



立法會CB(2)1232/20-21(01)號文件
LC Paper No. CB(2)1232/20-21(01)

立法會

《2019 年吸煙(公眾衛生)(修訂)條例草案》委員會主席

黃定光議員

黃主席：

就《2019 年吸煙(公眾衛生)(修訂)條例草案》提出的修正案擬稿

本人計劃就《2019 年吸煙(公眾衛生)(修訂)條例草案》(下稱《條例草案》)提出修正案，現謹向法案委員會提供相關條文標明修訂事項文本，供各委員討論。

本人的擬議修正案旨在將政府原訂通過《條例草案》落實全面禁止進口、製造或售賣訂明「另類吸煙產品」(包括「電子煙」及「加熱煙」)的安排，修改為容許「加熱煙草產品」在規管下可進口、製造或售賣；換言之，經本人修訂後，「加熱煙草產品」與《吸煙(公眾衛生)條例》對其他煙草產品的規管大致相同。

現將本人擬議修正案的建議修訂簡述如下：

1. 就修訂《吸煙(公眾衛生)條例》(第 371 章)而言：

- (a) 將「加熱煙」(第 2 類)自《條例草案》建議的附表 7 (另類吸煙產品)第 2 部中剔除，使之不歸類為「另類吸煙產品」；
- (b) 在《條例》的「傳統吸煙產品」類別中，加入「加熱煙草產品」，以涵蓋「加熱煙」；
- (c) 在《條例》第 3 部中加入第 9A 條，以規管「加熱煙草產品」的售賣；
- (d) 在《條例》附表 5 (對現場表演、或電影或電視節目的攝錄的豁免)中，相應修訂「傳統吸煙行為」的定義，使有關豁免適用於「加熱煙」；及
- (e) 其他相應及相關修訂，使《吸煙(公眾衛生)條例》對其他煙草產品的規管適用於「加熱煙草產品」。



2. 就修訂《吸煙(公眾衛生)(訂明資訊)令》(第 371 章，附屬法例 B) 而言：

- (a) 在《訂明資訊令》第 2A 條關於封包、零售盛器「表面」的定義中，加入「加熱煙草產品」，使有關規定適用於「加熱煙」的封包及零售盛器；及
- (b) 其他相應及相關修訂。

3. 就修訂《應課稅品條例》(第 109 章) 而言：

- (a) 在《條例》第 65 條「煙草的定義」中加入「加熱煙草產品」；及
- (b) 使「加熱煙草產品」按照「香煙」的徵稅方式課稅。

為方便對比和討論，在隨函附上的修正案擬稿（包括中、英文本）內，藍色標示文字為政府原來提交的《條例草案》修訂條文；以紅色標示及黃色突顯的文字為本人擬作出修訂的部分，敬希垂注。

法案委員會委員

邵家輝謹啟

2021 年 6 月 25 日

連附件

To prohibit smoking in certain ~~areas; to provide for the display of a health warning and other information on packets or retail containers of tobacco products; to restrict tobacco advertising; to restrict the sale or giving of tobacco products; places; to provide for the display of a health warning and other information on packets or retail containers of conventional smoking products; to restrict the advertising of smoking products; to restrict the sale, giving or promotion of conventional smoking products ; to prohibit the import, manufacture or sale, and to restrict the giving, possession or promotion, of alternative smoking products;~~ to provide for the appointment, powers and duties of inspectors for the enforcement of certain provisions of this Ordinance; and to provide for incidental and related matters.

(Amended 91 of 1994 s. 2; 21 of 2006 s. 3)

[13 August 1982] *L.N. 314 of 1982*

(Format changes—E.R. 1 of 2012)

Part 1

Preliminary

1. Short title

This Ordinance may be cited as the Smoking (Public Health) Ordinance.

2. Interpretation

(1) In this Ordinance, unless the context otherwise requires—

activated (已啟動)—see subsection (2);

aerosol (氣霧) means—

(a) any gas;

(b) any solid particles, or liquid, suspended in air; or

(c) any mixture of the substances mentioned in paragraphs (a) and (b);

Note—

Smoke is a form of aerosol as defined above.

advertisement (廣告) means any announcement to the public made or to be made in any manner;

alternative smoking product (另類吸煙產品) means a product set out in Part 2 of Schedule 7;

amusement game centre (遊戲機中心) means—

(a) an amusement game centre within the meaning of section 2(1) of the Amusement Game Centres Ordinance (Cap. 435);

(b) any place that is the subject of an order under section 3(1)(a) of that Ordinance; or

- (c) any area that is specified in an order under section 3(1)(b) of that Ordinance; (*Replaced 21 of 2006 s. 4*)

approved institution (核准院舍) means an approved institution within the meaning of section 2(1) of the Probation of Offenders Ordinance (Cap. 298); (*Added 21 of 2006 s. 4*)

bar (酒吧) means any place that is exclusively or mainly used for the sale and consumption of intoxicating liquors as defined in section 53(1) of the Dutiable Commodities Ordinance (Cap. 109); (*Added 21 of 2006 s. 4*)

bathhouse (浴室) means a bathhouse—

- (a) that is within the meaning of section 3(1) of the Commercial Bathhouses Regulation (Cap. 132 sub. leg. I); and
- (b) in respect of which a licence granted under that Regulation is in force; (*Added 21 of 2006 s. 4*)

bathing beach (泳灘) means any bathing beach specified in the Fourth Schedule to the Public Health and Municipal Services Ordinance (Cap. 132); (*Added 21 of 2006 s. 4*)

brand (牌子), except in section 14(3), includes a brand product, that is to say a variety of a brand marketed as having qualities differing from another variety of that brand;

cease (停止), in relation to a smoking act—see subsection (3);

child care centre (幼兒中心) means a child care centre within the meaning of section 2(1) of the Child Care Services Ordinance (Cap. 243); (*Added 21 of 2006 s. 4*)

cigar (雪茄) means tobacco rolled up in tobacco, in such form as to be capable of immediate use for ~~smoking~~; smoking, but does not include any alternative smoking product; (*Added 91 of 1994 s. 3*)

cigarette (香煙) means tobacco rolled up in paper or in any other material except tobacco, in such form as to be capable of immediate use for ~~smoking~~; smoking, but does not include any alternative smoking product;

cigarette tobacco (香煙煙草) means tobacco packaged as being suitable for the making by the purchaser of cigarettes for ~~his own use~~; the purchaser's own use, but does not include any alternative smoking product;

cinema (電影院), **theatre** (劇院) and **concert hall** (音樂廳) mean—

- (a) any building or part of a building used primarily as a cinema, theatre or concert hall, as the case may be, whether or not it is being so used at the material time, other than the premises of any club, association or other body in which films are exhibited, or plays or music performed for the benefit primarily of the members thereof and their guests;
- (b) any place of public entertainment licensed under the Places of Public Entertainment Ordinance (Cap. 172) while open to the public on account of any concert, stage play, stage performance or other musical, dramatic or theatrical entertainment or any cinematograph display; (*Added 9 of 1992 s. 2*)

conventional smoking product (傳統吸煙產品) means any cigarette, cigarette tobacco, ~~cigar or pipe tobacco~~ **cigar, pipe tobacco or heated tobacco product**;

correctional facility (懲教機構) means—

- (a) any of the sites and buildings specified in the Schedule to the Prisons Order (Cap. 234 sub. leg. B);
- (b) any of the buildings specified in the Schedule to the Prisons (Hostel) Order (Cap. 234 sub. leg. C); or
- (c) an addiction treatment centre within the meaning of section 2 of the Drug Addiction Treatment Centres Ordinance (Cap. 244); (*Added 21 of 2006 s. 4*)

deactivate (熄掉)—see subsection (4);

domestic premises (住宅) means any premises that have been constructed to be used, and are used, as a private dwelling; (*Added 21 of 2006 s. 4*)

escalator (自動梯) means an escalator as defined by section 2(1) of the Lifts and Escalators Ordinance (Cap. 618); (*Replaced 8 of 2012 ss. 156 & 160*)

Government Chemist (政府化驗師) has the meaning given by section 2 of the Evidence Ordinance (Cap. 8);

heated tobacco product (加熱煙草產品) means tobacco that is packaged in such form as to be capable of generating an aerosol from heating (other than by means of direct combustion) of the tobacco which is capable of use for smoking, but does not include any alternative smoking product;

hospital (醫院) means any establishment for the care of the sick, injured or infirm or those who require medical treatment, including a nursing home—

- (a) whether or not it is a hospital to which the Hospitals, Nursing Homes and Maternity Homes Registration Ordinance (Cap. 165) applies; or
- (b) whether or not it is a public hospital within the meaning of section 2(1) of the Hospital Authority Ordinance (Cap. 113); (*Added 21 of 2006 s. 4*)

indoor (室內) means—

- (a) having a ceiling or roof, or a cover that functions (whether temporarily or permanently) as a ceiling or roof; and
- (b) enclosed (whether temporarily or permanently) at least up to 50% of the total area on all sides, except for any window or door, or any closeable opening that functions as a window or door; (*Added 21 of 2006 s. 4*)

inspector (督察) means an inspector appointed under section 15F; (*Added 21 of 2006 s. 4*)

karaoke establishment (卡拉OK場所) means—

- (a) a karaoke establishment within the meaning of section 2(1) of the Karaoke Establishments Ordinance (Cap. 573); or
- (b) a karaoke establishment referred to in section 3(1) of that Ordinance; (*Added 21 of 2006 s. 4*)

mahjong-tin kau premises (麻將天九耍樂處所) means any premises that are licensed under section 22 of the Gambling Ordinance (Cap. 148) for—

- (a) the playing therein of games in which mahjong tiles are used; or
- (b) the playing therein of games in which tin kau tiles are used; *(Added 21 of 2006 s. 4)*

manager (管理人), in relation to a no smoking area or a public transport carrier, means—

- (a) any person who is responsible for the management or is in charge or control of the no smoking area or public transport carrier, and includes an assistant manager and any person holding an appointment analogous to that of a manager or assistant manager; or
- (b) in the case where there is no such person in relation to any premises, the owner of the premises; *(Replaced 21 of 2006 s. 4)*

massage establishment (按摩院) means a massage establishment—

- (a) that is within the meaning of section 2 of the Massage Establishments Ordinance (Cap. 266); and
- (b) in respect of which a licence granted under that Ordinance is in force; *(Added 21 of 2006 s. 4)*

maternity home (留產院) means any premises used or intended to be used for the reception of pregnant women or of women immediately after childbirth—

- (a) whether or not it is a maternity home to which the Hospitals, Nursing Homes and Maternity Homes Registration Ordinance (Cap. 165) applies; or
- (b) whether or not it is a maternity home that is run as part of a public hospital within the meaning of section 2(1) of the Hospital Authority Ordinance (Cap. 113), or managed or controlled by the Hospital Authority established under that Ordinance; *(Added 21 of 2006 s. 4)*

newspaper (報刊), **local newspaper** (本地報刊) and **printed document** (印刷文件) have the same meaning as in the Registration of Local Newspapers Ordinance (Cap. 268); *(Amended 15 of 1987 s. 19)*

nicotine yield (尼古丁量) means the nicotine yield per cigarette rounded off to one decimal place and expressed in milligrams; *(Added 93 of 1997 s. 2)*

no smoking area (禁止吸煙區) means an area designated as a no smoking area under section 3; *(Replaced 9 of 1992 s. 2. Amended 93 of 1997 s. 2; 21 of 2006 s. 4)*

pipe (煙斗) means a receptacle or other device designed for use for smoking tobacco in a form other than as a cigarette or ~~cigar~~; cigar, but does not include any alternative smoking product; *(Added 91 of 1994 s. 3)*

pipe tobacco (煙斗煙草) means tobacco packaged as being suitable for smoking in a ~~pipe~~; pipe, but does not include any alternative smoking product; *(Added 91 of 1994 s. 3)*

place of detention (拘留地方) means—

- (a) a place of detention specified in Schedule 2 to the Immigration (Places of Detention) Order (Cap. 115 sub. leg. B); or
- (b) a place of detention within the meaning of section 2(1) of the Juvenile Offenders Ordinance (Cap. 226); (*Added 21 of 2006 s. 4*)

place of refuge (收容所) means a place of refuge within the meaning of section 2 of the Protection of Children and Juveniles Ordinance (Cap. 213); (*Added 21 of 2006 s. 4*)

proof of identity (身分證明文件) means proof of identity for the purposes of Part IVA of the Immigration Ordinance (Cap. 115);

public lift (公共升降機) means a lift to which the public have access and includes any lift giving access to separately occupied flats, offices or other units of accommodation and a hotel lift;

public place (公眾地方) means—

- (a) any place to which for the time being the public are entitled or permitted to have access, whether on payment or otherwise; or
- (b) a common part of any premises notwithstanding that the public are not entitled or permitted to have access to that common part or those premises; (*Added 21 of 2006 s. 4*)

public pleasure ground (公眾遊樂場地) means a public pleasure ground within the meaning of section 2(1) of the Public Health and Municipal Services Ordinance (Cap. 132); (*Added 21 of 2006 s. 4*)

public swimming pool (公眾泳池) means a public swimming pool within the meaning of section 2(1) of the Public Health and Municipal Services Ordinance (Cap. 132); (*Added 21 of 2006 s. 4*)

public transport carrier (公共交通工具) means any public bus, public light bus, taxi, train, light rail vehicle, car, tramcar or ferry vessel mentioned in Schedule 1; (*Added 9 of 1992 s. 2. Amended 21 of 2006 s. 4*)

publish (刊登) in relation to an advertisement means making known an advertisement in any manner;

reformatory school (感化院) means a reformatory school within the meaning of section 2 of the Reformatory Schools Ordinance (Cap. 225); (*Added 21 of 2006 s. 4*)

regulations (規例) means regulations under section 18;

residential care home (院舍) means—

- (a) a residential care home as defined by section 2 of the Residential Care Homes (Elderly Persons) Ordinance (Cap. 459); or
- (b) a residential care home for PWDs as defined by section 2 of the Residential Care Homes (Persons with Disabilities) Ordinance (Cap. 613); (*Replaced 12 of 2011 s. 29*)

restaurant premises (食肆處所) means any premises on or from which there is carried on—

- (a) a factory canteen or restaurant within the meaning of section 31(2) of the Food Business Regulation (Cap. 132 sub. leg. X); or

- (b) any other trade or business the purpose of which is for the sale or supply of meals or unbottled non-alcoholic drinks (including Chinese herb tea) for human consumption on the premises (whether or not it is carried on by a person who is the holder of a licence under the Hawker Regulation (Cap. 132 sub. leg. AI)); (*Added 21 of 2006 s. 4*)

retail container (零售盛器)—

- (a) in relation to any cigarette **or heated tobacco product**, means a container suitable for the retail marketing of cigarette **or heated tobacco product** packets; or
- (b) in relation to any cigar, pipe tobacco or cigarette tobacco, means a container suitable for the retail marketing of cigar, pipe tobacco or cigarette tobacco; (*Replaced 21 of 2006 s. 4*)

sale, sell (出售、售賣、銷售、售) includes the disposal by barter or raffling but excludes the disposal of confiscated cigarettes without health warnings through auctions by the Government; (*Added 93 of 1997 s. 2*)

school (學校) means a school within the meaning of section 3 of the Education Ordinance (Cap. 279); (*Added 21 of 2006 s. 4*)

Secretary (局長) means the Secretary for Food and Health; (*Replaced L.N. 106 of 2002. Amended L.N. 130 of 2007*)

~~**smoke** (吸煙、吸用) means inhaling and expelling the smoke of tobacco or other substance;~~

~~**smoking** (吸煙、吸用) means inhaling and expelling—~~

- ~~(a) in relation to a conventional smoking product— the smoke **or aerosol** of tobacco generated from the product; or~~
- ~~(b) in relation to an alternative smoking product— the aerosol generated by or from the product;~~

~~**smoking act** (吸煙行為) means smoking or carrying—~~

- ~~(a) a lighted cigarette, cigar or pipe; or~~
- ~~(b) an activated alternative smoking product;~~
- (a) a lighted cigarette, cigar or pipe;**
- (b) an activated heated tobacco product; or**
- (c) an activated alternative smoking product;**

Note—

See also subsections (2), (3) and (4).

smoking product (吸煙產品) means—

- (a) a conventional smoking product; or
- (b) an alternative smoking product;

smoking product advertisement (吸煙產品廣告)—see section 14;

specified educational establishment (指明教育機構) means any establishment specified in section 2 of the Education Ordinance (Cap. 279); (*Added 21 of 2006 s. 4*)

stadium (體育場) means a stadium within the meaning of section 2(1) of the Public Health and Municipal Services Ordinance (Cap. 132); (*Added 21 of 2006 s. 4*)

tar yield (焦油量) means the tar yield per cigarette rounded off to the nearest milligram; (*Added 93 of 1997 s. 2*)

~~**tobacco advertisement** (煙草廣告) has the meaning assigned to it by section 14; (*Added 91 of 1994 s. 3*)~~

~~**tobacco product** (煙草產品) means any cigarette, cigarette tobacco, cigar or pipe tobacco; (*Added 93 of 1997 s. 2*)~~

trade mark (商標) has the same meaning as in section 3 of the Trade Marks Ordinance (Cap. 559); (*Added 93 of 1997 s. 2.*
Amended 35 of 2000 s. 98)

treatment centre (治療中心) means a treatment centre within the meaning of section 2 of the Drug Dependent Persons Treatment and Rehabilitation Centres (Licensing) Ordinance (Cap. 566); (*Added 21 of 2006 s. 4*)

workplace (工作地方) means a place—

- (a) that is occupied for conducting a business or non-profit making undertaking; and
- (b) in which natural persons work in the course of any self-employment, employment or engagement (whether for income or not),

including any part of the place that is set aside for use by those persons during any interval for taking a meal or rest. (*Added 21 of 2006 s. 4*)

(*Amended 9 of 1992 s. 2; 91 of 1994 s. 3; 21 of 2006 s. 4; E.R. 1 of 2013*)

(2) A heated tobacco product or an **activated** alternative smoking product is **activated** if any process, such as combustion or heating, is taking place for generating an aerosol by or from the product.

(3) A person **ceases** a smoking act—

- (a) in relation to a lighted cigarette, cigar or pipe, if the person extinguishes it; or
- (b) in relation to an activated **heated tobacco product or an activated** alternative smoking product, if the person deactivates it.

(4) A person **deactivates** an activated **heated tobacco product or an activated** alternative smoking product if the person stops the process mentioned in subsection (2) in relation to the product.

(5) A reference in this Ordinance to marketing in relation to a smoking product includes marketing outside Hong Kong.

(6) A note in the text of this Ordinance is for information only and has no legislative effect.

Part 2

No Smoking Areas

3. Prohibition on smoking in certain designated areas

- (1) The areas described in Part 1 of Schedule 2 are designated as no smoking areas. *(Replaced 21 of 2006 s. 5)*
- (1AA) Subsection (1) does not apply to the exempt areas described in Part 2 of Schedule 2. *(Added 21 of 2006 s. 5)*
- (1AB) The Director of Health may, by notice published in the Gazette, designate as a no smoking area 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). *(Added 21 of 2006 s. 5)*
- (1A)-(1C) *(Repealed 21 of 2006 s. 5)*
- (2) No person ~~shall smoke or carry a lighted cigarette, cigar or pipe~~ may do a smoking act in a no smoking area.
- (2A) Subsection (2) does not prevent a person from smoking or carrying a lighted cigarette, cigar or pipe or an activated heated tobacco product if he is exempt from that subsection under Schedule 5. *(Added 21 of 2006 s. 5)*
- (3) The manager of a no smoking area or any person authorized in that behalf by any such manager may, in respect of any person who appears to be contravening subsection (2) in the no smoking area—
- ~~(a) after indicating that the person is smoking or carrying a lighted cigarette, cigar or pipe, as the case may be, in a no smoking area in contravention of subsection (2), require the person to extinguish the lighted cigarette, cigar or pipe;~~
 - (a) after indicating to the person that the person is doing a smoking act in the no smoking area in contravention of subsection (2), require the person to cease the act;
 - (b) where the person fails to ~~extinguish the lighted cigarette, cigar or pipe, cease the smoking act,~~ require him—
 - (i) to give his name and address and to produce proof of identity; and
 - (ii) to leave the no smoking area;
 - (c) where the person fails, as required under paragraph (b)—
 - (i) to give his name and address and to produce proof of identity; or
 - (ii) to leave the no smoking area,remove him from the no smoking area by the use of reasonable force if necessary and detain him and call for the assistance of a police officer to assist in the enforcement of this section.

- (4) Where a person is, under subsection (3), required to leave a no smoking area, removed from a no smoking area or detained, he shall not be entitled to a refund of any admission fee or money paid by him for entry into the premises or building in which the no smoking area is situated.
- (5) For the avoidance of doubt, it is declared that subsections (1) and (1AB) apply to any premises that are owned or occupied by, or under the management and control of, the Government. *(Added 21 of 2006 s. 5)*

(Replaced 9 of 1992 s. 3)

4. Prohibition on smoking in public transport carriers

- (1) No person ~~shall smoke or carry a lighted cigarette, cigar or pipe~~ may do a smoking act in a public transport carrier.
- ~~(2) The driver, conductor, inspector, ticket collector or manager of any public transport carrier or any person authorized in that behalf by any such manager may, in respect of any person who appears to be contravening subsection (1) — *(Amended 68 of 1995 s. 39)*~~
- (2) The driver, conductor, ticket inspector, ticket collector or manager of any public transport carrier or any person authorized in that behalf by the manager may, in respect of any person who appears to be contravening subsection (1) in the public transport carrier—
 - ~~(a) — after indicating that the person is smoking or carrying a lighted cigarette, cigar or pipe, as the case may be, in a public transport carrier in contravention of subsection (1), require the person to extinguish the lighted cigarette, cigar or pipe;~~
 - (a) after indicating to the person that the person is doing a smoking act in the public transport carrier in contravention of subsection (1), require the person to cease the act;
 - (b) where the person fails to ~~extinguish the lighted cigarette, cigar or pipe, cease the smoking act,~~ require him—
 - (i) to give his name and address and to produce proof of identity; and
 - (ii) to leave the public transport carrier;
 - (c) where the person fails, as required under paragraph (b)—
 - (i) to give his name and address and to produce proof of identity; or
 - (ii) to leave the public transport carrier,
remove him from the public transport carrier by the use of reasonable force if necessary and detain him and call for the assistance of a police officer to assist in the enforcement of this section.
- (3) Where a person is, under subsection (2), required to leave a public transport carrier, removed from a public transport carrier or detained, he shall not be entitled to a refund of any money paid by him for carriage by the public transport carrier.

(Replaced 9 of 1992 s. 3)

5. *(Repealed 21 of 2006 s. 6)*

6. *(Repealed 9 of 1992 s. 4)*

6A. *(Repealed 21 of 2006 s. 7)*

7. **Offences under Part 2**

- (1) Any person who contravenes section 3 or 4 commits an offence and is liable on summary conviction to a fine of \$5,000.
 - (2) Any person who fails to give his name and address or to produce proof of identity when required to do so under section 3(3) or 4(2) or who then gives a false or misleading name or address commits an offence and is liable on summary conviction to a fine at level 3.
 - (3)-(4) *(Repealed 21 of 2006 s. 8)*
(Amended 9 of 1992 s. 5; 93 of 1997 s. 5; E.R. 1 of 2012)
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Part 3

Sales of ~~Tobacco~~ Conventional Smoking Products

(Replaced 91 of 1994 s. 5)

8. Sales of ~~cigarettes and tobacco~~ conventional smoking products

- (1) No person shall sell, offer for sale or possess for the purposes of sale any cigarettes unless—
 - (a) they are in a packet of at least 20 sticks; and
 - (b) the packet thereof and, if the packet is within a retail container, the container also, bear in the prescribed form and manner—
 - (i) a health warning;
 - (ii) the tar and nicotine yields. *(Replaced 93 of 1997 s. 6)*
- (2) Nothing in this section or in section ~~8A or 9~~ 8A, 9 or 9A shall apply to anything done in relation to cigarettes, cigarette tobacco, ~~cigars or pipe tobacco~~ cigars, pipe tobacco or heated tobacco products which are held— *(Amended 9 of 1992 s. 6; 91 of 1994 s. 6)*
 - (a) in bond; or
 - (b) by a manufacturer of ~~tobacco~~ conventional smoking products,

for export from Hong Kong.

8A. Prohibition on sale of cigarette a tar yield exceeding 17 milligrams

- (1) No person shall sell, offer for sale or possess for the purposes of sale any cigarette containing an amount of tar exceeding 17 milligrams.
- (2) A certificate purporting to be under the hand of the Government Chemist and stating that a cigarette contains an amount of tar exceeding 17 milligrams shall be evidence of the facts stated in the certificate as at the date of such certificate and shall be received in evidence without further proof.

(Added 9 of 1992 s. 7. Amended 93 of 1997 s. 7)

8B. Prohibition on sale of ~~tobacco~~ conventional smoking products from a vending machine

No person shall sell or offer for sale any ~~tobacco~~ conventional smoking product from a vending machine.

(Added 93 of 1997 s. 8)

9. Sale of cigar, pipe tobacco or cigarette tobacco

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.

(Replaced 91 of 1994 s. 7. Amended 21 of 2006 s. 10)

9A. Sale of heated tobacco products

No person shall sell, offer for sale or possess for the purposes of sale any heated tobacco products unless—

- (a) they are in a packet of at least 20 sticks or 20 capsules; and
- (b) the packet thereof and, if the packet is within a retail container, the container also, bear a health warning in the prescribed form and manner.

10. Offences under Part 3

- (1) Any person who contravenes section 8, 8A, ~~8B or 9~~ **8B, 9 or 9A** commits an offence and is liable on summary conviction to a fine at level 5. (*Amended 93 of 1997 s. 9; 21 of 2006 s. 11*)
- (1A) In any proceedings for a contravention of section 8A it shall be a defence for the person charged to prove that he did not know and had no reason to believe that any cigarette to which the proceedings relate contained an amount of tar exceeding 17 milligrams. (*Added 9 of 1992 s. 8*)
- (2) Any manufacturer of cigarettes or his agent and any wholesale distributor of cigarettes who sells, offers for sale or possesses for the purpose of sale any cigarettes to which section 8 applies which have on their packet or retail container a tar yield or nicotine yield which, having regard to any determination under section 16 and the regulations, is incorrect, commits an offence and is liable on summary conviction to a fine at level 5. (*Amended 21 of 2006 s. 11*)
- (3) Any manufacturer of ~~tobacco~~ conventional smoking products or his agent, or any wholesale distributor of ~~tobacco~~ conventional smoking products, who sells, offers for sale or possesses for the purpose of sale any ~~tobacco~~ conventional smoking product to which section ~~8 or 9~~ **8, 9 or 9A** applies commits an offence if any packaging of the product (including any packet, retail container, wrapping, and any label attached to or printed on the packaging or the product)—
 - (a) bears any term, descriptor, ~~trademark~~ trade mark, figurative or any other sign that is likely to create an erroneous impression that the product is less harmful to health than other ~~tobacco~~ conventional smoking products the packaging of which does not bear such term, descriptor, ~~trademark~~ trade mark, figurative or sign; or
 - (b) promotes the product by any means that is false, misleading, deceptive or likely to create an erroneous impression about its characteristics, health effects, hazards or emissions. (*Replaced 21 of 2006 s. 11*)
- (4) A person who commits an offence under subsection (3) is liable on summary conviction to a fine at level 5. (*Added 21 of 2006 s. 11*)
(*Amended 9 of 1992 s. 8; 93 of 1997 s. 9; E.R. 1 of 2012*)

10A. Seizure and forfeiture

- (1) A person holding an office specified in Schedule 1 to the Customs and Excise Service Ordinance (Cap. 342) may without warrant

- seize, remove and detain for the purpose of proceedings under this Part—
- (a) any packet or retail container of cigarettes, cigarette tobacco, ~~cigars or pipe tobacco~~ cigars, pipe tobacco or heated tobacco products— (*Amended 91 of 1994 s. 8*)
 - (i) which does not bear a health warning or, where required, the tar and nicotine yields, in the form and manner required by section 8 or 9; or
 - (ii) which that person reasonably suspects may contain any cigarette containing an amount of tar exceeding 17 milligrams; (*Replaced 9 of 1992 s. 9. Amended 93 of 1997 s. 10*)
 - (aa) any packet of cigarettes which contains less than 20 sticks of cigarettes; (*Added 93 of 1997 s. 10*)
 - (ab) any packet of heated tobacco products which contains less than 20 sticks or 20 capsules of heated tobacco products;
 - (b) the contents of such packet or container;
 - (c) any receptacle in which such packet or container is contained;
 - (ca) any vending machine or ~~tobacco~~ conventional smoking product in connection with an offence under section 8B; (*Added 93 of 1997 s. 10*)
 - (d) anything which appears to that person to be evidence of an offence under this Part.
- (1A) A person holding an office specified in Schedule 1 to the Customs and Excise Service Ordinance (Cap. 342) may without warrant seize, remove and detain for the purpose of proceedings under this Part—
- (a) any cigarette not contained in any packet or retail container whether or not referred to in subsection (1)(a) and which that person reasonably suspects may contain an amount of tar exceeding 17 milligrams; (*Amended 93 of 1997 s. 10*)
 - (b) any receptacle in which such cigarette is contained;
 - (c) anything which appears to that person to be evidence of an offence under this Part. (*Added 9 of 1992 s. 9*)
- (2) Subject to subsection (4), any article seized under subsection (1) or (1A) may be retained in the custody of the Commissioner of Customs and Excise until either proceedings under this Part are completed or it is decided that no such proceedings shall be brought.
- (3) For the purposes of section 16 of the Dutiable Commodities Ordinance (Cap. 109) (which relates to obstruction of a member of the Customs and Excise Service) as read with section 46 of that Ordinance, any article seized under subsection (1) or (1A) shall be deemed to have been seized in pursuance of a power conferred by that Ordinance.
- (4) A magistrate may, on the application of the Commissioner of Customs and Excise, order the forfeiture of any article mentioned in subsection (1)(a), (aa), (b), (c) or (ca) or (1A)(a) or (b), whether or not any person is convicted of any offence under this Part, on the

grounds that an offence under this Part has been committed in relation to such article or that such article may not lawfully be sold or possessed for the purposes of sale in Hong Kong: (*Amended 93 of 1997 s. 10*) Provided that the magistrate shall not order such forfeiture unless he is first satisfied that all persons with an interest in such article have, in so far as is reasonably practicable, had the opportunity of making representations thereon to the magistrate or that no such persons can, after reasonable inquiry, be found.

- (5) Any article forfeited under subsection (4) shall be destroyed or disposed of in the same manner as any article forfeited under sections 48, 48A and 48C of the Dutiable Commodities Ordinance (Cap. 109), and the provisions of sections 49 and 50 of that Ordinance shall apply in relation to articles forfeited under subsection (4) as they do to articles forfeited under sections 48, 48A and 48C of that Ordinance. (*Amended 70 of 1993 s. 7*)

(*Added 52 of 1983 s. 2. Amended 9 of 1992 s. 9*)

Part 4

Tobacco Advertising Advertising of Smoking Products

(Replaced 91 of 1994 s. 9)

11. Tobacco Smoking Product advertisements in printed publications

- (1) No person shall print, publish or cause to be published a ~~tobacco~~ smoking product advertisement in a printed publication to which this section applies. *(Replaced 93 of 1997 s. 11)*
- (2) This section applies to—
 - (a) any local newspaper;
 - (b) any printed document printed, published or distributed in Hong Kong. *(Replaced 93 of 1997 s. 11)*
- ~~(3) Nothing in this section or section 12 shall apply in relation to a tobacco advertisement in a printed publication that is published for the tobacco trade or as the “in house” magazine of any company engaged in that trade. *(Amended 91 of 1994 s. 10)*~~
- (3) Nothing in this section or section 12 applies in relation to a smoking product advertisement in a printed publication that is published—
 - (a) for the smoking products trade; or
 - (b) as the in-house publication of any company engaged in that trade.

(Amended 21 of 2006 s. 13)

12. No display of ~~tobacco~~ smoking product advertisement

- (1) No person shall—
 - (a) display or cause to be displayed; or
 - (b) publish or distribute for the purpose of display or cause to be published or distributed for the purpose of display,any ~~tobacco advertisement~~ smoking product advertisement in writing or other permanent or semi-permanent form.
- ~~(2)-(3) *(Repealed 21 of 2006 s. 14)*~~
- (4) Subsection (1) does not apply to any ~~tobacco advertisement~~ smoking product advertisement which—
 - (a) is in or upon any premises—
 - ~~(i) of any manufacturer of tobacco products or any wholesale dealer dealing in tobacco products; and~~
 - (i) of any manufacturer of conventional smoking products or any wholesale dealer dealing in conventional smoking products; and
 - (ii) which are used for the manufacturing of ~~tobacco products or for the purpose of dealing by wholesale in tobacco products; and~~ conventional smoking products or for the purpose of dealing by wholesale in conventional smoking products; and

(b) is not visible from outside the premises.

- (5) The ~~tobacco~~—advertisement mentioned in subsection (4) is not required to bear a health warning or the tar and nicotine yields.

(Replaced 93 of 1997 s. 12)

13. Prohibition on broadcast of ~~tobacco~~ smoking product advertisement by radio or visual images

No person shall broadcast a ~~tobacco~~ smoking product advertisement—
(Amended 91 of 1994 s. 12)

- (a) by the transmission of sound by means of radio waves; or
- (b) by the transmission of visual images or sound by wireless or otherwise than by wireless,

intended for general reception by members of the public. *(Amended 93 of 1997 s. 13)*

(Replaced 9 of 1992 s. 11)

13A. Prohibition on exhibition of ~~tobacco~~ smoking product advertisement by film

- (1) No person shall exhibit a tobacco advertisement by film.
(Amended 91 of 1994 s. 13)
- (2) In this section **exhibit** (上映) and **film** (電影) mean, respectively, exhibit and film within the meaning of section 2 of the Film Censorship Ordinance (Cap. 392).

(Added 9 of 1992 s. 11)

13B. Prohibition on placing of ~~tobacco~~ smoking product advertisement on the Internet

- (1) No person shall place or cause to be placed a ~~tobacco~~ smoking product advertisement on the Internet.
- (2) For the avoidance of doubt, a holder of a Public Non- Exclusive Telecommunications Service Licence granted under the Telecommunications Ordinance (Cap. 106) shall not be responsible for— *(Amended 36 of 2000 s. 28)*
 - (a) any content placed on the Internet by a user and made available for the use of another user unless the holder has knowledge of such content and can reasonably be expected to block the use of such content or require amendment of such content; or
 - (b) any such content to which the holder only provides access, including the automatic and temporary storage of such content by the holder due to the request of a user.
- (3) Subsection (1) shall not apply to any ~~tobacco~~ smoking product advertisement which is contained in any private correspondence on the Internet and is not for commercial purposes.

(Added 93 of 1997 s. 14)

14. Meaning of ~~tobacco~~ smoking product advertisement

- (1) For the purposes of this Part an advertisement is a ~~tobacco advertisement~~ smoking product advertisement if it—
 - (a) contains any express or implied inducement, suggestion or request to purchase or smoke ~~cigarettes, cigarette tobacco, cigars or pipe tobacco~~ any smoking product; (*Amended 93 of 1997 s. 15*)
 - (b) relates to smoking in terms which are calculated, expressly or impliedly, to promote or encourage the use of ~~cigarettes, cigarette tobacco, cigars or pipe tobacco~~ any smoking product; or (*Amended 93 of 1997 s. 15*)
 - (c) illustrates or mentions smoking or ~~cigarettes, cigarette tobacco, cigars or pipe tobacco~~ any smoking products or their packages or qualities. (*Added 93 of 1997 s. 15*)
- (1A) Notwithstanding subsection (1)(c), an advertisement is not regarded as a ~~tobacco~~ smoking product advertisement if its purpose is to discourage smoking. (*Added 93 of 1997 s. 15*)
- (2) Subject to subsections (3) to (5), where—
 - (a) an advertisement; or
 - (b) any object, other than a ~~tobacco~~ smoking product, which is displayed to the public, whether for sale or otherwise, in the course of conducting any business or providing any service, includes the name or trade name of any person associated with the marketing of any ~~tobacco product, or any trade mark or brand name of a tobacco~~ smoking product, or any trade mark or brand name of a smoking product, or any pictorial device or part thereof commonly associated therewith, then the advertisement or object shall be deemed to be a ~~tobacco advertisement~~ smoking product advertisement. (*Replaced 93 of 1997 s. 15*)
- (3) Subsection (2) shall not apply to any advertisement or object if the name, trade name, trade mark, brand name or pictorial device or part thereof mentioned in that subsection— (*Amended 21 of 2006 s. 15*)
 - (a) is included exclusively for—
 - (i) a ~~non-tobacco~~ product or service that is not a smoking product or service; or
 - (ii) job recruitment purposes; and
 - (b) does not form a prominent part of the advertisement or object. (*Replaced 93 of 1997 s. 15. Amended 21 of 2006 s. 15*)
- (4) If the conditions set out in subsection (4A) are satisfied, subsection (2) shall not apply to any advertisement or object which includes— (*Amended 21 of 2006 s. 15*)
 - (a) the name of any company or body corporate associated with the manufacture or marketing of any ~~tobacco~~ smoking product; or
 - ~~(b) any name identified with the trade name or brand name of any tobacco product, in association with any product not being tobacco. (*Added 93 of 1997 s. 15. Amended 21 of 2006 s. 15*)~~
 - (b) any name identical to the trade name or brand name of any

smoking product, in association with any product that is not a smoking product.

- (4A) The conditions mentioned in subsection (4) are—
- (a) that the name mentioned in that subsection is included as the sponsor of an event or for congratulating another person or thing on an achievement of, or event relating to, such person or thing;
 - (b) that the name does not form a prominent part of the advertisement or object; and
 - (c) that the advertisement or object does not mention ~~the words “cigarette”, “cigarettes”, “smoking”, “tobacco”, “cigar”, “cigars”, “pipe” or “pipes” or “香煙”, “吸煙”, “煙草”, “雪茄” or “煙斗”.~~ (Added 21 of 2006 s. 15) any word or phrase set out in Schedule 8 (including any word or phrase that means the same as, or closely resembles, the word or phrase).
- (5) Notwithstanding subsection (2), any accidental or incidental appearance of any ~~tobacco-product~~ smoking product or the trade mark, trade name, brand name or logo of any ~~tobacco-product~~ smoking product where no valuable consideration has been or is intended to be given for such appearance is not a ~~tobacco advertisement~~ smoking product advertisement. *(Added 93 of 1997 s. 15)*
- (6) The display of the following at any premises where ~~tobacco products are offered for sale is not a tobacco~~ conventional smoking products are offered for sale is not a smoking product advertisement—
- (a) one price marker for one type of ~~tobacco~~ conventional smoking product offered for sale in the premises that—
 - (i) contains only the name and price of that type of ~~tobacco~~ conventional smoking product; and
 - (ii) is of a size—
 - (A) not greater than the size of the price marker of any of the ~~non-tobacco~~ products that are not smoking products offered for sale in the premises; and
 - (B) not greater than 50 square centimetres;
 - (b) one price board if—
 - (i) it lists only the names and prices of the ~~tobacco~~ conventional smoking products offered for sale in the premises;
 - (ii) it is of a size not greater than 1 500 square centimetres;
 - (iii) each item on the board containing the name and price of one type of ~~tobacco~~ conventional smoking product is of a size not greater than 50 square centimetres; and
 - (iv) it bears a health warning in the prescribed form and manner; or
 - (c) in the case of a shop in which nothing except cigars and cigar accessories are offered for sale, 3 sets of catalogues, each

listing only the names and prices of the cigars offered for sale in the shop. (*Replaced 21 of 2006 s. 15*)

(*Amended 91 of 1994 s. 14*)

14A. Removal and disposal of ~~tobacco~~ smoking product advertisement

- (1) An inspector may, without payment for it, remove or cause to be removed any ~~tobacco~~ smoking product advertisement or advertising structure in respect of which he reasonably suspects that an offence under this Ordinance has been or is being committed. (*Amended 21 of 2006 s. 16*)
- (2) A magistrate may, on an application of the Secretary or an inspector, order the disposal of any ~~tobacco advertisement or advertising structure removed under subsection (1), whether or not any person is convicted of any offence under this Ordinance, on the grounds that an offence under this Ordinance has been or is being committed in relation to such advertisement or structure. (*Amended 21 of 2006 s. 16*)~~ advertisement or structure removed under subsection (1), whether or not any person is convicted of any offence under this Ordinance, on the grounds that an offence under this Ordinance has been or is being committed in relation to the advertisement or structure.
- (3) The magistrate shall not order such disposal unless he is first satisfied that all persons with an interest in such advertisement or structure have, in so far as is reasonably practicable, had the opportunity of making representations thereon to the magistrate or that no such persons can, after reasonable inquiry, be found.
- (4) The Government may recover the costs of the removal or disposal from the proprietor of the brand of ~~tobacco product which is mentioned in the tobacco advertisement or advertising structure removed under subsection (1) or from the owner of such advertisement or structure.~~ smoking product which is mentioned in the removed advertisement or structure or from the owner of the advertisement or structure.

(*Added 93 of 1997 s. 16*)

15. Offences under Part 4

- (1) Any person who contravenes section 11(1), 12(1), 13, 13A or 13B commits an offence and is liable on summary conviction to a fine at level 5 and, in the case of a continuing offence, to a further penalty of \$1,500 for each day during which the offence continues. (*Amended 9 of 1992 s. 13; 93 of 1997 s. 17; 21 of 2006 s. 17*)
- (2) In any proceedings for a contravention of section 11(1) it shall be a defence for the person charged to prove that the advertisement to which the proceedings relate was printed or published in such circumstances that he did not know and had no reason to believe he was taking part in the printing or publication thereof.

(*Amended E.R. 1 of 2012*)

Part 4A

Prohibition on Selling or Giving of ~~Tobacco~~ Conventional Smoking Products

(Amended 93 of 1997 s. 18)

(Part 4A added 91 of 1994 s. 15)

15A. Prohibition on selling or giving of ~~tobacco~~ conventional smoking products, etc.

- (1) No person shall sell any cigarette, cigarette tobacco, ~~cigar or pipe tobacco~~ cigar, pipe tobacco or heated tobacco product to any person under the age of 18 years.
- (2) No person shall, for the purposes of promotion or advertisement, give any cigarette, cigarette tobacco, ~~cigar or pipe tobacco~~ cigar, pipe tobacco or heated tobacco product to any person. *(Amended 93 of 1997 s. 19)*
- (3) No person shall—
 - (a) sell, offer for sale or give a ~~tobacco~~ conventional smoking product to any person in exchange for a token;
 - (b) give to any person a ~~tobacco~~ conventional smoking product as a prize in any event or competition;
 - ~~(c) give valuable consideration to any individual in order to induce him to buy a particular tobacco product or otherwise to promote to him that tobacco product;~~
 - (c) give valuable consideration to any person in order to induce the person to buy a particular conventional smoking product or otherwise to promote the product to the person;
 - (d) sell, offer for sale or possess for the purposes of sale a ~~tobacco~~ conventional smoking product which includes or is accompanied by a gift;
 - (e) sell, offer for sale or possess for the purposes of sale a ~~tobacco~~ conventional smoking product which includes or is accompanied by a token, stamp or raffle ticket, which may be exchanged for a gift, prize or discount on any product;
 - (f) sell, offer for sale or possess for the purposes of sale a ~~non-tobacco product which includes or is accompanied by a tobacco product as a gift;~~ *(Amended 21 of 2006 s. 18)* product—
 - (i) that is not a smoking product; and
 - (ii) that includes or is accompanied by a conventional smoking product as a gift;
 - (fa) sell, offer for sale or possess for the purposes of sale a ~~tobacco product and a non-tobacco~~ conventional smoking product and a product that is not a smoking product as a single item; or *(Added 21 of 2006 s. 18)*
 - (g) give to any person any object which contains the name or trade name of any person associated with the marketing of

cigarettes, cigarette tobacco, ~~eigars or pipe tobacco~~ **cigars, pipe tobacco or heated tobacco products** or contains any trade mark or brand name of a ~~tobacco~~ **conventional smoking product** or any pictorial device or part thereof commonly associated therewith, and which is intended to be shown in public. (*Added 93 of 1997 s. 19*)

15B. Display of sign when offering ~~tobacco~~ conventional smoking products for sale, etc.

- (1) Any person offering for sale, or promoting the sale, purchase, smoking or use of, cigarettes, cigarette tobacco, ~~eigars or pipe tobacco~~ **cigars, pipe tobacco or heated tobacco products** shall place and keep in place in a prominent position at his premises or at the place of promotion a sign in English and Chinese to indicate that no cigarette, cigarette tobacco, ~~cigar or pipe tobacco~~ **cigar, pipe tobacco or heated tobacco product** may be sold to any person under the age of 18 years or given to any person. (*Amended 93 of 1997 s. 20*)
- (2) A sign required by subsection (1) shall be of the prescribed description and shall be maintained in legible condition and good order by the person offering for sale, or promoting the sale, purchase, smoking or use of, cigarettes, cigarette tobacco, ~~eigars or pipe tobacco~~ **cigars, pipe tobacco or heated tobacco products**.

15C. Offences under Part 4A

- (1) Any person who contravenes section 15A or 15B commits an offence and is liable on summary conviction to a fine at level 4.
- (2) It shall be a defence to a charge under section 15A of selling any cigarette, cigarette tobacco, ~~cigar or pipe tobacco~~ **cigar, pipe tobacco or heated tobacco product** to a person under the age of 18 years to prove that at the time the offence is alleged to have been committed, the person charged inspected an identity card or passport purporting to be the identity card or passport of the person under the age of 18 years and believed on reasonable grounds that such person was not under the age of 18 years. (*Amended 93 of 1997 s. 21*)

(*Amended E.R. 1 of 2012*)

15D. Interpretation

For the purposes of this Part ***promotion or advertisement*** (推廣或宣傳) means a promotion or advertisement intended as an inducement to purchase, smoke or encourage the use of cigarettes, cigarette tobacco, ~~eigars or pipe tobacco~~ **cigars, pipe tobacco or heated tobacco products**, whether or not with reference to a particular brand.

Part 4AB

Prohibition of Alternative Smoking Products

15DA. Prohibition on import, manufacture or sale, etc.

- (1) No person may—
- (a) import an alternative smoking product;
 - (b) manufacture an alternative smoking product;
 - (c) sell, or offer for sale, an alternative smoking product;
 - (d) give an alternative smoking product to another person—
 - (i) for promotion or advertisement;
 - (ii) in exchange for a token; or
 - (iii) as a prize in any event or competition;
 - (e) possess an alternative smoking product for—
 - (i) the manufacture of any other alternative smoking product;
 - (ii) sale; or
 - (iii) giving it to another person for the purpose mentioned in paragraph (d)(i), (ii) or (iii);
 - (f) give valuable consideration to another person in order to promote to the person an alternative smoking product; or
 - (g) give another person an object that is intended to be shown in public, and that contains—
 - (i) the name or trade name of a person associated with the marketing of alternative smoking products; or
 - (ii) a trade mark or brand name of an alternative smoking product, or a pictorial device, or any part of the device, commonly associated with the trade mark or brand name.
- (2) A reference to the sale of an alternative smoking product in subsection (1)—
- (a) includes the sale of any product that includes, or is accompanied by, an alternative smoking product as a gift; and
 - (b) does not include the sale of the product with a view to exporting the product.
- (3) For the purposes of subsection (1), an act is a promotion or advertisement in relation to a product if the act is a promotion or advertisement intended as an inducement to smoke, or encourage the use of, the product, whether or not a particular brand is mentioned.
- (4) Any person who contravenes subsection (1) commits an offence and is liable to a fine at level 5 and to imprisonment for 6 months.

Note—

Import and export are defined in section 3 of the Interpretation and General Clauses Ordinance (Cap. 1).

15DB. Liability of officers of bodies corporate

- (1) If a body corporate commits an offence under section 15DA(4), and it is proved that the offence—
- (a) was committed with the consent or connivance of an officer of the body corporate; or
 - (b) is attributable to any neglect on the part of an officer of the body corporate,
- the officer also commits the offence.
- (2) In subsection (1)—
- officer (高級人員) means—
- (a) a director, manager, secretary or other similar officer of the body corporate; or
 - (b) a person purporting to act in the capacity of a person referred to in paragraph (a).

15DC. Exemption for persons in transit at Hong Kong International Airport

Section 15DA(1)(a) does not apply to a person who—

- (a) arrives at the Hong Kong International Airport from a place outside Hong Kong; and
- (b) while in Hong Kong, does not pass through any immigration control.

15DD. Exemption for articles in transit or air transhipment

- (1) Section 15DA(1)(a) does not apply in relation to an alternative smoking product that is an article in transit or air transhipment cargo.
- (2) However, section 15DA(1)(a) does apply in relation to an alternative smoking product if, at any time between its being brought into and taken out of Hong Kong—
- (a) for an article in transit on an aircraft—the product is removed from the aircraft other than in the specified cargo transhipment area;
 - (b) for an article in transit in a vessel—the product is removed from the vessel; or
 - (c) for an air transhipment cargo—the product is removed from the specified cargo transhipment area.
- (3) If section 15DA(1)(a) applies in relation to a product because of subsection (2), for the purposes of the application—
- (a) the product is deemed to be imported at the time of the removal mentioned in subsection (2); and
 - (b) the person who brought the product, or caused it to be brought, into Hong Kong as an article in transit or air transhipment cargo is deemed to be the person who imported the product.
- (4) It is a defence for a person mentioned in subsection (3)(b) who is

charged under section 15DA(4) in relation to importing a product to show that the person took all reasonable steps and exercised reasonable diligence to avoid the removal mentioned in subsection (2).

(5) Subsection (6) applies if a defence under subsection (4) involves an allegation that the offence was committed because of—

(a) another person's act or default; or

(b) the defendant's reliance on information given by another person.

(6) Without the leave of the court, the defendant may not rely on the defence unless, at least 10 days before the hearing of the proceedings, the defendant has served a written notice on the prosecutor giving particulars of—

(a) the person who allegedly committed the act or default, or allegedly gave the information; and

(b) the act, default or information concerned,

of which the defendant is aware at the time the notice is served.

(7) The defendant may not rely on a defence under subsection (4) claiming that the offence was committed because of the defendant's reliance on information given by another person unless the defendant shows that the reliance was reasonable in all the circumstances, having regard in particular to—

(a) the steps that the defendant took, and those which might reasonably have been taken, for verifying the information; and

(b) whether the defendant had any reason to disbelieve the information.

(8) In this section—

air transhipment cargo (航空轉運貨物) has the meaning given by section 2 of the Import and Export Ordinance (Cap. 60);

article in transit (過境物品) has the meaning given by section 2 of the Import and Export Ordinance (Cap. 60);

specified cargo transhipment area (指明貨物轉運區) means—

(a) any part of the Hong Kong International Airport that is designated under section 35 of the Aviation Security Ordinance (Cap. 494) as a restricted area; or

(b) an area approved by the Commissioner of Customs and Excise under section 2AA of the Import and Export Ordinance (Cap. 60).

15DE. Exception for Government Chemists

Despite section 15DA, a Government Chemist may import an alternative smoking product so far as it is necessary for the performance of the Government Chemist's functions.

15DF. Relationship with Pharmacy and Poisons Ordinance

(1) This Part does not limit the Pharmacy and Poisons Ordinance (Cap. 138).

- (2) If an alternative smoking product is registered as a pharmaceutical product under regulation 36 of the Pharmacy and Poisons Regulations (Cap. 138 sub. leg. A), other provisions of this Part do not apply in relation to the product.

15DG. Enforcement powers of inspectors

- (1) An inspector may seize, remove or detain any article if the inspector reasonably suspects that—
- (a) the article is an alternative smoking product; and
 - (b) an offence under section 15DA(4) has been committed, is being committed or is about to be committed in respect of the article.
- (2) If an inspector reasonably suspects that a person has committed or is committing an offence under section 15DA(4), the inspector may detain the person to facilitate the enforcement of section 15DA.
- (3) A magistrate may issue a warrant empowering an inspector named in the warrant to at any time enter any place that is neither a public place nor a domestic premises if it appears to the magistrate from information on oath that there is reasonable cause for suspecting that an offence under section 15DA(4) has been committed, is being committed or is about to be committed in that place.
- (4) In exercising a power under subsection (1) or (2), or under a warrant mentioned in subsection (3), an inspector must, if requested, produce proof of his or her authority as an inspector.
- (5) This section does not limit section 15G(1)(c), (d), (e), (f), (g) or (h).

15DH. Enforcement powers of Customs and Excise officers

- (1) For the enforcement of section 15DA in relation to an import offence, a Customs and Excise officer—
- (a) may stop and search a person arriving in Hong Kong, and search anything in the person's possession;
 - (b) may stop, board and search any transport carrier arriving in Hong Kong;
 - (c) may, at any point of entry to Hong Kong, examine any article (including cargo, unaccompanied baggage or unaccompanied personal belongings) that is not contained in a postal packet; and
 - (d) may, in the presence of, and under the directions of, an officer of the Post Office, open and examine any postal packet.
- (2) A person searched under subsection (1)(a)—
- (a) may only be searched by a person of the same sex; and
 - (b) may not be searched in a public place if the person objects to being so searched.
- (3) A Customs and Excise officer may seize, remove or detain any

article if the officer reasonably suspects that—

(a) the article is an alternative smoking product; and

(b) an import offence has been committed or is being committed in respect of the article.

(4) Any article seized under subsection (3) may be retained in the custody of a Customs and Excise officer until it is transferred to an inspector for the enforcement of section 15DA.

(5) If a Customs and Excise officer reasonably suspects that a person has committed or is committing an import offence, the officer—

(a) to facilitate the enforcement of section 15DA in relation to the offence, may detain the person; and

(b) may arrest the person without warrant.

(6) A Customs and Excise officer may use any force reasonably necessary for exercising a power under this section.

(7) In this section—

Customs and Excise officer (海關人員) means a person holding an office specified in Schedule 1 to the Customs and Excise Service Ordinance (Cap. 342);

import offence (進口罪行) means an offence under section 15DA(4) for the contravention of section 15DA(1)(a);

officer of the Post Office (郵政署人員) has the meaning given by section 2(1) of the Post Office Ordinance (Cap. 98);

postal packet (郵包) has the meaning given by section 2(1) of the Post Office Ordinance (Cap. 98);

transport carrier (交通工具) includes an aircraft, vehicle, vessel or train, and any other means of travel or transport.

Part 4B

Provisions Relating to Inspectors

(Part 4B added 21 of 2006 s. 19)

15E. Interpretation of Part 4B

In this Part—

relevant offence (有關罪行) means any offence under this Ordinance other than an offence under Part 3;

relevant provision (有關條文) means any provision of this Ordinance other than a provision of Part 3.

(Amended E.R. 1 of 2012)

15F. Appointment of inspectors

The Secretary may appoint in writing any public officer to be an inspector to exercise any of the powers and perform any of the duties conferred or imposed on an inspector by this Ordinance.

15G. General powers and duties of inspectors

- (1) Without limiting any other provisions of this Ordinance, an inspector may, subject to subsections (2) and (3) and on production of his authority as an inspector if requested, do all or any of the following—
 - (a) at any time enter any place in which the inspector reasonably suspects that a relevant offence has been or is being committed;
 - (b) at any reasonable time enter and inspect a no smoking area in a public place for the purpose of ascertaining whether the relevant provisions are complied with;
 - (c) seize any thing that appears to the inspector to be evidence of any relevant offence;
 - (d) require any person to give his name and address and to produce proof of identity if the inspector reasonably suspects that the person has committed a relevant offence;
 - (e) take photographs or make sound or video recording for the purpose of obtaining evidence in connection with any relevant offence;
 - (f) require any person to produce for inspection documents or records under the control of the person for the purpose of enabling the inspector to ascertain whether the relevant provisions are complied with;
 - (g) make copies of all or any part of any such documents or records;
 - (h) require any person to provide the inspector with such assistance or information as is reasonably necessary to enable the inspector to exercise any power or perform any duty conferred or imposed by this Ordinance.

- (2) An inspector shall not enter under subsection (1)(a)—
 - (a) any domestic premises; or
 - (b) any correctional facility without the approval of the Commissioner of Correctional Services.
- (3) An inspector shall not enter under subsection (1)(b) any public place that is a common part of any premises to which the public are not entitled or permitted to have access.
- (4) A person who wilfully obstructs an inspector who is in the exercise of a power or the performance of a duty conferred or imposed by this Ordinance commits an offence and is liable on summary conviction to a fine at level 3.
- (5) A person who fails to give his name and address or to produce proof of identity when required to do so under subsection (1)(d), or who then gives a false or misleading name or address commits an offence and is liable on summary conviction to a fine at level 3.

15H. Disposal of property seized by inspectors

- (1) If an inspector seizes any property while exercising a power or performing a duty conferred or imposed by this Ordinance, section 102 of the Criminal Procedure Ordinance (Cap. 221) shall apply as if the inspector were the police within the meaning of that section and such property were property that had come into possession of the police in connection with a criminal offence.
- (2) For the purposes of subsection (1), an article transferred to an inspector as mentioned in section 15DH(4) is regarded as an article seized by the inspector.

15I. Inspectors not personally liable for certain acts and omissions

- (1) An inspector is not personally liable for any act done or omitted to be done by the inspector while exercising a power or performing a duty conferred or imposed by this Ordinance if the inspector did the act or omitted to do the act in the honest belief that the act or omission was required or authorized by or under this Ordinance.
- (2) Subsection (1) does not affect any liability that the Government may have because an inspector has done an act or omitted to do an act to which that subsection applies.

Part 5

Supplementary

16. Evidence of tar and nicotine yields

- (1) The Government Chemist may from time to time analyse any cigarette for the purpose of determining its tar and nicotine yields for the purposes of this Ordinance and may publish the result of any such analysis.
- (2) The determination of the Government Chemist under subsection (1) as published by him shall be evidence of the tar and nicotine yields of the brand of cigarettes from which the cigarette analysed was taken subject to such conditions or limitations as may be prescribed; and any publication purporting to be a determination so published shall be deemed to be such a determination unless and until the contrary is proved.
- (3) The power of a member of the Customs and Excise Service to take samples of any goods to which the Dutiable Commodities Ordinance (Cap. 109) applies conferred by section 11(1)(d) of that Ordinance shall extend to the taking of samples of cigarettes for analysis by the Government Chemist for the purposes of this section.

(Amended 93 of 1997 s. 22)

16A. Amendment of Schedules

The Secretary may by order published in the Gazette amend the Schedules.

(Added 9 of 1992 s. 14. Amended 80 of 1997 s. 22; L.N. 106 of 2002; L.N. 130 of 2007)

17. *(Had its effect)*

18. Regulations and Orders

- (1) The Chief Executive in Council may make regulations for all or any of the following matters— *(Amended 60 of 2000 s. 3)*
 - (a) prescribing anything required or permitted to be prescribed under this Ordinance;
 - (b) prescribing the manner in which the tar and nicotine yields of a cigarette are to be determined; *(Replaced 93 of 1997 s. 23)*
 - (c) requiring notification of anything done by any person which may be relevant to the tar and nicotine yields of cigarettes and imposing penalties not exceeding a fine at level 3 for a failure to comply with such requirement; *(Amended 9 of 1992 s. 15)*
 - (d) excepting any tobacco advertisement from the provisions of Part 4 either absolutely or subject to such exceptions as may be prescribed; and

- (e) for the better carrying into effect of this Ordinance.
- (2) Subject to the regulations, the Secretary may by order in the Gazette prescribe all or any of the following matters—
 - (a) the form (including specifications) of—
 - (i) *(Repealed 21 of 2006 s. 20(b))*
 - (ii) any health warning; and
 - (iii) any indication of tar and nicotine yields;
 - (b) the manner in which any of the matters referred to in paragraph (a) is to be displayed. *(Replaced 21 of 2006 s. 20(a))*

(Amended 93 of 1997 s. 23; E.R. 1 of 2012)

~~19. Transitional provisions relating to Smoking (Public Health)
(Amendment) Ordinance 2006~~

~~Schedule 6 provides for the transitional arrangements relating to the
Smoking (Public Health) (Amendment) Ordinance 2006 (21 of 2006).~~

~~*(Added 21 of 2006 s. 41)*~~

Schedule 1

[s. 2]

Public Transport Carriers Where Smoking is Prohibited

Item	Type of Carrier
1.	A public bus operated under a franchise granted under the Public Bus Services Ordinance (Cap. 230).
2.	<p>A public bus operated under a passenger service licence for the purposes of—</p> <ul style="list-style-type: none">(a) a tour service;(b) an international passenger service;(c) a hotel service;(d) a student service;(e) an employees' service;(f) a residents' service;(g) a multiple transport service; or(h) any other service approved by the Commissioner for Transport, <p>under the Road Traffic Ordinance (Cap. 374) other than when hired to any person under regulation 38 of the Road Traffic (Public Service Vehicles) Regulations (Cap. 374 sub. leg. D).</p>
3.	A public light bus within the meaning of the Road Traffic Ordinance (Cap. 374) other than when hired to any person under regulation 38 of the Road Traffic (Public Service Vehicles) Regulations (Cap. 374 sub. leg. D).
4.	A registered taxi within the meaning of the Road Traffic Ordinance (Cap. 374) other than when hired to any person under regulation 38 of the Road Traffic (Public Service Vehicles) Regulations (Cap. 374 sub. leg. D).
5.	A train operated on the Mass Transit Railway under the Mass Transit Railway Ordinance (Cap. 556). (<i>Amended 13 of 2000 s. 65</i>)
6.	A train operated on the Kowloon-Canton Railway under the Kowloon-Canton Railway Corporation Ordinance (Cap. 372) at any time outside the Concession Period within the meaning of section 2(1) of the Mass Transit Railway Ordinance (Cap. 556). (<i>Amended 11 of 2007 s. 36</i>)
6A.	A train operated on the KCRC Railway within the meaning of section 2(1) of the Mass Transit Railway Ordinance (Cap. 556) during the

Concession Period referred to in item 6. (*Added 11 of 2007 s. 36*)

7. A light rail vehicle operated on the North-west Railway under the Kowloon-Canton Railway Corporation Ordinance (Cap. 372) at any time outside the Concession Period referred to in item 6. (*Amended 11 of 2007 s. 36*)
- 7A. A light rail vehicle operated on the North-west Railway within the meaning of section 2(1) of the Mass Transit Railway Ordinance (Cap. 556) during the Concession Period referred to in item 6. (*Added 11 of 2007 s. 36*)
8. A car used upon the tramway under the Tramway Ordinance (Cap. 107) other than on a hire tramway service.
9. A tramcar used upon the tramway under the Peak Tramway Ordinance (Cap. 265).
10. Those parts of a ferry vessel operated under a franchise or a licence granted under the Ferry Services Ordinance (Cap. 104) opened, kept or used for or in connection with the carriage of passengers or to which the passengers have or are permitted to have access.

(Added 9 of 1992 s. 16)

Schedule 2

[s. 3(1) & (1AA)]

Designated No Smoking Areas and Exempt Areas

Part 1

Designated No Smoking Areas

Item	Type of Area
1.	Any cinema, theatre or concert hall.
2.	Any public lift.
3.	Any escalator.
4.	Any amusement game centre.
5.	Any child care centre.
6.	Any school.
7.	Any specified educational establishment.
8.	Any approved institution.
9.	Any place of detention.
10.	Any place of refuge.
11.	Any reformatory school.
12.	Any hospital.
13.	Any maternity home.
14.	Any public pleasure ground other than a bathing beach.
15.	The following areas within any bathing beach— <ul style="list-style-type: none">(a) any part of the waters set aside for the sole use of swimmers under section 10 of the Bathing Beaches Regulation (Cap. 132 sub. leg. E) (which includes any beach raft and any other thing on the surface of or above those waters);(b) the shore covered with sand or stones, together with any structure, showering facilities or natural feature on such shore; and(c) any area specified under section 107(3) of the Public Health and

Municipal Services Ordinance (Cap. 132) to be used as a barbecue area, camp site or children's play area.

16. The following areas within any public swimming pool—
 - (a) any swimming pool;
 - (b) any sidewalk immediately adjacent to the swimming pool;
 - (c) any diving board or other apparatus or facility adjoining the swimming pool; and
 - (d) any spectator stand.
17. The following areas within any stadium—
 - (a) any pitch;
 - (b) any running track;
 - (c) any sidewalk immediately adjacent to the pitch or running track; and
 - (d) any spectator stand.
18. The Hong Kong Wetland Park designated under section 24(1) of the Country Parks Ordinance (Cap. 208).
19. An indoor area in—
 - (a) any shop, department store or shopping mall;
 - (b) any market (whether publicly or privately operated or managed);
 - (c) any supermarket;
 - (d) any bank;
 - (e) any restaurant premises;
 - (f) any bar;
 - (g) any karaoke establishment;
 - (h) any mahjong-tin kau premises;
 - (i) any bathhouse;
 - (j) any massage establishment;
 - (k) any residential care home;
 - (l) any treatment centre; or
 - (m) any communal quarters (as defined in Part 3).

20. An indoor area in a workplace or public place to the extent that it is not an area described in any other item in this Part.
21. The following bus interchanges and adjoining facilities—
- (a) Lion Rock Tunnel Bus Interchange, located on both sides of the toll plaza of the Lion Rock Tunnel, as shown coloured orange and edged red on Plan No. DH/TCO/T-004V1, signed by the Secretary on 4 December 2015 and deposited in the Land Registry;
 - (b) Cross-Harbour Tunnel Bus Interchange, located on both sides of the toll plaza of the Cross-Harbour Tunnel, together with the adjoining staircases and part of the adjoining elevated walkways, as shown—
 - (i) coloured orange and edged red;
 - (ii) coloured yellow and edged red;
 - (iii) coloured orange stippled black and edged red; and
 - (iv) coloured orange hatched black and edged red,on Plan No. DH/TCO/T-001V1, signed by the Secretary on 4 December 2015 and deposited in the Land Registry;
 - (c) Eastern Harbour Crossing Bus Interchange, located on both sides of the toll plaza of the Eastern Harbour Crossing, as shown coloured orange and edged red on Plan No. DH/TCO/T-002V1, signed by the Secretary on 4 December 2015 and deposited in the Land Registry;
 - (d) Shing Mun Tunnels Bus Interchange, located on both sides of the toll plaza of the Shing Mun Tunnels, as shown coloured orange and edged red on Plan No. DH/TCO/T-006V1, signed by the Secretary on 4 December 2015 and deposited in the Land Registry;
 - (e) Tate's Cairn Tunnel Bus Interchange, located on both sides of the toll plaza of the Tate's Cairn Tunnel, as shown coloured orange and edged red on Plan No. DH/TCO/T-005V1, signed by the Secretary on 4 December 2015 and deposited in the Land Registry;
 - (f) Western Harbour Crossing Bus Interchange, located on both sides of the toll plaza of the Western Harbour Crossing, as shown coloured orange and edged red on Plan No. DH/TCO/T-003V1, signed by the Secretary on 4 December 2015 and deposited in the Land Registry;
 - (g) Tai Lam Tunnel Bus Interchange, located on both sides of the toll plaza of the Tai Lam Tunnel, as shown coloured orange and edged

red on Plan No. DH/TCO/T-007V1, signed by the Secretary on 4 December 2015 and deposited in the Land Registry; (*Amended L.N. 81 of 2018*)

- (h) Tsing Sha Highway Bus Interchange, located on both sides of the toll plaza on Tsing Sha Highway, as shown coloured orange and edged red on Plan No. DH/TCO/T-008V1, signed by the Secretary on 4 December 2015 and deposited in the Land Registry; (*Added L.N. 237 of 2015. Amended L.N. 81 of 2018*)
- (i) Tuen Mun Road Bus Interchange (Kowloon Bound), located at Tuen Mun Road, as shown coloured orange and edged red on Plan No. DH/TCO/E-003V1, signed by the Secretary on 7 May 2018 and deposited in the Land Registry; (*Added L.N. 81 of 2018*)
- (j) Tuen Mun Road Bus Interchange (Tuen Mun Bound), located at Tuen Mun Road, together with the adjoining staircases and part of the adjoining elevated walkways, as shown—
 - (i) coloured orange and edged red;
 - (ii) coloured yellow and edged red;
 - (iii) coloured orange stippled black and edged red; and
 - (iv) coloured orange hatched black and edged red,
 on Plan No. DH/TCO/E-004V1, signed by the Secretary on 7 May 2018 and deposited in the Land Registry; (*Added L.N. 81 of 2018*)
- (k) Lantau Toll Plaza Bus Interchange, located on both sides of the toll plaza on North Lantau Highway, as shown coloured orange and edged red on Plan No. DH/TCO/E-002V1, signed by the Secretary on 7 May 2018 and deposited in the Land Registry; and (*Added L.N. 81 of 2018*)
- (l) Aberdeen Tunnel Bus Interchange, on both sides of the unnamed road near the junction of Nam Fung Road with Wong Chuk Hang Road, as shown coloured orange and edged red on Plan No. DH/TCO/E-001V1, signed by the Secretary on 7 May 2018 and deposited in the Land Registry. (*Added L.N. 81 of 2018*)

Part 2

Exempt Areas

Item	Type of Area
1.	An area described in item 20 of Part 1 that is situated in domestic premises.

2. Type 1 private quarters (as defined in Part 3).
3. Type 2 private quarters (as defined in Part 3) that are not situated within any of the following—
 - (a) a child care centre;
 - (b) a school;
 - (c) a specified educational establishment;
 - (d) an approved institution;
 - (e) a place of detention;
 - (f) a place of refuge;
 - (g) a reformatory school;
 - (h) a hospital;
 - (i) a maternity home.
4. A bedspace apartment in respect of which a licence or certificate of exemption issued under the Bedspace Apartments Ordinance (Cap. 447) is in force.
5. A room or suite of rooms in a hotel or guesthouse if—
 - (a) a licence or certificate of exemption issued under the Hotel and Guesthouse Accommodation Ordinance (Cap. 349) is in force in respect of the hotel or guesthouse; and
 - (b) the room or suite of rooms is being hired for use as sleeping accommodation.
6. An area designated by the Airport Authority as a smoking area as referred to in section 16 of the Airport Authority Bylaw (Cap. 483 sub. leg. A).
7. An area in a correctional facility that is set aside for smoking by prisoners who are allowed to do so in accordance with orders under rule 25 of the Prison Rules (Cap. 234 sub. leg. A).
8. An area that is—
 - (a) situated within a public pleasure ground other than a bathing beach; and
 - (b) specified under section 107(3) of the Public Health and Municipal Services Ordinance (Cap. 132) to be used as a smoking area.

9. A room designated for cigar tasting in a shop if all the following requirements are complied with—
- (a) the shop is engaged in the retail sale of cigars;
 - (b) nothing except cigars and cigar accessories are offered for sale in the shop;
 - (c) the room is not used for smoking except for the purpose of tasting the cigars, or samples of the cigars, that are sold or offered for sale in the shop;
 - (d) the room is independently ventilated and completely partitioned off from the remainder of the shop; and
 - (e) no natural person is required to enter the room while it is being occupied for cigar tasting (whether or not he could have been required to do so by contract or otherwise).
10. A room designated for ~~tobacco tasting in the manufacturing or business premises of a business engaged in the tobacco trade~~ tasting or testing of smoking products in the manufacturing or business premises of a business engaged in the smoking products trade if all the following requirements are complied with—
- (a) the business is not engaged in the retail sale of ~~tobacco~~ smoking products;
 - ~~(b) the tobacco tasting is carried out for the purpose of conducting research and development or quality control of tobacco products in the normal course of the business;~~
 - (b) the tasting or testing is carried out for conducting research and development or quality control of smoking products in the normal course of the business;
 - (c) the room is only used for carrying out the ~~tobacco tasting~~ tasting and testing;
 - (d) the room is independently ventilated and completely partitioned off from the remainder of the premises; and
 - (e) no natural person, other than one who carries out the ~~tobacco tasting, is required to enter the room while it is being occupied for the tobacco tasting~~ tasting or testing, is required to enter the room while it is being occupied for the tasting or testing (whether or not he could have been required to do so by contract or otherwise).

11. An area set aside by the Director of Immigration under rule 11A of Schedule 1 to the Immigration (Treatment of Detainees) Order (Cap. 115 sub. leg. E) in a place specified in Schedule 2 to that Order for smoking by persons detained there. (*Added L.N. 16 of 2010*)

12. A Government laboratory.

Part 3

Interpretation

In this Schedule—

communal quarters (共用宿舍) means any premises that are the living accommodation provided by an employer to 2 or more employees, or to those employees and their families, whether or not any monetary consideration is received by the employer for providing the accommodation, but does not include—

- (a) any room occupied exclusively by one employee, or by that employee and his family, within any such accommodation; and
- (b) any such accommodation that is, or forms part of, the private dwelling of the employer or any other person;

Type 1 private quarters (第一類私人宿舍) means any premises that comply with the following requirements—

- (a) the premises are the living accommodation provided by an employer to one employee, or to that employee and his family, whether or not any monetary consideration is received by the employer for providing the accommodation;
- (b) the accommodation is occupied exclusively by that employee, or by him and his family; and
- (c) the block of building in which the accommodation is situated consists only of such accommodation and the common parts (if any) shared by such accommodation;

Type 2 private quarters (第二類私人宿舍) means any premises that comply with the following requirements—

- (a) the premises are the living accommodation provided by an employer to one employee, or to that employee and his family, whether or not any monetary consideration is received by the employer for providing the accommodation;
- (b) the accommodation is occupied exclusively by that employee, or by him and his family;
- (c) the accommodation is permanently and completely partitioned off from the remainder of any area described in Part 1 within which the accommodation is situated; and
- (d) none of any window, door or other closeable opening of the accommodation opens to an indoor part of that area (except a common part).

(*Schedule 2 replaced 21 of 2006 s. 21*)

Schedule 3
(Repealed 21 of 2006 s. 22)

Schedule 4
(Repealed 21 of 2006 s. 23)

Schedule 5

[s. 3(2A)]

Exemption from Section 3(2) of this Ordinance

Exemption for live performance or recording
for film or television programme

1. Interpretation of Schedule 5

(1) In this Schedule—

conventional smoking act (傳統吸煙行為) means smoking or carrying a lighted cigarette, cigar or pipe or an activated heated tobacco product;

film (電影) means a film within the meaning of section 2(1) of the Film Censorship Ordinance (Cap. 392);

live performance (現場表演) means a performance given or done before a live audience, whether on payment or otherwise, and includes the final rehearsal of the performance;

performance (表演) means any play, show, entertainment or any other kind of performance;

~~*smoking act* (吸煙動作) means smoking or carrying a lighted cigarette, cigar or pipe;~~

television programme (電視節目) means a television programme within the meaning of section 2(1) of the Broadcasting Ordinance (Cap. 562);

(2) For the purposes of this Schedule, a venue is a designated performance venue if it is—

(a) situated in—

(i) a school other than one that provides any nursery, kindergarten or primary education within the meaning of section 3(1) of the Education Ordinance (Cap. 279); or

(ii) a specified educational establishment; and

(b) designated by the manager of that school or establishment as a venue for any live performance.

2. Exemption for live performance

For the purposes of section 3(2A) of this Ordinance, a person who does ~~a smoking act~~ a conventional smoking act in a no smoking area is exempt from section 3(2) of this Ordinance if he proves that—

(a) he is performing in a live performance, and his conventional smoking act forms part of the performance;

(b) the no smoking area in which the live performance takes place is not a school or specified educational establishment except a designated performance venue;

(c) the manager of the no smoking area has given his prior permission for the live performance with the conventional smoking act to take place in the no smoking area, and in the case of a designated performance venue in a secondary school within the meaning of section 3(1) of the Education Ordinance

- (Cap. 279), that prior permission has been given in writing;
- (d) the live performance takes place only within the time and at the location permitted by the manager; and
- (e) the conventional smoking act complies with all the requirements specified in relation to such an act under section 4.

3. Exemption for recording for film or television programme

For the purposes of section 3(2A) of this Ordinance, a person who does ~~a smoking act~~ a conventional smoking act in a no smoking area is exempt from section 3(2) of this Ordinance if he proves that—

- (a) he is performing in a performance, and his conventional smoking act forms part of the performance;
- (b) the performance is being recorded for the production of a film or television programme (whether live or otherwise);
- (c) the film or television programme is not, and does not form part of, a ~~tobacco~~ conventional smoking product advertisement;
- (d) the manager of the no smoking area in which the performance takes place has given his prior permission for the performance with the conventional smoking act to take place in the no smoking area, and in the case of a school that provides any nursery, kindergarten, primary or secondary education within the meaning of section 3(1) of the Education Ordinance (Cap. 279), that prior permission has been given in writing;
- (e) the performance takes place only within the time and at the location permitted by the manager; and
- (f) the conventional smoking act complies with all the requirements specified in relation to such an act under section 4.

4. Specified requirements for conventional smoking act

For the purposes of sections 2(e) and 3(f), the following are the requirements specified in relation to a conventional smoking act —

- (a) the act does not expressly or impliedly induce, suggest or request any person to purchase or smoke any ~~tobacco~~ conventional smoking product;
- (b) the act does not illustrate smoking in a manner that is calculated, expressly or impliedly, to promote or encourage the use of any ~~tobacco~~ conventional smoking product;
- (c) the act does not illustrate the package of any ~~tobacco~~ conventional smoking product; and
- (d) the act does not illustrate any quality of any ~~tobacco~~ conventional smoking product except for the purpose of publicizing the harm of smoking.

(Schedule 5 added 21 of 2006 s. 24)

Schedule 6

[s. 19]

Transitional Provisions Relating to Smoking (Public Health) (Amendment) Ordinance 2006

Part 1

Requirements Relating to Tobacco Product Packaging

1. Interpretation of Part 1

In this Part, *appointed day** (指定日期) means the day on which the Smoking (Public Health) (Amendment) Ordinance 2006 (21 of 2006) is published in the Gazette.

2. Sale of tobacco products with pre-amendment health warnings, etc.

(1) During the 12 months after the appointed day, compliance with the relevant provisions of this Ordinance as in force immediately before the appointed day shall, for the purposes of sections 8 and 9 of this Ordinance, be deemed to be compliance with the relevant provisions of this Ordinance.

(2) In this section, *relevant provisions* (有關規定) means the provisions relating to health warnings and indication of tar and nicotine yields.

3. Offence relating to tobacco product packaging

No prosecution shall be brought under section 10(3) of this Ordinance in respect of an act done during the 12 months after the appointed day if that act would not have constituted an offence under that section as in force immediately before the appointed day.

Part 2

(Omitted as expired—E.R. 1 of 2012)

(Schedule 6 added 21 of 2006 s. 42)

Schedule 7

[s. 2(1)]

Alternative Smoking Products

Part 1

Interpretation Provisions

1. In this Schedule—
conventional smoking (傳統吸煙) means the smoking of a cigarette, ~~cigar or pipe~~ **cigar, pipe or heated tobacco product**;
dangerous drug (危險藥物) has the meaning given by section 2(1) of the Dangerous Drugs Ordinance (Cap. 134);
specified plant material (指明植物材料) means any material—
 - (a) that was any part of a plant, such as leaves, roots, flowers, fruit and seeds; and
 - (b) that is not tobacco or a dangerous drug;*waterpipe* (水煙壺) means a receptacle or other device designed for use for smoking tobacco in a form other than as a ~~cigarette or cigar~~ **cigarette, cigar or heated tobacco product** where the receptacle or device—
 - (a) allows smoke to be generated other than by means of electricity; and
 - (b) consists of or includes a jar or similar receptacle for containing a liquid through which the smoke of tobacco would pass before being inhaled by the user of the receptacle or device.
2. For the purposes of this Schedule, it is irrelevant whether the aerosol generated is visible.
3. For the purposes of this Schedule, a thing is capable of use for imitating conventional smoking if it is capable of use for smoking in the same way as conventional smoking in respect of—
 - (a) the bringing of the thing to the mouth; and
 - (b) the inhaling and expelling of aerosol.
4. For the purposes of this Schedule, it is irrelevant whether the component or accessory is sold separately from the device.

Part 2

Products for Definition of Alternative Smoking Product

Category 1

- 1.1 A device (other than a waterpipe) that is capable of—

- (a) generating an aerosol from any substance that is not tobacco or a dangerous drug, other than by means of lighting the substance directly; and
 - (b) use for imitating conventional smoking.
- 1.2 A thing that is designed for use as a component of, or accessory to, a device described in item 1.1 (such as a mouthpiece, heating element, battery or container of a substance mentioned in that item).
- 1.3 Any substance (other than tobacco or a dangerous drug)—
 - (a) that is packaged as being suitable for use with a device described in item 1.1; and
 - (b) from which an aerosol is capable of being generated in the way described in that item.

Category 2

- ~~2.1 A device (other than a waterpipe) that is capable of—
 - ~~(a) generating an aerosol from tobacco, other than by means of lighting the tobacco directly; and~~
 - ~~(b) use for smoking.~~~~
- ~~2.2 A thing that is designed for use as a component of, or accessory to, a device described in item 2.1 (such as a mouthpiece, heating element, battery or container of the tobacco mentioned in that item).~~
- ~~2.3 Tobacco—
 - ~~(a) that is packaged as being suitable for use with a device described in item 2.1; and~~
 - ~~(b) from which an aerosol is capable of being generated in the way described in that item.~~~~

Category 3 Category 2

- 32. Specified plant material rolled up in any material, in a form that is capable of immediate use for imitating conventional smoking.

Schedule 8

[s.14(4A)(c)]

Words or Phrases for Section 14(4A)(c)

cigarette

smoking

tobacco

cigar

pipe

waterpipe

hookah

shisha

vaping

vaporizer

e-cigarette

e-cig

electronic nicotine delivery system

ENDS

electronic non-nicotine delivery

system

ENNDS

e-liquid

e-juice

heat-not-burn

HNB

heatstick

heated tobacco product

HTP

香煙

捲煙

吸煙

煙草

煙絲

雪茄

煙斗

水煙

電子煙

電子尼古丁傳送系統

電子非尼古丁傳送系統

煙油

[煙 液](#)

[加熱煙](#)

[加熱煙草產品](#)

[加熱非燃燒](#)

[草本煙](#)

[草藥煙](#)

[藥草煙](#)

[茶煙](#)

[水果煙](#)

[果味煙](#)

[有味煙](#)

**Smoking (Public Health) (Prescribed Information)
Order***(L.N. 66 of 2017)*

(Cap. 371, section 18(2))

[13 August 1982]

*(Format changes—E.R. 1 of 2019)***1. Citation**

This Order may be cited as the Smoking (Public Health) (Prescribed Information) Order.

*(L.N. 66 of 2017)***2. *(Repealed 21 of 2006 s. 34)*****2A. Interpretation**

(1) In this Order— *(L.N. 126 of 2017)*

specified seal (指明封條), in relation to a packet of cigarettes, means an affixture to the packet that is affixed to—

- (a) the top part of the 2 surfaces that bear the health warning; and
- (b) the surface that adjoins the top of those 2 surfaces; *(L.N. 126 of 2017)*

surface (表面), in relation to a packet of cigarettes **or heated tobacco products**, or a retail container of cigarette **or heated tobacco product** packets, cigars, pipe tobacco or cigarette tobacco—

- (a) means an outer surface of the packet or container; and
 - (b) includes any part of the lid of the packet or container that forms part of the surface.
- (2) For the purposes of paragraph 3, a packet is a specified packet with seal if—
- (a) the packet does not have a lid any part of which forms, when the lid is closed, part of a surface that bears the health warning;
 - (b) the packet bears one specified seal that partially obscures any health warning appearing on any surface of the packet; and
 - (c) the area of the warning so obscured does not exceed 23 mm in width and 14 mm in length. *(L.N. 126 of 2017)*

3. Health warning and indication of tar and nicotine yields on packet or retail container of cigarettes

- (1) For the purposes of section 8 of the Ordinance, this paragraph applies to any packet of cigarettes containing 20 or more cigarettes and any retail container of cigarette packets containing any number of cigarettes.
- (2) Each packet and each container must bear a health warning and an indication of tar and nicotine yields. *(L.N. 66 of 2017)*
- (3) Subject to subparagraph (9), the health warning and indication of tar and nicotine yields must be printed on the packets and containers. *(L.N. 66 of 2017)*
- (4) The health warning must comply with the following requirements—
 - (a) it must conform to—
 - (i) for a container and a packet other than a specified packet with seal—either version A or version B of one of the forms prescribed in Part 2 of the Schedule; and
 - (ii) for a specified packet with seal—version C of one of the forms prescribed in Part 2 of the Schedule; *(L.N. 126 of 2017)*
 - (b) it must appear on the 2 largest surfaces of each packet and of each container;
 - (c) if a packet or container has more than 2 largest surfaces, the warning must appear on any 2 of those surfaces;
 - (d) subject to sub-subparagraph (a), the 2 surfaces must respectively bear the Chinese version and English version of version A, version B or version C of the same warning; *(L.N. 126 of 2017)*
 - (e) each Chinese or English version of the warning must cover at least 85% of the area of the surface on which it appears. *(L.N. 66 of 2017; L.N. 126 of 2017)*
- (5) Despite subparagraph (4), if a packet or container is in the shape of a cylindrical drum—
 - (a) the health warning must be in one of the forms prescribed in Part 2A of the Schedule;
 - (b) the Chinese version of the warning—
 - (i) must appear on the curved surface of the drum; and
 - (ii) must cover at least 85% of the area of that surface; and
 - (c) the English version of the same warning—
 - (i) must appear on the top surface of the lid of the drum; and
 - (ii) must cover at least 50% of the area of that surface.

(L.N. 66 of 2017)

- (6) For subparagraphs (4)(a) and (5)(a), each form of the health warning prescribed in Part 2 or 2A of the Schedule must appear on the packets and retail containers of each brand of cigarette with equal frequency during any continuous period of 24 months. *(L.N. 66 of 2017)*
- (7) The indication of tar and nicotine yields—
 - (a) must be in either of the forms prescribed in Part 2C of the Schedule; and
 - (b) must appear on a surface of each packet and of each retail container other than a surface bearing the health warning. *(L.N. 66 of 2017)*
- (8) The health warning and indication of tar and nicotine yields appearing on a packet or retail container must not be obscured by—
 - (a) any part of the lid of the packet or container when it is closed;
 - (b) an affixture to the packet or container;
 - (c) the wrapping of the packet or container;
 - (d) an affixture to that wrapping; or
 - (e) anything contained in that wrapping. *(L.N. 66 of 2017)*
- (8A) Subparagraph (8) is not contravened in relation to a specified packet with seal by reason only of the affixture of a specified seal to the packet. *(L.N. 126 of 2017)*
- (9) The health warning and indication of tar and nicotine yields may appear on a label securely affixed to a packet or retail container if—
 - (a) the packet or container is made of metal or is a plastic drum; or
 - (b) the Commissioner of Customs and Excise approves the affixing of the label to the packet or container on being satisfied that—
 - (i) it is not reasonable to expect to have had a health warning and an indication of tar and nicotine yields printed on the packet or container at the time of its manufacture; and
 - (ii) the approval is required for a limited period of time or in relation to a particular consignment of cigarettes only. *(L.N. 66 of 2017)*

(21 of 2006 s. 35)

4. *(Repealed L.N. 188 of 1999)*

4A. Health warning on ~~retail container of cigar, pipe tobacco or cigarette tobacco~~ packet or retail container of cigar, pipe tobacco, cigarette tobacco or heated tobacco product (other than retail container containing one cigar)

- (1) For the purposes of section 9 ~~or 9A~~ of the Ordinance, this paragraph applies to any ~~retail container of any cigar, pipe tobacco or cigarette tobacco~~ packet or retail container of any cigar, pipe tobacco, cigarette tobacco or heated tobacco product (other than a retail container containing one cigar).
- (2) Each ~~packet or~~ container must bear a health warning. (*L.N. 66 of 2017*)
- (3) Subject to subparagraph (10), the health warning must be printed on the ~~packets or~~ containers. (*L.N. 66 of 2017*)
- (4) The health warning must comply with the following requirements—
 - (a) it must conform to either version A or version B of one of the forms prescribed in Part 2 of the Schedule; (*L.N. 126 of 2017*)
 - (b) it must appear on the 2 largest surfaces of each ~~packet and of each~~ container;
 - (c) if a ~~packet or~~ container has more than 2 largest surfaces, the warning must appear on any 2 of those surfaces;
 - (d) if appearing on a retail container of cigars, the warning must also comply with subparagraph (5);
 - (e) if appearing on a ~~retail container of pipe tobacco or cigarette tobacco~~ packet or retail container of pipe tobacco, cigarette tobacco or heated tobacco products, the warning must also comply with subparagraph (6). (*L.N. 66 of 2017*)
- (5) For a retail container of cigars—
 - (a) the Chinese version of the warning—
 - (i) must appear on the largest surface on the front of the container; and
 - (ii) must cover at least 70% of the area of that surface; and
 - (b) the English version of the same warning—
 - (i) must appear on the largest surface on the back of the container; and
 - (ii) must cover 100% of the area of that surface. (*L.N. 66 of 2017*)
- (6) For a ~~retail container of pipe tobacco or cigarette tobacco~~ packet or retail container of pipe tobacco, cigarette tobacco or heated tobacco products—
 - (a) subject to subparagraph (4)(a), the 2 surfaces bearing the warning must respectively bear the Chinese version and English version of version A or version B of the same warning; and (*L.N. 126 of 2017*)
 - (b) each Chinese or English version of the warning must

cover at least 85% of the area of the surface on which it appears. (*L.N. 66 of 2017; L.N. 126 of 2017*)

- (7) Despite subparagraphs (4), (5) and (6), if a **packet or** container is in the shape of a cylindrical drum—
- (a) the health warning must be in one of the forms prescribed in Part 2A of the Schedule;
 - (b) the Chinese version of the warning—
 - (i) must appear on the curved surface of the drum; and
 - (ii) must cover at least 85% of the area of that surface; and
 - (c) the English version of the same warning—
 - (i) must appear on the top surface of the lid of the drum; and
 - (ii) must cover at least 50% of the area of that surface. (*L.N. 66 of 2017*)
- (8) For subparagraphs (4)(a) and (7)(a), each form of the health warning prescribed in Part 2 or 2A of the Schedule must appear on the ~~retail containers of each brand of cigar, pipe tobacco or cigarette tobacco~~ **packets or retain containers of each brand of cigar, pipe tobacco, cigarette tobacco or heated tobacco product** with equal frequency during any continuous period of 24 months. (*L.N. 66 of 2017*)
- (9) The health warning appearing on a **packet or** retail container must not be obscured by—
- (a) any part of the lid of the **packet or** container when it is closed;
 - (b) an affixture to the **packet or** container;
 - (c) the wrapping of the **packet or** container;
 - (d) an affixture to that wrapping; or
 - (e) anything contained in that wrapping. (*L.N. 66 of 2017*)
- (10) The health warning may appear on a label securely affixed to a **packet or** retail container with an approval given by the Commissioner of Customs and Excise on being satisfied that it is not reasonable to expect to have had a health warning printed on the **packet or** container at the time of its manufacture. (*L.N. 66 of 2017*)

(21 of 2006 s. 36)

4AA. Health warning on retail container containing one cigar

- (1) For the purposes of section 9 of the Ordinance, this paragraph applies to any retail container containing one cigar.
- (2) Each container must bear a health warning. (*L.N. 66 of 2017*)
- (3) Subject to subparagraph (7), the health warning must be printed on the containers. (*L.N. 66 of 2017*)
- (4) The health warning must comply with the following

requirements—

- (a) it must conform to one of the forms prescribed in Part 2B of the Schedule; (*L.N. 126 of 2017*)
 - (b) both the Chinese version and English version of the warning must appear on the largest surface of the container. (*L.N. 66 of 2017*)
- (5) For subparagraph (4)(a), each form of the health warning prescribed in Part 2B of the Schedule must appear on the retail containers of each brand of cigar with equal frequency during any continuous period of 24 months. (*L.N. 66 of 2017*)
- (6) The health warning appearing on a retail container must not be obscured by—
- (a) any part of the lid of the container when it is closed;
 - (b) an affixture to the container;
 - (c) the wrapping of the container;
 - (d) an affixture to that wrapping; or
 - (e) anything contained in that wrapping. (*L.N. 66 of 2017*)
- (7) The health warning may appear on a label securely affixed to a retail container with an approval given by the Commissioner of Customs and Excise on being satisfied that it is not reasonable to expect to have had a health warning printed on the container at the time of its manufacture. (*L.N. 66 of 2017*)

(*21 of 2006 s. 36*)

4B. (*Repealed 21 of 2006 s. 37*)

5. (*Repealed 21 of 2006 s. 38*)

5A. Health warning on price board of ~~tobacco~~ conventional smoking products

- (1) For the purposes of section 14(6)(b)(iv) of the Ordinance, this paragraph applies to a price board that lists the names and prices of the ~~tobacco~~ conventional smoking products offered for sale in any premises.
- (2) The price board shall bear a health warning in the form set out in Part 3A of the Schedule.
- (3) The health warning must cover at least 20% of the area of the price board.

(*21 of 2006 s. 39; L.N. 66 of 2017*)

6.-7. (*Repealed L.N. 188 of 1999*)

8. Sign when offering ~~tobacco~~ convention smoking products for sale, etc.
A sign required by section 15B of the Ordinance shall be as set out in Part 6 of the Schedule and shall— (*L.N. 66 of 2017*)

- (a) be rectangular in shape with sides of at least 38 centimetres in length and 20 centimetres in width;
- (b) be in plain and readily legible letters and characters;
- (c) have letters and characters of a colour which contrasts with the colour of the background upon which they are printed; and
- (d) be printed—
 - (i) in English, in Univers Bold; and
 - (ii) in Chinese, in Gothic Bold (中粗黑/粗黑).

(L.N. 558 of 1994)

9. Transitional provision relating to Smoking (Public Health) (Notices) (Amendment) Order 2017 (L.N. 66 of 2017)

(E.R. 1 of 2019)

During the period between 21 December 2017 and 20 June 2018 (both dates inclusive), compliance with paragraph 3, 4A or 4AA as in force immediately before 21 December 2017 is, for the purposes of sections 8 and 9 of the Ordinance, taken to be compliance with paragraph 3, 4A or 4AA, as may be appropriate.

(L.N. 66 of 2017; L.N. 126 of 2017)

Schedule

[paras. 3, 4A, 4AA, 5A & 8]

(L.N. 558 of 1994; L.N. 188 of

1999; 21 of 2006 s. 40)

Part I

(Repealed L.N. 188 of 1999)

Part 2

**Forms of Health Warning on Packet of Cigarettes or Heated Tobacco Products or Retail Container of Tobacco Conventional Smoking Products
(Not in Cylindrical Drum Shape, Not Containing One Cigar)**

Part 2A

**Forms of Health Warning on Packet of Cigarettes ~~or~~
~~Heated Tobacco Products~~ or Retail Container of
~~Tobacco~~ Conventional Smoking Products (in Cylindrical
Drum Shape, Not Containing One Cigar)**

Part 2B

**Forms of Health Warning on Retail Container
Containing One Cigar**

Part 2C

**Forms of Indication of Tar and Nicotine Yields on
Packet of Cigarettes or Retail Container of Cigarette
Packets**

Part III

(Repealed 21 of 2006 s. 40)

Part 3A

**~~Form of Health Warning on Price Board of
Tobacco Products~~**

**Form of Health Warning on Price Board
of Conventional Smoking Products**

Part IV

(Repealed L.N. 188 of 1999)

Part V

(Repealed 21 of 2006 s. 40)

Part 6

~~Sign when Offering Tobacco Products
for Sale, etc.~~

Sign When Offering Conventional Smoking
Products for Sale, etc.

To amend the law relating to the taxation and control of liquors, tobacco, hydrocarbon oil, methyl alcohol and other substances, for providing for the licensing of certain dealings in liquors and for purposes connected therewith.

(Amended 3 of 1970 s. 2; 40 of 1974 s. 2; 34 of 1976 s. 2; 20 of 1985 s. 2; 66 of 1986 s. 2; 35 of 1992 s. 2; 32 of 1993 s. 2)

[16 October 1963] *L.N. 120 of 1963*

PART I

PRELIMINARY

1. Short title

This Ordinance may be cited as the Dutiable Commodities Ordinance.

2. Interpretation...

3. Application

(1) This Ordinance applies to—

(a) subject to section 3AA, alcoholic liquors; *(Replaced 16 of 2008 s. 3)*

~~(b) tobacco (other than any smokeless tobacco product within the meaning of section 2(1) of the Public Health and Municipal Services Ordinance (Cap. 132));~~

(b) tobacco other than—

(i) any smokeless tobacco product as defined by section 2(1) of the Public Health and Municipal Services Ordinance (Cap. 132); or

(ii) any alternative smoking product as defined by section 2(1) of the Smoking (Public Health) Ordinance (Cap. 371);

(c) the following types of hydrocarbon oil—

(i) aircraft spirit;

(ii) light diesel oil;

(iii) motor spirit; and

(iv) kerosene; and

(d) methyl alcohol. *(Replaced 46 of 1996 s. 3)*

(2) The Legislative Council may from time to time by resolution published in the Gazette apply to any substance any of the

provisions of this Ordinance specified in the resolution with such modifications, if any, as may to them seem desirable, having regard to the nature of the substance to which the resolution relates.

- (3) While any resolution relating to any substance is in force under this section the provisions of this Ordinance thereby applied shall have effect as if the substance were goods to which this Ordinance applies, but subject to such modifications, if any, as may be provided by the resolution.
- (4) This Ordinance does not apply to goods which are the property of or imported or purchased for the Central People's Government, the Chinese People's Liberation Army or the Government of the Hong Kong Special Administrative Region. (*Amended 46 of 1996 s. 3; 131 of 1997 s. 2; 2 of 2012 s. 3*)
- (5) Except as may be prescribed by regulations, the provisions of this Ordinance relating to the importation, exportation and movement of goods shall not apply to postal packets as defined in the Post Office Ordinance (Cap. 98).

Editorial Note:

Adaptation amendments retroactively made - see 2 of 2012 s. 3

PART IV

TOBACCO

65. Definition of tobacco

In the application of this Ordinance to tobacco—

“Chinese prepared tobacco” (中國熟煙) (Suk Yin 熟煙) is tobacco prepared in the traditional Chinese manner from tobacco leaf grown in China, and comprises 7 main types, namely—

Sang Chit	(生切)
Ting Sook	(丁熟)
Yee Sook	(二熟)
Chai See	(齊絲)
Kan Yip	(揀葉)
Sheung Sook	(上熟)
and Jing Chit	(正切)

and may include any other traditional Chinese prepared tobacco which, in the opinion of the Commissioner, is of a type and quality approximate to any of the 7 types of Chinese prepared tobacco specified above; (*Amended 3 of 1970 s. 29; L.N. 294 of 1982; L.N. 254 of 1997*)

“cigar” (雪茄) means any roll of tobacco capable of being smoked by itself and which—

- (a) has an outer wrapper of natural tobacco; or
- (b) predominately contains broken or threshed leaf and has a binder of reconstituted tobacco and an outer wrapper of reconstituted tobacco fitted spirally; (*Added 66 of 1986 s. 29*)

“cigarette” (香煙) means any roll of tobacco capable of being smoked by itself not being a cigar; (*Added 66 of 1986 s. 29*)

“heated tobacco product” (加熱煙草產品) has the meaning given by section 2(1) of the Smoking (Public Health) Ordinance (Cap. 371);

“manufacture” (製造) means the conversion of tobacco into manufactured tobacco;

“manufactured tobacco” (製成煙草) includes cigarettes, cigars, snuff, hand-rolling tobacco, smoking tobacco, cigar cuttings, reconstituted ~~tobacco and Chinese prepared tobacco~~ tobacco, Chinese prepared tobacco and heated tobacco products; (*Added 66 of 1986 s. 29*)

“manufacturer” (製造商) includes any person who owns or controls any factory or other place wherein tobacco is manufactured;

“tobacco” (煙草) includes manufactured and unmanufactured tobacco of every description and tobacco stalks, tobacco refuse, tobacco seedlings and tobacco plants;

“unmanufactured tobacco” (未製成煙草) means tobacco which has undergone no process of manufacture except curing, stripping or drying or any of them.

66. (*Repealed 10 of 1988 s. 2*)

67. **Manufacture, etc. of adulterated tobacco**

- (1) A tobacco manufacturer shall not in manufacturing tobacco use any substance other than water or steam, except to such extent as may be permitted by the Commissioner and subject to such conditions as the Commissioner may impose. (*Amended L.N. 294 of 1982*)
- (2) Save where their use by him is permitted by or under this section, a tobacco manufacturer shall not receive or have in his possession any of the following substances, namely—
 - (a) sugar or any other saccharine substance or extract, except such as he proves to be for domestic use;
 - (b) leaves or plants of any description other than tobacco leaves or plants;
 - (c) any substance for use, or capable of being used, as a substitute for or to increase the weight of tobacco.
- (3) Any tobacco manufacturer who contravenes any of the provisions of this section shall be liable to a fine at level 5 and the tobacco or other substance in respect of which the offence was committed shall be liable to forfeiture. (*Amended L.N. 338 of 1995*)

68. **Restriction on tobacco growing**

No person shall plant or cultivate tobacco (on any land of any category)

without the written approval of the Commissioner or other officer deputed by him in that behalf.

(Amended 3 of 1970 s. 30; 29 of 1989 s. 7)

Schedule 1

[ss. 3AA & 4]

(Amended 46 of 1996 s. 32;

16 of 2008 s. 5)

PART II

DUTY ON TOBACCO

1. Duty shall be payable on tobacco at the following rates— *(Amended L.N. 204 of 1999; 57 of 2000 s. 9)*

	\$
(a) for each of 1 000 cigarettes.....	1,906
(aa) <u>for each of 1 000 sticks or capsules of heated tobacco products.....</u>	<u>1,906</u>
(b) cigars.....	2,455/kg
(c) Chinese prepared tobacco.....	468/kg
(d) all other manufactured tobacco except tobacco intended for the manufacture of cigarette.....	2,309/kg

(Amended L.N. 158 of 1988; 16 of 1989 s. 5; L.N. 218 of 1990; L.N. 194 of 1991; L.N. 195 of 1991; 35 of 1992 s. 6; 32 of 1993 s. 5; 42 of 1995 s. 2; 32 of 1996 s. 2; 67 of 1997 s. 3; 21 of 1998 s. 2; L.N. 61 of 2001 and 14 of 2001 s. 2; L.N. 27 of 2009 and 5 of 2009 s. 3; L.N. 32 of 2011 and 10 of 2011 s. 3; L.N. 25 of 2014 and 9 of 2014 s. 3)

2. For the purpose of applying the duty under paragraph 1(a) a cigarette more than 90 mm long, excluding any filter or mouthpiece, shall be treated as if each additional 90 mm or portion of 90 mm were a separate cigarette.
3. *(Repealed 57 of 2000 s. 9)*

(Part II replaced 10 of 1988 s. 3)

本條例旨在禁止在某些區域吸煙；就於煙草產品的封包或零售盛器上展示健康忠告及其他資料訂定條文；對煙草廣告作出限制；對煙草產品的售賣和給予作出限制；地方吸煙；就於傳統吸煙產品的封包或零售盛器上，展示健康忠告及其他資料，訂定條文；限制宣傳吸煙產品；限制售賣、給予或推廣傳統吸煙產品；禁止進口、製造或售賣另類吸煙產品，並限制給予、管有或推廣另類吸煙產品；為執行本條例的某些條文而就督察的委任、權力及職責訂定條文；以及就附帶及有關事宜訂定條文。

(由1994年第91號第2條修訂；由2006年第21號第3條修訂)

[1982年8月13日] 1982年第314號法律公告

(格式變更——2012年第1號編輯修訂紀錄)

第1部

導言

1. 簡稱

本條例可引稱為《吸煙(公眾衛生)條例》。

2. 釋義

(1) 在本條例中，除文意另有所指外——

工作地方 (workplace)指——

- (a) 為進行業務或非牟利事業而被佔用；及
- (b) 自然人在自僱工作、受僱工作或受聘期間在內工作
(不論是否獲得收入)，

的地方，包括供該等人士在工作時段之間用膳或休息時使用的該地方的任何部分； (由2006年第21號第4條增補)

公共升降機 (public lift)指公眾可乘用的升降機，並包括任何可通往個別佔用的樓宇單位、辦公室或其他住宿單位的升降機及包括酒店升降機；

公共交通工具 (public transport carrier)指附表1所述的任何公共巴士、公共小巴、的士、列車、輕便鐵路車輛、電車、纜車或渡輪； (由1992年第9號第2條增補。由2006年第21號第4條修訂)

公眾地方 (public place)指——

- (a) 公眾於當其時有權進入或獲准進入(不論是憑繳費或其他方式)的地方；或
- (b) 任何處所的共用部分，即使公眾無權進入或不獲准進入該共用部分或該處所亦然； (由2006年第21號第4條增補)

公眾泳池 (public swimming pool)指《公眾衛生及市政條例》(第132章)第2(1)條所指的公眾泳池； (由2006年第21號第4條增補)

公眾遊樂場地 (public pleasure ground)指《公眾衛生及市政條例》(第132章)第2(1)條所指的公眾遊樂場地； (由2006年第21號第4條增補)

出售、售賣、銷售、售 (sale, sell)包括藉以物相易或抽籤的方式處

置，但不包括政府透過拍賣對被充公的沒有健康忠告的香煙的處置； (由1997年第93號第2條增補)

刊登 (publish)，就廣告而言，指以任何方式使人獲悉廣告；

卡拉OK場所 (karaoke establishment)指 ——

- (a) 《卡拉OK場所條例》(第573章)第2(1)條所指的卡拉OK場所；或
- (b) 該條例第3(1)條所提述的卡拉OK場所； (由2006年第21號第4條增補)

尼古丁量 (nicotine yield)指調整為小數點後一個位並以毫克表示的每支香煙的尼古丁量； (由1997年第93號第2條增補)

幼兒中心 (child care centre)指《幼兒服務條例》(第243章)第2(1)條所指的幼兒中心； (由2006年第21號第4條增補)

收容所 (place of refuge)指《保護兒童及少年條例》(第213章)第2條所指的收容所； (由2006年第21號第4條增補)

自動梯 (escalator)指《升降機及自動梯條例》(第618章)第2(1)條所界定的自動梯； (由2012年第8號第156及160條代替)

住宅 (domestic premises)指任何為供用作私人住宅而興建並實際用作私人住宅的處所； (由2006年第21號第4條增補)

吸煙、吸用 (smoke)指吸入與呼出煙草或其他物質的煙；

局長 (Secretary)指食物及衛生局局長； (由2002年第106號法律公告增補。由2007年第130號法律公告修訂)

身分證明文件 (proof of identity)指為施行《入境條例》(第115章)第IVA部的身分證明文件； (由1997年第80號第103條修訂)

拘留地方 (place of detention)指 ——

- (a) 《入境(羈留地點)令》(第115章，附屬法例B)附表2所指明的羈留地點；或
- (b) 《少年犯條例》(第226章)第2(1)條所指的拘留地方； (由2006年第21號第4條增補)

泳灘 (bathing beach)指《公眾衛生及市政條例》(第132章)附表4所指明的任何泳灘； (由2006年第21號第4條增補)

治療中心 (treatment centre)指《藥物倚賴者治療康復中心(發牌)條例》(第566章)第2條所指的治療中心； (由2006年第21號第4條增補)

室內 (indoor)指 ——

- (a) 有天花板或上蓋的，或有充當(不論是暫時性或永久性)天花板或上蓋的封蓋的；及
- (b) 除有任何窗戶或門戶，或任何充當窗戶或門戶的可關閉的開啓口外，圍封程度(不論是暫時性或永久性)至少達各邊總面積的50%的； (由2006年第21號第4條增補)

按摩院 (massage establishment)指符合以下說明的按摩院 ——

- (a) 屬《按摩院條例》(第266章)第2條所指的按摩院；及
- (b) 領有根據上述條例批出並正有效的經營牌照； (由2006年第21號第4條增補)

指明教育機構 (specified educational establishment)指《教育條例》(第279章)第2條所指明的機構； (由2006年第21號第4條增補)

食肆處所 (restaurant premises)指任何符合以下說明的處所 ——

- (a) 有人在該處所內或從該處所經營《食物業規例》(第

132章，附屬法例X)第31(2)條所指的工廠食堂或食肆；
或

- (b) 有人在該處所內或從該處所經營目的為出售或供應供人於該處所內進食或飲用的膳食或非瓶裝的不含酒精飲品(包括涼茶)的任何其他行業或業務(不論該行業或業務是否由持有根據《小販規例》(第132章，附屬法例AI)發給的牌照的人所經營)；(由2006年第21號第4條增補)

香煙 (cigarette)指用紙或用煙草以外的任何其他物料捲裹~~一並處於可供即時吸用狀態的煙草；~~的、處於能夠即時吸用的形態的煙草，但不包括另類吸煙產品；

香煙煙草 (cigarette tobacco)指~~以適合購買者製造香煙自用的方式包裝的煙草；~~包裝成適合供購買者製作香煙自用的煙草，但不包括另類吸煙產品；

核准院舍 (approved institution)指《罪犯感化條例》(第298章)第2(1)條所指的核准院舍；(由2006年第21號第4條增補)

浴室 (bathhouse)指符合以下說明的浴室 ——

- (a) 屬《商營浴室規例》(第132章，附屬法例I)第3(1)條所指的浴室；及
(b) 領有根據上述規例批出並正有效的牌照；(由2006年第21號第4條增補)

留產院 (maternity home)指任何用作或擬用作收容懷孕婦女或剛分娩婦女的處所 ——

- (a) 不論它是否《醫院、護養院及留產院註冊條例》(第165章)適用的留產院；或
(b) 不論它是否作為《醫院管理局條例》(第113章)第2(1)條所指的公營醫院的一部分而經營的留產院，或是否由根據該條例設立的醫院管理局管理或掌管的留產院；(由2006年第21號第4條增補)

酒吧 (bar)指純粹用作或主要用作售賣和飲用《應課稅品條例》(第109章)第53(1)條所界定的令人醺醉的酒類的地方；(由2006年第21號第4條增補)

院舍 (residential care home)指 ——

- (a) 《安老院條例》(第459章)第2條界定的安老院；或
(b) 《殘疾人士院舍條例》(第613章)第2條界定的殘疾人士院舍；(由2011年第12號第29條增補)

商標 (trade mark)的涵義與《商標條例》(第559章)第3條中該詞的涵義相同；(由1997年第93號第2條增補。由2000年第35號第98條修訂)

規例 (regulations)指根據第18條訂立的規例；

雪茄 (cigar)指用煙草捲裹~~一並處於可供即時吸用狀態的煙草；~~(由1994年第91號第3條增補) 的、處於能夠即時吸用的形態的煙草，但不包括另類吸煙產品；

麻將天九耍樂處所 (mahjong-tin kau premises)指任何根據《賭博條例》(第148章)第22條獲發牌可在內進行以下博彩遊戲的處所 ——

- (a) 使用麻將牌的博彩遊戲；或
(b) 使用天九牌的博彩遊戲；(由2006年第21號第4條增補)

報刊 (newspaper)、**本地報刊** (local newspaper)及**印刷文件**(printed document)具有《本地報刊註冊條例》(第268章)給予各詞的涵義；(由1987年第15號第19條修訂)

焦油量 (tar yield)指調整為最接近的毫克整數的每支香煙的焦油量；
(由1997年第93號第2條增補)

牌子 (brand)，除在第14(3)條外，包括某一牌子的產品，即牌子相同但作為**品質特質**有異於同牌子的另一品種而銷售的品種；

感化院 (reformatory school)指《感化院條例》(第225章)第2條所指的感化院； (由2006年第21號第4條增補)

煙斗 (pipe)指設計用作吸用並非處於香煙或雪茄狀態的煙草的容器或裝置；~~(由1994年第91號第3條增補)~~經設計用於吸用煙草(不屬香煙或雪茄形態者)的容器或其他器具，但不包括另類吸煙產品；

煙斗煙草 (pipe tobacco)指以適合在煙斗吸用的方式包裝的煙草；~~(由1994年第91號第3條增補)~~包裝成適合在煙斗吸用的煙草，但不包括另類吸煙產品；

煙草產品 (tobacco product)指任何香煙、香煙煙草、雪茄或煙斗煙草；~~(由1997年第93號第2條增補)~~

煙草廣告 (tobacco advertisement)具有第14條給予該詞的涵義；~~(由1994年第91號第3條增補)~~

督察 (inspector)指根據第15F條獲委任的督察； (由2006年第21號第4條增補)

禁止吸煙區 (no smoking area)指根據第3條指定為禁止吸煙區的區域；
(由1992年第9號第2條代替。由1997年第93號第2條修訂；由2006年第21號第4條修訂)

遊戲機中心 (amusement game centre)指 ——

- (a) 《遊戲機中心條例》(第435章)第2(1)條所指的遊戲機中心；
- (b) 屬根據該條例第3(1)(a)條發出的命令的標的之地方；或
- (c) 根據該條例第3(1)(b)條發出的命令所指明的地區；
(由2006年第21號第4條代替)

電影院 (cinema)、**劇院** (theatre)及**音樂廳** (concert hall)指 ——

- (a) 主要用作電影院、劇院或音樂廳(視屬何情況而定)的任何建築物或其中任何部分，不論它在關鍵時間是否作此用途，但用作主要為會員及其賓客放映電影、上演戲劇或演奏音樂的會社、社團或其他團體的處所除外；
- (b) 任何根據《公眾娛樂場所條例》(第172章)獲發牌照，並因舉行音樂會、演出舞台劇、作舞台表演或因提供其他音樂、戲劇或劇場方面的娛樂或因放映任何電影而正開放予公眾的公眾娛樂場所； (由1992年第9號第2條增補)

零售盛器 (retail container) ——

- (a) 就任何香煙或加熱煙草產品而言，指適合用於香煙包或加熱煙草產品包的零售的盛器；或
- (b) 就任何雪茄、煙斗煙草或香煙煙草而言，指適合用於雪茄、煙斗煙草或香煙煙草的零售的盛器； (由2006年第21號第4條代替)

管理人 (manager)就禁止吸煙區或公共交通工具而言，指 ——

- (a) 任何掌管或控制或負責管理該禁止吸煙區或公共交通工具的人，並包括助理管理人及任何擔任類似管理人或助理管理人職位的人；或
- (b) (在就任何處所而言沒有以上所述的人的情況下)有關處所的擁有人； (由2006年第21號第4條代替)

廣告 (advertisement)指以任何方式向公眾作出或行將向公眾作出的公告；

學校 (school)指《教育條例》(第279章)第3條所指的學校；(由2006年第21號第4條增補)

醫院 (hospital)指任何照料病人、傷者或衰弱者或需要醫療的人的機構(包括護養院)——

- (a) 不論它是否《醫院、護養院及留產院註冊條例》(第165章)適用的醫院；或
- (b) 不論它是否《醫院管理局條例》(第113章)第2(1)條所指的公營醫院；(由2006年第21號第4條增補)

懲教機構 (correctional facility)指 ——

- (a) 《監獄令》(第234章，附屬法例B)的附表所指明的用地及建築物；
- (b) 《監獄(宿舍)令》(第234章，附屬法例C)的附表所指明的建築物；或
- (c) 根據《戒毒所條例》(第244章)第2條所指的戒毒所；(由2006年第21號第4條增補)

(按筆劃數目順序加入)

已啟動(activated) ——參閱第 (2) 款；

加熱煙草產品 (heated tobacco product) 指包裝成能夠藉加熱(但不包括直接燃燒)而產生氣霧的、處於能夠吸用的形態的煙草，但不包括另類吸煙產品；

另類吸煙產品 (alternative smoking product) 指附表 7 第2 部列出的產品；

吸煙、吸用 (smoking) 指吸入和呼出——

- (a) 就傳統吸煙產品而言——自該產品產生的來自煙草的煙或氣霧；或
- (b) 就另類吸煙產品而言——藉着該產品產生的氣霧，或自該產品產生的氣霧；

吸煙行為 (smoking act) 指吸用或攜帶——

- ~~(a) 燃着的香煙、雪茄或煙斗；或~~
- ~~(b) 已啟動的另類吸煙產品。~~
- (a) 燃着的香煙、雪茄或煙斗；
- (b) 已啟動的加熱煙草產品；或
- (c) 已啟動的另類吸煙產品；

附註——

另參閱第 (2)、(3) 及 (4) 款。

吸煙產品 (smoking product) 指——

- (a) 傳統吸煙產品；或
- (b) 另類吸煙產品。

吸煙產品廣告 (smoking product advertisement) ——參閱第 14 條；

宣傳 就任何物品而言，指刊登該物品的廣告；

政府化驗師 (Government Chemist) 具有《證據條例》(第8章)第2條所給予的涵義；

氣霧 (aerosol) 指——

- (a) 任何氣體；

(b) 任何懸浮在空氣中的固體粒子或液體；或

(c) (a) 及 (b) 段提及的物質的任何混合物；

附註——

煙屬以上界定的氣霧。

停止 (cease) 就吸煙行為而言——參閱第 (3) 款；

傳統吸煙產品 (conventional smoking product) 指香煙、香煙煙草、雪茄或煙斗煙草雪茄、煙斗煙草或加熱煙草產品；

熄掉 (deactivate) ——參閱第 (4) 款；

體育場 (stadium) 指《公眾衛生及市政條例》(第132章)第2(1)條所指的體育場。
(由2006年第21號第4條增補)

(由1992年第9號第2條修訂；由1994年第91號第3條修訂；由
2006年第21號第4條修訂；由2011年第12號第29條修訂；編輯修訂—
—2012年第1號編輯修訂紀錄)

(2) 如有過程 (例如燃燒或加熱) 正在進行，以藉着另類吸煙產品產生氣霧，或自加熱煙草產品或另類吸煙產品產生氣霧，該產品即屬 已啟動。

(3) 任何人如——

(a) 弄熄燃着的香煙、雪茄或煙斗，即屬就該香煙、雪茄或煙斗 停止 吸煙行為；或

(b) 熄掉已啟動的加熱煙草產品或另類吸煙產品，即屬就該產品 停止 吸煙行為。

(4) 如任何人就已啟動的加熱煙草產品或另類吸煙產品，終止第(2)款提及的過程，該人即屬 熄掉 該產品。

(5) 本條例凡提述吸煙產品的銷售，即包括在香港以外的銷售。

(6) 本條例文本中的附註僅供備知，不具有立法效力。

第2部

禁止吸煙區

3. 禁止在某些指定區域內吸煙

- (1) 現指定附表2第1部所述的區域為禁止吸煙區。(由2006年第21號第5條代替)
- (1AA) 第(1)款不適用於附表2第2部所述的豁免區域。(由2006年第21號第5條增補)
- (1AB) 衛生署署長可藉刊登於憲報的公告指明以下地方的全部或部分為禁止吸煙區——
- (a) 由2類或以上的公共運輸工具的總站所組成，並用以達成及便利轉換該類運輸工具的區域；或
 - (b) 多於一條的《公共巴士服務條例》(第230章)第2條所界定的指明路線的任何巴士總站。(由2006年第21號第5條增補)
- (1A)-(1C) (由2006年第21號第5條廢除)
- (2) 任何人不得在禁止吸煙區內吸煙或攜帶燃着的香煙、雪茄或煙斗，作出吸煙行為。
- (2A) 如任何人根據附表5獲豁免而不受第(2)款的規限，則該款並不阻止他吸煙或攜帶燃着的香煙、雪茄或煙斗。用或攜帶燃着的香煙、雪茄、煙斗或已啟動的加熱煙草產品。(由2006年第21號第5條增補)
- (3) 如任何人看似正在違反第(2)款，則禁止吸煙區的任何管理人或任何由於禁止吸煙區內違反第(2)款，則該禁止吸煙區的管理人，或任何獲該管理人就此授權的人——
- ~~(a) 經表示該人是在違反第(2)款下在禁止吸煙區內吸煙或攜帶燃着的香煙、雪茄或煙斗(視屬何情況而定)後，可要求該人將燃着的香煙、雪茄或煙斗弄熄；~~
 - (a) 可要求該人停止有關吸煙行為，但在作出要求前，須先行向該人表示，該人是在違反第(2)款的情況下，於該禁止吸煙區內作出吸煙行為；
 - ~~(b) 如該人沒有將燃着的香煙、雪茄或煙斗弄熄，可要求他——~~
 - (b) 如該人沒有停止有關吸煙行為——可要求該人——
 - (i) 提供其姓名及地址，以及出示身分證明文件；及
 - (ii) 離開該禁止吸煙區；
 - (c) 如該人沒有按根據(b)段提出的要求——
 - (i) 提供其姓名及地址，以及出示身分證明文件；或
 - (ii) 離開該禁止吸煙區，可在有需要時使用合理武力將該人逐出該禁止吸煙區並將他扣留，並召喚警務人員協助強制執行本條的規定。
- (4) 任何人如根據第(3)款被要求離開禁止吸煙區、被逐出禁止吸煙區或被扣留，均無權獲退還他為進入有關禁止吸煙區所在的處所或建築物所繳付的入場費或款項。
- (5) 為免生疑問，現宣布：第(1)及(1AB)款適用於政府擁有或佔用或由政府管理及掌管的處所。(由2006年第21號第5條增補)

(由1992年第9號第3條代替)

4. 禁止在公共交通工具內吸煙

- (1) 任何人不得在公共交通工具內吸煙或攜帶燃着的香煙、雪茄或煙斗~~，作出吸煙行為。~~
- (2) 如任何人看似正在違反第(1)款，則任何公共交通工具的司機、指導員、稽查、收票員或管理人於任何公共交通工具內，違反第(1)款，則該公共交通工具的司機、指導員、檢票員、收票員、管理人，或任何獲該管理人就此授權的人 —— (由1995年第68號第39條修訂)
- ~~(a) 經表示該人是在違反第(1)款下在公共交通工具內吸煙或攜帶燃着的香煙、雪茄或煙斗(視屬何情況而定)後，可要求該人將燃着的香煙、雪茄或煙斗弄熄；~~
- (a) 可要求該人停止有關吸煙行為，但在作出要求前，須先行向該人表示，該人是在違反第(1)款的情況下，於該公共交通工具內作出吸煙行為；
- ~~(b) 如該人沒有將燃着的香煙、雪茄或煙斗弄熄，可要求他——~~
- (b) 如該人沒有停止有關吸煙行為—— 可要求該人——
- (i) 提供其姓名及地址，以及出示身分證明文件； 及
- (ii) 離開該公共交通工具；
- (c) 如該人沒有按根據(b)段提出的要求 ——
- (i) 提供其姓名及地址，以及出示身分證明文件； 或
- (ii) 離開該公共交通工具，
- 可在有需要時使用合理武力將該人逐出該公共交通工具並將他扣留，並召喚警務人員協助強制執行本條的規定。
- (3) 任何人如根據第(2)款被要求離開公共交通工具、被逐出公共交通工具或被扣留，均無權獲退還他為乘搭有關公共交通工具所繳付的款項。

(由1992年第9號第3條代替)

5. (由2006年第21號第6條廢除)

6. (由1992年第9號第4條廢除)

6A. (由2006年第21號第7條廢除)

7. 第2部所訂罪行

- (1) 任何人違反第3或4條，即屬犯罪，一經循簡易程序定罪，可處罰款\$5,000。
- (2) 任何人如在根據第3(3)或4(2)條被要求提供其姓名及地址或出示身分證明文件時，不遵從要求或提供虛假或誤導他人的姓名或地址，即屬犯罪，一經循簡易程序定罪，可處第3級罰款。
- (3)-(4) (由2006年第21號第8條廢除)
- (由1992年第9號第5條修訂；由1997年第93號第5條修訂；編輯修訂——2012年第1號編輯修訂紀錄)

第3部

煙草傳統吸煙產品的售賣

(由1994年第91號第5條代替)

8. 香煙及煙草傳統吸煙產品的售賣

- (1) 任何人不得售賣或要約出售任何香煙，或管有任何香煙作售賣用途，除非 ——
 - (a) 該等香煙是裝載於至少載有20支香煙的封包內；及
 - (b) 該等香煙的封包及(如封包是在零售盛器內的話)盛器以訂明的式樣及方式展示 —— (由2006年第21號第9條修訂)
 - (i) 健康忠告；
 - (ii) 焦油量及尼古丁量。 (由1997年第93號第6條代替)
- (2) 本條、第8A及9 8A、9及9A條對於就 —— (由1992年第9號第6條修訂)
 - (a) 扣存在保稅倉庫；或
 - (b) 由煙草傳統吸煙產品製造商持有，以供輸出香港的香煙、香煙煙草、雪茄或煙斗煙草雪茄、煙斗煙草或加熱煙草產品而作出的任何事情，均不適用。

(由1994年第91號第6條修訂)

8A. 禁止售賣焦油量超過17毫克的香煙

- (1) 任何人不得售賣或要約出售焦油含量超過17毫克的香煙，或管有焦油含量超過17毫克的香煙作售賣用途。
- (2) 任何看來是由政府化驗師簽署，述明某支香煙含有超過17 毫克焦油的證明書，即為於該證明書的日期其所述事實的證據，並須接受為證據而無須再加證明。

(由1992年第9號第7條增補。由1997年第93號第7條修訂)

8B. 禁止以銷售機售賣煙草售賣機售賣傳統吸煙產品

任何人不得以銷售機售賣或要約以銷售機售賣任何煙草產品。以售賣機售賣傳統吸煙產品，或要約以售賣機售賣傳統吸煙產品。

(由1997年第93號第8條增補)

9. 雪茄、煙斗煙草或香煙煙草的售賣

任何人不得售賣或要約出售任何雪茄、煙斗煙草或香煙煙草或管有任何雪茄、煙斗煙草或香煙煙草作售賣用途，除非該等雪茄、煙斗煙草或香煙煙草被置於零售盛器內，而該零售盛器以訂明的式樣和方式展示健康忠告。

(由1994年第91號第7條代替；由2006年第21號第10條修訂)

9A. 加熱煙草產品的售賣

任何人不得售賣或要約出售任何加熱煙草產品，或管有任何加熱煙草產品作售賣用途，除非 ——

- (a) 該等加熱煙草產品是裝載於至少載有20支或20個囊體的加熱煙草產品的封包內；及
- (b) 該等加熱煙草產品的封包及(如封包是在零售盛器內的話)盛器以訂明的式樣及方式展示健康忠告。

10. 第3部所訂罪行

- (1) 任何人違反第8、8A、~~8B或9~~ 8B、9或9A條，即屬犯罪，一經循簡易程序定罪，可處第5級罰款。*(由1997年第93號第9條修訂；由2006年第21號第11條修訂)*
- (1A) 在任何就違反第8A條而進行的法律程序中，如被控者證明其本人不知道亦沒有理由相信該等法律程序所涉及的香煙含有超過17毫克焦油，即為免責辯護。*(由1992年第9號第8條增補)*
- (2) 任何香煙製造商或其代理人及任何香煙批發經銷商售賣或要約出售第8條所適用的香煙，或管有該等香煙作售賣用途時，如封包或零售盛器上展示的焦油量或尼古丁量，在顧及根據第16條所作的鑑定及規例後並不正確，即屬犯罪，一經循簡易程序定罪，可處第5級罰款。*(由2006年第21號第11條修訂)*
- (3) 任何煙草產品製造商或其代理人或任何煙草產品批發經銷商售賣或要約出售第8或9條所適用的、符合以下說明的煙草產品，或管有該煙草產品作售賣用途任何傳統吸煙產品製造商或其代理人，或任何傳統吸煙產品批發經銷商，如售賣、要約出售或為售賣而管有第8或9 8、9或9A條適用的、符合以下說明的傳統吸煙產品，即屬犯罪——
 - (a) 該產品的任何包裝(包括任何封包、零售盛器、封套、及任何附加或印刷在包裝或該產品上的標籤)上展示任何詞句、描述、商標、圖形或任何其他標誌，而該等詞句、描述、商標、圖形或標誌相當可能會令人產生錯誤印象，以為該產品對健康的危害小於包裝上沒有展示該等詞句、描述、商標、圖形或標誌的其他煙草產品，小於包裝上沒有作相同展示的其他傳統吸煙產品；或
 - (b) 該產品的任何包裝(包括任何封包、零售盛器、封套、及任何附加或印刷在包裝或該產品上的標籤)以任何虛假的、具誤導性的、具欺騙性的、或相當可能會令人對該產品的特性、該產品對健康的影響或所構成的危害、或其排放物產生錯誤印象的方式，推廣該產品。*(由2006年第21號第11條代替)*
- (4) 任何人犯第(3)款所訂的罪行，一經循簡易程序定罪，可處第5級罰款。*(由2006年第21號第11條增補)*
(由1992年第9號第8條修訂；由1997年第93號第9條修訂；編輯修訂——2012年第1號編輯修訂紀錄)

10A. 檢取及沒收

- (1) 任何擔任《香港海關條例》(第342章)附表1所指明職位的人，均可為根據本部進行法律程序而在沒有手令的情況下檢取、移走與扣留——*(由2014年第150號法律公告修訂)*
 - (a) 以下裝載香煙、香煙煙草、~~雪茄或煙斗煙草~~雪茄、煙斗煙草或加熱煙草產品的封包或零售盛器——*(由1994年第91號第8條修訂)*
 - (i) 沒有以第8或9條所規定的式樣及方式展示健康忠告或(如有此規定時)焦油量及尼古丁量的任何封包或零售盛器；或*(由2006年第21號第12條修訂)*
 - (ii) 該人有合理理由懷疑其內可能容載焦油含量超過17毫克的香煙的任何封包或零售盛器；*(由1992年第9號第9條代替。由1997年第93號第10條修訂)*
 - (aa) 載有少於20支香煙的香煙封包；*(由1997年第93號第10條增補)*
 - (ab) 載有少於20支或20個囊體的加熱煙草產品的加熱煙草產品封包；

- (b) 該封包或盛器內的東西；
 - (c) 任何容載該封包或盛器的容器；
 - (ca) 與第8B條所訂罪行有關連的銷售機或煙草售賣機或傳統吸煙產品； (由1997年第93號第10條增補)
 - (d) 該人覺得屬犯本部所訂罪行的證據的物件。
- (1A) 任何擔任《香港海關條例》(第342章)附表1所指明職位的人，均可為根據本部進行法律程序而在沒有手令的情況下檢取、移走與扣留 —— (由2014年第150號法律公告修訂)
- (a) 任何並非以封包或零售盛器(不論是否第(1)(a)款所提述者)容載而該人有合理理由懷疑可能含有超過17毫克焦油的香煙； (由1997年第93號第10條修訂)
 - (b) 任何容載上述香煙的容器；
 - (c) 該人覺得屬犯本部所訂罪行的證據的物件。 (由1992年第9號第9條增補)
- (2) 除第(4)款另有規定外，根據第(1)或(1A)款被檢取的任何物品，均可由海關關長保管，直至根據本部進行的法律程序完結或經決定無須提起該等法律程序為止。 (由1997年第362號法律公告修訂；由2014年第18號第120條修訂)
- (3) 為施行與《應課稅品條例》(第109章)第46條並閱的該條例第16條(該條與妨礙海關人員有關)，根據第(1)或(1A)款被檢取的任何物品，須當作依據該條例所授予的權力被檢 取。
- (4) 裁判官可應海關關長的申請，以第(1)(a)、(aa)、(b)、(c)或(ca)或(1A)(a)或(b)款所提及的任何物品涉於一宗已犯本部所訂罪行為理由，或以該物品在法律上不得在香港售賣或管有作售賣用途為理由，命令將該物品沒收，不論是否有人被裁定犯本部所訂罪行： (由1997年第93號第10條修訂；由1997年第362號法律公告修訂；由2014年第18號第120條修訂)
- 但裁判官除非首先信納所有在該物品上擁有權益的人在合理切實可行的範圍內曾有機會就此事向他作出申述，或首先信納經合理的查訊後仍未能尋獲該等人，否則不得命令將該物品沒收。
- (5) 根據第(4)款沒收的任何物品，須予毀掉或處置，方式一如毀掉或處置根據《應課稅品條例》(第109章)第48、48A及48C條沒收的任何物品，而該條例第49及50條的條文，均適用於根據第(4)款沒收的物品，一如該等條文適用於根據該條例第48、48A及48C條沒收的物品。 (由1993年第70號第7條修訂)
- (由1983年第52號第2條增補。由1992年第9號第9條修訂)

第4部

煙草廣告宣傳吸煙產品

(由1994年第91號第9條代替)

11. 印刷刊物內的煙草吸煙產品廣告

- (1) 任何人不得在本條適用的印刷刊物中~~印刷、刊登或安排刊登煙草廣告。~~(由1997年第93號第11條代替)，印刷或刊登吸煙產品廣告，亦不得安排在本條適用的印刷刊物中，刊登吸煙產品廣告。
- (2) 本條適用於 ——
 - (a) 任何本地報刊；
 - (b) 在香港印刷、刊印或分發的任何印刷文件。(由1997年第93號第11條代替)
- ~~(3) 本條及第12條不適用於供煙草業界閱讀的印刷刊物內的煙草廣告，亦不適用於作為從事煙草業的公司的內部雜誌而刊印的印刷刊物內的煙草廣告。~~
- (3) 就於以下印刷刊物內的吸煙產品廣告而言，本條及第12條不適用——
 - (a) 為吸煙產品業界印行的印刷刊物；或
 - (b) 作為從事吸煙產品業的公司的內部刊物而印行的印刷刊物。

(由2006年第21號第13條修訂)

12. 不得展示煙草吸煙產品廣告

- (1) 任何人不得 ——
 - (a) 展示或安排展示；或
 - (b) 為展示用途而刊登或分發，或安排為展示用途而刊登或分發，任何書面形式或其他永久或半永久形式的煙草吸煙產品廣告。
- ~~(2)-(3) (由2006年第21號第14條廢除)~~
- (4) 第(1)款不適用於符合以下說明的煙草的吸煙產品廣告 ——
 - ~~(a) (i) 煙草廣告是在任何煙草產品製造商或任何煙草產品批發商的處所之內或之上的；而~~
 - (a) 該廣告是在符合以下說明的處所之內或之上——
 - (i) 屬於傳統吸煙產品製造商，或屬於傳統吸煙產品批發商；及
 - ~~(ii) 該等處所是用作製造煙草產品或作批發煙草產品的用途的；及~~
 - (ii) 用於製造傳統吸煙產品，或為批發傳統吸煙產品而使用；及
 - (b) 該等煙草該廣告是不能從該等處所外面看得見的。
- (5) 第(4)款提及的煙草廣告廣告，無須展示任何健康忠告或有關的焦油量及尼古丁量。(由2006年第21號第14條修訂)

(由1997年第93號第12條代替)

13. 禁止以無線電或視覺影像方式播放煙草廣告藉無線電或視覺影像，

播放吸煙產品廣告

任何人不得為擬供公眾人士普遍接收而藉以下方法播放煙草藉以下方法，播放擬供公眾人士普遍接收的吸煙產品廣告 —— (由1994年第91號第12條修訂；由1997年第93號第13條修訂)

- (a) 以無線電波傳送聲音；或
- (b) 以無線電或無線電以外的方法傳送視覺影像或聲音。

(由1992年第9號第11條代替)

13A. 禁止電影上映煙草廣告藉電影上映吸煙產品

- (1) 任何人不得藉電影上映煙草吸煙產品廣告。 (由1994年第91號第13條修訂)
- (2) 在本條中，上映 (exhibit) 及 電影 (film) 分別指《電影檢查條例》(第392章)第2條所指的上映及電影。

(由1992年第9號第11條增補)

13B. 禁止將煙草廣告置於電腦吸煙產品廣告置於互聯網上

- (1) 任何人不得將或安排將煙草廣告置於電腦互聯網上吸煙產品廣告，置於互聯網上。
- (2) 為免生疑問，根據《電訊條例》(第106章)批給的公共非專利電訊服務牌照的持有人無須對以下事項負責 ——
 - (a) 某使用人置於電腦互聯網上並供另一使用人使用的任何內容，除非該持有人知道該等內容，而且可合理地預期該持有人會阻止該等內容的使用或可合理地預期該持有人會要求修訂該等內容；或
 - (b) 該持有人只提供取覽方便的任何該等內容，包括因某使用人的要求而由該持有人對任何該等內容所作的自動和暫時儲存。
- (3) 第(1)款不適用於載於電腦互聯網的任何私人通訊內且不是為商業目的作出的任何煙草廣告。在互聯網的私人通訊內的、不是為商業目的作出的吸煙產品廣告。

(由1997年第93號第14條增補)

14. 煙草吸煙產品廣告的涵義

- (1) 就本部而言，如任何廣告 ——
 - ~~(a) 載有以明示或默示的方式誘使、建議或促請任何人購買或吸用香煙、香煙煙草、雪茄或煙斗煙草； (由1997年第93號第15條修訂)~~
 - (a) 載有的內容以明示或默示方式，誘使、建議或促請購買或吸用吸煙產品；
 - (b) 述及吸煙，而所用的詞句乃刻意以明示或默示的方式推廣或鼓勵使用香煙、香煙煙草、雪茄或煙斗煙草；或 (由1997年第93號第15條修訂) 其措辭刻意以明示或默示方式，提倡或鼓勵使用吸煙產品；或
 - ~~(c) 闡說或提及吸煙、香煙、香煙煙草、雪茄或煙斗煙草，或其包裝或品質， (由1997年第93號第15條增補)~~
 - (c) 描劃或提及吸煙或吸煙產品，或該等產品的包裝或特質，則該廣告為煙草廣告即屬吸煙產品廣告。
- (1A) 儘管有第(1)(c)款的規定，如任何廣告以勸阻吸煙為目的，則該廣

告不視為煙草廣告。(由1997年第93號第15條增補) 廣告如以勸阻吸煙為目的，則不視為吸煙產品廣告。

(2) 除第(3)至(5)款另有規定外，凡 ——

(a) 任何廣告；或

~~(b) 任何在進行任何業務或提供任何服務的過程中不論是否為售賣或其他目的而向公眾展示的煙草產品以外的物體；~~

(b) 在進行任何業務或提供任何服務的過程中，不論是否供出售，而向公眾展示的任何物體 (吸煙產品除外)，

包含任何與銷售任何煙草產品有關連的人的姓名、名稱或商業名稱，或包含任何煙草產品的商標或牌子名稱或包含任何通常與其相聯的圖樣或圖樣的一部分，則該廣告或物體即須任何吸煙產品有關連的人的姓名、名稱或商業名稱，或任何吸煙產品的商標或牌子名稱，或任何通常與該商標或牌子名稱相聯的圖樣 (或圖樣的一部分)，則該廣告或物體即當作為煙草廣告吸煙產品廣告。(由1997年第93號第15條代替)

(3) 如第(2)款所述的姓名、名稱、商業名稱、商標、牌子名稱或圖樣或圖樣的一部分 —— (由2006年第21號第15條修訂)

(a) 純粹是為 ——

(i) 任何非煙草產品或服務並非吸煙產品或服務的產品或服務，而被包含在某廣告或物體內；或

(ii) 職位招聘的目的而被包含在某廣告或物體內；及

(b) 並不構成該廣告或物體的顯眼部分，

則第(2)款不適用於該廣告或物體。(由1997年第93號第15條代替。由2006年第21號第15條修訂)

(4) 在第(4A)款所列的條件獲符合的前提下，第(2)款不適用於任何包含以下名稱的廣告或物體 —— (由2006年第21號第15條修訂)

(a) 與製造或銷售任何煙草吸煙產品有關連的公司或法人團體的名稱；或

(b) 與任何非煙草產品有關連而與任何煙草並非吸煙產品的產品有關連的、與任何吸煙產品的商業名稱或牌子名稱相同的名稱。(由1997年第93號第15條增補。由2006年第21號第15條修訂)

(4A) 第(4)款所述的條件是 ——

(a) 該款所述的名稱是作為某項活動的贊助人而被包含在內的，或該名稱是為祝賀另一人或另一件事物的成就或祝賀與該人或該事物有關的活動而被包含在內的；

(b) 該名稱並不構成有關廣告或物體的顯眼部分；及

(c) 有關廣告沒有提及或有關物體沒有展示“香煙”、“吸煙”、“煙草”、“雪茄”或“煙斗”或“cigarette”、“cigarettes”、“smoking”、“tobacco”、“cigar”、“cigars”、“pipe”或“pipes”的字樣。(由2006年第21號第15條增補) 附表 8 列出的任何字詞或字句(包括與該附表列出的任何字詞或字句意義相同的字詞或字句，或與該附表列出的任何字詞或字句極為相似的字詞或字句)。

(5) 儘管有第(2)款的規定，凡沒有或不擬就任何煙草產品或其商標、商業名稱、牌子名稱或標識的意外或附帶出現付出有價值，則該等出現吸煙產品的意外出現或附帶出現，或任何吸煙產品的商標、商業名稱、牌子名稱或標識的意外出現或附帶出現，付出有價值，則該產品、商標、名稱或標識的意外出現或附帶出現，並不屬煙草廣告吸煙產品廣告。(由1997年第93號第

15條增補)

- (6) 凡煙草產品在某處所內被要約出售，在該處所內展示以下物件並不屬煙草在某處所內，有傳統吸煙產品被要約出售，則在該處所內展示以下物件，並不屬吸煙產品廣告 ——
- (a) 就在該處所內被要約出售的每類別煙草類別傳統吸煙產品而設的一個價格標記，而 ——
- (i) 該價格標記只載有該類別煙草類別傳統吸煙產品的名稱及價格；及
- (ii) 該價格標記的面積 ——
- (A) 不大於在該處所內被要約出售的任何非煙草產品的價格標記的面積；亦以下產品的價格標記的面積：在該處所內被要約出售的、並非吸煙產品的產品；及
- (B) 不大於50平方厘米；
- (b) 一塊價格牌，而 ——
- (i) 該價格牌只列出在該處所內被要約出售的煙草傳統吸煙產品的名稱及價格；
- (ii) 該價格牌的面積不大於1 500平方厘米；
- (iii) 在該價格牌上的每個載有某一類別煙草產品的名稱及價格的項目的面積均不大於50平方厘米；及，每個載有某一類別傳統吸煙產品的名稱及價格的項目的面積，均不大於 50 平方厘米；及
- (iv) 該價格牌以訂明的式樣和方式展示健康忠告；或
- (c) (在有關店舖沒有出售雪茄及雪茄附屬用品以外的物品的情況下)只列出在該處所內被要約出售的雪茄的名稱及價格的一式三份目錄。(由2006年第21號第15條代替)

(由1994年第91號第14條修訂)

14A. 將煙草吸煙產品廣告移走和處置

- (1) 任何督察如合理地懷疑有人已就或正就任何煙草廣告或廣告構築物違反本條例所訂的罪行，可在無須付款的情況下移走或安排移走該煙草廣告或廣告構築物。(由1997年第362號法律公告修訂；由2002年第106號法律公告修訂；由2006年第21號第16條修訂)，有人曾經或正在就任何吸煙產品廣告或廣告構築物犯本條例所訂罪行，即可在無須付款的情況下，移走或安排移走該等廣告或構築物。
- (2) 裁判官可應局長或任何督察的申請，基於有人已就或正就根據第(1)款移走的煙草廣告或廣告構築物違反本條例所訂的罪行，而命令處置該等煙草廣告或廣告構築物曾經或正在就根據第(1)款移走的廣告或構築物犯本條例所訂罪行，命令處置該等廣告或構築物，不論是否有人已被裁定犯本條例所訂的罪行。(由1997年第362號法律公告修訂；由2002年第106號法律公告修訂；由2006年第21號第16條修訂)
- (3) 除非裁判官首先信納所有對該等廣告或構築物享有權益的人，已在合理的切實可行範圍內盡量有機會就該等廣告或構築物向裁判官作出申述，或首先信納在作出合理的查訊後該等享有權益的人未能尋獲，否則裁判官不得命令作出該等處置。
- (4) 政府可向根據第(1)款移走的煙草廣告或廣告構築物內提及的煙草產品牌子的擁有人或向該等廣告或構築物的擁有人，追討政府可向被移走的廣告或構築物所提及的吸煙產品牌子的擁有

人，或向該等廣告或構築物的擁有人，追討有關的移走或處置費用。

(由1997年第93號第16條增補)

15. 第4部所訂罪行

- (1) 任何人違反第11(1)、12(1)、13、13A或13B條，即屬犯罪，一經循簡易程序定罪，可處第5級罰款；如屬持續的罪行，則在罪行持續期間，每日另加罰款\$1,500。(由1992年第9號第13條修訂；由1997年第93號第17條修訂；由2006年第21號第17條修訂)
- (2) 在任何就違反第11(1)條而進行的法律程序中，如被控者證明該等法律程序所針對的廣告，是在其本人不知道亦沒有理由相信自己當時是正參與印行或刊登該廣告的情況下印行或刊登的，即為免責辯護。

(編輯修訂——2012年第1號編輯修訂紀錄)

第4A部

禁止售賣或給予煙草傳統吸煙 產品

(由1997年第93號第18條修訂)

(第4A部由1994年第91號第15條增補)

15A. 禁止售賣或給予煙草傳統吸煙產品等

- (1) 任何人不得將任何香煙、香煙煙草、雪茄或煙斗煙草雪茄、煙斗煙草或加熱煙草產品售予18歲以下人士。
- (2) 任何人不得為推廣或宣傳的目的而將任何香煙、香煙煙草、雪茄或煙斗煙草雪茄、煙斗煙草或加熱煙草產品予任何人士。
(由1997年第3號第19條修訂)
- (3)
 - (a) 任何人不得將或要約將煙草產品售賣予其他人或將煙草產品給予任何其他人，以換取憑證；傳統吸煙產品售賣予任何其他人，或將傳統吸煙產品給予任何其他人，以換取換物憑證；
 - (b) 任何人不得將煙草傳統吸煙產品給予任何其他人，以作為在任何活動或比賽中的獎品；
 - (c) 任何人不得為誘使任何個人購買某煙草產品或以其他方式向該人推廣該煙草產品人購買某傳統吸煙產品，或為以其他方式向該人推廣該產品，而給予該人有值代價；
 - (d) 任何人不得售賣或要約出售包括禮物在內或連同禮物的任何煙草產品，或管有該等煙草產品作售賣用途；、要約出售或為售賣而管有包含贈品的任何傳統吸煙產品，或連同贈品的任何傳統吸煙產品；
 - (e) 凡任何憑證、印花或彩票可以換取禮物、獎品或任何產品的折扣，則任何人不得售賣或要約出售包括該憑證、印花或彩票在內或連同該憑證、印花或彩票的任何煙草產品，或管有該等煙草產品作售賣用途；換物憑證、印花或彩票可以換取贈品、獎品或任何產品的折扣，則任何人不得售賣、要約出售或為售賣而管有包含該換物憑證、印花或彩票的傳統吸煙產品，或連同該換物憑證、印花或彩票的傳統吸煙產品；
 - (f) 任何人不得售賣或要約出售包括作為禮物的煙草產品在內或連同該煙草產品的任何非煙草產品，或管有該非煙草產品作售賣用途；(由2006年第21號第18條修訂)、要約出售或為售賣而管有符合以下說明的產品——
 - (i) 並非吸煙產品；及
 - (ii) 包含屬贈品的傳統吸煙產品，或連同屬贈品的傳統吸煙產品；
 - (fa) ~~任何人不得售賣或要約出售由某煙草產品和某非煙草產品組合而成的單一物品，或管有該單一物品作售賣用途；或~~
(由2006年第21號第18條增補)
 - (fa) 凡任何單一物品由傳統吸煙產品及並非吸煙產品的產品組成，任何人不得售賣、要約出售或為售賣而管有該單一物品；或
 - (g) 任何人不得將擬向公眾展示的載有任何與銷售香煙、香煙煙草、雪茄或煙斗煙草有關連的人的姓名、名稱或商業名稱的物體，給予任何其他人，亦不得將擬向公眾展示的載

有任何煙草產品的商標或牌子名稱或通常與其相聯的圖樣或圖樣的一部分的物體、煙斗煙草或加熱煙草產品有關連的人的姓名、名稱或商業名稱的物體，給予任何其他人，亦不得將擬向公眾展示的、載有任何傳統吸煙產品的商標或牌子名稱，或任何通常與該商標或牌子名稱相聯的圖樣(或圖樣的一部分)的物體，給予任何其他人。(由1997年第93號第19條增補)

15B. 煙草產品要約出售等時傳統吸煙產品要約出售等時，須展示標誌

- (1) 任何人於要約出售或推廣銷售、購買、吸用或使用香煙、香煙煙草、雪茄或煙斗煙草雪茄、煙斗煙草或加熱煙草產品時，須於其處所或於推廣地點的當眼處，設置及維持設置一個中英文標誌，表示香煙、香煙煙草、雪茄或煙斗煙草雪茄、煙斗煙草或加熱煙草產品不得售予18歲以下人士或給予任何人士。(由1997年第93號第20條修訂)
- (2) 第(1)款所規定的標誌須具有訂明的式樣，並須由要約出售或推廣銷售、購買、吸用或使用香煙、香煙煙草、雪茄或煙斗煙草雪茄、煙斗煙草或加熱煙草產品的人保持在清晰可閱及良好的狀況。

15C. 第4A部所訂罪行

- (1) 任何人違反第15A或15B條，即屬犯罪，一經循簡易程序定罪，可處第4級罰款。
- (2) 對於第15A條所訂有關將任何香煙、香煙煙草、雪茄或煙斗煙草雪茄、煙斗煙草或加熱煙草產品售予一名18歲以下人士的控罪，如證明在被指稱犯此項罪行時，被控人已查閱一張看來是該名18歲以下人士的身分證或護照的身分證或護照，並基於合理理由相信該人並非18歲以下，即為免責辯護。(由1997年第93號第21條修訂)

(編輯修訂——2012年第1號編輯修訂紀錄)

15D. 釋義

就本部而言，推廣或宣傳 (promotion or advertisement)指一項旨在誘使購買、吸用或鼓勵使用香煙、香煙煙草、雪茄或煙斗煙草雪茄、煙斗煙草或加熱煙草產品的推廣或宣傳，不論是否有提述某個牌子。

第 4AB 部

禁止另類吸煙產品

15DA. 禁止進口、製造或售賣等

(1) 任何人不得——

- (a) 進口另類吸煙產品；
- (b) 製造另類吸煙產品；
- (c) 售賣或要約出售另類吸煙受禁吸煙產品；
- (d) 將另類吸煙產品給予另一人——
 - (i) 以作推廣或宣傳；
 - (ii) 以換取換物憑證；或
 - (iii) 作為在任何活動或比賽中的獎品；
- (e) 為以下目的而管有另類吸煙產品——
 - (i) 製造任何其他另類吸煙產品；
 - (ii) 售賣；或
 - (iii) 為 (d)(i)、(ii) 或 (iii) 段所述目的，而將該產品給予另一人；
- (f) 為向另一人推廣另類吸煙產品，而給予該人有值代價；或
- (g) 將載有以下內容的、擬向公眾展示的物體，給予另一人——
 - (i) 與銷售另類吸煙產品有關連的人的姓名、名稱或商業名稱；或
 - (ii) 另類吸煙產品的商標或牌子名稱，或通常與該商標或牌子名稱相聯的圖樣（或圖樣的一部分）。

(2) 在第 (1) 款中，提述售賣另類吸煙產品——

- (a) 包括售賣包含屬贈品的另類吸煙產品的產品，或連同屬贈品的另類吸煙產品的產品；及
- (b) 不包括以出口為出發點，而售賣另類吸煙產品。

(3) 就第 (1) 款而言，凡某行為屬旨在誘使吸用或鼓勵使用某產品的推廣或宣傳，則不論有否提及某個牌子，該行為均屬關乎該產品的推廣或宣傳。

(4) 任何人違反第(1)款，即屬犯罪，可處第 5 級罰款及監禁 6 個月。

附註——

《釋義及通則條例》（第 1 章）第 3 條界定進口及出口。

15DB. 法人團體高級人員的法律責任

(1) 如某法人團體犯第 15DA(4) 條所訂罪行，而該罪行經證明——

- (a) 是在該團體的某高級人員的同意或縱容下所犯的；或
- (b) 是可歸因於該團體的某高級人員的疏忽，

則該人員亦屬犯該罪行。

(2) 在第 (1) 款中——

高級人員 (officer) 指——

- (a) 有關法人團體的董事、經理、秘書或其他相類高級人員；
或

(b) 看來是以 (a) 段提述的人的身分行事的人。

15DC. 豁免取道香港國際機場過境的人

第15DA(1)(a) 條不適用於符合以下說明的人——

- (a) 從香港境外某地方，抵達香港國際機場；及
- (b) 在香港境內時，沒有經過出入境檢查。

15DD. 豁免過境物品或航空轉運貨物

- (1) 如某另類吸煙產品屬過境物品或航空轉運貨物，則就該產品而言，第15DA(1)(a) 條不適用。
- (2) 然而，如在上述另類吸煙產品被帶進香港之後至被運出香港之前期間，該產品有以下情況，則就該產品而言，第 15DA(1)(a) 條適用——
 - (a) 如該產品屬在某飛機上的過境物品——該產品在指明貨物轉運區以外，被移離該飛機；
 - (b) 如該產品屬在某船隻內的過境物品——該產品被移離該船隻；
 - (c) 如該產品屬航空轉運貨物——該產品被移離指明貨物轉運區。
- (3) 如就第(1) 款提及的產品而言，第 15DA(1)(a) 條因第 (2) 款而適用，則就該條適用於該產品而言——
 - (a) 第 (2) 款所提及的、該產品被移離之時，須當作是該產品的進口時間；及
 - (b) 將該產品作為過境物品或航空轉運貨物帶進香港的人，或安排該產品被如此帶進香港的人，須當作是進口該產品的人。
- (4) 如第 (3)(b) 款提及的人(**被告**)被控就進口某產品犯第 15DA(4) 條所訂罪行，被告如證明自己已採取所有合理步驟和已作出合理努力，以避免第(2) 款提及的移離，即為免責辯護。
- (5) 第 (6) 款在以下情況下適用：第 (4) 款所訂的免責辯護，涉及指稱有關罪行——
 - (a) 是因另一人的作為或過失而犯的；或
 - (b) 是因被告倚賴另一人所提供的資料而犯的。
- (6) 如沒有法院的許可，則除非被告於聆訊有關法律程序前 10 日或之前，向檢控人送達書面通知，提供在送達該通知時被告所知悉的、關於以下事項的詳情，否則被告不得援引上述免責辯護——
 - (a) 被指稱作出有關作為或犯有關過失的人，或被指稱提供有關資料的人；及
 - (b) 有關作為、過失或資料。
- (7) 如被告擬援引第(4) 款所訂的免責辯護，而該項免責辯護聲稱有關罪行是因被告倚賴另一人所提供的資料而犯的，則除非被告證明有鑑於整體情況，尤其是在顧及以下事宜後，倚賴該資料屬合理之舉，否則被告不得援引該項免責辯護——
 - (a) 被告為了核實該資料而採取的步驟，及按理可為核實該資料而採取的步驟；及
 - (b) 被告是否有任何理由不相信該資料。

(8) 在本條中——

指明貨物轉運區 (specified cargo transshipment area) 指——

- (a) 根據《航空保安條例》(第494章)第35條指定為禁區的香港國際機場的任何部分；
- (b) 海關關長根據《進出口條例》(第60章)第2AA條認可的範圍；

航空轉運貨物 (air transshipment cargo) 具有《進出口條例》(第60章)第2條所給予的涵義；

過境物品 (article in transit) 具有《進出口條例》(第60章)第2條所給予的涵義。

15DE. 政府化驗師屬例外

儘管有第15DA條的規定，在為執行政府化驗師的職能所需要的範圍內，政府化驗師可進口另類吸煙產品。

15DF. 與《藥劑業及毒藥條例》的關係

- (1) 本部並不局限《藥劑業及毒藥條例》(第138章)。
- (2) 如某另類吸煙產品根據《藥劑業及毒藥規例》(第138章，附屬法例A)第36條，註冊為藥劑製品，就該產品而言，本部其他條文不適用。

15DG. 督察的執法權

- (1) 督察如合理地懷疑，任何物品有以下情況，可檢取、移走或扣留該物品——
 - (a) 該物品是另類吸煙產品；及
 - (b) 有人曾經、正在或即將就該物品，犯第15DA(4)條所訂罪行。
- (2) 督察如合理地懷疑，某人曾經或正在犯第15DA(4)條所訂罪行，即可為利便執行第15DA條，扣留該人。
- (3) 如裁判官因經宣誓作出的告發，覺得有合理理由懷疑，有人曾經、正在或即將在並非公眾地方或住宅的某地方，犯第15DA(4)條所訂罪行，該裁判官可發出手令，賦權該手令中指名的督察隨時進入該地方。
- (4) 督察在根據第(1)或(2)款行使權力時，或在根據第(3)款提及的手令行使權力時，如被要求，即須出示其作為督察的權限證明。
- (5) 本條並不局限第15G(1)(c)、(d)、(e)、(f)、(g)或(h)條。

15DH. 海關人員的執法權

- (1) 海關人員可為就進口罪行執行第15DA條——
 - (a) 截停和搜查抵達香港的人，並搜查該人管有的任何物件；
 - (b) 截停、登上和搜查任何抵達香港的交通工具；
 - (c) 在任何進入香港的口岸，檢查不是載於郵包內的任何物品（包括貨物、無人隨同行李或無人隨同個人財物）；及
 - (d) 在郵政署人員在場時，在該郵政署人員指示下，拆開和檢查任何郵包。
- (2) 根據第(1)(a)條被搜查的人——

- (a) 只可由同性別的人搜查；及
 - (b) 如反對在公眾地方被搜查，海關人員即不得在公眾地方搜查該人。
- (3) 海關人員如合理地懷疑，任何物品有以下情況，可檢取、移走或扣留該物品——
 - (a) 該物品是另類吸煙產品；及
 - (b) 有人曾經或正在就該物品犯進口罪行。
- (4) 根據第 (3) 款檢取的物品，可由海關人員保管，直至為執行第 15DA 條而移交督察為止。
- (5) 海關人員如合理地懷疑，某人曾經或正在犯進口罪行，即可——
 - (a) 為利便就該罪行執行第 15DA 條，扣留該人；及
 - (b) 無須手令而逮捕該人。
- (6) 海關人員可為根據本條行使權力，使用任何合理所需武力。
- (7) 在本條中——
 - 交通工具 (transport carrier) 包括飛機、車輛、船隻或列車，及任何其他交通或運輸工具；
 - 海關人員 (Customs and Excise officer) 指擔任《香港海關條例》(第 342 章) 附表 1 所指明的職位的人；
 - 進口罪行 (import offence) 指第 15DA(4) 條所訂的、違反第 15DA(1)(a) 條的罪行；
 - 郵包 (postal packet) 具有《郵政署條例》(第 98 章) 第 2(1) 條所給予的涵義；
 - 郵政署人員 (officer of the Post Office) 具有《郵政署條例》(第 98 章) 第 2(1) 條所給予的涵義。

第4B部

關於督察的條文

(第4B部由2006年第21號第19條增補)

15E. 第4B部的釋義

在本部中 ——

有關條文 (relevant provision)指本條例的任何條文 (第3部的條文除外)；

有關罪行 (relevant offence)指本條例所訂的任何罪行 (第3部所訂的罪行除外)。

(編輯修訂——2012年第1號編輯修訂紀錄)

15F. 督察的委任

局長可以書面委任任何公職人員為督察，以行使本條例授予督察的任何權力，以及執行本條例委予督察的任何職責。

15G. 督察的一般權力及職責

- (1) 在不局限本條例任何其他條文的原則下，督察可在符合第(2)及(3)款的規定、並在被要求時出示他作為督察的權限憑證的情況下，作出以下所有或任何事情 ——
 - (a) 在任何時間進入任何他合理地懷疑已經發生或正在發生有關罪行的地方；
 - (b) 為確定有關條文是否獲遵守，而在任何合理時間進入及視察公眾地方內的禁止吸煙區；
 - (c) 檢取任何他覺得是任何有關罪行的證據的物件；
 - (d) 在他合理地懷疑任何人已犯有關罪行的情況下，要求該人提供其姓名及地址和出示身分證明文件；
 - (e) 為取得與任何有關罪行有關連的證據而拍照、進行錄音或進行錄影；
 - (f) 為使他能確定有關條文是否獲遵守，而要求任何人出示由該人控制的文件或紀錄以供查閱；
 - (g) 複製任何該等文件或紀錄的全部或任何部分的副本；
 - (h) 要求任何人向他提供合理所需的協助或資料，以使他能使或執行本條例授予或委予的任何權力或職責。
- (2) 督察不得根據第(1)(a)款 ——
 - (a) 進入任何住宅；或
 - (b) 在沒有獲懲教署署長批准的情況下進入任何懲教機構。
- (3) 如任何公眾地方屬公眾無權進入或不獲准進入的任何處所的共用部分，則督察不可根據第(1)(b)款進入該公眾地方。
- (4) 任何人故意妨礙正行使本條例授予的權力或執行本條例委予的職責的督察，即屬犯罪，一經循簡易程序定罪，可處第3級罰款。
- (5) 任何人如在根據第(1)(d)款被要求提供其姓名及地址或出示身分證明文件時，不遵從要求或提供虛假或具誤導性的姓名或地址，即屬犯罪，一經循簡易程序定罪，可處第3級罰款。

15H. 對督察檢取的財產作出的處置

- (1) 如督察在行使或執行本條例授予或委予的權力或職責時檢取任何財產，《刑事訴訟程序條例》(第221章)第102條即告適用，猶如該督察是該條條文所指的警方，而上述財產是在與刑事罪行有關連的情況下歸由警方管有的財產一樣。
- (2) 為施行第(1)款，第 15DH(4) 條提及的移交督察的物品，須視為由該督察檢取的物品。

15I. 督察不須就某些作為或不作為承擔個人法律責任

- (1) 任何督察如在行使或執行本條例授予或委予的權力或職責時，作出或沒有作出任何作為，並在當時誠實地相信該作為或不作為是本條例或根據本條例規定或授權的，則該督察不須就該作為或不作為承擔個人法律責任。
 - (2) 第(1)款並不影響政府因任何督察已作出或沒有作出該款適用的任何作為而可能須承擔的法律責任。
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第5部

補充條文

16. 焦油量及尼古丁量的證據

- (1) 為施行本條例，政府化驗師可不時將任何香煙化驗，以鑑定其焦油量及尼古丁量，並可將化驗結果公布。
- (2) 在訂明的條件或限制的規限下，政府化驗師所公布的根據第(1)款所作的鑑定即為被抽取化驗的香煙所屬牌子的香煙焦油量及尼古丁量的證據，而看來是如此公布的鑑定的任何公布，均須當作為上述的鑑定，除非與直至相反證明成立。
- (3) 海關人員獲《應課稅品條例》(第109章)第11(1)(d)條授予抽取該條例適用的任何貨品樣本的權力，須擴大至包括抽取香煙樣本以供政府化驗師為施行本條而作化驗的權力。

(由1997年第93號第22條修訂)

16A. 附表的修訂

局長可藉憲報刊登的命令修訂附表。

(由1992年第9號第14條增補。由1997年第80號第22條修訂；由1997年第362號法律公告修訂；由2002年第106號法律公告修訂；由2007年第130號法律公告修訂)

17. (已失效力)

18. 規例及命令

- (1) 行政長官會同行政會議可就以下所有或任何事宜訂立規例——(由2000年第60號第3條修訂)
 - (a) 訂明任何根據本條例須予或准予訂明的事項；
 - (b) 訂明鑑定香煙焦油量及尼古丁量的方式；(由1997年第93號第23條代替)
 - (c) 規定必須就任何人所做而與香煙焦油量及尼古丁量可能有關的事發出通知，以及對不遵從此規定的人判處不超過第3級的罰款；(由1992年第9號第15條修訂)
 - (d) 絕對地或在符合訂明的例外規定下豁免任何煙草廣告，使其不受第4部條文所規限；及
 - (e) 更有效實施本條例的規定。
- (2) 在不抵觸規例的條文下，局長可藉於憲報刊登的命令，訂明以下所有或任何事宜——
 - (a) 以下事宜的式樣(包括規格)——
 - (i) (由2006年第21號第20(b)條廢除)
 - (ii) 任何健康忠告；及
 - (iii) 任何焦油量和尼古丁量說明；
 - (b) (a)段所提述的任何事宜的展示方式。(由2006年第21號第20(a)條代替)

(由1997年第93號第23條修訂；編輯修訂——2012年第1號編輯修訂紀錄)

~~19. 關於《2006年吸煙(公眾衛生)(修訂)條例》的過渡性條文~~

~~附表6就關於《2006年吸煙(公眾衛生)(修訂)條例》(2006年第21號)的過渡性安排訂定條文。~~

~~(由2006年第21號第41條增補)~~

附表1

[第2條]

禁止吸煙的公共交通工具

項	交通工具類別
1.	根據《公共巴士服務條例》(第230章)所批授的專營權而經營的公共巴士。
2.	根據《道路交通條例》(第374章)，為提供以下服務而根據客運營業證經營的公共巴士(但根據《道路交通(公共服務車輛)規例》(第374章，附屬法例D)第38條將其租予任何人時除外)—— <ul style="list-style-type: none">(a) 旅遊服務；(b) 國際客運服務；(c) 酒店服務；(d) 學生服務；(e) 僱員服務；(f) 住客服務；(g) 多種運輸服務；或(h) 經運輸署署長批准的任何其他服務。
3.	《道路交通條例》(第374章)所指的公共小巴(但根據《道路交通(公共服務車輛)規例》(第374章，附屬法例D)第38條將其租予任何人時除外)。
4.	《道路交通條例》(第374章)所指的登記的士(但根據《道路交通(公共服務車輛)規例》(第374章，附屬法例D)第38條將其租予任何人時除外)。
5.	根據《香港鐵路條例》(第556章)在地下鐵路上運作的列車。(由2000年第13號第65條修訂；由2007年第11號第36條修訂)
6.	於《香港鐵路條例》(第556章)第2(1)條所指的經營權有效期以外任何時間根據《九廣鐵路公司條例》(第372章)在九廣鐵路上運作的列車。(由2007年第11號第36條增補)
6A.	於第6項提述的經營權有效期內在《香港鐵路條例》(第556章)第2(1)條所指的九鐵公司鐵路上運作的列車。(由2007年第11號第36條增補)
7.	於第6項提述的經營權有效期以外任何時間根據《九廣鐵路公司條例》(第372章)在西北鐵路上運作的輕便鐵路車輛。(由2007年第11號第36條修訂)

- 7A. 於第6項提述的經營權有效期內在《香港鐵路條例》(第556章) 第2(1)條所指的西北鐵路上運作的輕便鐵路車輛。(由2007年第11號第36條增補)
8. 根據《電車條例》(第107章)在電車軌道上行駛的電車(但在租用電車服務中者除外)。
9. 根據《山頂纜車條例》(第265章)在纜車軌道上行駛的纜車。
10. 根據《渡輪服務條例》(第104章)所批授的專營權或牌照而經營的渡輪中那些為運載乘客或因與運載乘客有關而開放或設置的部分，或用作運載乘客或用作與運載乘客有關的用途的部分，或乘客可進入或獲准進入的部分。

(由1992年第9號第16條增補)

附表2

[第3(1)及(1AA)條]

指定禁止吸煙區及豁免區域

第1部

指定禁止吸煙區

項	區域類別
1.	任何電影院、劇院或音樂廳。
2.	任何公共升降機。
3.	任何自動梯。
4.	任何遊戲機中心。
5.	任何幼兒中心。
6.	任何學校。
7.	任何指明教育機構。
8.	任何核准院舍。
9.	任何拘留地方。
10.	任何收容所。
11.	任何感化院。
12.	任何醫院。
13.	任何留產院。(由2012年第80號法律公告修訂)
14.	任何公眾遊樂場地(泳灘除外)。
15.	在任何泳灘內的以下範圍——
(a)	根據《泳灘規例》(第132章，附屬法例E)第10條撥作純為供游泳人士之用的水域的任何部分(包括浮台及任何其他在該等水域的水面上、或該等水域上的東西)；
(b)	有沙或石頭覆蓋的海岸，以及在該等海岸上的任何構築物、淋浴設施或自然事物；及
(c)	任何根據《公眾衛生及市政條例》(第132章)第107(3)條被指明用作燒烤場、營地或兒童遊樂場的區域。

16. 在任何公眾泳池內的以下區域——
 - (a) 任何泳池；
 - (b) 任何緊靠泳池的行人通道；
 - (c) 任何跳水板或其他毗連泳池的器具或設施；及
 - (d) 任何觀眾看台。
17. 在任何體育場內的以下區域——
 - (a) 任何球場；
 - (b) 任何跑道；
 - (c) 任何緊靠球場或跑道的行人通道；及
 - (d) 任何觀眾看台。
18. 根據《郊野公園條例》(第208章)第24(1)條指定的香港濕地公園。
19. 在以下地方內的室內區域——
 - (a) 任何店舖、百貨公司或購物商場；
 - (b) 任何街市(不論是公營或私營，或是由公營部門管理或由私人機構管理的)；
 - (c) 任何超級市場；
 - (d) 任何銀行；
 - (e) 任何食肆處所；
 - (f) 任何酒吧；
 - (g) 任何卡拉OK場所；
 - (h) 任何麻將天九耍樂處所；
 - (i) 任何浴室；
 - (j) 任何按摩院；
 - (k) 任何院舍； (由2011年第12號第30條修訂)
 - (l) 任何治療中心；或
 - (m) 任何共用宿舍(第3部所界定者)。
20. 在工作地方或公眾地方內的室內區域(僅限於該區域並非本部任何其他項目所描述的區域的範圍內)。
21. 以下巴士轉乘處和毗連的設施 ——
 - (a) 位於獅子山隧道繳費廣場兩旁的獅子山隧道巴士轉乘處，其範圍在一份編號為DH/TCO/T-004V1的圖則上以橙色著

色連紅邊顯示，該圖則由局長於2015年12月4日簽署，並存放於土地註冊處；

- (b) 位於海底隧道繳費廣場兩旁的海底隧道巴士轉乘處，連同毗連的樓梯，以及毗連的行人天橋的部分，其範圍在一份編號為DH/TCO/T-001V1的圖則上以下述方式顯示——
 - (i) 橙色著色連紅邊；
 - (ii) 黃色著色連紅邊；
 - (iii) 以帶黑色點的橙色著色連紅邊；及
 - (iv) 以帶黑色斜線的橙色著色連紅邊，該圖則由局長於2015年12月4日簽署，並存放於土地註冊處；
- (c) 位於東區海底隧道繳費廣場兩旁的東區海底隧道巴士轉乘處，其範圍在一份編號為DH/TCO/T-002V1的圖則上以橙色著色連紅邊顯示，該圖則由局長於2015年12月4日簽署，並存放於土地註冊處；
- (d) 位於城門隧道繳費廣場兩旁的城門隧道巴士轉乘處，其範圍在一份編號為DH/TCO/T-006V1的圖則上以橙色著色連紅邊顯示，該圖則由局長於2015年12月4日簽署，並存放於土地註冊處；
- (e) 位於大老山隧道繳費廣場兩旁的大老山隧道巴士轉乘處，其範圍在一份編號為DH/TCO/T-005V1的圖則上以橙色著色連紅邊顯示，該圖則由局長於2015年12月4日簽署，並存放於土地註冊處；
- (f) 位於西區海底隧道繳費廣場兩旁的西區海底隧道巴士轉乘處，其範圍在一份編號為DH/TCO/T-003V1的圖則上以橙色著色連紅邊顯示，該圖則由局長於2015年12月4日簽署，並存放於土地註冊處；
- (g) 位於大欖隧道繳費廣場兩旁的大欖隧道巴士轉乘處，其範圍在一份編號為DH/TCO/T-007V1的圖則上以橙色著色連紅邊顯示，該圖則由局長於2015年12月4日簽署，並存放於土地註冊處；(由2018年第81號法律公告修訂)
- (h) 位於青沙公路繳費廣場兩旁的青沙公路巴士轉乘處，其範圍在一份編號為DH/TCO/T-008V1的圖則上以橙色著色連紅邊顯示，該圖則由局長於2015年12月4日簽署，並存放於土地註冊處；(由2015年第237號法律公告增補。由2018年第81號法律公告修訂)
- (i) 位於屯門公路的屯門公路巴士轉乘處(往九龍方向)，其範圍在一份編號為DH/TCO/E-003V1的圖則上以橙色著色連紅邊顯示，該圖則由局長於2018年5月7日簽署，並存放於土地註冊處；(由2018年第81號法律公告增補)

- (j) 位於屯門公路的屯門公路巴士轉乘處(往屯門方向)，連同毗連的樓梯，以及毗連的高架行人路的部分，其範圍在一份編號為DH/TCO/E-004V1的圖則上以下述方式顯示——
- (i) 橙色著色連紅邊；
 - (ii) 黃色著色連紅邊；
 - (iii) 以帶黑色點的橙色著色連紅邊；及
 - (iv) 以帶黑色斜線的橙色著色連紅邊，
- 該圖則由局長於2018年5月7日簽署，並存放於土地註冊處；(由2018年第81號法律公告增補)
- (k) 位於北大嶼山公路繳費廣場兩旁的大嶼山繳費廣場巴士轉乘處，其範圍在一份編號為DH/TCO/E-002V1的圖則上以橙色著色連紅邊顯示，該圖則由局長於2018年5月7日簽署，並存放於土地註冊處；及(由2018年第81號法律公告增補)
- (l) 位於近南風道與黃竹坑道交匯處的無名路兩旁的香港仔隧道巴士轉乘處，其範圍在一份編號為DH/TCO/E-001V1的圖則上以橙色著色連紅邊顯示，該圖則由局長於2018年5月7日簽署，並存放於土地註冊處。(由2018年第81號法律公告增補)

第2部

豁免區域

- | 項 | 區域類別 |
|----|----------------------------------|
| 1. | 屬第1部第20項所述而位於住宅內的區域。 |
| 2. | 第一類私人宿舍(第3部所界定者)。 |
| 3. | 並非位於任何以下地方內的第二類私人宿舍(第3部所界定者) |
| | —— |
| | (a) 幼兒中心； |
| | (b) 學校； |
| | (c) 指明教育機構； |
| | (d) 核准院舍； |
| | (e) 拘留地方； |
| | (f) 收容所； |
| | (g) 感化院； |
| | (h) 醫院； |
| | (i) 留產院。 |
| 4. | 根據《床位寓所條例》(第447章)獲發牌照或豁免證明書(而該牌照 |

或豁免證明書正有效)的床位寓所。

5. 符合以下說明的在旅館內的房間或套房——
 - (a) 該旅館領有根據《旅館業條例》(第349章)發出的牌照或豁免證明書，而該牌照或豁免證明書正有效；及
 - (b) 該房間或套房正出租以用作住宿地方。
6. 《機場管理局附例》(第483章，附屬法例A)第16條所提述的被機場管理局指定為吸煙區的區域。
7. 劃出以供按照根據《監獄規例》(第234章，附屬法例A)第25條發出的命令獲容許吸煙的囚犯吸煙的在懲教機構內的區域。
8. 符合以下說明的區域——
 - (a) 該區域位於公眾遊樂場地(泳灘除外)內；及
 - (b) 該區域根據《公眾衛生及市政條例》(第132章)第107(3)條被指明用作吸煙區。
9. (在符合以下所有條件的前提下)位於店舖內並被指定供品嚐雪茄的房間——
 - (a) 該店舖從事雪茄零售；
 - (b) 除雪茄及雪茄附屬用品外，該店舖沒有出售其他物品；
 - (c) 除為供品嚐在該店舖售賣或要約出售的雪茄或雪茄樣本外，該房間並不用作吸煙用途；
 - (d) 該房間設有獨立通風，並與該店舖的其餘地方以密封間隔分隔；及
 - (e) 該房間被佔用以供品嚐雪茄時，任何自然人均無須進入該房間(無論他是否本可基於合約或其他理由而被要求進入該房間)。
10. (在符合以下所有條件的前提下)位於從事煙草業的企業的生產或營業處所並被指定供品嚐煙草吸煙產品業的企業的製造處所或營業處所內的、指定供品嚐或測試吸煙產品的房間——
 - (a) 該企業並不從事煙草吸煙產品零售；
 - ~~(b) 品嚐煙草是為該企業在正常運作過程中對煙草產品進行研究開發或品質控制而進行的；~~
 - (b) 進行品嚐或測試，是為了在該企業的正常業務過程中，研究開發吸煙產品或控制吸煙產品的品質；
 - (c) 該房間只用作進行品嚐煙草於進行上述品嚐或測試；
 - (d) 該房間設有獨立通風，並與該處所的其餘地方以密封間隔分隔；及
 - ~~(e) 該房間被佔用以供品嚐煙草時，除進行品嚐煙草的人外，~~

任何自然人均無須進入該房間(無論他是否本可基於合約或其他理由進行上述品嚐或測試時，除進行品嚐或測試的人外，任何自然人均無須進入該房間(無論該自然人是否本可基於合約或其他理由，而被要求進入該房間)。

11. 入境事務處處長為讓羈留在《入境(被羈留者的待遇)令》(第115章，附屬法例E)附表2所指明地點的人吸煙，而根據該命令附表1第11A條在該地點內劃出的區域。(由2010年第16號法律公告增補)

12. 政府化驗所。

第3部

釋義

在本附表中 ——

共用宿舍 (communal quarters)指屬由僱主向2名或以上的僱員或向該等僱員及其家人提供的居所(不論該僱主是否因提供該居所而收取任何金錢代價)的處所，但不包括 ——

- (a) 位於任何該類居所內並純粹由一名僱員或由該僱員及其家人佔用的房間；及
- (b) 任何屬僱主或任何其他人的私人住宅或其部分的該類居所；

第一類私人宿舍 (Type 1 private quarters)指符合以下規定的任何處所

- (a) 該處所屬由僱主向一名僱員或向該僱員及其家人提供的居所(不論該僱主是否因提供該居所而收取任何金錢代價)；
- (b) 該居所純粹由該僱員或由他及其家人佔用；及
- (c) 該居所所在的大廈只由該類居所及該類居所共用的部分(如有的話)組成；

第二類私人宿舍 (Type 2 private quarters)指符合以下規定的任何處所

- (a) 該處所屬由僱主向一名僱員或向該僱員及其家人提供的居所(不論該僱主是否因提供該居所而收取任何金錢代價)；
- (b) 該居所純粹由該僱員或由他及其家人佔用；
- (c) 該居所與其所在並屬第1部所述的區域的其餘部分以密封間隔永久性地分隔；及
- (d) 該居所的所有窗戶、門戶及其他可關閉的開啓口均不通向該區域的室內部分(共用部分除外)。

(附表2由2006年第21號第21條代替)

附表3

(由2006年第21號第22條廢除)

附表4

(由2006年第21號第23條廢除)

附表5

[第3(2A)條]

免受本條例第3(2)條規限的豁免

對現場表演、或電影或電視節目的攝錄的豁免

1. 附表5的釋義

(1) 在本附表中 ——

~~吸煙動作 (smoking act)~~指吸煙或攜帶燃着的香煙、雪茄或煙斗；

表演 (performance)指任何戲劇、節目、娛樂、或任何其他種類的表演；

現場表演 (live performance)指在現場觀眾面前作出的表演(不論是收費表演)，並包括該表演的最後排演；

電視節目 (television programme)指《廣播條例》(第562章)第2(1)條所指的電視節目；

傳統吸煙行為 (conventional smoking act) 指吸用或攜帶燃着的香煙、雪茄或煙斗或已啟動的加熱煙草產品；

電影 (film)指《電影檢查條例》(第392章)第2(1)條所指的電影或影片。

(2) 就本附表而言，符合以下規定的場地即屬指定表演場地——

(a) 該場地位於 ——

(i) 一間並非提供《教育條例》(第279章)第3(1)條所指的任何幼兒、幼稚園或小學教育的學校；或

(ii) 一間指明教育機構；及

(b) 該場地被該學校或機構的管理人指定作進行任何現場表演的場地。

2. 對現場表演的豁免

就本條例第3(2A)條而言，在禁止吸煙區內作出吸煙動作作出傳統吸煙行為的人如證明以下情況，即獲豁免而不受本條例第3(2)條的規限 ——

(a) 他正在現場表演中表演，而其吸煙動作傳統吸煙行為屬於該表演的部分；

(b) 進行該現場表演的禁止吸煙區並非學校或指明教育機構(指定表演場地除外)；

(c) 該禁止吸煙區的管理人已事先准許在該禁止吸煙區內進行該包含吸煙動作傳統吸煙行為的現場表演，如該禁止吸煙區屬在《教育條例》(第279章)第3(1)條所指的中學內的指定表演場地，該項事先准許須是以書面給予的；

(d) 該現場表演只在該管理人准許的時間內及地點進行；及

(e) 該吸煙動作傳統吸煙行為符合第4條就該等動作傳統吸煙行為指明的所有規定。

3. 對電影或電視節目的攝錄作出的豁免

就本條例第3(2A)條而言，在禁止吸煙區內作出吸煙動作作出傳統吸煙行為的人如證明以下情況，即獲豁免而不受本條例第3(2)條的規限 ——

- (a) 他正在表演中表演，而其吸煙動作傳統吸煙行為屬於該表演的部分；
- (b) 該表演正被攝錄以製作電影或電視節目(不論是否直播節目)；
- (c) 該電影或電視節目並非煙草吸煙產品廣告，亦不屬於煙草吸煙產品廣告的部分；
- (d) 進行該表演所在的禁止吸煙區的管理人已事先准許在該禁止吸煙區內進行該包含吸煙動作傳統吸煙行為的表演，如該禁止吸煙區屬一間提供《教育條例》(第279章)第3(1)條所指的任何幼兒、幼稚園、小學或中學教育的學校，該項事先准許須是以書面給予的；
- (e) 該表演只在該管理人准許的時間內及地點進行；及
- (f) 該吸煙動作傳統吸煙行為符合第4條就該等動作傳統吸煙行為指明的所有規定。

4. 就吸煙動作傳統吸煙行為指明的規定

就第2(e)及3(f)條而言，就吸煙動作傳統吸煙行為而指明的規定如下 —

- (a) 該動作行為沒有以明示或默示的方式誘使、建議或促請任何人購買或吸用任何煙草傳統吸煙產品；
- (b) 該動作行為沒有以明示或默示地刻意推廣提倡或鼓勵使用任何煙草傳統吸煙產品的方式，描劃吸煙；
- (c) 該動作行為沒有描劃任何煙草傳統吸煙產品的包裝；及
- (d) 除為宣傳吸煙的為害的目的外，該動作行為沒有描劃任何煙草傳統吸煙產品的品質特質。

(附表5由2006年第21號第24條增補)

附表6

[第19條]

關於《2006年吸煙(公眾衛生)(修訂)條例》的過渡性條文

第1部

關於煙草產品包裝的規定

1. ~~第1部的釋義~~

~~在本部中，指定日期*(appointed day)指《2006年吸煙(公眾衛生)(修訂)條例》(2006年第21號)於憲報刊登的日期。~~

2. ~~售賣載有未經修訂的健康忠告等的煙草產品~~

- ~~(1) 在指定日期後的12個月內，就本條例第8及9條而言，遵守緊接指定日期前有效的本條例的有關規定，即當作是遵守本條例的有關規定。~~
- ~~(2) 在本條中，有關規定(relevant provisions)指關於健康忠告及焦油量和尼古丁量說明的條文。~~

3. ~~關於煙草產品包裝的罪行~~

~~如在指定日期後的12個月內所作的作為本應不會構成緊接指定日期前有效的本條例第10(3)條所訂的罪行，則不得就該作為而根據本條例第10(3)條提出檢控。~~

第2部

~~(已期滿失效而略去——2012年第1號編輯修訂紀錄)~~

~~(附表6由2006年第21號第42條增補)~~

附表 7

[第 2(1) 條]

另類吸煙產品

第 1 部

釋義條文

1. 在本附表中——

水煙壺 (waterpipe) 指經設計用於吸用煙草(不屬香煙或雪茄香煙、雪茄或加熱煙草產品形態者)的、符合以下說明的容器或其他器具——

- (a) 容許不使用電力而產生煙；及
- (b) 由用以盛載液體的瓶子或類似的液體容器組成，或包含該瓶子或液體容器，而有關的煙草的煙，在被該容器或器具的使用者吸入前，會先通過該等液體；

危險藥物 (dangerous drug) 具有《危險藥物條例》(第 134 章)第 2(1) 條所給予的涵義；

指明植物材料 (specified plant material) 指符合以下說明的材料——

- (a) 曾經是植物的一部分，例如葉、根、花、果及籽；及
- (b) 既非煙草亦非危險藥物；

傳統吸煙 (conventional smoking) 指吸用香煙、雪茄或煙斗雪茄、煙斗或加熱煙草產品。

2. 就本附表而言，產生的氣霧是否可見，並不相干。

3. 就本附表而言，凡某物件能夠在以下方面，用於以與傳統吸煙相同的方式吸用，該物件即屬能夠用於模仿傳統吸煙——

- (a) 將該物件接觸嘴部；及
- (b) 吸入和呼出氣霧。

4. 就本附表而言，有關零件或配件是否與有關器具分開售賣，並不相干。

第 2 部

為另類吸煙產品的定義而列出的產品

第 1 類

1.1 符合以下說明的器具（水煙壺除外）——

- (a) 能夠自既非煙草亦非危險藥物的物質，產生氣霧，但不包括藉直接點燃有關物質而產生氣霧；及
- (b) 能夠用於模仿傳統吸煙。

1.2 符合以下說明的物件：經設計用作第 1.1 項描述的器具的零件或配件，該等物件的例子為吸嘴、加熱元件、電池或第 1.1 項提及的物質的容器。

1.3 符合以下說明的物質（煙草或危險藥物除外）——

- (a) 包裝成適合與第 1.1 項描述的器具並用；及
- (b) 能夠藉第 1.1 項描述的方式，自該物質產生氣霧。

第2類

~~2.1 符合以下說明的器具（水煙壺除外）——~~

- ~~(a) 能夠自煙草產生氣霧，但不包括藉直接點燃有關煙草而產生氣霧；及~~
- ~~(b) 能夠用於吸煙。~~

~~2.2 符合以下說明的物件：經設計用作第 2.1 項描述的器具的零件或配件，該等物件的例子為吸嘴、加熱元件、電池或第 2.1 項提及的煙草的容器。~~

~~2.3 符合以下說明的煙草——~~

- ~~(a) 包裝成適合與第 2.1 項描述的器具並用；及~~
- ~~(b) 能夠藉第 2.1 項描述的方式，自該煙草產生氣霧。~~

第3類 第2類

3-2. 符合以下說明的指明植物材料：用任何物料捲裹，並處於能夠即時用於模仿傳統吸煙的形態。

附表 8

[第 14(4A)(c) 條]

為第 14(4A)(c) 條而列出的字詞或字句

香煙

捲煙

吸煙

煙草

煙絲

雪茄

煙斗

水煙

電子煙

電子尼古丁傳送系統

電子非尼古丁傳送系統

煙油

煙液

加熱煙

加熱煙草產品

加熱非燃燒

草本煙

草藥煙

藥草煙

茶煙

水果煙

果味煙

有味煙

cigarette

smoking

tobacco

cigar

pipe

waterpipe

hookah

shisha

vaping

vaporizer

e-cigarette

e-cig

electronic nicotine delivery system

ENDS

electronic non-nicotine delivery system

ENNDS

e-liquid

e-juice

heat-not-burn

HNB

heatstick

heated tobacco product

HTP

《吸煙(公眾衛生)(訂明資訊)令》

(2017年第66號法律公告)

(第371章第18(2)條)

[1982年8月13日]

(格式變更——2019年第1號編輯修訂紀錄)

1. 引稱

本命令可引稱為《吸煙(公眾衛生)(訂明資訊)令》。

(2017年第66號法律公告)

2. (由2006年第21號第34條廢除)

2A. 釋義

(1) 在本命令中 —— (2017年第126號法律公告)

表面 (surface)就香煙**或加熱煙草產品**的封包或香煙包、加熱**煙草產品包**、雪茄、煙斗煙草或香煙煙草的零售盛器而言 ——

- (a) 指該封包或盛器的外部表面；及
- (b) 如該封包或盛器的蓋有任何部分構成某表面的一部分——包括該蓋的該部分； (2017年第126號法律公告)

指明封條 (specified seal)就香煙的封包而言，指附貼於該封包以下位置的物件 ——

- (a) 展示健康忠告的2個表面的頂端部分；及
 - (b) 鄰接上述2個表面的頂端的表面。 (2017年第126號法律公告)
- (2) 就第3條而言，某封包如符合以下說明，即屬附封條指明封包 ——
- (a) 該封包沒有符合以下說明的蓋：在該蓋處於閉合狀況時，該蓋的任何部分，構成展示健康忠告的表面的一部分；
 - (b) 該封包之上有一張指明封條，而該封條局部遮蔽在該封包的任何表面之上展示的任何健康忠告；及
 - (c) 該忠告如此受遮蔽的範圍，闊度不超過23毫米，而長度不超過14毫米。 (2017年第126號法律公告)

(2017年第66號法律公告)

3. 香煙的封包或零售盛器上的健康忠告及焦油量和尼古丁量說明

- (1) 就本條例第8條而言，本條適用於載有20支或多於20支香煙的封包及載有裝載任何數量香煙的香煙包的零售盛器。
- (2) 每個封包及每個盛器，均須展示健康忠告，以及焦油量和尼古丁量說明。 (2017年第66號法律公告)
- (3) 除第(9)款另有規定外，健康忠告及焦油量和尼古丁量說明，均須印在封包及盛器之上。 (2017年第66號法律公告)

- (4) 健康忠告須符合以下規定 ——
- (a) 如 ——
- (i) 在盛器及封包(附封條指明封包除外)上展示 —— 須符合附表第2部訂明的其中一個式樣的A版本或B版本；及
- (ii) 在附封條指明封包上展示 —— 須符合附表第2部訂明的其中一個式樣的C版本； (2017年第126號法律公告)
- (b) 須展示於每個封包及每個盛器的最大的2個表面之上；
- (c) 如封包或盛器有多於2個最大的表面 —— 須展示於任何2個該等表面之上；
- (d) 在符合(a)段的規定下，該2個表面，須分別展示同一忠告的A版本的中文版本及英文版本，或B版本的中文版本及英文版本，或C版本的中文版本及英文版本； (2017年第126號法律公告)
- (e) 忠告的每個中文或英文版本，均須至少覆蓋展示該版本的表面的面積的85%。 (2017年第66號法律公告；2017年第126號法律公告)
- (5) 儘管有第(4)款的規定，如封包或盛器呈圓柱體形 ——
- (a) 健康忠告須符合附表第2A部訂明的其中一個式樣；
- (b) 該忠告的中文版本 ——
- (i) 須展示於該圓柱體的彎曲表面之上；及
- (ii) 須至少覆蓋該表面的面積的85%；及
- (c) 同一忠告的英文版本 ——
- (i) 須展示於該圓柱體的蓋的頂部表面之上；及
- (ii) 須至少覆蓋該表面的面積的50%。 (2017年第66號法律公告)
- (6) 為施行第(4)(a)及(5)(a)款，就每一個牌子的香煙而言，在任何一段連續24個月的期間內，附表第2或2A部訂明的每一健康忠告式樣，須以相同的頻密程度，展示於載有該牌子的香煙的封包及零售盛器之上。 (2017年第66號法律公告)
- (7) 焦油量和尼古丁量說明 ——
- (a) 須符合附表第2C部訂明的其中一個式樣；及
- (b) 須展示於每個封包及每個零售盛器的某個表面(展示健康忠告的表面除外)之上。 (2017年第66號法律公告)
- (8) 封包或零售盛器所展示的健康忠告及焦油量和尼古丁量說明，均不得被以下物品遮蔽 ——
- (a) 該封包或盛器的蓋(處於閉合狀況者)的任何部分；
- (b) 附貼於該封包或盛器上的物件；
- (c) 該封包或盛器的封套；
- (d) 附貼於該封套上的物件；或
- (e) 載於該封套內的東西。 (2017年第66號法律公告)
- (8A) 第(8)款不得僅因為有指明封條附貼於一個附封條指明封包之上，而屬就該封包而遭違反。 (2017年第126號法律公告)
- (9) 在以下情況下，健康忠告及焦油量和尼古丁量說明，可在穩固地附貼於封包或零售盛器的標籤之上展示 ——
- (a) 該封包或盛器以金屬製成，或是塑膠圓柱體；或

- (b) 海關關長基於信納以下事宜，批准附貼上述標籤於上述封包或盛器之上 ——
- (i) 期望在製造該封包或盛器時，在其上印上健康忠告及焦油量和尼古丁量說明，並不合理；及
 - (ii) 只為一段有限的期間需要有該項批准，或只有需要就某特定批次的香煙而有該項批准。 (2017年第66號法律公告)

(2006年第21號第35條)

4. (由1999年第188號法律公告廢除)

4A. 雪茄、煙斗煙草或香煙煙草的、香煙煙草或加熱煙草產品的封包或零售盛器上的健康忠告(載有一支雪茄的零售盛器除外)

- (1) 就本條例第9或9A條而言，本條適用於雪茄、煙斗煙草或香煙煙草的、香煙煙草或加熱煙草產品的封包或零售盛器(載有一支雪茄的零售盛器除外)。
- (2) 每個封包或盛器均須展示健康忠告。 (2017年第66號法律公告)
- (3) 除第(10)款另有規定外，健康忠告須印在封包或盛器之上。 (2017年第66號法律公告)
- (4) 健康忠告須符合以下規定 ——
 - (a) 須符合附表第2部訂明的其中一個式樣的A版本或B版本； (2017年第126號法律公告)
 - (b) 須展示於每個封包或盛器的最大的2個表面之上；
 - (c) 如封包或盛器有多於2個最大的表面——須展示於任何2個該等表面之上；
 - (d) 如展示於雪茄的零售盛器之上，忠告亦須符合第(5)款；
 - (e) 如展示於煙斗煙草或香煙煙草的、香煙煙草或加熱煙草產品的封包或零售盛器之上，忠告亦須符合第(6)款。 (2017年第66號法律公告)
- (5) 就雪茄的零售盛器而言 ——
 - (a) 忠告的中文版本 ——
 - (i) 須展示於該盛器的正面的最大的表面之上；及
 - (ii) 須至少覆蓋該表面的面積的70%；及
 - (b) 同一忠告的英文版本 ——
 - (i) 須展示於該盛器的背面的最大的表面之上；及
 - (ii) 須覆蓋該表面的面積的100%。 (2017年第66號法律公告)
- (6) 就煙斗煙草或香煙煙草的、香煙煙草或加熱煙草產品的封包或零售盛器而言 ——
 - (a) 在符合第(4)(a)款的規定下，展示有關忠告的2個表面，須分別展示同一忠告的A版本的中文版本及英文版本，或B版本的中文版本及英文版本；及
 - (b) 忠告的每個中文或英文版本，均須至少覆蓋展示該版本的表面的面積的85%。 (2017年第66號法律公告；2017年第126號法律公告)
- (7) 儘管有第(4)、(5)及(6)款的規定，如封包或盛器呈圓柱體形 ——
 - (a) 健康忠告須符合附表第2A部訂明的其中一個式樣；
 - (b) 該忠告的中文版本 ——
 - (i) 須展示於該圓柱體的彎曲表面之上；及

- (ii) 須至少覆蓋該表面的面積的85%；及
- (c) 同一忠告的英文版本 ——
 - (i) 須展示於該圓柱體的蓋的頂部表面之上；及
 - (ii) 須至少覆蓋該表面的面積的50%。(2017年第66號法律公告)
- (8) 為施行第(4)(a)及(7)(a)款，就每一個牌子的雪茄、煙斗煙草或香煙煙草而言，在任何一段連續24個月的期間內，附表第2或2A部訂明的每一健康忠告式樣，須以相同的頻密程度，展示於載有該牌子的雪茄、煙斗煙草或香煙煙草的零售盛器之上。、香煙煙草或加熱煙草產品而言，在任何一段連續24個月的期間內，附表第2或2A部訂明的每一健康忠告式樣，須以相同的頻密程度，展示於載有該牌子的雪茄、煙斗煙草、香煙煙草或加熱煙草產品的封包或零售盛器之上。(2017年第66號法律公告)
- (9) 封包或零售盛器所展示的健康忠告，不得被以下物品遮蔽 ——
 - (a) 該封包或盛器的蓋(處於閉合狀況者)的任何部分；
 - (b) 附貼於該封包或盛器上的物件；
 - (c) 該封包或盛器的封套；
 - (d) 附貼於該封套上的物件；或
 - (e) 載於該封套內的東西。(2017年第66號法律公告)
- (10) 如海關關長信納，期望在製造封包或零售盛器時在其上印上健康忠告，並不合理，而關長按此給予批准，則健康忠告可在穩固地附貼於該封包或盛器的標籤之上展示。(2017年第66號法律公告)

(2006年第21號第36條)

4AA. 載有一支雪茄的零售盛器上的健康忠告

- (1) 就本條例第9條而言，本條適用於載有一支雪茄的零售盛器。
- (2) 每個盛器均須展示健康忠告。(2017年第66號法律公告)
- (3) 除第(7)款另有規定外，健康忠告須印在盛器之上。(2017年第66號法律公告)
- (4) 健康忠告須符合以下規定 ——
 - (a) 須符合附表第2B部訂明的其中一個式樣；
 - (b) 忠告的中文版本及英文版本，均須展示於盛器的最大的表面之上。(2017年第66號法律公告)
- (5) 為施行第(4)(a)款，就每一個牌子的雪茄而言，在任何一段連續24個月的期間內，附表第2B部訂明的每一健康忠告式樣，須以相同的頻密程度，展示於載有該牌子的雪茄的零售盛器之上。(2017年第66號法律公告)
- (6) 零售盛器所展示的健康忠告，不得被以下物品遮蔽 ——
 - (a) 該盛器的蓋(處於閉合狀況者)的任何部分；
 - (b) 附貼於該盛器上的物件；
 - (c) 該盛器的封套；
 - (d) 附貼於該封套上的物件；或
 - (e) 載於該封套內的東西。(2017年第66號法律公告)
- (7) 如海關關長信納，期望在製造零售盛器時在其上印上健康忠告，並不合理，而關長按此給予批准，則健康忠告可在穩固地附貼於該盛器的標籤之上展示。(2017年第66號法律公告)

(2006年第21號第36條)

4B. (由2006年第21號第37條廢除)

5. (由2006年第21號第38條廢除)

5A. **煙草傳統吸煙產品價格牌上的健康忠告**

- (1) 為施行本條例第14(6)(b)(iv)條，本條適用於列出在任何處所內被要約出售的煙草產品的名稱及價格的價格牌。凡某價格牌列出在任何處所內被要約出售的傳統吸煙產品的名稱及價格，本條即適用於該價格牌。
- (2) 價格牌須以附表第3A部所列出的式樣展示健康忠告。
- (3) 健康忠告須至少覆蓋有關價格牌的面積的20%。

(2006年第21號第39條；2017年第66號法律公告)

6.-7. (由1999年第188號法律公告廢除)

8. **煙草傳統吸煙產品要約出售等時的標誌**

本條例第15B條所規定的標誌，須如附表第6部中所示，而且 —— (2017年第66號法律公告)

- (a) 須為長方形，長度最少38厘米，寬度最少20厘米；
- (b) 須具有清晰可閱的字母及文字；
- (c) 字母及文字的顏色與印於其上的背景顏色成對比；及
- (d) (i) 須採用英文Univers 粗體字印出；及
(ii) 須採用中文中粗黑/粗黑體字印出。

(1994年第558號法律公告)

9. **關於《2017年吸煙(公眾衛生)(公告)(修訂)令》(2017年第66號法律公告)的過渡條文**

(2019年第1號編輯修訂紀錄)

在2017年12月21日至2018年6月20日期間(首尾2日包括在內)內，就本條例第8及9條而言，遵守緊接在2017年12月21日前有效的第3、4A或4AA條，即視作遵守第3、4A或4AA條(視何者屬適當而定)。

(2017年第66號法律公告；2017年第126號法律公告)

附表

[第3、4A、4AA、5A及8條]
(1994年第558號法律公
告；1999年第188號法律公
告；2006年第21號第40條)

第I部

(由1999年第188號法律公告廢除)

第2部

香煙或加熱煙草產品的封包或煙草傳統吸煙產品的零售
盛器(並非呈圓柱體形，亦非載有一支雪茄)上的健康
忠告的式樣

(第2部由2017年第66號法律公告及2017年第126號法律公告代替)

第2A部

香煙或加熱煙草產品的封包或煙草傳統吸煙產品的零售
盛器(呈圓柱體形，並非載有一支雪茄)上的健康
忠告的式樣

(第2A部由2017年第66號法律公告代替)

第2B部

載有一支雪茄的零售盛器上的健康忠告的式樣

(第2B部由2017年第66號法律公告代替)

第2C部

香煙的封包或香煙包的零售盛器上的焦油量和尼古丁
量說明的式樣

(第2C部由2017年第66號法律公告增補)

第III部

(由2006年第21號第40條廢除)

第3A部

煙草產品價格牌上的健康忠告的式樣
傳統吸煙產品價格牌上的健康忠告的式樣

(2017年第66號法律公告)

第IV部

(由1999年第188號法律公告廢除)

第V部

(由2006年第21號第40條廢除)

第6部

煙草產品要約出售等時的標誌
傳統吸煙產品要約出售等時的標誌

(2017年第66號法律公告)

本條例旨在對關於酒類、煙草、碳氫油、甲醇及其他物質的課稅及管制的法律作出修訂，以及為酒類的某些經營的發牌和與此相關的目的，訂定條文。

(由1970年第3號第2條修訂；由1974年第40號第2條修訂；由1976年第34號第2條修訂；由1985年第20號第2條修訂；由1986年第66號第2條修訂；由1992年第35號第2條修訂；由1993年第32號第2條修訂)

[1963年10月16日] 1963年第120號法律公告

第I部

導言

1. 簡稱

本條例可引稱為《應課稅品條例》。

2. 釋義…

3. 適用範圍

(1) 本條例適用於 ——

(a) (除第3AA條另有規定外)飲用酒類； (由2008年第16號第3條代替)

~~(b) 煙草(《公眾衛生及市政條例》(第132章)第2(1)條所指的無煙煙草產品除外)；~~

(b) 不屬以下產品的煙草——

(i) 《公眾衛生及市政條例》(第132章)第2(1)條所界定的無煙煙草產品；或

(ii) 《吸煙(公眾衛生)條例》(第371章)第2(1)條所界定的另類吸煙產品；

(c) 以下各類碳氫油 ——

(i) 飛機燃油；

(ii) 輕質柴油；

(iii) 汽油；及

(iv) 火水；及

(d) 甲醇。 (由1996年第46號第3條代替)

(2) 立法會可不時藉在憲報刊登的決議，使決議所指明的本條例任何條文，於作出其顧及該決議所關乎的物質的性質而認為合宜的變通(如有的話)後，適用於該物質。 (由1999年第12號第3條修訂)

(3) 如關乎任何物質的決議正根據本條有效，則因此而適用的本條例條文即具效力，猶如該物質本為本條例適用的貨品一樣，但須作出該決議所規定的任何變通(如有的話)。

(4) 任何貨品如屬中央人民政府、中國人民解放軍或香港特別行政區政府的財產，或是為中央人民政府、中國人民解放軍或香港

特別行政區政府而進口或購買的，則本條例對該等貨品並不適用。(由1996年第46號第3條修訂；由1997年第131號第2條修訂；由2012年第2號第3條修訂)

- (5) 除規例另有訂明外，本條例中關於貨品的進口、出口及移動的條文，不適用於《郵政署條例》(第98章)所界定的郵包。

3AA. 零稅率指明貨品

- (1) 第(2)款適用於在附表1第I部訂明稅率為貨品價值的0%(在本條中稱為“零稅率”)的指明貨品。
- (2) 在稅率為零稅率的期間內 ——
- (a) 附表4所列的本條例條文，不適用於有關指明貨品；
 - (b) 本條例中對應課稅貨品的提述，須解釋為不包括有關指明貨品；
 - (c) 有關指明貨品須視為已完稅貨品；及
 - (d) 任何其他條例中對應課稅品(不論如何描述)的提述，在該條例沒有表明相反意圖的情況下，須解釋為不包括有關指明貨品。
- (3) 為免生疑問，本條並不防止在附表1第I部就某指明貨品訂明的稅率為零稅率的期間內，修訂該指明貨品的稅率。

(由2008年第16號第4條增補)

第IV部

煙草

65. 煙草的定義

本條例適用於煙草時 ——

“中國熟煙”(Chinese prepared tobacco)(熟煙Suk Yin)即用在中國種植的煙葉以中國傳統的方法製備的煙草，分為以下7個主要類別，即 ——

生切	(Sang Chit)
丁熟	(Ting Sook)
二熟	(Yee Sook)
齊絲	(Chai See)
揀葉	(Kan Yip)
上熟	(Sheung Sook)
及正切	(Jing Chit)

並可包括關長認為類別和品質近似以上指明的7類中國熟煙之中任何一類的任何其他傳統中國熟煙；(由1970年第3號第29條修訂；由1982年第294號法律公告修訂；由1999年第12號第3條修訂)

“未製成煙草”(unmanufactured tobacco)指除曬焙、去莖或弄乾或其中任何一種工序外，未經任何製造工序的煙草；

“加熱煙草產品”(heated tobacco product)具有《吸煙(公眾衛生)條例》(第371章)第2(1)條所給予的涵義；

“香煙”(cigarette)指任何並非雪茄的捲煙，本身已能為人吸用；(由

1986年第66號第29條增補

“雪茄”(cigar)指任何捲煙，本身已能為人吸用，並——

- (a) 外包一層天然煙草；或
- (b) 主要包含破碎或經研碎的煙葉，以再造煙草捆扎，外包一層螺旋式包捲的再造煙草；(由1986年第66號第29條增補)

“煙草”(tobacco)包括各種製成和未製成煙草，以及煙草莖、煙砂、煙草籽苗及煙草植物；

“製成煙草”(manufactured tobacco)包括香煙、雪茄、鼻煙、手捲煙絲、吸食用煙絲、雪茄煙絲、再造煙草及中國熟煙再造煙草、中國熟煙及加熱煙草產品；(由1986年第66號第29條增補)

“製造”(manufacture)指將煙草變為製成煙草；

“製造商”(manufacturer)包括任何擁有或控制任何製造煙草的工廠或其他地方的人。

66. (由1988年第10號第2條廢除)

67. 攙雜煙草的製造等

- (1) 煙草製造商在製造煙草時不得使用水或蒸氣以外的任何其他物質，但如在關長准許的範圍內和受關長施加的條件規限，則不在此限。(由1982年第294號法律公告修訂；由1999年第12號第3條修訂)
- (2) 除非由本條或根據本條准許使用下列物質，否則煙草製造商不得收取或管有下列任何一種物質，即——
 - (a) 糖或任何其他含糖物質或糖精，但如證明供家居使用則除外；
 - (b) 煙葉或煙草植物以外的任何種類的葉或植物；
 - (c) 任何用作或能用作代替煙草或增加煙草重量的物質。
- (3) 如任何煙草製造商違反本條任何條文，可處第5級罰款，而有罪行就之而發生的煙草或其他物質即可予以沒收。(由1995年第338號法律公告修訂)

68. 種植煙草的限制

任何人沒有關長的書面批准，或關長為此而指派的其他人員的書面批准，不得(在任何類別的土地上)種植或栽植煙草。

(由1970年第3號第30條修訂；由1989年第29號第7條修訂；由1999年第12號第3條修訂)

附表 1

第II部

煙草稅

- 1. 煙草須按下列稅率繳稅 —— (由1999年第204號法律公告修訂；由2000年第57號第9條修訂)

(a)	每1 000支香煙.....	\$1,906
(aa)	每1 000支或1 000個囊體的加熱煙草產品.....	\$1,906
(b)	雪茄.....	每公斤\$2,455
(c)	中國熟煙.....	每公斤\$468
(d)	所有其他製成煙草，擬用作製造香煙者除外.....	每公斤\$2,309

(由1988年第158號法律公告修訂；由1989年第16號第5條修訂；由1990年第218號法律公告修訂；由1991年第194號法律公告修訂；由1991年第195號法律公告修訂；由1992年第35號第6條修訂；由1993年第32號第5條修訂；由1995年第42號第2條修訂；由1996年第32號第2條修訂；由1997年第67號第6條修訂；由1998年第21號第2條修訂；由2001年第61號法律公告及2001年第14號第2條修訂；由2009年第27號法律公告及2009年第5號第3條修訂；由2011年第32號法律公告及2011年第10號第3條修訂；由2014年第25號法律公告及2014年第9號第3條修訂)

2. 為根據第1(a)段徵稅，任何長逾90毫米(不包括任何濾嘴或煙嘴口)的香煙，須視作猶如每增加90毫米或不足90毫米即屬另一支香煙一樣。
3. (由2000年第57號第9條廢除)

(第II部由1988年第10號第3條代替)