

SMOKING (PUBLIC HEALTH) (AMENDMENT) BILL 2005

**COMMITTEE STAGE**

Amendments to be moved by Hon. Albert Chan Wai Yip

**Clause   Amendment Proposal**

4      Interpretation

Section 2 is amended –

(h) by adding –

“ “smoking room” (吸煙房間) means a room used for smoking in any premises that are designated as a no smoking area which -

(i) is independently ventilated and completely partitioned off from the remainder of the premises;

(ii) a sign that reads “Smoking Room 吸煙房間” is placed and kept in place at its entrance;

(iii) no employee is required to enter while it is being occupied by customers for smoking and before smoking activity has ceased for 30 minutes;

(iv) aggregate area shall not be over 20% of, the lesser of–

(1) the gross floor area listed in the license of the premises in which the room is located; or

(2) the gross floor area stated in the plan submitted to the licensing authority in an application for a license of the premises;

"management committee" (校董會) means the governing and executive body of a school or a specified educational establishment with powers to do all such things as are necessary for, or incidental or conducive to, the better carrying out of the objects of the school or specified educational establishment;

"sponsoring body" (辦學團體) means a sponsoring body within the meaning of section 3 of the Education Ordinance (Cap. 279);

"outdoor smoking area" (戶外吸煙區) means the smoking area designated by notice by a management committee, a sponsoring body or Vocational Training Council which is located in an outdoor area within the boundary of a school or specified educational establishment other than the following area:

- (i) public access;
- (ii) outdoor sports ground; and
- (iii) outdoor playground;

"manufacture" (製造) means the production, packing or re-packing of tobacco products for sale or distribution;

"import" (進口、輸入) means to carry or cause to be carried into Hong Kong by land, air or water;

"nightclub" (夜總會) means an establishment which complies with the following requirements–

- (i) a liquor licence in respect of the establishment is in force;
- (ii) either -
  - (1) each displayed name of the establishment in Chinese contains the expression “夜總會” in plain and readily legible characters; or
  - (2) each displayed name of the establishment in a language other than Chinese contains the expression “night club” or “nightclub” in plain and readily legible letters;
- (iii) no displayed name of the establishment contains “酒家”, “酒樓”, “餐廳”, “酒吧”, “網吧”, “restaurant”, “café”, “bar”, “internet” or similar expressions;
- (iv) the establishment is not open for business between 6 a.m. and 12 p.m. on any day;
- (v) no person under the age of 18 years is permitted to enter the establishment;
- (vi) no person can enter the establishment except through an exclusive entrance;
- (vii) a sign in Chinese and English is placed and kept in place in a prominent position at each exclusive entrance of the establishment indicating that no person under the age of 18 years is permitted to enter the establishment; and
- (viii) such signs are maintained in legible condition and good order.

“The Hong Kong Wetland Park”(香港濕地公園) means the area of Government land known as the Hong Kong Wetland Park specified in the Schedule to the Special Areas (Designation) (Consolidation) Order (Cap. 209 Sub. Leg. D).”.

Section 3 is amended –

(a) by repealing subsections (3) and (4)

(b) by adding –

“(5) Subsection (1AA) does not apply to—

(h) Smoking room in the following establishments:-

(i) bar;

(ii) karaoke establishment;

(iii) bathhouse; or

(iv) nightclub.

(i) Outdoor smoking area

(j) mahjong-tin kau premises.”.

20 Designated no smoking areas

Schedule 2 is amended—

“(a) by repealing item 4;

(b) by adding—

5. Any child care centre.

6. Any approved institution.

7. Any place of detention.

8. Any place of refuge.

9. Any reformatory school.

10. Hong Kong Wetland Park

11. With the exception of smoking rooms in (f), (g), (h) and (m), an indoor area in any—

- (a) shop, department store or shopping mall;
- (b) market (whether publicly or privately operated or managed);
- (c) supermarket;
- (d) bank;
- (e) restaurant premises;
- (f) bar;
- (g) karaoke establishment;
- (h) bathhouse;
- (i) hospital;
- (j) maternity home;
- (k) residential care home;
- (l) treatment centre; or
- (m) nightclub.

12. With the exception of an outdoor smoking area of the following premises, an area in—

- (a) any school;
- (b) any specified educational establishment except for employees' accommodation.”.

The Smoking (Public Health) Ordinance (Cap. 371) is amended by adding –

“19. Transitional provisions relating to Smoking (Public Health)(Amendment) Ordinance 2005

(1) In this section –

“amendment Ordinance” (修訂條例) means the Smoking (Public Health) (Amendment) Ordinance 2005 ( of 2005);

“relevant day” (有關日期) means the ninetieth day after the day on which the amendment Ordinance is published in the Gazette.

(2) Subject to subsection (6), it shall not be an offence under this Ordinance to manufacture or import or cause to be manufactured or imported for the purposes of sale packets or retail containers of tobacco products which do not comply with the provisions of this Ordinance relating to health warnings and indication of tar and nicotine yields if, but only if, the packets or retail containers comply with the provisions of this Ordinance, as in force immediately before the relevant day, relating to health warnings and indication of tar and nicotine yields.

(3) Subject to subsection (6), it shall not be an offence under this ordinance to manufacture or import or cause to be manufactured or imported for the purposes of sale any cigarettes which have on their packet or their retail container a brand name which includes the words “light”, “lights”, “mild”, “milds”, “low tar”, “醇” or “焦油含量低” or other words which imply or suggest that the cigarettes have a low tar yield if, but only if, the cigarettes have been determined, before the relevant day, under section 16 and the regulations to have a tar yield of 9 milligrams or less.

(4) Subject to subsection (7), it shall not be an offence under this Ordinance to sell, offer for sale or possess for the purposes of sale packets or retail containers of tobacco products which do not comply with the provisions of this Ordinance relating to health warnings and indication of tar and nicotine yields if, but only if, the packets or retail containers comply with the provisions of this Ordinance, as in force immediately before the relevant day, relating to health warnings and indication of tar and nicotine yields.

(5) Subject to subsection (7), it shall not be an offence under this ordinance to sell, offer for sale or possess for sale any cigarettes which have on their packet or their retail container a brand name which includes the words “light”, “lights”, “mild”, “milds”, “low tar”, “醇” or “焦油含量低” or other words which imply or suggest that the cigarettes have a low tar yield if, but only if, the cigarettes have been determined, before the relevant day, under section 16 and the regulations to have a tar yield of 9 milligrams or less.

(6) Subsections (2) and (3) shall expire on the first anniversary of the day on which the amendment Ordinance is published in the Gazette.

(7) This section shall expire 18 months after the day on which the amendment Ordinance is published in the Gazette."