

**82. 在街市內檢取和沒收物品等**

(1) 在不損害第 59 條條文的原則下，如任何警務人員或任何獲主管當局就此授權的公職人員，覺得就任何街市內所售賣的物品或東西，或就該街市內所使用的家具或生財工具，有違反根據第 80 條所訂規例的條文的情況，則不論是否知悉其擁有人身分或能否將其擁有人尋獲，均可將該等物品、東西、家具或生財工具檢取、帶走和扣留，而任何因此行動而引致的損失概由該擁有人自負：



**82. Seizure and forfeiture of articles, etc. in markets**

(1) Without prejudice to the provisions of section 59, where in any market it appears to any police officer or to any public officer authorized in that behalf by the Authority that any of the provisions of any regulation made under section 80 have been contravened in respect of any article or thing sold in such market or any furniture or paraphernalia used in such market, such police officer or such public officer may seize, carry away and detain at the owner's risk such article or thing or such furniture or paraphernalia, whether or not the owner thereof is known or can be found:

但任何上述物品或東西如屬易毀消者，則警務處處長或主管當局（視屬何情況而定）可安排將其立即出售或以其他方式將其立即處置。

(2) 凡任何物品、東西、家具或生財工具根據第(1)款條文被檢取，須將一份宣布所作檢取的中文告示張貼於街市的顯眼地方。

(3) 如在該告示張貼起計 48 小時內，上述物品、東西、家具或生財工具的擁有人向主管當局提出申索，要求將其發還，則主管當局如信納申索人為其擁有人，而該等物品、東西、家具或生財工具並沒有根據其他成文法則條文被扣留或以其他方式處理，或無須在法律程序中用作證物，須將該等物品、東西、家具或生財工具發還申索人，但如該等物品、東西、家具或生財工具已根據第(1)款但書的條文出售或以其他方式處置，則須向申索人付給一筆主管當局認為公正的款項以作補償。

(4) 如在該告示張貼起計 48 小時內，並沒有任何申索向主管當局提出，要求發還上述物品、東西、家具或生財工具，則該等物品、東西、家具或生財工具即成為政府財產，並可予出售或按警務處處長或主管當局（視屬何情況而定）所指示的方式予以處置：（由 1998 年第 29 號第 105 條修訂）

但——

- (a) 本款條文不得解釋為阻止根據第(1)款但書的條文將易毀消的物品或東西立刻處置；及
- (b) 任何人如認為上述所作檢取令其感到受屈，可於檢取後 7 天內向法院提出申訴，而法庭如信納——
  - (i) 申訴人的所有權；及
  - (ii) 提出申訴所關乎的物品、東西、家具或生財工具並沒有發生違反規例條文的情況，則須發出指示，將該等物品、東西、家具或生財工具發還申訴人，或在該等物品、東西、家具或生財工具已出售或以其他方式處置的情況下，向申訴人付給一筆法庭認為公正的款項以作補償。

#### 小販

### 83. 就第 83A 至 86D 條訂定的釋義

就第 83A 至 86D 條而言——

Provided that, in the case of any such article or thing which is perishable, the Commissioner of Police or the Authority, as the case may be, may cause the same to be sold or otherwise disposed of forthwith.

(2) Where any article or thing or any furniture or paraphernalia is seized under the provisions of subsection (1), a notice, written in the Chinese language, declaring the seizure shall be posted in a conspicuous place in the market.

(3) If, within 48 hours of the posting of such notice, the owner of such article, thing, furniture or paraphernalia makes a claim to the Authority for its return, the Authority shall, if it is satisfied that the claimant is the owner thereof and if the same is not detained or otherwise dealt with under the provisions of any other enactment or required as an exhibit in any proceedings, return such article, thing, furniture or paraphernalia to the claimant or, if it has been sold or otherwise disposed of under the provisions of the proviso to subsection (1), pay to the claimant such sum by way of compensation as it may consider just.

(4) If no claim for the return of such article, thing, furniture or paraphernalia is made to the Authority within 48 hours of the posting of such notice, such article, thing, furniture or paraphernalia shall become the property of the Government and may be sold or otherwise disposed of in such manner as the Commissioner of Police or the Authority, as the case may be, shall direct: (*Amended 20 of 1998 s. 105*)

Provided that—

- (a) nothing in this subsection shall be construed to prevent the immediate disposal of perishables under the provisions of the proviso to subsection (1); and
- (b) any person who considers himself aggrieved by such seizure may, within 7 days thereafter, complain to the court, and the court shall, if satisfied—
  - (i) as to the title of the complainant; and
  - (ii) that no such contravention occurred in respect of the article, thing, furniture or paraphernalia in respect of which the complaint is made, direct either that the same be returned to the complainant or, if it has been sold or otherwise disposed of, that such sum by way of compensation be paid to the complainant as it may consider just.

#### Hawkers

### 83. Interpretation for the purposes of sections 83A to 86D

For the purposes of sections 83A to 86D—