

**LEGISLATIVE COUNCIL BRIEF**

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

**SMOKING (PUBLIC HEALTH)  
(DESIGNATION OF NO SMOKING AREAS)  
(AMENDMENT) NOTICE 2020**

**INTRODUCTION**

Designations of no smoking areas (“NSA”) under the Smoking (Public Health) Ordinance (Cap. 371) have to be updated to reflect changes to the status and localities of public transport facilities (“PTFs”).

2. On 21 September 2020, the Director of Health (“DoH”), in exercise of the power under section 3(1AB) of Cap. 371, made the Smoking (Public Health) (Designation of No Smoking Areas) (Amendment) Notice 2020 (“the Amendment Notice”), at **Annex**, to –

- (a) designate five new PTFs as NSAs;
- (b) reflect the changes in six PTFs which are already designated as NSAs;  
and
- (c) cease the designation of a PTF as NSA.

**JUSTIFICATIONS**

**Background**

3. To protect public health, it is the established policy of the Government to discourage smoking, contain the proliferation of tobacco use and protect the public from passive smoking. Over the past three decades, we have adopted a progressive and multi-pronged approach comprising legislation, publicity, education, enforcement, smoking cessation and taxation to step up tobacco control, having regard to the expectation and acceptance of the community.

**Designation of NSAs**

4. Cap. 371 and its subsidiary legislation provide a legislative framework

for restricting the use, sale and promotion of tobacco products. Under Cap. 371, any person who smokes or carries a lighted cigarette, cigar or pipe in areas designated as NSAs (in contravention of section 3) or in public transport carriers (in contravention of section 4) commits an offence. Schedule 2 to the Ordinance specifies a number of designated NSAs and exempt areas. Section 3(1AB) of Cap. 371 empowers DoH to, by notice published in the Gazette, designate as an NSA the whole or a part of –

- (a) any area that consists of the termini of two or more modes of public transport and is used for effecting and facilitating interchange between them; or
- (b) any bus terminus of more than one specified route as defined in section 2 of the Public Bus Services Ordinance (Cap. 230).

5. Since 1 September 2009, the Government has designated NSAs in PTFs by phases for those areas identified as fulfilling the criteria as set out in section 3(1AB) of Cap. 371. There are currently over 240 PTFs designated as NSAs, which are specified in the Schedule to the Smoking (Public Health) (Designation of No Smoking Areas) Notice (Cap. 371D). The Tobacco and Alcohol Control Office (“TACO”) of the Department of Health (“DH”) has been conducting site visit regularly with a view to ensuring that the designated NSAs in the Schedule to Cap. 371D are up-to-date and in line with the actual situation.

6. Subsequent to the last designation exercise in 2019, site visits and consultation with the Transport Department (“TD”) reveal that –

- (a) five **new** PTFs are found to meet the criteria specified in section 3(1AB) of Cap. 371;
- (b) **changes** in location, physical features and settings on the ground necessitate amendments to the extent of NSAs designated in six PTFs already listed in the Schedule to Cap. 371D; and
- (c) one PTF with a designated NSA, which has been listed in the Schedule to Cap. 371D, **no longer meets** the criteria owing to changes in transport arrangement.

## **Implementation**

7. Following past practice, the designated NSAs will cover the boarding and waiting areas of the PTFs, as well as the areas that passengers will pass by in the course of accessing and interchanging between different modes of public transport.

As the physical conditions of each PTF vary, the exact NSA in each PTF will be delineated by reference to a gazette plan. The area in a PTF proposed to be designated as NSA is the area shown with colour codes on the plan signed by DoH and deposited in the Land Registry. Our plan is for the changes in NSAs at the PTFs to take effect on 31 December 2020.

8. To facilitate implementation of the smoking ban at the PTFs, TACO will arrange to display signs, publicity materials, and other demarcations including markings on the ground as appropriate to indicate clearly and visibly to the public the boundaries of the NSA in each PTF, having regard to their respective physical settings. The plans showing the boundaries of the NSAs will be posted at prominent positions such as the main entrances and exits. TACO will liaise with the relevant transport operators and the venue or facility managers if applicable to facilitate implementation of the smoking ban at those PTFs.

9. TACO will continue to maintain close liaison with TD and other relevant government departments to conduct site inspections. It will review the boundaries of NSAs in PTFs as and when necessary and update the list of designated NSAs set out in Cap. 371D.

## **THE AMENDMENT NOTICE**

10. The Amendment Notice amends Cap. 371D to designate five new PTFs as NSAs, reflect the changes in six PTFs which are already designated as NSAs and cease the designation of a PTF as NSA. Subject to negative vetting by the Legislative Council (“LegCo”), the Amendment Notice will come into operation on 31 December 2020.

## **LEGISLATIVE TIMETABLE**

11. The legislative timetable is as follows –

Publication of Amendment Notice in the Gazette	9 October 2020
Tabling at LegCo	14 October 2020

## **IMPLICATIONS OF THE PROPOSAL**

12. The Amendment Notice is in conformity with the Basic Law, including the provisions concerning human rights. It will not affect the binding effect of the

principal ordinance. Additional staffing and financial implications, if any, arising from the implementation of the proposal will be absorbed within the existing manpower and financial resources of DH. It has insignificant family and no economic, environmental, sustainability or gender implications.

## **PUBLICITY**

13. Information papers on the details of the amendments have been issued to 18 District Councils. All plans of the NSAs of the PTFs have been deposited in the Land Registry for inspection by the public. They will also be posted on TACO's website before the amendments take effect.

## **ENQUIRIES**

14. Any enquiry on this brief can be addressed to Dr. Jonathan Ngai, Senior Medical and Health Officer (Tobacco and Alcohol Control Office) 2 (Tel: 3901 4103; E-mail: smo2\_tco@dh.gov.hk).

**Food and Health Bureau**  
**Department of Health**  
**7 October 2020**

Smoking (Public Health) (Designation of No Smoking Areas) (Amendment) Notice  
2020

Section 1

1

# **Smoking (Public Health) (Designation of No Smoking Areas) (Amendment) Notice 2020**

(Made by the Director of Health under section 3(1AB) of the Smoking  
(Public Health) Ordinance (Cap. 371))

## **1. Commencement**

This Notice comes into operation on 31 December 2020.

## **2. Smoking (Public Health) (Designation of No Smoking Areas) Notice amended**

The Smoking (Public Health) (Designation of No Smoking Areas) Notice (Cap. 371 sub. leg. D) is amended as set out in section 3.

## **3. Schedule amended (designated no smoking areas in public transport facilities)**

(1) The Schedule, Part 2—

**Repeal the item relating to Hung Hom Ferry Pier Public Transport Interchange.**

(2) The Schedule, Part 3—

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

### **Substitute**

“Chevalier Garden Public Transport Interchange, Ma On Shan  
(馬鞍山富安花園公共運輸交匯處)  
Located at Hang Shun Street, Ma On Shan, New Territories, and shown coloured orange and edged red on Plan No. DH/TCO/O-077V3, signed by the Director of Health on 21

Smoking (Public Health) (Designation of No Smoking Areas) (Amendment) Notice  
2020

Section 3

2

September 2020 and deposited in the Land Registry.”.

(3) The Schedule, Part 3—

**Repeal the item relating to Kwai Fong Station Bus Terminus**

### **Substitute**

“Kwai Fong Station Bus Terminus  
(葵芳站巴士總站)  
Located at 2–20 Kwai Yi Road, Kwai Chung, New Territories, and shown coloured orange and edged red on Plan No. DH/TCO/C068V2, signed by the Director of Health on 21 September 2020 and deposited in the Land Registry.”.

(4) The Schedule, Part 3—

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

### **Substitute**

“Kwong Yuen Public Transport Interchange, Sha Tin  
(沙田廣源公共運輸交匯處)  
Located at Siu Lek Yuen Road, Sha Tin, New Territories, and shown coloured orange and edged red on Plan No. DH/TCO/O-084V3, signed by the Director of Health on 21 September 2020 and deposited in the Land Registry.”.

(5) The Schedule, Part 3—

**Repeal the item relating to Sha Tin Station Public Transport Interchange**

### **Substitute**

“Sha Tin Station Public Transport Interchange (沙田站公共運輸交匯處)”

Located at Sha Tin Station Circuit, Sha Tin, New Territories, and shown—

- (a) coloured orange and edged red;
- (b) coloured yellow and edged red; and
- (c) coloured orange stippled black and edged red,

on Plan No. DH/TCO/O-087V2, signed by the Director of Health on 21 September 2020 and deposited in the Land Registry.”.

(6) The Schedule, Part 3—

**Repeal the item relating to Tsuen King Circuit (Allway Gardens) Bus Terminus, Tsuen Wan**

**Substitute**

“Tsuen King Circuit (Allway Gardens) Bus Terminus, Tsuen Wan (荃灣荃景圍(荃威花園)巴士總站)”

Located at Tsuen King Circuit, Tsuen Wan, New Territories, and shown coloured orange and edged red on Plan No. DH/TCO/O-171V2, signed by the Director of Health on 21 September 2020 and deposited in the Land Registry.”.

(7) The Schedule, Part 3—

**Repeal the item relating to Tai O Public Transport Interchange, Lantau Island.**

(8) The Schedule, Part 3—

**Add in alphabetical order**

“Chuen On Road Bus Terminus, Tai Po (大埔全安路巴士總站)”

Located at Chuen On Road, Tai Po, New Territories, and shown coloured orange and edged red on Plan No. DH/TCO/O-109V1, signed by the Director of Health on 21 September 2020 and deposited in the Land Registry.

Container Port Road Public Transport Interchange, Kwai Chung (葵涌貨櫃碼頭路公共運輸交匯處)

Located at Container Port Road, Kwai Chung, New Territories, and shown coloured orange and edged red on Plan No. DH/TCO/O-189V1, signed by the Director of Health on 21 September 2020 and deposited in the Land Registry.

Sea Crest Villa Bus Terminus, Tsing Lung Tau (青龍頭浪翠園巴士總站)

Located at Sea Crest Villa, 18 Castle Peak Road—Tsing Lung Tau, Tsing Lung Tau, Tsuen Wan, New Territories, and shown coloured orange and edged red on Plan No. DH/TCO/O-191V1, signed by the Director of Health on 21 September 2020 and deposited in the Land Registry.

Tai O Bus Terminus, Lantau Island (大嶼山大澳巴士總站)

Located at Tai O Road, Tai O, Lantau Island, New Territories, and shown coloured orange and

Tin Shui Wai Station  
Public Transport  
Interchange  
(天水圍站公共運輸交匯  
處)

edged red on Plan No.  
DH/TCO/O-152V3, signed by  
the Director of Health on  
21 September 2020 and  
deposited in the Land Registry.

Located at Ping Ha Road, Yuen  
Long, New Territories, and  
shown coloured orange and  
edged red on Plan No.  
DH/TCO/O-147V2, signed by  
the Director of Health on 21  
September 2020 and deposited  
in the Land Registry.

Yuen Chau Kok Bus  
Terminus, Sha Tin  
(沙田圓洲角巴士總站)

Located at Chap Wai Kon  
Street, Sha Tin, New Territories,  
and shown coloured orange and  
edged red on Plan No.  
DH/TCO/O-092V1, signed by  
the Director of Health on 21  
September 2020 and deposited  
in the Land Registry.”.



Director of Health

21 September 2020

Smoking (Public Health) (Designation of No Smoking Areas) (Amendment) Notice  
2020

Explanatory Note

Paragraph 1

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**Explanatory Note**

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