

立法會
Legislative Council

LC Paper No. CB(2)1377/05-06

(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 17th meeting
held on Friday, 17 February 2006 at 8:30 am
in the Chamber 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 Martin LEE Chu-ming, SC, JP
Hon Fred LI Wah-ming, JP
Hon Howard YOUNG, SBS, JP
Hon Emily LAU Wai-hing, JP
Hon Tommy CHEUNG Yu-yan, JP
Hon Audrey EU Yuet-mee, SC, JP
Hon Vincent FANG Kang, JP
Hon LI Kwok-ying, MH
Hon Alan LEONG Kah-kit, SC
Dr Hon KWOK Ka-ki
Hon WONG Ting-kwong, BBS
Hon KWONG Chi-kin

Members absent : Hon LEE Cheuk-yan
Dr Hon YEUNG Sum
Hon Abraham SHEK Lai-him, JP
Hon LI Fung-ying, BBS, JP
Dr Hon Joseph LEE Kok-long
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

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

Miss Maggie CHIU
Legislative Assistant (2) 4

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 Chairman informed members that Mr LEUNG Yiu-chung withdrew his membership of the Bills Committee with effect from 15 February 2006.

3. The Administration was requested to provide written responses to the following views/suggestions raised by members at the meeting -

- (a) to implement a fixed penalty system for smoking in statutory no smoking areas. If the offender could prove that he had difficulty in paying the fine, consideration should be given to allowing the offender to perform community service in lieu of paying the fine;
- (b) apart from the inspectors appointed under new section 15F, to also empower the following seven Departments, i.e. Food and

Environmental Hygiene Department, Agriculture, Fisheries and Conservation Department, Housing Department, Leisure and Cultural Services Department, Marine Department, Environmental Protection Department and Hong Kong Police Force, which were currently empowered to issue fixed penalty notices for littering and spitting offences in areas and venues under their responsibility, to also enforce fixed penalty notices for smoking in statutory no smoking areas in the same;

- (c) to consider conducting public consultation prior to implementing the fixed penalty system for smoking offence in no smoking areas;
- (d) to not require managers of statutory no smoking areas to use force to remove smokers from the no smoking areas, should the fixed penalty system for smoking in no smoking areas be implemented; and
- (e) to make premises provided as sleeping accommodation by any employer to his employees a no smoking area, if the premises were shared by two employees or above.

4. The Administration was also requested to provide justifications in writing on why it considered it not necessary to make it an offence for managers of statutory no smoking areas who deliberately failed to enforce smokefree legislation in the premises concerned.

Date of next meeting

5. The Chairman reminded members that the next meeting had been scheduled for 20 February 2006 at 10:45 am.

6. There being no other business, the meeting ended at 10:31 am.

Council Business Division 2
Legislative Council Secretariat
13 March 2006

**Proceedings of the 17th meeting of the
Bills Committee on
Smoking (Public Health) (Amendment) Bill 2005
on Friday, 17 February 2006 at 8:30 am
in the Chamber of the Legislative Council Building**

Time marker	Speaker	Subjects	Action required
000000 – 000842	Chairman	Opening remarks	
000843 – 001007	ALA7 Ms Audrey EU	Pending reply from the Administration on ALA7's comment on the Chinese text of the definition of "restaurant premises" under section 2 of the Bill	
001008 – 013720	Administration Chairman Ms Audrey EU Ms Emily LAU ALA7 Dr KWOK Ka-ki Mr Alan LEONG Mr Howard YOUNG Mr Tommy CHEUNG Mr Martin LEE Mr LI Kwok-ying Mr KWONG Chi-kin Mr Fred LI	<p><u>Clause 4 - Interpretation</u></p> <p>Definitions of "retail container", "amusement game centre" and "manager"</p> <p><u>Powers of inspector</u></p> <p>Under new Part IVB of the Bill, an inspector was empowered to obtain evidence in connection with an offence which he reasonably suspected had been, was being or was likely to be committed. Under the proposed amended section 14A, an inspector was empowered to remove any tobacco advertisement or advertising structure in respect of which he reasonably suspected that an offence under the Smoking (Public Health) Ordinance had been or was being committed.</p> <p>ALA7 pointed out that under the Bill, an inspector was not empowered to use reasonable force which a manager of statutory no smoking area could use under section 3(3)(c).</p> <p>The Administration was requested -</p> <p>(a) to consider implementing a fixed penalty system for smoking in statutory no smoking areas. If the offender could prove that he had difficulty in paying the fine, consideration should be given to allowing the offender to perform community service in lieu of paying the fine;</p> <p>(b) apart from the inspectors appointed under new section 15F, to also empower the following seven Departments, i.e. Food and Environmental Hygiene Department, Agriculture, Fisheries and Conservation Department, Housing Department, Leisure and Cultural Services Department, Marine Department, Environmental Protection Department and Hong Kong Police Force, which were currently empowered to issue fixed penalty notices for littering and spitting offences in areas and venues under their responsibility, to also enforce fixed penalty notices for smoking in statutory no smoking areas in the same;</p>	<p style="text-align: center;">✓ (Admin to provide a written response)</p>

Time marker	Speaker	Subjects	Action required
		<p>(c) to consider conducting public consultation prior to implementing the fixed penalty system for smoking offence in no smoking areas;</p> <p>(d) to not require managers of statutory no smoking areas to use force to remove smokers from the no smoking areas, should the fixed penalty system for smoking in no smoking areas be implemented; and</p> <p>(e) to provide justifications in writing on why it considered it not necessary to make it an offence for managers of statutory no smoking areas who deliberately failed to enforce smokefree legislation in the premises concerned.</p>	
013721 – 020215	Administration Chairman Mr Tommy CHEUNG ALA7 Ms Emily LAU Mr Vincent FANG Mr Martin LEE Mr James TIEN	The Administration was requested to make premises provided as sleeping accommodation by any employer to his employees a no smoking area, if the premises were shared by two employees or above.	✓ (Admin to provide a written response)
020216 – 020241	Chairman	Date of next meeting	