

LEGISLATIVE COUNCIL BRIEF

SMOKING (PUBLIC HEALTH) ORDINANCE (CAP. 371)

SMOKING (PUBLIC HEALTH) (DESIGNATION OF NO SMOKING AREAS) (AMENDMENT) NOTICE 2014

INTRODUCTION

On 26 August 2014, 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 2014 (“the Amendment Notice”) at **Annex** to amend the extent of the No Smoking Areas (NSAs) in seven public transport facilities (PTFs) previously designated as NSAs on the Schedule to the Smoking (Public Health) (Designation of No Smoking Areas) Notice (Cap. 371D).

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 passive smoking. 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 NSAs (in contravention of section 3) or in public transport carriers (in contravention of 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 two 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 PTFs as NSAs by phases for those areas identified as fulfilling the criteria as set out in section 3(1AB) of Cap. 371. At present, a total of 239 PTFs (including 50 PTFs with superstructures, 55 indoor PTFs and 134 open-air PTFs) are designated as NSAs.

5. Subsequent to the last updating exercise, site visits and consultation with the Transport Department (TD) revealed that seven out of 239 PTFs had changes in physical features and settings on the ground. It is proposed to make appropriate amendments to the layout of these PTFs which have been set out in Cap. 371D, so as to set out the revised boundary of the NSAs. No new PTF was included in the current exercise. Details of these seven PTFs are at **Annex**.

Implementation

6. Following past practice, 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 statutory NSAs. 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 signed by the DoH and deposited in the Land Registry. According to the Administration's plan, the updated NSAs at these PTFs will take effect on 31 December 2014.

7. To facilitate implementation of smoking ban at the PTFs, the Tobacco Control Office (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 their respective physical settings. The plans showing the boundaries of the NSAs will be posted at prominent positions such as 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 facilitate implementation of smoking ban at those PTFs.

8. TCO will continue to maintain close liaison with TD and other relevant government departments to conduct site inspections. It will also update regularly 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

9. The Amendment Notice amends the Smoking (Public Health) (Designation of No Smoking Areas) Notice (Cap. 371D) to revise the extent of seven NSAs designated in 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 31 December 2014.

LEGISLATIVE TIMETABLE

10. The legislative timetable is as follows –

Publication of Amendment Notice in the Gazette	3 October 2014
Tabling at LegCo	8 October 2014

IMPLICATIONS OF THE PROPOSAL

11. 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 Department of Health. It has no economic, environmental and sustainability implications.

PUBLICITY

12. An information note on the details of the amendments has been issued to 18 District Councils. All plans of the NSAs of the PTFs have been deposited in the Land Registry for inspection by the public. They will also be posted on TCO's website before the designation takes effect.

ENQUIRIES

13. Any enquiry on this brief can be addressed to Dr. Patrick LO, Senior Medical and Health Officer (Tobacco Control Office) 1 (Tel: 3901 4102; E-mail: patricklo@dh.gov.hk).

Food and Health Bureau
Department of Health
October 2014

Smoking (Public Health) (Designation of No Smoking Areas) (Amendment) Notice
2014

Section 1

1

Smoking (Public Health) (Designation of No Smoking Areas) (Amendment) Notice 2014

(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 31 December 2014.
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 Heng Fa Chuen Public Transport Interchange, Chai Wan
Substitute
“Heng Fa Chuen Public Transport Interchange, Chai Wan (柴灣杏花邨公共運輸交匯處)
Located at Shing Tai Road, Chai Wan, Hong Kong, and shown coloured orange and edged red on Plan No. DH/TCO/O-014V2, signed by the Director of Health on 26 August 2014 and deposited in the Land Registry.”
 - (2) The Schedule, Part 3—

Smoking (Public Health) (Designation of No Smoking Areas) (Amendment) Notice
2014

Section 3

2

Repeal the item relating to Chevalier Garden Public Transport Interchange, Ma On Shan

Substitute

“Chevalier Garden Public Transport Interchange, Ma On Shan (馬鞍山富安花園公共運輸交匯處)
Located at Hang Shun Street, Ma On Shan, New Territories, and shown coloured orange and edged red on Plan No. DH/TCO/O-077V2, signed by the Director of Health on 26 August 2014 and deposited in the Land Registry.”

- (3) The Schedule, Part 3—

Repeal the item relating to Kwong Yuen Public Transport Interchange, Sha Tin

Substitute

“Kwong Yuen Public Transport Interchange, Sha Tin (沙田廣源公共運輸交匯處)
Located at Siu Lek Yuen Road, Sha Tin, New Territories, and shown coloured orange and edged red on Plan No. DH/TCO/O-084V2, signed by the Director of Health on 26 August 2014 and deposited in the Land Registry.”

- (4) The Schedule, Part 3—

Repeal the item relating to Lok Ma Chau Spur Line Public Transport Interchange

Substitute

“Lok Ma Chau Spur Line Public Transport Interchange
Located at MTR Lok Ma Chau Station, Lok Ma Chau, New Territories, and shown

- (落馬洲支線公共運輸交匯處) coloured orange and edged red on Plan No. DH/TCO/O-145V2, signed by the Director of Health on 26 August 2014 and deposited in the Land Registry.”.
- (5) The Schedule, Part 3—
Repeal the item relating to Sha Tin Wai Bus Terminus, Sha Tin
Substitute
“Sha Tin Wai Bus Terminus, Sha Tin (沙田沙田圍巴士總站) Located at Yi Shing Square, Sha Tin, New Territories, and shown coloured orange and edged red on Plan No. DH/TCO/O-088V2, signed by the Director of Health on 26 August 2014 and deposited in the Land Registry.”.
- (6) The Schedule, Part 3—
Repeal the item relating to Tseung Kwan O Industrial Estate Public Transport Interchange
Substitute
“Tseung Kwan O Industrial Estate Public Transport Interchange (將軍澳工業邨公共運輸交匯處) Located at Tseung Kwan O Industrial Estate, Chun Wang Street, Tseung Kwan O, New Territories, and shown coloured orange and edged red on Plan No. DH/TCO/O-106V2, signed by the Director of Health on 26 August 2014 and deposited in the Land

- Registry.”.
- (7) The Schedule, Part 3—
Repeal the item relating to Tsing Yi Public Pier Public Transport Interchange
Substitute
“Tsing Yi Public Pier Public Transport Interchange (青衣公眾碼頭公共運輸交匯處) Located at Fung Shue Wo Road, Tsing Yi, New Territories, and shown coloured orange and edged red on Plan No. DH/TCO/O-168V2, signed by the Director of Health on 26 August 2014 and deposited in the Land Registry.”.



Director of Health

26 August 2014

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 reflect changes relating to certain public transport facilities in the list of designated no smoking areas.