

First conviction for aiding and abetting smoking offences

A bar was convicted and fined \$2,000 at the Eastern Magistrates' Courts on March 2 for aiding and abetting two customers to smoke a waterpipe in a statutory no-smoking area. A 21-year-old staff member involved in the case was fined \$1,500 for conviction of the same offence earlier by the court on February 2. This is the first convicted case for aiding and abetting smoking offences.

During a covert operation mounted by the Tobacco and Alcohol Control Office (TACO) of the Department of Health (DH) at a bar in Central on June 23, 2020, the bar and the staff were found providing waterpipe apparatus and tobacco to customers for consumption in the bar where smoking was prohibited. The two customers who smoked the waterpipe at the time were each fined \$1,500 for the smoking offence.

A spokesman for the DH urged venue managers of no-smoking areas to refrain from assisting any person in breaching the smoking ban.

"Smoking is prohibited in all indoor areas of public places, including bars and food premises. Any person smoking in statutory no-smoking areas is liable to a fixed penalty of \$1,500. Under section 89 of the Criminal Procedure Ordinance (Cap. 221), any person who aids, abets, counsels or procures the commission by another person of any offence shall be guilty of the like offence," the spokesman said.

"Venue managers of no-smoking areas are empowered by law to stop smoking offences. They have a duty to protect their staff and customers from the hazards of secondhand tobacco smoke. The TACO will take enforcement action against any person who aids and abets a smoking offence," the spokesman reiterated.

Lands Department achieves notable results of enhanced land control and enforcement

The Lands Department (LandsD) reported today (March 4) that its Special Duties Task Force, focusing on more serious cases of government land occupation since its establishment in mid-2019, has achieved notable results with regard to land enforcement.

A spokesperson for the LandsD said that the Task Force identified 100 black spots that involved unlawful occupation of sizeable government land for brownfield operations in mid-2019. Up to last December, it has completed clearance of 77 black spots. Among the black spots cleared, as some of them also involved breaches of lease conditions governing private land, the Task Force has taken lease enforcement actions in parallel. As a result, a cumulative total of over 20 hectares of unlawfully occupied government land have been tackled, and lease enforcement actions have been carried out against 50 private lots involving lease breaches in the clearance operations, with the demolition of more than 300 illegal or unauthorised structures. The department is confident in completing operations against the remaining black spots within 2021.

The Task Force also assists District Lands Offices in the New Territories in handling cases of relatively serious land irregularities and other backlog cases, including unlawful occupation of government land and breach of lease conditions governing private agricultural land such as construction of residential structures (including subdivided flats), workshops or godowns. The Task Force has completed 20 serious cases so far, with over four hectares of government land cleared and lease enforcement actions taken against lease breaches involving nearly 50 private lots. More than 200 illegal or unauthorised structures have been demolished. As for other backlog cases, the Task Force has completed a cumulative total of over 800 cases, with the clearance of almost seven hectares of government land and demolition of more than 200 structures unlawfully occupying government land.

Of the above cases, six involving failure to cease occupation of government land before the specified deadlines resulted in prosecution; five of them have already been heard, all with offenders convicted and fined, and the remaining one case is yet to be heard. As for breach of lease conditions governing private agricultural land, the Task Force will take further lease enforcement actions progressively against lots with unrectified breaches, including possible re-entry of the agricultural land under the Government Rights (Re-entry and Vesting Remedies) Ordinance (Cap. 126).

The Task Force will process regularisation applications involving government land and private lots which meet the requisite requirements and conditions according to the existing mechanism. For regularisation applications in respect of government land, the LandsD will first charge an administrative fee and recover rents at market value calculated from the date of occupation of the land. Applicants are also required to pay a one-off punitive fee equivalent to 12 months' market rent. All the paid fees will not be refunded regardless of whether the applications are ultimately approved or not. As for regularisation applications involving private land, the LandsD will charge the owner concerned an administrative fee and a deposit, and recover from the owner the waiver fee calculated from the date of the lease breaches. If the regularisation applications are rejected eventually, the Task Force will resume enforcement.

The spokesperson reiterated that unlawful occupation of government land is a serious offence. Under the Land (Miscellaneous Provisions) Ordinance

(Cap. 28), the persons concerned may face criminal prosecution. An offender is liable upon conviction to a fine of \$500,000 and to imprisonment for six months on the first occasion, and to a further daily fine of \$50,000 for non-compliance with the statutory notice. The offender, if convicted of the offence on each subsequent occasion, is liable to a fine of \$1,000,000 and to imprisonment for six months, and to a further daily fine of \$100,000 for non-compliance with the statutory notice. Landowners are required to comply with the conditions stipulated in their land leases. Erecting unauthorised structures on private agricultural land may lead to re-entry of the land. Members of the public are also advised to ensure compliance with relevant requirements by seeking professional advice before buying or renting structures erected on agricultural land, so as to avoid losses or liabilities arising from enforcement actions taken by the Government against such structures that are in breach of land leases or the law.

Office of The Ombudsman announces results of direct investigation into Government's mechanism for monitoring vaccines provided by private healthcare facilities

The following is issued on behalf of the Office of The Ombudsman:

The Ombudsman, Ms Winnie Chiu, today (March 4) announced the completion of a direct investigation into the Government's mechanism for monitoring vaccines provided by private healthcare facilities (PHFs).

In July 2019, there were local incidents involving medical centres allegedly providing counterfeit nine-valent human papillomavirus (HPV) vaccines. The incidents were widely reported by the media and the Office of The Ombudsman had also received related complaints. The Ombudsman considers that the Government must play the role of a gatekeeper properly to ensure the quality and safety of vaccines. This direct investigation aims at examining the Government's mechanism for monitoring vaccines provided by PHFs and exploring room for improvement, if any, as well as enhancing public understanding of the Government's monitoring efforts.

Investigation by the Office found that for those vaccines that are in general less prone to parallel import or counterfeiting, the Government has already put in place a quite comprehensive monitoring mechanism for such vaccines provided by PHFs. Nevertheless, for vaccines with excessive demand, the authorities' monitoring mechanism had been inadequate in the past. The

inadequacies include a pharmaceutical product's supply and demand in the market not being included in the risk assessment factors under the Department of Health (DH)'s market surveillance mechanism, the DH having no authority to conduct routine inspections at PHFs solely on the grounds of investigating counterfeit vaccines, and education and publicity targeted at the main groups receiving the vaccination being insufficient and behind time. Fortunately, the DH and the Customs and Excise Department (C&ED) took prompt action in the wake of the incidents involving nine-valent HPV vaccines, conducted investigations at the PHFs involved and made arrests. Meanwhile, the two departments also implemented a number of strengthened monitoring measures, including conducting special inspections on those licensed wholesale dealers who had imported unregistered nine-valent HPV vaccines for the purpose of re-export, the DH referring all import/export permits already issued involving unregistered nine-valent HPV vaccines to the C&ED for post-shipment verification, and carrying out proactive investigation against suspicious PHFs. The number of complaints about nine-valent HPV vaccines has plummeted since.

However, neither the Food and Health Bureau nor the DH took the initiative to explain in detail to the public the Government's mechanism for monitoring vaccines provided by PHFs or the strengthened monitoring measures introduced in response to those incidents so as to allay public doubts and enlighten them on how to protect their own health and welfare (for instance, by knowing how to find out if the vaccines have been registered and verify the authenticity of the nine-valent HPV vaccines). Actually, an informed and alert general public can render the Government's monitoring and enforcement efforts much more effective.

In the investigation report, the Office has made four recommendations to the Government: (1) to keep a close watch on the effectiveness of the strengthened monitoring measures and make adjustments when necessary; (2) to include a pharmaceutical product's supply and demand in the market as a risk assessment factor under the DH's market surveillance mechanism; (3) to review the information dissemination mechanism regarding serious incidents involving pharmaceutical products; and (4) to enhance the transparency of information about newly introduced vaccines.

The full investigation report has been uploaded to the website of the Office of The Ombudsman at www.ombudsman.hk for public information.

[Key statistics on service demand of A&E Departments and occupancy rates in](#)

public hospitals

The following is issued on behalf of the Hospital Authority:

During the winter surge, the Hospital Authority is closely monitoring the service demand of Accident and Emergency Departments and the occupancy rates in public hospitals. Key service statistics are being issued daily for public information. Details are in the appended table.

Participation of private doctors in COVID-19 Vaccination Programme

Starting from March 1, the Department of Health (DH) has been distributing the first batch of the Sinovac vaccines to private doctors and clinics participating in the COVID-19 Vaccination Programme (the Programme) under the Vaccination Subsidy Scheme. The relevant private doctors and clinics have started providing vaccination to members of the public from March 2.

As at today (March 3) 6pm, around 1 350 private doctors (around 1 860 clinic locations) have joined the programme. Out of them, around 1 000 doctors have approached DH to place orders for the vaccines and 880 doctors (around 900 clinic locations) have received the first batch of vaccines ordered, involving around 60 000 odd doses in total. The remaining 100 odd doctors would have the ordered doses delivered to them as soon as possible. The list of private doctors who have placed orders for the vaccines as at March 1 and the relevant clinics is provided on the programme's thematic website for reference (www.covidvaccine.gov.hk/en/VSS). The list will be updated in a timely manner.

Response from members of the public has been enthusiastic. As at 4pm today, around 10 000 citizens have received the Sinovac vaccine through private doctors.

The Government will strive to ensure that private doctors are provided with sufficient vaccine doses to meet the needs of the public. After the first batch of doses was used, the private doctors may make orders according to their needs. The DH will coordinate the delivery of the vaccines and monitor the usage situation, having regard to the private doctors' use of the vaccines and the supply. As at 4pm today, 262 doctors have approached DH to place orders for the next batch of vaccines, involving around 20 800 odd doses in total.

"Vaccinations will protect ourselves and others, and reduce the chance

of an outbreak of the epidemic in the community. We call on people in the five priority groups to get vaccinated as soon as possible so that Hong Kong's economy and people's lives can return to normal as soon as possible," the spokesman said.