

立法會
Legislative Council

LC Paper No. CB(2)2602/04-05

(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 3rd meeting
held on Thursday, 21 July 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 James TIEN Pei-chun, GBS, JP
Hon LEE Cheuk-yan
Hon Martin LEE Chu-ming, SC, JP
Hon Fred LI Wah-ming, JP
Hon LEUNG Yiu-chung
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
Hon LI Kwok-ying, MH
Dr Hon Joseph LEE Kok-long
Dr Hon KWOK Ka-ki
Hon WONG Ting-kwong, BBS
Hon Albert Jinghan CHENG
Hon KWONG Chi-kin

Members absent : Hon Howard YOUNG, SBS, JP
Dr Hon YEUNG Sum
Hon LI Fung-ying, BBS, JP
Hon Alan LEONG Kah-kit, SC
Hon LEUNG Kwok-hung

Public Officers : Item I
attending

Mrs Ingrid YEUNG
Deputy Secretary for Health, Welfare and Food (Health)

Dr T H LEUNG, JP
Deputy Director of Health

Dr Christine WONG
Senior Medical and Health Officer
Department of Health

Mr CHEUNG Wing-leung
Senior Government Counsel
Department of Justice

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. Meeting with the Administration

(LC Paper Nos. CB(2)2152/04-05(02), CB(2)2311/04-05(01) to (05) and CB(2)2340/04-05(01) to (03))

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

Smoking in aircrafts

2. With reference to LC Paper No. CB(2)2311/04-05(01) which set out the number of prosecutions and convictions on Hong Kong-registered aircrafts since 2000 pursuant to Article 50(2) of the Air Navigation (Hong Kong) Order 1995 (the Order) (Cap. 448C) (the Order), the Administration was requested to provide the

following information -

- (a) which airlines were involved;
- (b) what penalties were passed on the offenders; and
- (c) whether force had been used in implementing the smoking ban under the Order; if so, the number of cases involved.

The Administration was also requested to provide the following additional information in writing -

- (a) whether staff of Hong Kong-registered airlines had experienced difficulties in implementing the smoking ban under the Order; if so, what these difficulties were;
- (b) the feasibility of extending the applicability of the Order to non-Hong Kong-registered aircrafts heading for and departing from Hong Kong;
- (c) enforcement actions taken by aircraft crew in implementing the smoking ban in non-Hong Kong-registered aircrafts heading for and departing from Hong Kong; and
- (d) the number of smoking versus non-smoking flights operated by non-Hong Kong-registered aircrafts heading for and departing from Hong Kong.

Smoking prohibition arrangements at cross-boundary ferry terminals and air terminals

3. Prior to coming to a view on whether total smoking ban should be applied to the Macau Ferry Terminal (MFT) and the China Ferry Terminal, the Administration undertook to discuss with the management of MFT on providing enclosed smoking room(s) with separate ventilation inside the ferry terminal to segregate smokers from the non-smoking passengers.

4. The Administration further agreed to provide the following information in writing -

- (a) which airport passenger terminals outside Hong Kong applied total smoking ban, i.e. no designated smoking area was allowed;
- (b) which airport and ferry terminals outside Hong Kong implemented total smoking ban step-by-step and which in one go;
- (c) what protection the Airport Authority was providing to its staff assigned to clean the smoking rooms at the airport passenger terminals; and

- (d) findings of overseas studies on ways to mitigate health risks of persons exposed to secondhand smoking.

Law enforcement

5. At the request of the Bills Committee, the Administration agreed to consider making smoking on Hong Kong-registered cross-boundary ferries an offence. The Administration further agreed to provide the following information in writing -

- (a) number of prosecutions and convictions made due to failure in observing the no smoking ban in restaurants under the Smoking (Public Health) Ordinance (Cap. 371) (the Ordinance) from July 1999 up to present;
- (b) estimation of additional TCO inspectors required to cope with the increasing workload after the enactment of the Bill; and
- (c) examples why some prosecutions pursuant to section 3(2) of the Ordinance had ended in no conviction, including whether this was due to witnesses subsequently decided not to appear in court proceedings.

6. The Administration was requested to consider making offenders of smoking ban to undergo medical check and counselling on the hazards of smoking as well as to bear the costs incurred as one of the court sentences.

7. On the number of prosecutions made pursuant to section 3(2) of the Ordinance since July 1999 up to present, the Administration was requested to provide information in respect of restaurants and to clarify how many of these prosecutions were instigated by employees and the Police/TCO inspectors respectively.

II. Dates of next meetings

8. Members agreed to hold the next two meetings on 3 October 2005 at 2:30 pm and on 6 October 2005 from 9:00 am to 1:00 pm to continue discussion with the Administration on the Bill and to meet with deputations respectively.

9. There being no other business, the meeting ended at 12:47 pm.

**Proceedings of the third meeting of the
Bills Committee on
Smoking (Public Health) (Amendment) Bill 2005
on Thursday, 21 July 2005 at 10:45 am
in the Chamber the Legislative Council Building**

Time Marker	Speaker	Subject(s)	Action Required
000339 - 000528	Chairman	Opening remarks	
000529 - 001146	Administration Mr Martin LEE Ms Emily LAU Chairman	<p>Discussion on the Administration's paper (LC Paper No. CB(2)2340/04-05(01)) with regard to enforcement actions taken by aircraft crew in implementing the smoking ban under the Air Navigation (Hong Kong) Order 1995 (the Order) (Cap. 448C)</p> <p>The Administration was requested to provide the following information -</p> <p>(a) which airlines were involved;</p> <p>(b) what penalties were passed on the offenders; and</p> <p>(c) whether force had been used in implementing the smoking ban under the Order; if so, the number of cases involved.</p> <p>The Administration was also requested to check with the management of Hong Kong-registered airlines whether their staff had experienced difficulties in implementing the smoking ban under the Order; if so, what these difficulties were.</p>	<p style="text-align: center;">✓ (Admin to provide a written response)</p> <p style="text-align: center;">✓ (Admin to provide a written response)</p>
001147 - 001252	Chairman Mr Tommy CHEUNG Mr James TIEN	Speaking time limit for each member	
001253 - 001413	Mr LEE Cheuk yan	Providing power to managers of statutory no smoking areas to use force to stop offenders from smoking was not meaningful, as managers would invariably choose to seek assistance from the Police and/or the Tobacco Control Office (TCO) to resolve the matter	
001414 - 002240	Mr Tommy CHEUNG Administration Mr Martin LEE Chairman	<p>The Administration was requested to provide the following information -</p> <p>(a) enforcement actions taken by aircraft crew in implementing the smoking ban in non-Hong Kong-registered aircrafts heading for and departing from Hong Kong; and</p> <p>(b) the number of smoking versus non-smoking flights operated by non-Hong Kong-registered aircrafts heading for and departing from Hong Kong.</p> <p>The Administration was also requested to check with the Department of Justice on the feasibility of extending the applicability of the Order to non-Hong Kong-registered aircrafts heading for and departing from Hong Kong.</p>	<p style="text-align: center;">✓ (Admin to provide a written response)</p> <p style="text-align: center;">✓ (Admin to provide a written response)</p>

Time Marker	Speaker	Subject(s)	Action Required
002241 - 004226	Administration Ms Emily LAU Mr Tommy CHEUNG Chairman	<p>Discussion on the Administration's paper (LC Paper No. CB(2)2311/04-05(02)) with regard to smoking prohibition arrangements at the two cross-boundary ferry terminals in Hong Kong, namely, the Macau Ferry Terminal (MFT) and the China Ferry Terminal (CFT)</p> <p>Whether similar no-smoking exemption given to the airport passenger terminals should be given to the smoking areas in the MFT and the CFT</p> <p>Prior to coming to a view on whether total smoking ban should be applied to the MFT and the CFT, the Administration was requested to discuss with the management of MFT on providing enclosed smoking room(s) with separate ventilation inside the ferry terminal to segregate smokers from the non-smoking passengers</p>	<p>✓ (Admin to provide a written response on the progress made)</p>
004227 - 004642	Mr Martin LEE Administration	The Administration undertook to find out from the Airport Authority what protection it was providing to its staff assigned to clean the smoking rooms at the airport passenger terminals	<p>✓ (Admin to provide a written response)</p>
004643 - 004952	Mr Fred LI	Considered not necessary to provide exemption to the smoking areas in the MFT, having regard to the fact that the journey times of the ferry routes operated from this terminal only ranged from one hour to one hour and 30 minutes. Despite the longer journey times of the ferry routes operated from the CFT, further consideration needed to be made on providing exemption to the smoking areas at the CFT having regard to that fact that ferry companies using this terminal never implementd the smoking ban on the ferries.	
004953 - 005208	Mr Vincent FANG	Concurred with Mr Tommy CHEUNG that if no smoking exemption was given to the smoking rooms at the airport passenger terminals, similar exemption should be given to the two cross-boundary ferry terminals	
005209 - 005459	Dr KWOK Ka-ki Administration	<p>Safeguarding the health of staff assigned to clean the smoking rooms at the airport passenger terminals</p> <p>The Administration was requested to provide information on which airport passenger terminals outside Hong Kong applied total smoking ban, i.e. no designated smoking area was allowed</p>	<p>✓ (Admin to provide a written response)</p>
005500 - 005604	Dr Joseph LEE	Did not object to allowing airport and ferry terminals to have designated smoking rooms, on the condition that adequate protection was provided to staff assigned to clean these rooms. Consideration should be given to strengthening the Occupational Safety and Health Ordinance (Cap. 509) to ensure adequate protection was provided to staff assigned to clean the smoking rooms in airport and ferry terminals.	

Time Marker	Speaker	Subject(s)	Action Required
005605 - 010258	Mr Tommy CHEUNG Administration	The Administration was requested to provide the following information - (a) which airport and ferry terminals outside Hong Kong implemented total smoking ban step-by-step and which in one go; and (b) findings of overseas studies on ways to mitigate health risks of persons exposed to secondhand smoking	✓ (Admin to provide a written response)
010259 - 010607	Mr Martin LEE Administration	Opposed to the suggestion of allowing restaurants to have smoking rooms if the ventilation could meet the standards laid down by the World Health Organisation, as it was questionable whether the catering industry would strictly adhere to the safety precaution designed to protect staff against secondhand smoking	
010608 - 011303	Ms Emily LAU Administration Chairman	The Bill, if enacted, would not prohibit smoking on cross-boundary ferries The Administration was requested to consider making smoking on Hong Kong-registered cross-boundary ferries an offence	✓ (Admin to provide a written response)
011304 - 011804	Mr Tommy CHEUNG	Restaurants should be allowed to have smoking rooms if there were adequate facilities and equipment to protect staff against secondhand smoking	
011805 - 012502	Mr Martin LEE Administration Chairman Ms Audrey EU	The Administration was requested to consider revoking the licences of the operators/agents who repeatedly failed to implement the smoking ban	✓ (Admin to provide a written response)
012503 - 012820	Mr Tommy CHEUNG	Urged the Administration to seriously consider the desirability of revoking the licences of the restaurant owners who repeatedly failed to implement the smoking ban	
012821 - 013056	Chairman Mr Albert CHENG	The Aviation Security (Amendment) Bill 2005, if enacted, would extend Hong Kong's jurisdiction over smoking offence committed outside Hong Kong in connection with non-Hong Kong-registered aircrafts which next landed in Hong Kong	
013057 - 013235	Mr Tommy CHEUNG Mr Martin LEE	Rationale behind for revoking the licences of the restaurant owners who repeatedly failed to implement the smoking ban	

Time Marker	Speaker	Subject(s)	Action Required
013236 - 015148	Chairman Administration Mr Tommy CHEUNG Mr Vincent FANG Ms Emily LAU Mr Martin LEE	<p>Discussion on the Administration's paper (LC Paper No. CB(2)2340/04-05(01)) with regard to enforcement actions taken pursuant to the Smoking (Public Health) Ordinance (Cap. 371) (the Ordinance)</p> <p>The Administration was requested to provide the following information -</p> <p>(a) number of prosecutions and convictions made due to failure in observing the smoking ban in restaurants under the Ordinance from July 1999 up to present;</p> <p>(b) estimation of additional TCO inspectors required to cope with the increasing workload after the enactment of the Bill; and</p> <p>(c) examples why some prosecutions pursuant to section 3(2) of the Ordinance had ended in no conviction, including whether this was due to witnesses subsequently decided not to appear in court proceedings.</p> <p>The Administration was also requested to consider making offenders of smoking ban to undergo medical check and counselling on the hazards of smoking as well as to bear the costs incurred as one of the court sentences</p>	<p>✓ (Admin to provide a written response)</p> <p>✓ (Admin to provide a written response)</p>
015149 - 015509	Chairman Ms Emily LAU Mr Tommy CHEUNG	Dates of next meetings	
015510 - 015924	Mr Albert CHENG	<p>Supported the proposal of making offenders of smoking ban to undergo medical check and counselling on the hazards of smoking as well as to bear the costs incurred as one of the court sentences</p> <p>Engaging more Government departments in enforcing smoking ban</p> <p>Stepping up public education on the health hazards of smoking</p>	
015925 - 020113	Mr Tommy CHEUNG	On the number of prosecutions made pursuant to sections 3(1B) and 3(2) of the Ordinance since July 1999 up to present, the Administration was requested to provide information in respect of restaurants and to clarify how many of these prosecutions were instigated by employees and the Police/ TCO inspectors	<p>✓ (Admin to provide a written response)</p>