

LegCo Panel on Health Services
Enforcement of the Smoking (Public Health)
(Amendment) Ordinance 1997

Introduction

Since 1975, it has been the Government's declared policy to discourage smoking, particularly among the young. In 1982, the Smoking (Public Health) Ordinance was enacted to introduce various measures to control the use, sale and promotion of tobacco products. The Ordinance has been periodically amended having regard to changing world trends and local public views concerning tobacco control.

Smoking (Public Health) (Amendment) Ordinance

2. The Smoking (Public Health) (Amendment) Ordinance (the Amendment Ordinance) was enacted on 26 June 1997. Major provisions introduced under the Amendment Ordinance are as follows -

- (a) Prohibition on sale of cigarettes other than in packets of at least 20 sticks
- (b) Prohibition on sale of tobacco products from vending machines
- (c) Prohibition of tobacco advertisement in printed publications

- (d) Prohibition of displaying tobacco advertisement
- (e) Prohibition on broadcast of tobacco advertisement by radio or visual images
- (f) Prohibition on placing of tobacco advertisement on the Internet
- (g) Prohibition on giving of tobacco products to any persons for the purpose of promotion
- (h) Designation of supermarkets, department stores, shopping malls, and banks as no smoking areas
- (i) Compulsory designation of not less than one-third of the total areas as no smoking areas in restaurants providing more than 200 seating accommodation.

Relevant Agencies

3. There are a number of agencies responsible for enforcing and promulgating the provisions in the Amendment Ordinance –

(a) Customs & Excise Department

The Department has undertaken to restrict the sale of cigarettes in packets of less than 20 sticks, and to monitor the indication of tar and nicotine yields on cigarette packets, using its current inspection mechanism.

(b) Staff of District Offices

Enforcement efforts have been extended to the district level. District Officers have undertaken to assist by drawing our attention to any displayed tobacco advertisements which are suspected to have contravened the legislation.

(c) The Council on Smoking and Health (COSH)

COSH is a statutory body established in 1987. One of its tasks is to disseminate anti-smoking information, including the relevant legislation, to the public. We continue to look to COSH's educational and promotional efforts in instilling and promoting a smoke-free culture among the community.

(d) The Tobacco Institute of Hong Kong

Many of the requirements in the Amendment Ordinance require the compliance by the tobacco industry. These include the regulation on tobacco advertisements on display, in printed publications and on the internet, and prohibition of giving away tobacco products as promotional items, etc. Self-discipline by the tobacco industry is strongly encouraged and we have maintained liaison with the Tobacco Institute with a view to securing its support and cooperation in the enforcement of and compliance with the legislation.

(e) The Food and Environmental Hygiene Department (FEHD)

The health inspectors under FEHD have agreed to inspect whether a no smoking area has been designated in restaurants with over 200 seats during their routine inspection to the premises. On behalf of the Health and Welfare Bureau, they will issue verbal and/or written warning to restaurant operators who have failed to designate no smoking areas in the restaurants or to display the warning label as required by the Amendment Ordinance.

(f) Managers of designated no-smoking areas

Managers of designated no-smoking areas such as shopping malls, restaurants, supermarkets and department stores are the primary enforcement agency of the no smoking regulation in their respective premises. Prior to the commencement of the relevant provisions, we have written to the management of these premises informing them of the details of the no smoking requirement and the authority conferred upon them under the Amendment Ordinance in enforcing the no smoking requirement in the premises.

(g) Hong Kong Police Force

While the primary responsibility for the enforcement of statutory no smoking areas rests with the managers of the

respective public areas, the police have undertaken to offer assistance when offenders refuse to co-operate and when managers are in need of help.

Effectiveness of Enforcement

4. Since the commencement of different provisions in the Amendment Ordinance, we have been monitoring the situation to assess the effectiveness of the legislation and the enforcement efforts. According to our observation, we have been successful in enforcing the following aspects of the Amendment Ordinance –

- (a) Banning tobacco vending machines
- (b) Prohibiting tobacco advertisement in printed publication
- (c) Prohibiting large tobacco advertisement on display
- (d) Prohibiting tobacco advertisements broadcast on radio, TV and internet
- (e) Prohibiting the sale of cigarettes other than in packets of at least 20 sticks
- (f) Prohibiting the giving of tobacco products to any person for the purpose of promotion

5. We have nevertheless detected enforcement problems in certain areas. For instance, complaints have been lodged with COSH and with the Health and Welfare Bureau over the non-compliance with the no

smoking regulation inside shopping malls and in the designated no smoking area inside restaurants. Allegations have been made that managers of these premises are unwilling to vigorously enforce the no smoking regulation for fear of offending their customers.

New Initiatives

6. We are of the view that successful and effective enforcement of no smoking regulation hinges mainly on health education and the self-initiative of the public at large. Despite the educational and publicity efforts made by the Department of Health and COSH over the past years, we concede that it is a gradual process to bring about a cultural and behavioural change among the smoking public. On this, we will liaise with the Department of Health and COSH to devise creative educational and promotional anti-smoking programme. Our objective is to develop a sustainable programme which would enhance the awareness of the danger of smoking and the no smoking requirements in designated public areas.

7. We are also exploring the possibility of establishing a Tobacco Control Office under the auspices of the Department of Health. As part of the overall educational effort, the Office will collaborate with managers of those public premises with designated no smoking areas to facilitate their effective enforcement of the regulation. The inspection

team under the Office will assist in enforcing the no smoking requirement, with the primary responsibility of enforcement remaining with the manager of the premises. We will be discussing with the Department of Health on a more defined role and function for the Office and the appropriate size and duties of the enforcement team.

Health & Welfare Bureau
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