

立法會
Legislative Council

LC Paper No. CB(2)2906/05-06
(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 26th meeting
held on Monday, 10 April 2006 at 2:30 pm
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
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
Hon Alan LEONG Kah-kit, SC
Hon LEUNG Kwok-hung
Dr Hon KWOK Ka-ki
Hon WONG Ting-kwong, BBS

Members absent : Hon Fred LI Wah-ming, JP
Hon Howard YOUNG, SBS, JP
Hon Abraham SHEK Lai-him, JP
Hon Albert Jinghan CHENG
Hon KWONG Chi-kin

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

Dr Cindy LAI
Assistant Director of Health
(Special Health Service)

Mr CHEUNG Wing-leung
Senior Government Counsel
Department of Justice

Miss Shandy LIU
Senior Government Counsel
Department of Justice

Mr Alan CHONG Ka-ning
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. Meeting with the Administration
(LC Paper No. CB(2)1632/05-06(01))

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

2. The Administration undertook to convey members' request for deploying a portion of the fines for smoking offence on educating the public, particularly the young people, about the hazards of smoking, to the Financial Services and the Treasury Bureau for its consideration.

3. The Administration agreed to -

- (a) strive to compress the time required to implement the fixed penalty system (FPS) for smoking offence, and provide a detailed breakdown of the timetable for implementing such;
- (b) review the enforcement departments in the FPS to bring them in line with that for littering offences from the outset;
- (c) provide all the outstanding draft Committee Stage amendments (CSAs) to the Bill, in both Chinese and English, by the end of April 2006 at the latest;
- (d) provide a paper setting out the contents of all the CSAs the Administration was going to make to the Bill, together with a brief explanation of such changes; and
- (e) provide a legal opinion on whether “litter”, as defined under the Public Health and Municipal Services Ordinance (Cap. 132), covered smoke coming from a lighted tobacco product.

4. Members agreed to -

- (a) hold a public hearing in the 2nd or 3rd week of May 2006 to listen to the views of deputations on the proposed amendments to be made to the Bill; and
- (b) submit their own proposed CSAs by mid-May 2006 for consideration by the Bills Committee.

5. The Chairman reminded members that the next meeting had been scheduled for 24 April 2006 from 8:30 am to 12:45 pm.

6. There being no other business, the meeting ended at 4:38 pm.

**Proceedings of the 26th meeting of the
Bills Committee on
Smoking (Public Health) (Amendment) Bill 2005
on Monday, 10 April 2006 at 2:30 pm
in Conference Room A of the Legislative Council Building**

Time marker	Speaker	Subject	Action required
000000 – 000245	Chairman	Introduction	
000246 – 000852	Admin	Powerpoint presentation on the proposed introduction of a fixed penalty system (FPS) for smoking offence (LC Paper No. CB(2)1632/05-06(01))	
000853 – 001152	Mr WONG Ting-kwong Admin	Fixed penalty level Enforcement departments	
001153 – 001755	Dr YEUNG Sum Admin	Timetable for implementing the FPS Publicity and training for implementing the FPS	
001756 – 002146	Mr LI Kwok-ying Admin	Penalty for smoking offence prior to the introduction of a FPS Issuance of fixed penalty notice by Police Officers of the Hong Kong Police Force Whether smoke from a lighted tobacco product was considered “litter” as defined under the Public Health and Municipal Services Ordinance (Cap. 132)	
002147 – 002839	Mr James TIEN Admin Chairman	Reasons for requiring 18 to 24 months to set up the computer system to support the FPS Introduction of a FPS for smoking offence should best dovetail with the implementation of the smoking ban in indoor workplaces, restaurants, billiard rooms, karaokes and bars open to all age groups on 1 January 2007	
002840 – 003653	Mr Vincent FANG Admin Chairman	Considered the fixed penalty level for smoking offence at \$1,500 too high, and proposed reducing it to around \$500-\$600 Proceeds from fines for smoking offence should be deployed on educating the public about the hazards of smoking The Administration undertook to convey members’ request for deploying a portion of the fines for smoking offence on educating the public, particularly the young people, about the hazards of smoking, to the Financial Services and the Treasury Bureau for its consideration.	✓ (Admin to convey)

Time marker	Speaker	Subject	Action required
003654 – 004032	Mr Martin LEE Chairman Admin	The Administration agreed to strive to compress the time required to implement the FPS for smoking offence, and provide a detailed breakdown of the timetable for implementing such.	✓ (Admin to provide a written response)
004033 – 004200	Mr Martin LEE Admin	Considered setting the fixed penalty level for smoking offence at \$1,500 was not too high, and could be made higher	
004201 – 004509	Ms Audrey EU Admin	The Administration agreed to provide a legal opinion on whether “litter”, as defined under Cap. 132, covered smoke from a lighted tobacco product.	✓ (Admin to provide the legal opinion)
004510 – 005316	Mr Tommy CHEUNG Admin	Need to seek public views on the proposed FPS Need to involve other departments, such as the Food Safety and Environmental Hygiene Department (FEHD) and the Housing Department (HD), to issue fixed penalty notice for smoking offence	
005317 – 005906	Dr KWOK Ka-ki Admin	Considered setting the fixed penalty level for smoking offence at \$1,500 was not too high, and could be made higher Urged for expeditious implementation of the FPS for smoking offence Whether community service order could be used to impose on smoking offenders who could not afford to pay the \$1,500 fixed penalty	
005907 – 010938	Ms Emily LAU Chairman Admin	The Administration should conduct a public consultation on the proposed FPS before implementation Whether the Administration had consulted other departments on the issuance of fixed penalty notice for smoking offence	
010939 – 011527	Mr Tommy CHEUNG Chairman	Should invite other departments, i.e. FEHD, Agriculture, Fisheries and Conservation Department, HD, Leisure and Cultural Services Department, Marine Department and Environmental Protection Department, to come before the Bills Committee to explain why they did not wish to involve in the issuance of fixed penalty notice for smoking offence	
011528 – 012416	Dr KWOK Ka-ki Admin Chairman	Considered it necessary to involve the existing seven departments, 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	
012417 – 012839	Ms LI Fung-ying Admin	The Administration should consult the relevant staff associations/unions on the issuance of fixed penalty notice for smoking offence	

Time marker	Speaker	Subject	Action required
012840 – 013057	Dr YEUNG Sum Admin	FEHD and HD should be involved in the issuance of fixed penalty notice for smoking offence	
013058 – 013602	Ms Emily LAU Chairman	Public consultation on the proposed introduction of a FPS should be conducted by the Bills Committee	
013603 – 014112	Mr Martin LEE Admin	Telephone number of Tobacco Control Office should be displayed to enable the public to lodge complaints against people smoking inside public toilets	
014113 – 014900	Mr Tommy CHEUNG Chairman Admin	Urged the Administration to expeditiously provide the remaining draft Committee Stage amendments (CSAs) to the Bill	
014901 – 015250	Mr LEUNG Kwok-hung Admin	Opposed the introduction of a FPS and the expansion of statutory outdoor no smoking areas	
015251 – 015413	Dr YEUNG Sum Admin	Timetable for introducing new subsidiary legislation for the implementation of the FPS	
015414 – 015512	Mr Martin LEE	Responding to Mr Tommy CHEUNG's comments on his speech made earlier at the meeting	
015513 – 015729	Ms Emily LAU Admin Chairman	A CSA would be made by the Administration to provide an enabling provision for the making of a new subsidiary legislation to implement the FPS	
015730 – 020634	Dr KWOK Ka-ki Admin Chairman Mr Tommy CHEUNG Ms Emily LAU Mr Albert CHAN	The Administration agreed to - (a) provide all the outstanding draft CSAs to the Bill, in both Chinese and English versions, by the end of April 2006 at the latest; and (b) provide a paper setting out the contents of all the CSAs the Administration was going to make to the Bill, together with an explanation for making such changes. Members agreed to - (a) hold a public hearing in the 2 nd or 3 rd week of May 2006 to listen to the views of deputations on the proposed amendments to be made to the Bill; and (b) submit their own proposed CSAs by mid-May 2006 for consideration by the Bills Committee.	✓ (Admin to provide the draft CSAs) ✓ (Admin to provide the paper)
020635 – 020644	Chairman	Date of next meeting	