

**Bills Committee on  
Smoking (Public Health) (Amendment) Bill 2005**

**Administration's response to issues raised  
at the Bills Committee meeting on 10 June**

Overseas Experience

**PURPOSE**

This paper seeks to provide information on smoke-free legislation in other jurisdictions.

**MEMBERS' QUESTION**

2. At the above meeting, Members requested information on overseas jurisdictions in implementing smoking ban in indoor workplaces and public places.

**ADMINISTRATION'S RESPONSE**

International Scene

3. The World Health Organization (WHO) Framework Convention on Tobacco Control (FCTC) was adopted at the 56<sup>th</sup> World Health Assembly in May 2003 at Geneva. It entered into force on 27 February 2005. The Convention was the first public health international treaty proposed by WHO to address transnational and trans-border issues such as globalization of tobacco marketing, trade and tobacco industry influence. FCTC sets out national obligations for contracting parties to implement, which reflect a comprehensive approach to tobacco control, including:

- ⊗ general obligations to develop comprehensive, multi-sectoral national tobacco control programmes;
- ⊗ specific control provisions such as
  - demand-reduction measures
  - high price and tax
  - non-price strategies such as passive smoking minimization, regulation of product contents, packaging and labeling, and advertising and promotion
  - provision of effective smoking cessation services
  - supply-control measures such as control of illicit trade in tobacco products

China became a signatory of the Convention in November 2003 and the treaty will

be applicable to Hong Kong.

4. Some of the information in this paper is extracted from LC Paper No. CB(2)839/04-05(03), which was submitted to the Panel on Health Services in February 2005. Further updating, where available, has been provided. It seeks to present an overview of the legislative framework, as well as exemptions, if any, provided under their respective smokefree legislation in five jurisdictions with comparable economic status as Hong Kong, namely California, State of New York, Ireland, Singapore and New Zealand:

#### California

5. Under the *Smoke-free Workplace Law*, smoking is prohibited in all enclosed places of employment, with the exception of tobacco shops, private smoker's lounges, private residences (when not used for child care), 65% of guest room accommodations and designated areas of lobbies in hotels/motels, meeting and banquet rooms in hotels/motels apart from during food/beverage/exhibit functions, cabs of motor trucks, large warehouses, employee breakrooms meeting stringent ventilation conditions, small businesses under limited conditions etc.

#### New York State

6. Under the *Clean Indoor Air Act*, smoking is not permitted in a wide range of indoor areas including places of employment, bars, food service establishments, establishments used for carrying on or exercising any trade, profession, vocation or charitable activity, bingo facilities, indoor arenas etc. Smoking is also disallowed in separately ventilated rooms of business establishments. Outdoor dining area of restaurants may be designated as smoking area provided that: a) it constitutes no more than 25% of the outdoor seating capacity; and b) it is at least three feet away from the outdoor no-smoking area.

7. The major exempted premises are private residence, hotel or motel rooms rented to guests, retail tobacco businesses, membership associations where duties related to their operation are performed by volunteers, cigar bars, up to 25% of the seating in outdoor dining areas of food services establishments with no roof or ceiling enclosures.

#### Ireland

8. The *Public Health (Tobacco) (Amendment) Act 2004* prohibits the smoking of tobacco products in all places of work, including restaurants and pubs, buildings to which the public has access to, public entertainment places, licensed premises, registered clubs etc. The smoking ban does not apply to outdoor or non-enclosed parts of places of work, dwellings, rooms in hotels or other premises that provide living/sleeping accommodation for the public, prisons etc.

## Singapore

9. Under the *Smoking (Prohibition in Certain Places) Act*, there are 26 categories of public places where smoking is prohibited. These include amusement centres, air-conditioned barber shops/hair-dressing salons, air-conditioned food shop, air-conditioned halls, ballrooms or function rooms in hotels, banks, air-conditioned office premises, air-conditioned factories, enclosed or air-conditioned common areas of private residential buildings, air-conditioned shops and shopping malls/complexes, underground pedestrian walkways, air-conditioned facilities in private clubs etc. The Civil Aviation Authority may designate smoking rooms in Singapore Changi Airport.

## New Zealand

10. The *Smokefree Environments Amendment Bill* requires all indoor workplaces including offices, warehouses, factories and licensed premises/hospitality venues (e.g. bars, taverns, restaurants, cafes, clubs, casinos, gaming venues) to become smokefree. Separate smoking areas or ventilated smoking rooms in indoor workplaces or hospitality venues are disallowed. The smokefree requirement does not apply to outdoor areas except school grounds, private homes, temporary private premises, hotel rooms, home-like environment such as individual prison cells etc.

## **ADDITIONAL INFORMATION**

11. In June 2005, the Scottish Parliament voted by 97 to 17 in favour of the Smoking, Health and Social Care (Scotland) Bill, which will come into force on 26 March 2006. Under the new legislation, smokers could be fined for lighting up in a pub, a restaurant, an office, a theatre, a bingo hall or even a public toilet. Exemptions only include prison cells and residential care centres. The passage of the Bill signified that Scotland had gone further than the measures that have been proposed for England.

12. We would keep in view progress made in other jurisdictions and take reference from their implementation experiences, where appropriate.

## **ADVICE SOUGHT**

13. The Bills Committee is invited to note the Administration's response.