

Ban on alternative smoking products

Frequently asked questions

Q1: What are “alternative smoking products”?

A1: Alternative smoking products (“ASPs”) are defined under Part 2 of Schedule 7 to the amended Smoking (Public Health) Ordinance (“amended Ordinance”).

Simply put, ASP is:

(1) A device (other than a waterpipe) that is capable of generating an aerosol, other than by means of direct lighting, from any substances (except dangerous drugs) and being used for imitating conventional smoking; its component or accessory.

(2) Any substance (other than a dangerous drug) suitable for use with a device described in (1) to generate an aerosol from that substance. Examples include heated tobacco sticks and “e-liquid”.

(3) Any plant material (other than tobacco or a dangerous drug) rolled up in any material for immediate use for imitating conventional smoking (i.e. herbal cigarettes).

Q2: When will the ban be effective?

A2: The ban are effective from 30 April 2022.

Q3: What does the ban covers?

A3: No person may smoke or carry an activated ASP in a statutory no smoking area. From 30 April 2022, no person may import, promote, manufacture, sell, or possess for commercial purposes ASPs, including electronic smoking products (“electronic vaporizers”, “vaporizers”), heated tobacco products and herbal cigarettes.

Q4: What is the penalty?

A4: Anyone who carries out any of the following acts in relation to an ASP commits an offence:

Acts	Penalty
Import	On summary conviction, to a fine of HK\$500,000 and imprisonment for 2 years, or on conviction on indictment to a fine of \$2,000,000 and imprisonment for 7 years
Manufacture, sale, possession for commercial purposes, or giving to another person for promotion	On summary conviction, to a fine of HK\$50,000 and imprisonment for 6 months
Broadcast of advertisement	On summary conviction, to a fine of HK\$50,000 and, in the case of a continuing offence, to a further penalty of HK\$1,500 for each day during which the offence continues
Using in statutory no smoking areas	Fixed penalty of HK\$1,500, or on summary conviction, to a fine of HK\$5,000

Q5: Which department will enforce the amended Ordinance?

A5: The prohibition of import of ASPs is enforced by the Tobacco and Alcohol Control Office of the Department of Health and Hong Kong Customs and Excise Department. The prohibitions of manufacture, sales and distribution of ASPs is enforced by the Tobacco and Alcohol Control Office of the Department of Health.

Q6: What are the details of the import ban?

A6: The Import and Export (Amendment) Ordinance 2023 stipulates that no person may import an ASP by way of parcels, cargoes, and carrying by incoming travellers. Articles in transit, air transshipment cargoes, specified intermodal transshipment cargoes imported by a registered operator, and persons in transit at the Hong Kong International Airport without passing through any immigration control are exempted. Otherwise, travellers bringing ASPs into Hong Kong must declare so to the Customs and Excise Department. The amended Ordinance empowers the Customs and Excise Department and the Department of Health to enforce the import ban.

Q7: Can travellers bring a small amount of ASPs into Hong Kong?

A7: The Import and Export (Amendment) Ordinance 2023 prohibits any person from importing ASPs, regardless of the quantity or whether they are for personal use. Import covers parcels or articles that are brought in by incoming travellers.

Q8: I have a new smoking product. It will be for personal use during my stay in Hong Kong, but I don't know if it is an ASP prohibited under the amended Ordinance. What should I do?

A8: The definition of ASP can be found in Part 2 of Schedule 7 to the amended Ordinance.

Anyone who is not sure whether his/her smoking product is an ASP should not bring it into Hong Kong. Any person bringing any product that may be classified as "ASPs" into Hong Kong must declare so to officers of the Customs and Excise Department.

Q9: My product is given to me by a medical personnel/pharmacist overseas for smoking cessation. Is it exempt from the amended Ordinance?

A9: The amended Ordinance does not apply to any product that has been registered as pharmaceutical product under regulation 36 of the Pharmacy and Poisons Regulations. If needed, smokers may use locally registered smoking cessation medications (such as nicotine replacement therapy) or seek medical assistance during their stay in Hong Kong.

Q10: Is it illegal for transit travellers to bring ASPs to Hong Kong?

A10: Travellers in transit are exempted. Travellers in transit refer to those persons arriving at the Hong Kong International Airport from a place outside Hong Kong and, while in Hong Kong, not passing through immigration control.

Q11: If I purchase ASPs and have them mailed to my home, would that be considered as importing ASPs?

A11: Cross-border parcel delivery of ASP that was purchased online will be considered import by the person who conduct the purchase.

Q12: Is it illegal to possess ASPs for personal use?

A12: Possession of ASPs for commercial purposes, such as sales or promotion, is an offence. Besides, no person may smoke or carry an activated ASP in a statutory no smoking area. Offenders will be issued with a HK\$1,500 fixed penalty notice.

Q13: If I give an ASP to a friend, will it constitute a distribution?

A13: The amended Ordinance prohibits distribution of ASPs in the following ways:

- Giving an ASP to another person for promotion or advertisement.
- Giving an ASP to another person in exchange for a token or as a prize in any event or competition.
- Giving another person an object that is intended to be shown in public and contains:
 - (1) the name or trade name of a person associated with the marketing of ASPs; or
 - (2) a trade mark or brand name of an ASP, or a pictorial device, or any part of the device, commonly associated with the trade mark or brand name.

Q14: Does the amended Ordinance stipulate a certain quantity for “imports” so as to allow for a small amount of ASPs to be imported into Hong Kong?

A14: The purpose of the ban is to prevent the circulation and use of ASPs in Hong Kong. There is no exemption for import of any quantity of ASPs.

Q15: Can it be allowed to import ASPs for re-export in Hong Kong?

A15: The Import and Export (Amendment) Ordinance 2023 prohibits import of ASPs. Air transshipment cargoes, articles in transits, or specified intermodal transshipment cargo imported by a registered operator are exempted.

It is illegal to import cargo of ASPs into Hong Kong in any other way. For exemptions, please refer to the import and Export (Amendment) Ordinance 2023.

Q16: My company currently manufactures/sells ASPs, what should I do with the inventory?

A16: The amended Ordinance comes into operation six months after publication in the Gazette. Traders can make arrangements for their existing business before the ban comes into effect. After the amended Ordinance comes into operation, traders can still export their inventory to other countries.

Q17: Would manufacture of parts of ASPs, including batteries or mouthpieces, be allowed in Hong Kong?

A17: The amended Ordinance prohibits the manufacture of parts that are “designed for use” as a component of, or accessory to ASPs. Therefore, batteries and mouthpieces would be included. Manufacture of components or accessories that are generally capable of being used with other appliances that are not ASPs is not prohibited.

Q18: What constitute distribution?

A18: The amended Ordinance prohibit the following acts of distribution, including:

- Giving an ASP to another person for promotion or advertisement.
- Giving an ASP to another person in exchange for a token or as a prize in any event or competition.
- Giving another person an object that is intended to be shown in public and contains:
 - (1) the name or trade name of a person associated with the marketing of ASPs; or
 - (2) a trade mark or brand name of an ASP, or a pictorial device, or any part of the device, commonly associated with the trade mark or brand name.

Q19: What forms of “promotion” are prohibited?

A19: Part 4 of the Smoking (Public Health) Ordinance prohibits any form of tobacco advertising, including in printed publications, by film, on the Internet, or by radio or visual images. The prohibitions have been expanded to cover ASPs by the amended Ordinance. Offenders are liable, on summary conviction, to a fine of HK\$50,000 and, in the case of a continuing offence, to a further penalty of HK\$1,500 for each day during which the offence continues, can be imposed.

Q20: Is selling ASPs online considered as promotion?

A20: Selling ASPs online may constitute promotion and sale of ASPs, which are offences under the amended Ordinance.

Q21: The Smoking (Public Health) Ordinance exempts the action of smoking in live performances, movies or TV shows. Does that apply to ASPs?

A21: The exemption does not apply to ASPs.

**Tobacco and Alcohol Control Office
Department of Health
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