

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

**Administration's response to issues raised  
at the Bills Committee meetings  
on 20 February and 27 February 2006**

**PURPOSE**

This paper sets out the Administration's response to issues raised by the Bills Committee at its meetings on 20 February and 27 February 2006.

**BACKGROUND**

2. At the above meetings, Members raised the following issues and requested the Administration to provide a response in writing -

*(a) to clarify 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) (the Ordinance) if they smoked or carried a lighted tobacco product when they were not having passengers in their taxis;*

**ADMINISTRATION'S RESPONSE**

3. Section 4 of the Ordinance prohibits smoking in public transport carriers. The term "public transport carrier" is defined in section 2 of the Ordinance to mean "any public bus, public light bus, taxi, train, light rail vehicle, car, tramcar or ferry vessel mentioned in Schedule 1 while the public bus, taxi, train, light rail vehicle, car, tramcar or ferry vessel is, subject to Schedule 1, **carrying members of the public** (emphasis added)". Schedule 1 to the Ordinance has not altered this definition in relation to a taxi. Accordingly, a taxi will fall under the meaning of "a public transport carrier" and be subject to the no smoking ban only when it is carrying members of the public.

*(b) ways to ascertain the exact boundary of a child care centre;*

4. According to the Social Welfare Department, address of a child care centre as appeared on the Certificate of Registration would indicate the location of a registered child care centre. In addition, each Certificate of Registration will bear a plan number which refers to the licenced floor plan of the centre. The licenced floor plan would show the children's activity areas and ancillary areas of the child care centre in question. The boundary of the centre can thus be ascertained.

***(c) to consider deleting the word “most” from the new section 14(3)(b) in relation to “the name, trade name...does not form the most prominent part of the advertisement or object”; and***

5. We have considered Member’s suggestion. We consider that for the sake of compliance and enforcement, the term “most prominent” will provide a clearer and more reasonable restrictive benchmark vis-à-vis “prominent”. Take for example a job recruitment advertisement by a tobacco company in a printed media, it is possible that even if the logo of the tobacco company appears in relatively small font, it could still be argued as being “prominent” if the logo carried a colour slightly different from the rest of the text. This would *de facto* forbid the company to publish any job recruitment announcements. We consider that the present drafting to be a more reasonable restriction.

***(d) to amend the new section 14(6) to the effect that when a price board not exceeding 1 500 square centimeters is used to list a few names and prices of tobacco products, the price and name of each tobacco product listed should be subject to being not greater than 50 square centimeters, i.e. a single price marker.***

6. Existing section 14(6) of the Ordinance stipulates that a price marker for each tobacco product should contain only the name and price of the tobacco products and of a size not greater than the size of the price marker of any of the non-tobacco products sold in the premises. It further stipulates that for a price board, it should not exceed 2 000 square centimeters listing only the names and prices of the tobacco products for sale.

7. Clause 15 of the Bill aims to tighten up the price board and price marker sizes. For individual price markers, a new requirement is imposed so that their size should not exceed 50 square centimeters. For price boards, the maximum size is reduced from 2 000 to 1 500 square centimeters.

8. After discussion at the Bills Committee, we agree to further regulate price boards by restricting the size of each item listing out the name and price of each tobacco product to be not exceeding 50 square centimeters, which will be on a par with the size of a price marker for each product. We will put forward this revision with a Committee Stage Amendment.