

## **LEGISLATIVE COUNCIL BRIEF**

### **SMOKING (PUBLIC HEALTH) ORDINANCE (CAP. 371)**

#### **SMOKING (PUBLIC HEALTH) (DESIGNATION OF NO SMOKING AREAS) (AMENDMENT) NOTICE 2017**

### **INTRODUCTION**

On 7 March 2017, 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 2017 (“the Amendment Notice”) at **Annex** to designate eight new public transport facilities (PTFs) as No Smoking Areas (NSAs), amend the extent of ten NSAs already designated in PTFs, and remove nine PTFs from 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 Government 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, a total of 243 PTFs (including 50 PTFs with superstructures, 59 indoor PTFs and 134 open-air PTFs) are designated as NSAs. The Tobacco Control Office (TCO) has been conducting site visit regularly with a view to updating the list of PTFs in the aforementioned subsidiary legislation in accordance to the actual situation.

5. Subsequent to the last designation exercise in 2014, site visit and consultation with the Transport Department (TD) revealed that eight PTFs were found to meet criteria specified in section 3(1AB) of Cap. 371, changes in location, physical features and settings on the ground necessitate amendments to the extent of NSAs designated in ten PTF which have been listed in the Schedule to Cap. 371D. In addition, nine PTFs with designated NSAs, which have been listed in the Schedule to Cap. 371D, were no longer meeting the criteria owing to changes in transport arrangement. In view of the above, the Government proposes to designate eight new PTFs as NSAs, amend the extent of ten NSAs

already designated in PTFs, and remove nine PTFs from the Schedule to Cap. 371D. These affected PTFs are set out in detail at **Annex**.

## **Implementation**

6. Following past practice, the scope of NSAs to be designated as statutory NSAs 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 signed by the DoH and deposited in the Land Registry. According to the Government's plan, the updated NSAs at these PTFs will take effect on 31 July 2017.

7. To facilitate implementation of the smoking ban at the PTFs, the 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 the main entrances and exits. The TCO will also display no-smoking signs at conspicuous locations within the NSAs of the PTFs to remind the public of the smoking ban. The TCO will liaise with the relevant transport operators and the venue or facility managers if applicable to facilitate the 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 designate

eight new PTFs as NSAs, amend the extent of ten NSAs already designated in PTFs, and remove nine PTFs from the Schedule to Cap. 371D. Subject to negative vetting by the Legislative Council (LegCo), the Amendment Notice will come into operation on 31 July 2017.

## **LEGISLATIVE TIMETABLE**

10. The legislative timetable is as follows –

Publication of Amendment Notice in the Gazette	17 March 2017
Tabling at LegCo	22 March 2017

## **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  
March 2017

Smoking (Public Health) (Designation of No Smoking Areas) (Amendment) Notice  
2017

Section 1

1

**Smoking (Public Health) (Designation of No Smoking Areas) (Amendment) Notice 2017**

(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 July 2017.

**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 Happy Valley (Lower) (Wong Nai Chung Road) Bus Terminus**

**Substitute**

“Happy Valley (Lower) (Wong Nai Chung Road) Bus Terminus (跑馬地(下)(黃泥涌道)巴士總站)

Located at Wong Nai Chung Road, Happy Valley, Hong Kong, and shown coloured orange and edged red on Plan No. DH/TCO/O-036V2, signed by the Director of Health on 7 March 2017 and deposited in the Land Registry.”

Smoking (Public Health) (Designation of No Smoking Areas) (Amendment) Notice  
2017

Section 3

2

(2) The Schedule, Part 1, items relating to the following public transport facilities—

(a) North Point Ferry Pier Bus Terminus;

(b) Wan Chai Ferry Pier Public Transport Interchange—

**Repeal the items.**

(3) The Schedule, Part 1—

**Add in alphabetical order**

“Hong Kong Convention and Exhibition Centre Extension Bus Terminus, Wan Chai

(灣仔香港會議展覽中心新翼巴士總站)

Located at Expo Drive East, Wan Chai, Hong Kong, and shown coloured orange and edged red on Plan No. DH/TCO/O-037V1, signed by the Director of Health on 7 March 2017 and deposited in the Land Registry.”

(4) The Schedule, Part 2—

**Repeal the item relating to Choi Wan Bus Terminus, Ngau Chi Wan**

**Substitute**

“Choi Wan Bus Terminus, Ngau Chi Wan (牛池灣彩雲巴士總站)

Located at Choi Wan Estate, Clear Water Bay Road, Ngau Chi Wan, Kowloon, and shown coloured orange and edged red on Plan No. DH/TCO/C031V2, signed by the Director of Health on 7 March 2017 and deposited in the Land Registry.”

(5) The Schedule, Part 2—

**Repeal the item relating to Hung Hom Station Public Transport Interchange**

**Substitute**

“Hung Hom Station Public Transport Interchange (紅磡車站公共運輸交匯處) Located at On Wan Road, Hung Hom, Kowloon, and shown coloured orange and edged red on Plan No. DH/TCO/O-073V2, signed by the Director of Health on 7 March 2017 and deposited in the Land Registry.”

(6) The Schedule, Part 2—

**Repeal the item relating to Shun Lee Estate Bus Terminus, Kwun Tong**

**Substitute**

“Shun Lee Estate Bus Terminus, Kwun Tong (觀塘順利邨巴士總站) Located at Lee On Road, Kwun Tong, Kowloon, and shown coloured orange and edged red on Plan No. DH/TCO/O-053V2, signed by the Director of Health on 7 March 2017 and deposited in the Land Registry.”

(7) The Schedule, Part 2, items relating to the following public transport facilities—

- (a) Pak Tin Public Transport Interchange, Shek Kip Mei;
- (b) Sham Shui Po (Tonkin Street West) Bus Terminus;
- (c) Yan Oi Court Public Transport Interchange, Kwun Tong—

**Repeal the items.**

(8) The Schedule, Part 2—

**Add in alphabetical order**

“Lei Yue Mun Estate Public Transport Interchange, Kwun Tong (觀塘鯉魚門邨公共運輸交匯處) Located at Lei Wong House, Lei Yue Mun Estate, Yan Wing Street, Kwun Tong, Kowloon, and shown coloured orange and edged red on Plan No. DH/TCO/C112V1, signed by the Director of Health on 7 March 2017 and deposited in the Land Registry.

On Tat Estate Bus Terminus, Kwun Tong (觀塘安達邨巴士總站)

Located at On Sau Road, Kwun Tong, Kowloon, and shown coloured orange and edged red on Plan No. DH/TCO/O-186V1, signed by the Director of Health on 7 March 2017 and deposited in the Land Registry.

Yue Man Square Temporary Bus Terminus, Kwun Tong (觀塘裕民坊臨時巴士總站)

Located at Yue Man Square, Kwun Tong, Kowloon, and shown coloured orange and edged red on Plan No. DH/TCO/O-181V1, signed by the Director of Health on 7 March 2017 and deposited in the Land Registry.”

(9) The Schedule, Part 3—

**Repeal the item relating to Long Ping Station (North) Public Transport Interchange, Yuen Long**

**Substitute**

“Long Ping Station (North) Public Transport Interchange, Yuen Long (元朗朗屏站(北)公共運輸交匯處)

Located at Kwong Yip Street, Yuen Long, New Territories, and shown coloured orange and edged red on Plan No. DH/TCO/O-136V2, signed by the Director of Health on 7 March 2017 and deposited in the Land Registry.”

(10) The Schedule, Part 3—

**Repeal the item relating to Mei Lam Bus Terminus, Tai Wai**

**Substitute**

“Mei Lam Bus Terminus, Tai Wai (大圍美林巴士總站)

Located at Mei Tin Road, Tai Wai, Sha Tin, New Territories, and shown coloured orange and edged red on Plan No. DH/TCO/O-093V2, signed by the Director of Health on 7 March 2017 and deposited in the Land Registry.”

(11) The Schedule, Part 3—

**Repeal the item relating to Shek Lei (Lei Pui Street) Public Transport Interchange, Kwai Chung**

**Substitute**

“Shek Lei (Lei Pui Street) Public Transport

Located at Lei Pui Street, Kwai Chung, New Territories, and

Interchange, Kwai Chung (葵涌石籬(梨貝街)公共運輸交匯處)

shown coloured orange and edged red on Plan No. DH/TCO/O-167V2, signed by the Director of Health on 7 March 2017 and deposited in the Land Registry.”

(12) 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-095V3, signed by the Director of Health on 7 March 2017 and deposited in the Land Registry.”

(13) The Schedule, Part 3—

**Repeal the item relating to Wan Tau Tong Public Transport Interchange, Tai Po**

**Substitute**

“Wan Tau Tong Public Transport Interchange, Tai Po (大埔運頭塘公共運輸交匯處)

Located at Fung Wan Road, Tai Po, New Territories, and shown coloured orange and edged red on Plan No. DH/TCO/O-118V2, signed by the Director of Health on 7 March 2017 and deposited in



the Land Registry.”.

- (14) The Schedule, Part 3—

**Repeal the item relating to Yuen Long Station (North) Public Transport Interchange**

**Substitute**

“Yuen Long Station  
(North) Public Transport  
Interchange  
(元朗站(北)公共運輸交  
匯處)

Located at Long Yat Road,  
Yuen Long, New Territories,  
and shown coloured orange  
and edged red on Plan No.  
DH/TCO/C-101V2, signed by  
the Director of Health on 7  
March 2017 and deposited in  
the Land Registry.”.

- (15) The Schedule, Part 3, items relating to the following public transport facilities—

- (a) Bellagio Public Transport Interchange, Tsuen Wan;
- (b) Tai Ping Bus Terminus, Sheung Shui;
- (c) Tin Shui Wai Station Public Transport Interchange;
- (d) Tung Chung Town Centre Bus Terminus—

**Repeal the items.**

- (16) The Schedule, Part 3—

**Add in alphabetical order**

“City One Bus Terminus,  
Sha Tin  
(沙田第一城巴士總站)

Located at Ngan Shing Street,  
Sha Tin, New Territories, and  
shown coloured orange and  
edged red on Plan No.  
DH/TCO/O-099V1, signed by  
the Director of Health on 7  
March 2017 and deposited in

the Land Registry.

Hung Fuk Estate Public  
Transport Interchange,  
Hung Shui Kiu  
(洪水橋洪福邨公共運輸  
交匯處)

Located at Hung Shui Kiu Tin  
Sam Road, Hung Shui Kiu,  
Yuen Long, New Territories,  
and shown coloured orange  
and edged red on Plan No.  
DH/TCO/O-184V1, signed by  
the Director of Health on 7  
March 2017 and deposited in  
the Land Registry.

Pak Shek Kok Fo Shing  
Road Public Transport  
Interchange, Tai Po  
(大埔白石角科城路公共  
運輸交匯處)

Located at Fo Shing Road, Pak  
Shek Kok, Tai Po, New  
Territories, and shown  
coloured orange and edged red  
on Plan No. DH/TCO/O-  
182V1, signed by the Director  
of Health on 7 March 2017 and  
deposited in the Land Registry.

Shui Chuen O Public  
Transport Interchange, Sha  
Tin  
(沙田水泉澳公共運輸交  
匯處)

Located at To Shek Street, Sha  
Tin, New Territories, and  
shown coloured orange and  
edged red on Plan No.  
DH/TCO/O-185V1, signed by  
the Director of Health on 7  
March 2017 and deposited in  
the Land Registry.”.



Director of Health

7 March 2017

**Explanatory Note**

This Notice amends the Schedule to the Smoking (Public Health) (Designation of No Smoking Areas) Notice (Cap. 371 sub. leg. D) to update the list of public transport facilities that are designated as no smoking areas.