

立法會
Legislative Council

LC Paper No. CB(2)1378/05-06

(These minutes have been
seen by the Administration)

Ref : CB2/BC/11/04

**Bills Committee on
Smoking (Public Health) (Amendment) Bill 2005**

**Minutes of the 18th meeting
held on Monday, 20 February 2006 at 10:45 am
in Conference Room A of the Legislative Council Building**

- Members present** :
- Hon Andrew CHENG Kar-foo (Chairman)
 - Hon Albert CHAN Wai-yip (Deputy Chairman)
 - Hon James TIEN Pei-chun, GBS, JP
 - Hon LEE Cheuk-yan
 - Hon Martin LEE Chu-ming, SC, JP
 - Hon Fred LI Wah-ming, JP
 - Hon Howard YOUNG, SBS, JP
 - Dr Hon YEUNG Sum
 - Hon Emily LAU Wai-hing, JP
 - Hon LI Fung-ying, BBS, JP
 - Hon Tommy CHEUNG Yu-yan, JP
 - Hon Audrey EU Yuet-mee, SC, JP
 - Hon Vincent FANG Kang, JP
 - Hon LI Kwok-ying, MH
 - Dr Hon Joseph LEE Kok-long
 - Dr Hon KWOK Ka-ki
 - Hon WONG Ting-kwong, BBS
 - Hon KWONG Chi-kin
- Members absent** :
- Hon Abraham SHEK Lai-him, JP
 - Hon Alan LEONG Kah-kit, SC
 - Hon LEUNG Kwok-hung
 - Hon Albert Jinghan CHENG

Public Officers attending : Mrs Ingrid YEUNG
Deputy Secretary for Health, Welfare and Food (Health)

Ms Julina CHAN
Principal Assistant Secretary for Health, Welfare and Food (Health)

Dr T H LEUNG, JP
Deputy Director of Health

Mr CHEUNG Wing-leung
Senior Government Counsel
Department of Justice

Miss Shandy LIU
Senior Government Counsel
Department of Justice

Clerk in attendance : Ms Doris CHAN
Chief Council Secretary (2) 4

Staff in attendance : Miss Monna LAI
Assistant Legal Adviser 7

Miss Mary SO
Senior Council Secretary (2) 8

I. Clause-by-clause examination of the Bill
(The Bill, marked-up copy of the Bill and LC Paper No. CB(2)901/05-06(03))

The Bills Committee deliberated (index of proceedings attached at **Annex**).

2. The Administration was requested to provide a written response to the following suggestions made by members at the meeting -

- (a) to delete “被人” from paragraph (a) of the Chinese version of the definition of “workplace” in clause 4(h), so as to be consistent with the English version of that clause;
- (b) to make clear whether the proposed smoking ban would include serviced apartments, regardless of whether these apartments were located inside a residential or commercial building;

- (c) to make clear whether premises provided by employers for their employees as sleeping accommodation in new section 3(5)(b) would cover those located at the back or in the attic of the workplace and those covered in the lease of the workplace but were located away from the workplace, having regard to the definition of “workplace” in clause 4(h) which meant areas “including any part of the place that is set aside for use by those persons during any interval for taking a meal or rest”;
- (d) to consider imposing a smoking ban on the outdoor areas of all public markets and all specified educational establishment and post-secondary schools;
- (e) to consider specifying in the definition of “public market” in clause 4(h) that it covered all markets, irrespective of their operators/managers;
- (f) to ascertain whether premises used for habitation, but sometimes used for commercial activities involving non-inhabitants of that premises, such as running a private kitchen, also fell under the definition of “domestic premises” in clause 4(h);
- (g) to consider amending the definition of “domestic premises” in clause 4(h) along the lines that domestic premises meant any premises used for habitation; and
- (h) to clarify with the Transport Department whether taxi not on hire would not be considered a public transport carrier, and hence taxi drivers would not be in breach of the smoking ban under the Smoking (Public Health) Ordinance (Cap. 371) if they smoked or carried a lighted tobacco product when they were not carrying passengers in their taxis.

3. The Administration advised members that it intended to examine how smoking ban should be imposed on private transport carrier, such as private car, hired car and school bus, at an appropriate time after the enactment of the Bill.

4. The Administration undertook to provide a sample of a certificate of registration of a child care centre, which contained details of the premises where the centre might be operated, among others, after the meeting.

Date of next meeting

5. The Chairman reminded members that the next meeting had been scheduled for 22 February 2006 at 8:30 am.

6. There being no other business, the meeting ended at 12:45 pm.

Council Business Division 2
Legislative Council Secretariat
13 March 2006

**Proceedings of the 18th meeting of the
Bills Committee on
Smoking (Public Health) (Amendment) Bill 2005
on Monday, 20 February 2006 at 10:45 am
in Conference Room A of the Legislative Council Building**

Time marker	Speaker	Subjects	Action required
000000 – 000445	Chairman Mr Tommy CHEUNG	Opening remarks Scheduling of meetings in March and April 2006	
000446 – 004749	Mr Tommy CHEUNG Admin ALA7 Ms LI Fung-ying Ms Emily LAU Ms Audrey EU Mr Albert CHAN Mr Martin LEE Mr James TIEN Dr KWOK Ka-ki	Clause 4 – Interpretation Definitions of “workplace” and “public place” The Administration was requested - (a) to delete “被人” from paragraph (a) of the Chinese version of the definition of “workplace” in clause 4(h), so as to be consistent with the English version of that clause; (b) to make clear whether the proposed smoking ban would include serviced apartments, regardless of whether these apartments were located inside a residential or commercial building; (c) to make clear whether premises provided by employers for their employees as sleeping accommodation in new section 3(5)(b) would cover those located at the back or in the attic of the workplace and those covered in the lease of the workplace but were located away from the workplace, having regard to the definition of “workplace” in clause 4(h) which meant areas “including any part of the place that is set aside for use by those persons during any interval for taking a meal or rest”; and (d) to consider imposing a smoking ban on the outdoor areas of all public markets	✓ (Admin to provide a written response)
004750 – 005451	Mr Tommy CHEUNG Admin ALA7	The Administration was requested to ascertain whether premises used for habitation, but sometimes used for commercial activities involving non-inhabitants of that premises, such as running a private kitchen, also fell under the definition of “domestic premises” in clause 4(h)	✓ (Admin to provide a written response)
005452 – 010613	Ms Audrey EU Admin Dr YEUNG Sum Mr Martin LEE Ms Emily LAU	The Administration advised members that it intended to examine how smoking ban should be imposed on private transport carrier, such as private car, hired car and school bus, at an appropriate time after the enactment of the Bill	

Time marker	Speaker	Subjects	Action required
010614 – 011100	Mr WONG Ting-kwong Admin	The Administration was requested to clarify with the Transport Department whether taxi not on hire would not be considered a public transport carrier, and hence taxi drivers would not be in breach of the smoking ban under the Smoking (Public Health) Ordinance (Cap. 371) if they smoked or carried a lighted tobacco product when they were not carrying passengers in their taxis	✓ (Admin to provide a written response)
011101 – 011641	Mr Tommy CHEUNG ALA7 Admin Dr YEUNG Sum	Whether smoking ban should be imposed on domestic premises engaged in commercial activities involving non-inhabitants of that premises	
011642 – 012440	Admin Ms Emily LAU Chairman Mr Tommy CHEUNG Dr YEUNG Sum	The Administration was requested to consider specifying in the definition of “public market” in clause 4(h) that it covered all markets, irrespective of their operators/managers	✓ (Admin to provide a written response)
012441 – 012612	Admin Mr Tommy CHEUNG	Definition of “child care centre”	
012613 – 012939	Mr KWONG Chi-kin Chairman Dr YEUNG Sum	Order of the meeting	
012940 – 013318	Dr YEUNG Sum Mr Tommy CHEUNG Admin	The Administration undertook to provide a sample of a certificate of registration of a child care centre, which contained details of the premises where the centre might be operated, among others, after the meeting	✓ (Admin to provide the sample)
013319 – 013601	Mr Tommy CHEUNG Admin ALA7	Implementation of smoking ban in karaoke establishments located inside a domestic building	
013602 – 013822	Ms Audrey EU Admin	The Administration was requested to consider amending the definition of “domestic premises” in clause 4(h) along the lines that domestic premises meant any premises used for habitation	✓ (Admin to provide a written response)
013823 – 014133	Admin Mr LEE Cheuk-yan ALA7	Definition of “residential care home”	
014134 – 020029	Admin Mr Tommy CHEUNG Dr YEUNG Sum Ms Emily LAU Mr Albert CHAN Dr KWOK Ka-ki Mr Martin LEE	Definitions of “place of refuge”, “domestic premises”, “place of detention”, “treatment centre” and “specified educational establishment” The Administration was requested to consider imposing a smoking ban on the outdoor areas of all specified educational establishments and post-secondary schools	✓ (Admin to provide a written response)

Time marker	Speaker	Subjects	Action required
020030 – 020039	Chairman	Date of next meeting	

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