



33/F, Revenue Tower, 5 Gloucester Road, Wan Chai, Hong Kong  
香港灣仔告士打道 5 號稅務大樓 33 樓

**ACE Paper 2/2025**  
***For advice by circulation***

**Proposed Amendments to the Product Eco-responsibility Ordinance  
(Cap. 603) on Replacing the Prescribed Forms with Specified Forms  
and Repealing Product Eco-responsibility (Plastic Shopping Bags)  
Regulation (Cap. 603A)**

**PURPOSE**

This paper seeks Members' advice on the proposed amendments to the Product Eco-responsibility Ordinance (Cap. 603) ("the Ordinance") and to repeal the Product Eco-responsibility (Plastic Shopping Bags) Regulation (Cap. 603A) ("the Regulation") to enable the Director of Environmental Protection ("the DEP") to specify digital payment method as a payment option in the notices related to fixed penalty of the Plastic Shopping Bag ("PSB") Charging Scheme to allow flexibility to include other payment methods for fixed penalty, and to streamline the arrangements for making regulations under the PSB Charging Scheme.

**BACKGROUND**

2. The forms and certificates related to the fixed penalty under the PSB Charging Scheme are prescribed under the Ordinance. The details of the prescribed forms and certificates are given in the schedule to the Regulation while the fixed penalty payment methods are also prescribed in the Regulation. Amendment of the Regulation for amending the payment methods, prescribed forms and certificates requires the approval of the Legislative Council ("LegCo") as specified in the Ordinance. To streamline the arrangement and allow flexibility to include other payment methods for fixed penalty, it is proposed to replace the prescribed forms with specified forms and empower the DEP to specify forms under the Ordinance, such that additional payment methods can be provided in specified forms.

3. The Ordinance specifies that the Secretary for Environment and Ecology ("SEE") may make regulations related to the PSB Charging Scheme and the regulations made shall be subject to the approval of the LegCo. It is proposed to amend this part to allow flexibility in making regulations.

## **PROPOSED AMENDMENTS TO ENABLE THE DEP TO SPECIFY FORMS**

4. We propose to replace the prescribed forms for fixed penalty notice, demand notice, certificate of posting and evidentiary certificate under sections 28A(2), 28D(2), 28D(5) and 28G(5)(c) in the Ordinance (**Annex I**) with specified forms with a view to allowing flexibility in updating the relevant information.

5. A new section is proposed to be added after section 28N of the Ordinance to empower the DEP to specify forms of notices or certificates. In this connection, the interpretation of specified forms is proposed to be included in section 17 of the Ordinance.

6. Sections 17 to 20 in the Regulation refer to the fixed penalty notice, demand notice, certificate of posting and evidentiary certificate which must be issued in accordance with Forms 1 to 4 in the schedule to the Regulation (**Annex II**). With the replacement of prescribed forms with specified forms, the prescribed forms will no longer be required, and hence we propose to repeal sections 17 to 20 and the prescribed Forms 1 to 4 in the schedule of the Regulation.

7. Section 21 of the Regulation details the payment methods for fixed penalty. We propose to repeal this section and to provide the details of payment methods in the specified forms. In addition, we propose to repeal the remaining section 2 of the Regulation as such section will no longer serve any purpose when sections 17 to 21 in the Regulation are repealed.

## **PROPOSED AMENDMENTS ON APPROVAL IN MAKING REGULATION**

8. Under section 29(2) of the Ordinance (**Annex III**), the SEE may make regulations in respect of the PSB Charging Scheme, and among others, subject to the approval of the LegCo. We propose to repeal this section to streamline the legislative process in making regulations. This will also be in line with the handling of other regulations covered by the Ordinance where negative vetting will take place, instead of positive vetting.

## **IMPLEMENTATION PROGRAMME**

9. We target to introduce the amendments to the Ordinance and the Regulation to the LegCo for approval in Q2 2025 together with the Product Eco-responsibility (Amendment) Bill 2025 for “Establishing a Common Legislative Framework for Producers Responsibility Schemes”. It is expected that the amendments will come into effect in Q2 / Q3 2025.

## **ADVICE SOUGHT**

10. Members are invited to provide comments on the above legislative amendment proposals.

**Environmental Protection Department**  
**February 2025**

## Product Eco-responsibility Ordinance

Part 3—Division 3

3-8

Section 22

Cap. 603

whether or not the franchiser is charged with or convicted of the offence; and

- (b) the franchisee may also rely on the defence under section 18B(3).

*(Added 4 of 2014 s. 10)*

19-20. *(Repealed 4 of 2014 s. 11)*

21. Secretary may amend Schedules

- (1) The Secretary may, after consultation with the Advisory Council on the Environment, by order published in the Gazette, amend Schedule 1, 2 or 3.
- (2) An order made under this section to amend Schedule 1 or 2 is subject to the approval of the Legislative Council.

*(Amended 4 of 2014 s. 12)*

**Division 3—***(Repealed 4 of 2014 s. 13)*

22-26. *(Repealed 4 of 2014 s. 13)*

**Division 4—***(Repealed 4 of 2014 s. 14)*

27-28. *(Repealed 4 of 2014 s. 14)*

**Division 4A—Fixed Penalty and Related Provisions**

*(Division 4A added 4 of 2014 s. 15)*

**28A. Director may give penalty notice**

- (1) This section applies if the Director has reason to believe that a person is committing or has committed a specified offence.
- (2) The Director may give the person a notice in the prescribed form offering the person an opportunity to discharge the

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person's liability for the offence by paying a fixed penalty of \$2,000 within 21 days after the date on which the notice is given.

(3) A penalty notice may be given to the person personally or by affixing it to the person's place of business.

(4) In this section—

**specified offence** (指明罪行) means an offence under section 18B(1)—

- (a) for contravening section 18A(2)(a); or
- (b) for contravening section 18A(3) by offering any rebate or discount to the customer with the effect of directly offsetting the amount charged under section 18A(2)(a) or any part of that amount.

**28B. No prosecution or conviction if compliance with penalty notice**

- (1) This section applies to a person who has been given a penalty notice in respect of an offence.
- (2) Subject to section 28F, the person is not liable to be prosecuted or convicted for the offence if the person has paid the fixed penalty within 21 days after the date on which the notice is given.

**28C. Director may demand personal details and inspect proof of identity**

- (1) This section applies if the Director has reason to believe that a person is committing or has committed an offence under section 18B(1).
- (2) The Director may, for issuing or serving a summons or other document in relation to the offence, require the person—
  - (a) for an individual—

- (i) to supply the person's name, date of birth, address and contact telephone number (if any); and
  - (ii) to produce for inspection the person's proof of identity; or
- (b) for a body corporate—
  - (i) to supply the person's corporate name, registered or principal office address and contact telephone number (if any); and
  - (ii) to produce for inspection the person's business registration certificate issued under section 6 of the Business Registration Ordinance (Cap. 310).
- (3) A person who, without reasonable excuse, fails to comply with a requirement made under subsection (2) commits an offence and is liable on conviction to a fine at level 2.
- (4) In this section—  
**proof of identity** (身分證明文件) has the same meaning as in section 17B of the Immigration Ordinance (Cap. 115).

**28D. Director may serve demand notice in case of failure to pay fixed penalty etc.**

- (1) This section applies if—
  - (a) a person has been given a penalty notice in respect of an offence, and has not paid the fixed penalty within 21 days after the date on which the notice is given; or
  - (b) a person refuses to accept a penalty notice intended to be given to the person in respect of an offence.
- (2) The Director may serve on the person a notice in the prescribed form—
  - (a) demanding payment of the fixed penalty;

- (b) informing the person that the person must notify the Director in writing if the person wishes to dispute liability for the offence; and
  - (c) stating that the payment or notification must be made within 10 days after the date on which the demand notice is served.
- (3) A demand notice may not be served later than—
  - (a) if subsection (1)(a) applies, 6 months after the date on which the penalty notice is given; or
  - (b) if subsection (1)(b) applies, 6 months after the date on which the person refuses to accept the penalty notice.
- (4) A demand notice may be served by sending it by post to the person's address (in the case of an individual) or the person's registered or principal office address (in the case of a body corporate).
- (5) A certificate of posting in the prescribed form purporting to be signed by or for the Director is admissible in evidence in any proceedings under this Part.
- (6) Unless there is evidence to the contrary, it is presumed—
  - (a) that the certificate of posting was signed by or for the Director; and
  - (b) that the demand notice to which the certificate of posting relates was duly served.

**28E. No prosecution or conviction if compliance with demand notice**

- (1) This section applies to a person on whom a demand notice has been served in respect of an offence.
- (2) Subject to section 28F, the person is not liable to be prosecuted or convicted for the offence if the person has paid the fixed penalty within 10 days after the date on which the notice is served.

**28F. Withdrawal of penalty or demand notice**

- (1) The Director may withdraw a penalty notice given, or a demand notice served, in respect of an offence—
  - (a) at any time before a recovery order is made; or
  - (b) at any time before any proceedings for the offence commences.
- (2) If a penalty or demand notice is withdrawn—
  - (a) the Director must serve notice of the withdrawal on the person to whom, or on whom, the penalty or demand notice has been given or served; and
  - (b) on application by the person, the Director must refund, through the Director of Accounting Services, any amount paid for the fixed penalty.
- (3) If a penalty or demand notice is withdrawn, proceedings for the offence may only be commenced where—
  - (a) the ground, or one of the grounds, on which the notice is withdrawn is that it contains incorrect information; and
  - (b) the incorrect information was supplied by the person to whom, or on whom, the notice was given or served.

**28G. Recovery of fixed penalty**

- (1) This section applies if a person on whom a demand notice has been served—
  - (a) fails to pay the fixed penalty in accordance with the notice; and
  - (b) fails to notify the Director in accordance with the notice that the person wishes to dispute liability for the offence.



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- (2) On application made in the name of the Secretary for Justice and production of the documents specified in subsection (5), a magistrate must order the person to pay, within 14 days after the date of service of notice of the order—
- (a) the fixed penalty;
  - (b) an additional penalty equal to the amount of the fixed penalty; and
  - (c) \$300 by way of costs.
- (3) An application may be made in the absence of the person. The Secretary for Justice may appoint a person or class of persons to make an application.
- (4) A magistrate must cause notice of a recovery order to be served on the person against whom it is made. The notice may be served by sending it by post to the person's address (in the case of an individual) or the person's registered or principal office address (in the case of a body corporate).
- (5) The documents specified for subsection (2) are—
- (a) a copy of the demand notice;
  - (b) a certificate of posting the demand notice under section 28D(5); and
  - (c) an evidentiary certificate, in the prescribed form, stating the following matters—
    - (i) that the person specified in the certificate had not, before the date of the certificate, paid the fixed penalty;
    - (ii) that the person specified in the certificate had not, before the date of the certificate, notified the Director that the person wished to dispute liability for the offence;

Product Eco-responsibility (Plastic Shopping Bags) Regulation

Part 1

1-2

Section 1

Cap. 603A

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**Product Eco-responsibility (Plastic Shopping Bags)  
Regulation**

(Cap. 603, section 29)

*(Enacting provision omitted—E.R. 3 of 2015)*

[30 April 2009] *L.N. 87 of 2009*

**Part 1**

**Preliminary**

*(Format changes—E.R. 3 of 2015)*

1. *(Omitted as spent—E.R. 3 of 2015)*

2. **Interpretation**

(1) *(Repealed 4 of 2014 s. 24)*

(2) Unless the context otherwise requires, all words and expressions used in this Regulation and defined in section 17 of the Ordinance for the purposes of Part 3 of the Ordinance have the same meaning as in that Part.

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12.11.2015

## Part 6

### Notices and Certificates in relation to and Payment of Fixed Penalty

*(Part 6 added 4 of 2014 s. 26)*

**17. Penalty notice**

A penalty notice under section 28A(2) of the Ordinance must be in accordance with Form 1 in the Schedule.

**18. Demand notice**

- (1) A demand notice under section 28D(2) of the Ordinance must be in accordance with Form 2 in the Schedule.
- (2) A demand notice is valid only if the name of an authorized officer acting on behalf of the Director is signed or printed on the notice.

**19. Certificate of posting demand notice**

A certificate of posting a demand notice under section 28D(5) of the Ordinance must be in accordance with Form 3 in the Schedule.

**20. Evidentiary certificate**

An evidentiary certificate under section 28G(5)(c) of the Ordinance must be in accordance with Form 4 in the Schedule.

**21. Payment of fixed penalty**

- (1) The payment of the fixed penalty for a penalty notice or demand notice must be made—
  - (a) by post addressed to the Treasury;

- (b) at a counter of a post office other than a mobile post office;
    - (c) through an automated teller machine of a bank;
    - (d) by phone by using the service commonly known as PPS;
    - (e) through the Internet; or
    - (f) through the phone-banking service provided by a bank.
  - (2) A person who wishes to pay the fixed penalty in accordance with subsection (1)(a) or (b) must deliver the penalty notice or demand notice together with the payment in accordance with the payment instructions as set out in the notice.
  - (3) If a payment is made in accordance with this section, it must be of—
    - (a) the amount of the fixed penalty specified in the penalty notice or demand notice; or
    - (b) if the payment is made for more than one notice, the total amount of fixed penalties specified in the notices.
  - (4) A payment made in accordance with subsection (1) must not include, or form part of, an amount for a matter other than a matter specified in the penalty notice or notices, or the demand notice or notices.
  - (5) If a payment of the fixed penalty is made otherwise than in accordance with this Regulation, the fixed penalty is treated as unpaid and the Director of Accounting Services may return the amount of the payment to the payer.
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## Product Eco-responsibility Ordinance

Part 3—Division 5

3-28

Section 29

Cap. 603

- (1) The Director or an authorized officer is not personally liable for anything done or omitted to be done by the Director or officer in good faith in the performance or purported performance of a function under this Division.
- (2) The protection conferred by subsection (1) does not affect any liability of the Government for the act or omission.

**28N. Legislative Council may amend certain amounts**

The Legislative Council may, by resolution, amend the amount specified in section 28A(2), 28G(2)(c), 28J(3)(b)(iii) or 28L(4)(c).

**Division 5—Regulations****29. Secretary may make regulations in respect of Part 3**

- (1) The Secretary may, after consultation with the Advisory Council on the Environment, make regulations with respect to all or any of the following matters—
  - (a)-(d) *(Repealed 4 of 2014 s. 16)*
  - (da) notices and certificates required to be prescribed for this Part; *(Added 4 of 2014 s. 16)*
  - (db) payment of fixed penalties, additional penalties and other amounts payable under this Part; *(Added 4 of 2014 s. 16)*
  - (e) such supplemental provisions as are necessary or expedient for giving full effect to the provisions of this Part;
  - (f) any matter ancillary or incidental to those specified in this section.
- (2) A regulation made under this section is subject to the approval of the Legislative Council.