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**Subcommittee on the Smoking (Public Health) Ordinance
(Amendment of Schedule 2) Order 2015**

Background brief prepared by the Legislative Council Secretariat

Purpose

This paper provides background information on the Smoking (Public Health) Ordinance (Amendment of Schedule 2) Order 2015 ("the Amendment Order") and gives a brief account of the discussion by the Panel on Health Services ("the Panel") on the Administration's legislative proposal to designate eight bus interchanges and adjoining facilities located at eight tunnel portal areas as statutory no smoking areas ("NSAs").

Background

2. The Smoking (Public Health) Ordinance (Cap. 371) ("the Ordinance") and its subsidiary legislations provide the legal framework on tobacco control for restricting the use, sale and promotion of tobacco products in Hong Kong. The Ordinance was amended in October 2006 to, inter alia, extend the statutory smoking ban to cover most indoor working places and public places as well as some outdoor places. Part 1 of Schedule 2 to the Ordinance specifies a number of designated NSAs. The manager of a NSA may take enforcement action to stop smoking in the NSA. As stipulated in section 7(1) of the Ordinance, any person who smokes or carries a lighted cigarette, cigar or pipe in a NSA commits an offence and is liable on summary conviction to a fine of \$5,000. A public officer may issue a fixed penalty notice under section 3 of the Fixed Penalty (Smoking Offences) Ordinance (Cap. 600) in place of prosecution.

3. According to the Administration, the Tobacco Control Office ("TCO") of the Department of Health ("DH") has in recent years received complaints and suggestions for imposing smoking ban at bus interchanges where passengers

using the facilities are mainly for interchange into other bus routes. Having regard to the physical configuration of these public facilities, the pedestrian flow and enforcement issues, the Administration proposes to extend smoking ban to eight bus interchanges in order to protect passengers from secondhand smoking.

The Amendment Order

4. On 11 December 2015, the Administration published in the Gazette the Amendment Order. The Amendment Order is made by the Secretary for Food and Health under section 16A of the Ordinance to amend Schedule 2 to the Ordinance by designating the boarding areas and some adjoining waiting areas and facilities of the following eight bus interchanges located at the tunnel portal areas as NSAs¹ -

- (a) Cross-Harbour Tunnel Bus Interchange;
- (b) Lion Rock Tunnel Bus Interchange;
- (c) Shing Mun Tunnels Bus Interchange;
- (d) Eastern Harbour Crossing Bus Interchange;
- (e) Western Harbour Tunnel Bus Interchange;
- (f) Tate's Cairn Tunnel Bus Interchange;
- (g) Tai Lam Tunnel Bus Interchange; and
- (h) Tsing Sha Highway Bus Interchange (between Sha Tin Heights and Eagle's Nest Tunnel).

5. The Amendment Order was tabled before the Legislative Council ("LegCo") at its meeting of 16 December 2015 and is subject to the negative vetting procedure. It will come into operation on 31 March 2016.

Deliberations of the Panel

6. The Panel was briefed on the Administration's legislative proposals to

¹ The actual boundaries of the new NSAs are delineated on respective plans signed by the Secretary for Food and Health and deposited in the Land Registry, and were published in the Gazette on 11 December 2015 (G.N. 9501)

strengthen the existing tobacco control at its meeting on 18 May 2015, and received views from deputations on the legislative proposals on 6 July 2015. The major views and concerns of members on the legislative proposal concerning designation of the eight bus interchanges as NSAs are summarized in the following paragraphs.

7. Members generally expressed support for the legislative proposal which provided protection against secondhand smoking at the eight designated bus interchanges and the adjourning facilities. Holding the view that there was no controversy in the community over the legislative proposal, they called on the Administration to implement the smoking ban as soon as possible.

8. There was a suggestion that the Administration should conduct studies to explore into the expansion of the smoking ban to cover the queuing areas of bus stops and minibus stops in order to provide further protection against secondhand smoking in public places. There was a view that smoking ban should be imposed at bus stops during peak hours. The Administration took note of members' suggestions and advised that its strategy for expanding NSAs was to take a gradual and step-by-step approach. Priority was accorded to prohibiting smoking at bus interchanges located within the tunnel portal areas as TCO had received a number of complaints and suggestions in this regard.

9. Members noted that TCO received 19 642 smoking complaints and enquiries in 2014. There was a view that the number of fixed penalty notices issued by TCO under the Fixed Penalty (Smoking Offences) Ordinance in 2014 (i.e. 7 834 notices) was on the low side. TCO should step up its enforcement actions against illegal smoking in NSAs.

10. Concern was also raised about the adequacy of manpower in TCO to carry out frontline enforcement duties. The Administration advised that DH would continue to review the need for strengthening its manpower to cope with the enforcement duties.

Relevant papers

11. A list of the relevant papers on the LegCo website is in **Appendix**.

**Relevant papers on the Smoking (Public Health) Ordinance
(Amendment of Schedule 2) Order 2015**

Committee	Date of meeting	Paper
Panel on Health Services	18.5.2015 (Item V)	Agenda Minutes CB(2)1808/14-15(01)
	6.7.2015 (Item I)	Agenda Minutes

Council Business Division 2
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