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Panel on Food Safety and Environmental Hygiene

Meeting on 26 March 2024

**Background brief on the second-stage review on
environmental hygiene-related legislation and
the Government Programme on Tackling Hygiene Black Spots**

Purpose

This paper provides background information and summarizes major views and concerns of members of the Panel on Food Safety and Environmental Hygiene (“the Panel”) on (a) the second-stage review on environmental hygiene-related legislation and (b) the Government Programme on Tackling Hygiene Black Spots (“the Programme”).

Background

Review on environmental hygiene-related legislation

2. The Chief Executive (“CE”) announced in the 2022 Policy Address that the Government would conduct a comprehensive review on the existing statutory powers and penalties of environmental hygiene-related legislation to enhance the efficiency, effectiveness and deterrent effect of enforcement actions against thorny environmental hygiene problems. The legislative review was conducted in two stages. The proposal under the first-stage legislative review concerning raising the fixed penalty and the maximum fines that may be imposed by the court under the Fixed Penalty (Public Cleanliness and Obstruction) Ordinance (Cap. 570) (“Fixed Penalty Ordinance”) for environmental hygiene and shopfront extension (“SFE”) offences has come into effect since 22 October 2023.

3. At the Panel meeting on 11 July 2023, the Administration briefed members on the findings of its second-stage legislative review and its preliminary proposals on (a) amending the Public Health and Municipal Services Ordinance (Cap. 132) (“PHMSO”) and other related ordinances and (b) additional administrative

measures to complement those legislative proposals. A summary of the proposals is in [Appendix 1](#). The Administration launched a two-month public consultation on 21 November 2023 regarding the proposals.

Government Programme on Tackling Hygiene Black Spots

4. In July 2022, CE appointed the Deputy Chief Secretary for Administration to lead the District Matters Coordination Task Force (“Task Force”)¹ to steer and coordinate the efforts of various bureaux/departments to enhance the overall environmental hygiene and cityscape in Hong Kong. Among these efforts, the Programme was launched in August 2022 to focus on tackling environmental hygiene black spots and strengthening the cleansing of about 4 000 public places as well as the clearance of dangerous or abandoned signboards.

Members’ views and concerns

5. Members’ major views and concerns are summarized below.

Second-stage review on environmental hygiene-related legislation

6. Members generally supported the preliminary proposals put forth by the Administration in the second-stage legislative review with a view to improving a number of “long-standing, big and difficult” environmental hygiene and street management problems, such as SFE, water seepage in buildings and “garbage apartments”, in the long run. Concern was, however, expressed on a number of issues.

Shopfront Extension

7. During the discussions of the first-stage legislative review, members were concerned how the Administration would **strike a balance between effective law enforcement and facilitating the business activities of merchants, especially the loading and unloading of goods**. Some members were concerned that the Administration’s proposal to raise the level of fixed penalty for the scheduled offence mainly targeting SFE under the Fixed Penalty Ordinance from \$1,500 to \$6,000 might affect the business and operation of some shops. Some other members, however, opined that the Administration should **consider introducing a progressive penalty system for SFE offences** in order to create a greater deterrence.

¹ The Task Force was later revamped as the Working Group on Environmental Hygiene and Cityscape which was put under the Task Force on District Governance.

8. According to the Administration, the handling of temporary depositing of goods in public places for loading and unloading involved the purview of different departments. Whether there was non-compliance would depend on various factors such as the location, time and specific circumstances. The Administration further advised that it had taken into account the reasonableness and proportionality in determining the proposed increases in the levels of fixed penalties. Upon examination from various perspectives, the Administration considered it inappropriate to implement a progressive fixed penalty for SFE at the current stage. That said, the Administration had initially proposed amending PHMSO in the second-stage legislative review to add a new provision against SFE, and raise the maximum fine and the term of imprisonment which might be imposed by the court on the second or subsequent convictions.² Moreover, at present, law enforcement officers might issue multiple fixed penalty notices on the same day to shops that kept obstructing the streets, and remove their goods under the existing mechanism, which could substantially increase their cost of non-compliance. Members were of the view that **if the situation of repeated SFE offences did not improve** after the implementation of proposed amendments to PHMSO, the Administration should consider **afresh the implementation of a progressive fixed penalty**.

Tackling water seepage problems in buildings

9. Members were concerned whether the preliminary proposals on legislative amendments and administrative measures targeting water seepage problems in buildings would be conducive to **enhancing the effectiveness** of the Joint Office for Investigation of Water Seepage Complaints (“JO”) set up by the Buildings Department and the Food and Environmental Hygiene Department (“FEHD”) **in handling water seepage cases in buildings and enable more complainants to receive assistance**. The Administration advised that in order to handle water seepage cases in buildings more effectively, the Administration proposed to combine certain investigation work in some districts on a trial basis in the third quarter of 2023 to try out whether the investigation time required for applicable cases could be reduced from 90 working days to some 60 working days. Meanwhile, JO would review the procedures for result checking after completion of onsite investigation with a view to further shortening the investigation time. Regarding cases of water seepage in buildings which could not be dealt with under PHMSO, the Administration would explore offering facilitation to the complainants and complainees concerned by providing them with free copies of JO’s water seepage investigation reports for reference, so that they might consider

² The initial proposal was to impose a maximum fine at level 4 (\$25,000) and a term of imprisonment of three months on the first conviction; and a maximum fine at level 5 (\$50,000) and a term of imprisonment of six months on the second or subsequent convictions.

pursuing other methods (e.g. seeking opinions from loss adjusters) and resolve disputes arising from water seepage by civil means.

Water dripping from air-conditioners

10. Members expressed concern about **water dripping from air conditioners in aged residential units**. The issue often involved responsibilities spreading across multiple parties and/or a failure to install air-conditioner drainage pipes in the relevant buildings. As a result, the owners/occupants concerned would **have difficulty in making improvements quickly**. Members suggested that the Administration should take an “**advice first, enforcement later**” approach when dealing with these cases. Noting that FEHD had implemented the Scheme of Participation by Property Management Agents in Tackling Dripping Air-conditioners³ (“the Scheme”), members suggested that consideration should be given to provide incentives to encourage more property management companies to participate in the Scheme and proactively assist in handling cases of water dripping from air-conditioners.

11. The Administration advised that under the Scheme, an average of around 2 000 complaint cases about water dripping from air-conditioners were handled by participating property management companies each year from a perspective other than law enforcement. About 80% of those cases were successfully handled and no referral to FEHD for follow-up was required. A total of 263 housing estates were currently participating in the Scheme and FEHD would further promote the Scheme to more private housing estates.

Dealing with the problem of “garbage apartments”

12. Members were also concerned that under the **existing legislation**, various government departments and property management companies were **unable to effectively deal with the problem of “garbage apartments”**. In their view, the Administration should provide the necessary services taking into account the actual circumstances and **personal problems faced by the persons concerned** in order to tackle the problem at root.

13. The Administration advised that the problem of “garbage apartments” often involved the elderly, persons with mental disabilities or the financially disadvantaged. Therefore, apart from the proposed amendments to PHMSO to

³ Under the Scheme, FEHD solicits participation from respective property management agents in handling complaints on water dripping air-conditioners during summer season. Staff of participating property management agents will help to identify the source of water dripping and advise the occupier concerned to rectify the problem. If such effort of the property management agents cannot resolve the complaint, FEHD will then intervene by taking up the case.

amend the existing definition of “litter” so as to enable FEHD to clear articles in “garbage apartments” more effectively, the Administration had also planned to implement measures to strengthen the provision of the necessary support to the persons concerned. The relevant departments would also strengthen inter-departmental collaboration on formulating the “standard operation mode” for conducting joint operations in a bid to thoroughly address the problem.

Implementation progress of the Government Programme on Tackling Hygiene Black Spots

14. Members noticed that under the “standard modes of operation” established by the Task Force, the environmental hygiene and street management problems in many districts caused by SFE and abandoned vehicles in rear lanes had improved significantly.⁴ To **sustain and further enhance the effectiveness** of the Programme, members suggested that the Administration should **encourage the public to monitor the improvement in hygiene black spots and report hygiene black spots via the thematic website of the Programme** which provided a list of hygiene black spots in various districts on an online map. An enquiry was raised on the **criteria adopted for removing a hygiene black spot from the list**.

15. The Administration advised that the Task Force would continue to enhance publicity and education, and encourage various sectors of the community to participate in the Programme, so as to raise public awareness of maintaining environmental hygiene. Furthermore, the Task Force would ensure that the relevant departments would maintain their cleaning and law enforcement momentum to consolidate the improvements achieved in environmental hygiene in various districts. If the environmental hygiene situation of individual hygiene black spots had consistently improved in a year at least without “relapse”, the Administration would consider removing the relevant information from the list.

16. Concern was raised by members about the effectiveness of the Internet Protocol (“IP”) cameras installed by FEHD at different hygiene black spots in various districts across the territory targeting illegal waste disposal. The Administration advised that at present, FEHD had installed IP cameras at about 440 illegal waste disposal black spots in various districts in Hong Kong. By analyzing the footage, FEHD aimed to identify non-compliance patterns and the timing of such incidents so as to enable the Department to plan and execute on-

⁴ In the 2022 Policy Address, a key performance indicator was set for the Programme, i.e. removing at least 75% of environmental hygiene black spots by end-2023. According to the review results of various departments in December 2023, hygiene conditions of more than 80% of black spots have been significantly improved and these spots are suitable for removal from the list.

site enforcement operations against offenders more effectively. With the assistance of the information collected from IP cameras, FEHD issued about 2 900 fixed penalty notices and initiated about 930 prosecutions against offenders respectively in 2022. FEHD planned to establish an image sharing mechanism with the Environmental Protection Department (“EPD”) to make use of the images collected by IP cameras installed by EPD at about 200 illegal deposits of construction wastes black spots to conduct research and analysis, and take follow-up actions in a consolidated manner so as to enhance the effectiveness of enforcement actions.

Relevant papers

17. A list of the relevant papers on the LegCo website is in [Appendix 2](#).

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15 March 2024

**Summary of the proposed legislative amendments and
administrative measures in the second-stage legislative review**

Problems to be addressed	Legislative amendments or administrative measures	Proposed amendments
Shopfront extension	Legislative amendments	<ul style="list-style-type: none"> ● Empowering the Food and Environmental Hygiene Department (“FEHD”) to: <ul style="list-style-type: none"> ➢ require shop operators to remove the obstructing articles within a specified time period, otherwise FEHD may remove such items; ➢ dispose of perishable goods immediately after removal; and ➢ issue fixed penalty notices to or institute prosecution against the proprietor of the shop concerned, based on images/video recordings captured by the department. ● Further raising the penalty level which may be imposed by the court for the second and subsequent convictions.
Public health nuisances (such as water seepage in buildings, water dripping from air conditioners and “garbage apartments”)	Legislative amendments	<ul style="list-style-type: none"> ● Extending the hours for entering the premises concerned to investigate nuisance incidents to between 7:00 am and 10:00 pm. ● Stipulating non-compliance with Notice of Intended Entry¹ to be an offence with a maximum fine at level 2 (\$5,000).

¹ If FEHD officers fail to enter the premises concerned to investigate nuisance incidents or the occupier of the premises is not present, FEHD will issue a Notice of Intended Entry to the owner/occupier concerned to make an appointment for entering the premises concerned to carry out investigations.

Problems to be addressed	Legislative amendments or administrative measures	Proposed amendments
		<ul style="list-style-type: none"> ● Raising the maximum penalty for non-compliance with a Nuisance Notice² to level 4 (\$25,000) and a daily fine of \$450; and the maximum penalty for non-compliance with a Nuisance Order³ to level 5 (\$50,000) and a daily fine of \$600. ● Empowering the authority to require the premises concerned to provide proof of abating the nuisance.
Water seepage in buildings	Administrative measures	<ul style="list-style-type: none"> ● Combining Stages II and III of the seepage investigation to try out whether the target investigation time required for applicable cases can be reduced from 90 to some 60 working days. ● Making further good use of technology, including studying the use of Ground Penetrating Radar to detect and display water seepage inside concrete layers in real time. ● Providing free copies of the water seepage investigation report by the Joint Office for Investigation of Water Seepage Complaints for reference by the complainants and complainees. ● studying ways to deal with water seepage from building management perspective, such as adding new provisions in future deeds of mutual covenant to authorize

² Upon confirmation of the source of the nuisance, FEHD may issue a Nuisance Notice to require the owner/occupier of the premises concerned to abate the nuisance within a specified time period.

³ If the owner/occupier of the premises concerned fails to comply with the requirements of the Nuisance Notice, he or she commits an offence. FEHD may also apply to the court for a Nuisance Order to require the person concerned to abate the nuisance within the period specified in the order

Problems to be addressed	Legislative amendments or administrative measures	Proposed amendments
		<p>property management companies to conduct investigation on water seepage.</p> <ul style="list-style-type: none"> the Buildings Department will study ways to prevent water seepage problems from building design and construction perspectives.
Water dripping from air-conditioners	Administrative measures	<ul style="list-style-type: none"> Encouraging owners to use the remaining subsidy upon completion of the statutory works under the Operation Building Bright 2.0 to install air-conditioner drainage pipes in the common parts of the building. Making good use of technology to detect the sources of water dripping. Further promoting the existing Scheme of Participation by Property Management Agents in Tackling Dripping Air-conditioners to more private housing estates.
“Garbage apartments”	Legislative amendments	<ul style="list-style-type: none"> Amending the existing definition of “litter” under the Public Health and Municipal Services Ordinance (Cap. 132) to more effectively clear any articles likely to constitute a nuisance from “garbage apartments”.
	Administrative measures	<ul style="list-style-type: none"> Carrying out inter-departmental operations as early as possible to strengthen the support given to the person(s) concerned. Strengthening collaboration among relevant departments in formulating and taking joint operations based on the “standard operation mode”.

Problems to be addressed	Legislative amendments or administrative measures	Proposed amendments
Proliferation of pests	Legislative amendments	<ul style="list-style-type: none"> ● empowering FEHD to: <ul style="list-style-type: none"> ➤ recover from the person in charge of the premises the expenses for the pest disinfestation work carried out for him/her under specific circumstances, even if no prior notice for destroying vermin has been served. ➤ serve Notice of Elimination of Vermin on property management agents in respect of vermin infestation in the common parts of a building. ➤ set up equipment or devices in public places and premises infested with vermin for conducting tests, surveillance or assessments in relation to pest infestation where the situation warrants; and stipulating in the law that interference with any relevant equipment or devices is an offence liable to a maximum fine at level 2 (\$5,000). ● Raising the penalty for non-compliance with Notice of Elimination of Vermin to a maximum fine at level 4 (\$25,000) and a daily fine of \$450. ● Raising the penalty for interfering with any equipment used for destroying or removing vermin to a maximum fine at level 2 (\$5,000).
Occupation of public places (e.g. rear lanes) by miscellaneous articles causing obstruction to scavenging operations	Legislative amendments	<ul style="list-style-type: none"> ● Shortening the time allowed for removing articles obstructive to scavenging operations to not less than 30 minutes. ● Raising the penalty for obstruction to scavenging operations to a maximum fine at level 3 (\$10,000) and a daily fine of \$300.

Problems to be addressed	Legislative amendments or administrative measures	Proposed amendments
Illegal display or affixation of bills or posters	Legislative amendments	<ul style="list-style-type: none">● Raising the penalty for illegal display or affixation of bills or posters to a maximum fine at level 4 (\$25,000) and a daily fine of \$450.● Empowering enforcement officers to remove and dispose of display apparatuses like “easy-mount frames”, in addition to bills or posters.
	Administrative measures	<ul style="list-style-type: none">● Increasing the frequency and scale of clean-ups at black spots, and strengthening the internal guidance on issuing warning letters.

Source: Annex I to [the Consultation document on proposed amendments to the environmental hygiene-related legislation \(second-stage legislative review\)](#) and the Administration’s paper on [Preliminary proposals for the second-stage review on environmental hygiene-related legislation](#) (LC Paper No. CB(2)687/2023(03))

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**Relevant papers on the second-stage review on
environmental hygiene-related legislation and
the Government Programme on Tackling Hygiene Black Spots**

Committee	Date of meeting	Papers
Panel on Food Safety and Environmental Hygiene	13 December 2022	Agenda Item II: Progress of the Government Programme on Tackling Hygiene Black Spots Agenda Item III: Proposal to raise the level of fixed penalty for littering, shopfront extension, etc. under the Fixed Penalty (Public Cleanliness and Obstruction) Ordinance (Cap. 570) Minutes
	14 March 2023	Agenda Item IV: Proposal to raise the level of fixed penalty for public cleanliness and obstruction offences - public consultation outcome Minutes Follow-up paper
	9 May 2023	Agenda Item III: Progress of the Government programme on tackling hygiene black spots and rodent control Minutes
	11 July 2023	Agenda Item III: Proposed amendments to environmental hygiene-related legislation Minutes Follow-up paper

Committee	Date of meeting	Papers
	14 November 2023	Agenda Item III: Briefing by the Secretary for Environment and Ecology on the Chief Executive's 2023 Policy Address Minutes
Bills Committee on Fines and Fixed Penalties (Public Cleanliness and Obstruction) (Miscellaneous Amendments) Bill 2023	30 June 2023*	Report

*Issue date

Council meeting	Paper
17 January 2024	Question 21 : Government Programme on Tackling Hygiene Black Spots

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