

**For discussion  
on 26 March 2024**

**Legislative Council  
Panel on Food Safety and Environmental Hygiene**

**Outcome of Public Consultation on  
Amendments to Environmental Hygiene-related Legislation and  
Relevant Legislative Amendment Proposals**

**Purpose**

Further to consulting this Panel about the preliminary proposals on legislative amendments and administrative measures of the second-stage review on environment hygiene-related legislation on 11 July 2023, the Government has conducted a public consultation on the proposals. This paper briefs Members on the outcome of the public consultation and the relevant legislative amendment proposals.

**Background**

2. To enhance the efficiency, effectiveness and deterrence in handling various thorny environmental hygiene problems, we have conducted a comprehensive review on the statutory powers and penalties related to environmental hygiene. The review was conducted in two stages. The first stage involves raising the fixed penalty and the maximum fines which may be imposed by the court for offences related to environmental hygiene and shopfront extension, which with approval from the Legislative Council, came into effect on 22 October 2023<sup>1</sup>.

3. The second-stage legislative review has also been completed. We propose amendments to the Public Health and Municipal Services Ordinance (Cap. 132) (PHMSO) and other related ordinances, as well as implementing additional administrative measures to enhance the handling of the following “long-standing, big and difficult” environmental hygiene, public health nuisances and street management problems:

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<sup>1</sup> The level of the fixed penalty for the seven scheduled offences such as littering and spitting in public places, has been raised from \$1,500 to \$3,000; and the fixed penalty level mainly related to shopfront extension and illegal disposal of construction waste or large amounts of other waste, from \$1,500 to \$6,000. Also, the maximum fines for five specified scheduled offences under corresponding legislation which may be imposed by the court upon convicted summonses have also been raised.

- (i) shopfront extension;
- (ii) public health nuisances such as water seepage in buildings, water dripping from air-conditioners and “garbage apartments”;
- (iii) proliferation of pests;
- (iv) occupation of public places (e.g. rear lanes) by miscellaneous articles causing obstruction to scavenging operations; and
- (v) illegal display or affixation of bills or posters.

We consulted this Panel on the proposed amendments and measures on 11 July 2023, and the proposals were generally supported by Members.

## **Public Consultation**

4. We conducted a public consultation on the second stage review on environment hygiene-related legislative amendment proposals<sup>2</sup> from 21 November 2023 to 21 January 2024, receiving a total of 1 739 written submissions. Each of the proposals was supported by at least about 80% of the respondent. For details, please see **Annex**.

5. Overall, our proposals receive general support from the society, indicating that the public agree with the policy direction and recognise the need to upkeep environmental hygiene. In response to the public opinion and the situation after implementation of the increased fixed penalty levels in the first stage, we now propose legislative amendment proposals in the ensuing paragraphs.

## **Legislative Amendment Proposals**

### ***Shopfront extension (SFE)***

#### **Strengthen enforcement power of the Food and Environmental Hygiene Department (FEHD) to handle SFE more efficiently**

6. To combat SFE behaviour more effectively, we propose to introduce a new provision on SFE in the PHMSO. If a shop refuses to remove the obstructing articles within a specified time period, the new provision will empower the FEHD to independently remove the

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<sup>2</sup> The consultation document is available at [https://www.fehd.gov.hk/english/public\\_consultation/Second\\_stage\\_Legislative\\_Review\\_Consultation\\_Document\\_2023.pdf](https://www.fehd.gov.hk/english/public_consultation/Second_stage_Legislative_Review_Consultation_Document_2023.pdf)

obstructing articles, alongside issuing fixed penalty notices or instituting prosecutions according to the actual circumstances<sup>3</sup>. This will enhance FEHD's capability to handle SFE problem independently. If there are perishable goods among the articles removed, the FEHD will be empowered to dispose of them promptly, instead of having to keep them in cold stores for claim, hence saving unnecessary preservation cost. If the prosecution is unsubstantiated, the Government will make reference to the existing arrangement for seizure of goods in the hawking-regulating legislation, to pay the claimant an amount corresponding to the value of the goods.

#### Make good use of technology to assist enforcement

7. In addition to taking enforcement actions at the scene, we propose to empower the FEHD to, based on images / video recordings of SFE behaviour captured by the video cameras of the department, request the shops concerned to present their business registration certificates (BRC), and issue FPNs to or prosecute the BRC proprietor, so as to enhance enforcement efficiency.

#### Maintain the existing maximum penalty which the Court may impose

8. During the first stage legislative review, we have, with a target of tackling SFE, raised the fixed penalty level for obstruction in public places from \$1,500 to \$6,000 and the maximum fines which may be imposed by the Court from level 2 (\$5,000) or 3-month imprisonment to level 4 (\$25,000) or 3-month imprisonment. Since the new penalty amount took effect in October 2023, there has been noticeable improvement in SFE situations. Comparatively speaking, the average monthly figure of fixed penalty notices issued by the FEHD has decreased by about 80% (from a monthly average of some 500 to some 110), demonstrating the deterrent effect of the new penalty level. Given such results, we consider that the current penalty level, coupled with the aforementioned new measures to enhance enforcement effectiveness, warrants further observation. We will review the need to further raise the maximum penalty which the court may impose in a timely manner.

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<sup>3</sup> Generally speaking, for straightforward and non-contentious SFE cases (e.g. where the shop operator was caught "red-handed" and confessed to the act of illegal SFE), the FEHD will issue fixed penalty notices in accordance to the Fixed Penalty (Public Cleanliness and Obstruction) Ordinance (Cap. 570). As regards some serious or contentious cases, the FEHD may institute prosecutions by way of summons against the persons in charge of the shops causing obstruction according to the Summary Offences Ordinance (Cap. 228) for court judgment.

***Public health nuisances such as water seepage in buildings, water dripping from air-conditioners and “garbage apartments”***

Adjust the permissible hours for entering premises to conduct investigation to facilitate public cooperation

9. Situations such as water seepage in buildings, water dripping from air-conditioners and “garbage apartments”<sup>4</sup> cause nuisance to the neighbourhood. Normally, these situation can be improved if the owner or occupier (e.g. tenant) of the relevant premises take action to rectify the problem. However, if not dealt with promptly, the situations may aggravate into public health concerns or even nuisances.

10. At present, public officers can immediately enter the premises concerned to conduct investigation with the consent of the owner or occupier. If the owner or occupier is absent or denies entry, public officers will issue a “Notice of Intended Entry” to schedule an investigation in the premises between 7:00 a.m. and 7:00 p.m. Having regard to the workplace and daily routine nowadays, we propose to extend the permissible hours for entering premises to conduct investigation to between 7:00 a.m. and 10:00 p.m. to facilitate public cooperation.

Stipulate the requirements for concerned premises to cooperate with the Government’s investigation and the relevant penalty

11. We propose to stipulate that failure to comply with the aforementioned “Notice of Intended Entry” (including causing unreasonable delays) to be an offence liable to a maximum fine at level 2 (\$5,000) to ensure that enforcement officers can enter the concerned premises to investigate in reasonable time.

12. In addition, upon confirming the source of nuisance, public officers will issue a “Nuisance Notice” to the concerned premises, requiring its owner or occupier to abate the nuisance within a specified time period. If the “Nuisance Notice” is not complied with, the Government may institute prosecution. The Government may also apply to the court for the court’s issuance of a “Nuisance Order” that require the person concerned to abate the nuisance within a specified time period. Failure to comply with a “Nuisance Order” is an offence. Since the relevant penalty has not been

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<sup>4</sup> “Garbage apartments” generally refer to private units or properties causing environmental hygiene nuisance (e.g. proliferation of pests, emission of foul odour or obstruction of common areas) due to the accumulation of a substantial amount of miscellaneous articles or refuse. If the problem of “garbage apartments” occurs in public rental housing units, the Housing Department or the Hong Kong Housing Society will handle it in accordance with their established mechanism.

adjusted since 1996, we propose to increase the maximum penalty which may be imposed by the court for non-compliance with the “Nuisance Notice” or the “Nuisance Order”, changing from a fine at level 3 (\$10,000) and a daily fine of \$200 to a fine at level 4 (\$25,000) and a daily fine of \$450 for the former. For the latter, it would increase from a fine at level 4 (\$25,000) and a daily fine of \$450 to a fine at level 5 (50,000) and a daily fine of \$600, to enhance the deterrence effect. We also propose to empower public officers to require relevant persons to provide for checking proof of nuisance abatement, such as receipts of the relevant repair works, to improve enforcement efficiency.

Amend the legal definition of “litter” to more effectively clear up articles which are likely to constitute nuisance

13. Currently, if the owner or occupier of a “garbage apartment” concerned fails to clear “litter” or “waste” within a specified period, public officer may remove or destroy such items. The current definition of “litter” only includes “any **substance** likely to constitute a nuisance”, it is proposed to include “**articles**” to such legal definition to avoid unnecessary conflict so that articles which are likely to constitute nuisance in “garbage apartments” can be cleared up more effectively.

***Proliferation of vermin***

Prompt timely action from the persons contributing to the proliferation of vermin

14. To effectively deal with proliferation of vermin, a cross-sectoral, inter-disciplinary and public-participation approach, as well as the joint efforts of all departments concerned, are required. Owners and occupiers are responsible for maintaining the good hygiene of their private premises. For vermin infestation that occurs in private premises, the FEHD will issue a “Notice of Elimination of Vermin” to the owner or occupier concerned, requiring the person to take steps to destroy and remove the vermin within a specified time period. Non-compliance is an offence. Since the relevant penalty has not been adjusted since 1996, we propose to raise the maximum penalty which the court may impose from the current level 2 (\$5,000) and a daily fine of \$100, to level 4 (\$25,000) and a daily fine of \$450.

15. For cases of serious vermin infestation in private premises (such as when the situation of vermin infestation has posed public health risks or imminent hazards), the FEHD will take steps to destroy or remove vermin

directly, even if the “Notice of Elimination of Vermin” has not been served. In such cases, we propose to empower the FEHD to recover the expenses arising from such vermin disinfection work carried out from the person-in-charge of the premises concerned, to prevent them from regarding it as a free government service and thus lack motivation to clean up their premises.

Stipulate that property management companies are responsible for handling vermin disinfection in common parts of buildings

16. For vermin infestation in the common parts of private premises, if such premises are employed with management companies, we suggest to strengthen the role of these management companies. We propose to empower the FEHD to serve the “Notice of Elimination of Vermin” on property management companies<sup>5</sup> for their coordination and follow-up, ensuring the problem is handled in a timely manner.

Stipulate and raise the penalty level related to setting up of equipment for vermin disinfection and surveillance of vermin infestation

17. In relation to vermin infestation, the FEHD currently sets up trapping and disinfection devices, such as traps and baits, in public places and private premises infested with vermin. Tampering with such equipment to affect their normal operation is an offence. Since the relevant penalty has not been adjusted since 1996, we propose to raise the maximum penalty which the court may impose from a fine at level 1 (\$2,000) to a fine at level 2 (\$5,000), to ensure the effectiveness of vermin disinfection work and to enhance the deterrence effect.

18. As regards surveillance of vermin infestation, we propose to empower the FEHD to, where the situation warrants, set up equipment or devices in public places and private premises<sup>6</sup> (such as shopping malls and yards of buildings) infested with vermin for conducting tests, surveillance or assessments related to the infestation situation. We also propose to stipulate that the tampering with any relevant equipment and devices will be an offence liable to a maximum penalty by the court of a fine at level 2 (\$5,000).

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<sup>5</sup> It is consistent with the existing arrangement under the PHMSO that the FEHD may serve a notice on the person responsible for the management of the premises to require him/her to remove any accumulation of water that may cause breeding of mosquitoes.

<sup>6</sup> The FEHD will not set up surveillance devices in a private place where there are neither potential risks nor signs indicating vermin infestation.

***Occupation of public places (e.g. rear lanes) by miscellaneous articles causing obstruction to scavenging operations***

**Raise the penalty for obstruction to scavenging operations to strengthen deterrence**

19. At present, various departments handle the problem of occupation of public places by miscellaneous articles according to their functions<sup>7</sup> and having regard to the nature of the cases. If such miscellaneous articles causes obstruction to the FEHD's scavenging operations, the owner will be requested by FEHD officers to remove the articles as soon as possible. For serious cases (e.g. there are a large quantity of obstructing articles or such articles occupy a large area), the owner will be prosecuted under the PHMSO. Considering the relevant penalty has not been adjusted since 1996, we propose to increase the maximum penalty which the court may impose from a fine at level 2 (\$5,000) and a daily fine of \$50, to level 3 (\$10,000) and a daily fine of \$300 to strengthen deterrence.

**Shorten the removal time of articles to not less than 30 minutes to expedite scavenging work**

20. Where the owner cannot be found, a "Notice to Remove Obstruction" will be attached to the obstructing articles by the FEHD. As specified by the PHMSO, if the articles are not removed within four hours after the notice is so attached, the FEHD is entitled to remove and detain the articles. We propose to shorten the aforementioned time period from four hours to not less than 30 minutes, to encourage the owner to remove the articles as soon as possible within a reasonable time. The FEHD will specify the time period on the "Notice to Remove Obstruction" by when the owner needs to remove the articles causing obstruction to scavenging operations, and will exercise discretion and set a reasonably longer time according to the actual circumstances.

***Illegal display or affixation of bills or posters***

**Raise the penalty for illegal display or affixation of bills or posters**

21. Unauthorised display of bills or posters not only affects the cityscape, but also contributes to accumulation of trash, dirt and residues, etc. which will impact on environmental hygiene. In the first-stage

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<sup>7</sup> For example, the Transport Department, the Highways Department, the Home Affairs Department and the Lands Department have conducted joint operations in tackling the obstruction problem of abandoned vehicles in rear lanes.

legislative review, we have raised the fixed penalty for illegal display or affixation of bills or posters from \$1,500 to \$3,000, but the maximum penalty which the court may impose has not been adjusted since 1996. In order to strengthen deterrence, we propose to increase the maximum penalty which the court may impose from a fine at level 3 (\$10,000) and a daily fine of \$300, to level 4 (\$25,000) and a daily fine of \$450.

#### Expressly empower removal and disposal of display apparatuses

22. At present, the FEHD may seize the display apparatuses like “easy-mount frames”, A-shape boards and collapsible stands as evidence. In addition to having to temporarily store the display apparatuses seized, the FEHD has to apply to the court for permission to dispose or destroy such apparatus. We propose to expressly empower enforcement officers to remove, destroy or otherwise dispose of display apparatuses like “easy-mount frames”, so as to enhance efficiency and increase the cost of non-compliance.

#### **Provision of guidelines and training for frontline enforcement officers**

23. Regarding the aforementioned legislative amendment proposals, the FEHD will suitably formulate and update relevant enforcement and operational guidelines. The department will also enhance and strengthen the training and support for frontline officers from time to time, so that they can comply with the guidelines and perform their duties smoothly during enforcement. Furthermore, the Government will strengthen publicity and education work through various channels to ensure that the public is aware of the relevant legislative amendments and measures.

#### **Way forward**

24. Subject to the drafting progress, we target to submit the relevant amendment bill to the Legislative Council by the fourth quarter of this year the earliest.

25. Members are invited to offer views on the proposed legislative amendments.

**Environment and Ecology Bureau**  
**Food and Environmental Hygiene Department**  
**March 2024**



**Proposed amendments to the environmental hygiene-related legislation  
(Second-stage legislative review)**

**Summary of public consultation results**

From 21 November 2023 to 21 January 2024, the Food and Environmental Hygiene Department (FEHD) had conducted public consultation on the various proposed legislative amendments and administrative measures. The statistical results of public responses gathered through the questionnaire survey are as follows –

Questions	Responses			
Shopfront extension (SFE)				
	Agree	Disagree	No response	
1. To empower the FEHD to require shops to remove obstructing articles within a specified time period, otherwise the FEHD may remove such articles.	91.2% [1586]	8.1% [141]	0.7% [12]	
2. To empower the FEHD to dispose of the perishable goods removed immediately.	90.4% [1572]	8.5% [148]	1.1% [19]	
3. To empower the FEHD to, based on the images / video recordings captured by video cameras of the department, issue fixed penalty notices to / institute prosecution against the proprietor of the business registration certificate of a shop causing obstruction, so as to enhance enforcement efficiency.	88.0% [1531]	10.3% [179]	1.7% [29]	
4. To further increase the maximum penalty which the court may impose for SFE (the current penalty is a fine of \$25,000 or imprisonment for 3 months).	82.5% [1435]	16.6% [288]	0.9% [16]	

Questions	Responses			
	Appropriate level	Too low	Too high	No response
5. To set up a two-tier penalty level: (i) First conviction: a fine of \$25,000 and imprisonment for 3 months; (ii) Second or subsequent conviction: a fine of \$50,000 and imprisonment for 6 months.	87.6% [1257]	3.4% [49]	8.2% [117]	0.8% [12]
<b>Public health nuisances (Including water seepage in buildings, water dripping from air-conditioners and “garbage apartments”)</b>				
	Agree	Disagree	No response	
6. The hours for public officers to enter premises to investigate nuisance incidents, be extended from the current 7:00 a.m. to 7:00 p.m., to 10:00 p.m., so as to facilitate public to cooperate with the investigation.	86.3% [1501]	12.2% [213]	1.4% [25]	
7. To stipulate non-compliance of the owner / occupier of the premises concerned with the “Notice of Intended Entry” issued by public officers to be an offence, and is liable to a maximum fine of \$5,000, so as to ensure enforcement officers can enter the premises concerned to investigate public health nuisances in reasonable time.	88.2% [1534]	10.8% [188]	1.0% [17]	
8. To empower the authority to require the premises concerned to provide relevant proofs of abating the public health nuisance, so as to enhance enforcement efficiency.	89% [1548]	9.7% [168]	1.3% [23]	
9. To amend the definition of “litter” in the legislation to cover “articles”, so as to clear up public health nuisance from “garbage apartments” more effectively.	89.4% [1554]	9.2% [160]	1.4% [25]	

Questions	Responses			
	Appropriate level	Too low	Too high	No response
10. For non-compliance with “Nuisance Notice”, to raise the maximum penalty from a fine of \$10,000 and daily fine of \$200, to a fine of \$25,000 and daily fine of \$450, so as to drive the persons concerned to take timely action to abate the public health nuisance.	79.5% [1383]	2.9% [50]	16.3% [283]	1.3% [23]
11. For non-compliance with “Nuisance Order” issued by court, to raise the maximum penalty from a fine of \$25,000 and daily fine of \$450, to a fine of \$50,000 and daily fine of \$600.	78.3% [1362]	2.7% [47]	17.5% [304]	1.5% [26]
<b>Proliferation of vermin</b>				
	Agree	Disagree	No response	
12. To serve “Notice of Elimination of Vermin” on property management companies in respect of vermin infestation in common parts of buildings and require them to take steps to destroy and remove the vermin.	91.9% [1599]	6.8% [119]	1.2% [21]	
13. To empower the FEHD to, according to the circumstances (such as when the vermin infestation has posed public health risks or imminent hazards), take steps to destroy or remove vermin without having served the “Notice of Elimination of Vermin” and can still recover the associated expenses from the person responsible of the premises concerned, so as to avoid the persons to view the disinfection work as a free service by the Government and thus lacking the motivation to clean up their premises.	90.1% [1566]	8.7% [151]	1.3% [22]	
14. To create an offence of tampering with any equipment or devices for conducting pest-related tests, surveillance or assessments with a maximum fine of \$5,000.	89.7% [1560]	9.0% [156]	1.3% [23]	

Questions	Responses			
	Appropriate level	Too low	Too high	No response
15. For non-compliance with “Notice of Elimination of Vermin”, to increase the maximum penalty from a fine of \$5,000 and daily fine of \$100, to a fine of \$25,000 and daily fine of \$450, so as to drive the persons concerned to take timely action to eliminate vermin infestation.	83.0% [1443]	3.0% [52]	12.5% [218]	1.5% [26]
16. For tampering with any equipment used for destroying vermin, to raise the maximum penalty from a fine of \$2,000 to \$5,000.	84.4% [1468]	2.8% [49]	11.4% [199]	1.3% [23]
<b>Occupation of public places (e.g. rear lanes) by miscellaneous articles causing obstruction to scavenging operations</b>				
	Agree	Disagree	No response	
17. For the time period allowed for removing articles causing obstruction to scavenging operations, to shorten from 4 hours to not less than 30 minutes, so as to expedite scavenging work and keep the environment clean.	85.9% [1493]	12.8% [223]	1.3% [23]	
	Appropriate level	Too low	Too high	No response
18. For causing obstruction to scavenging operations, to raise the maximum penalty from a fine of \$5,000 and daily fine of \$50, to a fine of \$10,000 and daily fine of \$300, in order to strengthen deterrence.	83.2% [1447]	3.0% [52]	12.6% [219]	1.2% [21]
<b>Illegal display or affixation of bills or posters</b>				
	Agree	Disagree	No response	
19. To empower enforcement officers to, aside from removing bills or posters, also remove and handle display apparatuses like “easy-mount frames”, in order to further increase the cost of non-compliance.	89.4% [1554]	9.4% [163]	1.3% [22]	

Questions	Responses			
	Appropriate level	Too low	Too high	No response
20. For illegal display or affixation of bills or posters, to raise the maximum penalty from a fine of \$10,000 and daily fine of \$300, to a fine of \$25,000 and daily fine of \$450.	82.5% [1435]	2.8% [48]	13.2% [230]	1.5% [26]

### Other views

A small number of people put forward other views, including suggesting providing guidelines to shops on how to carry out loading and unloading activities legally; the government as a whole to strengthen street management, including dealing with illegal acts of intentional occupation of roads; informing the Property Management Services Authority when issuing the “Notice of Elimination of Vermin” to property management offices; defining “proofs of abating the public health nuisance” and “tampering of equipment or devices for monitoring or assessing the situation of vermin infestation”; exploring the use of images or video recordings captured by video cameras for prosecuting and monitoring those who affix bills or posters; providing one-off additional resources and manpower to The Joint Office for Investigation of Water Seepage Complaints, etc.

The consultation results and submissions received have been uploaded to the websites of the Environment and Ecology Bureau and the FEHD for reference.