

Proposed Legislative Amendments to Smoking (Public Health) Ordinance (Cap. 371)

Government's tobacco control policy

The Government's tobacco control policy is, through a step-by-step approach, to

- discourage smoking
- contain the proliferation of tobacco use
- minimise public exposure to passive smoking

A multi-pronged approach, comprising legislation, taxation, publicity, education and law enforcement, has been adopted to achieve the policy objectives.

Smoking (Public Health) Ordinance (Cap. 371)

The Ordinance, first enacted in 1982, provides a legislative framework for restricting the use, sale and promotion of tobacco products in Hong Kong. It was last amended in 1997.

Why do we need to amend the existing Ordinance?

- The general public are calling for more stringent control over the use and promotion of tobacco products
- Certain provisions in the existing Ordinance are being abused to advertise or promote tobacco products
- Proper authority should be given to the parties concerned to facilitate their enforcement of the Ordinance

The objectives of current proposals

- To better protect members of the public against passive smoking in public indoor premises
- To close loopholes identified in the existing legislation
- To bring about more effective enforcement of the Ordinance

Proposed amendments to the Ordinance

Expansion of Statutory No Smoking Areas

Restaurants and other public indoor premises

- Under the existing legislation, a restaurant providing more than 200 indoor seating accommodation has to designate at least 1/3 of the area as no smoking area
- To further protect the public from exposure to passive smoking in public indoor premises, we propose to:
 - prohibit smoking in all restaurants, with a grace period of 6 to 12 months prior to implementation
 - prohibit smoking in all bars and karaokes, with a longer grace period if deemed necessary
- The enforcement arrangement:
 - Management of the premises will be the primary enforcement agency
 - Officers of the Tobacco Control Office (TCO) will educate the managers about the effective ways of implementing the smoking ban
 - The Police will assist as necessary

Schools, universities and tertiary institutions

- Under the existing legislation, schools, universities and tertiary institutions are not statutory no smoking areas unless they are designated as such by the principals
- To provide a smoke-free learning environment, we propose to:
 - prohibit smoking in both indoor and outdoor areas of all kindergartens, primary and secondary schools, and in indoor premises of universities and tertiary institutions
- The enforcement arrangement:
 - Principals of the schools will be the primary enforcement agency
 - TCO officers will assist as necessary

Indoor workplaces

- Currently, there is no legislation regulating smoking in indoor workplaces
- To protect the public from passive smoking in indoor workplaces, we propose to:
 - prohibit smoking in all indoor workplaces, apart from certain licensed premises including bathhouses, nightclubs and mahjong places
 - define workplace as any place where employees work, such as offices, shops and factories, but excluding domestic premises where the only employees are domestic servants and places where only self-employed people work
 - grant a longer grace period to businesses that have genuine difficulty in complying with the smoking ban requirement
- Enforcement arrangement:
 - Management of individual companies will be the primary enforcement agency
 - TCO officers will assist as necessary

Further Control on Tobacco Advertisement and Promotion

Display of tobacco advertisement

- Under the existing legislation, the display of tobacco advertisement is prohibited except at licensed hawker stalls and retail outlets employing not more than 2 employees
- To avoid abusive use of the above exemption for promoting tobacco products, we propose to:
 - revoke the current exemption on the display of tobacco advertisement at licensed hawker stalls and retail outlets employing not more than 2 employees
- Enforcement arrangement:
 - TCO officers will ensure compliance during their routine fieldwork and upon receipt of public complaints

Price board and price marker

- Under the existing legislation, a price board (for more than one tobacco brand) cannot exceed a size of 2,000 cm² and a price marker (for one single tobacco brand) has no size limit
- To prohibit the use of over-sized price markers as a means for advertising tobacco products, we propose to:
 - prescribe the size of price board and price marker to 1,500 cm² and 50 cm² respectively
 - prescribe the font size of words printed on them
- Enforcement arrangement:
 - TCO officers will ensure compliance during their routine check on selected retail outlets

Sale of tobacco products in association with other products

- Under the existing legislation, a tobacco product cannot be sold in association with any gift, or token, stamp and raffle ticket which may be exchanged for any gift
- To prohibit the promotion of tobacco products by means of selling them with other non-tobacco products which are charged at a price much lower than their actual values, we propose to:
 - prohibit the sale of a tobacco product in association with any other merchandise, regardless it is charged or not
- Enforcement arrangement:
 - TCO officers will monitor the retail outlets of tobacco products to ensure compliance

Tobacco sponsorship

- Under the existing legislation, any sponsorship involving the display of a tobacco brand is prohibited
- There are exceptions when the sponsorship is accompanied by the corporate name of the tobacco company, or the tobacco brand is in association with a non-tobacco product, and that no word associated with “smoking”, “cigarette” or other tobacco products are mentioned
- To prohibit the use of sponsorship as a means for tobacco advertisement, we propose to:

- prohibit the brand name of any tobacco product, and any words in association with “tobacco” to be used in any sponsored event, irrespective of whether it is used in association with a non-tobacco product
- allow, however, the appearance of the such brand name if it is clearly stipulated to be a non-tobacco merchandise
- Enforcement arrangement:
 - TCO officers will liaise with organisers of events seeking sponsorship to ensure they are aware of the restriction

Health Warning on Tobacco Products

- Under the existing legislation, health warnings on tobacco product packages have to contain prescribed wordings, and the amount of tar and nicotine yields
- To enhance the visual impact of health warnings on tobacco product purchasers, we propose to:
 - introduce health warnings with pictorial and graphic contents
- Enforcement arrangement:
 - The Customs and Excise Department will monitor the health warning to ensure compliance

More Effective Law Enforcement

- Currently, several different government departments assist in the enforcement of the Ordinance
- The TCO was set up in February 2001 as a designated enforcement agency to undertake the coordinating role
- To ensure effective enforcement of the Ordinance, we propose to:
 - authorise TCO officers to initiate prosecuting action against the offences including failure to display no smoking signs in no smoking areas, and illegal advertisement, sale and promotion of tobacco products
 - authorise managers of no smoking areas such as restaurants and shopping malls, principals of schools and employers of indoor workplaces to enforce the smoking ban in their premises

This Pamphlet contains only the main points of our proposals set out in the Consultation Document on the Proposed Legislative Amendments to the Smoking (Public Health) Ordinance (Cap. 371). You are requested to read the full text of the Consultation Document for details of the proposed amendments.

Copies of the Consultation Document is available from the Public Enquiry Service Centres of the District Offices, the Health InfoWorld in the Hospital Authority Building, the Patient Resource Centres in public hospitals, and the General Out-Patient Clinics of the Department of Health. It can also be accessed via the Health and Welfare Bureau website: <http://www.info.gov.hk/hwb/>

Your comments are most welcome. Please send your comments before **15 September 2001** to:

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