



中華人民共和國香港特別行政區政府總部衛生福利及食物局
Health, Welfare and Food Bureau
Government Secretariat, Government of the Hong Kong Special Administrative Region
The People's Republic of China

Our Ref.: () in HWF CR(H) 52/581/89(05)

Tel: 2973 8240

Fax: 2840 0467

2869 4376

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Ms Monna LAI
Assistant Legal Adviser
Legislative Council Secretariat
Legislative Council Building
8 Jackson Road
Central
Hong Kong

Fax: 2877 5029

Dear Ms Lai,

Smoking (Public Health) (Amendment) Bill 2005 (“the Amendment Bill”)

Thank you for your letter of 15 June 2006.

It is true that the Smoking (Public Health) Ordinance (Cap. 371) (‘the Ordinance’) is already having overlapping enforcement provisions with other Ordinances. After enactment of the Amendment Bill, designated no smoking area under the new section 3(1AA) would generally apply to all indoor areas in a workplace or public place in Hong Kong. In the case of premises under control of Mass Transit Railway (MTR) Corporation as governed by the Mass Transit Railway Ordinance (Cap. 556) (‘MTRO’), the MTR Corporation may initiate prosecution for an offence under the MTRO (including by-laws made thereunder) in the name of the Corporation pursuant to section 56 of the MTRO.

Accordingly, if the MTR Corporation decides to prosecute a person who has contravened the relevant provision under the Mass Transit Railway By-laws (Cap. 556B) or the Mass Transit Railway (Transport Interchange) Bylaw (Cap. 556D), it could do so. The smoker will then be liable to a maximum penalty of \$5,000 under the respective provisions. Alternatively, the MTR Corporation may report the matter to the

Tobacco Control Office for taking prosecution action under the Ordinance. If so, the smoker would be liable on summary conviction to a fine of \$5,000.

In other words, co-existence of the two systems for taking enforcement action under the MTRO and the Ordinance would continue after the enactment of the Amendment Bill.

Yours sincerely,

A handwritten signature in cursive script, appearing to read "Christine".

(Miss Christine Au)

for Secretary for Health, Welfare and Food