

District Council Information Paper

Smoking (Public Health) Ordinance (Cap. 371)

Smoking (Public Health) (Designation of No Smoking Areas) (Amendment) Notice 2021

Purpose

The Government has proposed to amend the Schedule to the Smoking (Public Health) (Designation of No Smoking Areas) Notice (Cap. 371D) to update the list of public transport facilities (PTFs) designated as no smoking areas (NSAs). This paper briefs Members on the amendment exercise.

Background

2. To protect public health, it is the established policy of the Government to discourage smoking, contain the proliferation of tobacco use and protect the public from passive smoking as far as possible. Over the years, 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.

3. The Smoking (Public Health) Ordinance (Cap. 371) and its subsidiary legislation provide a legislative framework for restricting the use, sale and promotion of tobacco products. Under Cap. 371, any person who smokes or carries a lighted cigarette, cigar or pipe in areas designated as NSAs (in contravention of section 3) or in public transport carriers (in contravention of section 4) commits an offence. Schedule 2 to the Ordinance specifies a number of designated NSAs and exempt areas. Section 3 (1AB) of the Ordinance empowers the Director of Health (DoH) to, by notice published in 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).

4. Since 1 September 2009, the Government has designated NSAs in PTFs by phases for those areas identified as fulfilling the criteria set out in section 3(1AB) of Cap. 371. There are currently over 240 PTFs designated as NSAs. The Tobacco and Alcohol Control Office (TACO) has been conducting site visit regularly with a view to updating the list of PTFs in Schedule to Cap. 371D in accordance with the actual situation.

Adding/Amending the NSAs of the PTFs

5. Subsequent to the last designation exercise in 2020, site visits and consultation with the Transport Department (TD) revealed that two PTFs would meet the criteria specified in section 3(1AB) of Cap. 371. Changes in physical features and settings on the ground necessitate amendments to the extent of NSAs designated in four PTFs which have been listed in the Schedule to Cap. 371D. In addition, two PTFs with designated NSAs, which have been listed in the Schedule to Cap. 371D, no longer meet the criteria owing to changes in transport arrangement. In view of the above, the Government proposes to designate the two new PTFs as NSAs, amend the extent of the four NSAs already designated in PTFs, and remove the two PTFs from the Schedule to Cap. 371D. These affected PTFs are set out at **Annex**.

6. The area to be designated as NSA will cover the boarding and waiting areas of the PTF, 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 area of NSA in each PTF will be delineated in a gazette plan signed by DoH. The area in a PTF proposed to be designated as NSA is shown coloured orange and edged red on the plan.

Implementation and Publicity

7. According to the Government's plan, the updated NSAs at these PTFs will take effect on 31 December 2021. All plans of the NSAs of the PTFs will have been deposited in the Land Registry for public inspection upon gazettal of the Amendment Order. They will also be posted on the website of TACO of the Department of Health after the Amendment Order is passed and before the designation takes effect.

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 the respective physical settings. The plans showing the boundaries of the NSAs will be posted at prominent positions such as main entrances and exits. TACO will liaise with the relevant transport operators and the venue or facility managers where 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 inspection regularly. It will update regularly the designated NSAs set out in Cap. 371D and the boundaries of the NSAs in the PTFs as and when necessary.

10. Members are invited to note the content of this paper.

Department of Health
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