

## **LEGISLATIVE COUNCIL BRIEF**

### **SMOKING (PUBLIC HEALTH) ORDINANCE (CAP. 371)**

#### **SMOKING (PUBLIC HEALTH) (DESIGNATION OF NO SMOKING AREAS) (AMENDMENT) NOTICE 2012**

### **INTRODUCTION**

On 20 February 2012, the Director of Health (DoH), 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 2012 (“the Amendment Notice”) at **Annex** to update the list of public transport facilities (PTFs) designated as no smoking areas (NSAs) under the Smoking (Public Health) Ordinance (Cap. 371).

### **JUSTIFICATIONS**

#### **Background**

2. To protect public health, it is the established policy of the Government to discourage smoking, contain the proliferation of tobacco use and protect the public from second-hand smoke as far as possible. Over the past three decades, we have adopted a progressive and multi-pronged approach comprising legislation, publicity, education, enforcement, smoking cessation and taxation to step up tobacco control, having regard to the expectations and acceptance of the community.

#### **Designation of No Smoking Areas**

3. The Smoking (Public Health) Ordinance (Cap. 371) and its subsidiary legislation provide a legislative framework for restricting the use, sale and promotion of tobacco products. Under Cap. 371, any person who smokes or carries a lighted cigarette, cigar or pipe in areas designated as no smoking areas (section 3) or in public transport carriers (section 4) commits an

offence. Schedule 2 to the Ordinance specifies a number of designated NSAs and exempt areas. Section 3(1AB) of Cap. 371 empowers DoH to, by notice published in the Gazette, designate as a 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).”

4. Since 1 September 2009, the Administration has designated NSAs in PTFs by phases for those areas identified as fulfilling the criteria as set out in section 3(1AB) of Cap. 371. At present, NSAs have been designated in a total of 233 PTFs (including 50 PTFs with superstructures, 54 indoor PTFs and 129 open-air PTFs).

5. Since the last designation on 1 December 2010, owing to changes in transport arrangements, a number of PTFs have been newly found to fall within the criteria in section 3(1AB) of Cap. 371, while some PTFs with NSAs already designated have fallen outside. Changes in physical features and settings on the ground necessitate appropriate amendments to the extent of the NSAs designated in some PTFs.

6. Upon consultation with the Transport Department (TD) and other relevant government departments, the Tobacco Control Office (TCO) of the Department of Health (DH) proposes to designate new NSAs in nine PTFs, amend the boundaries of existing NSAs in 13 PTFs, and remove the designation of NSAs in two PTFs under section 3(1AB) of Cap. 371. Details of these PTFs are listed at **Annex**.

## **Implementation**

7. The scope of NSAs to be designated will cover the boarding and waiting areas of the PTFs, as well as the areas that passengers will pass by in the course of accessing and interchanging between different modes of public transport. As the physical conditions of each PTF vary, the exact scope of NSA in each PTF will be delineated by reference to a gazette plan. The area in

a PTF proposed to be designated as NSA is the area shown coloured orange and edged red on the plan to be signed by the DoH and deposited in the Land Registry. All plans will be published in the Gazette. Our plan is to implement the smoking ban at these PTFs with effect from 1 June 2012.

8. To facilitate implementation of the smoking ban at the PTFs, TCO will arrange to display signs, publicity materials, and other demarcations including markings on the ground as appropriate to indicate clearly and visibly to the public the boundaries of the NSA in each PTF, having regard to the physical setting of each. The plans showing the boundaries of the NSAs will be posted at prominent positions such as the main entrances and exits. TCO will also display no-smoking signs at conspicuous locations within the NSAs of the PTFs to remind the public of the smoking ban. TCO will liaise with the relevant transport operators and the venue or facility managers if applicable to help with implementation of the smoking ban at those PTFs.

9. TCO will continue to maintain close liaison with TD and other relevant government departments to conduct site inspections regularly. It will also update timely the designated NSAs set out in Cap.371D and review the boundaries of the NSAs in the PTFs as and when necessary.

## **THE AMENDMENT NOTICE**

10. The Amendment Notice amends the Smoking (Public Health) (Designation of No Smoking Areas) Notice (Cap. 371D) to designate no smoking areas in nine PTFs, amend the extent of 13 NSAs designated in PTFs, and remove two PTFs from the list of NSAs designated in PTFs under Cap. 371. Subject to negative vetting by the Legislative Council (LegCo), the Amendment Notice will come into operation on 1 June 2012.

## **LEGISLATIVE TIMETABLE**

11. The legislative timetable is as follows –

Publication in the Gazette	24 February 2012
Tabling at LegCo	29 February 2012

## **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 financial implications, if any, arising from the implementation of the proposal will be absorbed within the existing manpower and financial resources of DH. It has no economic, productivity, environmental and sustainability implications.

## **PUBLICITY**

13. Information note on the details of the amendments together with relevant plans of the PTFs has been issued to 18 District Councils for their information. All plans of the NSAs of the PTFs will be published in the Gazette and deposited in the Land Registry for public inspection. They will also be posted on TCO's website for public information before the designation takes effect.

## **ENQUIRES**

14. Any enquiry on this brief can be addressed to Dr Raymond Ho, Head (Tobacco Control Office) of TCO (Tel : 2961 8971).

Food and Health Bureau  
Department of Health  
February 2012

Smoking (Public Health) (Designation of No Smoking Areas) (Amendment) Notice  
2012

Section 1

1

**Smoking (Public Health) (Designation of No Smoking Areas) (Amendment) Notice 2012**

(Made by the Director of Health under section 3(1AB) of the Smoking (Public Health) Ordinance (Cap. 371))

**1. Commencement**

This Notice comes into operation on 1 June 2012.

**2. Smoking (Public Health) (Designation of No Smoking Areas) Notice amended**

The Smoking (Public Health) (Designation of No Smoking Areas) Notice (Cap. 371 sub. leg. D) is amended as set out in section 3.

**3. Schedule amended (designated no smoking areas in public transport facilities)**

(1) The Schedule, Part 1—

**Repeal**

“Braemar Hill Public Transport Interchange, North Point  
(北角寶馬山公共運輸交匯處)

Located at Braemar Hill Road, North Point, Hong Kong, and shown coloured orange and edged red on Plan No. DH/TCO/O-012V1, signed by the Director of Health on 30 June 2010 and deposited in the Land Registry.”

**Substitute**

“Braemar Hill Public Transport Interchange, North Point  
(北角寶馬山公共運輸

Located at Braemar Hill Road, North Point, Hong Kong, and shown coloured orange and edged red on Plan No. DH/TCO/O-012V2, signed by

Smoking (Public Health) (Designation of No Smoking Areas) (Amendment) Notice  
2012

Section 3

2

交匯處)

the Director of Health on 20 February 2012 and deposited in the Land Registry.”.

(2) The Schedule, Part 1—

**Repeal**

“Central (City Hall) Public Transport Interchange  
(中環(大會堂)公共運輸交匯處)

Located at Edinburgh Place, Central District, Hong Kong, and shown coloured orange and edged red on Plan No. DH/TCO/O-004V1, signed by the Director of Health on 30 June 2010 and deposited in the Land Registry.”

**Substitute**

“Central (City Hall) Public Transport Interchange  
(中環(大會堂)公共運輸交匯處)

Located at Edinburgh Place, Central District, Hong Kong, and shown coloured orange and edged red on Plan No. DH/TCO/O-004V2, signed by the Director of Health on 20 February 2012 and deposited in the Land Registry.”.

(3) The Schedule, Part 1—

**Repeal**

“Wong Chuk Hang Estate Bus Terminus  
(黃竹坑邨巴士總站)

Located at Nam Long Shan Road, Wong Chuk Hang, Hong Kong, and shown coloured orange and edged red on Plan No. DH/TCO/O-035V1, signed by the Director of Health on 30 June 2010 and deposited in the Land Registry.”.

(4) The Schedule, Part 1—

**Add in alphabetical order**

“Central Ferry Piers  
Public Transport  
Interchange  
(中環碼頭公共運輸交  
匯處)

Located at Man Kwong Street,  
Central District, Hong Kong,  
and shown coloured orange  
and edged red on Plan No.  
DH/TCO/O-003V1, signed by  
the Director of Health on 20  
February 2012 and deposited  
in the Land Registry.

Hong Man Street  
Public Transport  
Interchange, Chai Wan  
(柴灣康民街公共運輸  
交匯處)

Located at Hong Man Street,  
Chai Wan, Hong Kong, and  
shown coloured orange and  
edged red on Plan No.  
DH/TCO/O-020V1, signed by  
the Director of Health on 20  
February 2012 and deposited  
in the Land Registry.

Wong Chuk Hang  
Temporary Bus  
Terminus  
(黃竹坑臨時巴士總  
站)

Located at Nam Long Shan  
Road, Wong Chuk Hang,  
Hong Kong, and shown  
coloured orange and edged red  
on Plan No. DH/TCO/O-  
180V1, signed by the Director  
of Health on 20 February 2012  
and deposited in the Land  
Registry.”.

(5) The Schedule, Part 2—

**Repeal**

“Hung Hom Ferry Pier  
Public Transport

Located at Wa Shun Street,  
Hung Hom, Kowloon, and

**Interchange**

(紅磡碼頭公共運輸交  
匯處)

shown coloured orange and  
edged red on Plan No.  
DH/TCO/O-041V1, signed by  
the Director of Health on 30  
June 2010 and deposited in the  
Land Registry.”

**Substitute**

“Hung Hom Ferry Pier  
Public Transport  
Interchange

(紅磡碼頭公共運輸交  
匯處)

Located at Wa Shun Street,  
Hung Hom, Kowloon, and  
shown coloured orange and  
edged red on Plan No.  
DH/TCO/O-041V2, signed by  
the Director of Health on 20  
February 2012 and deposited  
in the Land Registry.”.

(6) The Schedule, Part 2—

**Repeal**

“Kowloon City Ferry  
Pier Public Transport  
Interchange

(九龍城碼頭公共運輸  
交匯處)

Located at San Ma Tau Street,  
To Kwa Wan, Kowloon, and  
shown coloured orange and  
edged red on Plan No.  
DH/TCO/O-042V1, signed by  
the Director of Health on 30  
June 2010 and deposited in the  
Land Registry.”

**Substitute**

“Kowloon City Ferry  
Pier Public Transport  
Interchange

(九龍城碼頭公共運輸  
交匯處)

Located at San Ma Tau Street,  
To Kwa Wan, Kowloon, and  
shown coloured orange and  
edged red on Plan No.  
DH/TCO/O-042V2, signed by  
the Director of Health on 20  
February 2012 and deposited

- in the Land Registry.”
- (7) The Schedule, Part 2—  
**Repeal**  
“ Kwun Tong Ferry Pier  
Public Transport  
Interchange  
(觀塘碼頭公共運輸交  
匯處)  
  
**Substitute**  
“ Kwun Tong Ferry Pier  
Public Transport  
Interchange  
(觀塘碼頭公共運輸交  
匯處)  
  
(8) The Schedule, Part 2—  
**Repeal**  
“ Ngau Tau Kok (Jordan  
Valley North Road)  
Bus Terminus  
(牛頭角(佐敦谷北道)  
巴士總站)  
  
**Substitute**  
“ Ngau Tau Kok (Jordan
- Located at Wai Yip Street,  
Kwun Tong, Kowloon, and  
shown coloured orange and  
edged red on Plan No.  
DH/TCO/O-047V1, signed by  
the Director of Health on 30  
June 2010 and deposited in the  
Land Registry.”
- Located at Wai Yip Street,  
Kwun Tong, Kowloon, and  
shown coloured orange and  
edged red on Plan No.  
DH/TCO/O-047V2, signed by  
the Director of Health on 20  
February 2012 and deposited  
in the Land Registry.”
- Located at Chun Wah Road,  
Ngau Tau Kok, Kowloon, and  
shown coloured orange and  
edged red on Plan No.  
DH/TCO/O-050V1, signed by  
the Director of Health on 30  
June 2010 and deposited in the  
Land Registry.”
- Located at Chun Wah Road,

- Valley North Road)  
Bus Terminus  
(牛頭角(佐敦谷北道)  
巴士總站)
- (9) The Schedule, Part 2—  
**Add in alphabetical order**  
“ Ho Man Tin Estate  
Public Transport  
Interchange  
(何文田邨公共運輸交  
匯處)  
  
San Po Kong Public  
Transport Interchange  
(新蒲崗公共運輸交匯  
處)  
  
(10) The Schedule, Part 3—  
**Repeal**  
“ Cheung Hang Public  
Transport Interchange,  
Tsing Yi  
(青衣長亨公共運輸交
- Ngau Tau Kok, Kowloon, and  
shown coloured orange and  
edged red on Plan No.  
DH/TCO/O-050V2, signed by  
the Director of Health on 20  
February 2012 and deposited  
in the Land Registry.”
- Located at Sheung Foo Street,  
Ho Man Tin, Kowloon, and  
shown coloured orange and  
edged red on Plan No.  
DH/TCO/O-040V1, signed by  
the Director of Health on 20  
February 2012 and deposited  
in the Land Registry.
- Located at Choi Hung Road,  
San Po Kong, Kowloon, and  
shown coloured orange and  
edged red on Plan No.  
DH/TCO/O-069V1, signed by  
the Director of Health on 20  
February 2012 and deposited  
in the Land Registry.”
- Located at Liu To Road, Tsing  
Yi, New Territories, and  
shown coloured orange and  
edged red on Plan No.  
DH/TCO/O-161V1, signed by

匯處)

the Director of Health on 30 June 2010 and deposited in the Land Registry.”

**Substitute**

“Cheung Hang Public Transport Interchange, Tsing Yi  
(青衣長亨公共運輸交匯處)

Located at Liu To Road, Tsing Yi, New Territories, and shown coloured orange and edged red on Plan No. DH/TCO/O-161V2, signed by the Director of Health on 20 February 2012 and deposited in the Land Registry.”

(11) The Schedule, Part 3—

**Repeal**

“Choi Yuen Bus Terminus, Sheung Shui  
(上水彩園巴士總站)

Located at Choi Yuen Estate, Sheung Shui, New Territories, and shown coloured orange and edged red on Plan No. DH/TCO/C080V1, signed by the Director of Health on 30 June 2009 and deposited in the Land Registry.”

**Substitute**

“Choi Yuen Bus Terminus, Sheung Shui  
(上水彩園巴士總站)

Located at Choi Yuen Estate, Sheung Shui, New Territories, and shown coloured orange and edged red on Plan No. DH/TCO/C080V2, signed by the Director of Health on 20 February 2012 and deposited in the Land Registry.”

(12) The Schedule, Part 3—

**Repeal**

“Chun Shek Bus Terminus, Sha Tin  
(沙田秦石巴士總站)

Located at Fung Shek Street, Sha Tin, New Territories, and shown coloured orange and edged red on Plan No. DH/TCO/O-078V1, signed by the Director of Health on 30 June 2010 and deposited in the Land Registry.”

**Substitute**

“Chun Shek Bus Terminus, Sha Tin  
(沙田秦石巴士總站)

Located at Fung Shek Street, Sha Tin, New Territories, and shown coloured orange and edged red on Plan No. DH/TCO/O-078V2, signed by the Director of Health on 20 February 2012 and deposited in the Land Registry.”

(13) The Schedule, Part 3—

**Repeal**

“Fo Tan Station Public Transport Interchange  
(火炭站公共運輸交匯處)

Located at Au Pui Wan Street, Fo Tan, Sha Tin, New Territories, and shown coloured orange and edged red on Plan No. DH/TCO/O-080V1, signed by the Director of Health on 30 June 2010 and deposited in the Land Registry.”

(14) The Schedule, Part 3—

**Repeal**

“Kwai Hing Station Bus Terminus

Located at Sun Kwai Hing Plaza, Sun Kwai Hing Gardens, 166–174 Hing Fong



(葵興站巴士總站) Road, Kwai Chung, New Territories, and shown coloured orange and edged red on Plan No. DH/TCO/C069V1, signed by the Director of Health on 30 June 2009 and deposited in the Land Registry.”

**Substitute**

“ Kwai Hing Station Bus Terminus  
(葵興站巴士總站) Located at Sun Kwai Hing Plaza, Sun Kwai Hing Gardens, 166–174 Hing Fong Road, Kwai Chung, New Territories, and shown coloured orange and edged red on Plan No. DH/TCO/C069V2, signed by the Director of Health on 20 February 2012 and deposited in the Land Registry.”

(15) The Schedule, Part 3—

**Repeal**

“ Kwong Fuk Bus Terminus, Tai Po  
(大埔廣福巴士總站) Located at Kwong Fuk Estate, Plover Cove Road, Tai Po, New Territories, and shown coloured orange and edged red on Plan No. DH/TCO/C063V1, signed by the Director of Health on 30 June 2009 and deposited in the Land Registry.”

**Substitute**

“ Kwong Fuk Bus Located at Kwong Fuk Estate,

Terminus, Tai Po  
(大埔廣福巴士總站)

Plover Cove Road, Tai Po, New Territories, and shown coloured orange and edged red on Plan No. DH/TCO/C063V2, signed by the Director of Health on 20 February 2012 and deposited in the Land Registry.”

(16) The Schedule, Part 3—

**Repeal**

“ Ngong Ping Public Transport Interchange, Lantau Island  
(大嶼山昂坪公共運輸交匯處)

Located at Ngong Ping Road, Ngong Ping, Lantau Island, New Territories, and shown coloured orange and edged red on Plan No. DH/TCO/O-156V1, signed by the Director of Health on 30 June 2010 and deposited in the Land Registry.”

**Substitute**

“ Ngong Ping Public Transport Interchange, Lantau Island  
(大嶼山昂坪公共運輸交匯處)

Located at Ngong Ping Road, Ngong Ping, Lantau Island, New Territories, and shown coloured orange and edged red on Plan No. DH/TCO/O-156V2, signed by the Director of Health on 20 February 2012 and deposited in the Land Registry.”

(17) The Schedule, Part 3—

**Repeal**

“ Tai Wo Bus Terminus

Located at Tai Wo Shopping Centre, Tai Wo Estate, Po Nga

(太和巴士總站)

Road, Tai Po, New Territories, and shown coloured orange and edged red on Plan No. DH/TCO/C064V1, signed by the Director of Health on 30 June 2009 and deposited in the Land Registry.”

**Substitute**

“ Tai Wo Bus Terminus  
(太和巴士總站)

Located at Tai Wo Shopping Centre, Tai Wo Estate, Po Nga Road, Tai Po, New Territories, and shown coloured orange and edged red on Plan No. DH/TCO/C064V2, signed by the Director of Health on 20 February 2012 and deposited in the Land Registry.”.

(18) The Schedule, Part 3—  
**Add in alphabetical order**

“ Fung Cheung Road  
Public Transport  
Interchange, Yuen  
Long  
(元朗鳳翔路公共運輸  
交匯處)

Located at Fung Cheung Road, Yuen Long, New Territories, and shown coloured orange and edged red on Plan No. DH/TCO/O-149V1, signed by the Director of Health on 20 February 2012 and deposited in the Land Registry.

Hong Kong Science  
Park Public Transport  
Interchange  
(香港科學園公共運輸

Located at Science Park West Avenue, Pak Shek Kok, New Territories, and shown coloured orange and edged red

交匯處)

on Plan No. DH/TCO/O-175V1, signed by the Director of Health on 20 February 2012 and deposited in the Land Registry.

LOHAS Park Station  
Public Transport  
Interchange

(康城站公共運輸交匯  
處)

Located at LOHAS Park Road, Tseung Kwan O, New Territories, and shown coloured orange and edged red on Plan No. DH/TCO/O-179V1, signed by the Director of Health on 20 February 2012 and deposited in the Land Registry.

Sunny Bay Station  
Public Transport  
Interchange

(欣澳站公共運輸交匯  
處)

Located at Sunny Bay Road, Sunny Bay, Lantau Island, New Territories, and shown coloured orange and edged red on Plan No. DH/TCO/O-178V1, signed by the Director of Health on 20 February 2012 and deposited in the Land Registry.”.



Director of Health

20 February 2012

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**Explanatory Note**

This Notice amends the Schedule to the Smoking (Public Health) (Designation of No Smoking Areas) Notice (Cap. 371 sub. leg. D), so as to—

- (a) designate certain public transport facilities as no smoking areas;
- (b) reflect the changes in certain public transport facilities previously designated as no smoking areas; and
- (c) cease the designation of certain public transport facilities as no smoking areas,

under the Smoking (Public Health) Ordinance (Cap. 371).