



## **Guilty But Unpunished: How NEA Fixed A Loophole In Littering Laws**

### **INTRODUCTION**

High-rise litter is a problem in Singapore, and it is only getting bigger. Between the three-year periods of 2017 to 2019 and 2020 to 2022, feedback on high-rise littering increased over 60%, to an average of 31,200 cases a year.<sup>1</sup> Littering does not just make estates dirty; the government also has to expend more resources on enforcement (e.g. installing cameras) and cleaning up. Another concern is fire safety - if, for example, a littered cigarette butt falls onto drying clothes on lower floors.<sup>2</sup>

### **WHAT IS CURRENTLY BEING DONE?**

Currently, when feedback on high-rise littering from residential flats onto any public place is received, the National Environment Agency (NEA) and Town Councils issue advisories to the block the litter came from. If littering persists, NEA will then deploy surveillance cameras to identify a specific unit. Even then, catching litterbugs is difficult,<sup>3</sup> with 35% of camera deployments capturing evidence of high-rise littering.<sup>4</sup> With evidence, NEA can enforce penalties — \$2,000, \$4,000 and \$10,000 for the first, second and subsequent offences.<sup>5</sup>

Even with video evidence, however, the enforcement process can be laborious and protracted.<sup>6</sup> After the specific unit is identified, significant effort is still needed to identify the offender. NEA sometimes interviews occupants to identify the offender, but there are cases where occupants collectively deny responsibility. This means that in some cases, despite evidence that littering has been committed from a flat, NEA is unable to conduct enforcement. From 2019 to 2021, offenders were not identified in 15% of cases investigated. Stronger action is thus needed.

### **WHAT IS THE CHANGE?**

The key change addressing this is the introduction of rebuttable presumptions, in Section 17A of the Environmental Public Health (Amendment) Bill proposed by NEA. In essence, if there is clear evidence that a littering act has been committed from a flat, occupants will be presumed to have committed it. The main source of evidence would be from NEA's surveillance cameras, but NEA will also accept evidence from the public, depending on its quality. The presumption is also rebuttable. If occupants can show they were not at the flat at the time or provide evidence that someone else did it, they can rebut the presumption.

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<sup>1</sup> "Singapore Parliamentary Debates; Parliament No. 14, Session No. 1, Vol No. 95, Sitting No. 81," Parliament of Singapore, February 6, 2023, <https://sprs.parl.gov.sg/search/#/fullreport?sittingdate=06-02-2023>.

<sup>2</sup> Ibid. Between 2019 and 2022, 54% of total high-rise littering offences enforced by NEA were for high-rise cigarette butt littering.

<sup>3</sup> Qing Ang, "Flat Owners to Be Presumed Guilty of High-Rise Littering Unless Proven Otherwise under Proposed Law," The Straits Times, January 10, 2023,

<https://www.straitstimes.com/singapore/politics/flat-owners-to-be-presumed-guilty-of-high-rise-littering-unless-they-can-prove-otherwise-under-proposed-law>.

<sup>4</sup> Parliament of Singapore, "Singapore Parliamentary Debates."

<sup>5</sup> Ibid. There is some evidence that fines are effective, as only 4% of offenders who litter from residential flats are repeat offenders.

<sup>6</sup> Ibid.

Since occupants are presumed guilty, they can no longer collectively deny responsibility. Instead, the onus now falls on them to prove their innocence. The aforementioned 15% of cases where evidence was captured but offenders not identified will, under this new law, have been prosecuted. This makes enforcement more effective. It is also now harder for offenders to get away scot-free, which might incentivise less littering.

## **DIVING DEEPER INTO THE DETAILS**

This change was passed into law on 6 February 2023, following a parliament sitting.<sup>7</sup> Such a change naturally poses some questions, which were raised by Members of Parliament (MPs) in that same sitting.

### **1. Why are people presumed guilty rather than presumed innocent?**

This law indeed introduces a presumption of guilt, whereas Singapore's legal system adopts the presumption of innocence. There are thus some concerns that this law flies in the face of that principle. However, the presumption of guilt only applies when there is already clear evidence of litter from that specific flat. To reiterate, according to the current law, NEA cannot enforce penalties for high-rise littering even if they have clear evidence, as long as occupants all deny knowledge. This law changes that, and can be better understood as guilty once proven guilty.

### **2. Might the process of rebutting guilt be too troublesome?**

Another concern is that the rebuttable presumption of guilt might be too onerous for occupants in terms of time and effort. In terms of time, occupants will be notified by mail. They then have 14 days to rebut the presumption. MP Nadia Ahmad Samdin raised the possibility that the resident was overseas for the 14-day period, while MP Wan Rizal highlighted that this may be too little time, especially for vulnerable groups like the elderly who may not check their mail often. Senior Minister of State (SMS) for Sustainability and the Environment Dr Amy Khor responded that 14 days was necessary for efficient prosecution and that NEA would consider appeals for more time.

In terms of effort, MP Yip Hon Weng raised a hypothetical where a resident was out of the house, but did not leave a paper or digital footprint to show for it (e.g. an evening stroll). How would they then prove they were not at home? MP Leon Perera also asked if owners or tenants need to prove their absence beyond reasonable doubt, or whether a balance of probabilities would suffice. SMS Dr Amy Khor responded that there was no need for proof beyond reasonable doubt - a transport trip receipt, for example, would suffice.

### **3. What if this changes the relationship dynamic between owners and tenants?**

MPs Dennis Tan and Leon Perera pointed out that this law could change relationship dynamics between owners and tenants. Owners could, for example, begin to require tenants to lock windows or install CCTV cameras in the flat. The law might also introduce tensions between owners and tenants. MP Dennis Tan suggested that the presumption of guilt may put some tenants in a difficult position to clear themselves. Furthermore, lived-in landlords like seniors might not want to implicate their littering tenant if they have reason to believe the tenant might become abusive. The introduction of the law could, in different ways, negatively affect relationship dynamics.

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<sup>7</sup> Ibid. All responses from MPs below are synthesised from the parliamentary debate.

#### **4. How will the Government deal with attempts to game the law?**

As explained above, owners and tenants could previously avoid penalties if they collectively denied responsibility. This is a loophole that NEA fixed with this law. However, there are more potential bases of gaming. NEA stated they would not enforce against littering by children under 12, and also exercise care in enforcing against the elderly. MP Yip Hon Weng thus raised the possibility that disingenuous individuals push the blame for littering to groups who will not be penalised, such as children. While this is possible, it is only so for a small segment of the population. Furthermore, SMS Dr Khor reiterated that NEA is aware that some might pin the blame on children, and would assess each case carefully, including using interviews, to minimise wrongful accusations.

#### **SO WHAT'S THE CONSENSUS?**

The law was passed in Parliament without opposition and will take effect on 1 July 2023. It is still too early to know what its effects are, but it is likely this law is another step towards maintaining Singapore's high standards of public cleanliness.

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## **REFERENCES**

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