

**Subcommittee on Smoking (Public Health) (Notices)
(Amendment) Order 2017**

**Follow-up actions arising from the discussion
at the meetings on 16 May and on 23 May 2017**

The Government's response to the concerns raised by Subcommittee Members is set out as follows.

Technical concerns raised by the tobacco trade

2. We take note that the trade has indicated on different occasions, including the technical briefing held for the trade in November 2016 and the submissions made to the Subcommittee's meeting with deputations on 23 May 2017, concerns on the use of transparent seal for "soft pack" of cigarette packets and the related extension of the adaption period.

3. On the design of "soft pack", at present, there is a requirement that the top side of the health warning shall be no more than 12 millimetres from the top edge of the cigarette packet. In the current amendment exercise, we have proposed to remove this requirement and allow the health warning to be positioned at the lower part of the packet while the space at the top 15% of the surface may accommodate the trademark and brand name. We have also pointed out at the Subcommittee meeting on 6 May 2017 that transparent seal is already used on cigarette packets in the market, indicating that the use of transparent seals should not be an insurmountable hurdle. However, in view of the comments made by Members, we are considering the legal issues that need to be resolved to accommodate the use of non-transparent seals by "soft pack" cigarettes.

Adaptation period

4. In light of the views and technical issues expressed by the trade, the Government has already extended the adaption period from six to 12 months upon gazettal.

Enforcement of the proposed regulation

5. The law enforcement agency will ensure proper and fair enforcement of the Amendment Order upon its passage and implementation.

Positioning of health warning images

6. The proposed amendments require that the area of graphical health warning shall be of a size that covers at least 85% of two largest surfaces of the packet or the retail container. Provided that the graphical health warning and message are clearly visible, possible distortion of the health warning image can be reduced by proper orientation of the picture on the containers for ten cigarette packets (as shown in Pictures 1 to 3 in Annex A) or displaying the same health warning twice in an adjoining manner (as shown in Pictures 4 and 5 in Annex A).

7. For cylindrical drum retail container, we would consider printing the same health warning on each half of the curved surface of the container in an adjoining manner, which is indeed the current practice, as having fulfilled the requirement stipulated in section 8 of the Smoking (Public Health) Ordinance (Cap. 371). Illustrations are set out in Pictures 6(a) to (c) in Annex A.

Compliance with the relevant provisions concerning the sales of cigars

8. Section 9 of the Smoking (Public Health) Ordinance (Cap 371) provides that *“No person shall sell, offer for sale or possess for the purposes of sale any cigar, pipe tobacco or cigarette tobacco unless it is in a retail container that bears a health warning in the prescribed form and manner”*. Subject to the availability of evidence and the actual merits of each case, the practice of displaying cigars for sale in a retail container that bears a health warning in the prescribed form and manner is considered to have fulfilled the requirement of the said section. There has been no prosecution made under Cap. 371 regarding the sale of a cigar which was packed with other cigars in a retail container with health warning in the prescribed form and manner in the past three years.

Statistics requested by the Sub-committee at the meeting on 23 May 2017

9. The statistics concerning the expenditure on anti-smoking initiatives, medical cost in relation to smoking-related diseases, revenue from tobacco duty and the quantity of duty-paid cigarettes and illicit cigarettes seized are at **Annex B**.

**Food and Health Bureau
Department of Health
Department of Justice
May 2017**

Illustrations of the resized health warnings
on the retail container of tobacco products

Display of health warning on retail container for ten packs of cigarettes

Picture 1



Picture 2



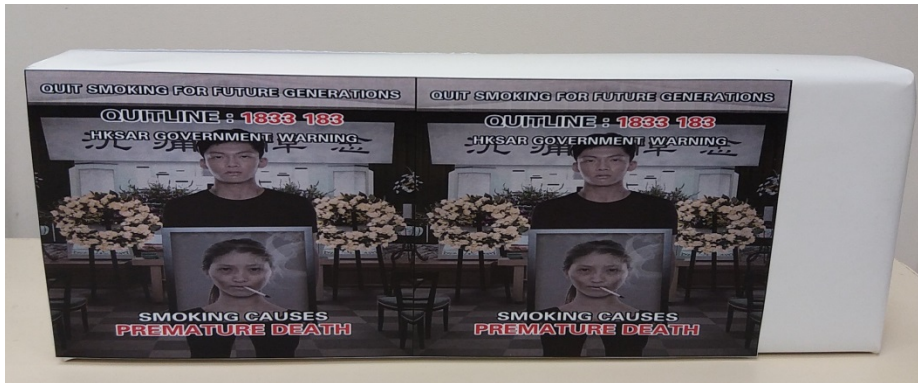
Picture 3



Picture 4



Picture 5



Display of a prescribed form of health warning twice on the cylindrical container in an adjoining manner

Picture 6(a)



Picture 6(b)



Picture 6(c)



Statistics concerning
expenditure on anti-smoking initiatives, medical cost in relation to
smoking-related diseases, revenue from tobacco duty and quantity of duty
paid cigarettes and illicit cigarettes seized

Expenditure on anti-smoking initiatives

Over the years, the Department of Health (DH) and the Hospital Authority (HA) have been actively promoting smoking prevention and cessation through providing cessation counselling telephone hotline, health talks and other health education programmes, and smoking cessation services in their respective clinics. Collaborative efforts have also been undertaken with non-government organisations, academic institutions and health care professions to promote smoking cessation and provide smoking cessation services to the public.

2. The expenditures / provisions of anti-smoking activities managed by the Tobacco Control Office (TCO) of DH and its subvented organisations for 2015-16, 2016-17 and 2017-18 are \$127 million, \$140 million and \$135 million respectively. Various DH service units other than TCO also contribute to the provision of health promotion activities relating to tobacco control and smoking cessation services. However, as these services form an integral part of the respective DH's services, such expenditure could not be separately identified. Similarly for HA, the smoking cessation services form an integral part of HA's overall service provision, and therefore such expenditure could not be separately identified.

Medical cost in relation to smoking-related diseases

3. The School of Public Health of the University of Hong Kong conducted a study on the estimated annual costs of tobacco-related diseases and mortality as well as productivity loss. The results showed that the total annual cost of active smoking and exposure to second-hand smoke in Hong Kong in 2011 was \$5.5 billion.

Tobacco duty revenue and quantity of duty-paid cigarettes

4. Tobacco duty revenues in the past three years are set out in the table below:

Year	2014-15	2015-16	2016-17 (Revised Estimates)
Revenue (in \$billion)	6.07	6.53	6.41

5. The quantity of duty-paid cigarettes in the past three years are set out below.

Year	Duty-paid cigarettes (in '000 sticks)
2014	3 148 590
2015	3 269 766
2016	3 333 569

Number of illicit cigarettes seized

6. The Customs and Excise Department (C&ED) has been combating illicit cigarettes. In recent years, C&ED has particularly strengthened the combat of illicit cigarettes at source. Random checks are also conducted on incoming persons at control points. In addition, as C&ED continues to combat the storage, distribution and transaction of illicit cigarettes, black spots of illicit cigarette sale have been largely suppressed. In order to step up efforts to combat telephone ordering of illicit cigarettes, C&ED has established a specialised unit to conduct in particular intelligence analysis and law enforcement against peddling via telephone orders and online sale of illicit cigarettes. On the whole, there is no sign of deterioration of the situation of illicit cigarette activities. Information on the quantities of illicit cigarettes seized in the past three years is set out in the table below.

Year	No. of cases	Quantity of illicit cigarettes seized (number of sticks)
2014	11 559	52 110 122
2015	10 278	71 905 038
2016	8 326	63 062 079