

SMOKING (PUBLIC HEALTH)(AMENDMENT) BILL 2005

COMMITTEE STAGE

Amendments to be moved by the Secretary for
Health, Welfare and Food

Clause

Amendment Proposed

5 By adding the following -

"(ba) by adding -

"(2A) Subsection (2) does not prevent a person from smoking or carrying a lighted cigarette, cigar or pipe if he is exempt from that subsection under Schedule 5."."

New By adding after clause 22 -

"22A. Schedule added

The following is added -

"SCHEDULE 5 [s. 3(2A)]

EXEMPTION FROM SECTION 3(2) OF THE ORDINANCE

Exemption for live performance
or recording for film or
television programme

1. Interpretation

(1) In this Schedule -

"film" (電影) means a film within the meaning of section 2(1) of the Film Censorship Ordinance (Cap. 392);

"live performance" (現場表演) means a performance given or done before a live audience, whether on payment or otherwise;

"performance" (表演) means any play, show, entertainment or any other kind of performance;

"smoking act" (吸煙動作) means smoking or carrying a lighted cigarette, cigar or pipe;

"television programme" (電視節目) means a television programme within the meaning of section 2(1) of the Broadcasting Ordinance (Cap. 562).

(2) For the purposes of this Schedule,
a venue is a designated performance venue if
it is -

(a) situated in -

(i) a school other than
one that provides
any nursery,
kindergarten or
primary education
within the meaning
of section 3(1) of
the Education
Ordinance (Cap.
279); or

(ii) a specified
educational
establishment; and

(b) designated by the manager of
that school or establishment
as a venue for any live
performance.

2. Exemption for live performance

For the purposes of section 3(2A) of the Ordinance, a person who does a smoking act in a no smoking area is exempt from section 3(2) of the Ordinance if he proves that -

- (a) he is performing in a live performance, and his smoking act forms part of that performance;
- (b) the no smoking area in which the live performance takes place is not a school or specified educational establishment except a designated performance venue;
- (c) the manager of the no smoking area has given his prior permission for the live performance with the smoking act to take place in the no smoking area;
- (d) the live performance takes place only within the time and at the location permitted by the manager; and

- (e) the smoking act complies with all the requirements specified in relation to such an act under section 4.

3. Exemption for recording for film or television programme

For the purposes of section 3(2A) of the Ordinance, a person who does a smoking act in a no smoking area is exempt from section 3(2) of the Ordinance if he proves that -

- (a) he is performing in a performance, and his smoking act forms part of the performance;
- (b) the performance is being recorded for the production of a film or television programme (whether live or otherwise);
- (c) the film or television programme is not, and does not form part of, a tobacco advertisement;

- (d) the manager of the no smoking area in which the performance takes place has given his prior permission for the performance with the smoking act to take place in the no smoking area;
- (e) the performance takes place only within the time and at the location permitted by the manager; and
- (f) the smoking act complies with all the requirements specified in relation to such an act under section 4.

4. Specified requirements for smoking act

For the purposes of sections 2(e) and 3(f), the following are the requirements specified in relation to a smoking act -

- (a) the act does not expressly or impliedly induce, suggest or request any person to purchase or smoke any tobacco product;

- (b) the act does not illustrate smoking in a manner that is calculated, expressly or impliedly, to promote or encourage the use of any tobacco product;
- (c) the act does not illustrate the package of any tobacco product; and
- (d) the act does not illustrate any quality of any tobacco product except for the purpose of publicizing the harm of smoking."."