

Consultation Document

Proposed Amendments to the Environmental Hygiene-related Legislation (Second-stage Legislative Review)



**Environment and
Ecology Bureau**

The Government of the
Hong Kong Special Administrative Region
of the People's Republic of China



食物環境衛生署
Food and Environmental
Hygiene Department

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Proposal to Amend the Environmental Hygiene-related Legislation Consultation Document

Chapter 1 Foreword

- 1.1 The Chief Executive 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 Government's efficiency, effectiveness and deterrence in handling various thorny environmental hygiene problems, so as to achieve sustainable improvements in the environmental hygiene and cityscape of Hong Kong.
- 1.2 The legislative review had been conducted in two stages. Work under the first-stage related to raising the fixed penalty and the maximum fines which may be imposed by the court for offences related to environmental hygiene and shopfront extension has been implemented as planned. The new penalty level took effect on 22 October 2023.
- 1.3 We have completed the second-stage legislative review and proposed to amend the Public Health and Municipal Services Ordinance (Cap. 132) (PHMSO) and other related ordinances, supplemented by additional administrative measures, to enhance the efficiency and deterrence of enforcement, thereby achieving long-term improvements in the following "long-standing, big and difficult" environmental hygiene, public health nuisances and street management problems:
- (a) Shopfront extension;
 - (b) public health nuisances such as water seepage in buildings, water dripping from air-conditioners and "garbage apartments";
 - (c) proliferation of vermin;
 - (d) occupation of public places (e.g. rear lanes) by miscellaneous articles causing obstruction to scavenging operations; and
 - (e) illegal display or affixation of bills or posters.

The preliminary proposals on the second-stage legislative amendments were put forth to the Panel on Food Safety and Environmental Hygiene of the Legislative Council (LegCo) in July 2023. This document serves to introduce the relevant details for public consultation.

Chapter 2 Present Situation and Key Proposals

(1) Shopfront extension (SFE)

2.1 SFE affects road access and environmental hygiene, and causes nuisance and even hazards to pedestrians and traffic. It is one of the environmental hygiene and street management issues of major concern to the public. It is also unfair to compliant operators when some non-compliant shop operators treat the penalty for SFE as rental costs for using the public space outside their shops illegally.



Figure 1: Goods placed outside shops affect road access, and may cause hazards to pedestrians.

- 2.2 At present, if the Food and Environmental Hygiene Department (FEHD) found during inspection that shops have illegally extended their business area, enforcement actions will be taken according to the actual circumstances. 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 (FPNs) 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. To further enhance deterrence and raise the non-compliance cost for SFE, the FEHD will issue multiple FPNs within a short period of time to repeated offenders. Also, starting from 22 October 2023, the level of fixed penalty for SFE has been raised from \$1,500 to \$6,000, and the maximum penalty which may be imposed by the court has too been raised from a fine of \$5,000 or 3-month imprisonment to a fine of \$25,000 or 3-month imprisonment.
- 2.3 Moreover, the FEHD and the Hong Kong Police Force (the Police) have mounted joint enforcement operations since September 2021 to further tackle SFE. The Police will require shops to remove the obstructing articles within a specified

time period as empowered under the Summary Offences Ordinance (Cap. 228), otherwise the items will be removed by the FEHD in assistance to the Police. The articles removed by the FEHD in the joint operations will be kept at designated sites. If no one claims for the articles after a specified period, the articles shall be forfeited. Perishable items (e.g. fresh fruit, vegetables, etc.) need to be kept at cold stores and thus in general, will be disposed of if they are not claimed back within 48 hours after being removed by the FEHD.

2.4 The statistics on complaints and enforcement actions against SFE over the past three years are tabulated as follows:

	2020	2021	2022	2023 (as at end-June)
Number of complaints	18 904	23 510	24 201	11 960
Number of FPNs issued	10 734	14 766	15 788	5 323
Number of prosecutions	3 354	3 705	5 800	2 116
Total amount of obstructing articles removed during the joint FEHD and the Police operations (in tonnes)	/	5.80	20.26	6.57

Table 1: Statistics on complaints and enforcement actions against SFE

Proposed measures

2.5 While the FEHD can initiate prosecutions and issue FPNs against SFE, it is not empowered to remove obstructing articles in the absence of police officers. We consider that the FEHD should be empowered to remove obstructing articles on its own, so that obstructing situation can be resolved and road access can be recovered



Figure 2: Due to SFE, citizens are forced to shop on traffic roads, which can be dangerous.

more effectively. For perishable items (e.g. fresh fruit, vegetables, etc.) removed, having regard to their preservation cost in cold stores and the reasons for their removal, we consider that there should be a disposal mechanism set out in the legislation for removed perishable items, similar to the existing arrangements for regulating hawking activities. Furthermore, some recalcitrant shop operators would revert to the act of SFE again once the enforcement officers have left given that enforcement officers have to collect evidence and carry out enforcement on the scene at present. In this view, we consider that the FEHD should be empowered to collect evidence and initiate prosecutions against offending shops by other means (e.g. using video cameras) as well to achieve greater enforcement effectiveness.

2.6 Our proposals are as follows:

(a) Empowering the FEHD to remove obstructing articles

We propose to empower¹ the FEHD to require shop operators who have illegally extended their business area to remove the articles obstructing public places within a specified time period, without needing assistance from the Police, otherwise the department may remove the articles. We also propose to stipulate that the articles shall be forfeited and disposed of by the Government if no claim is lodged after a specified period (e.g. one week). This will enhance FEHD's capability to handle SFE problem independently.

(b) Empowering the FEHD to dispose of the perishable goods removed

We propose to empower the FEHD to immediately dispose of the perishable items (e.g. fresh fruit and vegetables) removed for reasonable control of preservation cost. In case the article owner was not prosecuted or the court considered the prosecution unsubstantiated, the Government will draw reference from the arrangement for seizure of goods in the existing hawking-regulating legislation, to assess the value of the goods and pay the claimant the corresponding amount. The amount can be determined by the court if necessary.

¹ The proposed legislative amendments will make reference to the relevant provisions on removing obstruction in the Summary Offences Ordinance.

(c) Empowering the FEHD to do enforcement based on images / video recordings

Apart from taking enforcement actions on the scene, we propose to empower the FEHD to issue FPNs to or institute prosecution against the proprietor of the business registration certificate (BRC) of the shop concerned for the act of SFE based on the images / video recordings captured by the video cameras of the department so as to enhance enforcement efficiency. The BRC proprietor shall be held liable for SFE unless there is reasonable defence.

(d) Exploring an increase in the maximum penalty imposed upon repeated offenders

As mentioned in paragraph 2.2 above, for SFE offences, the FEHD issues multiple FPNs to repeated offenders within a short period of time, and the relevant penalty was increased on 22 October 2023 with the level of fixed penalty concerned raised from \$1,500 to \$6,000, and the maximum penalty which may be imposed by the court raised from a fine of \$5,000 or 3-month imprisonment to a fine of \$25,000 or 3-month imprisonment. There are views that the new penalty level poses sufficient deterrence and the Government should observe the effectiveness for a while after its implementation. Meanwhile, there are also views that the Government should continue to step up efforts in combatting SFE so as to maintain a decent cityscape. We would like to explore through this consultation, whether there is a need to further raise the penalty level under the second-stage legislative review. If need be, our initial proposal is to change the maximum penalty which may be imposed by the court (i.e. fine at level 4 (\$25,000) or 3-month imprisonment at present) into two tiers – for the first conviction, a maximum fine at level 4 (\$25,000) and 3-month imprisonment and for the second and subsequent convictions, a maximum fine at level 5 (\$50,000) and 6-month imprisonment.

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

2.7 Situations such as water seepage in buildings, water dripping from air-conditioners and “garbage apartments”² cause nuisance to the neighbourhood. Under normal circumstances, the abovementioned situation can be improved if the owner or occupier (e.g. tenant) of the premises concerned take the initiative to rectify the problems. However, if the situation is not dealt with in a timely manner and aggravates further, it may turn into a public health concern or even nuisance.

2.8 For complaints in relation to nuisance caused by water seepage, water dripping from air-conditioners and “garbage apartments” in private buildings, public officers generally need to enter the complainant’s premises and the premises suspected to have caused the nuisance to conduct investigations and tests, so as to identify the source of the problem. Upon confirmation of the source of the problem, public officers will issue a “Nuisance Notice” to the premises concerned, requiring its owner or occupier to abate the nuisance within a specified time period. Public officers will visit the premises again to ascertain whether the nuisance has been resolved. If the “Nuisance Notice” is not complied with, the Government may institute prosecution against the owner or occupier of the premises, who will be subject to a maximum fine at level 3 (\$10,000) and a daily fine of \$200. The Government may also apply to the court for the court to issue a “Nuisance Order” requiring the person concerned to abate the nuisance within a specified time period. Failure to comply with a “Nuisance Order” is an offence subject to a maximum fine at level 4 (\$25,000) and a daily fine of \$450.

2.9 The statistics on complaints in relation to water seepage in buildings, water dripping from air-conditioners and “garbage apartments” received, “Nuisance Notices” and “Nuisance Orders” issued, as well as prosecutions instituted by the Government in the past three years are tabulated below:

² “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.

	2020	2021	2022	2023 (as at end-June)
Complaints in relation to water seepage in buildings, water dripping from air-conditioners and “garbage apartments”	67 399	74 089	65 496	33 661
Number of “Nuisance Notices” issued	9 399	9 055	7 289	3 268
Number of “Nuisance Orders” issued	73	104	61	17
Total number of prosecutions (including non-compliance with “Nuisance Notice” and “Nuisance Order”)	261	277	213	64

Table 2: Statistics in relation to water seepage in buildings, water dripping from air-conditioners and “garbage apartments”

Proposed measures

2.10 We believe that the problem can be resolved early if the public officers can have access to the premises concerned for investigation as early as possible. At present, public officers may enter the premises concerned for investigation with the consent of the owner or occupier of the premises. If the owner or occupier of the premises is absent or does not allow entry to the premises, the public officers will exercise the power under the PHMSO and issue a “Notice of Intended Entry” to make an appointment (between 7:00 a.m. and 7:00 p.m.) for entering the premises to carry out investigations. Having regard to the workplace and daily routine nowadays, to facilitate general public to cooperate with the investigations, we suggest extending the hours for entering premises to conduct investigation. Furthermore, as there is no legal consequence for the owner or occupier of the premises concerned to deliberately ignore the “Notice of Intended Entry” for now, in which case public officers can only pay repeated visits or apply to the court for a warrant to enter the premises, the process can be

time-consuming. In situations where the owner or occupier of the premises concerned drags on the follow-up after the source of nuisance is identified, not only would the Government's manpower and resources be drained unnecessarily, the nuisance situation would aggravate and impact the neighbouring residents further. Hence, we consider that measures should be put in place to prevent the above situations as far as possible.

2.11 Our proposals are as follows:

- (a) Extending the hours for entering the premises concerned to conduct investigation to 10:00 p.m.

To facilitate general public to cooperate with the government's investigation, we propose to extend the hours for public officers to enter the premises concerned for investigating nuisance incidents from between 7:00 a.m. and 7:00 p.m. to 10:00 p.m.

- (b) Stipulating non-compliance with the "Notice of Intended Entry" to be an offence

To allow earlier access to the premises concerned for investigation, we propose to stipulate that any property owner or occupier who, without reasonable excuse, fails to comply with a "Notice of Intended Entry" issued by public officers (including causing unreasonable delays), commits an offence and is liable to a maximum fine at level 2 (\$5,000) so as to ensure that enforcement officers can enter the premises concerned to investigate public health nuisances in reasonable time.

- (c) The penalties for non-cooperation in abating the nuisance

To enhance deterrence, we propose to raise the maximum penalty which may be imposed by the court for non-compliance with the "Nuisance Notice" or the "Nuisance Order" as tabulated below, so as to more effectively drive the persons concerned to take timely action to abate public health nuisances:

	Current penalty	Proposed penalty
Non-compliance with "Nuisance Notice"	Fine at level 3 (\$10,000) and a daily fine of \$200	Fine at level 4 (\$25,000) and a daily fine of \$450

Non-compliance with “Nuisance Order”	Fine at level 4 (\$25,000) and a daily fine of \$450	Fine at level 5 (\$50,000) and a daily fine of \$600
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Table 3: Proposal for raising the penalties in relation to the “Nuisance Notice” and the “Nuisance Order”

(d) Requiring the premises concerned to provide proof of abating the nuisance

We propose to empower the authority to require the person who has received a “Nuisance Notice” or a “Nuisance Order” to provide proof of abating the nuisance, such as receipts for the relevant repair works, for checking by public officers to enhance enforcement efficiency.

(i) Water seepage in buildings

2.12 Water seepage in buildings is generally caused by defective installations of buildings (e.g. water pipes, drainage pipes or sanitary fittings) and lack of proper maintenance. The affected households need to approach the owner or occupier of the premises concerned to identify the cause of water seepage and carry out repair works.

2.13 The Joint Office (JO) set up by the FEHD and the Buildings Department (BD) deals with water seepage cases in buildings that give rise to public health nuisances in accordance with the PHMSO. If the seepage is found posing a risk to the structural safety of a building or causing wastage of water, the JO will refer the case to the BD or the Water Supplies Department for follow-up action as appropriate. The relevant departments will take enforcement actions in accordance with the Buildings Ordinance (Cap. 123) or the Waterworks Ordinance (Cap. 102).

2.14 At present, the JO conducts investigation upon receipt of water seepage complaints in the following three sequential stages –

Stage I: The JO officers will measure the moisture content of the seepage area in the complainant’s premises. If the moisture content of the

seepage area reaches 35% or above, Stage II investigation will be arranged. Otherwise, the complaint will be screened out.³

Stage II: The JO officers will conduct basic tests on drainage pipes and/or water supply pipes at the premises under complaint or suspected to be causing the seepage, such as pouring colour water into drainage outlets to see if there is any seepage of colour water at the seepage area in the complainant's premises. If the source of seepage cannot be identified, the consultant engaged by the JO will be appointed to carry out Stage III investigation.

Stage III: The consultant engaged by the JO will proceed with professional investigation by conducting tests on the floor slab, wall surface, etc. at the premises under complaint or suspected to be causing the seepage, such as using colour water to carry out ponding test on the floor slab and making use of technologies such as infrared thermography and microwave tomography as appropriate to detect the source of seepage at the complainant's premises.



Figures 3 and 4: Consultants engaged by the JO conducting ponding test on the floor slab and using microwave tomography to detect the source of seepage.

2.15 The statistics on the complaints, investigations and relevant enforcement actions against water seepage in buildings in the past three years are tabulated as follows:

³ As the humidity level on the surface of concrete or plaster is subject to the ambient relative humidity, according to past experiences, the source of water seepage is difficult to identify if the moisture content level of the surface is not substantially higher than the basic level. Hence, the JO has set the moisture content level at 35% or above as the threshold for initiating investigation for the effective use of public resources.

	2020	2021	2022	2023 (as at end-June)
Number of complaints	35 397	36 262	38 275	20 666
Cases screened out ⁴	21 345	21 813	24 170	12 698
Cases with investigation concluded ⁵	14 052	14 449	14 015	7 968
Cases with water seepage ceased during investigation	3 903	3 982	4 535	2 534
Cases with source of water seepage confirmed	6 746	6 000	5 186	2 660
Number of “Nuisance Notice” issued	6 002	5 331	4 587	2 702
Number of “Nuisance Order” issued	72	100	60	17
Total number of prosecutions (including non-compliance with “Nuisance Notice” and “Nuisance Order”)	225	216	146	52

Table 4: Statistics in relation to complaints, investigations and enforcement actions against water seepage in buildings

2.16 It is the Government’s target to complete water seepage investigation within 90 working days. In the past year, about 70% of the investigation met the target.

Proposed measures

2.17 The duration required for investigating water seepage cases is subject to a number of factors, including the complexity of the case (for example, multiple tests are required for cases which have more than one sources of water seepage or involve repeated or intermittent water seepage conditions) and whether the

⁴ Some water seepage complaint cases received will be screened out where the moisture content is below 35%, the seepage originates from the property owned by the complainant, the nature of the case does not involve water seepage, or the complainant has withdrawn the complaint.

⁵ The number of cases with investigation concluded does not necessarily correspond to the number of complaint cases received in the same year.

owners or occupiers of the premises concerned are cooperative. As stated in paragraph 2.11 above, we propose to amend the legislation to enable public officers to enter the premises concerned as early as possible for carrying out investigations. Besides, as non-compliance with the “Nuisance Notice” or the “Nuisance Order” is a criminal offence, the water seepage investigations carried out by the JO are required to meet the threshold of criminal investigation of “beyond reasonable doubt”. Otherwise, the JO will not be able to take enforcement action in accordance with the PHMSO. For cases not being able to meet the “beyond reasonable doubt” threshold, we will provide more information wherever possible to help the affected households to follow up on the cases through other channels.

2.18 The property management staff are more familiar with the building layout of their housing estates (such as the locations of inlet and outlet pipes, etc.), the daily routine of the residents and source of seepage commonly found. Besides, the residents are generally more open to cooperating with the coordination of the property management staff. Hence we believe that property management companies can assume certain role in resolving water seepage problems.

2.19 In the long run, we consider that water seepage can be better prevented with measures in respect of building design and construction.

2.20 Our proposals are as follows:

(a) Combining Stages II and III of seepage investigation

To expedite the conclusion of seepage investigation, the JO have combined Stages II and III of the investigation in four districts on a trial basis since mid-September 2023, to try out whether the target investigation time required for applicable cases can be reduced by 30% from 90 to some 60 working days. The JO will also review the procedures for result checking after completion of the on-site investigation, in order to further shorten the investigation time.

(b) Making further good use of technology

Apart from using new testing technologies (including infrared thermography and microwave tomography) to detect the source of water seepage during Stage III

investigation in selected pilot districts⁶, the JO will make further good use of technology, depending on the availability of the relevant service providers in the market, to extend the use of new technologies to more districts progressively, and study the use of Ground Penetrating Radar with the relevant departments to detect and display water seepage inside concrete layers in real time.

(c) Facilitating the public to resolve water seepage disputes by civil means

The JO will facilitate the relevant persons (including the complainants and complainees) by providing them with copies of the water seepage investigation report by the JO for reference for free, so that they may consider pursuing other means (e.g. by way of negotiation, seeking opinions from loss adjusters and mediation⁷) to resolve the dispute arising from water seepage.

(d) The Urban Renewal Authority authorising deed of mutual covenant (DMC) manager (such as property management companies) to help deal with seepage problems

The Urban Renewal Authority (URA) has, on a trial basis, added new provisions in the DMC of new buildings that it takes part in the development to clearly delineate the rights and responsibilities in relation to the maintenance of the “common areas” and “private areas” of buildings, and authorise DMC manager to conduct investigation on water seepage in the housing estates.

(e) The Property Management Services Authority to draw up guidelines for property management companies to assist handling of seepage problems

⁶ These testing technologies are being used in 12 districts at present. As for the remaining seven districts, the consultants engaged by the JO may also use these testing technologies to assist in the investigation of complicated water seepage cases, such as cases which are serious, cases with more than one sources of seepage or cases causing intermittent but repeated seepage over a long period of time where conventional testing methods fail to identify the source of water seepage. The JO will have to revert to employing traditional testing methods, such as ponding test for floor slab, if the testing technologies cannot be applied effectively due to site constraints, such as small seepage area, water seepage located at the concrete spalling ceiling, obstruction by the presence of tiles or other facilities on the ceiling (including suspended ceiling or pipes, etc), the seepage location being close to pipe duct and that the JO staff cannot open the duct for inspection, the case involving several flats with suspected seepage, as well as the lack of record of the floor slab thickness.

⁷ These non-criminal routes are not required to meet the threshold of criminal investigation of “beyond reasonable doubt”.

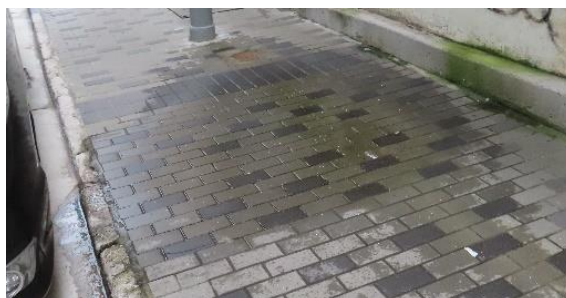
The Property Management Services Authority is drawing up guidelines and good practices for the handling of building works in the property by relevant property management companies, including how licensed property management companies can assist owners / owners' organisations (if any) to deal with water seepage problems.

(f) Preventing water seepage from building design and construction perspectives

The BD is reviewing its “Guidelines on Prevention of Water Seepage in New Buildings” and planning to revise the relevant Practice Note, in order to enhance the prevention of water seepage problems by providing the building industry with updated guidelines⁸ on building design and construction. The BD will consult the industry on the revised guidelines within 2023.

(ii) Water dripping from air-conditioners

2.21 Water dripping from air-conditioners onto the canopy or air-conditioner hood of the flat underneath causes noise nuisance. The dripping water may also wet pavements, affect passers-by, environmental hygiene and cityscape. Water dripping from air-conditioners often occurs from nighttime to early morning in the summer, in most cases it is caused by minor hiccups such as poor or loosen connection of rubber drain hoses, blockage to drainage outlets or absence of water drip pans. In general, the owners or occupiers of the premises concerned can repair the dripping air-conditioners within a short period of time.



Figures 5 and 6: Wetting of pavements by dripping air-conditioners caused by faulty connection of rubber drain hoses affects environmental hygiene and the cityscape.

⁸ The draft revised guidelines will cover such areas as the design of waterproofing layer, sunken slab design in bathroom, the use of smart technologies to assist in checking water seepage problems.

2.22 Apart from conducting site inspection on complaints, the FEHD has been deploying staff to conduct ad hoc inspections at black spots of dripping air-conditioners with heavy pedestrian flow (such as roadside bus stops, public light bus stands and pedestrian crossings) in the small hours, including early morning and evening. Upon identification of the source of water dripping, the FEHD officers will issue a “Nuisance Notice” to the owner or occupier of the premises concerned. In most cases, the owner or occupier of the premises concerned will take actions to rectify the problem after receiving verbal warning or an advisory letter from the FEHD officers and no further prosecution action from FEHD is warranted. If the problem is not followed up properly, the FEHD will take enforcement action as stated in paragraph 2.8 above.

2.23 The statistics on complaints received about water dripping from air-conditioners and enforcement actions taken in the past three years are tabulated as follows:

	2020	2021	2022	2023 (as at end-June)
Number of complaints	28 198	30 806	25 889	11 199
Number of “Nuisance Notice” issued	3 397	3 724	2 702	566
Number of “Nuisance Order” issued	1	4	1	0
Total number of prosecutions (including non-compliance with “Nuisance Notice” and “Nuisance Order”)	36	61	67	12

Table 5: Statistics on complaints received about water dripping from air-conditioners and enforcement actions taken

Proposed measures

2.24 To resolve the problem of water dripping from air-conditioners, support from members of the public in making regular inspections and keeping their air-conditioners in good repair is crucial. More importantly, owners of buildings are encouraged to install facilities such as common drainage pipes for air-conditioners in their buildings. In the meantime, the FEHD will step up its investigation of complaints about dripping air-conditioners and roll out measures

to facilitate property management companies in solving the problem together with the households concerned.

2.25 Our proposals are as follows:

(a) Strongly encouraging and assisting owners of buildings to install common drainage pipes for air-conditioners

Targeting those buildings not yet installed with common drainage pipes for air-conditioners⁹, the Development Bureau and the URA have strongly encouraged owners to use the remaining subsidy upon completion of the statutory works under Operation Building Bright 2.0 to install air-conditioner drainage pipes in the common parts of the buildings¹⁰.

(b) Making good use of technology to detect the sources of water dripping

As the sources of water dripping from air-conditioners may be located on the upper floors of high-rise buildings or visually blocked by other objects, the FEHD will continue to make good use of technology to identify the source of water dripping. Besides using retractable and adjustable video borescope inspection cameras with LED lamps, the FEHD is exploring the use of 5G technology to install Internet Protocol cameras and thermal imaging cameras at suitable locations outside buildings with more serious dripping from air-conditioners, in order to record the difference between the temperature of water droplets and the outside temperature for identifying the source of water dripping in real time.

(c) Encouraging property management companies to help deal with the water dripping problem

Currently, there are over 260 property management companies participating in the “Scheme of Participation by Property Management Agents in Tackling Dripping Air-conditioners” of the FEHD, and approximately 5 000 complaints

⁹ The Buildings Ordinance (Cap. 123) requires the provision of proper disposal system for the drainage of the condensate from air conditioners for new building developments after March 2000.

¹⁰ As of July 2023, among the owners of Category 1 Buildings granted the subsidies, approximately 60% had remaining grant for “MBIS-Plus” works after catering for the “priority works”, in which 70% made use of the remaining grant to install common drainage pipes for air-conditioners.

about dripping air-conditioners are handled by the participating property management companies each year. The FEHD will further promote the scheme to more private housing estates. Under the scheme, property management companies of housing estates handle complaints about dripping air-conditioners during summer season by helping to identify the source of water dripping for the affected premises and advising the occupiers concerned to rectify the problem, thus reducing potential disputes among residents and maintaining a harmonious living environment. If necessary, the FEHD will take enforcement action against the nuisances (see paragraph 2.8 above).

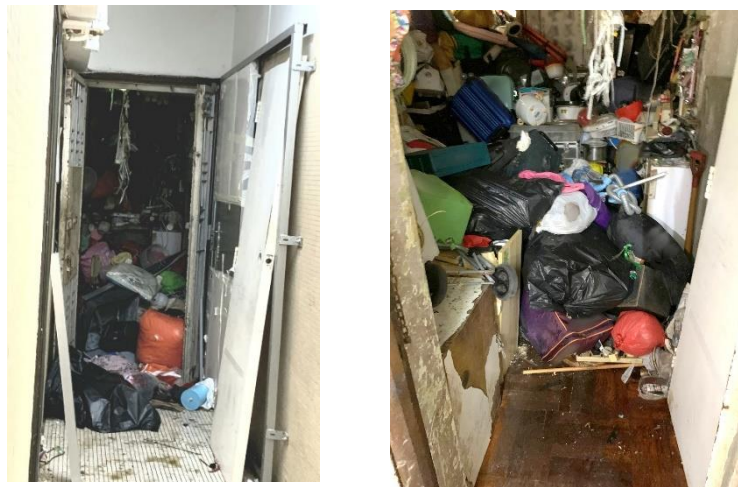
(iii) “Garbage apartments”

2.26 “Garbage apartments” generally refers to private premises or properties¹¹ in which the accumulation of large quantities of miscellaneous articles or garbage has given rise to environmental nuisances (such as proliferation of pests, emission of foul odour or obstruction of common parts). Complaints concerning “garbage apartments” are typically related to nuisances to nearby residents and potential public health problems. As the premises concerned often involve elderly, persons with mental disorder or financially disadvantaged, they may not be able to deal with the problem by themselves and the communication between them and their neighbours may not be very effective.

2.27 Currently, if it is found that the accumulation of large quantities of miscellaneous articles or garbage in premises have caused public health nuisance, the FEHD officers will, as stated in paragraph 2.8 above, issue a “Nuisance Notice” to the owner or occupier of the premises concerned, and apply to the court for a “Nuisance Order” as necessary, requiring the person concerned to address the nuisance problem. If the situation poses an imminent hazard to public health, the FEHD will also conduct joint operations with relevant departments (including the Social Welfare Department (SWD), the District Office, the Police, etc.). The FEHD will issue a notice under the PHMSO to require the owner or occupier of the premises concerned to remove “litter” or “waste” within a specified period, and if the persons concerned fail to do so, the department will

¹¹ 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.

remove, destroy or otherwise dispose of the items concerned, and then clean the area and recover the expenses involved. In joint operations, the respective District Office not only serves to connect and facilitate communication between members of the public and the government departments concerned, but it also renders assistance to the owners' corporations and property management companies in taking action pursuant to the DMC (such as helping to clear the miscellaneous articles/garbage that constitute a nuisance from the premises). The SWD can provide counselling and assistance to the elderly, persons with mental disorder or the financially disadvantaged concerned, while the Police can help maintain order on the day of the joint operation.



Figures 7 and 8: Accumulation of large quantities of miscellaneous articles or garbage in a residential flat will cause nuisances to nearby residents and give rise to environmental hygiene issues.

2.28 The statistics on complaints received about “garbage apartments” and joint operations conducted in the past three years are tabulated as follows:

	2020	2021	2022	2023 (as at end- June)
Number of complaints	35	50	52	26
Number of cases in which inter-departmental joint operations were required	2	6	6	4

Table 6: Statistics on complaints and joint operations related to “garbage apartments”

Proposed measures

2.29 As the owners or occupiers of the premises concerned are often elderly, persons with mental disorder or financially disadvantaged, it is often that the following-up by an individual department alone cannot effectively tackle cases of “garbage apartments” at the root. At present, the PHMSO empowers the FEHD officers to remove or destroy the “litter” or “waste” if the owner or occupier of the premises concerned fails to clear such items within a specified period. According to the PHMSO, “litter” includes any substance likely to constitute a nuisance and “waste” refers to any substance or article which is abandoned. Based on the enforcement experience of the FEHD, some owners or occupiers of the premises concerned may argue that their items are not “waste”. In such case, only when such items fall within the definition of litter can the FEHD proceed with its action in accordance with the PHMSO. As the current definition of the term “litter” only includes “any **substance** likely to constitute a nuisance”, which does not expressly include “**articles**”, it has resulted in restrictions on the clearance of articles from “garbage apartments” by the FEHD officers.

2.30 Our proposals are as follows:

(a) Carrying out inter-departmental operations as early as possible

In respect of administrative measures, upon receipt of a complaint, the FEHD will liaise with the relevant departments such as the Home Affairs Department (HAD) and the SWD as early as possible, so as to strengthen the support provided to the person(s) concerned offering assistance from the perspectives of welfare and mental health, with a view to addressing the problem at root. The relevant departments will also strengthen inter-departmental collaboration in formulating and taking joint operations based on the “standard operation mode”.

(b) Amending the legal definition of “litter”

We propose to amend the PHMSO by adding “articles” to the current definition of “litter”, in order to clear up articles which are likely to constitute a nuisance from “garbage apartments” more effectively.

(3) Proliferation of vermin

2.31 Rodents, mosquitos and arthropod pests are vectors of infectious diseases. They may transmit diseases such as dengue fever, Japanese encephalitis, plague hantaviral infection and dysentery etc. To effectively deal with the proliferation of vermin, a cross-sectoral, inter-disciplinary and public-participation approach, as well as the joint efforts of all departments concerned, are required.



Figures 9 and 10: Rodent traps and bait boxes are placed on streets and rear lanes by the FEHD officers to kill rodents for alleviating rodent infestation.

2.32 The Government has been adopting a multi-pronged approach in preventing and controlling the proliferation of vermin. For example, in respect of rodent control, the FEHD has been stepping up night-time anti-rodent operations in public places, applying new technologies and tools to enhance the anti-rodent effectiveness, piloting new methodology of rodent surveillance and conducting strategic anti-rodent operations at priority rodent black spots etc. As for mosquito prevention and control, the FEHD will join hands with relevant government departments to carry out All-out Anti-mosquito Operations annually with a view to eliminating mosquito breeding places in public places and premises managed by the Government, as well as conduct regular ultra-low volume fogging operations to enhance the effectiveness of mosquito control.

2.33 On the other hand, if vermin infestation happens in private premises, the FEHD will issue a notice (hereinafter called “Notice of Elimination of Vermin”) to the owner or occupier concerned, requiring him/her to take steps to destroy and remove the vermin within a specified time period. When the specified time period expires, the FEHD officers will visit the premises for inspection. For

non-compliance with the “Notice of Elimination of Vermin”, the FEHD may institute prosecution against the owner or occupier of the premises, and the offence is subject to a maximum fine at level 2 (\$5,000) and a daily fine of \$100. Having regard to the seriousness of vermin infestation and other factors, the FEHD may also arrange vermin disinfestation for the premises in accordance with the PHMSO and recover the expenses for destroying and removing vermin from the owner or occupier concerned to prevent aggravation of the problem and impacts on public health.

- 2.34 The statistics on complaints received by the FEHD and enforcement actions taken against vermin infestation (including rodent and other pests) in the past three years are tabulated below:

	2020	2021	2022	2023 (as at end- June)
Complaints on vermin infestation	14 213	16 381	14 991	7 780
Number of “Notice of Elimination of Vermin” issued ¹²	1	0	13	3

Table 7: Statistics related to complaints on vermin infestation and “Notice of Elimination of Vermin”

Proposed measures

- 2.35 It is the responsibility of the owners and occupiers to maintain their private premises in good hygiene. If one takes no action against vermin infestation in the premise, the situation will be conducive to the transmission of infectious diseases in the community. We consider it proper to enhance the deterrence against such negligence of public health. Separately, according to the circumstances, FEHD is already empowered to take steps to destroy or remove vermin in private premises without having served the “Notice of Elimination of

¹² Since all of the “Notice of Elimination of Vermin” were complied with, it was unnecessary for the FEHD to institute prosecution or intervene in the relevant pest disinfestation work.

Vermin” if the situation is serious (such as when the vermin infestation has posed public health risks or imminent hazards). That said, it is not expressly set out in the legislation that the FEHD may recover the associated expenses from the person concerned for conducting vermin disinfection work in their premises as abovementioned. The person concerned may regard this as a free service by the Government and thus lack the motivation to clean up their own premises. As for vermin infestation in common parts of the premises, we consider that the role of the management company can be strengthened on the coordination and follow-up so that the problem will be handled in a timelier manner.

2.36 Under the PHMSO, the FEHD may set up trapping and disinfection devices, such as traps and baits, in public places and private premises infested with vermin to destroy vermin. Any person who tampers with, removes or destroys the said equipment placed in public places and private premises shall be guilty of an offence with a maximum fine at level 1 (\$2,000). We consider that such arrangement should be extended to the equipment for surveillance of vermin infestation. Apart from expressly empowering the FEHD to set up devices (such as thermal imaging cameras and gravitraps) in public places or government premises like rear lanes, housing estates, parks, sitting-out areas, etc. to monitor the situation of vermin infestation, we consider that the FEHD should be empowered to set up such devices in private premises infested with vermin (such as shopping malls and yards of buildings) for assessing whether the person-in-charge of the premise has complied with the “Notice of Elimination of Vermin” issued by the department. The effectiveness of the surveillance work can only be ensured without tampering with the surveillance devices placed in public places and private premises.

2.37 Our proposals are as follows:

- (a) Raising the penalty for non-compliance with the “Notice of Elimination of Vermin”

We propose that the maximum penalty that may be imposed by the court be raised from the current level 2 (\$5,000) and a daily fine of \$100, to level 4 (\$25,000) and a daily fine of \$450, so as to align with the existing penalty for non-

compliance with anti-mosquito breeding notices and to more effectively drive the persons concerned to take timely actions to destroy and remove the vermin.

(b) Recovering expenses for vermin disinfestation from the person-in-charge of the private premises

In the circumstance mentioned in paragraph 2.35 above when the FEHD take reasonable steps to destroy and remove vermin in the private premises direct without having served the “Notice of Elimination of Vermin”, we propose to empower the FEHD to recover from the person-in-charge of the premises concerned the expenses arising from such vermin disinfestation work carried out, so that person-in-charge will not regard this as a free service by the Government and thus lack the motivation to clean up their own premises.

(c) Property management companies to handle vermin disinfestation in common parts of buildings

We propose to empower the FEHD to serve the “Notice of Elimination of Vermin” on property management companies¹³ in respect of vermin infestation in common parts of buildings, requiring steps be taken within a specified time period to destroy and remove the vermin.

(d) Empowering the FEHD to set up equipment for surveillance of vermin infestation and protecting relevant equipment from tampering

We propose to empower the FEHD to, where the situation warrants, set up equipment or devices in public places and private premises (such as shopping malls and yards of buildings) infested with vermin for conducting tests, surveillance or assessments in relation to infestation situation. We also propose to stipulate that the tampering with any relevant equipment and devices shall be an offence liable to a maximum penalty by the court of a fine at level 2 (\$5,000). The FEHD will not set up surveillance devices in a private place where there are neither potential risks nor signs indicating vermin infestation.

¹³ It is consistent with the existing arrangement under the PHMSO that the FEHD may, if there is any accumulation of water that may cause breeding of mosquitoes, serve a notice on the person responsible for the management of the premises to require him/her to remove such accumulation of water.

(e) Raising the relevant penalty for tampering equipment used for vermin disinfection

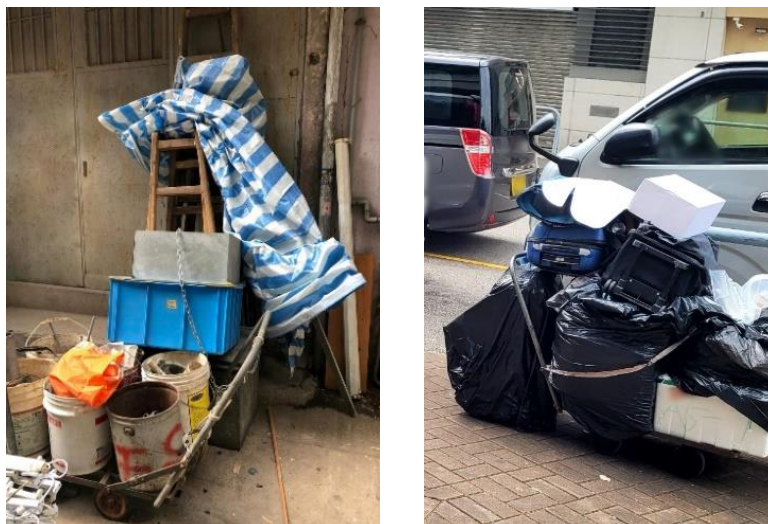
We propose that the maximum penalty that may be imposed by the court for tampering with any equipment used for destroying or removing vermin be raised from the current fine at level 1 (\$2,000), to level 2 (\$5,000) so as to enhance deterrence.

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

2.38 At present, having regard to the nature of the cases, the problem of occupation of public places by miscellaneous articles is handled by various departments according to their functions¹⁴. If miscellaneous articles occupying public places causes obstruction to the scavenging operations of the FEHD, the owner, will be requested by the FEHD officers to remove the articles as soon as possible. For a serious case (e.g. there are a large quantity of obstructing articles or such articles occupy a large area), prosecution will be instituted against the owner in accordance with the PHMSO, and the offence is subject to a maximum penalty by the court of a fine at level 2 (\$5,000) and a daily fine of \$50.

2.39 Where the owner cannot be found, a “Notice to Remove Obstruction” will be attached to such obstructing articles by the FEHD officers in accordance with the PHMSO. If the articles are not removed within four hours after the notice is so attached, the FEHD officers are entitled to remove and detain the articles. As specified by the PHMSO, the detained articles will be forfeited if they are not claimed within seven days.

¹⁴ For example, joint operations are conducted by the Transport Department, the Highways Department, the HAD and the Lands Department to tackle the problem of abandoned vehicles obstructing rear lanes.



Figures 11 and 12: Occupation of public places (such as roads and rear lanes) by miscellaneous articles may cause obstruction to the scavenging operations of the FEHD and affect environmental hygiene.

2.40 The statistics on complaints received by the FEHD and enforcement actions taken against obstruction to scavenging operations in the past three years are tabulated below:

	2020	2021	2022	2023 (as at end-June)
Complaints on occupation of public places by miscellaneous articles causing obstruction to scavenging operations	4 501	5 789	5 651	4 125
Number of “Notices to Remove Obstruction” issued	27 014	31 486	34 081	17 831
Number of prosecutions	440	422	409	92
Total quantity of articles removed (tonnes)	180	189	194	264

Table 8: Statistics on complaints and enforcement actions against obstruction to scavenging operations

Proposed measures

2.41 The intent of specifying the four-hour time period in the PHMSO is to allow reasonable time for the relevant owner to remove the articles as soon as possible. However, the current arrangement is not sufficiently flexible in the way that the FEHD officers can only remove the articles four hours after a “Notice to Remove Obstruction” is attached, some people may thus pay no regard to the notice until approaching the end of the specified time period and refuse to remove the articles promptly. In addition, we consider that the penalty for occupation of public places by miscellaneous articles causing obstruction to scavenging operations should be further raised to strengthen deterrence.

2.42 Our proposals are as follows:

(a) Shortening the time for removing articles to not less than 30 minutes

We propose that the time period allowed for the persons concerned to remove articles causing obstruction to scavenging operations be shortened from four hours to not less than 30 minutes. Generally speaking, the FEHD officers will clearly specify a time period of 30 minutes on the “Notice to Remove Obstruction” by when the owner is required to remove the articles causing obstruction to scavenging operations. Nevertheless, discretion will be exercised to set a reasonably longer time according to the actual circumstances. This will expedite scavenging work and keep the environment clean

(b) Raising the penalty for obstruction to scavenging operations

We propose that the maximum penalty that may be imposed by the court be increased from a fine at the current level 2 (\$5,000) and a daily fine of \$50, to level 3 (\$10,000) and a daily fine of \$300 to strengthen deterrence.

(5) Illegal display or affixation of bills or posters

2.43 Unauthorised display of bills or posters affects the cityscape. It may also lead to accumulation of rubbish, dirt and residues etc. which will affect environmental hygiene. In recent years, salespersons from various commercial organisations (e.g. telecommunication companies) set up display apparatuses like “easy-mount frames” on busy streets to promote their sale and such act has aroused public concern.



Figure 13: “Easy-mount frames” set up by commercial organisations for promoting their sale not only obstructs pedestrians but also affects environmental hygiene and the cityscape.

2.44 At present, if bills or posters displayed without the permission of the competent authorities or land owners / occupiers is found, the FEHD will issue FPNs (\$3,000) under the Fixed Penalty (Public Cleanliness and Obstruction) Ordinance (Cap. 570) or institute prosecutions by way of summons, and the court may impose a maximum fine at level 3 (\$10,000) and a daily fine of \$300. Moreover, if the commercial publicity materials contain sufficient information for tracing the beneficiaries, the FEHD will issue warning letters to the beneficiaries or institute prosecutions subject to the actual circumstances. The FEHD may remove the bills or posters displayed or affixed illegally and recover the removal costs from the persons displaying or affixing them, or the beneficiaries (if there is sufficient evidence). The FEHD may also seize the relevant display apparatuses like “easy-mount frames”, A-shape boards and collapsible stands as evidence. At present, the FEHD has to temporarily store the display apparatuses seized, and apply to the court for disposing or destroying such apparatus.

2.45 The statistics on complaints received by the FEHD about illegal display of bills or posters and enforcement actions taken in the past three years are tabulated as follows:

	2020	2021	2022	2023 (as at end- June)
Number of complaints	6 377	5 824	2 793	1 595
Bills or posters removed	2 426 302	2 464 140	1 991 953	911 396
Number of FPNs issued	3 455	3 209	2 641	1 508
Number of prosecutions	83	19	17	7

Table 9: Statistics on complaints and enforcement actions against illegal display or affixation of bills or posters

Proposed measures

2.46 To strengthen deterrence against unauthorised display of bills or posters, we consider that the penalty which may be imposed by the court should be further increased. Moreover, apart from seizing the display apparatuses concerned (e.g. “easy-mount frames”) as evidence, it should be stipulated by law that the FEHD has the power to remove, destroy or otherwise dispose of the display apparatuses concerned, so as further increase the non-compliance cost.

2.47 Our proposals are as follows:

(a) Raising the penalty for illegal display or affixation of bills or posters

We propose that the maximum penalty which may be imposed by the court be increased from a fine at the current level 3 (\$10,000) and a daily fine of \$300, to level 4 (\$25,000) and a daily fine of \$450 to strengthen deterrence.

(b) Expressly empowering removal and disposal of display apparatuses

We propose to expressly empower enforcement officers to, aside from removing illegally displayed or affixed bills or posters, also remove, destroy or otherwise dispose of display apparatuses like “easy-mount frames”, so as to further increase the cost of non-compliance.

(c) Enhancing the frequency and scale of clean-ups and strengthen internal guidance

As for administrative measures, the FEHD will increase the frequency and scale of clean-ups at illegal bill/poster black spots. At the same time, the FEHD will strengthen its internal guidance and remind its officers to issue warning letters and institute prosecutions against beneficiaries of the illegal display or affixation of bills or posters should there be sufficient evidence.

2.48 In conclusion, regarding the aforementioned environmental hygiene and street management issues, our proposed legislative amendments and administrative measures (paragraphs 2.6 to 2.47) are tabulated at Annex I.

Chapter 3 Invitation for Comments

- 3.1 We will earnestly listen to the community's views on the preliminary proposals for the second-stage legislative review before finalising our proposals. Subject to your comments and the progress of the drafting work, we will strive to introduce the amendment bill into the LegCo in the second half of 2024.
- 3.2 Comments are cordially invited on the proposed legislative amendments. Please fill in the Feedback Form (**Annex II**) and send your comments by post, fax, email or using the [e-form](#) on or before 21 January 2024 to:

Address: Food and Environmental Hygiene Department
45/F, Queensway Government Offices,
66 Queensway, Hong Kong

Fax number: (852) 2530 1368

Email address: eh_legislative_review@fehd.gov.hk

For submission by post, please mark "Submission on Second-stage Legislative Review" on the envelope. For submission by fax, please mark "Submission on Second-stage Legislative Review" on the submission.

- 3.3 It is voluntary for any member of the public to supply his/her personal data upon providing views on the consultation document. Any personal data provided with a submission will only be used for purpose of this consultation exercise.
- 3.4 The submissions and personal data collected may be transferred to the relevant Government bureaux, departments or agencies for purposes directly related to this consultation exercise. The relevant parties receiving the data are bound by such purposes in their subsequent use of such data.
- 3.5 The names and views of individuals and organisations which put forth submissions in response to the consultation document (senders) may be published for public viewing after conclusion of the consultation exercise. The Environment and Ecology Bureau (EEB) and the FEHD may, either in discussion with others or in any subsequent report, whether privately or publicly, attribute comments submitted in response to the consultation document. We

will respect the wish of senders to remain anonymous and/or keep the views confidential in relation to all or part of a submission; but if no such wish is indicated, it will be assumed that the sender can be named and his/her views be published for public information.

- 3.6 Any sender providing personal data to the EEB and the FEHD in the submission will have the right of access and correction with respect to such personal data. Any request for data access or correction of personal data should be made in writing to the FEHD (please refer to paragraph 3.2 for contact information).

A summary of the proposed measures (including legislative amendments and administrative measures) is as follows:

Problems to be addressed	Legislative amendments or administrative measures	Proposed amendments
Shopfront extension (SFE)	Legislative amendments	<ul style="list-style-type: none"> ● Empowering the FEHD to require shop operators who have illegally extended their business area to remove the obstructing articles within a specified time period, otherwise the department may remove such items ● Empowering the FEHD to dispose of perishable goods immediately after removal. In case the article owner was not prosecuted or the court considered the prosecution unsubstantiated, to pay the claimant the amount equivalent to the value of the goods ● Empowering the FEHD to issue fixed penalty notices to or institute prosecution against the proprietor of the business registration certificate of the shop concerned, based on images / video recordings captured by the department's video cameras ● Exploring the need to further raise the penalty level under the second-stage legislative review. If need be, the initial proposal is to change the maximum penalty which may be imposed by the court (i.e. fine at level 4 (\$25,000) or 3-month imprisonment at present) into two tiers – for the first conviction, a maximum fine at level 4 (\$25,000) and 3-month imprisonment and for the second and subsequent convictions, a maximum fine at level 5 (\$50,000) and 6-month imprisonment
Public health nuisances (such as water seepage in buildings,	Legislative amendments	<ul style="list-style-type: none"> ● Extending the hours for entering the premises concerned to investigate nuisance incidents from between 7:00 a.m. and 7:00 p.m., to 10:00 p.m.

Problems to be addressed	Legislative amendments or administrative measures	Proposed amendments
water dripping from air-conditioners and “garbage apartments”)		<ul style="list-style-type: none"> ● Stipulating non-compliance with “Notice of Intended Entry” to be an offence with a maximum fine at level 2 (\$5,000) ● Raising the penalty for non-compliance with a “Nuisance Notice” from a fine at level 3 (\$10,000) and a daily fine of \$200 to level 4 (\$25,000) and a daily fine of \$450; and the penalty for non-compliance with a “Nuisance Order” from a fine at level 4 (\$25,000) and a daily fine of \$450 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 by 30% from 90 to some 60 working days ● Making further good use of technology through keeping in view the availability of new detection technologies (including Infrared Thermography and Microwave Tomography) from service providers on the market, rolling out new technologies gradually in more districts and studying with the relevant departments the use of Ground Penetrating Radar to detect and display water seepage inside concrete layers in real time ● Providing free copies of the JO’s water seepage investigation report for reference by the persons concerned (including the complainants and complainees), so that they may consider resolving the disputes arising from water seepage by other methods ● The Urban Renewal Authority has, on a trial basis, added new provisions in the deeds of mutual covenant

Problems to be addressed	Legislative amendments or administrative measures	Proposed amendments
		<p>(DMC) of new buildings that it takes part in the development to clearly delineate the rights and responsibilities in relation to the maintenance of buildings, and authorise DMC manager to conduct investigation on water seepage in the housing estates</p> <ul style="list-style-type: none"> ● The Property Management Services Authority is drawing up guidelines for property management companies to assist the handling of seepage problems ● The Buildings Department will study ways to prevent water seepage problems from building design and construction perspectives, review the “Guidelines on Prevention of Water Seepage in New buildings” and revise the relevant Practice Note
Water dripping from air-conditioners	Administrative measures	<ul style="list-style-type: none"> ● The Development Bureau and the Urban Renewal Authority have strongly encouraged 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, such as exploring the use of 5G technology to install Internet Protocol cameras and thermal imaging cameras, in order to record the difference between the temperature of water droplets and the outside temperature for identifying the source of water dripping in real time ● Further promoting the existing “Scheme of Participation by Property Management Agents in Tackling Dripping Air-conditioners” to more private housing estates

Problems to be addressed	Legislative amendments or administrative measures	Proposed amendments
“Garbage apartments”	Legislative amendments	<ul style="list-style-type: none"> ● Amending the existing definition of “litter” in order 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, so as to strengthen the support given to the person(s) concerned, and strengthening collaboration among relevant departments in formulating and taking joint operations based on the “standard operation mode”
Proliferation of pests	Legislative amendments	<ul style="list-style-type: none"> ● Raising the maximum penalty for non-compliance with “Notice of Elimination of Vermin” from a fine at level 2 (\$5,000) and a daily fine of \$100 to level 4 (\$25,000) and a daily fine of \$450 ● FEHD may, having regard to the circumstances (e.g. whether pest infestation is posing risks to public health), remove the pests from the premises without having served the “Notice of Elimination of Vermin”, empower the department to recover from the person-in-charge of the premises the expenses involved for such cases ● Empowering the FEHD to serve “Notice of Elimination of Vermin” on property management agents in respect of vermin infestation in the common parts of a building, requiring the property management agents concerned to take measures to destroy vermin within a specified time period ● Empowering the FEHD to, where the situation warrants, set up equipment or devices in places infested with vermin for conducting tests, surveillance or assessments in relation to pest infestation; and stipulating in the law that interference with any relevant equipment or devices

Problems to be addressed	Legislative amendments or administrative measures	Proposed amendments
		<p>is an offence liable to a maximum fine at level 2 (\$5,000)</p> <ul style="list-style-type: none"> ● Raising the penalty for interfering with any equipment used for destroying or removing vermin from the current fine at level 1 (\$2,000) to 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 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
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 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 ● 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 at the same time strengthening the internal guidance on issuing warning letters to and instituting prosecutions against beneficiaries of the illegal display or affixation of bills or posters should there be sufficient evidence

**Proposal to Amend the Environmental Hygiene-related Legislation
Consultation Document**

Feedback Form

Name*:	(Mr/Ms/Miss)
Organisation*:	
Contact no./email*:	

*Optional

Shopfront Extension (SFE)

	Key proposals	Agree	Disagree	Other remarks
1.	To empower the Food and Environmental Hygiene Department (FEHD) to require shops to remove obstructing articles within a specified time period, otherwise the FEHD may remove such articles.	<input type="checkbox"/>	<input type="checkbox"/>	
2.	To empower the FEHD to dispose of the perishable goods removed immediately.	<input type="checkbox"/>	<input type="checkbox"/>	
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	<input type="checkbox"/>	<input type="checkbox"/>	

	as to enhance enforcement efficiency.			
4.	To further increase the maximum penalty to be imposed by the court for SFE (the current penalty is a fine of \$25,000 or imprisonment for 3 months).	<input type="checkbox"/> (Go to Q5)	<input type="checkbox"/> (Go to Q6)	
		Appropriate level	Too low	Too high
Other remarks				
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.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Public Health Nuisances (Including Water Seepage in Buildings, Water Dripping from Air-conditioners and “Garbage Apartments”)

	Key proposals	Agree	Disagree	Other remarks
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.	<input type="checkbox"/>	<input type="checkbox"/>	
7.	To stipulate non-compliance of the owner / occupier of the premises concerned with the	<input type="checkbox"/>	<input type="checkbox"/>	

	“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.			
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.	<input type="checkbox"/>	<input type="checkbox"/>	
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.	<input type="checkbox"/>	<input type="checkbox"/>	
		Appropriate level	Too low	Too high
				Other remarks
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.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
11.	For non-compliance with “Nuisance Order” issued by court, to raise the maximum	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

penalty from a fine of \$25,000 and daily fine of \$450, to a fine of \$50,000 and daily fine of \$600.				
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Proliferation of Vermin

	Key proposals	Agree	Disagree	Other remarks
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.	<input type="checkbox"/>	<input type="checkbox"/>	
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 disinfestation work as a free service by the Government and thus lacking the motivation to clean up their premises.	<input type="checkbox"/>	<input type="checkbox"/>	
14.	To create an offence of tampering with any equipment or devices for	<input type="checkbox"/>	<input type="checkbox"/>	

	conducting pest-related tests, surveillance or assessments with a maximum fine of \$5,000.				
		Appropriate level	Too low	Too high	Other remarks
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.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
16.	For tampering with any equipment used for destroying vermin, to raise the maximum penalty from a fine of \$2,000 to \$5,000.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	

Occupation of Public Places (e.g. Rear Lanes) by Miscellaneous Articles Causing Obstruction to Scavenging Operations

	Key proposals	Agree	Disagree	Other remarks
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.	<input type="checkbox"/>	<input type="checkbox"/>	

		Appropriate level	Too low	Too high	Other remarks
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.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	

Illegal Display or Affixation of Bills or Posters

	Key proposals	Agree	Disagree	Other remarks	
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.	<input type="checkbox"/>	<input type="checkbox"/>		
		Appropriate level	Too low	Too high	Other remarks
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.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	

Note: For further comments, submission by post, fax or email are welcome (please refer to paragraph 3.2 of the Consultation Document for details).

