

CONTROLLING OFFICER'S REPLY

EEB(F)149

(Question Serial No. 0103)

Head: (49) Food and Environmental Hygiene Department

Subhead (No. & title): (-) Not specified

Programme: (3) Market Management and Hawker Control

Controlling Officer: Director of Food and Environmental Hygiene (Ms Irene YOUNG)

Director of Bureau: Secretary for Environment and Ecology

Question:

Regarding illegal shop front extension (SFE) and obstruction problems, please advise this Committee of:

1. the manpower involved in enforcement actions against obstructions by hawkers, stalls and shops in the past 3 years;
2. the numbers of complaints against SFEs received, prosecutions initiated, fixed penalty notices and summonses issued, arrests instituted and confiscation of hawker goods made by the Food and Environmental Hygiene Department in each of the past 3 years respectively, with a breakdown by District Council district;
3. whether a progressive penalty system or even a mechanism for suspension of business under statutory orders will be introduced by the Department to achieve a greater deterrent effect in view of the Government's proposal of raising the fixed penalty for SFE offences to \$6,000; if yes, the details; if no, the reason(s);
4. whether the Department will step up inspection and enforcement actions at SFE blackspots, deploy staff to inspect SFE blackspots regularly, and take timely enforcement actions; if yes, the details; if no, the reason(s); and
5. the staffing establishment of the hawker control and cleansing teams of the Department. Will the manpower be increased to reduce the risk faced by the frontline staff at work? If yes, what are the details? If no, what is/are the reason(s)?

Asked by: Hon YANG Wing-kit (LegCo internal reference no.: 22)

Reply:

1. Hawker control and institution of enforcement actions against shop front extensions (SFEs) are part of the duties of the hawker control officers of the Food and Environmental Hygiene Department (FEHD). In the past 3 years (2020-21 to 2022-23

financial years), there were 2 224, 2 289 and 2 291 staff in the establishment of the Hawker Control Officer grade respectively.

2. The respective numbers of complaints against SFEs received, fixed penalty notices (FPNs) issued, prosecutions initiated (including those with summonses served and arrests instituted), and seizure of goods or articles made by FEHD in the past 3 years, with a breakdown by year and District Council district, are provided at Annex.
3. The Chief Executive announced in the 2022 Policy Address that the Government would conduct a comprehensive review on the statutory powers and penalties regarding environmental hygiene, with a view to enhancing the efficiency, effectiveness and deterrent effect of enforcement actions against thorny environmental hygiene problems. In the first stage of the legislative review, the Government put forth the proposal to increase the penalties under the Fixed Penalty (Public Cleanliness and Obstruction) Ordinance (Cap. 570), including raising the fixed penalty for the offence targeting SFEs (i.e. obstruction of public places) from \$1,500 to \$6,000. The Government will put forth other legislative amendment proposals in the second stage of the review in mid-2023.

We notice that there are views in the community that progressive fixed penalty targeting offences such as that concerning SFEs should be introduced to enhance the deterrent effect against repeat offenders. We are actively exploring its feasibility, including the legal basis, effectiveness, enforcement efficiency and the cost effectiveness of the supporting system, with the relevant departments. We plan to conduct a detailed study in the next stage of the legislative review before putting forth appropriate proposals. At the present stage, we propose to implement the increase of fixed penalties as soon as possible, and continue to issue multiple fixed penalty notices to offenders of SFEs who repeatedly commit the offence within a short period of time and remove obstructive items according to the established mechanism, so as to increase the cost of non-compliance.

4. FEHD will step up the inspection of SFE blackspots, and continue to mount vigorous joint enforcement operations against SFEs with the Hong Kong Police Force (the Police) in various districts across the territory. Specifically, under the FEHD-led enforcement strategy, the Police will require offending shops to remove obstructions within a certain period of time under the Summary Offences Ordinance (Cap. 228). If they fail to do so, FEHD will remove the items. Prosecutions may be instigated against owners of the items subject to evidence and case details. For unclaimed items, the Police will apply to the Court for their forfeiture. Compared to the previous practice of issuing FPNs of \$1,500 to persons causing such obstructions, this enforcement approach has a greater deterrent effect because a higher non-compliance cost is incurred for extending business areas illegally. The results are satisfactory, and there are wide support and positive feedback from the local community.
5. In 2022-23 (as at 31 December 2022), the hawker control teams of FEHD had an establishment of 2 610 staff, including members from the Health Inspector and Hawker Control Officer grades as well as Workmen I and II. The cleansing teams had an establishment of 3 165 staff, including members from the Health Inspector, Foreman and Ganger grades as well as Workmen I and II.

To reduce the risk faced by members of the Hawker Control Officer grade at work, such as in operations against SFEs, FEHD has equipped them with digital cameras and video recorders and upgraded the radio communications system. Such gear assists the officers to record ground situation and collect evidence, while the radio communications system allows them to communicate with other colleagues and call for support in real time. To further enhance the safety of Hawker Control Officers, FEHD is also planning to equip them with body-worn video cameras.

Number of complaints received, fixed penalty notices (FPNs) issued, prosecutions initiated, summonses served, prosecutions with arrests instituted and seizure of goods or articles made against shop front extensions by FEHD

Table 1: Number of complaints received

District	Number of complaints		
	2020	2021	2022
Central & Western	648	836	1 879
Wan Chai	648	731	677
Eastern	1 674	2 582	2 232
Southern	460	638	571
Islands	90	122	203
Yau Tsim and Mong Kok	2 723	3 000	2 819
Sham Shui Po	2 519	3 390	2 633
Kowloon City	892	1 491	1 515
Wong Tai Sin	1 246	1 394	1 325
Kwun Tong	1 183	851	705
Kwai Tsing	616	781	1 038
Tsuen Wan	644	1 174	903
Tuen Mun	481	363	707
Yuen Long	2 772	3 577	4 202
North	633	674	587
Tai Po	1 033	1 159	1 096
Sha Tin	364	389	477
Sai Kung	278	358	632
Total	18 904	23 510	24 201

Table 2: Number of FPNs issued

District	Number of FPNs issued		
	2020	2021	2022
Central & Western	200	157	185
Wan Chai	360	370	615
Eastern	587	941	775
Southern	136	252	358
Islands	2	3	0
Yau Tsim and Mong Kok	1 530	2 102	2 491
Sham Shui Po	1 636	1 600	1 893
Kowloon City	377	463	586
Wong Tai Sin	341	691	674
Kwun Tong	796	1 262	1 197
Kwai Tsing	562	853	905
Tsuen Wan	624	919	1 360
Tuen Mun	500	821	888
Yuen Long	1 889	2 565	2 201
North	277	191	282
Tai Po	730	1 380	963
Sha Tin	137	115	229
Sai Kung	50	81	186
Total	10 734	14 766	15 788

**Table 3: Number of prosecutions initiated
(including a breakdown of summonses served and arrests instituted)**

District	2020			2021			2022		
	Number of summonses	Number of arrests	Total number of prosecutions	Number of summonses	Number of arrests	Total number of prosecutions	Number of summonses	Number of arrests	Total number of prosecutions
Central & Western	39	6	45	78	2	80	39	0	39
Wan Chai	57	34	91	56	57	113	70	10	80
Eastern	280	52	332	386	55	441	216	34	250
Southern	82	0	82	87	6	93	71	2	73
Islands	32	0	32	26	0	26	26	0	26
Yau Tsim and Mong Kok	227	0	227	381	2	383	384	4	388
Sham Shui Po	852	64	916	443	162	605	225	105	330
Kowloon City	44	0	44	93	4	97	83	1	84
Wong Tai Sin	159	16	175	200	26	226	187	0	187
Kwun Tong	203	94	297	142	124	266	105	505	610
Kwai Tsing	61	2	63	38	1	39	85	15	100
Tsuen Wan	76	1	77	194	0	194	189	22	211
Tuen Mun	353	0	353	338	0	338	656	3	659
Yuen Long	183	183	366	204	222	426	188	2 037	2 225
North	36	8	44	45	0	45	49	0	49
Tai Po	95	2	97	167	2	169	183	20	203
Sha Tin	55	0	55	53	0	53	81	8	89
Sai Kung	58	0	58	109	2	111	150	47	197
Total	2 892	462	3 354	3 040	665	3 705	2 987	2 813	5 800

Table 4: Number of seizure of goods or articles

District	Number of seizure of goods or articles ^{Note}		
	2020	2021	2022
Central & Western	3	1	0
Wan Chai	37	48	8
Eastern	45	55	32
Southern	0	2	1
Islands	0	0	0
Yau Tsim and Mong Kok	5	4	6
Sham Shui Po	2	5	0
Kowloon City	0	2	0
Wong Tai Sin	18	19	5
Kwun Tong	47	53	253
Kwai Tsing	1	7	9
Tsuen Wan	2	0	14
Tuen Mun	0	0	33
Yuen Long	171	168	1 231
North	4	0	0
Tai Po	1	0	28
Sha Tin	296	274	115
Sai Kung	0	0	15
Total	632	638	1 750

Note : Including goods or articles seized as a result of arrests made and goods or articles that have been abandoned.

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