

立法會
Legislative Council

Ref : CB2/BC/9/04

LC Paper No. CB(2)2379/04-05
(These minutes have been seen by
the Administration)

**Bills Committee on Public Health and
Municipal Services (Amendment) Bill 2005**

**Minutes of the first meeting
held on Tuesday, 24 May 2005 at 2:30 pm
in Conference Room A of the Legislative Council Building**

Members present : Hon Fred LI Wah-ming, JP (Chairman)
Hon WONG Yung-kan, JP
Hon Tommy CHEUNG Yu-yan, JP

Public Officers attending : Mr Vincent LIU
Principal Assistant Secretary (Food & Environmental Hygiene) 2
Health, Welfare and Food Bureau

Miss Wendy AU
Assistant Secretary (Food & Environmental Hygiene) 5
Health, Welfare and Food Bureau

Ms Rhonda LO
Assistant Director (Operations)3
Food and Environmental Hygiene Department

Mr Clement LUK
Senior Government Counsel
Department of Justice

Mr Alan CHONG
Government Counsel
Department of Justice

Clerk in attendance : Mrs Constance LI
Chief Council Secretary (2)5

Staff in attendance : Mr Stephen LAM
Assistant Legal Adviser 4

Miss Lolita SHEK
Senior Council Secretary (2)7

I. Election of Chairman

Mr Fred LI was elected Chairman of the Bills Committee.

II. Meeting with the Administration

[LC Paper Nos. CB(2)1598/04-05(02) to (07) and CB(2)1645/04-05(01)]

2. The Bills Committee deliberated (index of proceedings attached at **Annex**).
3. The Bills Committee supported strengthening the effectiveness in preventing mosquito breeding in general. However, members had raised various concerns about the Bill.
4. Mr Tommy CHEUNG expressed the following concerns –
 - (a) the additional powers to be conferred on the Director of Food and Environmental Hygiene should be limited to those areas (e.g. abandoned private farmlands and huts, common parts in multi-story buildings) which posed problems in carrying out anti-mosquito work, in order to reflect the legislative intent of the Bill;
 - (b) the Administration had not conducted consultation on the Bill which would affect about 24 000 multi-storey buildings without owners' corporations, about 2 000 abandoned huts, and private farmlands;
 - (c) the circumstances for determining whether a certain place would give rise to "mosquito-related health hazard" and the types of mosquito-borne diseases were only included in the internal guidelines and not specified in the Bill;
 - (d) the circumstances and procedures for exercising the power of entry into private premises; and
 - (e) Members belonging to the Liberal Party had reservations about the strict liability offences in the Bill.

5. Mr Tommy CHEUNG and Mr WONG Yung-kan considered that the Administration should consult Heung Yee Kuk and 18 District Councils, as the Bill would have impact on the owners/occupiers/management bodies of private land and private premises.

6. The Administration gave the following responses –

- (a) the existing section 126 of the Public Health and Municipal Services Ordinance (Cap.132) already provided the power of and procedures for entry into any premises by authorised officers. The exercise of the power of entry was subject to the conditions set out in this section, and section 27 as amended by the Bill;
- (b) while the existing section 27 of the Ordinance provided that Government could take action to remove any accumulation of water which would likely contain larvae of pupae of mosquitoes, the new sub-sections proposed in the Bill were to enable Government to take action for preventing the breeding of mosquitoes without notice, where there was mosquito-related health hazard, and to recover the associated costs;
- (c) as the Ordinance dealt with various types of nuisances, it would not be appropriate to make express provisions to restrict the powers of entry under section 27 only to multi-storey buildings, abandoned farmlands and abandoned huts;
- (d) to enable Government to cope with the changing circumstances which might give rise to new types of mosquito-related diseases, it would be more appropriate to provide internal guidelines on such circumstances, instead of making express provisions in the Bill. This would provide reasonable flexibility for implementation of anti-mosquito work.

7. Mr Tommy CHEUNG and Mr WONG Yung-kan proposed that the Bills Committee should hold in abeyance the consideration of the Bill until the Administration had consulted Heung Yee Kuk and the 18 DCs on the Bill.

8. The Chairman said that he personally supported early enactment of the Bill in order to enable Government to deal with the problem of mosquito breeding more effectively. However, as the majority of Bills Committee members agreed to hold the consideration of the Bill in abeyance, the Chairman said that he would report the decision of the Bills Committee to the House Committee on 27 May 2005, so that the slot would be released for a Bills Committee on the waiting list to commence its work. He requested the Administration to consult Heung Yee Kuk and the 18 DCs on the Bill and then revert to the Bills Committee in due course.

- Admin
9. The Bills Committee also requested the Administration to illustrate on a map, using Shatin as an example, the area covered in 2 km radius of a malaria patient or Japanese encephalitis patient or in areas where Area Ovitrap Indices were above 40%, which were to be included in the internal guidelines concerning “mosquito-related health hazard”.
 10. The meeting ended at 4:20 pm.

Council Business Division 2
Legislative Council Secretariat
25 July 2005

**Proceedings of the meeting of the
Bills Committee on Public Health and Municipal
Services (Amendment) Bill 2005
on Tuesday, 24 May 2005 at 2:30 pm
in Conference Room A of the Legislative Council Building**

Time marker	Speaker	Subject(s)	Action Required
000000 - 000230	Hon Fred LI Hon Tommy CHEUNG Hon WONG Yung-kan	Election of Chairman	
000231 - 000906	Chairman Admin	Introduction of the Bill	
000907 - 001002	Chairman ALA4	ALA4's letters to seek the Administration's clarification on the Bill	
001003 - 001453	Chairman Hon WONG Yung-kan Admin	Difficulties encountered by the Administration in carrying out anti-mosquito operations in private lands and premises in the New Territories	
001454 - 002839	Hon Tommy CHEUNG ALA4 Admin	Additional powers conferred on Government under the Bill and the powers of entry into private lands and premises under section 126 of the Public Health and Municipal Services Ordinance (Cap. 132) The lack of public consultation conducted on the Bill Circumstances under which the Administration would exercise the powers of entry under section 126	Admin to provide illustration on a map (paragraph 9 of the minutes refers)
002840 - 004014	Chairman Admin Hon Tommy CHEUNG ALA4	Circumstances or factors for determining whether potential mosquito breeding grounds would pose a mosquito-related health hazard as described in the internal guidelines of the Food and Environmental Hygiene Department (FEHD)	
		Mr Tommy CHEUNG's suggestion to limit the additional powers to be conferred on Government under the Bill to those areas (e.g. abandoned farmlands and huts and common parts in multi-storey buildings) which posed problems in carrying out anti-mosquito work	
004015 - 004428	ALA4 Admin	The conditions in section 126 and section 27 (as amended by the Bill) for exercising the powers of entry into any premises	

Time marker	Speaker	Subject(s)	Action Required
004429 - 004841	Hon Tommy CHEUNG Chairman Admin	Mr Tommy CHEUNG's suggestion to limit the additional powers to be conferred on Government under the Bill to those areas (e.g. abandoned farmlands and huts and common parts in multi-storey buildings) which posed problems in carrying out anti-mosquito work	
004842 - 010023	Hon WONG Yung-kan Hon Tommy CHEUNG Admin Chairman ALA4	Impact of the Bill on owners of private lands in the New Territories, in particular those priority sites for conservation identified under the new nature conservation policy	
010024 - 010633	Chairman Admin	Use of administrative measures to enable FEHD to place mosquito surveillance devices in the common areas of private premises	
010634 - 011426	Hon Tommy CHEUNG Chairman Admin Hon WONG Yung-kan	Members' request that the Administration should consult the 18 District Councils (DCs) on the Bill before the Bills Committee continued to scrutinise the Bill	
011427 - 011649	Admin	The conditions in section 126 and section 27 (as amended by the Bill) for exercising the powers of entry	
011650 - 012152	Chairman Hon Tommy CHEUNG Hon WONG Yung-kan	Members' request that the Administration should consult the 18 DCs and Heung Yee Kuk on the Bill before continuation of scrutiny of the Bill	
012153 - 012918	Admin	Need for allowing flexibility by not limiting the additional powers to be conferred on Government under the Bill to certain problematic areas	
012919 - 014822	Hon Tommy CHEUNG Admin Chairman Hon WONG Yung-kan	Proposal to hold the consideration of the Bill in abeyance to allow sufficient time for the Administration to consult Heung Yee Kuk and the 18 DCs on the Bill	Admin to consult Heung Yee Kuk and the 18 DCs (paragraph 8 of the minutes refers)