

**Bills Committee on
Smoking (Public Health) (Amendment) Bill 2005**

**Administration's response to issues raised
at the Bills Committee meeting on 4 July**

Law Enforcement

PURPOSE

This paper seeks to respond to questions raised by Members at the Bills Committee meeting of 4 July 2005 with regard to enforcement actions taken pursuant to the Smoking (Public Health) Ordinance (Cap. 371) ("the Ordinance").

QUESTIONS ASKED

2. At the above meeting, the Administration presented to the Bills Committee LC Paper No. CB(2)2164/04-05(02). Based on the information therein, the following questions were raised by Members -

- (i) *number of prosecutions and convictions pursuant to section 3(2) of the Ordinance from July 1999 up to 2001;*
- (ii) *venues where the prosecutions and convictions pursuant to section 3(2) of the Ordinance from July 1999 to 2004 had occurred;*
- (iii) *reason(s) why some prosecutions had ended in no conviction; and*
- (iv) *number of prosecutions whereby employees had appeared as witnesses; among these witnesses, how many of them had met with threat and/or assault from the persons being prosecuted.*

ADMINISTRATION'S RESPONSE

Prosecutions and convictions

3. According to information provided by the Judiciary, the number of prosecutions and convictions in the period between 1999 and 2001 pursuant to section 3(2) of the Ordinance, which stipulates that no person shall smoke or carry a lighted cigarette, cigar or pipe in a "no smoking area" is as follows -

Year	No. of prosecutions	No. of convictions
1999	3 702	3 534
2000	4 101	3 840
2001	3 800	3 410

4. Under Schedule 2 to the Ordinance, the following places are designated as no smoking areas:

- ⊗ Any area opened, kept or used for, or in connection with, the purpose of providing seating accommodation in a cinema, theatre or concert hall.
- ⊗ Any public lift.
- ⊗ Any amusement game centre.
- ⊗ Any indoor area open to the public in a supermarket or bank.
- ⊗ Any indoor area open to the public in department stores or shopping malls, except the restaurant within a department store or a shopping mall.

Throughout the years, around 90% of the prosecutions were made in amusement game centres, followed by cases in shopping malls.

5. The Judiciary has no information on why some prosecutions failed, and whether employees ever appeared as witnesses in court proceedings.

ADVICE SOUGHT

6. The Bills Committee is invited to note the Administration's response.