

Tobacco Control Legislation (Amendment) Bill 2025

Contents

Clause	Page
Part 1	
Preliminary	
1.	Short title and commencement C3243
2.	Enactments amended C3243
Part 2	
Implementation of Duty Stamp Regime	
Division 1—Amendments to Dutiable Commodities Ordinance (Cap. 109)	
3.	Section 2 amended (interpretation)..... C3245
4.	Section 40 amended (presumptions) C3245
5.	Section 47A amended (power of Commissioner to compound)..... C3247
6.	Part IV, Division 1 heading added..... C3247
Division 1—Preliminary	
7.	Part IV, Division 2 heading added..... C3247
Division 2—General Restrictions in respect of Tobacco	
8.	Part IV, Division 3 added C3249
Division 3—Duty Stamps for Tobacco	
68A.	Interpretation (Division 3) C3249

Clause	Page
68B.	Sale or supply etc. of specified tobacco without validated duty stamp affixed to retail packages..... C3249
68C.	Manufacture, issue and affixing of duty stamps C3251
68D.	Issue of practice guidelines C3253
68E.	Validation of duty stamps..... C3255
68F.	Dealing with duty stamps improperly C3255
68G.	Counterfeiting duty stamps..... C3257
68H.	Affixing and providing counterfeits of duty stamp..... C3257
68I.	Having custody or control of counterfeits of duty stamp C3257
68J.	Defence regarding lawful authority or reasonable excuse C3259
68K.	Amendment of Schedule 5..... C3259
9.	Schedule 1 amended..... C3259
10.	Schedule 2 amended (offences and penalties) C3259
11.	Schedule 5 added C3261
Schedule 5	Specified Tobacco under Division 3 of Part IV C3261

Clause	Page
--------	------

**Division 2—Amendments to Dutiable Commodities Regulations (Cap. 109
sub. leg. A)**

12.	Regulation 11 amended (receipts).....	C3263
-----	---------------------------------------	-------

Part 3

**Increasing Penalties for Offences relating to Tobacco to which Duty is
Not Paid etc.**

Division 1—Amendments to Dutiable Commodities Ordinance (Cap. 109)

13.	Section 46 amended (offences and penalties).....	C3265
14.	Schedule 2 amended (offences and penalties)	C3265
15.	Schedule 3 amended (compounding of offences).....	C3269

**Division 2—Amendment to Organized and Serious Crimes Ordinance
(Cap. 455)**

16.	Schedule 1 amended (offences relevant to definitions of <i>organized crime</i> and <i>specified offence</i>)	C3271
-----	--	-------

Part 4

**Prohibition on Provision of Alternative Smoking Products to Underage Persons
and Possession of Specified Alternative Smoking Products**

Division 1—Amendments to Smoking (Public Health) Ordinance (Cap. 371)

17.	Section 15DA amended (prohibition on manufacture or sale, etc.)	C3273
18.	Section 15DAB added.....	C3275
	15DAB. Prohibition on possession of specified alternative smoking products	C3275

Clause	Page
19.	Section 15DB amended (liability of officers of bodies corporate, partners and members of unincorporated bodies) C3279
20.	Section 15DG amended (enforcement powers of inspectors)..... C3279
21.	Section 15DGA added..... C3281
	15DGA. Recovery of costs and expenses of collecting, analysing or examining alternative smoking products etc. C3281
22.	Section 15G amended (general powers and duties of inspectors)..... C3283
23.	Schedule 7 amended (alternative smoking products) C3283

Division 2—Further Amendment to Smoking (Public Health) Ordinance (Cap. 371)

24.	Section 15DAB amended (prohibition on possession of specified alternative smoking products) C3283
-----	---

Part 5

Adjustments of Packaging Requirements for Conventional Smoking Products

Division 1—Amendment to Dutiable Commodities Ordinance (Cap. 109)

25.	Section 40 amended (presumptions) C3285
-----	---

Division 2—Amendments to Smoking (Public Health) Ordinance (Cap. 371)

26.	Section 2 amended (interpretation)..... C3285
-----	---

Clause	Page
27.	Section 8 amended (sales of conventional smoking products)..... C3285
28.	Section 8A amended (prohibition on sale of cigarette with a tar yield exceeding 17 milligrams)..... C3287
29.	Section 9 amended (sale of cigar, pipe tobacco or cigarette tobacco)..... C3289
30.	Section 10 amended (offences under Part 3)..... C3289
31.	Section 10A amended (seizure and forfeiture) C3289
32.	Section 12 amended (no display of smoking product advertisement)..... C3291
33.	Section 14 amended (meaning of smoking product advertisement)..... C3291
34.	Section 16 amended (evidence of tar and nicotine yields) C3291
35.	Section 18 amended (regulations and orders) C3291
Division 3—Amendments to Smoking (Public Health) Regulations (Cap. 371 sub. leg. A)	
36.	Title amended C3295
37.	Regulations repealed C3295
Division 4—Amendments to Smoking (Public Health) (Prescribed Information) Order (Cap. 371 sub. leg. B)	
38.	Paragraph 3 amended (health warning and indication of tar and nicotine yields on packet or retail container of cigarettes)..... C3295

Clause	Page
39.	Schedule amended C3297

Part 6

Amendments to Smoking (Public Health) Ordinance (Cap. 371) for Extension of No Smoking Areas and Prohibition on Smoking While Queuing to Board Public Transport Carriers or to Enter Certain Places etc.

40.	Section 2 amended (interpretation).....	C3299
41.	Section 3 amended (prohibition on smoking in certain designated areas).....	C3301
42.	Sections 4A and 4B added	C3303
4A.	Prohibition on smoking while queuing to board public transport carriers etc.....	C3305
4B.	Prohibition on smoking while queuing to enter certain places.....	C3305
43.	Section 7 amended (offences under Part 2).....	C3307
44.	Schedule 2 amended (designated no smoking areas and exempt areas)	C3309
45.	Schedule 9 added	C3311
Schedule 9	Places Described for Purposes of Section 4B	C3313

Clause	Page
--------	------

Part 7

Amendments to Smoking (Public Health) Ordinance (Cap. 371) for Prohibition on Provision of Conventional Smoking Products to Underage Persons

46.	Section 15A amended (prohibition on selling or giving of conventional smoking products, etc.).....	C3317
47.	Section 15C amended (offences under Part 4A)	C3317

Part 8

Increasing and Introducing Fixed Penalties for Certain Smoking-related Offences

Division 1—Amendments to Fixed Penalty (Smoking Offences) Ordinance (Cap. 600)

48.	Section 2 amended (interpretation).....	C3325
49.	Section 3 amended (fixed penalty notice given by public officer).....	C3327
50.	Section 4 amended (power of inspecting proof of identity).....	C3329
51.	Section 6 amended (further fixed penalty notice served by Authority)	C3329
52.	Section 9 amended (proof produced for application under section 8)	C3329
53.	Section 16 amended (power to make regulation).....	C3331
54.	Section 17A added.....	C3331
17A.	Power to specify form	C3331

Clause	Page
55.	Schedule substituted C3331
	Schedule Scheduled Offence C3333
56.	Schedule amended (scheduled offence) C3335
Division 2—Repeal of Fixed Penalty (Smoking Offences) Regulation (Cap. 600 sub. leg. A)	
57.	Fixed Penalty (Smoking Offences) Regulation repealed C3337
Division 3—Related Amendments to Smoking (Public Health) (Prescribed Information) Order (Cap. 371 sub. leg. B)	
58.	Paragraph 10 added C3337
10.	Transitional provisions relating to Tobacco Control Legislation (Amendment) Ordinance 2025..... C3337
59.	Schedule amended C3339
Part 9	
Amendments to Smoking (Public Health) Ordinance (Cap. 371) to Prohibit Sale of Conventional Smoking Products Containing Specified Additives etc. and to Introduce Certification Regime for Conventional Smoking Products	
60.	Section 2 amended (interpretation)..... C3351
61.	Part 3 heading amended (sales of conventional smoking products)..... C3351
62.	Part 3, Division 1 heading added..... C3351
Division 1—General Prohibitions	
63.	Section 10 heading amended (offences under Part 3) C3351

Clause		Page
64.	Part 3, Divisions 2 and 3 added.....	C3353
	Division 2—Prohibitions relating to Specified Additives	
10AA.	Interpretation of Division 2 of Part 3.....	C3353
10AAB.	Prohibition on sale of conventional smoking products containing specified additives.....	C3355
10AAC.	Prohibition on sale of conventional smoking products held out as containing flavourings.....	C3355
10AAD.	Prohibition on sale of products designed or held out to impart flavourings to conventional smoking products.....	C3357
10AAE.	Disapplication of certain provisions to export of products.....	C3357
	Division 3—Prohibition on Distribution of Conventional Smoking Products by Suppliers without Certificate of Compliance	
10AAF.	Distribution of conventional smoking products by suppliers without certificate of compliance	C3359
65.	Part 3, Divisions 4 heading added	C3361
	Division 4—Enforcement Powers	
66.	Section 15E amended (interpretation of Part 4B).....	C3361
67.	Section 18 amended (regulations and orders)	C3361
68.	Schedule 10 added	C3365
	Schedule 10 Specified Additives	C3365

Clause	Page
--------	------

Part 10

Miscellaneous Amendments

Division 1—Amendments to Import and Export Ordinance (Cap. 60)

69.	Section 13P amended (inspectors to enforce section 13B)	C3375
70.	Section 13Q amended (enforcement powers of inspectors).....	C3375

Division 2—Amendments to Smoking (Public Health) Ordinance (Cap. 371)

71.	Section 10 amended (offences under Part 3).....	C3377
72.	Section 15 amended (offences under Part 4).....	C3379

A BILL

To

Amend various Ordinances to implement a duty stamp regime for tobacco; to increase the penalties for offences relating to tobacco on which duty is not paid; to prohibit the provision of alternative smoking products to underage persons and the possession of specified alternative smoking products; to adjust the packaging requirements for conventional smoking products; to extend no smoking areas; to prohibit the doing of smoking acts while queuing to board public transport carriers or to enter certain places, or while staying in the delineated areas for designated boarding locations; to prohibit the provision of conventional smoking products to underage persons; to increase and introduce fixed penalties for certain smoking-related offences; to prohibit the sale of conventional smoking products that contain specified additives, or are held out as containing flavourings, and the sale of products that are designed for, or held out by sellers to be capable of imparting flavourings to, conventional smoking products; to implement a certification regime for conventional smoking products; and to provide for transitional matters and make related and miscellaneous amendments.

Enacted by the Legislative Council.

Part 1

Preliminary

1. Short title and commencement

- (1) This Ordinance may be cited as the Tobacco Control Legislation (Amendment) Ordinance 2025.
- (2) Subject to subsections (3), (4) and (5), this Ordinance comes into operation on a day to be appointed by the Secretary for Health by notice published in the Gazette.
- (3) The following provisions come into operation on the day on which this Ordinance is published in the Gazette—
 - (a) Part 1;
 - (b) section 4(1);
 - (c) Part 3;
 - (d) section 38(5); and
 - (e) Part 10.
- (4) Part 4 (except Division 2) and section 56 come into operation on 30 April 2026.
- (5) Parts 6, 7 and 8 (except section 56) come into operation on 1 January 2026.

2. Enactments amended

The enactments specified in Parts 2 to 10 are amended as set out in those Parts.

Part 2

Implementation of Duty Stamp Regime

Division 1—Amendments to Dutiable Commodities Ordinance (Cap. 109)

3. Section 2 amended (interpretation)

(1) Section 2(1)—

Add in alphabetical order

“*duty stamp* (完稅標籤) means a stamp that is manufactured under section 68C(1);

***retail package* (零售封包)**, in relation to any specified tobacco, means any packet or other container (including the wrapping of the packet or container) that is suitable for the retail marketing of the tobacco;

***specified tobacco* (指明煙草)** means any tobacco of a type set out in Schedule 5;”.

(2) After section 2(5)—

Add

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

4. Section 40 amended (presumptions)

(1) After section 40(1)(a)—

Add

“(ab) if a cigarette is offered for sale or supply at a consideration the value of which is less than the rate of duty imposed on the cigarette as calculated on a

pro rata basis in accordance with Part II of Schedule 1, the cigarette is dutiable goods;”.

(2) Before section 40(1)(b)—

Add

“(ac) any specified tobacco that is in a retail package to which no duty stamp is affixed in accordance with this Ordinance, or any direction given under this Ordinance, is dutiable goods;”.

5. Section 47A amended (power of Commissioner to compound)

After section 47A(3)—

Add

“(3A) Moreover, if the dutiable goods are specified tobacco, the Commissioner—

(a) may affix or arrange for the affixing of a duty stamp to the retail package of the tobacco under section 68C(2)(a)(i) as if the person were a holder of a specified-tobacco permit (as defined by section 68A(1)); and

(b) may validate the stamp under section 68E(1) as if the full duty payable on the tobacco had been paid.”.

6. Part IV, Division 1 heading added

Before section 65—

Add

“Division 1—Preliminary”.

7. Part IV, Division 2 heading added

Before section 67—

Add

“Division 2—General Restrictions in respect of Tobacco”.

8. Part IV, Division 3 added

Part IV, after section 68—

Add

“Division 3—Duty Stamps for Tobacco

68A. Interpretation (Division 3)

(1) In this Division—

practice guidelines (實務指引) means the guidelines issued under section 68D(1);

specified-tobacco permit (指明煙草許可證) means a permit issued in respect of any specified tobacco.

(2) For the purposes of this Division, a thing is a counterfeit of a duty stamp if the thing—

(a) is not a duty stamp; but

(b) resembles a duty stamp to an extent that it is reasonably capable of being accepted or regarded as a duty stamp.

68B. Sale or supply etc. of specified tobacco without validated duty stamp affixed to retail packages

(1) No person may sell or supply, or offer for sale or supply, any specified tobacco that is in a retail package to which no validated duty stamp is affixed.

(2) Subsection (1) does not apply in relation to any specified tobacco that is exempt from duty under regulation 12(1)(a), (c), (h), (j), (l), (m) or (q) of the Dutiable Commodities Regulations (Cap. 109 sub. leg. A).

(3) In this section—

validated duty stamp (有效完税標籤) means a duty stamp that has been validated under section 68E(1).

68C. Manufacture, issue and affixing of duty stamps

(1) For the purposes of this Division, the Commissioner—

(a) may manufacture stamps that are capable of being activated by an electronic means and that are otherwise designed for the purposes of this Division; and

(b) without affecting paragraph (a), may authorize an agent to manufacture such stamps.

(2) For enabling a holder of a specified-tobacco permit to sell or supply, or offer for sale or supply, any specified tobacco in compliance with section 68B(1), the Commissioner—

(a) may—

(i) affix or arrange for the affixing of duty stamps to the retail packages of the tobacco as the Commissioner considers appropriate; and

(ii) direct the holder to take the actions specified in the practice guidelines for facilitating the affixing of duty stamps under subparagraph (i); or

- (b) may direct the holder to—
 - (i) obtain, in accordance with the practice guidelines, duty stamps from the Commissioner (or an agent authorized by the Commissioner) for the tobacco; and
 - (ii) affix or arrange for the affixing, in accordance with the practice guidelines, of the duty stamps so obtained by the holder to the retail packages of the tobacco.
- (3) A person who is given a direction under subsection (2)(a)(ii) or (b) must comply with the direction.

68D. Issue of practice guidelines

- (1) The Commissioner may, for the purposes of section 68C, issue practice guidelines setting out—
 - (a) the actions mentioned in subsection (2)(a)(ii) of that section;
 - (b) the manner in which duty stamps are to be obtained as mentioned in subsection (2)(b)(i) of that section;
 - (c) the manner in which duty stamps are to be affixed as mentioned in subsection (2)(b)(ii) of that section; and
 - (d) any other matters that the Commissioner considers necessary for the better carrying out of that section.
- (2) The Commissioner—
 - (a) must publish the practice guidelines in a manner appropriate to bring them to the notice of persons affected by them; and

- (b) must make copies of the practice guidelines available to the public (whether in hard copy form or electronic form).
- (3) The practice guidelines are not subsidiary legislation.
- (4) The Commissioner may amend or revoke any of the practice guidelines.
- (5) Subsections (2) and (3) apply to an amendment or revocation of the practice guidelines in the same way as they apply to the practice guidelines.

68E. Validation of duty stamps

- (1) If the full duty payable on the specified tobacco concerned under this Ordinance has been paid, the Commissioner may validate a duty stamp affixed or to be affixed to the retail package of the tobacco.

Note—

See also section 47A(3A).

- (2) For the purposes of this section, the Commissioner validates a duty stamp if the Commissioner activates the stamp by an electronic means required for the purpose.

68F. Dealing with duty stamps improperly

No person may—

- (a) affix a duty stamp to a retail package of specified tobacco other than under a direction given under section 68C(2)(b)(ii); or
- (b) except with the consent of the Commissioner—
 - (i) distribute or reuse a duty stamp; or

- (ii) deal with a duty stamp in any other way that is likely to affect the assessment of duty under this Ordinance.

68G. Counterfeiting duty stamps

- (1) No person may make a counterfeit of a duty stamp.
- (2) No person may make a counterfeit of a duty stamp with the intent for it to be affixed to a retail package of any specified tobacco (whether by that or any other person).

68H. Affixing and providing counterfeits of duty stamp

- (1) No person may provide a thing that is, and that the person knows or believes to be, a counterfeit of a duty stamp to another person.
- (2) No person may—
 - (a) affix a thing that is, and that the person knows or believes to be, a counterfeit of a duty stamp to a retail package of any specified tobacco; or
 - (b) provide a thing that is, and that the person knows or believes to be, a counterfeit of a duty stamp to another person with the intent for it to be affixed to a retail package of any specified tobacco by that other person.

68I. Having custody or control of counterfeits of duty stamp

- (1) No person may have in his or her custody or control a thing that is, and that the person knows or believes to be, a counterfeit of a duty stamp.
- (2) No person may have in his or her custody or control a thing that is, and that the person knows or believes to be, a counterfeit of a duty stamp, with the intent

for it to be affixed to a retail package of any specified tobacco (whether by that or any other person).

68J. Defence regarding lawful authority or reasonable excuse

- (1) It is a defence for a person charged with an offence under section 46 for contravening section 68C(3), 68F, 68G(1), 68H(1) or 68I(1) to establish that the person had lawful authority or reasonable excuse for the contravention.
- (2) A person is taken to have established that the person had lawful authority or reasonable excuse referred to in subsection (1) if—
 - (a) there is sufficient evidence to raise an issue with respect to the lawful authority or reasonable excuse; and
 - (b) the contrary is not proved by the prosecution beyond reasonable doubt.

68K. Amendment of Schedule 5

The Commissioner may, by notice published in the Gazette, amend Schedule 5.”.

9. Schedule 1 amended

Schedule 1—

Repeal

“& 4]”

Substitute

“, 4 & 40]”.

10. Schedule 2 amended (offences and penalties)

- (1) Schedule 2, Part 1, after the entry relating to section 68—

Add

“68C(3)	level 6	1 year
68G(1)	\$1,000,000	2 years
68H(1)	\$1,000,000	2 years
68I(1)	\$1,000,000	2 years”.

(2) Schedule 2, Part 2, after the entry relating to section 17—

Add

“68B(1)	\$2,000,000	7 years
68F	\$2,000,000	7 years
68G(2)	\$2,000,000	7 years
68H(2)	\$2,000,000	7 years
68I(2)	\$2,000,000	7 years”.

11. **Schedule 5 added**
After Schedule 4—

Add

“Schedule 5

[ss. 2 & 68K]

Specified Tobacco under Division 3 of Part IV

Cigarettes”.

**Division 2—Amendments to Dutiable Commodities
Regulations (Cap. 109 sub. leg. A)**

12. Regulation 11 amended (receipts)

(1) Regulation 11—

Renumber the regulation as regulation 11(1).

(2) After regulation 11(1)—

Add

“(2) If the duty-paid goods are specified tobacco, the officer may, for enabling compliance with the Ordinance, affix duty stamps to the retail packages of the tobacco.”.

Part 3

Increasing Penalties for Offences relating to Tobacco to which Duty is Not Paid etc.

Division 1—Amendments to Dutiable Commodities Ordinance (Cap. 109)

13. Section 46 amended (offences and penalties)

Section 46(3)—

Repeal

everything after “in this Ordinance”

Substitute

“__

- (a) any person who contravenes a provision of this Ordinance set out in column 1 of Part 1 of Schedule 2 commits an offence and is liable on conviction to the penalty set out opposite that provision in columns 2 and 3 of that Part; and
- (b) any person who contravenes a provision of this Ordinance set out in column 1 of Part 2 of Schedule 2 commits an offence and is liable on conviction on indictment to the penalty set out opposite that provision in columns 2 and 3 of that Part.”.

14. Schedule 2 amended (offences and penalties)

- (1) Schedule 2, after the heading—

Add

“Part 1

**Penalties for Offences for Purposes of Section
46(3)(a)”.**

- (2) Schedule 2, Part 1—
- | | | |
|-------------------|----------|----------------|
| Repeal | | |
| “Section | Fine | Imprisonment” |
| Substitute | | |
| “Column 1 | Column 2 | Column 3 |
| Section | Fine | Imprisonment”. |
- (3) Schedule 2, Part 1, entry relating to section 34A—
- | |
|-------------------|
| Repeal |
| “level 1” |
| Substitute |
| “level 2”. |
- (4) Schedule 2, after Part 1—
- | |
|------------|
| Add |
|------------|

“Part 2

Penalties for Offences for Purposes of Section
46(3)(b)

Column 1	Column 2	Column 3
Section	Fine	Imprisonment
17 (where the offence is committed in relation to tobacco)	\$2,000,000	7 years”.

15. Schedule 3 amended (compounding of offences)

- (1) Schedule 3, under heading “**Dutiable Commodities Ordinance (Cap. 109)**”, entry relating to section 34A—
- Repeal**
- “at level 1”
- Substitute**
- “of \$5,000”.
- (2) Schedule 3, under heading “**Dutiable Commodities Regulations (Cap. 109 sub. leg. A)**”, entry relating to regulation 99(1)—
- Repeal**
- “at level 1”
- Substitute**
- “of \$2,000”.

**Division 2—Amendment to Organized and Serious Crimes
Ordinance (Cap. 455)**

16. Schedule 1 amended (offences relevant to definitions of *organized crime* and *specified offence*)

Schedule 1, after item 5—

Add

“5A. Dutiable Commodities
Ordinance (Cap. 109)

section 17 (but only where the offence is committed in relation to tobacco) restrictions on dealing with and possession of tobacco”.

Part 4

Prohibition on Provision of Alternative Smoking Products to Underage Persons and Possession of Specified Alternative Smoking Products

Division 1—Amendments to Smoking (Public Health) Ordinance (Cap. 371)

17. Section 15DA amended (prohibition on manufacture or sale, etc.)

(1) After section 15DA(1)(c)—

Add

“(ca) give an alternative smoking product to any person under the age of 18 years (*underage person*);”.

(2) After section 15DA(4)—

Add

“(5) It is a defence to a charge under subsection (4) for contravening subsection (1)(ca) to establish 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 underage person and believed on reasonable grounds that the underage person was not under the age of 18 years.

(6) A person is taken to have established a matter that needs to be established for a defence under subsection (5) if—

(a) there is sufficient evidence to raise an issue with respect to that matter; and

- (b) the contrary is not proved by the prosecution beyond reasonable doubt.”.

18. Section 15DAB added

After section 15DA—

Add

“15DAB. Prohibition on possession of specified alternative smoking products

- (1) A person who possesses a specified alternative smoking product in a public place commits an offence.
- (2) For the purposes of subsection (1), a person is presumed to possess a specified alternative smoking product if the person smokes or carries an activated alternative smoking product.
- (3) Subsection (1) 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.
- (4) Subsection (1) does not apply in relation to the possession of a specified alternative smoking product by a public officer for performing the officer’s functions.
- (5) Subdivision 1 of Division 3 of Part IIIA of the Import and Export Ordinance (Cap. 60) (articles in transit and certain transshipment cargoes) has effect in relation to the possession of a specified alternative smoking product as that Subdivision has effect in

relation to the import of an alternative smoking product, and for that purpose—

- (a) a reference in that Subdivision to section 13B of that Ordinance is to be construed as a reference to subsection (1) of this section; and
 - (b) section 13E(3) of that Ordinance is to be disregarded.
- (6) A person who commits an offence under subsection (1) is liable on summary conviction—
- (a) if the aggravating factor applies in relation to the offence—to a fine at level 5 and to imprisonment for 6 months; or
 - (b) in any other case—to a fine at level 3.
- (7) For the purposes of subsection (6)(a), the aggravating factor applies in relation to an offence under subsection (1) if the offence is constituted by one or more of the following acts—
- (a) the possession of—
 - (i) more than 5 units of a substance that falls within the description of item 1.3 of Part 2 of Schedule 7; or
 - (ii) not more than 5 units but more than 5 ml, in aggregate, of such a substance;
 - (b) the possession of more than 100 units of tobacco that falls within the description of item 2.3 of that Part;
 - (c) the possession of more than 100 rolls of any material that falls within the description of item 3 of that Part.

- (8) In subsection (7), the reference to a unit of any thing is a reference to a unit in which the thing is packaged.
- (9) The Director of Health may, by notice published in the Gazette, amend any figure concerning the quantity or volume of specified alternative smoking products mentioned in subsection (7).
- (10) In this section—
specified alternative smoking product (指明另類吸煙產品) means a product set out in item 1.3, 2.3 or 3 of Part 2 of Schedule 7.”.

19. Section 15DB amended (liability of officers of bodies corporate, partners and members of unincorporated bodies)

Section 15DB(1), (3) and (5)—

Repeal

“section 15DA(4)”

Substitute

“this Part”.

20. Section 15DG amended (enforcement powers of inspectors)

- (1) Section 15DG(1)(b)—

Repeal

“section 15DA(4)”

Substitute

“this Part”.

- (2) Section 15DG—

Repeal subsection (2)

Substitute

“(2) If an inspector reasonably suspects that a person has committed, is committing or is about to commit an offence under this Part, the inspector—

- (a) to facilitate the enforcement of this Part, may detain the person for a reasonable period; and
- (b) may arrest the person without warrant, and take the person to a police station to be dealt with in accordance with the Police Force Ordinance (Cap. 232).”.

(3) Section 15DG(3)—

Repeal

“section 15DA(4)”

Substitute

“this Part”.

21. Section 15DGA added

After section 15DG—

Add

“15DGA. Recovery of costs and expenses of collecting, analysing or examining alternative smoking products etc.

- (1) If a person is convicted of an offence under this Part, the court may order the person to pay to the Government a sum the court considers appropriate for the costs and expenses reasonably incurred by the Government in relation to the collection, analysis or examination of—
 - (a) the alternative smoking product concerned; or
 - (b) any other thing,
for the criminal proceedings.

- (2) A sum ordered to be paid under subsection (1) is recoverable as a civil debt.
- (3) This section does not affect any power conferred on the court under the Costs in Criminal Cases Ordinance (Cap. 492).”.

22. Section 15G amended (general powers and duties of inspectors)

Section 15G(4) and (5)—

Repeal

“level 3”

Substitute

“level 4”.

23. Schedule 7 amended (alternative smoking products)

Schedule 7—

Repeal

“[s. 2(1)]”

Substitute

“[ss. 2 & 15DAB]”.

Division 2—Further Amendment to Smoking (Public Health) Ordinance (Cap. 371)

24. Section 15DAB amended (prohibition on possession of specified alternative smoking products)

Section 15DAB(1)—

Repeal

“in a public place”.

Part 5

Adjustments of Packaging Requirements for Conventional Smoking Products

Division 1—Amendment to Dutiable Commodities Ordinance (Cap. 109)

25. Section 40 amended (presumptions)

Section 40(1)(a)(ii)—

Repeal

“bearing a prescribed health warning under”

Substitute

“conforming to any one or more of the requirements prescribed in an order made under section 18(2) of”.

Division 2—Amendments to Smoking (Public Health) Ordinance (Cap. 371)

26. Section 2 amended (interpretation)

Section 2(1)—

Repeal the definition of *nicotine yield*.

27. Section 8 amended (sales of conventional smoking products)

(1) Section 8(1)(b)—

Repeal

everything after “also,”

Substitute

“conform to all of the requirements prescribed in an order made under section 18(2).”.

(2) Section 8—

Repeal subsection (2)

Substitute

“(2) Subsection (1) and sections 8A and 9 do not apply to anything done in relation to a conventional smoking product that is held—

(a) in bond; or

(b) by a manufacturer of conventional smoking products,

for export from Hong Kong.”.

28. Section 8A amended (prohibition on sale of cigarette with a tar yield exceeding 17 milligrams)

Section 8A—

Repeal subsection (2)

Substitute

“(2) In any legal proceedings, a certificate purporting to be signed by the Government Chemist and stating that a cigarette contains an amount of tar exceeding 17 milligrams is admissible in evidence without further proof and, in the absence of evidence to the contrary—

(a) is taken as signed by the Government Chemist; and

(b) is evidence of the facts stated in the certificate.”.

29. Section 9 amended (sale of cigar, pipe tobacco or cigarette tobacco)

Section 9—

Repeal

“bears a health warning in the prescribed form and manner”

Substitute

“conforms to all of the requirements prescribed in an order made under section 18(2)”.

30. Section 10 amended (offences under Part 3)

Section 10—

Repeal subsection (2).

31. Section 10A amended (seizure and forfeiture)

(1) Section 10A(1)(a)—

Repeal

“cigarettes, cigarette tobacco, cigars or pipe tobacco”

Substitute

“conventional smoking products”.

(2) Section 10A(1)(a)(i)—

Repeal

everything after “not”

Substitute

“conform to any one or more of the requirements prescribed in an order made under section 18(2); or”.

32. Section 12 amended (no display of smoking product advertisement)

Section 12(5)—

Repeal

“or the tar and nicotine yields”.

33. Section 14 amended (meaning of smoking product advertisement)

Section 14(6)(b)(iv)—

Repeal

“in the prescribed form and manner”

Substitute

“in accordance with an order made under section 18(2)”.

34. Section 16 amended (evidence of tar and nicotine yields)

(1) Section 16, heading—

Repeal

“and nicotine yields”

Substitute

“yield”.

(2) Section 16(1) and (2)—

Repeal

“and nicotine yields”

Substitute

“yield”.

35. Section 18 amended (regulations and orders)

(1) Section 18(1)—

Repeal paragraphs (b) and (c).

- (2) Section 18(1)(d)—

Repeal

“excepting any tobacco advertisement from the provisions of Part 4 either absolutely or subject to such exceptions as may be”

Substitute

“exempting any smoking product advertisement from the provisions of Part 4 either absolutely or subject to any exemptions that are”.

- (3) Section 18(2)—

Repeal

“Subject to the regulations, the Secretary may”

Substitute

“The Secretary may also”.

- (4) Section 18(2)—

Repeal paragraphs (a) and (b)

Substitute

- “(a) the requirements to be conformed to in respect of the packaging of conventional smoking products (including any packets, retail containers, wrappings, and any labels attached to or printed on the packaging or the products);
- (b) the form (including specifications) of any health warning to be displayed for compliance with this Ordinance;
- (c) the manner in which the health warning is to be so displayed.”.

Division 3—Amendments to Smoking (Public Health) Regulations (Cap. 371 sub. leg. A)

36. Title amended

The title—

Repeal

“Regulations”

Substitute

“(Exemption for Smoking Product Advertisements) Regulation”.

37. Regulations repealed

The following regulations—

- (a) regulation 1;
- (b) regulation 3;
- (c) regulation 4;
- (d) regulation 6—

Repeal the regulations.

Division 4—Amendments to Smoking (Public Health) (Prescribed Information) Order (Cap. 371 sub. leg. B)

38. Paragraph 3 amended (health warning and indication of tar and nicotine yields on packet or retail container of cigarettes)

- (1) Paragraph 3, heading—

Repeal

“and indication of tar and nicotine yields”.

- (2) Paragraph 3(2)—

Repeal

“and an indication of tar and nicotine yields”.

- (3) Paragraph 3(3)—

Repeal

“and indication of tar and nicotine yields”.

- (4) Paragraph 3—

Repeal subparagraph (7).

- (5) Paragraph 3(8)—

Repeal

“The health warning and indication of tar and nicotine yields”

Substitute

“Except with the approval of the Commissioner of Customs and Excise, the health warning”.

- (6) Paragraph 3(9)—

Repeal

“and indication of tar and nicotine yields”.

- (7) Paragraph 3(9)(b)(i)—

Repeal

“and an indication of tar and nicotine yields”.

39. Schedule amended

The Schedule—

Repeal Part 2C.

Part 6

Amendments to Smoking (Public Health) Ordinance (Cap. 371) for Extension of No Smoking Areas and Prohibition on Smoking While Queuing to Board Public Transport Carriers or to Enter Certain Places etc.

40. Section 2 amended (interpretation)

(1) Section 2(1)—

Repeal the definition of *stadium*

Substitute

“*stadium* (體育場) means—

- (a) a stadium as defined by section 2(1) of the Public Health and Municipal Services Ordinance (Cap. 132); or
- (b) the Kai Tak Stadium, located at 38-39 Shing Kai Road, Kowloon;”.

(2) Section 2(1)—

Add in alphabetical order

“*queue* (輪候) means to wait in a line of 2 or more persons;

specified clinic or health centre (指明診所或健康中心) means a clinic or health centre that—

- (a) is managed or controlled, whether wholly or partly, by the Government, the Hospital Authority or the Board of Governors of The Prince Philip Dental Hospital; and

(b) falls within a type of clinic or a type of health centre (whichever is applicable) specified under subsection (7);”.

(3) After section 2(6)—

Add

“(7) The Director of Health may, by notice published in the Gazette, specify a type of clinic or a type of health centre for the purposes of the definition of *specified clinic or health centre* in subsection (1).

(8) A notice referred to in subsection (7) is not subsidiary legislation.”.

41. Section 3 amended (prohibition on smoking in certain designated areas)

(1) Section 3(1), after “described in”—

Add

“Division 1 of”.

(2) After section 3(1)—

Add

“(1AAA) Moreover, an area—

(a) that is a public place; and

(b) that lies within 3 m from the outer edge of a doorway, gateway, or any other similar opening for access, that is exclusively used for access to or from any premises described in Division 2 of Part 1 of Schedule 2,

is, to the extent that it is not an area described in Division 1 of that Part, also designated as a no smoking area.”.

(3) Section 3(1AA)—

Repeal

“Subsection (1) does”

Substitute

“Subsections (1) and (1AAA) do”.

(4) After section 3(1AA)—

Add

“(1AAB) The Secretary may, by notice published in the Gazette, designate an area as a no smoking area.

(1AAC) In making the designation, the Secretary may do all or any of the following—

- (a) impose a time limit on the designation by specifying the limit in the notice;
- (b) impose a condition on the designation by specifying the condition in the notice;
- (c) give an exemption in respect of the designation by specifying the exemption in the notice.”.

(5) Section 3(3)—

Repeal

“The manager of a no smoking area”

Substitute

“If there is a manager for a no smoking area, the manager”.

42. Sections 4A and 4B added

After section 4—

Add

“4A. Prohibition on smoking while queuing to board public transport carriers etc.

- (1) No person may do a smoking act while—
- (a) queuing to board a public transport carrier at a designated boarding location; or
 - (b) staying in the delineated area for a designated boarding location, irrespective of whether the person is waiting to board a public transport carrier and whether there is another person in the area.
- (2) For the purposes of subsection (1)(b), if the boundaries of a designated boarding location are indicated or formed by any ground markings, fences or structures, then the area within the boundaries is a delineated area for the designated boarding location.
- (3) In this section—

designated boarding location (指定登上交通工具地點) means a location that is designated for prospective passengers of a public transport carrier to wait to board the carrier.

Example—

- (a) a taxi stand; and
- (b) a bus stop.

4B. Prohibition on smoking while queuing to enter certain places

No person may do a smoking act—

- (a) while queuing to enter a place described in Schedule 9; or
- (b) while queuing within such a place.”.

43. Section 7 amended (offences under Part 2)

(1) Section 7(1)—

Repeal

“3 or 4”

Substitute

“3, 4, 4A or 4B”.

(2) Section 7(1)—

Repeal

“level 2”

Substitute

“level 3”.

(3) Section 7(2)—

Repeal

“level 3”

Substitute

“level 4”.

(4) At the end of section 7—

Add

“(5) If—

(a) a person is charged with an offence under subsection (1) for doing a smoking act in a no smoking area in contravention of section 3(2); and

(b) the no smoking area is one designated under section 3(1AAA) in respect of a doorway, gateway or any other similar opening for access as described in section 3(1AAA),

then in any proceedings for the offence, it is a defence for the person charged to establish that, at the time of the contravention, he or she did not know and had no reason to suspect the existence of the doorway, gateway or opening.

- (6) A person is taken to have established a matter that needs to be established for a defence under subsection (5) if—
- (a) there is sufficient evidence to raise an issue with respect to that matter; and
 - (b) the contrary is not proved by the prosecution beyond reasonable doubt.”.

44. Schedule 2 amended (designated no smoking areas and exempt areas)

- (1) Schedule 2—

Repeal

“[s. 3(1) & (1AA)]”

Substitute

“[s. 3]”.

- (2) Schedule 2, Part 1, heading—

Repeal

“**Designated**”

Substitute

“**Areas or Premises Described for Designation of**”.

- (3) Schedule 2, Part 1, after the heading—

Add

“Division 1—Areas Described for Purposes of Section 3(1)”.

(4) Schedule 2, Part 1, Division 1, item 20—

Repeal

“Part”

Substitute

“Division”.

(5) Schedule 2, Part 1, after Division 1—

Add

“Division 2—Premises Described for Purposes of Section 3(1AAA)”

Item	Premises
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1.	Any child care centre.
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2.	Any hospital.
----	---------------

3.	Any residential care home.
----	----------------------------

4.	Any school.
----	-------------

5.	Any specified clinic or health centre.”.
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(6) Schedule 2, Part 2, item 1, before “Part 1”—

Add

“Division 1 of”.

45. Schedule 9 added

After Schedule 8—

Add

“Schedule 9

[s. 4B]

Places Described for Purposes of Section 4B

Item	Place
1.	Any arts and cultural facilities as defined by section 2 of the West Kowloon Cultural District Authority Ordinance (Cap. 601).
2.	Any cinema, theatre or concert hall.
3.	Any civic centre as defined by section 2(1) of the Public Health and Municipal Services Ordinance (Cap. 132).
4.	Any community hall, community centre, activity centre or other community facility managed by the Home Affairs Department.
5.	Any hospital.
6.	Any museum as defined by section 2(1) of the Public Health and Municipal Services Ordinance (Cap. 132).
7.	Any public pleasure ground.
8.	Any public swimming pool.
9.	Any specified clinic or health centre.
10.	Any stadium.

Item	Place
11.	Kai Tak Arena and Kai Tak Youth Sports Ground, located at 38-39 Shing Kai Road, Kowloon.
12.	AsiaWorld-Expo, located at the Hong Kong International Airport, Lantau Island, New Territories.
13.	Hong Kong Convention and Exhibition Centre, located at 1 Expo Drive, Wan Chai, Hong Kong.
14.	Hong Kong Disneyland Park, located at Hong Kong Disneyland, Lantau Island, New Territories.
15.	Ocean Park as defined by section 2 of the Ocean Park Corporation Ordinance (Cap. 388).
16.	Water World Ocean Park Hong Kong, located at 33 Ocean Drive, Aberdeen, Hong Kong.
17.	The Hong Kong Observation Wheel, located at 33 Man Kwong Street, Central, Hong Kong.
18.	The Hong Kong Wetland Park designated under section 24(1) of the Country Parks Ordinance (Cap. 208).”.

Part 7

Amendments to Smoking (Public Health) Ordinance (Cap. 371) for Prohibition on Provision of Conventional Smoking Products to Underage Persons

46. Section 15A amended (prohibition on selling or giving of conventional smoking products, etc.)

(1) Section 15A(1)—

Repeal

“cigarette, cigarette tobacco, cigar or pipe tobacco”

Substitute

“conventional smoking product”.

(2) After section 15A(1)—

Add

“(1A) No person may give any conventional smoking product to any person under the age of 18 years.”.

(3) Section 15A(2)—

Repeal

“cigarette, cigarette tobacco, cigar or pipe tobacco”

Substitute

“conventional smoking product”.

47. Section 15C amended (offences under Part 4A)

(1) Section 15C(1)—

Repeal

everything after “offence”

Substitute a full stop.

(2) After section 15C(1)—

Add

“(1A) Subject to subsection (1B), a person who commits an offence under subsection (1) is liable on summary conviction to a fine at level 4.

(1B) If—

- (a) a person commits an offence under subsection (1) for contravening section 15A(1A); and
- (b) the aggravating factor does not apply in relation to the offence,

the person is liable on summary conviction to a fine at level 3.

(1C) For the purposes of subsection (1B)(b), the aggravating factor applies in relation to an offence mentioned in subsection (1B)(a) if either or both of the conditions under paragraphs (a) and (b) are met—

- (a) the offence is constituted by one or more of the following acts—
 - (i) the giving of more than 19 sticks of cigarettes to a person under the age of 18 years (*underage person*);
 - (ii) the giving of—
 - (A) more than one stick of cigar; or
 - (B) a stick of cigar that is more than 25 grams,to an underage person;
 - (iii) the giving of more than 25 grams, in aggregate, of cigarette tobacco or pipe tobacco to an underage person;

- (b) the person who commits the offence gives—
 - (i) if the offence involves only one conventional smoking product—the product; or
 - (ii) if the offence involves more than one conventional smoking product—any one or more of the products,to an underage person for commercial purposes.
- (1D) The Director of Health may, by notice published in the Gazette, amend any figure concerning the quantity or weight of conventional smoking products mentioned in subsection (1C)(a).”.
- (3) Section 15C—

Repeal subsection (2)**Substitute**

- “(2) It is a defence to—
- (a) a charge under subsection (1) for selling any conventional smoking product to an underage person in contravention of section 15A(1); or
 - (b) a charge under subsection (1) for giving any conventional smoking product to an underage person in contravention of section 15A(1A),
- to establish 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 underage person and believed on reasonable grounds that the underage person was not under the age of 18 years.

- (3) A person is taken to have established a matter that needs to be established for a defence under subsection (2) if—
- (a) there is sufficient evidence to raise an issue with respect to that matter; and
 - (b) the contrary is not proved by the prosecution beyond reasonable doubt.”.
-

Part 8

Increasing and Introducing Fixed Penalties for Certain Smoking-related Offences

Division 1—Amendments to Fixed Penalty (Smoking Offences) Ordinance (Cap. 600)

48. Section 2 amended (interpretation)

- (1) Section 2(1), definition of *fixed penalty*—

Repeal

“4”

Substitute

“5”.

- (2) Section 2(1), definition of *scheduled offence*—

Repeal

“the Smoking (Public Health) Ordinance (Cap. 371) specified in column 2 of the Schedule.”

Substitute

“Cap. 371 specified in column 2 of the Schedule;”.

- (3) Section 2(1)—

Add in alphabetical order

“*Cap. 371* (《第371章》) means the Smoking (Public Health) Ordinance (Cap. 371);

specified circumstance (指明情況), in relation to a scheduled offence, means a circumstance described in column 3 of the Schedule opposite to the relevant provision specified in column 2 of the Schedule;

specified form (指明格式) means a form specified under section 17A.”.

(4) Section 2(2)—

Repeal

“3”

Substitute

“4”.

(5) Section 2(2)—

Repeal

everything after “nature of”

Substitute

“__

(a) the scheduled offence as committed, in the specified circumstance; or

(b) if there is no specified circumstance for the scheduled offence—the scheduled offence.”.

49. Section 3 amended (fixed penalty notice given by public officer)

Section 3(1)—

Repeal

everything after “believe that”

Substitute

“__

(a) a person is committing or has committed a scheduled offence in the specified circumstance; or

- (b) for a scheduled offence for which there is no specified circumstance—a person is committing or has committed the scheduled offence,

the officer may give the person a notice in the specified form offering the person an opportunity to discharge the person's liability to conviction for the offence by payment of the fixed penalty for the offence within 21 days from the date of the giving of the notice.”.

50. Section 4 amended (power of inspecting proof of identity)

Section 4(1), after “scheduled offence”—

Add

“as mentioned in section 3(1)”.

51. Section 6 amended (further fixed penalty notice served by Authority)

Section 6(2)—

Repeal

“prescribed”

Substitute

“specified”.

52. Section 9 amended (proof produced for application under section 8)

Section 9(2)—

Repeal

“prescribed”

Substitute

“specified”.

53. Section 16 amended (power to make regulation)

Section 16—

Repeal

everything after “regulation”

Substitute

“provide for the better carrying out of the provisions of this Ordinance.”.

54. Section 17A added

After section 17—

Add

“17A. Power to specify form

The Director of Health may specify the form of any notice or certificate for the purposes of this Ordinance.”.

55. Schedule substituted

The Schedule—

Repeal the Schedule

Substitute

“Schedule

[s. 2]

Scheduled Offence

Column 1	Column 2	Column 3	Column 4	Column 5
Item	Provision of Cap. 371	Specified Circumstance	Description	Fixed Penalty
1.	Section 7(1)	Nil	Doing a smoking act in no smoking areas, in public transport carriers or while queuing to board public transport carriers or to enter certain places etc.	\$3,000

Column 1	Column 2	Column 3	Column 4	Column 5
Item	Provision of Cap. 371	Specified Circumstance	Description	Fixed Penalty
2.	Section 15C(1)	The offence is committed wholly because of a contravention of section 15A(1A) of Cap. 371, and the aggravating factor (as construed in accordance with section 15C(1C) of Cap. 371) does not apply in relation to the offence	Giving of any conventional smoking product to a person under the age of 18 years for not more than a specified quantity and other than for commercial purposes	\$3,000”.

56. Schedule amended (scheduled offence)

The Schedule, after item 2—

Add

“3.	Section 15DAB(1)	The aggravating factor (as construed in accordance with section 15DAB(7) of Cap. 371) does not apply in relation to the offence	Possession of \$3,000”. any specified alternative smoking product for not more than a specified quantity
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**Division 2—Repeal of Fixed Penalty (Smoking Offences)
Regulation (Cap. 600 sub. leg. A)**

- 57. Fixed Penalty (Smoking Offences) Regulation repealed**
Fixed Penalty (Smoking Offences) Regulation—
Repeal the Regulation.

**Division 3—Related Amendments to Smoking (Public
Health) (Prescribed Information) Order (Cap. 371
sub. leg. B)**

- 58. Paragraph 10 added**
After paragraph 9—
Add

- “10. Transitional provisions relating to Tobacco Control
Legislation (Amendment) Ordinance 2025**
(1) Subparagraph (2) applies to a health warning in the
form prescribed in Form 5 of Part 2, 2A or 2B of the

pre-amended Schedule if it was printed on or affixed to a retail container before 1 January 2026.

- (2) During a period of 6 months beginning on 1 January 2026, the health warning is, for the purposes of this Ordinance, to be treated as one in the form prescribed in Form 5 of Part 2, 2A or 2B of the Schedule as amended by the Amendment Ordinance.
- (3) In this paragraph—

Amendment Ordinance (《修訂條例》) means the Tobacco Control Legislation (Amendment) Ordinance 2025 (of 2025);

pre-amended Schedule (原有附表) means the Schedule as in force immediately before 1 January 2026.”.

59. Schedule amended

- (1) The Schedule, Part 2—

Repeal Form 5

Substitute

“Form 5

Chinese Version of Version A



Chinese Version of Version B



Chinese Version of Version C



English Version of Version A



English Version of Version B



English Version of Version C



- (2) The Schedule, Part 2A—
Repeal Form 5
Substitute

“Form 5

Chinese Version



English Version



”

(3) The Schedule, Part 2B—

Repeal Form 5

Substitute

“Form 5

Chinese Version



English Version



Part 9

Amendments to Smoking (Public Health) Ordinance (Cap. 371) to Prohibit Sale of Conventional Smoking Products Containing Specified Additives etc. and to Introduce Certification Regime for Conventional Smoking Products

60. Section 2 amended (interpretation)

Section 2(1)—

Add in alphabetical order

“*certificate of compliance* (合規證明書), in relation to a conventional smoking product, means a certificate issued in respect of the product by virtue of a power conferred under section 18(1)(ca);”.

61. Part 3 heading amended (sales of conventional smoking products)

Part 3, heading, after “**Products**”—

Add

“**etc.**”.

62. Part 3, Division 1 heading added

Before section 8—

Add

“Division 1—General Prohibitions”.

63. Section 10 heading amended (offences under Part 3)

Section 10, heading, after “**under**”—

Add

“Division 1 of”.

64. Part 3, Divisions 2 and 3 added

After section 10—

Add

“Division 2—Prohibitions relating to Specified Additives

10AA. Interpretation of Division 2 of Part 3

In this Division—

flavouring (加味劑) means a substance or mixture of substances (no matter in what form and whether natural or synthetic) that is capable of—

- (a) imparting a taste or aroma to the smoke generated from a conventional smoking product; or
- (b) modifying or enhancing the taste or aroma of such smoke;

specified additive (指明添加劑)—

- (a) means an additive set out in Part 1 of Schedule 10; but
- (b) does not include a substance set out in Part 2 of that Schedule.

10AAB. Prohibition on sale of conventional smoking products containing specified additives

- (1) No person may sell, offer for sale or possess for the purposes of sale a conventional smoking product that contains a specified additive.
- (2) A person who contravenes subsection (1) commits an offence and is liable on summary conviction to a fine at level 5 and to imprisonment for 6 months.
- (3) In any legal proceedings, a certificate purporting to be signed by the Government Chemist and stating that a conventional smoking product contains a specified additive is admissible in evidence without further proof and, in the absence of evidence to the contrary—
 - (a) is taken as signed by the Government Chemist; and
 - (b) is evidence of the facts stated in the certificate.
- (4) In any proceedings for a contravention of subsection (1), it is a defence for the person charged to establish that—
 - (a) a certificate of compliance was issued in respect of the conventional smoking product concerned; and
 - (b) the certificate was in force at the time of the contravention.

10AAC. Prohibition on sale of conventional smoking products held out as containing flavourings

- (1) No person may sell, offer for sale or possess for the purposes of sale a conventional smoking product if the product or any packaging of it (including any

packet, retail container, wrapping, and any label attached to or printed on the packaging or the product) bears any term, descriptor, trade mark, figurative or any other sign that is likely to create an impression that the product contains a flavouring.

- (2) A person who contravenes subsection (1) commits an offence and is liable on summary conviction to a fine at level 5 and to imprisonment for 6 months.

10AAD. Prohibition on sale of products designed or held out to impart flavourings to conventional smoking products

- (1) No person may sell, offer for sale or possess for the purposes of sale a product that is designed for, or held out by the person to be capable of, imparting a flavouring to a conventional smoking product.
- (2) A person who contravenes subsection (1) commits an offence and is liable on summary conviction to a fine at level 5 and to imprisonment for 6 months.

10AAE. Disapplication of certain provisions to export of products

Sections 10AAB(1) and 10AAC(1) do not apply to anything done in relation to a conventional smoking product (irrespective of whether the product contains any specified additive or flavouring) that is held—

- (a) in bond; or
- (b) by a manufacturer of conventional smoking products,

for export from Hong Kong.

Division 3—Prohibition on Distribution of Conventional Smoking Products by Suppliers without Certificate of Compliance

10AAF. Distribution of conventional smoking products by suppliers without certificate of compliance

- (1) No supplier of conventional smoking products may distribute the products unless a certificate of compliance is in force for the products.
- (2) A person who contravenes subsection (1) commits an offence and is liable on summary conviction to a fine at level 5 and to imprisonment for 6 months.

- (3) In this section—

distribute (分發), in relation to any conventional smoking product, means—

- (a) to sell the product;
- (b) to exchange or dispose of the product for consideration;
- (c) to give the product to another person as a prize or gift; or
- (d) to transmit or deliver the product for any of the following activities—
 - (i) selling the product;
 - (ii) an exchange or disposal of the product for consideration,

but does not include any such act done with a view that the product is to be exported in the course of business;

supplier (供應商), in relation to any conventional smoking product, means—

- (a) a person who manufactures the product in Hong Kong in the course of the person's business; or
- (b) a person who, in the course of the person's business, imports the product into Hong Kong for distribution, but does not include a person who—
 - (i) does not own the product; and
 - (ii) only provides a service for transporting the product into Hong Kong for another person.”.

65. Part 3, Divisions 4 heading added

Before section 10A—

Add

“Division 4—Enforcement Powers”.

66. Section 15E amended (interpretation of Part 4B)

- (1) Section 15E, definition of *relevant offence*, before “Part 3”—

Add

“Division 1 of”.

- (2) Section 15E, definition of *relevant provision*, before “Part 3”—

Add

“Division 1 of”.

67. Section 18 amended (regulations and orders)

- (1) Section 18(1)—

Repeal

“Chief Executive in Council”

Substitute

“Secretary”.

- (2) Before section 18(1)(d)—

Add

- “(ca) providing for the issue of certificates by the Director of Health for enabling the distribution of conventional smoking products in compliance with section 10AAF;
- (cb) prescribing the procedures for the application, suspension and cancellation of the certificates, and the effect of such suspension and cancellation;
- (cc) providing for the duty of suppliers (as defined by section 10AAF(3)) to withdraw conventional smoking products in the event of such suspension or cancellation;”.
- (3) After section 18(1)—

Add

- “(1A) A regulation made under subsection (1)—
- (a) may prescribe offences for contravention of a regulation, punishable by a fine, imprisonment or both; and
- (b) may provide for defences to such offences.
- (1B) The maximum penalty that may be prescribed by a regulation made under subsection (1) for an offence is a fine at level 5 and imprisonment for 6 months.”.

68. Schedule 10 added

At the end of the Ordinance—

Add

“Schedule 10

[s. 10AA]

Specified Additives

Part 1

**Additives Being Specified Additives (Unless Being
Excluded Substances under Part 2 of this
Schedule)**

1. Additives that modify or enhance flavours of the smoke generated from the conventional smoking product concerned or otherwise have flavouring properties, including—
 - (a) additives identified as flavourings by the Joint FAO/WHO Expert Committee on Food Additives in the Committee’s evaluations, as published from time to time in the WHO Technical Report Series; and
 - (b) additives identified as generally recognized as safe flavouring substances by the Flavor and Extract Manufacturers Association as published from time to time,to the extent that they are not any of the additives listed in other items of this Part

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2. The following additives, to the extent that they are not any of the additives listed in other items of this Part—
 - (a) additives commonly associated with health benefits, including—
 - (i) vitamins;
 - (ii) amino acids;
 - (iii) essential fatty acids;
 - (iv) mineral nutrients;
 - (v) probiotics;
 - (vi) fruit extracts; and
 - (vii) vegetable extracts;
 - (b) additives commonly associated with alleged stimulating or invigorating properties, including—
 - (i) caffeine;
 - (ii) taurine;
 - (iii) guarana; and
 - (iv) glucuronolactone;
 - (c) additives that facilitate inhalation or nicotine uptake, including ammonia or any of its compounds and derivatives; and
 - (d) additives capable of imparting a visible colour to the smoke generated from the conventional smoking product concerned
 3. Menthol (including L-menthol)
 4. Menthone (including L-menthone)
 5. Menthyl acetate

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6. Methyl salicylate
 7. Bornyl acetate
 8. Para-anisyl alcohol
 9. Carvone (including L-carvone)
 10. Citronellol
 11. Linalool
 12. Citral
 13. Geraniol
 14. Eucalyptol
 15. Alpha-pinene
 16. Beta-pinene
 17. Alpha-terpineol
 18. Camphor
 19. Pulegone
 20. Ethyl salicylate
 21. Synthetic coolants including—
 - (a) 2-isopropyl-N,2,3-trimethylbutyramide (WS-23);
and

- (b) N-ethyl-2-isopropyl-5-methylcyclohexane
carboxamide (WS-3)

Part 2

Excluded Substances

1. Benzoic acid and its salts
2. Butylated hydroxytoluene
3. Carboxymethyl cellulose
4. Citric acid and its salts
5. Ethanol
6. Polyoxyethylene sorbitan monolaurate
7. Fumaric acid
8. Glycerol
9. Guar gum
10. N-propyl acetate
11. Paraffin wax
12. Propylene glycol
13. Glycerol esters of wood rosin
14. Sodium acetate anhydrous

15. Sodium alginate
 16. Sorbic acid and its salts
 17. Triacetin
 18. Tributyl acetylcitrate”.
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Part 10

Miscellaneous Amendments

Division 1—Amendments to Import and Export Ordinance (Cap. 60)

69. Section 13P amended (inspectors to enforce section 13B)

(1) Section 13P(1), after “(Cap. 371)”—

Add

“(Cap. 371)”.

(2) After section 13P(1)—

Add

“(1A) Section 15I of Cap. 371 applies to the exercise of a power and the performance of a duty by virtue of subsection (1) as it applies to the exercise of a power and the performance of a duty conferred or imposed by Cap. 371.”.

(3) Section 13P(2)—

Repeal

“subsection (1)”

Substitute

“subsections (1) and (1A)”.

70. Section 13Q amended (enforcement powers of inspectors)

Section 13Q(2)—

Repeal

everything after “the inspector”

Substitute

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- (a) to facilitate the enforcement of that section, may detain the person for a reasonable period; and
- (b) may arrest the person without warrant, and take the person to a police station to be dealt with in accordance with the Police Force Ordinance (Cap. 232).”.

Division 2—Amendments to Smoking (Public Health) Ordinance (Cap. 371)

71. Section 10 amended (offences under Part 3)

- (1) Section 10(1A)—

Repeal

“prove”

Substitute

“establish”.

- (2) After section 10(1A)—

Add

- “(1B) A person is taken to have established a matter that needs to be established for a defence under subsection (1A) if—
 - (a) there is sufficient evidence to raise an issue with respect to that matter; and
 - (b) the contrary is not proved by the prosecution beyond reasonable doubt.”.

72. Section 15 amended (offences under Part 4)

(1) Section 15(2)—

Repeal

“prove”

Substitute

“establish”.

(2) After section 15(2)—

Add

“(3) A person is taken to have established a matter that needs to be established for a defence under subsection (2) if—

- (a) there is sufficient evidence to raise an issue with respect to that matter; and
 - (b) the contrary is not proved by the prosecution beyond reasonable doubt.”.
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Explanatory Memorandum

This Bill amends various Ordinances to implement the following tobacco control measures—

- (a) the implementation of a duty stamp regime for tobacco;
- (b) increasing the penalties for offences relating to tobacco on which duty is not paid;
- (c) the prohibition on the provision of alternative smoking products to underage persons and the possession of specified alternative smoking products;
- (d) the adjustment of the packaging requirements for conventional smoking products;
- (e) the extension of no smoking areas;
- (f) the prohibition of the doing of smoking acts while queuing to board public transport carriers or to enter certain places, or while staying in the delineated areas for designated boarding locations;
- (g) the prohibition of the provision of conventional smoking products to underage persons;
- (h) increasing and introducing fixed penalties for certain smoking-related offences;
- (i) the prohibition of—
 - (i) the sale of conventional smoking products that contain specified additives, or are held out as containing flavourings; and
 - (ii) the sale of products that are designed for, or held out by sellers to be capable of imparting flavourings to, conventional smoking products; and

- (j) the implementation of a certification regime for conventional smoking products.

- 2. The Bill is divided into 10 Parts.

Part 1—Preliminary

- 3. Clause 1 sets out the short title and provides for commencement.

Part 2—Implementation of Duty Stamp Regime

- 4. Clause 3 amends section 2 of the Dutiable Commodities Ordinance (Cap. 109) (***Cap. 109***) to provide for the meaning of certain expressions used in Cap. 109 as amended by the Bill (including ***duty stamp*** and ***specified tobacco***).
- 5. Clause 4 amends section 40(1) of Cap. 109 so that—
 - (a) a cigarette is presumed to be dutiable goods if the cigarette is offered for sale or supply at a price lower than the duty payable on the cigarette; and
 - (b) any specified tobacco is presumed to be dutiable goods if the specified tobacco is in a retail package with no duty stamp.
- 6. Clause 5 adds a new subsection (3A) to section 47A of Cap. 109 to empower the Commissioner of Customs and Excise (***Commissioner***) to affix or arrange the affixing of, and to validate, a duty stamp on specified tobacco after compounding.

7. Clauses 6 and 7 add certain new Division headings to Part IV of Cap. 109 to reorganize the provisions in that Part in view of the other amendments made to that Part by the Bill while clause 9 makes a consequential amendment to Schedule 1 to Cap. 109.
8. Clause 8 adds a new Division 3 to Part IV of Cap. 109 to provide for the details of the duty stamp regime as follows—
 - (a) the new section 68A contains the definitions for interpretation of that new Division 3;
 - (b) the new section 68B makes it an offence to sell or supply specified tobacco that is in a retail package with no validated duty stamp;
 - (c) the new section 68C provides for the manufacture, issue and affixing of duty stamps;
 - (d) the new section 68D empowers the Commissioner to issue practice guidelines for the purposes of the new section 68C;
 - (e) the new section 68E provides for the validation of duty stamps;
 - (f) the new section 68F makes improper dealing with duty stamps an offence;
 - (g) the new section 68G prohibits the making of counterfeits of duty stamps;
 - (h) the new sections 68H and 68I criminalize the affixing, providing and possession, etc. of counterfeits of duty stamps with knowledge;
 - (i) the new section 68J provides a defence of lawful authority or reasonable excuse for offences under the new sections 68C(3), 68F, 68G(1), 68H(1) and 68I(1); and

- (j) the new section 68K empowers the Commissioner to amend a new Schedule 5 (added by clause 11), which sets out the list of specified tobacco.

- 9. Clause 10 amends Schedule 2 to Cap. 109 to set out the penalties for the new offences created under the new Division 3 of Part IV of Cap. 109.
- 10. Clause 12 amends regulation 11 of the Dutiable Commodities Regulations (Cap. 109 sub. leg. A) (*Cap. 109A*) to provide that for enabling compliance with Cap. 109, an officer of the Customs and Excise Department may affix duty stamps to the retail packages of duty-paid specified tobacco.

Part 3—Increasing Penalties for Offences relating to Tobacco to which Duty is Not Paid etc.

- 11. Clause 13 amends section 46 of Cap. 109 to create certain indictable offences.
- 12. Clause 14 amends Schedule 2 to Cap. 109 to—
 - (a) increase the penalty for the offence under section 34A of Cap. 109 to level 2; and
 - (b) increase the penalty for an offence committed in relation to tobacco under section 17 of Cap. 109 to a fine of \$2,000,000 and to imprisonment for 7 years.
- 13. Clause 15 amends Schedule 3 to Cap. 109 to raise to \$5,000 the penalty in relation to the offence under section 34A of Cap. 109 under the compounding regime. The clause also makes a technical amendment to the entry relating to regulation 99(1) of Cap. 109A.

14. Clause 16 amends Schedule 1 to the Organized and Serious Crimes Ordinance (Cap. 455) (**Cap. 455**) to include the offence of dealing with and possession of tobacco under section 17 of Cap. 109 as a Schedule 1 offence within the meaning of Cap. 455. This strengthens the enforcement powers for curbing illicit cigarette activities.

Part 4—Prohibition on Provision of Alternative Smoking Products to Underage Persons and Possession of Specified Alternative Smoking Products

15. Clause 17 adds a new paragraph (ca) to section 15DA(1) of the Smoking (Public Health) Ordinance (Cap. 371) (**Cap. 371**) to prohibit the giving of alternative smoking products to underage persons.
16. Clause 18 adds a new section 15DAB to Cap. 371 to prohibit the possession of specified alternative smoking products in a public place. The new section 15DAB(2) introduces a presumption to facilitate enforcement. Disapplication provisions are provided for persons in transit and articles in transit etc. in the new section 15DAB(3), (4) and (5). A person who commits an offence under the new section 15DAB will be subject to a more severe penalty if the aggravating factor applies.
17. Clause 19 consequentially amends section 15DB of Cap. 371.
18. Clause 20 amends section 15DG of Cap. 371 to confer on inspectors a power of arrest in relation to the offences under Part 4AB of Cap. 371.

19. Clause 21 adds a new section 15DGA to Cap. 371 to provide for the recovery of costs and expenses of collecting, analysing or examining alternative smoking products etc. incurred in criminal proceedings.
20. Clause 22 amends section 15G of Cap. 371 to raise the penalty for offences under section 15G(4) and (5) to a fine at level 4.
21. Clause 23 amends Schedule 7 to Cap. 371 to update the cross-references.
22. Clause 24 further amends the new section 15DAB to implement a total ban on the possession of specified alternative smoking products.

Part 5—Adjustments of Packaging Requirements for Conventional Smoking Products

23. Clause 25 amends section 40(1)(a) of Cap. 109 so that, if a person is in possession of 500 or more cigarettes that are in packets that do not conform to an order made under section 18(2) of Cap. 371 (*section 18(2) order*), the cigarettes concerned are presumed to be dutiable goods.
24. Clause 26 amends section 2 of Cap. 371 by repealing the definition of *nicotine yield*.
25. Clause 27 amends section 8 of Cap. 371 to stipulate that the packaging of cigarettes must conform to a section 18(2) order.
26. Clause 28 makes certain textual amendments to section 8A(2) of Cap. 371.

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27. Clause 29 amends section 9 of Cap. 371 to stipulate that the packaging of cigars, pipes, tobacco or cigarette tobacco must conform to a section 18(2) order.
 28. Clause 30 repeals the offence under section 10(2) of Cap. 371.
 29. Clause 31 amends section 10A of Cap. 371 to provide for the seizure and forfeiture, etc. of conventional smoking products if their packaging does not conform to a section 18(2) order.
 30. Clause 32 consequentially amends section 12(5) of Cap. 371.
 31. Clause 33 amends section 14 of Cap. 371 so that if a price board bears a health warning in accordance with a section 18(2) order, the display of that price board is not a smoking product advertisement.
 32. Clause 34 amends section 16 of Cap. 371 so that the Government Chemist is no longer required to analyse cigarettes for the purpose of determining their nicotine yield.
 33. Clause 35 amends section 18 of Cap. 371 to take out the regulation-making powers in relation to tar and nicotine yields and to empower the Secretary for Health (*Secretary*) to make orders on the packaging requirements for conventional smoking products.
 34. Clause 36 amends the title to the Smoking (Public Health) Regulations (Cap. 371 sub. leg. A) (*Cap. 371A*).
 35. Clause 37 repeals regulations 1, 3, 4 and 6 of Cap. 371A (which are provisions relating to the determination of tar and nicotine yields and the notification requirement of first retail sales of cigarettes etc.).

36. Clause 38 amends paragraph 3 of the Smoking (Public Health) (Prescribed Information) Order (Cap. 371 sub. leg. B) (**Cap. 371B**) to remove the requirement to indicate tar and nicotine yields on packets or retail containers of cigarettes and to provide that health warnings must not be obscured except with the approval of the Commissioner.
37. Clause 39 repeals Part 2C (forms of indication of tar and nicotine yields on packet of cigarettes or retail container of cigarette packets) of the Schedule to Cap. 371B.

Part 6—Extension of No Smoking Areas and Prohibition on Smoking While Queuing to Board Public Transport Carriers or to Enter Certain Places etc.

38. Clause 40 amends section 2 of Cap. 371 to amend the definition of *stadium* and to provide for the meaning of *specified clinic or health centre*. A clinic or health centre is a specified clinic or health centre if it belongs to a type specified by the Director of Health (**Director**) by government notice published in the Gazette.
39. Clause 41 amends section 3 of Cap. 371 to—
- (a) designate an area that is a public place and that lies within 3 m from the outer edge of a doorway etc. that is exclusively used for access to or from any premises described in Division 2 of Part 1 of Schedule 2 to Cap. 371 as a no smoking area under the new section 3(1AAA) of Cap. 371; and
 - (b) empower the Secretary to designate an area as a no smoking area with certain time limits, conditions or exemptions.

40. Clause 42 adds new sections 4A and 4B to Cap. 371. The new section 4A prohibits smoking while queuing to board public transport carriers or while staying in the delineated areas for designated boarding locations. The new section 4B prohibits smoking while queuing to enter, or while queuing within, certain places described in a new Schedule 9 (added by clause 45).
41. Clause 43 amends section 7 of Cap. 371—
- (a) to raise the penalty for the contravention of section 3, 4 or the newly-added section 4A or 4B of Cap. 371 to a fine at level 3;
 - (b) to raise the penalty for the offence under section 7(2) of Cap. 371 to a fine at level 4; and
 - (c) to provide a defence for an offence committed in relation to a no smoking area designated under the new section 3(1AAA) of Cap. 371.
42. Clause 44 amends Schedule 2 to Cap. 371 by adding a new Division 2 to Part 1 of that Schedule. The new Division 2 sets out the list of premises described for the purposes of the new section 3(1AAA) of Cap. 371.

Part 7—Prohibition on Provision of Conventional Smoking Products to Underage Persons

43. Clause 46 adds a new subsection (1A) to section 15A of Cap. 371 to prohibit the giving of conventional smoking products to underage persons.
44. Clause 47 amends section 15C of Cap. 371—

- (a) to provide for a more severe penalty if the aggravating factor applies in relation to the offence under the new section 15A(1A) of Cap. 371;
- (b) to empower the Director to amend the prescribed quantities or weights of conventional smoking products that are relevant to the determination of whether the aggravating factor applies; and
- (c) to provide a defence for an offence under section 15C of Cap. 371 for contravening section 15A(1) or (1A) of Cap. 371.

Part 8—Increasing and Introducing Fixed Penalties for Certain Smoking-related Offences

- 45. Clause 48 amends the Fixed Penalty (Smoking Offences) Ordinance (Cap. 600) (**Cap. 600**) to provide for the meaning of certain expressions used in Cap. 600 as amended by the Bill (including *specified circumstance* and *specified form*).
- 46. Clauses 49 and 50 consequentially amend sections 3 and 4 of Cap. 600 respectively.
- 47. Clauses 51 and 52 amend sections 6(2) and 9(2) of Cap. 600 respectively to provide for the use of a specified form.
- 48. Clause 53 amends section 16 of Cap. 600 to take out the regulation-making powers in relation to prescribed forms of notices or certificates and to the manner of payment of fixed penalties etc.
- 49. Clause 54 adds a new section 17A to Cap. 600 to empower the Director of Health to specify the form of any notice or certificate for the purposes of Cap. 600.

50. Clause 55 amends the Schedule to Cap. 600 to—
- (a) raise the fixed penalty from \$1,500 to \$3,000 for an offence under section 7(1) of Cap. 371; and
 - (b) introduce a new fixed penalty for an offence under section 15C(1) of Cap. 371 for contravening section 15A(1A) of Cap. 371 when the aggravating factor does not apply in relation to the offence.
51. Clause 56 amends the Schedule to Cap. 600 by adding a new fixed penalty for an offence under section 15DAB(1) of Cap. 371 when the aggravating factor does not apply in relation to the offence.
52. Clause 57 repeals the Fixed Penalty (Smoking Offences) Regulation (Cap. 600 sub. leg. A).
53. Clause 58 adds a new paragraph 10 to Cap. 371B to set out the transitional arrangement for certain health warnings that were printed on or affixed to retail containers before 1 January 2026.
54. Clause 59 amends Part 2 of the Schedule to Cap. 371B to replace the images for certain health warnings to reflect the increased fixed penalty of \$3,000.

Part 9—Prohibition on Sale of Conventional Smoking Products Containing Specified Additives etc. and Introduction of Certification Regime for Conventional Smoking Products

55. Clause 60 provides for the meaning of *certificate of compliance*.
56. Clauses 61, 62, 63 and 65 amend the headings of Part 3 and section 10 of Cap. 371, and add certain Division headings to that Part, to reorganize the provisions in that Part in view of the other amendments made to that Part by the Bill.

57. Clause 64 adds new Divisions 2 and 3 to Part 3 of Cap. 371. The new Division 2 stipulates the prohibitions relating to conventional smoking products with specified additives etc. while the new Division 3 prohibits the distribution of conventional smoking products by suppliers without certificates of compliance issued by the Director.
58. Clause 66 amends section 15E of Cap. 371 to adjust the scope of enforcement powers of inspectors.
59. Clause 67 amends section 18 of Cap. 371 to transfer the regulation-making powers to the Secretary and to introduce further empowering provisions in relation to the issue, application, suspension and cancellation of certificates of compliance etc.
60. Clause 68 adds a new Schedule 10 to Cap. 371 to set out the list of specified additives.

Part 10—Miscellaneous Amendments

61. Clause 69 amends section 13P of the Import and Export Ordinance (Cap. 60) (**Cap. 60**) to provide for the protection for inspectors in the exercise of enforcement powers etc. in relation to the offence of importing alternative smoking products.
62. Clause 70 amends section 13Q of Cap. 60 to confer on inspectors a power of arrest in relation to the offence of importing alternative smoking products.
63. Clauses 71 and 72 amend sections 10 and 15 of Cap. 371 respectively to provide that persons charged with offences under those sections only have an evidential burden of proof for invoking the statutory defence.