

立法會
Legislative Council

LC Paper No. CB(2)2907/05-06

(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 27th meeting
held on Monday, 24 April 2006 at 8:30 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 Martin LEE Chu-ming, SC, JP
Hon Fred LI Wah-ming, JP
Hon Howard YOUNG, SBS, JP
Hon Abraham SHEK Lai-him, 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 Albert Jinghan CHENG
Hon KWONG Chi-kin

Members absent : Hon James TIEN Pei-chun, GBS, JP
Hon LEE Cheuk-yan
Dr Hon YEUNG Sum
Hon Emily LAU Wai-hing, JP
Hon LI Fung-ying, BBS, JP
Dr Hon Joseph LEE Kok-long
Hon LEUNG Kwok-hung

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)

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 Nos. CB(2)1710/05-06(01) to (04))

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

2. The Bills Committee requested the Administration to provide a response in writing to the following requests raised by members at the meeting -

- (a) to reconsider the proposed Committee Stage amendment (CSA) to the definition of “manager”, having regard to the concern that the identity of the “manager” might not always be spelt out in the Deed of Mutual Covenant or other legal document(s) dealing with management of common part matters of a private building or the “manager”, though could be identified but could not be traced about his/her whereabouts;
- (b) to ascertain whether ferry vessels, regardless of whether they operated as public transport carriers, were still subject to the smoking ban if they

were sometimes hired out for private functions or operated as fee-charging public tour boats;

- (c) to make those part(s) of the domestic premises functioning as a workplace at certain hours of the day and were visited by patrons or clients, such as a self-employed person providing private tuition to his/her students, subject to the smoking ban; and
- (d) to review the drafting of the proposed CSA to the definition of “domestic premises” to ensure that it fully reflected the policy intent.

3. In view of the good progress made in the scrutiny of the papers provided by the Administration, members agreed to hold the next meeting on 4 May 2006 from 8:30 am to 12:30 pm. The next meeting originally scheduled for 25 April 2006 from 8:30 am to 12:30 pm was therefore cancelled.

4. There being no other business, the meeting ended at 12:18 pm.

Council Business Division 2
Legislative Council Secretariat
7 August 2006

**Proceedings of the 27th meeting of the
Bills Committee on
Smoking (Public Health) (Amendment) Bill 2005
on Monday, 24 April 2006 at 8:30 am
in Conference Room A of the Legislative Council Building**

Time marker	Speaker	Subject	Action required
000000 – 001540	Chairman	Introduction	
001541 – 011956	Admin Chairman ALA7 Mr LI Kwok-ying Mr Tommy CHEUNG Mr Martin LEE Dr KWOK Ka-ki Admin	Administration's paper seeking to address questions in relation to the meaning of "managers" within a building under the Smoking (Public Health) Ordinance raised by the Bills Committee at its meetings on 14 February and 31 March 2006 (LC Paper No. CB(2)1710/06-06(03)) The Administration confirmed that the legal principles relating to deprivation of private property were the same for persons smoking in common areas of residential buildings and the "Mild Seven" case. The Administration was requested to reconsider the proposed Committee Stage amendment (CSA) to the definition of "manager", having regard to the concern that the identity of the "manager" might not always be spelt out in the Deed of Mutual Covenant or other legal document(s) dealing with management of common part matters of a private building or the "manager", though could be identified, could not be traced about his/her whereabouts.	✓ (Admin to provide a written response)
011957 – 022718	Admin Mr Tommy CHEUNG Chairman ALA7 Mr WONG Ting-kwong Mr LI Kwok-ying Mr Martin LEE	Draft CSAs provided by the Administration (LC Paper No. CB(2)1710/05-06(01)) The Administration was requested to - (a) make those part(s) of the domestic premises functioning as a workplace at certain hours of the day and were visited by patrons or clients, such as a self-employed person providing private tuition to his/her students, subject to the smoking ban; and (b) review the drafting of the proposed CSA to the definition of "domestic premises" to ensure that it fully reflected the policy intent.	✓ (Admin to provide a written response)
022719 – 024326	Break		
024327 – 031430	Chairman Admin Mr Tommy CHEUNG Mr Martin LEE	The Administration was requested to ascertain whether ferry vessels, regardless of whether they operated as public transport carriers, were still subject to the smoking ban if they were sometimes hired out for private functions or operated as fee-charging public tour boats.	✓ (Admin to provide a written response)
031431 – 031512	Chairman	CSAs envisaged by the Administration (LC Paper No. CB(2)1710/05-06(02)) was noted	

Time marker	Speaker	Subject	Action required
031513 – 034231	Admin Chairman Mr Martin LEE Mr LI Kwok-ying	Administration's response to issues raised by the Bills Committee at the meetings on 14 February, 31 March, 4 and 10 April 2006 (LC Paper No. CB(2)1710/05-06(04)) Members noted that section 14(2) of the Smoking (Public Health) Ordinance provided from an irrebuttable presumption	
034232 – 034753	Chairman Admin	Closing remarks Date of next meeting	

Council Business Division 2
Legislative Council Secretariat
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