

**Bills Committee on
Smoking (Public Health) (Amendment) Bill 2005
Administration's response to outstanding issues**

Outstanding Issues	Actions Taken	Responses	Administration's Latest Position
<p>Whether premises provided as living accommodations by any employer to his employees (including caged home used exclusively for this purpose) should become a no smoking area, if the premises were shared by two or more employees</p>	<p>We brought the issue to the discussion of the Labour Advisory Board (LAB) in its meeting on 24 April 2006.</p>	<p>All members of LAB, i.e. employee and employer representatives disagreed to ban smoking in private dormitories by legislative means. They foresaw that such a legislation would polarize the relationship between employers and employees and among employees living under one roof and create unnecessary conflicts. It might also create an unintended excuse for legal dismissal, which would not work to the advantage of employees in the end. Employers could actually help protect employees' health through</p>	<p>We agree with the assessment of LAB. At this stage, we do not think that a law to this effect would be desirable. Communal accommodation provided by employers to employees are domestic premises despite that they are provided to the employees because of the employment. The employees are entitled to their privacy in their domestic life. Prohibiting smoking in these accommodation would compromise their privacy. We will continue to educate the public about the harmful effects of secondhand smoke</p>

		administrative means (e.g. providing separate accommodation for smoking employees and non-smoking employees), which would be more flexible and effective.	and provide smoking cessation service.
Whether the smoking ban will be imposed on the outdoor areas of all specified educational establishment	We have written two letters dated 1 March and 6 April 2006 to all the institutions to consult them of such a proposal.	Six institutes wrote back expressing support over a total smoking ban within their premises. However, while others are also in support of the principle of having a smokefree campus, they expressed serious concerns over the enforceability of the ban over a very large campus area. Instead of a total ban, they would prefer being left with the power to designate certain areas for smokers in its outdoor areas.	We observe that ahead of the existing legislation, the majority of institutions have banned smoking in most of its premise, both indoors and outdoors, except certain designated areas. Some institutions could not clearly demarcate their boundaries to us. We have doubts as to whether an outdoor smoking ban can be effectively enforced in such circumstances. Therefore, we would not propose banning smoking in the entirety of a specified educational establishment at this stage. Rather, we would prefer allowing

			<p>respective authorities to exercise their administrative powers to designate smoking areas in their outdoor areas.</p>
<p>Whether the smoking ban will be imposed on the outdoor areas of all hospitals</p>	<p>We have written to the Hong Kong Private Hospitals Association on 2 March 2006, trying to solicit their views on the proposal.</p>	<p>The Association replied that no consensus had been reached on the proposal, but two private hospitals have written to us in their own capacity to object to the proposal. They are gravely concerned about the policing and enforcement of the smoking ban, and legal liability for failing to monitor hospital open areas. We have written to them to explain the powers of managers of statutory no smoking areas and the point that managers would not be held responsible for the smoking act of individuals in their premises. However, it seems that our explanation has not changed their</p>	<p>In view of the Hospital Authority's rule that smoking is prohibited in the totality of hospital areas, and the health conditions of patients staying in hospitals, we propose expanding the smoking ban to both the indoor and outdoor areas of all hospitals. We understand the concerns of the industry, and would try explain again in detail their legal obligations and implementation arrangements. We hope that private hospitals patients could also enjoy a completely smokefree environment.</p>

		<p>position. They considered that any confrontation with patients' relatives who smoke in open areas is unsympathetic to their stressful emotional state. This view however is not shared by two private hospitals which voiced support for extending the smoking ban to outdoor areas.</p>	
--	--	---	--