

LEGISLATIVE COUNCIL BRIEF

Smoking (Public Health) (Designation of No Smoking Areas) Notice (Cap. 371 sub. leg. D)

SMOKING (PUBLIC HEALTH) (DESIGNATION OF NO SMOKING AREAS) (AMENDMENT) NOTICE 2010

INTRODUCTION

On 30 June 2010, the Director of Health, in exercise of the power under section 3(1AB) of the Smoking (Public Health) Ordinance (Cap.371), made the Smoking (Public Health) (Designation of No Smoking Areas) (Amendment) Notice 2010 (“the Amendment Notice”) at **Annex A** to designate the whole of 131 public transport interchanges or bus termini (collectively called PTIs for short) as no smoking areas (NSAs).

JUSTIFICATIONS

Background

2. The Administration has long been taking a progressive approach to minimise the harmful effects of tobacco. The aims of our tobacco control policy are to discourage smoking, contain the proliferation of tobacco use, and protect the public from secondhand smoke to the maximum possible extent, through a step-by-step and multi-pronged approach comprising legislation, taxation, publicity, education, enforcement and cessation programmes having regard to the sentiments of the community.

3. Since the last amendment of the tobacco control legislation namely the Smoking (Public Health) Ordinance (Cap.371) in 2006, we have implemented a series of measures to progressively strengthen tobacco control, as summarised at **Annex B**. Looking forward, we shall build on the foundation of these tobacco control measures and continue to take steps to further protect the public from the harmful effects of smoking and second hand smoke. In particular, further to the satisfactory implementation of the smoking ban at PTIs with superstructures last year, we plan to proceed with introducing the same ban to open-air PTIs later this year.

Designation

4. Section 3 (1AB) of the Smoking (Public Health) Ordinance (Cap.371) empowers the Director of Health to, by notice published in Gazette, designate as

NSA the whole or a part of -

- (a) any area that consists of the termini of 2 or more modes of public transport and is used for effecting and facilitating interchange between them; or
- (b) any bus terminus of more than one specified route as defined in section 2 of the Public Bus Services Ordinance (Cap. 230).

These areas are generally referred to as public transport interchanges and bus termini (or PTIs for short).

5. Designation of PTIs as no smoking areas is being taken forward in phases. With the first batch of designation of PTIs as no smoking areas on 1 September 2009, a total of 91 PTIs (including 48 PTIs with superstructures and 43 indoor PTIs) have already become smoke-free. Compliance with the smoking ban at these PTIs has been satisfactory so far. In a recent telephone survey, 95% of the general public supported smoking ban in PTIs and 71% reported reduced exposure to secondhand smoke in the PTIs already subject to smoking ban.

6. Upon consultation with the Transport Department and other relevant government departments as well as having taken site visits, the Tobacco Control Office (TCO) of the Department of Health (DH) plans to designate 129 open-air PTIs that fit the definition set out in paragraph 4 as NSAs under Section 3(1AB) of Cap. 371.

7. In addition, in the past year two more covered PTIs with superstructure have become qualified under the criteria in paragraph 4 above for designation as NSAs due to routing modifications of public transport services provided therein. We propose to also designate them as NSAs in this phase together with the above open-air PTIs.

Implementation

8. Our plan is to designate the boarding and waiting areas of the PTIs, as well as the areas that passengers will pass by in the course of accessing and interchanging between different modes of public transport, as statutory NSAs. As the physical conditions of each PTI vary, the exact scope of NSA in each PTI will be delineated by reference to a gazetted plan.

9. To facilitate implementation of the smoking ban at the PTIs, TCO has been in contact with relevant trades and the venue managers of the 131 PTIs to prepare for the designation of NSAs therein.

THE AMENDMENT NOTICE

10. The Amendment Notice amends the Smoking (Public Health) (Designation of No Smoking Areas) Notice (Cap. 371 sub. leg. D) to designate NSAs in 131 PTIs (comprising 129 open-air PTIs and two PTIs with superstructure). The actual delineation of the boundaries of the NSAs in the 131 PTIs shall be shown on respective plans signed by the Director of Health. These plans will be published in the gazette and deposited at the Lands Registry for public inspection. Subject to negative vetting by the Legislative Council (LegCo), the Amendment Notice will come into operation on 1 December 2010.

LEGISLATIVE TIMETABLE

11. The legislative timetable is as follows –

Publication in the Gazette	9 July 2010
Tabling at LegCo	14 July 2010

IMPLICATIONS OF THE PROPOSAL

12. The Amendment Notice is in conformity with the Basic Law, including the provisions concerning human rights. It will not affect the binding effect of the principal Ordinance. Additional staffing and funding requirements, if any, arising from the implementation of the proposal will be absorbed from within the existing manpower and financial resources of the Food and Health Bureau and the Department of Health. It has no economic, productivity, environmental and sustainability implications.

PUBLIC CONSULTATION

13. We consulted the LegCo Panel on Health Services on our proposal to designate NSAs in the open-air PTIs in the second phase on 12 April 2010. We briefed the District Council (DC) Chairmen and Vice-chairmen on 20 May 2010, and consulted individual DCs with an information paper and relevant plans of the PTIs issued to them for comments. The proposals to designate the PTIs as NSAs received wide support from both LegCo and DCs.

PUBLICITY

14. TCO will carry out territory-wide publicity activities starting from about a month before implementation of the smoking ban to inform the public of the smoking ban in open-air PTIs and to promote compliance. The publicity programme will include announcements in public interest on both radio and television, as well as the display and distribution of posters, pamphlets, stickers,

and other publicity materials to relevant venue managers and the public. TCO will take steps to ensure that no-smoking banners and signs are displayed at conspicuous locations within the NSAs of the PTIs to remind the public of the application of the smoking ban. The gazetted plans which show the boundaries of the NSAs of the PTIs will be posted at prominent positions such as the main entrances and exits of the PTIs for public information.

15. A spokesman from Food and Health Bureau will be made available to answer media enquiries.

ENQUIRIES

16. Any enquiry on this brief can be addressed to Miss LI Wan-in, Assistant Secretary for Food and Health Bureau (Tel: 3150 8494).

Food and Health Bureau
July 2010

Annex B

Summary of Major Tobacco Control Measures Taken Since Amendment of Smoking (Public Health) Ordinance in 2006

Date	Tobacco Control Measures
19 October 2006	Legislative Council enacted the Smoking (Public Health) (Amendment) Ordinance 2006.
October 2006	Appointed and vested the inspectors of the Tobacco Control Office (TCO) of the Department of Health (DH) with inspection and enforcement authority under the Ordinance.
1 January 2007	Implemented a smoking ban to all indoor workplace and public places (including restaurants, karaokes, amusement game centres, malls, markets, residential care home, etc. except six types of qualified establishments), schools, universities, child care centres, hospitals and certain outdoor leisure areas (including public leisure parks, bathing beaches, swimming pools and stadia under the management of the Leisure and Cultural Services Department).
27 October 2007	Effectuated new graphic warning and packaging restrictions on tobacco products.
1 November 2007	Prohibited the display of tobacco advertisements at retail dealers with two employees or less.
February 2008	Introduced the legislation for a fixed penalty system for smoking offences into Legislative Council.
January 2009	Commenced a three-year pilot of community-based smoking cessation services based on evidence-based service model in collaboration with a non-government organization (Tung Wah Group of Hospitals).
25 February 2009	Raised the duty for tobacco products by 50% as announced in the 2009-10 Budget Speech.
1 July 2009	Extended smoking ban to the six types of qualified establishment namely bars, clubs, nightclubs, bathhouses, massage parlours, and mahjong and tinkau parlours hitherto exempted from the ban.
2 July 2008	Legislative Council enacted the Fixed Penalty (Smoking Offences) Ordinance (Cap. 600).
1 September 2009	Implemented the fixed penalty system for smoking offences in accordance with the Fixed Penalty (Smoking Offences) Ordinance (Cap. 600).
1 September 2009	Extended smoking ban to the first phase of 48 public transport interchanges and bus termini (or PTIs for short) with superstructures.
1 November 2009	Effectuated the prohibition of tobacco advertisement display at hawker stalls.

Date	Tobacco Control Measures
24 February 2010	Proposed in the 2010-11 Budget Speech to abolish the duty-free concessions for tobacco products for incoming travelers at border entry, and to consider progressively raising tobacco duty starting from next year.