

LEGISLATIVE COUNCIL BRIEF

SMOKING (PUBLIC HEALTH) ORDINANCE (CAP. 371)

**SMOKING (PUBLIC HEALTH)
(DESIGNATION OF NO SMOKING AREAS)
(AMENDMENT) NOTICE 2018**

INTRODUCTION

On 24 April 2018, the Director of Health (“DoH”), in exercise of the power under section 3(1AB) of the Smoking (Public Health) Ordinance (Cap. 371) (“Cap. 371”), made the Smoking (Public Health) (Designation of No Smoking Areas) (Amendment) Notice 2018 (“the Amendment Notice”), at **Annex**, to designate five new public transport facilities (“PTFs”) as no smoking areas (“NSAs”), reflect the changes in eight PTFs which are already designated as NSAs, and remove two PTFs from the Schedule to the Smoking (Public Health) (Designation of No Smoking Areas) Notice (Cap. 371D)(“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. 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. There are currently over 240 PTFs designated as NSAs. The Tobacco Control Office (“TCO”) has been conducting site visit regularly with a view to ensure that the list of PTFs in the aforementioned subsidiary legislation are up-to-date in line with the actual situation.

5. Subsequent to the last designation exercise in 2017, site visit and consultation with the Transport Department (“TD”) revealed that five new PTFs were found to meet the 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 eight PTFs already listed in the Schedule to Cap. 371D. In addition, two 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.

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 changes in NSAs

at the PTFs will take effect on 31 July 2018.

7. 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 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. 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 Cap. 371D to designate five new PTFs as NSAs, reflect the changes in eight PTFs which are already designated as NSAs and remove the designation of two PTFs as NSAs 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 2018.

LEGISLATIVE TIMETABLE

10. The legislative timetable is as follows –

Publication of Amendment Notice in the Gazette	27 April 2018
Tabling at LegCo	2 May 2018

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 insignificant family and no financial, civil service, competition, economic, environmental, sustainability or gender 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. Manny LAM, Senior Medical and Health Officer (Tobacco Control Office) 1 (Tel: 3901 4102; E-mail: smo1_tco@dh.gov.hk).

Food and Health Bureau
Department of Health
25 April 2018

Smoking (Public Health) (Designation of No Smoking Areas) (Amendment) Notice 2018

(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 2018.

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 Aberdeen (Wu Nam Street) Bus Terminus**Substitute**

“Aberdeen (Wu Nam Street) Bus Terminus (香港仔(湖南街)巴士總站)

Located at Wu Nam Street, Aberdeen, Hong Kong, and shown coloured orange and edged red on Plan No. DH/TCO/O-022V2, signed by the Director of Health on 24 April 2018 and deposited in the Land Registry.”

(2) The Schedule, Part 1—

Repeal the item relating to Lei Tung Estate Bus Terminus, Ap Lei Chau**Substitute**

“Lei Tung Estate Bus Terminus, Ap Lei Chau (鴨脷洲利東邨巴士總站)

Located at Lei Tung Estate Road, Ap Lei Chau, Hong Kong, and shown coloured orange and edged red on Plan No. DH/TCO/O-030V2, signed by the Director of Health on 24 April 2018 and deposited in the Land Registry.”

(3) The Schedule, Part 1—

Repeal the item relating to Macau Ferry Bus Terminus, Sheung Wan**Substitute**

“Macau Ferry Bus Terminus, Sheung Wan (上環港澳碼頭巴士總站)

Located at Connaught Road West, Sheung Wan, Hong Kong, and shown coloured orange and edged red on Plan No. DH/TCO/O-006V2, signed by the Director of Health on 24 April 2018 and deposited in the Land Registry.”

(4) The Schedule, Part 1—

Repeal the item relating to Ocean Park Public Transport Interchange, Wong Chuk Hang**Substitute**

“Ocean Park Public Transport Interchange, Wong Chuk Hang

Located at Ocean Park Road, Wong Chuk Hang, Hong Kong, and shown coloured orange and

- (黃竹坑海洋公園公共運輸交匯處)
- (5) The Schedule, Part 1—
Add in alphabetical order
“Kennedy Town Station Public Transport Interchange (堅尼地城站公共運輸交匯處)
- Siu Sai Wan Estate Bus Terminus (小西灣邨巴士總站)
- (6) The Schedule, Part 2—
Repeal the item relating to San Po Kong Public Transport Interchange
Substitute
“San Po Kong Public Transport Interchange (新蒲崗公共運輸交匯
- edged red on Plan No. DH/TCO/O-025V2, signed by the Director of Health on 24 April 2018 and deposited in the Land Registry.”.
- Located at MTR Kennedy Town Station, Smithfield, Kennedy Town, Hong Kong, and shown coloured orange and edged red on Plan No. DH/TCO/O-188V1, signed by the Director of Health on 24 April 2018 and deposited in the Land Registry.
- Located at Siu Sai Wan Estate, 10 Siu Sai Wan Road, Siu Sai Wan, Hong Kong, and shown coloured orange and edged red on Plan No. DH/TCO/O-018V1, signed by the Director of Health on 24 April 2018 and deposited in the Land Registry.”.
- Located at Choi Hung Road, San Po Kong, Kowloon, and shown coloured orange and

- 處)
- (7) The Schedule, Part 2—
Repeal the item relating to Ho Man Tin Estate Public Transport Interchange.
- (8) The Schedule, Part 2—
Add in alphabetical order
“Kom Tsun Street (North) Temporary Bus Terminus (甘泉街(北)臨時巴士總站)
- (9) The Schedule, Part 3—
Repeal the item relating to Cheung Wang Public Transport Interchange, Tsing Yi
Substitute
“Cheung Wang Public Transport Interchange, Tsing Yi (青衣長宏公共運輸交匯處)
- (10) The Schedule, Part 3—
- edged red on Plan No. DH/TCO/O-069V2, signed by the Director of Health on 24 April 2018 and deposited in the Land Registry.”.
- Located at Kom Tsun Street, Sham Shui Po, Kowloon, and shown coloured orange and edged red on Plan No. DH/TCO/O-060V1, signed by the Director of Health on 24 April 2018 and deposited in the Land Registry.”.
- Located at Liu To Road, Tsing Yi, New Territories, and shown coloured orange and edged red on Plan No. DH/TCO/O-162V2, signed by the Director of Health on 24 April 2018 and deposited in the Land Registry.”.

**Repeal the item relating to Tin Fu Court Bus Terminus,
Tin Shui Wai**

Substitute

“Tin Fu Court Bus
Terminus, Tin Shui Wai
(天水圍天富苑巴士總
站)

Located at T Town (North), Tin
Fu Court, 33 Tin Wah Road, Tin
Shui Wai, New Territories, and
shown coloured orange and
edged red on Plan No.
DH/TCO/C103V2, signed by
the Director of Health on 24
April 2018 and deposited in the
Land Registry.”

(11) 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-091V3, signed by
the Director of Health on 24
April 2018 and deposited in the
Land Registry.”

(12) The Schedule, Part 3—

**Repeal the item relating to Yuen Long (East) Public
Transport Interchange.**

(13) The Schedule, Part 3—

Add in alphabetical order

“Fo Tan Station Public

Located at Au Pui Wan Street,

Transport Interchange
(火炭站公共運輸交匯
處)

Fo Tan, Sha Tin, New
Territories, and shown coloured
orange and edged red on Plan
No. DH/TCO/O-080V2, signed
by the Director of Health on 24
April 2018 and deposited in the
Land Registry.

Nai Chung Public
Transport Interchange
(泥涌公共運輸交匯處)

Located at Nai Chung, Sai Sha
Road, Sai Kung, New
Territories, and shown coloured
orange and edged red on Plan
No. DH/TCO/O-187V1, signed
by the Director of Health on 24
April 2018 and deposited in the
Land Registry.”



Director of Health

24 April 2018

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.