

LEGISLATIVE COUNCIL BRIEF

SMOKING (PUBLIC HEALTH) ORDINANCE (CAP. 371)

SMOKING (PUBLIC HEALTH) (DESIGNATION OF NO SMOKING AREAS) (AMENDMENT) NOTICE 2013

INTRODUCTION

On 4 February 2013, 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 2013 (“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 240 PTFs (including 50 PTFs with superstructures, 54 indoor PTFs and 136 open-air PTFs).

5. Since the last designation in February 2012, a PTF in Tai Po is found to meet the criteria specified in section 3(1AB) of Cap. 371 owing to changes in transport arrangement, while three PTFs with designated NSAs are no longer meeting the criteria. In addition, changes in physical features and settings on the ground necessitate amendments to the extent of NSAs designated in ten 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 NSA in a new PTF, amend the extent of ten NSAs already designated in PTFs, and remove three PTFs from the list of NSAs designated in PTFs as set out in details at **Annex**. Amendment to the list of designated NSAs in PTFs in the Schedule to Cap. 371D is necessary.

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 2013.

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 NSA in a new PTF, amend the extent of ten NSAs already designated in PTFs, and remove three 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 2013.

LEGISLATIVE TIMETABLE

11. The legislative timetable is as follows –

Publication in the Gazette 22 February 2013
Tabling at LegCo 27 February 2013

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 all 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. LO Yim-chong, Senior Medical and Health Officer (Tobacco Control Office) 1 (Tel: 3901 4102; E-mail: yclo@dh.gov.hk).

Food and Health Bureau
Department of Health
February 2013

Smoking (Public Health) (Designation of No Smoking Areas) (Amendment) Notice
2013

Section 1

1

Smoking (Public Health) (Designation of No Smoking Areas) (Amendment) Notice 2013

(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 2013.

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 the item relating to Admiralty Station (West) Bus Terminus****Substitute**“Admiralty Station (West) Bus Terminus
(金鐘站(西)巴士總站)

Located at Drake Street, Central District, Hong Kong, and shown coloured orange and edged red on Plan No. DH/TCO/O-001V2, signed by the Director of Health on 4 February 2013 and deposited in the Land Registry.”

(2) The Schedule, Part 2—Smoking (Public Health) (Designation of No Smoking Areas) (Amendment) Notice
2013

Section 3

2

Repeal the item relating to Nam Cheong Station Public Transport Interchange, Sham Shui Po.**(3) The Schedule, Part 2—****Repeal the item relating to Tsz Wan Shan (North) Bus Terminus****Substitute**“Tsz Wan Shan (North) Bus Terminus
(慈雲山(北)巴士總站)

Located at Tsz Wan Shan Road, Tsz Wan Shan, Kowloon, and shown coloured orange and edged red on Plan No. DH/TCO/C034V2, signed by the Director of Health on 4 February 2013 and deposited in the Land Registry.”

(4) The Schedule, Part 2—**Repeal the item relating to Yan Wing Street Temporary Bus Terminus, Yau Tong.****(5) The Schedule, Part 3—****Repeal the item relating to Leung King Estate Bus Terminus, Tuen Mun****Substitute**“Leung King Estate Bus Terminus, Tuen Mun
(屯門良景邨巴士總站)

Located at Leung King Estate, 31 Tin King Road, Tuen Mun, New Territories, and shown coloured orange and edged red on Plan No. DH/TCO/C087V2, signed by the Director of Health on 4 February 2013 and deposited in the Land Registry.”

- (6) The Schedule, Part 3—
Repeal the item relating to Long Ping Estate Bus Terminus, Yuen Long
Substitute
“Long Ping Estate Bus Terminus, Yuen Long (元朗朗屏邨巴士總站) Located at Long Ping Estate, 1 Long Ping Road, Yuen Long, New Territories, and shown coloured orange and edged red on Plan No. DH/TCO/C102V2, signed by the Director of Health on 4 February 2013 and deposited in the Land Registry.”
- (7) The Schedule, Part 3—
Repeal the item relating to Lung Mun Oasis Bus Terminus, Tuen Mun
Substitute
“Lung Mun Oasis Bus Terminus, Tuen Mun (屯門龍門居巴士總站) Located at Lung Mun Oasis, 43 Lung Mun Road, Tuen Mun, New Territories, and shown coloured orange and edged red on Plan No. DH/TCO/C082V2, signed by the Director of Health on 4 February 2013 and deposited in the Land Registry.”
- (8) The Schedule, Part 3—
Repeal the item relating to Sha Tin Racecourse Public Transport Interchange
Substitute

- “Sha Tin Racecourse Public Transport Interchange (沙田馬場公共運輸交匯處) Located at Hong Kong Jockey Club Sha Tin Racecourse, 6001 Tai Po Road—Sha Tin, Sha Tin, New Territories, and shown coloured orange and edged red on Plan No. DH/TCO/O-098V2, signed by the Director of Health on 4 February 2013 and deposited in the Land Registry.”
- (9) The Schedule, Part 3—
Repeal the item relating to Shek Lei (Tai Loong Street) Bus Terminus, Kwai Chung
Substitute
“Shek Lei (Tai Loong Street) Bus Terminus, Kwai Chung (葵涌石籬(大隴街)巴士總站) Located at Shek Lei Shopping Centre (Phase 2), Shek Lei Estate, Tai Loong Street, Kwai Chung, New Territories, and shown coloured orange and edged red on Plan No. DH/TCO/C075V2, signed by the Director of Health on 4 February 2013 and deposited in the Land Registry.”
- (10) The Schedule, Part 3—
Repeal the item relating to Sun Tin Wai Bus Terminus, Sha Tin
Substitute

“Sun Tin Wai Bus
Terminus, Sha Tin
(沙田新田圍巴士總站)

Located at Sun Tin Wai
Estate, Sha Tin Tau Road, Sha
Tin, New Territories, and
shown coloured orange and
edged red on Plan No.
DH/TCO/O-095V2, signed by
the Director of Health on 4
February 2013 and deposited
in the Land Registry.”.

(11) The Schedule, Part 3—

**Repeal the item relating to Tai O Public Transport
Interchange, Lantau Island**

Substitute

“Tai O Public Transport
Interchange, Lantau Island
(大嶼山大澳公共運輸交
匯處)

Located at Tai O Road, Tai O,
Lantau Island, New
Territories, and shown
coloured orange and edged red
on Plan No. DH/TCO/O-
152V2, signed by the Director
of Health on 4 February 2013
and deposited in the Land
Registry.”.

(12) The Schedule, Part 3—

**Repeal the item relating to Yau Oi (South) Bus Terminus,
Tuen Mun.**

(13) The Schedule, Part 3—

**Repeal the item relating to Yiu On Public Transport
Interchange, Ma On Shan**

Substitute

“Yiu On Public Transport
Interchange, Ma On Shan
(馬鞍山耀安公共運輸交
匯處)


Located at Hang Hong Street,
Ma On Shan, New Territories,
and shown coloured orange
and edged red on Plan No.
DH/TCO/O-091V2, signed by
the Director of Health on 4
February 2013 and deposited
in the Land Registry.”.

(14) The Schedule, Part 3—

Add in alphabetical order

“Tai Po Tau Road Bus
Terminus, Tai Po
(大埔大埔頭路巴士總站)

Located at Tai Po Tau Road,
Tai Po, New Territories, and
shown coloured orange and
edged red on Plan No.
DH/TCO/O-117V1, signed by
the Director of Health on 4
February 2013 and deposited
in the Land Registry.”.



Director of Health

4 February 2013

Explanatory Note

A public transport facility may be designated as a no smoking area under section 3(1AB) of the Smoking (Public Health) Ordinance (Cap. 371). This Notice amends the Schedule to the Smoking (Public Health) (Designation of No Smoking Areas) Notice (Cap. 371 sub. leg. D) to—

- (a) designate Tai Po Tau Road Bus Terminus, Tai Po, as a no smoking area; and
- (b) update the list of designated no smoking areas to reflect changes relating to certain public transport facilities.