

SMOKING (PUBLIC HEALTH)(AMENDMENT) BILL 2005

**COMMITTEE STAGE**

Amendments to be moved by the Secretary for  
Health, Welfare and Food

Clause

Amendment Proposed

5 By adding the following -

"(ba) by adding -

"(2A) Subsection (2) does not prevent a person from smoking or carrying a lighted cigarette, cigar or pipe if he proves that an exemption from that subsection as set out in Schedule 5 applies to him."."

New By adding after clause 22 -

**"22A. Schedule added**

The following is added -

"SCHEDULE 5 [s. 3(2A)]

EXEMPTION FROM SECTION 3(2) OF THE ORDINANCE

Exemption for live performance  
or recording for film or  
television programme

**1. Interpretation**

In this Schedule -

"designated performance venue" (指定表演場地)

has the meaning assigned to it by  
section 3;

"film" (電影) means a film within the meaning

of section 2(1) of the Film Censorship  
Ordinance (Cap. 392);

"live performance" (現場表演) means a

performance given or done before a live  
audience, whether on payment or  
otherwise;

"performance" (表演) means any play, show,

entertainment or any other kind of  
performance;

"smoking act" (吸煙動作) means smoking or

carrying a lighted cigarette, cigar or  
pipe;

"television programme" (電視節目) means a

television programme within the meaning  
of section 2(1) of the Broadcasting  
Ordinance (Cap. 562).

## **2. Exemption for live performance**

An exemption from section 3(2) of the  
Ordinance applies to a person who does a  
smoking act in a no smoking area if all the

following conditions are satisfied -

- (a) the person is performing in a live performance, and his smoking act forms part of that performance;
- (b) the no smoking area in which the live performance takes place is not a school or specified educational establishment except a designated performance venue;
- (c) the manager of the no smoking area has given his prior permission for the live performance with the smoking act to take place in the no smoking area;
- (d) the live performance takes place only within the time and at the location permitted by the manager; and
- (e) the smoking act complies with all the requirements specified in relation to such an act under section 5.

**3. Designated performance venue**

For the purposes of this Schedule, a venue is a designated performance venue if it is -

- (a) situated in The Hong Kong Academy for Performing Arts established by The Hong Kong Academy for Performing Arts Ordinance (Cap. 1135); and
- (b) designated by the manager of that establishment as a venue for any live performance.

**4. Exemption for recording for film or television programme**

An exemption from section 3(2) of the Ordinance applies to a person who does a smoking act in a no smoking area if all the following conditions are satisfied -

- (a) the person is performing in a performance, and his smoking act forms part of the performance;
- (b) the performance is being recorded for the production of a film or television programme (whether live or otherwise);

- (c) the film or television programme is not, and does not form part of, a tobacco advertisement;
- (d) the manager of the no smoking area in which the performance takes place has given his prior permission for the performance with the smoking act to take place in the no smoking area;
- (e) the performance takes place only within the time and at the location permitted by the manager; and
- (f) the smoking act complies with all the requirements specified in relation to such an act under section 5.

**5. Specified requirements for smoking act**

For the purposes of sections 2(e) and 4(f), the following are the requirements specified in relation to a smoking act -

- (a) the act does not expressly or impliedly induce, suggest or request any person to purchase

- or smoke any tobacco product;
- (b) the act does not illustrate smoking in a manner that is calculated, expressly or impliedly, to promote or encourage the use of any tobacco product;
  - (c) the act does not illustrate the package of any tobacco product; and
  - (d) the act does not illustrate any quality of any tobacco product except for the purpose of publicizing the harm of smoking."