Repeal

“35 per calendar year”

Substitute

“18 per calendar year”.

- (7) Schedule 5, section 6(2)—

Repeal“25 µg/m³”**Substitute**“15 µg/m³”.

- (8) Schedule 5, after section 7(1)—

Add

“(1A) The concentration limit of nitrogen dioxide in air averaged over a day is 120 µg/m³ 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 µg/m³.
- (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/m³.”.
-

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”.

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.”.

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.

Schedule 1 to the APCO
List of the 31 SPs

- | | |
|-------------------------------------|-------------------------------------|
| 1. Acrylates Works | 2. Aluminium Works |
| 3. Cement Works | 4. Ceramic Works |
| 5. Chlorine Works | 6. Copper Works |
| 7. Electricity Works | 8. Gas Works |
| 9. Iron and Steel Works | 10. Metal Recovery Works |
| 11. Mineral Works | 12. Incinerators |
| 13. Petrochemical Works | 14. Sulphuric Acid Works |
| 15. Tar and Bitumen Works | 16. Frit Works |
| 17. Lead Works | 18. Amines Works |
| 19. Asbestos Works | 20. Chemical Incineration Works |
| 21. Hydrochloric Acid Works | 22. Hydrogen Cyanide Works |
| 23. Sulphide Works | 24. Pathological Waste Incinerators |
| 25. Organic Chemical Works | 26. Petroleum Works |
| 27. Zinc Galvanising Works | 28. Rendering Works |
| 29. Non-ferrous Metallurgical Works | 30. Glass Works |
| 31. Paint Works | |

Recommendations on updating the AQOs

Recommendations

- (a) tighten the 24-hour AQO for SO₂ from IT-2 level (50 µg/m³) to AQG level (40 µg/m³) with the current number of exceedances allowed (three) remains unchanged;
- (b) tighten the annual AQO for RSP/PM₁₀ from IT-2 (50 µg/m³) to IT-3 (30 µg/m³); and its 24-hour AQO from IT-2 (100 µg/m³) to IT-3 (75 µg/m³) with the number of exceedances allowed (nine) remains unchanged;
- (c) tighten the annual AQO for FSP/PM_{2.5} from IT-2 (25 µg/m³) to IT-3 (15 µg/m³); and its 24-hour AQO from IT-2 (50 µg/m³) to IT-3 (37.5 µg/m³) with the number of exceedances allowed decreased from the current 35 to 18;
- (d) add three new AQO parameters introduced by the WHO (namely the 24-hour AQO for NO₂ and set at IT-1 (120 µg/m³) with number of exceedances allowed at nine; the peak season AQO for O₃ and set at IT-1 (100 µg/m³); the 24-hour AQO for CO and set at AQG level (4 000 µg/m³) with no exceedance allowed).

Justifications

2. Five prevailing AQOs are pegged at the most stringent levels of the WHO AQGs, whereas the remaining AQOs are set at WHO ITs levels (see **Appendix I**).

3. Results of the 2022 AQOs review, covering air quality assessment in 2030, are summarised as follows (details provided in **Appendix II**):

- (a) five prevailing AQO parameters continue to comply with WHO AQG levels;

- (b) of the remaining seven existing AQO parameters, there is scope to tighten five of them (24-hour SO_2 , 24-hour and annual RSP/PM₁₀, and 24-hour and annual FSP/PM_{2.5}); and
- (c) of the three new AQO parameters introduced by the WHO in 2021, two of them (24-hour NO_2 and 24-hour CO) can comply with their respective AQG or IT levels, while peak season O_3 has not reached its IT-1 (most lenient) level.

Appendix I

A comparison between Hong Kong AQOs and WHO AQGs

Pollutant	Averaging Time	WHO AQGs (µg/m³)					No. of Allowable Exceedances of Prevailing AQOs (per calendar year)
		Interim Targets				AQG Level	
		1	2	3	4		
FSP/PM _{2.5}	Annual	35	25	15	10	5	Not applicable
	24-hour	75	50	37.5	25	15	35
RSP/PM ₁₀	Annual	70	50	30	20	15	Not applicable
	24-hour	150	100	75	50	45	9
O ₃	Peak season ^{#@}	100	70	-	-	60	-
	8-hour	160	120	-	-	100	9
NO ₂	Annual	40	30	20	-	10	Not applicable
	24-hour [#]	120	50	-	-	25	-
	1-hour	-	-	-	-	200	18
SO ₂	24-hour	125	50	-	-	40	3
	10-minute	-	-	-	-	500	3
CO	24-hour [#]	7 000	-	-	-	4 000	-
	8-hour	-	-	-	-	10 000	0
	1-hour	-	-	-	-	35 000 (30 000 as current AQO)	0
Pb	1-year	-	-	-	-	0.5*	Not applicable

Notes:

New parameters introduced in the WHO AQGs

@ The WHO AQGs defined peak season O₃ as “average of daily maximum 8-hour mean O₃ concentration in the six consecutive months with the highest six-month running-average O₃ concentration”

* Annual average of Pb level 0.5 $\mu\text{g}/\text{m}^3$ in the Air quality guidelines for Europe 2nd Edition published by the WHO in 2000 remains valid as there is no update for this parameter in the WHO’s subsequent publications.



Current AQOs adopted.

Appendix II

Assessments of 2030 air quality results

The results of 2030 air quality assessment are summarised in the table below. For simplicity, the results are shown based on the WHO AQGs or their respective ITs.

2030 Air Quality Assessment Results against Prevailing AQOs

Pollutants	Averaging Time	Prevailing AQOs		2030 Air Quality Assessment Results	
		Concentration ($\mu\text{g}/\text{m}^3$) [^]	No. of exceedances allowed (per calendar year)	Compliance with respect to the WHO AQGs ($\mu\text{g}/\text{m}^3$) [^]	No. of exceedances allowed (per calendar year)
SO ₂	10-minute	500 [AQG]	3	500 [AQG]	3
	24-hour	50 [IT-2]	3	<u>40 [AQG]</u>	3
RSP/PM ₁₀	24-hour	100 [IT-2]	9	<u>75 [IT-3]</u>	9
	Annual	50 [IT-2]	Not applicable	<u>30 [IT-3]</u>	Not applicable
FSP/PM _{2.5}	24-hour	50 [IT-2]	35	<u>37.5 [IT-3]</u>	18
	Annual	25 [IT-2]	Not applicable	<u>15 [IT-3]</u>	Not applicable
NO ₂	1-hour	200 [AQG]	18	200 [AQG]	18
	24-hour	(The WHO AQGs' new parameter)		<u>120 [IT-1]</u>	9
	Annual	40 [IT-1]	Not applicable	40 [IT-1] (generally comply)	Not applicable
O ₃	8-hour	160 [IT-1]	9	160 [IT-1] (not comply)	9
	Peak season	(The WHO AQGs' new parameter)		<u>100 [IT-1]</u> (not comply)	Not applicable

Pollutants	Averaging Time	Prevailing AQOs		2030 Air Quality Assessment Results	
		Concentration ($\mu\text{g}/\text{m}^3$) [^]	No. of exceedances allowed (per calendar year)	Compliance with respect to the WHO AQGs ($\mu\text{g}/\text{m}^3$) [^]	No. of exceedances allowed (per calendar year)
CO	1-hour	30 000 [AQG]	0	30 000 [AQG] [@]	0
	8-hour	10 000 [AQG]	0	10 000 [AQG] [@]	0
	24-hour	(The WHO AQGs' new parameter)		4 000 [AQG] [@]	0
Pb	Annual	0.5 [AQG]	Not applicable	0.5 [AQG] [@]	Not applicable

[^] All measurements of the concentration of gaseous air pollutants, i.e. SO₂, NO₂, O₃ and CO, are adjusted to a reference temperature of 293 Kelvin and a reference pressure of 101.325 kPa.

[@] The maximum levels in the past decade of 1-hour CO, 8-hour CO, 24-hour CO and annual Pb were 4 070 $\mu\text{g}/\text{m}^3$, 2 860 $\mu\text{g}/\text{m}^3$, 2 588 $\mu\text{g}/\text{m}^3$ and 0.041 $\mu\text{g}/\text{m}^3$ respectively, which are well below their respective AQG levels.

The information indicated in **bold** under “Compliance with respect to the WHO AQGs” are parameters to be tightened (or set) in this round of review of the AQOs.

The 2030 assessment result of peak season O₃, as well as that of the 8-hour O₃, have not reached their respective IT-1 levels. The issue is primarily a regional one. To tackle this regional O₃ issue, we together with the Guangdong Provincial Government and the Government of Macao conducted a three-year joint study on “Characterization of photochemical O₃ formation, regional and super-regional transportation in the Greater Bay Area” to better understand the origin of O₃ formation and its spreading characteristics. The findings provide scientific supports to help devise improvement measures. With a long-term target to reduce O₃ level in Hong Kong, we suggest keeping the 8-hour O₃ at the prevailing AQO level; and

setting the peak season O_3 ¹ at IT-1 level of the WHO AQGs. Although the rising trend of O_3 remains a challenge of air pollution to tackle and is unable to be resolved in the short term, with our continuous effort to reduce the local nitrogen oxides and volatile organic compounds emissions by means of reducing vehicle emissions, promoting the use of electric vehicles and tightening the control of emission from the power plants as well as the concerted efforts of the Government and the Guangdong Provincial Government in improving regional air quality, we envisage that the O_3 level could reach IT-1 in the medium term.

As for the annual NO_2 level, the air quality assessment result shows that most areas in Hong Kong have already met the IT-1 level in 2030 except the airport and anchorage area. The exceedance is due to aircraft and marine emissions. Hence, we propose to keep the annual NO_2 at the prevailing AQO level.

As shown in the table above, the 24-hour CO level in Hong Kong has remained well below the corresponding WHO AQG level in the past decade. Therefore, it is recommended that the AQO for 24-hour CO be pitched at the WHO AQG level.

¹ For the purpose of setting peak season O_3 as one of Hong Kong's AQOs, the proposed definition for this parameter to be adopted in the APCO is as follows:

- (a) the peak season level of O_3 of a calendar year in the air is the highest value selected by calculating the 6-month running averages of maximum daily 8-hour mean O_3 concentrations by month.
- (b) Each 6-month running average calculated for the purposes of (a) is assigned to the calendar year which covers three months before and inclusive of the last day of a particular month and three months after it, that is -
 - (i) the first 6-month calculation period for a calendar year is the period from 1 November in the previous year to 30 April in that year, that is, covering three months before and inclusive of 31 January in that year and three months after it; and
 - (ii) the last 6-month calculation period for a calendar year is the period from 1 October in that year to 31 March in the following year, that is, covering three months before and inclusive of 31 December in that year and three months after it.

2. Interpretation

In this Ordinance, unless the context otherwise requires—

actual emission (實際排放量), in relation to a type of specified pollutant, means the quantity, as ascertained by such method as specified in a specified licence, of that type of pollutant that has been emitted from the licensed premises; (*Added 31 of 2008 s. 2*)

air control zone (空氣質素管制區) means any part of Hong Kong declared under section 6 to be an air control zone;

air pollutant (空氣污染物) means any solid, particulate, liquid, vapour, objectionable odour or gaseous substance emitted into the atmosphere; (*Amended 13 of 1993 s. 2*)

air pollution (空氣污染) means an emission of air pollutant which either alone or with another emission of air pollutant—

- (a) is prejudicial to health;
- (b) is a nuisance;
- (c) imperils or is likely to imperil the safety of or otherwise interferes with the normal operation of aircraft; or
- (d) is determined to be air pollution under a technical memorandum; (*Replaced 13 of 1993 s. 2*)

air quality objective (空氣質素指標) means the air quality objective referred to in section 7A(1); (*Amended 12 of 2013 s. 3*)

allocated allowances (獲配限額), in relation to a type of specified pollutant, means the emission allowances allocated under section 26G(1) for that type of pollutant in respect of a specified licence in relation to an emission year; (*Added 31 of 2008 s. 2*)

allowed emission (可排放量), in relation to a type of specified pollutant, means the quantity, as ascertained by reference to the quantity of allocated allowances for that type of pollutant as applicable to a specified licence in respect of an emission year, of that type of pollutant that may be emitted in the emission year from the licensed premises; (*Added 31 of 2008 s. 2*)

Appeal Board (上訴委員會) means an Appeal Board constituted under Part VI;

asbestos (石棉) includes the minerals, and substances including the minerals, amosite, crocidolite, chrysotile, fibrous actinolite, fibrous anthophyllite and fibrous tremolite; (*Added 13 of 1993 s. 2*)

asbestos abatement work (石棉消滅工程) means any work or a procedure to control fibre release from asbestos containing material, and includes the removal and transport of asbestos containing material; (*Added 13 of 1993 s. 2*)

asbestos containing material (含石棉物料) means any material, substance or product which is made with or contains asbestos, as determined by a method approved by the Secretary; (*Added 13 of 1993 s. 2. Amended 1 of 2014 s. 3*)

Authority (監督) means the public officer appointed under section 4(1) to be the air pollution control authority;

authorized officer (獲授權人員) means a public officer authorized under section 4(3);

best practicable means (最好的切實可行方法), where used with respect to the emission from a premises of an air pollutant, has reference not only to the provision and the efficient maintenance of appliances adequate for preventing such emission, but also to the manner in which such appliances are used and to the proper supervision by the owner of the premises of any operation in which such an air pollutant is evolved;

building (建築物) includes the whole, or a part, of a domestic or public building, arch, bridge, cavern adapted or constructed to be used for the storage of oil and petroleum products, chimney, cook-house, cowshed, dock, factory, garage, hangar, hoarding, latrine, matshed, office, oil storage installation, out-house, pier, shelter, shop, stable, stairs, wall, warehouse, wharf, workshop or tower, pylon or other similar structure supporting an aerial ropeway and such other structures as the Building Authority may declare to be a building by notice in the Gazette made under section 2(1) of the Buildings Ordinance (Cap. 123); (*Added 13 of 1993 s. 2*)

chimney (煙囪) includes structures and openings of any kind from or through which air pollutant may be emitted and, in particular, includes flues, and references to a chimney of a premises include references to a chimney which serves the whole or part of a premises but is structurally separate therefrom;

containment (密封區) means a working area isolated from the rest of the building and other working areas to prevent the escape of asbestos fibre; (*Added 13 of 1993 s. 2*)

dispensing nozzle spout (配油噴嘴) means a spout or other device forming the end of a petrol pump nozzle and designed or constructed to dispense petrol from that petrol pump into the fuel tank of a motor vehicle; (*Added 19 of 1994 s. 2*)

emission allowance (排放限額), in relation to a type of specified pollutant, means the entitlement to emit one tonne of that type of pollutant in an emission year from a licensed premises; and, for the avoidance of doubt, each such entitlement is quantified as one emission allowance; (*Added 31 of 2008 s. 2*)

emission year (排放年度) means a period of 12 months commencing on 1 January in each year; (*Added 31 of 2008 s. 2*)

engine (引擎) means an internal combustion engine;

furnace (火爐) includes any kind of fireplace, grate or stove, whether open or closed and any structure enclosing a chamber where combustion takes place;

industrial plant (工業裝置) includes any plant, whether fixed or movable, used for industrial or trade purposes, and also includes any incinerator used for or in connection with any such purposes;

licence (牌照) means a licence granted under section 15, a licence renewed under section 16, a licence varied under section 17 or 18 or a licence transferred under section 18A, as may be appropriate; (*Amended 31 of 2008 s. 2*)

licence holder (牌照持有人) means the holder of a valid licence;

licensed premises (牌照所涉處所) means the premises to which a specified licence relates; (*Added 31 of 2008 s. 2*)

motor vehicle (汽車) has the same meaning as in section 2 of the Road Traffic Ordinance (Cap. 374); (*Added 19 of 1994 s. 2*)

non-friable asbestos containing material (不鬆脆的含石棉物料) means asbestos containing material which when dry cannot be crumbled, pulverized or reduced to powder by hand pressure; (*Added 13 of 1993 s. 2*)

noxious or offensive emission (有害或厭惡性排放物) means a noxious or offensive emission designated by regulations made under section 43(1)(a);

nuisance (滋擾) includes an event which is obnoxious and which results in any of the effects set out in section 10(2)(h); (*Added 13 of 1993 s. 2*)

oven (烘爐) includes any form of retort or container used to subject solid fuel to any process involving the application of heat;

owner (擁有人) includes—

- (a) in relation to a building or premises, a lessee or occupier of the building or premises and a contractor who has possession of a site for the purposes of construction work;
- (b) in relation to the common area of a building, the management committee or other body responsible for the management or control of the building;
- (c) in relation to a specified process, a person carrying on a specified process in or on the premises; and
- (d) in relation to a ship, the master or other person in control of the ship; (*Replaced 13 of 1993 s. 2*)

petrol (汽油) has the same meaning as in section 69 of the Dutiable Commodities Ordinance (Cap. 109); (*Added 19 of 1994 s. 2*)

petrol delivery vehicle (運油車) means a motor vehicle which is constructed or adapted for use primarily for the delivery of petrol to a petrol retailer; (*Added 19 of 1994 s. 2*)

petrol retailer (汽油零售商) means a person who sells, or offers for sale, petrol by retail to the public at large for use in motor vehicles; (*Added 19 of 1994 s. 2*)

polluting process (污染工序) includes an activity, process or the operation of a chimney, relevant plant, machinery or equipment that evolves air pollutant; (*Added 13 of 1993 s. 2*)

prejudicial to health (損害健康) means injurious, or likely to cause injury, to health;

premises (處所) includes a part of the premises and a place, building or relevant plant; (*Replaced 13 of 1993 s. 2*)

register of specified processes (指明工序登記冊) means the register required to be kept under section 39; (*Replaced 13 of 1993 s. 2*)

registered asbestos consultant (註冊石棉顧問) means a natural person whose name is entered in the register of asbestos consultants maintained under section 51(1)(a); (*Added 13 of 1993 s. 2*)

registered asbestos contractor (註冊石棉承辦商) means a natural person, company or other body corporate whose name is entered in the register of asbestos contractors maintained under section 51(1)(b); (*Added 13 of 1993 s. 2*)

registered asbestos laboratory (註冊石棉化驗所) means a laboratory whose name is entered in the register of asbestos laboratories maintained under section 51(1)(d) and includes a natural person, company or other body corporate whose name

is entered in the register as the owner of a laboratory; (*Added 13 of 1993 s. 2*)

registered asbestos supervisor (註冊石棉監管人) means a natural person whose name is entered in the register of asbestos supervisors maintained under section 51(1)(c); (*Added 13 of 1993 s. 2*)

relevant plant (有關裝置) means any furnace, engine, oven or industrial plant;

Secretary (局長) means the Secretary for Environment and Ecology; (*Replaced 78 of 1999 s. 7. Amended L.N. 106 of 2002; L.N. 130 of 2007; L.N. 144 of 2022*)

specified licence (指明牌照) means a licence to conduct the process specified in item 7 of Schedule 1, other than a licence to conduct such process for the sole purpose of providing a stand-by power supply in the event of a loss of normal power supply; (*Added 31 of 2008 s. 2*)

specified licence holder (指明牌照持有人) means the holder of a specified licence; (*Added 31 of 2008 s. 2*)

specified pollutant (指明污染物) means an air pollutant of any of the following types—

- (a) sulphur dioxide;
- (b) nitrogen oxides;
- (c) respirable suspended particulates; (*Added 31 of 2008 s. 2*)

specified process (指明工序) means a process specified in Schedule 1; (*Amended 13 of 1993 s. 2*)

technical memorandum (技術備忘錄) means a technical memorandum issued under section 9 or 26G; (*Added 13 of 1993 s. 2. Amended 31 of 2008 s. 2; 12 of 2013 s. 3*)

vehicle design standards (車輛設計標準), in relation to the prohibition or control of the emission of air pollutants in respect of motor vehicles intended to be registered under the Road Traffic Ordinance (Cap. 374), means the vehicle design standards applied in regulations made under section 43(1)(r). (*Added 2 of 1991 s. 3*)

31. When appeal may be brought; and effect thereof

(1) A person may appeal to the Appeal Board if he is aggrieved by a decision, requirement or specification of a public officer under any of the following provisions—

- (a) section 10(1) (requiring the abatement of air pollution); (*Replaced 13 of 1993 s. 23*)

- (b) *(Repealed 13 of 1993 s. 23)*
- (c) section 15(1) (refusing to grant a licence);
- (d) section 15(4) (fixing terms and conditions of licence);
- (e) section 16(4) (refusing to renew a licence);
- (f) section 17(1)(a) (imposing new or amended terms or conditions for continuance of a licence);
- (g) section 17(1)(b) (cancelling a licence);
- (h) section 17(1)(c) (revoking, amending or adding to a notice or substituting a new notice);
- (i) section 18(4) (refusing to vary a licence);
- (j) section 18(7) (fixing terms and conditions for variation of a licence);
- (ja) section 18A(5) (refusing to transfer a licence); *(Added 23 of 1987 s. 13)*
- (jb) section 18A(8) (fixing terms and conditions on transfer of a licence); *(Added 23 of 1987 s. 13)*
- (k) section 22(1)(a)(i) (imposing terms and conditions subject to which an exemption may continue in force);
- (l) section 22(1)(a)(iii) or 22(1)(b) (cancelling an exemption);
- (m) section 22(1)(c) (amending or adding to a notice or substituting a new notice);
- (n) section 23(4) (refusing to vary or cancel terms or conditions subject to which an exemption may continue in force);
- (na) section 26K(1) (refusing to increase a quantity of allocated allowances upon occurrence of a special event or failure to acquire emission credits); *(Added 31 of 2008 s. 8)*
- (nb) section 26M(4)(a) (refusing to grant an approval for the purposes of section 26M(2)); *(Added 31 of 2008 s. 8)*
- (nc) section 26M(7) (imposing terms and conditions upon granting an approval for the purposes of section 26M(2)); *(Added 31 of 2008 s. 8)*
- (o) section 27 (requiring information to be furnished);
- (p) section 30(1)(i) (requiring the modification, replacing, cleaning or repair of or other steps to be taken relating to, a chimney, relevant plant or other machinery or equipment); *(Amended 13 of 1993 s. 23)*

- (pa) section 30(1)(ii) (requiring the installation of control equipment or systems); (*Added 13 of 1993 s. 23*)
 - (pb) section 30(1)(iii) (requiring the operation of a chimney, relevant plant or other machinery or equipment in a specified manner); (*Added 13 of 1993 s. 23*)
 - (q) section 30(1)(iv) (prohibiting the use of specified fuels or other materials); (*Amended 13 of 1993 s. 23*)
 - (r) section 40 (refusing to withhold information from public notification or other public access); (*Amended 23 of 1987 s. 13*)
 - (s) any regulations made under section 43;
 - (t) section 58 (refusal to enter or deferral of entry of an applicant's name in the relevant register); (*Added 13 of 1993 s. 23*)
 - (u) section 67 (ordering the suspension or removal of registered asbestos persons from the relevant register); (*Added 13 of 1993 s. 23*)
 - (v) section 72 (requiring the owner to comply with conditions set by the Authority in an asbestos management plan or an asbestos abatement plan); (*Added 13 of 1993 s. 23*)
 - (w) section 79 (requiring the owner to comply with requirements set by the Authority in an asbestos abatement notice). (*Added 13 of 1993 s. 23*)
- (2) An appeal under subsection (1) shall be made by lodging notice of appeal in the prescribed manner and form within 21 days after the person aggrieved has received notice of the decision, requirement or specification.
- (3) Where the decision, requirement or specification appealed from was made under a provision mentioned in paragraphs (a) or (e) to (j) or (jb) to (m) or (o) to (q) or (v) of subsection (1) the notice thereof shall be suspended from the day on which notice of appeal is duly given to the Authority and until the appeal is disposed of, withdrawn or abandoned, unless — (*Amended 23 of 1987 s. 13; 13 of 1993 s. 23*)
- (a) the decision, requirement or specification is considered by the Authority to be necessary because the continuation of the activities, whether licensed or otherwise, to which the notice relates would be, or be likely to be, prejudicial to health; and
 - (b) the notice contains a declaration to that effect.

- (4) No appeal shall lie under this section where the requirement of the Authority is made with the prior approval of the Chief Executive in Council under section 17(2) or 22(2). (*Amended 21 of 2024 s. 78*)
- (5) The Appeal Board shall refuse to determine an appeal under this section unless—
 - (a) a decision, requirement or specification—
 - (i) is not justified under this Ordinance or a technical memorandum issued under this Ordinance; or
 - (ii) has some material error in content or material defect in administrative procedure;
 - (b) the opinion of the Authority or an authorized officer that air pollution which is caused or contributed to by an emission set out in section 10(2)(h) is unreasonable;
 - (c) the opinion of the Authority or the authorized officer under section 10(2)(b) or (c) that the air pollution is prejudicial to health is unreasonable; or
 - (d) a disciplinary order or order for costs issued under section 67 against a registered asbestos consultant, supervisor, contractor or laboratory is unjustifiable. (*Added 13 of 1993 s. 23*)

33. Exercise of Appeal Board's jurisdiction

- (1) The jurisdiction of an Appeal Board on any appeal or group of appeals shall be exercised by the Chairman and such number of persons from the panel referred to in section 32(4) as the Chairman may appoint for that appeal or group of appeals.
- (2) On any appeal an Appeal Board may confirm, reverse or vary the decision, requirement or specification appealed from.
- (3) Every question before an Appeal Board shall be determined by the opinion of the majority of the Chairman and the members hearing the appeal except a question of law which shall be determined by the Chairman; in the event of an equality of votes the Chairman shall have a casting vote.
- (4) (*Repealed 31 of 2008 s. 10*)
- (5) An Appeal Board may—
 - (a) receive evidence on oath;
 - (b) admit or take into account any statement, document, information or matter whether or not it would be admissible as evidence in a court of law; and

- (c) by notice in writing summon any person to appear before it to produce any document or to give evidence that may reasonably be required.
- (6) In hearing an appeal, the Appeal Board may make an award for the costs involved in the appeal that is just and equitable in all the circumstances of the case, and for 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, for compensation that is just and equitable in all the circumstances of the case, including the conduct and comparative blameworthiness of the appellant and his servants and agents, and of the public officers and any other persons concerned. *(Replaced 13 of 1993 s. 25)*
- (7) The Appeal Board shall have the powers which are vested in the Court of First Instance in the exercise of its powers under subsection (5)(a) or (c). *(Amended 25 of 1998 s. 2)*
- (8) The Chairman may determine any form or matter of practice or procedure in so far as no provision is made therefor by or under this Ordinance.
- (9) If a person—
 - (a) on being summoned as a witness before the Appeal Board fails to attend;
 - (b) attending as a witness refuses to be sworn or to produce a document or to answer a question as the Appeal Board may legally require of him; or
 - (c) does any other thing which would, if the Appeal Board had been a court of law with power to commit for contempt, have been contempt of that court,the Chairman may certify under his hand the act of the person as contempt and the Court of First Instance may inquire into the alleged contempt. *(Added 13 of 1993 s. 25. Amended 25 of 1998 s. 2)*
- (10) After hearing any witnesses who may give evidence against or on behalf of the person charged with contempt, the Court of First Instance may punish the person as if he had been guilty of contempt of the Court of First Instance. *(Added 13 of 1993 s. 25. Amended 25 of 1998 s. 2)*
- (11) A witness before the Appeal Board is entitled to the same immunities and privileges as if he were a witness in civil proceedings before the Court of First Instance. *(Added 13 of 1993 s. 25. Amended 25 of 1998 s. 2)*

- (12) A sum awarded as costs or compensation on an appeal is enforceable as a civil debt and costs payable by the Authority on an appeal are a charge on the general revenue. *(Added 13 of 1993 s. 25)*

37D. Amendment of Schedules

- (1) The Secretary may, by notice published in the Gazette, amend Schedules 2A, 2B and 2C.
- (2) Any fee prescribed in Schedule 2B—
- (a) may be fixed at levels that provide for the recovery of the expenditure incurred or likely to be incurred in relation generally to the administration, regulation and control of the emission of specified pollutants that may take place or is likely to take place as a result of increases in the quantity of allocated allowances under section 26K; and
 - (b) shall not be limited by reference to the amount of administrative or other costs incurred or likely to be incurred in the provision of any particular service, facility or matter.

(Added 31 of 2008 s. 13)

46. Limit of time for laying informations, etc.

- (1) A complaint or information in respect of an offence under this Ordinance shall be made or laid, as the case may be, within — *(Amended 13 of 1993 s. 29)*
- (a) 6 months from the time when the matter of such complaint or information respectively first came to the knowledge of the Authority or an authorized officer; or
 - (b) 1 year from the time of the commission of the offence, whichever is the earlier.
- (2) Subsection (1) does not apply to the making of a complaint or laying of an information for an offence which is a continuing offence. *(Added 13 of 1993 s. 29)*
- (3) Where an offence is of a continuing nature a complaint or information in respect of the offence shall be made or laid, as the case may be, within 6 months after the continuance of the offence first coming to the notice of the Authority or an authorized officer. *(Added 13 of 1993 s. 29)*

50. Service of notices

The Authority may serve a notice to be served on a person under this Ordinance—

- (a) by serving a copy personally or by registered post addressed to the last known place of business or residence of the person to be served; or
- (b) where the notice is to be served on the owner of any premises or a ship, by fixing a copy on a conspicuous part of the premises or ship.

(Added 13 of 1993 s. 32)

78. Defences

- (1) It is a defence for a person charged under section 77 in respect of any work in the premises or any part of the premises if the person establishes that—
 - (a) the person carried out the work, or caused or permitted the work to be carried out, in an emergency situation that did not permit the person to comply with that section without risk to human life or serious disruption to a public service; or
 - (b) the person did not know and could not have reasonably known of the presence of asbestos containing material in the premises or that part of the premises at the time when the person carried out the work, or caused or permitted the work to be carried out.
- (2) The person is taken to have established a fact that needs to be established for the defence if—
 - (a) there is sufficient evidence to raise an issue with respect to the fact; and
 - (b) the contrary is not proved by the prosecution beyond reasonable doubt.

(Replaced 1 of 2014 s. 5)

Schedule 1

[ss. 2 & 11]

Specified Processes

(Format changes—E.R. 2 of 2018)

Process	Description
1. Acrylates Works	<p>Works in which acrylates are—</p> <ul style="list-style-type: none"> (a) made or purified; (b) made and polymerised; or (c) purified and polymerised.
2. Aluminium Works	<p>Works of the following kinds in which the processing capacity exceeds 1 tonne (expressed as aluminium) or, if the mode of operation is continuous, 0.67 tonne (expressed as aluminium) per hour, and in which—</p> <ul style="list-style-type: none"> (a) aluminium swarf is degreased by the application of heat; or (b) aluminium or aluminium alloys are recovered from aluminium or aluminium alloy scrap fabricated metal, swarf, skimmings, or other residues by melting under flux cover; or (c) molten aluminium or aluminium alloys are treated by chlorine or its compounds; or (d) aluminium is extracted from any compound containing aluminium by a process evolving any noxious or offensive gases; or (e) oxide of aluminium is extracted from any ore; or (f) aluminium is recovered from slag or drosses; or (g) materials used in the above processes or the products thereof are treated or handled by methods which cause noxious or offensive gases to be evolved.
3. Cement Works	<p>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.</p>

Process	Description
4. Ceramic Works	Works in which the processing capacity exceeds 2 tonnes or, if the mode of operation is continuous, 0.67 tonne per day, and in which any ceramic products including bricks, tiles, pipes, pottery goods, or refractories are manufactured in furnaces or kilns fired by any fuel.
5. Chlorine Works	Works in which chlorine is made or used in any manufacturing process.
6. Copper Works	<p>Works in which the processing capacity exceeds 0.5 tonne (expressed as copper) or, if the mode of operation is continuous, 0.45 tonne (expressed as copper) per hour and in which—</p> <ul style="list-style-type: none"> (a) by the application of heat— <ul style="list-style-type: none"> (i) copper is extracted from any ore or concentrate or from any material containing copper or its compounds; or (ii) molten copper is refined; or (iii) copper or copper alloy swarf is degreased; or (iv) copper alloys are recovered from scrap fabricated metal, swarf or residues; or (b) copper or copper alloy is melted and cast.
7. Electricity Works	Works in which fossil fuel is burnt either wholly or as part of the process of electricity generation where the installed generation capacity of such works exceeds 5 MW.

Process	Description
8. Gas Works	<p>Works in which—</p> <ul style="list-style-type: none"> (a) coal, coke, oil, carbonaceous material or any mixtures or derivatives of such materials or any waste materials are handled or prepared for carbonization or gasification and in which such materials are carbonized or gasified; or (b) natural gas is reformed, refined or odorised.
9. Iron and Steel Works	Works in which the installed furnace capacity exceeds 1 tonne, or, if the mode of operation is continuous, 1 tonne per hour, and in which a ferrous metal melting process for casting is carried out.
10. Metal Recovery Works	Works in which scrap metals are treated in any type of furnace for recovery of metal with a processing capacity exceeding 50 kg per hour, where this is the primary object of the works.
11. Mineral Works	<p>Works in which the processing capacity exceeds 5 000 tonnes per annum and in which—</p> <ul style="list-style-type: none"> (a) metallurgical slags; or (b) pulverised fuel ash; or (c) minerals, other than moulding sand in foundries or coal at electricity works, <p>are subjected to any size reduction, grading or heating by a process giving rise to dust, not being any works described in any other specified process.</p>
12. Incinerators	Works in which the installed capacity exceeds 0.5 tonne per hour and which are used for the destruction by burning of wastes or refuse, not being any works described in any other specified process.

Process	Description
13. Petrochemical Works	<p>Works in which the processing capacity exceeds 100 tonnes per annum (expressed as total chemical products), and in which —</p> <ul style="list-style-type: none"> (a) any hydrocarbons are used for the production of olefins or derivatives of olefins; or (b) any olefins, derivatives of olefins or mixture of thereof are used in any chemical manufacturing process, not being any works described in any other specified process; or (c) any olefins, derivatives of olefins or mixture of thereof are polymerised.
14. Sulphuric Acid Works	<p>Works in which the installed capacity exceeds 100 tonnes per annum and in which the manufacture of sulphuric acid is carried on by any process, and works for the concentration or distillation of sulphuric acid.</p>
15. Tar and Bitumen Works	<p>Works of the following kinds in which the installed capacity exceeds 250 kg per hour and in which—</p> <ul style="list-style-type: none"> (a) gas tar or coal tar or bitumen is distilled or is heated in any manufacturing process; or (b) any product of the distillation of gas tar or coal tar or bitumen is distilled or heated in any process involving the evolution of any noxious or offensive gas; or (c) heated materials produced from gas tar or coal tar or bitumen are applied in coating or wrapping of iron or steel pipes or fittings.

Process	Description
16. Frit Works	Works in which the installed furnace capacity exceeds 1 tonne and in which frit is made by fusion of materials and quenching.
17. Lead Works	<p>Works of the following kinds in which—</p> <ul style="list-style-type: none"> (a) by application of heat— <ul style="list-style-type: none"> (i) lead is extracted or recovered from any material containing lead or its compounds; or (ii) lead is refined; or (iii) lead is applied as a surface coating to other metals by spraying; or (b) compounds of lead are manufactured, extracted, recovered or used in processes which give rise to particulates emission, excluding the manufacture of electric accumulators and the application of glazes or vitreous enamels; or (c) organic lead compounds are made.
18. Amines Works	<p>Works in which the processing capacity exceeds 1 000 tonnes per annum and in which—</p> <ul style="list-style-type: none"> (a) any methylamine or any ethylamine is made; or (b) any methylamine or any ethylamine is used in any chemical process.

Process	Description
19. Asbestos Works	<p>Works in which—</p> <ul style="list-style-type: none"> (a) raw asbestos is milled, ground, opened or blended prior to use in a manufacturing operation; or (b) asbestos or any material containing asbestos is used in the manufacture of asbestos cement or asbestos cement pipes, or asbestos insulating board, or asbestos textiles, or asbestos jointing or packaging materials, or asbestos brake or clutch materials, or asbestos floor coverings, or fillers or reinforcements.
20. Chemical Incineration Works	<p>Works, not being any works described in any other specified process, of the following kinds in which the installed capacity exceeds 25 kg per hour and which are used for the destruction by burning of —</p> <ul style="list-style-type: none"> (a) wastes produced from chemical manufacturing processes; or (b) chemical wastes containing combined bromine, chlorine, fluorine, iodine, lead, mercury, cadmium, zinc, nitrogen, phosphorus or sulphur; or (c) wastes produced in the manufacturing of plastics.
21. Hydrochloric Acid Works	<p>Works in which the installed capacity exceeds 100 tonnes per annum (expressed as hydrochloric acid) where hydrochloric acid gas is evolved either during the preparation of liquid hydrochloric acid or for use in any manufacturing process or as the result of the use of chlorides in a chemical process.</p>
22. Hydrogen Cyanide Works	<p>Works in which the installed capacity exceeds 100 tonnes per annum and in which hydrogen cyanide is made or used in any chemical manufacture.</p>

Process	Description
23. Sulphide Works	<p>Works of the following kinds and in which—</p> <ul style="list-style-type: none"> (a) hydrogen sulphide is evolved by the decomposition of metallic sulphide in any manufacturing process; or (b) hydrogen sulphide is used in the production of such sulphides; or (c) hydrogen sulphide or mercaptans are made or used in any chemical process or evolved as part of any chemical process.
24. Pathological Incinerators	<p>Waste Works in which the installed capacity exceeds 50 kg per hour and which are used for the destruction by burning of any medical, hospital or pathological wastes, not being any works described in any other specified process.</p>
25. Organic Works	<p>Chemical Works, not being a chemical process described in any other specified process, of the following kinds in which—</p> <ul style="list-style-type: none"> (a) the installed capacity exceeds 100 tonnes per annum (expressed as the total organic chemical products), and in which— <ul style="list-style-type: none"> (i) any organic chemicals, including organic intermediate products, pesticides, fertilisers, and specialty chemicals, are manufactured in any organic chemical process; or (ii) any organic solvent or mixture of solvents is recovered by any thermal process; or (b) any organic liquids, including liquid fuel, are stored in tanks having an installed capacity exceeding 100 m³.

Process	Description
26. Petroleum Works	<p>Works in which the processing capacity exceeds 100 tonnes per annum (expressed as petroleum product) and in which—</p> <ul style="list-style-type: none"> (a) crude or stabilised crude petroleum or associated gas, or condensate is— <ul style="list-style-type: none"> (i) handled or stored; or (ii) refined; or (b) any product of such refining is subjected to further refining or to conversion; or (c) used lubricating oil is prepared for re-use by any thermal process.
27. Zinc Galvanising Works	<p>Works in which the installed capacity exceeds 5 000 tonnes per annum (expressed as galvanised product) and in which zinc galvanising is carried out.</p>
28. Rendering Works	<p>Works in which the processing capacity exceeds 250 kg per hour (expressed as the raw material) and in which rendering or reduction or drying through application of heat, or curing by smoking, of animal matter (including feathers, blood, bone, hoof, skin, offal, whole fish, and fish heads and guts and like parts, and organic manures but not including milk or milk products) is carried out.</p>
29. Non-ferrous Metallurgical Works	<p>Works in which the processing capacity exceeds 1 tonne per hour and in which melting of any non-ferrous metal, other than aluminium, copper, lead and zinc for galvanising is carried out.</p>
30. Glass Works	<p>Works in which the processing capacity exceeds 200 tonnes per annum (expressed as the glass products) and in which manufacturing process for making glass or glass products including mineral fibre and glass fibre is carried out.</p>

Process	Description
31. Paint Works	Works in which the processing capacity exceeds 35 m ³ (expressed as coating products) and in which coating products including paints, vanishes and lacquers are produced or manufactured. (Schedule 1 replaced 13 of 1993 s. 33)

Schedule 5

[s. 7A]

Air Quality Objectives

Editorial Note:

For the transitional provisions relating to an application under section 13(1) of the Environmental Impact Assessment Ordinance (Cap. 499), see section 4 of the Air Pollution Control (Amendment) Ordinance 2021 (6 of 2021).

Part 1

Preliminary

1. Interpretation

In this Schedule—

fine suspended particulates (微細懸浮粒子) means suspended particles in air with a nominal aerodynamic diameter of 2.5 µm or less;

respirable suspended particulates (可吸入懸浮粒子) means suspended particles in air with a nominal aerodynamic diameter of 10 µm or less.

2. Application

The air quality objectives set out in this Schedule are prescribed for every air control zone.

3. Reference conditions

All measurements of the concentration of gaseous air pollutants set out in Part 2 of this Schedule are to be adjusted to a reference temperature of 293 Kelvin and a reference pressure of 101.325 kilopascal.

Part 2

Concentration Limits of Air Pollutants

4. Sulphur dioxide

- (1) The concentration limit of sulphur dioxide in air averaged over a reference period is $500 \mu\text{g}/\text{m}^3$ and the number of reference periods in which the limit is exceeded should not be more than 3 per calendar year.
- (2) The concentration limit of sulphur dioxide in air averaged over a day is $50 \mu\text{g}/\text{m}^3$ and the number of days on which the limit is exceeded should not be more than 3 per calendar year.
(Amended 6 of 2021 s. 3)
- (3) For the purposes of subsection (1), a reference period is—
 - (a) the first 10 minutes of a day; or
 - (b) each successive 10-minute period of the day.

5. Respirable suspended particulates

- (1) The concentration limit of respirable suspended particulates in air averaged over a day is $100 \mu\text{g}/\text{m}^3$ and the number of days on which the limit is exceeded should not be more than 9 per calendar year.
- (2) The concentration of respirable suspended particulates in air averaged over a calendar year should not exceed $50 \mu\text{g}/\text{m}^3$.

6. Fine suspended particulates

- (1) The concentration limit of fine suspended particulates in air averaged over a day is $50 \mu\text{g}/\text{m}^3$ and the number of days on which the limit is exceeded should not be more than 35 per calendar year.
- (2) The concentration of fine suspended particulates in air averaged over a calendar year should not exceed $25 \mu\text{g}/\text{m}^3$.

(Amended 6 of 2021 s. 3)

7. Nitrogen dioxide

- (1) The concentration limit of nitrogen dioxide in air averaged over an hour is $200 \mu\text{g}/\text{m}^3$ and the number of hours in which the limit is exceeded should not be more than 18 per calendar year.
- (2) The concentration of nitrogen dioxide in air averaged over a calendar year should not exceed $40 \mu\text{g}/\text{m}^3$.

8. Ozone

- (1) The number of days on which the maximum daily 8-hour mean concentration of ozone in air exceeds $160 \mu\text{g}/\text{m}^3$ should not be more than 9 per calendar year.
- (2) For the purposes of subsection (1), the maximum daily 8-hour mean concentration of ozone in air is selected by examining 8-hour running averages, calculated from hourly data and updated each hour.
- (3) Each 8-hour running average calculated for the purposes of subsection (2) is assigned to the day on which the 8-hour period ends, that is—
 - (a) the first calculation period for a day is the period from 5 p.m. on the previous day to 1 a.m. on that day; and
 - (b) the last calculation period for a day is the period from 4 p.m. to 12 midnight on that day.

9. Carbon monoxide

- (1) The concentration of carbon monoxide in air averaged over an hour should not exceed $30\,000 \mu\text{g}/\text{m}^3$.
- (2) The maximum daily 8-hour mean concentration of carbon monoxide in air should not exceed $10\,000 \mu\text{g}/\text{m}^3$.
- (3) For the purposes of subsection (2), the maximum daily 8-hour mean concentration of carbon monoxide in air is selected by examining 8-hour running averages, calculated from hourly data and updated each hour.
- (4) Each 8-hour running average calculated for the purposes of subsection (3) is assigned to the day on which the 8-hour period ends, that is—
 - (a) the first calculation period for a day is the period from 5 p.m. on the previous day to 1 a.m. on that day; and
 - (b) the last calculation period for a day is the period from 4 p.m. to 12 midnight on that day.

10. Lead

The concentration of lead in air averaged over a calendar year should not exceed $0.5 \mu\text{g}/\text{m}^3$.

(Schedule 5 added 12 of 2013 s. 7)

4. Form of applications, etc.

- (1) An application under section 14(1) of the Ordinance for a licence to conduct a specified process in any premises shall be made in Form 1 in the Second Schedule.
- (2) An application under section 16(1) of the Ordinance for a renewal of a licence shall be made in Form 2 in the Second Schedule not earlier than 120 days and not later than 60 days before the expiry of the licence.
- (3) An application under section 18(1) of the Ordinance for a variation of a licence, or under section 23(1) of the Ordinance for a variation or cancellation of any term or condition of an exemption for the conduct of a specified process, shall be made in Form 3 in the Second Schedule.
- (4) An application under section 18A of the Ordinance for a transfer of a licence shall be made in Form 4 in the Second Schedule.

6. Late applications for renewal

- (1) Notwithstanding regulation 4(2), if an application for renewal of a licence is received by the Authority less than 60 days before the expiry of the licence, the Authority shall entertain the application.
- (2) Notwithstanding regulation 4(2), if an application for renewal of a licence is received by the Authority within 60 days after the date of expiry of the licence, the Authority shall entertain the application.

9. Status of licences pending decision on applications for renewal under regulation 4(2)

A licence which is the subject of an application for renewal made in accordance with regulation 4(2), if the Authority—

- (a) renews the licence before or after the date of its expiry, shall continue in force until such renewal;
- (b) refuses to renew the licence before or after the date of its expiry, shall continue in force—
 - (i) until the expiry of the time for appealing against the refusal prescribed in section 31 (2) of the Ordinance; or
 - (ii) where the applicant appeals against the refusal under section 31(2) of the Ordinance, until the appeal is disposed of, withdrawn or abandoned.

10. Status of licences pending decision on applications for renewal under regulation 6

- (1) A licence which is the subject of an application for renewal made in accordance with regulation 6(1), if the Authority—

- (a) decides to renew, or to refuse to renew, the licence before the date of its expiry, shall continue in force—
- (i) where renewal is granted, until such renewal; or
- (ii) where renewal is refused—
- (A) until the expiry of the time for appealing against the refusal prescribed in section 31(2) of the Ordinance; or
- (B) where the applicant appeals against the refusal under section 31(2) of the Ordinance, until the appeal is disposed of, withdrawn or abandoned;
- (b) is unable to decide to renew, or to refuse to renew, the licence before the date of its expiry, shall cease to be in force with effect from the date of its expiry.
- (2) A licence which is the subject of an application for renewal made in accordance with regulation 6(2) shall cease to be in force with effect from the date of its expiry.

Second Schedule

[regs. 4, 11, 12, 13 & 16]

Form 1

[reg. 4]

AIR POLLUTION CONTROL (SPECIFIED PROCESSES) REGULATIONS
APPLICATION FOR A LICENCE PURSUANT TO SECTION 14 OF THE AIR POLLUTION
CONTROL ORDINANCE

To: The Authority

1. I/We* the undersigned hereby apply under section 14 of the Air Pollution Control Ordinance for a licence for the conduct of the undermentioned specified process and I/we* hereby declare that the following particulars and the additional information, if any, provided are correct and the relevant plans and specifications are prepared by the qualified engineer(s)/authorized person(s) listed in paragraph 3 of the application.

I/We* enclose the application fee of \$..... as prescribed in the Third Schedule to these regulations.

This application, including plans and specifications, comprises pages.

Dated this day of 19

Signature of Applicant

Name

2. Details of Owner(s)†

Name of the Owner(s) (Surname First)		Status	Correspondence Address	Telephone Number	Identity Card/ Certificate of Incorporation* Number
English	Chinese				

* Delete if not applicable.

† Including the applicant.

3. *Qualified Engineer/Authorized Person*

Name of Qualified Engineer/Authorized Person (Surname First)	Correspondence Address	Telephone Number	Material† Prepared

4. *Premises where the specified process is to be conducted*

Name of the Premises (if any)		Address		Telephone Number
English	Chinese			
Contact Person in the Premises (Surname First)		Title or Position	Correspondence Address	Telephone Number
English	Chinese			
Business Registration No.	Certificate of Incorporation No.	No. of Employees in the Premises	Area of the Premises (m ²)	Land Status
Nature of Tenure	Name of Air Control Zone in which the Premises are Located			

† Including the plans and specifications mentioned in paragraphs 5 to 9.

5. *Nature of Work*

Classification of Specified Process under Application	Mode of Operation (Continuous/Batch)	Installed/Processing* Capacity	Silo Capacity (for Cement Works only)	Total No. of Emission Points

6. *Noxious or Offensive Emissions*

Emission Point No.	Exhaust Gas Flowrate (m ³ /h)	Mode of Discharge to Atmosphere							Highest Building/ Structure within 100m of the Premises	
		Exit Temperature (°C)	Fugitive Emission (Yes/No)	Discharge or Chimney Height (m)	If NOT discharged upward freely, please specify	Cross-section of Discharge Exit or Chimney				
						Width (m)	Length (m)	Diameter (m)	Distance (m)	Height (m)

* Delete if not applicable.

Emission Point No.	Efflux Velocity (m/s)	Details of Emissions					
		Composition	Emission Rate (kg/h)		Average Daily Concentration* (mg/m ³)	Maximum Concentration* (mg/m ³)	Duration of Maximum Concentration (h/d)
			Average	Maximum			

* Expressed as at standard temperature and pressure of 0°C and 101.325 kPa.

7. Fuel Usage

Emission Point No.	Type of Fuel Using Equipment	Rated Capacity (MJ/h)	Fuel to be Used				Fuel Consumption Rate (kg/h)	
			Type	Ash Content (%)	Sulphur Content (%)	Other Specifications	Maximum	Normal

8. *Raw Materials and Products*

Type	Nature or General Composition	Description of the Process	Raw Material Usage			Product Production		
			Consumption Rate		Annual Use (t)	Production Rate		Annual Production (t)
			Normal (kg/h)	Maximum (kg/h)		Normal (kg/h)	Maximum (kg/h)	

9. *Drawings*

Please provide

- (1) A block plan, drawn to a scale of 1:500 and prepared by an authorized person, showing the buildings and topography surrounding the premises where the specified process is to be conducted and the location of all emission points and their corresponding numbers.
- (2) Schematic diagrams of process flow prepared by a qualified engineer, showing the flow of materials, including raw materials, materials in process of manufacture, manufactured materials, by-products and waste materials. All emission points and processes/equipment, including air pollution control equipment, associated with each emission point, must be identified and labelled with consistent reference numbers.

10. *Notes*

- (1) The Authority may require the applicant to submit any other information about the specified process under application as specified in a notice in writing served by the Authority in accordance with section 27 of the Air Pollution Control Ordinance within such time and in such form as is specified in the same notice.
- (2) This application is subject to public notification provision pursuant to section 14 of the Air Pollution Control Ordinance. The applicant, however, may apply to withhold any information contained in this application from public notification to the extent as permitted under section 40 of the Ordinance.
- (3) The expense in public notification in causing a notice to be published in an English language and a Chinese language newspaper shall be met by the applicant himself.
- (4) The Authority may, not earlier than 40 days after the last notice is published in the newspaper, either grant or refuse to grant the licence.
- (5) The prescribed fee for application is NOT refundable.
- (6) Any person who provides information which he knows to be incorrect in a material respect or recklessly makes any statement which is incorrect in a material respect or knowingly omits any material particular commits an offence and is liable to a fine at level 5.

(L.N. 311 of 1993; L.N. 212 of 1996; L.N. 577 of 1997; E.R. 4 of 2021)

AIR POLLUTION CONTROL (SPECIFIED PROCESSES) REGULATIONS

APPLICATION FOR RENEWAL OF A LICENCE PURSUANT TO SECTION 16 OF THE AIR POLLUTION CONTROL ORDINANCE

To: The Authority

1. I/We* the undersigned, being the licence holder of the undermentioned licence, hereby apply under Section 16 of the Air Pollution Control Ordinance for the renewal of a licence for the conduct of the undermentioned specified process. I/We* hereby declare that the particulars of the undermentioned specified process, including any chimney and relevant plant, nature and emission of any air pollutant, the fuel usage, raw materials and products are substantially unchanged and that the following particulars provided are correct.

Dated this day of 19

Signature of Applicant

Name

2. Details of Owner(s) †

Name of the Owner(s) (Surname First)		Status	Correspondence Address	Telephone Number	Identity Card/ Certificate of Incorporation* Number
English	Chinese				

* Delete if not applicable.

† Including the applicant.

3. Premises where the specified process is conducted

Name of the Premises (if any)		Address			Telephone Number
English	Chinese				
Contact Person in the Premises (Surname First)		Title or Position	Correspondence Address		Telephone Number
English	Chinese				
Business Registration No.	Certificate of Incorporation No.	No. of Employees in the Premises		Area of the Premises (m ²)	Land Status
Nature of Tenure	Name of Air Control Zone in which the Premises are Located				

4. Nature of Work

Existing Licence No.	Expiry Date	Classification of Specified Process under Application	Mode of Operation (Continuous/Batch)	Installed/ Processing* Capacity	Silo Capacity (for Cement Works Only)	Total No. of Emission Points

5. Notes

Any person who provides information which he knows to be incorrect in a material respect or recklessly makes any statement which is incorrect in a material respect or knowingly omits any material particular commits an offence and is liable to a fine at level 5.

* Delete if not applicable.

(L.N. 311 of 1993; L.N. 212 of 1996; E.R. 4 of 2021)

Form 3

[reg. 4]

AIR POLLUTION CONTROL (SPECIFIED PROCESSES) REGULATIONS

APPLICATION FOR VARIATION OF A LICENCE PURSUANT TO SECTION 18, OR VARIATION OR CANCELLATION OF ANY TERM OR CONDITION OF AN EXEMPTION PURSUANT TO SECTION 23, OF THE AIR POLLUTION CONTROL ORDINANCE

To: The Authority

1. I/We* the undersigned, being the licence/exemption* holder of the undermentioned licence/exemption*, hereby apply under Section 18/23* of the Air Pollution Control Ordinance for the variation of a licence/variation or cancellation of a term or condition of an exemption* for the conduct of the undermentioned specified process and I/we* hereby declare the following particulars and the additional information, if any, provided are correct and the relevant plans and specifications are prepared by the qualified engineer(s)/authorized person(s) listed in paragraph 3 of this application.

I/We* enclose the application fee of \$..... as prescribed in the Third Schedule to these regulations.

This application, including plans and specifications, comprises pages.

Dated this day of 19

Signature of Applicant

Name

2. Details of Owner(s)†

Name of the Owner(s) (Surname First)		Status	Correspondence Address	Telephone Number	Identity Card/ Certificate of Incorporation* Number
English	Chinese				

* Delete if not applicable.

† Including the applicant.

3. Qualified Engineer/Authorized Person

Name of Qualified Engineer/Authorized Person (Surname First)	Correspondence Address	Telephone Number	Material† Prepared

4. *Premises where the specified process is conducted*

Name of the Premises (if any)		Address		Telephone Number
English	Chinese			
Contact Person in the Premises (Surname First)		Title or Position	Correspondence Address	Telephone Number
English	Chinese			
Business Registration No.	Certificate of Incorporation No.	No. of Employees in the Premises	Area of the Premises (m ²)	Land Status
Nature of Tenure		Name of Air Control Zone in which the Premises are Located		

† Including the plans and specifications mentioned in paragraphs 5 and 6.

5. *Details of Variation in Respect of which Approval is Sought*

(1) *Nature of Works*

Existing Licence/ Exemption* No.	Expiry Date (if applicable)	Classification of Specified Process under Application	Mode of Operation (Continuous/Batch)		Installed/Processing* Capacity	
			Existing Licence/ Exemption*	Proposed Variation	Existing Licence/ Exemption*	Proposed Variation
Silo Capacity (for Cement Works Only)			Total No. of Emission Points			
Existing Licence/Exemption*		Proposed Variation	Existing Licence/Exemption*		Proposed Variation	

(2) *Terms and Conditions to be Varied or Cancelled*

(To be completed only for application for variation or cancellation of terms and conditions imposed by the Authority on an exemption for conduct of a specified process)

Terms and Conditions imposed on the Existing Exemption	Proposed Variation or Cancellation	Justifications for such Variation or Cancellation

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* Delete if not applicable

(3) Noxious or Offensive Emissions

(a) Existing Licence

Emission Point No.	Exhaust Gas Flowrate (m³/h)	Mode of Discharge to Atmosphere							Highest Building/ Structure within 100m of the Premises	
		Exit Temperature (°C)	Fugitive Emission (Yes/No)	Discharge or Chimney Height (m)	If NOT discharged upward freely, please specify	Cross-section of Discharge Exit or Chimney				
						Width (m)	Length (m)	Diameter (m)	Distance (m)	Height (m)
Emission Point No.	Efflux Velocity (m/s)	Details of Emissions								
		Composition	Emission Rate (kg/h)		Average Daily Concentration* (mg/m³)	Maximum Concentration* (mg/m³)	Duration of Maximum Concentration (h/d)			
			Average	Maximum						

* Expressed as at standard temperature and pressure of 0°C and 101.325 kPa.

(b) Proposed Variation

Emission† Point No.	Exhaust Gas Flowrate (m³/h)	Mode of Discharge to Atmosphere							Highest Building/ Structure within 100m of the Premises	
		Exit Temperature (°C)	Fugitive Emission (Yes/No)	Discharge or Chimney Height (m)	If NOT discharged upward freely, please specify	Cross-section of Discharge Exit or Chimney				
						Width (m)	Length (m)	Diameter (m)	Distance (m)	Height (m)

Emission† Point No.	Efflux Velocity (m/s)	Details of Emissions					
		Composition	Emission Rate (kg/h)		Average Daily Concentration* (mg/m3)	Maximum Concentration* (mg/m3)	Duration of Maximum Concentration (h/d)
			Average	Maximum			

* Expressed as at standard temperature and pressure of 0°C and 101.325 kPa.

† To be assigned by the applicant.

(4) *Fuel Usage, Raw Materials, Products and Processes/Equipment*

Describe the details of proposed variation in respect to the fuel usage, raw materials, products and processes/equipment described for the purpose of the existing licence or exemption and state what action, if any, is proposed to minimize the amount or effects of any air pollution.

6. *Drawings*

Please provide, wherever applicable,

- (1) A block plan, drawn to a scale of 1:500 and prepared by an authorized person, showing the buildings and topography surrounding the premises where the specified process is to be conducted and the location of all emission points and their corresponding numbers.
- (2) Schematic diagrams of process flow prepared by a qualified engineer, showing the flow of materials, including raw materials, materials in process of manufacture, manufactured materials, by-products and waste materials. All emission points and processes/equipment, including air pollution control equipment, associated with each emission point, must be identified and labelled with consistent reference numbers.

7. *Notes*

- (1) The Authority may require the applicant to submit any other information about the specified process under application as specified in a notice in writing served by the Authority in accordance with section 27 of the Air Pollution Control Ordinance within such time and in such form as is specified in the same notice.
- (2) This application is subject to public notification provision pursuant to section 14 of the Air Pollution Control Ordinance. The applicant, however, may apply to withhold any information contained in this application from public notification to the extent as permitted under section 40 of the Ordinance.

- (3) The expense in public notification in causing a notice to be published in an English language and a Chinese language newspaper shall be met by the applicant himself.
- (4) The Authority may grant the application, with or without modification, or refuse to grant it but shall not do so earlier than 30 or 40 days, respectively for variation or cancellation of any term or condition of exemption and variation of a licence, after the last notice is published in a newspaper.
- (5) The prescribed fee for application is NOT refundable.
- (6) Any person who provides information which he knows to be incorrect in a material respect or recklessly makes any statement which is incorrect in a material respect or knowingly omits any material particular commits an offence and is liable to a fine at level 5.

(L.N. 311 of 1993; L.N. 212 of 1996; L.N. 577 of 1997; E.R. 4 of 2021)

Form 4

[reg. 4]

AIR POLLUTION CONTROL (SPECIFIED PROCESSES) REGULATIONS
APPLICATION FOR TRANSFER OF A LICENCE PURSUANT TO SECTION 18A OF THE AIR
POLLUTION CONTROL ORDINANCE

To: The Authority

1. We the undersigned, being the licence holder and the prospective transferee of the undermentioned licence, hereby apply jointly under section 18A of the Air Pollution Control Ordinance for the transfer of the licence for the conduct of the undermentioned specified process and we hereby declare that the particulars of the undermentioned specified process, including any chimney and relevant plant, nature and emission of any air pollutant, the fuel usage, raw materials and products are substantially unchanged and that the following particulars provided are correct.

We enclose the application fee of \$..... as prescribed in the Third Schedule to these regulations.

Dated this day of 19

Signature of Applicant (i)

Licence Holder

Name

(ii)

Prospective Transferee

Name

2. *Details of the Transferee*

Name of the Owner(s) (Surname First)		Status	Correspondence Address	Telephone Number	Identity Card/ Certificate of Incorporation* Number
English	Chinese				

3. *Premises where the specified process is conducted*

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

Contact Person in the Premises (Surname First)		Title or Position	Correspondence Address	Telephone Number
English	Chinese			
Business Registration No.	Certificate of Incorporation No.	No. of Employees in the Premises	Area of the Premises (m ²)	Land Status
Nature of Tenure	Name of Air Control Zone in which the Premises are Located			

4. *Nature of Work*

Existing Licence No.	Expiry Date	Classification of Specified Process under Application	Mode of Operation (Continuous/Batch)	Installed/ Processing* Capacity	Silo Capacity (for Cement Works Only)	Total No. of Emission Points

5. *Notes*

- (1) The prescribed fee for application is NOT refundable.
- (2) Any person who provides information which he knows to be incorrect in a material respect or recklessly makes any statement which is incorrect in a material respect or knowingly omits any material particular commits an offence and is liable to a fine at level 5.

* Delete if not applicable.

(L.N. 311 of 1993; L.N. 212 of 1996; L.N. 577 of 1997; E.R. 4 of 2021)

Form 5

[reg. 11]

*NOTICE OF OBJECTION TO THE GRANTING OR RENEWAL
OR VARIATION OR TRANSFER*
OF A LICENCE OR VARIATION OR CANCELLATION
OF A TERM OR CONDITION OF AN EXEMPTION
PURSUANT TO SECTION 14/16/18/18A/23*
OF THE AIR POLLUTION CONTROL ORDINANCE*

To: The Authority

1. Full Name of Objector:
2. Home Address of Objector:
Office Address of Objector:
Occupation:
Telephone No.:
3. Details of the Application Under Objection:
Registration No.:
Name of Applicant:
Purpose of the Application:

Address of the Premises Where the Specified Process Is To Be Conducted:

4. Relevant Air Quality Objective(s) being Threatened:

5. The grounds for this objection are: (set them out in full)

.....
.....
.....

.....
(Signature)
Objector

Dated this day of 19

Copy to the Secretary for Environment and Ecology

* Delete if not applicable.

(L.N. 244 of 1989; L.N. 212 of 1996; 78 of 1999 s. 7; L.N. 106 of 2002; L.N. 130 of 2007; L.N. 144 of 2022)

Form 6

[reg. 12]

AIR POLLUTION CONTROL (SPECIFIED PROCESSES) REGULATIONS

LICENCE FOR THE CONDUCT OF A SPECIFIED PROCESS

Licence No.:

PART A (Main Licence):

Pursuant to section 15/16* of the Air Pollution Control Ordinance, the Authority grants/renews*
this licence to

Full Name of Licence Holder

to use or permit to be used the premises at

.....
Full Address of the premises at which the specified process is to be conducted

for the conduct of the specified process described in Part B subject to the terms and conditions described in or attached to Part C of this licence.

This licence shall be effective from the day of 19 and expire on the
..... day of 19

.....

Dated this day of 19

- NOTE:**
- (a) This licence consists of three parts, respectively Part A (Main Licence), Part B (Process Description) and Part C (Terms and Conditions).
 - (b) If any variation of this licence is required, the licence holder shall apply for the variation of the licence in accordance with section 18 of the Air Pollution Control Ordinance.
 - (c) Application for renewal of licence must be made not earlier than 120 days before and not later than 60 days after the date of expiry of this licence.
 - (d) A licence holder who contravenes any term or condition of this licence and who is convicted of an offence under section 30A of the Ordinance is liable to a fine at level 6 on conviction for a first offence and \$200,000 and imprisonment for 6 months for a second or subsequent offence and, in addition, to a daily fine of \$20,000 for a continuing offence.

* Delete if not applicable.

PART B (Process Description):

Hereunder is the brief description of the process to be conducted in the premises mentioned in Part A of this licence. A more exact description of the process is contained in application of registration no. dated the day of 19

1. Classification of specified process:
2. Installed/Processing* Capacity:
3. Silo Capacity (for Cement Works only):
4. Fuel Usage:

Emission Point No.	Fuel to be Used				Consumption Rate	
	Type	Ash Content	Sulphur Content	Other Specifications	Maximum	Normal

5. Raw Materials and Products:

Type	Nature or General Composition	Raw Materials Usage			Product Production		
		Consumption Rate		Annual Use	Production Rate		Annual Production
		Normal	Maximum		Normal	Maximum	

6. Other particulars:

PART C (Terms and Conditions):

The Authority grants this licence to the licence holder to use or permit to be used the premises as mentioned in Part A of this licence for the conduct of the specified process as mentioned in Part B of this licence, subject to the following terms and conditions:

(Hereunder insert the terms and conditions to be imposed to this licence—sections 15(4) and 16(5) of the Air Pollution Control Ordinance)

* Delete if not applicable.

(L.N. 311 of 1993; L.N. 212 of 1996; E.R. 4 of 2021)

Form 7

[reg. 13]

AIR POLLUTION CONTROL (SPECIFIED PROCESSES) REGULATIONS
EXEMPTION FROM LICENSING PURSUANT TO SECTION 20

Exemption No.:

PART A (Main Exemption):

Pursuant to section 20 of the Air Pollution Control Ordinance, the Authority exempts

.....
Full name of exemption holder

from the operation of section 13 in respect of the premises at

.....
Full address of the premises at which the specified process is to be conducted

which are being used or being developed for use for the conduct of the specified process as described in Part B of this exemption.

.....
for *Authority*

Dated this day of 19

- NOTE:
- (a) This exemption consists of three parts, respectively Part A (Main Exemption), Part B (Process Description) and Part C (Terms and Conditions).
 - (b) The Authority may by notice in writing impose terms and conditions in relation to this exemption in accordance with section 22 of the Ordinance. Any terms and conditions so imposed are described in or attached to Part C of this exemption.
 - (c) Under section 21 of the Ordinance this exemption shall cease if any changes are made to the premises used for the conduct of a specified process. The exemption holder shall then apply for a licence in accordance with section 14 of the Ordinance.
 - (d) The owner of any premises who is convicted of an offence under section 19(3) of the Ordinance is liable to a fine at level 5 and on conviction this exemption shall cease under section 20A of the Ordinance.

- (e) The exemption holder who contravenes any term or condition of this exemption and who is convicted of an offence under section 30A of the Ordinance is liable to a fine at level 6 on conviction for a first offence and \$200,000 and imprisonment for 6 months for a second or subsequent offence and, in addition, to a daily fine of \$20,000 for a continuing offence.

PART B (Process Description):

Hereunder is the brief description of the process to be conducted in the premises mentioned in Part A of this record. A more exact description of the process is contained in a notice given to the Authority containing such particulars and information as specified in an order published in the Gazette in accordance with section 19(1) of the Air Pollution Control Ordinance.

1. Classification of specified process:
2. Installed/Processing* Capacity:
3. Silo Capacity (for Cement Works only):
4. Fuel Usage:

Discharge Point No.	Fuel to be Used				Consumption Rate	
	Type	Ash Content	Sulphur Content	Other Specifications	Maximum	Normal

5. Raw Materials and Products:

Type	Nature or General Composition	Raw Materials Usage			Product Production		
		Consumption Rate		Annual Use	Production Rate		Annual Production
		Normal	Maximum		Normal	Maximum	

6. Other Particulars:

PART C (Terms and Conditions):

The Authority has imposed by notice in writing to the exemption holder on the day of 19 in relation to this exemption terms and conditions in accordance with section 22 of the Ordinance. This exemption shall continue in force subject to the observance of the terms and conditions which are contained in the said notice and reproduced below:

(Hereunder insert the terms and conditions in relation to this exemption—section 22 of the Air Pollution Control Ordinance)

Fourth Schedule

[regs. 14 & 16]

Particulars to be entered in the register of an application for a licence, or for variation of a licence, or for variation or cancellation of a term or condition of an exemption; or where so directed by the Secretary for Environment and Ecology for renewal or transfer of a licence and for cessation of an exemption with application for a licence

Item

1. Date of the application.
2. Name and address of applicant.
3. Address of premises where the specified process is to be conducted.
4. Classification of specified process under application.
5. Other specified processes operating in the same premises and their licence or exemption numbers.
6. Date of entry into the register, and the date of notice in newspapers.
7. Points of emission to atmosphere to be listed, with exhaust gas flow rate and exit temperature, and emission rate and composition of noxious or offensive emissions (estimated if necessary), control equipment to be used to render noxious or offensive emissions harmless and inoffensive, and mode of discharge to atmosphere, including discharge or chimney heights and their cross-sectional dimensions.
8. A note that any person may object within 30 days of notice in newspapers, to the granting of the application on the grounds that the Air Quality Objective in that area is being threatened or the emission of noxious or offensive emissions would be, or be likely to be, prejudicial to health. An objection requires the name, address, and identity of the person making the objection, the address of the premises of the proposed specified process, and how the Air Quality Objective is being threatened or how the emission of noxious or offensive emissions would cause prejudice to health. Objections should be made in Form 5 in the Second Schedule to the Air Pollution Control (Specified Processes) Regulations and be forwarded to the Authority and copied to the Secretary for Environment and Ecology.
9. A note stating whether an air pollution control plan required under section 14A of the Ordinance has been submitted and whether the plan is available for inspection.

Note: Item 9 applies only to an application under section 14 of the Ordinance for a licence.

(L.N. 244 of 1989; L.N. 311 of 1993; 78 of 1999 s. 7; L.N. 106 of 2002; L.N. 130 of 2007; L.N. 144 of 2022)

Fifth Schedule

[regs. 15 & 16]

Particulars to be published in newspapers of an application for a licence or for variation of a licence, or for variation or cancellation of a term or condition of an exemption; or where so directed by the Secretary for Environment and Ecology for renewal or transfer of a licence and for cessation of an exemption with application for a licence

Item

1. Name and address of applicant.
2. Address of premises where the specified process is to be conducted.
3. Classification of specified process under application.
4. Other specified processes operating in the same premises and their licence or exemption numbers.
5. A note to explain where particulars of the application may be inspected, and where details of the proposed process, Air Quality Objectives and prescribed forms can be obtained for objection to the application. Any objection must be made within 30 days of the notice.

(L.N. 244 of 1989; L.N. 212 of 1996; 78 of 1999 s. 7; L.N. 106 of 2002; L.N. 130 of 2007; L.N. 144 of 2022)

Schedule

Form 1

[regs. 3, 4 & 5]

[reg. 3]

NOTICE OF APPEAL

Appeal against the decision, requirement or specification contained in a notice issued under the Air Pollution Control Ordinance.

To: Air Pollution Control Appeal Board

1. Full name of Appellant:
2. Address of Appellant:
Telephone No.
3. (Address of Appellant or Representative for service of documents if different from the above address).....
.....
4. Details of notice appealed against:
Notice dated 19 Reference No.....
(A copy of which is attached)
5. Address of the premises or place to which the notice refers:.....
.....
6. Name and full address of the public officer as shown on notice
.....
Telephone No.
7. Particulars of the decision, requirement or specification appealed against (set them out from the notice)
.....
.....
.....
8. The grounds for this appeal are: (set them out in full)
.....
.....
.....

(Signature)
Appellant

Dated 19

Form 2

[reg. 4]

NOTICE OF TIME AND PLACE FIXED FOR HEARING OF AN
APPEAL

Appeal No.: of 19

In the matter of the Appeal lodged by
(Appellant) against the decision, requirement or specification contained in
a notice issued under the Air Pollution Control Ordinance on the
..... day of 19

To (Appellant)

TAKE NOTICE that the above appeal will be heard at
..... on the day of
19 at a.m./p.m.

AND TAKE NOTICE that if you do not attend at the time and place
mentioned, either in person or by a person duly authorized to appear on
your behalf, the appeal may be dismissed or be heard in your absence.

Dated this day of 19

(Signature)
Chairman of the Appeal Board

This notice was served by me on
at on the day
of 19

(Signature)
Recipient of notice

(Signature)
Process server

Form 3

[reg. 5]

SUMMONS TO WITNESS

Appeal No.: of 19

In the matter of the Appeal lodged by
(Appellant) against the decision, requirement or specification contained in
a notice issued under the Air Pollution Control Ordinance on the
..... day of 19

To ^(a)

YOU ARE HEREBY SUMMONED to attend at
..... on the day of 19
..... at *a.m./p.m., and so from day to day, until the proceedings
are heard, to give evidence in the above appeal* and also to bring with you
and produce the several documents hereunder specified:

(Here insert list of documents required to be produced)

Dated this day of 19

(Signature)

Chairman of the Appeal Board

* Delete where inappropriate

Note: (a) Insert name of person to be served

This notice was served by me on
at on the day
of 19

(Signature)

Recipient of notice

(Signature)

Process server

13. Application for variation of an environmental permit

- (1) The person holding an environmental permit or a person who assumes responsibility for a designated project the subject of an environmental permit may apply for a variation of the conditions of the environmental permit.
- (2) The Director shall notify the applicant for a variation of an environmental permit within 30 days of the receipt of an application whether he requires the applicant to submit an environmental impact assessment report for the variations sought.
- (3) The Director is taken not to require an environmental impact assessment report for the variations sought if the Director does not notify the applicant within 30 days of the receipt of the application.
- (4) If the Director requires an applicant to submit an environmental impact assessment report, sections 5, 6, 7 and 8 apply to the report and assessment.
- (5) The Director may amend the environmental permit without calling for an environmental impact assessment report if the applicant satisfies him that—
 - (a) there is no material change to the environmental impact of the project with the mitigation measures in place; and
 - (b) the project complies with the requirements described in the technical memorandum.
- (6) An applicant under this section shall apply in the form approved by the Director and shall pay the prescribed application fee.

Schedule 1

[s. 2]

Interpretation

In this Ordinance, unless the context otherwise requires—

abattoir (屠場) means premises or a place habitually used for the slaughter of animals for human consumption;

aircraft maintenance and repair plant (飛機維修與修理廠) means a place, building or structure where aircraft or its parts are stored, repaired, washed or greased;

Appeal Board (上訴委員會) means the appeal board constituted under section 19;

associated person (相聯繫的人) means—

- (a) the spouse or minor child or minor step-child of the person;
- (b) a corporation of which the person is a director;
- (c) an employee or partner of the person;
- (d) the trustee of a trust of which the person, his spouse, minor child or minor step-child, is a beneficiary or a discretionary object;
- (e) another person who has agreed or arranged to act together with the person to acquire, hold or dispose of shares or other interests in a corporation or to act together in voting in the corporation;
- (f) another person in accordance with whose directions the person is accustomed or obliged to act;
- (g) another person accustomed or obliged to act in accordance with the directions of the person;
- (h) a corporation in accordance with whose directions or the directions of its directors the person is accustomed or obliged to act;
- (i) a corporation accustomed or obliged to act, or whose directors are accustomed or obliged to act, in accordance with the directions of the person;
- (j) a corporation of which the person, either alone or together with his spouse, minor child or minor step-child, is directly or indirectly entitled to exercise or control the exercise of 35% or more of the voting power;
- (k) a corporation of which the person, either alone or together with another, including a corporation in which the person is entitled to exercise or control the exercise of 35% or more of its voting power, is directly or indirectly entitled to exercise or control the exercise of 35% or more of the voting power;
- (l) a corporation of which the person controls the composition of the board of directors of the corporation;
- (m) if the person is a corporation—
 - (i) a director of the corporation;

- (ii) a corporation which is a holding company of the corporation or a subsidiary of the holding company;
- (iii) a subsidiary of the corporation;
- (iv) a director or employee of the subsidiary;
- (v) a pension fund, provident fund or employee share scheme of the corporation or of a subsidiary of the corporation;

bathing beach (泳灘) means any bathing beach which is specified in the Fourth Schedule to the Public Health and Municipal Services (Cap. 132);

bulk chemical storage facility (散裝化學物品貯存設施) means a facility that is or may be used for storing materials of a hazardous nature for delivery to or by seagoing bulk chemical carriers and includes related product blending, drum and bottle storage and dispatch facilities;

Chairman (主席) means the Chairman of the Appeal Board panel appointed under section 18(2);

chemical waste (化學廢物) means waste which is chemical waste within the meaning of Waste Disposal (Chemical Waste) (General) Regulation (Cap. 354 sub. leg. C);

coastal protection area (海濱保護區) means a coastal protection area shown in a draft plan prepared under the Town Planning Ordinance (Cap. 131) or an approved plan or partly approved plan under that Ordinance; (*Amended 25 of 2023 s. 119*)

conservation area (自然保育區) means a conservation area shown in a draft plan prepared under the Town Planning Ordinance (Cap. 131) or an approved plan or partly approved plan under that Ordinance; (*Amended 25 of 2023 s. 119*)

container backup facilities (貨櫃支援設施) means facilities essential to the handling of containers which do not require (but may have) a waterfront location and includes container yards, empty container storage and repair depots, container freight stations and container vehicle parks;

controls the composition of the board of directors of the corporation (控制法團董事局的組成) means to be able, either alone or with the consent or concurrence of another person, to appoint or remove a majority of the directors and a person is taken as having the power to appoint or remove a director if—

- (a) a director cannot be appointed without the person exercising a power in favour of the prospective director; or
- (b) a person's appointment as a director follows necessarily from his being a director or other officer of the person;

corporation (法團) means any company or other body corporate incorporated in Hong Kong or elsewhere, but does not include—

- (a) any body corporate that is incorporated in Hong Kong and is a public authority or an organ or agency of the Government;
- (b) any corporation sole;
- (c) any credit union registered under the Credit Unions Ordinance (Cap. 119); or
- (d) any corporation registered under the Building Management Ordinance (Cap. 344);

country park (郊野公園) means a country park within the meaning of section 2 of the Country Parks Ordinance (Cap. 208);

crematorium (火葬場) means a crematorium within the meaning of the Public Health and Municipal Services Ordinance (Cap. 132);

decommissioning (解除運作) means ceasing production and demolishing an existing plant for the development or redevelopment of the site;

Deputy Chairman (副主席) means a Deputy Chairman of the Appeal Board panel appointed under section 18(3);

designated project (指定工程項目) means a project listed in Schedule 2 or 3 or specified by the Secretary under section 4(4) as a designated project;

Director (署長) means the Director of Environmental Protection;

education institution (教育機構) means an institution, organization or place which provides, or where there is provided, for 10 or more persons during any one day, whether or not at the same time, kindergarten, primary, secondary or post secondary education or any other educational course;

environment (環境)—

- (a) means the components of the earth; and
- (b) includes—
 - (i) land, water, air and all layers of the atmosphere;
 - (ii) all organic and inorganic matter and living organisms; and
 - (iii) the interacting natural systems that include any of the things referred to in subparagraph (i) or (ii);

environmental impact (環境影響), for a designated project, means—

- (a) an on-site or off-site change that the project may cause in the environment;
- (b) an effect of the change on—
 - (i) the well-being of people, flora, fauna and ecosystems;
(Amended E.R. 1 of 2021)
 - (ii) physical and cultural heritage;

- (iii) a structure, site or other thing that is of historical or archaeological significance;
 - (c) an on-site or off-site effect on any of the things referred to in paragraph (b) from activities carried on for the project;
 - (d) a change to the project that the environment may cause, whether the change or effect occurs within or outside the site of the project;
- environmental impact assessment report*** (環境影響評估報告) means a report prepared under section 6;
- environmental impact assessment study brief*** (環境影響評估研究概要) means a study brief issued under section 5(7)(a);
- environmental permit*** (環境許可證) means an environmental permit issued under section 10(5);
- existing uses*** (現有用途) means those uses existed at the time when the application under sections 9 and 13 are made;
- expressway*** (快速公路) means an expressway within the meaning of section 122 of the Road Traffic Ordinance (Cap. 374);
- fish culture zone*** (魚類養殖區) means a fish culture zone within the meaning of section 2 of the Marine Fish Culture Ordinance (Cap. 353);
- health care institution*** (健康護理機構) means hospitals, polyclinics and clinics;
- heavy railway*** (重型鐵路) means railway for freight transport or for a passenger transit system with a capacity exceeding 40 000 passengers per hour per direction;
- industrial estate*** (工業邨) means any industrial estate referred to in Schedule 1 to the Hong Kong Science and Technology Parks Corporation Ordinance (Cap. 565); (*Replaced 5 of 2001 s. 40*)
- light railway*** (輕型鐵路) means railway for a passenger transit system with a capacity not exceeding 40 000 passengers per hour per direction;
- major extensions or improvements to existing roads*** (對現有道路作重大擴建或改善) means a physical addition, alteration or re-alignment to existing roads which results in an adverse environmental impact as defined in the technical memorandum;
- marine park*** (海岸公園) means a park within the meaning of the Marine Parks Ordinance (Cap. 476); (*Amended E.R. 1 of 2021*)
- marine reserve*** (海岸保護區) means a reserve area that falls within the meaning of the Marine Parks Ordinance (Cap. 476);
- material change*** (實質改變) means a physical addition or alteration to a designated project which results in an adverse environmental impact as defined in the technical memorandum;

mid-stream operations (中流作業) means the working of cargo by a ship while moored at a buoy or while at anchor;

mitigation (緩解), for a designated project—

- (a) means the elimination, reduction or control of the adverse environmental impact of the project;
- (b) includes restitution by replacement, restoration, compensation or other means for damage to the environment caused by the impact;

pier (碼頭) means a structure built out over the water and supported by pillars or piles, used as a landing place for ferries, boats, ships and other vessels including structures accommodating hydrofoil and jetfoil vessels;

planned use (計劃用途) means the land use proposed in— (*Amended 25 of 2023 s. 119*)

- (a) a draft plan prepared under the Town Planning Ordinance (Cap. 131) or an approved plan or partly approved plan under that Ordinance; or
- (b) any other land use plans published by the Government; (*Amended 25 of 2023 s. 119*)

primary distributor (主要幹路) means roads forming the major network of the urban area including roads having high capacity junctions, although they may be at grade or grade separated, with segregated pedestrian facilities wherever possible and frontage access limited if not entirely restricted, and with a 24-hour stopping restriction; (*Amended E.R. 1 of 2021*)

project profile (工程項目簡介) means the description of the project that complies with the requirements of the technical memorandum;

public cargo working area (公眾貨物裝卸區) means an area set out in the Port Control (Cargo Working Areas) Ordinance (Cap. 81) as a public cargo working area;

quarantine station or segregation place for animals (動物檢疫站或隔離處) means a place used for the quarantine of animals when they are imported into Hong Kong and detained there for such period as the veterinary officer may require;

railway depot (鐵路車廠) means a facility for the storage, maintenance or repair of light or heavy railway rolling stock or equipment used for track maintenance, including areas where shunting facilities are used for operational purposes;

railway marshalling yard (鐵路調車場) means a facility in a railway system mainly for sorting train wagons into different formations according to an order for operation purposes;

religious institution (宗教機構) means a place or building, or a place of worship where in accordance with the practice of religious principles services are held or prayers said by congregations loyal to a belief and includes Chinese temples as set out in paragraph (b) of the definition of **Chinese temple** in section 2 of the Chinese Temples Ordinance (Cap. 153) and ancillary offices car parks and quarters that are essential to the operation of the particular organization;

river trade limits (內河航限) means the river trade limits defined in the Shipping and Port Control Ordinance (Cap. 313);

river trade terminal (內河碼頭) means a terminal for handling or storing cargo by vessels routinely operating within waters within river trade limits;

road tunnel (行車隧道) means a private or public tunnel and its portal area within the meaning of the Road Tunnels (Government) Ordinance (Cap. 368);

Secretary (局長) means the Secretary for Environment and Ecology; (*Replaced 78 of 1999 s. 7. Amended L.N. 106 of 2002; L.N. 130 of 2007; L.N. 144 of 2022*)

service reservoir (配水庫) means a place or structure where water from a water treatment works is stored for delivery to other service reservoirs for distribution to the consumers of a water supply district;

ship building or ship repairing yard (船舶建造或修理場) means any place, structure or building in which ships, boats and other sailing vessels are constructed, repaired, renewed or broken down into parts;

site of cultural heritage (文化遺產地點) means an antiquity or monument, whether being a place, building, site or structure or a relic, as defined in the Antiquities and Monuments Ordinance (Cap. 53) and any place, building, site, or structure or a relic identified by the Antiquities and Monuments Office to be of archaeological, historical or palaeontological significance; (*Amended E.R. 1 of 2021*)

site of special scientific interest (具有特別科學價值的地點) means an area of land or water of special scientific interest by reason of its flora, fauna or geographical features identified by the Agriculture, Fisheries and Conservation Department and listed in the register of sites of special scientific interest maintained by the Planning Department; (*Amended L.N. 331 of 1999*)

special area (特別地區) means a special area as defined in the Country Parks Ordinance (Cap. 208);

special wastes (特殊廢物) includes clinical waste, animal carcasses and security waste, including Government documents including those to be treated by centralised incineration facility;

technical memorandum (技術備忘錄) means a technical memorandum issued under section 16;

tramway (電車軌道) means the roadway over which a tram passes and the roadway of any bridge forming part of or leading to the roadway as defined in the Tramway Ordinance (Cap. 107);

transport depot (運輸車廠) means a facility for the construction, repair or maintenance of transport vehicles and their parking when not in operation;

trunk road (幹道) means a road connecting the main centres of population being a high capacity road with no frontage access or development, pedestrians segregation, widely spaced grade-separated junctions, and a 24-hour stopping restriction; (*Amended E.R. 1 of 2021*)

typhoon shelter (避風塘) means a typhoon shelter within the meaning of the Merchant Shipping (Local Vessels) (Typhoon Shelters) Regulation (Cap. 548 sub. leg. E); (*Amended 24 of 2005 s. 55*)

wild animal protection area (野生動物保護區) means an area designated as a restricted area under Schedule 6 to the Wild Animals Protection Ordinance (Cap. 170). (*Amended E.R. 1 of 2021*)

Implications of the proposals

Environmental and Sustainability Implications

The proposals will improve air quality in Hong Kong by (i) reducing air pollution arising from unlicensed SPs operations, and (ii) implementing updated AQOs. The statutory CN mechanism and the revision of the scope of “cement works” and the definition of “premises” will also enable EPD to enforce the APCO more effectively and efficiently. This is conducive to the principles on sustainability which seeks to enhance environmental quality and provide a liveable environment which promotes and protects the health of the public. Since certain air quality improvement measures will have synergistic effects on both air pollution and carbon emission reduction, the proposed update of the AQOs will also contribute to carbon neutrality.

Health and Productivity Implications

2. The proposals will more effectively eliminate or reduce long-standing air pollutions caused by unlicensed SPs operations and improve air quality. In general, improvements in air quality can bring about health benefits, such as reducing premature deaths, hospital admissions, clinic visits, and medical costs, in particular those in relation to respiratory and cardiovascular diseases. According to the assessment result based on a tool for assessing the health and economic impacts of air pollution developed by the Chinese University of Hong Kong (“CUHK”)¹ and the air quality assessments results of 2030, about 3 150 premature deaths might be reduced as a result of improvement in long-term FSP/PM_{2.5} concentration (as compared with that in 2019). About 2 300 cases of hospital admission (through the Accident and Emergency (“A&E”) Departments operated by the HA) might be saved as a result of improvement in short-term NO₂ concentration (as compared with that in 2019). About 4 440 cases of public clinic visits might be saved as a result of improvement in short-term exposure to FSP/PM_{2.5} (as compared with

¹ The ASHTF has endorsed the use of a tool developed by the CUHK under the study “Developing an Instrument for Assessing the Health and Economic Impacts of Air Pollution in Hong Kong” commissioned by EPD (completed in 2016), together with data from the Census and Statistics Department, the Hospital Authority (“HA”) and the Air Quality Impact Assessment of the AQOs review, to conduct the Health and Economic Impact Assessment of the AQOs review.

that in 2019), while 928 000 cases of private clinic visits might be saved as a result of improvement in short-term NO₂ concentration. The corresponding savings from hospital admissions and clinic visits were estimated at about HK\$275 million². A summary of the health benefits is at **Appendix**. In general, a healthier workforce can also benefit the overall labour productivity.

Economic Implications

3. The statutory CN mechanism and the revision of the scope of “cement works” and the definition of “premises” will strengthen the regulatory framework of the SP licence regime and ultimately lead to better control on air pollution, especially in the surrounding areas of relevant operators. The proposals may bring about operating cost implications to some cement works operators who will newly fall into the SP licence regime after the APCO is amended, but for the industry as a whole, the increased operating cost will not be significant, as the affected operators only constitute a very small portion of the total local market share. Thus, there will be no significant impact over concrete supply and price³.

4. From a competition perspective, the proposals can ensure that the SP licence requirements are duly applied to all SP operators and safeguard against attempts on control circumvention, which can contribute to a level playing field and fair competition.

5. Moreover, extending the period for SP licence renewal application will provide more time and flexibility for SP licence holders to renew their licence, which can facilitate the business development of relevant trades and promote a more business-friendly environment.

6. Separately, updating the AQOs underscores our commitment to better air quality and environment, which will be conducive to attracting foreign talents and enhancing Hong Kong’s attractiveness as an international business centre and tourist destination. As the proposed update is gradual and with technological advancement, the relevant trades should have sufficient time and resources to progressively adjust its operational practice to adapt to the new standard.

² The estimate of potential economic savings does not include monetary gains in preventing premature deaths and the productivity loss due to reduced hospital admissions and clinic visits as it is considered inappropriate to attach a monetary value to life or health.

³ The assessment was made by EEB by making reference to a consultation with the cement and construction trade conducted by EPD.

Mainland Relations Implications

7. The Guangdong Provincial Government and we have close collaboration in improving regional air quality. Progressively updating the AQOs and implementing air quality improvement measures in Hong Kong align with our joint effort in improving regional air quality and should be welcomed by Guangdong.

Financial and Civil Service Implications

8. The additional resource and manpower requirements for implementing the proposals, including the tightened control on unlicensed SPs and enforcing the updated AQOs, are expected to be insignificant. EPD will meet those additional requirements within its existing resources.

9. The actual financial implications of the proposed penalties are subject to the amount of fine imposed by the Court in the event of prosecution. In any case, raising government revenue is not the policy intent behind the proposals.

HEALTH BENEFITS DUE TO PROJECTED AIR QUALITY IMPROVEMENTS

Table 1. Health Benefits Attributable to the Changes In Air Quality Level Between 2019 And 2030

Health Outcomes		Air Pollutants				Max. Short-term / Long-term Impact ^a
		FSP/ PM _{2.5}	NO ₂	O ₃	SO ₂	
Short term health outcome: Reduction in number of hospital admissions and clinic visits						
Emergency hospital admissions saved	Cardiovascular diseases	250	1 041	/		2 302
	Respiratory diseases	647	1 261	-226 ^b		
Clinic visits saved (for new episodes of Upper Respiratory Tract Infections)	General Outpatient Clinic (“GOPC”)	4 435	/	-1 799 ^b	/	927 856
	General Practitioner (“GP”) visits	217 561	927 856	-110 332 ^b		
Long term health outcome: Reduction in number of premature deaths						
Reductions in number of premature deaths (all natural causes) ^c		3 148	1 968	-614 ^b	/	3 148

Notes:

- / = Health outcome not assessed as the relative risk for the respective air pollutant is either statistically not significant or not available.
- a. To avoid over-counting of health effects, impacts of different air pollutants are not added up. Instead, the maximum value among the air pollutants is taken.
- b. The negative (-) sign indicates the air pollutant exerts negative impact.
- c. Short-term premature death is covered in the long-term premature death.

Table 2. Benefits Due to Savings in Hospital Admissions and Clinic Visits Attributable To The Changes In Air Quality Level Between 2019 And 2030

	Costs Saved (HK\$) ^a
Hospital Admissions ^b	43,361,200
Clinic Visits ^c	231,964,000

Notes:

- a. Figures are rounded to the nearest hundred and adjusted to 2019 values.
- b. The cost of hospital admissions relates to A&E attendance due to cardiovascular and respiratory diseases and cost of hospital beds.
- c. The cost of clinic visits includes doctor consultation of both public and private practitioners due to new episodes of URTIs. Shown value is the maximum of total savings due to clinic visits (both public and private practitioners). The relative risk for GOPC visits is not significant to NO₂, therefore clinic visit cost for NO₂ only includes savings from GP visits, which is higher than total savings due to both public and private clinic visits from other air pollutants.