

立法會
Legislative Council

LC Paper No. CB(2)2123/04-05

(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 first meeting
held on Friday, 10 June 2005 at 10:45 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 LEE Cheuk-yan
Hon Martin LEE Chu-ming, SC, JP
Hon Fred LI Wah-ming, JP
Hon Howard YOUNG, SBS, JP
Dr Hon YEUNG Sum
Hon Emily LAU Wai-hing, 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
Dr Hon Joseph LEE Kok-long
Hon Alan LEONG Kah-kit, SC
Hon LEUNG Kwok-hung
Hon WONG Ting-kwong, BBS
Hon Albert Jinghan CHENG

Members absent : Hon James TIEN Pei-chun, GBS, JP
Hon LEUNG Yiu-chung
Hon LI Fung-ying, BBS, JP
Hon LI Kwok-ying, MH
Dr Hon KWOK Ka-ki
Hon KWONG Chi-kin

Public Officers : Item II
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)

Dr Christine WONG
Senior Medical and Health Officer
Department of Health

Ms Amy CHAN
Government Counsel
Department of Justice

Clerk in : Ms Doris CHAN
attendance Chief Council Secretary (2) 4

Staff in : Miss Monna LAI
attendance Assistant Legal Adviser 7

Miss Mary SO
Senior Council Secretary (2) 8

Miss Maggie CHIU
Legislative Assistant (2) 4

I. Election of Chairman and Deputy Chairman

Mr Andrew CHENG and Mr Albert CHAN were elected Chairman and Deputy Chairman of the Bills Committee respectively.

II. Meeting with the Administration

(LC Paper Nos. CB(2)1731/04-05(01) and CB(2)1745/04-05(01))

2. The Bills Committee deliberated (Index of proceedings at **Annex**).
3. Members noted the following papers tabled at the meeting -
 - (a) Administration's response to the questions raised by Assistant Legal Adviser 7 on the Bill in her letter dated 3 June 2005;
 - (b) information on monetary loss to Hong Kong due to diseases caused by smoking prepared by the Administration (Chinese version only); and
 - (c) Administration's response to the views/concerns of the Panel on Health Services made during the discussion of the proposed amendments to the Smoking (Public Health) Ordinance (the Ordinance) (Chinese version only).
4. The Bills Committee requested the Administration to provide the following information -

Advertisement and promotion of tobacco products

- (a) objectives for tightening advertisement and promotion of tobacco products proposed in the Bill;
- (b) estimated number of licensed hawker stalls which would be affected by the revocation of the exemption of the display of tobacco advertisement at licensed hawker stalls under the Ordinance;
- (c) estimated average amount of monetary loss to the licensed hawker stalls arising from the revocation of the above exemption and what percentage of their total income represented such a loss;
- (d) course of actions which would be taken by the Administration to help the affected licensed hawker stalls to make up for their monetary loss arising from the prohibition of display of tobacco advertisement;

Law enforcement

- (e) number of prosecutions made by the Police and Customs and Excise Department against persons who refused to abide by the statutory smoking ban in certain indoor public places, such as shopping malls, supermarkets, banks and departments, and in the smokefree seating areas of restaurants providing indoor seating accommodation for more than 200 persons, which came into operation in July 1999;
- (f) number of cases reported to the Police for assistance when offenders

refused to abide by the no smoking requirement referred to in paragraph 4(e) above since the requirement came into operation;

- (g) number of cases which managers of statutory no smoking areas had to resort to the use of force to stop the offenders from smoking since July 1999;

Economic implications

- (h) proof substantiating the claim made by the Administration in its information note referred to in paragraph 3(c) above that about 800 restaurants in Hong Kong which had implemented total smoking ban in their restaurants had experienced no adverse impact on their business;
- (i) timetable adopted by overseas jurisdictions in implementing total smoking ban in all indoor workplaces and public places, i.e. in one go or by phases;
- (j) economic data, such as unemployment rate, of those overseas jurisdictions which the Administration claimed that the implementation of smokefree workplace laws had no adverse impact on their business;
- (k) report entitled “Smoking Costs Hong Kong Over \$5 billion every year: First Report of a Comprehensive Assessment in Asia” completed in February 2005 by the Faculty of Medicine of the University of Hong Kong; and

Public health implications

- (l) comparison of the health risk when exposed to secondhand smoke indoor and outdoor where a large group, say, 10 smokers, congregated to smoke.

5. The Administration was requested to provide a response in writing to the following suggestions raised by members at the meeting -

- (a) to consider engaging more Government departments in enforcing smoking ban in all indoor places and public places generally, as well as introducing a fixed penalty system for committing smoking offences, as practised in the enforcement against littering; and
- (b) to clarify whether the smoking room(s) in the China Ferry Terminal in Tsim Sha Tsui was to be covered by the Bill.

III. Date of next meeting

6. Members agreed to hold the next meeting on 4 July 2005 at 10:45 am to meet with the author(s) of the report referred to in paragraph 4(k) above.
7. Members further agreed to invite operators of the licensed hawker stall to give views on the Bill before the end of July 2005. As to inviting the catering industry and others, such as academics, to give views on the Bill, members agreed to do so after the duty visit to obtain information on the implementation of smoking ban in Singapore, Norway and Ireland planned to be conducted from 10-20 August 2005.
8. There being no other business, the meeting ended at 1:06 pm.

Council Business Division 2
Legislative Council Secretariat
28 June 2005

Time Marker	Speaker	Subject(s)	Action Required
003216 - 010357	Mr Tommy CHEUNG Administration	<p><u>Enforcement of the Bill</u></p> <p>The Administration was requested to provide the number of cases reported to the Police for assistance when offenders refused to abide by the no smoking requirement referred to earlier at the meeting since the requirement came into operation</p> <p><u>Economic implications of the Bill</u></p> <p>The Administration was requested to provide the report entitled “Smoking Costs Hong Kong Over \$5 billion every year: First Report of a Comprehensive Assessment in Asia” completed in February 2005 by the Faculty of Medicine of the University of Hong Kong</p> <p><u>Advertisement and promotion of tobacco products</u></p> <p>The Administration was requested to provide the objectives for tightening advertisement and promotion of tobacco products proposed in the Bill</p>	<p>✓ (Admin to provide a written response)</p> <p>✓ (Admin to provide a written response)</p> <p>✓ (Admin to provide a written response)</p>
010358 - 010951	Mr Vincent FANG Administration Chairman	<p><u>Legal liability of managers of statutory no smoking areas for smoking acts committed in the premises</u></p> <p><u>Economic implications of the Bill on the trade</u></p> <p>The Administration was requested to provide -</p> <p>(a) estimated average amount of monetary loss to the licensed hawker stalls arising from the revocation of the exemption of the display of tobacco advertisement at licensed hawker stalls under the Ordinance and what percentage of their total income represented such a loss;</p> <p>(b) proof substantiating the claim made by the Administration in its information note provided for the meeting that about 800 restaurants in Hong Kong which had implemented total smoking ban in their restaurants had experienced no adverse impact on their business; and</p> <p>(c) economic data, such as unemployment rate, of those overseas jurisdictions which the Administration claimed that the implementation of smokefree workplace laws had no adverse impact on their business</p>	<p>✓ (Admin to provide a written response)</p>
010952 - 012822	Mr LEUNG Kwok-hung Administration	Allowing indoor workplaces to have smoking rooms on the condition that staff thereat were smokers and that tobacco smoke would not diffuse to no smoking areas	
012823 - 013512	Dr YEUNG Sum Administration	Rationale for not requiring universities and post-secondary institutions to designate their outdoor premises as no smoking areas	

Time Marker	Speaker	Subject(s)	Action Required
013513 - 014201	Dr YEUNG Sum ALA7	Enforcement powers of managers of statutory no smoking areas	
014202 - 015131	Mr WONG Ting-kwong Administration	<p>Whether an employee refusing to enforce the Bill could <u>constitute a reason for dismissal</u></p> <p>Whether the incident of an employee inflicted bodily harm while carrying out his/her duties to enforce the Bill would be considered "injuries at work" under the existing labour <u>legislation or crimes</u></p> <p>Whether the enactment of the Bill would affect the advertisement and promotion of products which carried the <u>same brand name of a tobacco product</u></p>	
015132 - 020255	Mr LEE Cheuk-yan Administration	<p>Extending the grace period for those establishments which <u>had decided to close down after the gazettal of the Bill</u></p> <p><u>Enforcement of the Bill</u></p> <p>The Administration was requested to provide information on the number of cases which managers of statutory no smoking areas had to resort to the use of force to stop offenders from smoking since July 1999</p>	✓ (Admin to provide a written response)
020256 - 020905	Mr Tommy CHEUNG	The Administration was requested to provide the timetable adopted by overseas jurisdictions in implementing total smoking ban in all indoor workplaces and public places, i.e. in one go or by phases	✓ (Admin to provide a written Response)
020906 - 021156	Mr Albert CHAN	The Administration was requested to provide information on the comparison of health risk when exposed to secondhand smoke indoor and outdoor where a large group, say, 10 smokers, congregated to smoke	✓ (Admin to provide a written response)
021157 - 022216	Chairman Mr Tommy CHEUNG Mr Albert CHAN Administration	Way forward and date of next meeting	