

立法會
Legislative Council

LC Paper No. CB(2)1174/15-16

(These minutes have been
seen by the Administration)

Ref : CB2/SS/3/15

**Subcommittee on Smoking (Public Health) Ordinance
(Amendment of Schedule 2) Order 2015**

**Minutes of the second meeting
held on Monday, 25 January 2016, at 9:00 am
in Conference Room 2 of the Legislative Council Complex**

Members present : Hon WONG Ting-kwong, SBS, JP
Hon Alan LEONG Kah-kit, SC
Hon Albert CHAN Wai-yip
Dr Hon KWOK Ka-ki
Hon KWOK Wai-keung

Members absent : Hon SIN Chung-kai, SBS, JP (Chairman)
Hon James TIEN Pei-chun, GBS, JP
Dr Hon Helena WONG Pik-wan

Public Officers attending : Professor Sophia CHAN Siu-chee, JP
Under Secretary for Food and Health
Food and Health Bureau

Ms Wendy AU Wan-sze
Deputy Secretary for Food and Health (Health) 2 (Acting)
Food and Health Bureau

Dr Sarah CHOI Mei-yee, JP
Assistant Director of Health (Special Health Services)
Department of Health

Dr Jeff LEE Pui-man
Head (Tobacco Control Office)
Department of Health

Attendance : Momentum 107
by invitation

Mr Raymond HO Man-kit
Convenor

Hong Kong Smoker's Rights Concern Group

Mr Aming Aberdeen
Deputy Convenor

I Smoke Alliance

Ms LEE Mur
Convenor

Coalition of Hong Kong Newspaper and Magazine Merchants

Mr Bacon LIU
Convenor

Serving Through Intelligence

Ms Carol TONG
Chairperson

The Association of Ma On Shan Neighbourhood

Mr LAU Pui-wing
Founding Chairman

Mr LEE Hing-lim

Hong Kong Council on Smoking and Health

Mr Antonio KWONG
Chairman

Dr CHU Kwok-lun

School of Nursing, The University of Hong Kong

Miss SUEN Yi-nam
Postdoctoral Fellow

Miss Nicole LAM Kei-kwan

United Christian Nethersole Community Health Service

Dr Joyce TANG Shao-fen
Medical Director

Ms Scarlett PONG Oi-lan, JP, Sha Tin District Council
Member

Ms Yolanda NG, Wan Chai District Council Member

Mr Michael MAK Kwok-fung

School of Public Health, The University of Hong Kong

Professor LAM Tai-hing
Chairman Professor of Community Medicine cum Sir
Robert Kotewall Professor in Public Health

Clerk in attendance : Ms Maisie LAM
Chief Council Secretary (2) 5

Staff in attendance : Mr Alvin CHUI
Assistant Legal Adviser 3

Ms Priscilla LAU
Council Secretary (2) 5

Ms Louisa YU
Legislative Assistant (2) 5

Action

I. Meeting with deputations and the Administration

Dr KWOK Ka-ki was elected as Chairman of the meeting.

2. The Subcommittee deliberated (index of proceedings attached at **Annex**).

3. The Chairman of the meeting reminded the organizations and individuals attending the meeting that they were not covered by the protection and immunity

Action

provided under the Legislative Council (Powers and Privileges) Ordinance (Cap. 382) when addressing the Subcommittee. At the invitation of the Chairman, a total of 16 organizations and individuals presented their views on the Smoking (Public Health) Ordinance (Amendment of Schedule 2) Order 2015 (L.N. 237 of 2015). Members also noted the 18 written submissions from organizations and individuals not attending the meeting.

II. Meeting with the Administration

[File Ref: L.N. 237 of 2015, Legislative Council Brief issued by the Food and Health Bureau and the Department of Health in December 2015, LC Paper Nos. LS17/15-16, CB(2)564/15-16(02) to (03) and CB(2)719/15-16(01) to (02)]

4. Members noted that as the resolution to extend the period for amending the Smoking (Public Health) Ordinance (Amendment of Schedule 2) Order 2015 (L.N. 237 of 2015) had not been dealt with at the Council meeting of 13 January 2016, the 28-day period for amending L.N. 237 had expired at the said Council meeting. As such, L.N. 237 would come into operation on 31 March 2016 as gazetted.

Admin 5. Given that discussion of the Subcommittee was still in progress, the Administration was requested to consider some members' suggestion of deferring the commencement date of L.N. 237 through the gazettal of another order to such effect. The Legal Adviser to the Subcommittee was requested to advise after the meeting the relevant legislative procedure.

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Admin 6. The Administration was requested to provide for members' reference a list of bus interchanges which had been designated as no smoking areas.

III. Any other business

7. Members noted that the Subcommittee would conduct a site visit to the Bus-Bus Interchanges on Tuen Mun Road, the Shing Mun Tunnels Bus Interchange and the Cross-Harbour Tunnel Bus Interchange 1 February 2016. Members agreed that the Subcommittee should hold a further meeting after the site visit to continue its discussion with the Administration.

(Post-meeting note: With the concurrence of the Chairman, the third meeting of the Subcommittee has been scheduled for 16 February 2016 at 9:00 am.)

Action

8. There being no other business, the meeting ended at 11:30 am.

Council Business Division 2
Legislative Council Secretariat
24 March 2016

**Proceedings of the second meeting of the
Subcommittee on Smoking (Public Health) Ordinance
(Amendment of Schedule 2) Order 2015
on Monday, 25 January 2016, at 9:00 am
in Conference Room 2 of the Legislative Council Complex**

Time marker	Speaker	Subject(s)/Discussion	Action required
<i>Agenda item I: Meeting with deputations and the Administration</i>			
000233 - 000315	Clerk Mr Alan LEONG	Dr KWOK Ka-ki was elected as Chairman of the meeting	
000316 - 000704	Chairman	Opening remarks	
000705 - 001039	Momentum 107	Presentation of views (LC Paper No. CB(2)719/15-16(03))	
001040 - 001310	Hong Kong Smoker's Rights Concern Group	Presentation of views (LC Paper No. CB(2)719/15-16(04))	
001311 - 001702	I Smoke Alliance	Presentation of views (LC Paper No. CB(2)732/15-16(01) & CB(2)796/15- 16(01))	
001703 - 001951	Coalition of Hong Kong Newspaper and Magazine Merchants	Presentation of views	
001952 - 002303	Serving Through Intelligence	Presentation of views (LC Paper No. CB(2)743/15-16(01))	
002304 - 002615	The Association of Ma On Shan Neighbourhood	Presentation of views (LC Paper No. CB(2)732/15-16(02))	
002616 - 002800	Mr LEE Hing-lim	Presentation of views (LC Paper No. CB(2)719/15-16(05))	
002801 - 003054	Hong Kong Council on Smoking and Health	Presentation of views (LC Paper No. CB(2)719/15-16(06))	
003055 - 003456	Dr CHU Kwok-lun	Presentation of views	
003457 - 003759	School of Nursing, The University of Hong Kong ("HKU")	Presentation of views (LC Paper No. CB(2)719/15-16(08))	
003800 - 003933	Miss Nicole LAM Kei- kwan	Presentation of views (LC Paper No. CB(2)719/15-16(09))	
003934 - 004152	United Christian Nethersole Community Health Service	Presentation of views (LC Paper No. CB(2)719/15-16(11))	

Time marker	Speaker	Subject(s)/Discussion	Action required
004153 - 004355	Ms Scarlett PONG Oi-lan, Sha Tin District Council Member	Presentation of views (LC Paper No. CB(2)719/15-16(12))	
004356 - 004707	Ms Yolanda NG, Wan Chai District Council Member	Presentation of views	
004708 - 005020	Mr Michael MAK Kwok-fung	Presentation of views (LC Paper No. CB(2)719/15-16(13))	
005021 - 005336	School of Public Health, HKU	Presentation of views (LC Paper No. CB(2)719/15-16(14))	
005337 - 010009	Chairman Admin	<p>The Administration's response to the concerns and issues raised by the deputations -</p> <ul style="list-style-type: none"> (a) the legislative proposal which sought to extend the smoking ban to the eight bus interchanges located at eight tunnel portal areas was in line with the tobacco control policy of protecting the public from second-hand smoking. The Chairmen of the 18 District Councils were supportive of the proposal; (b) under the current proposal, smokers could smoke outside the boundaries of the newly set up no smoking areas ("NSAs") where smoking was not prohibited, with the exception of Shing Mun Tunnels Bus Interchange as available space was very limited; (c) the Tobacco Control Office ("TCO") would follow up on suggestions and complaints in relation to the enforcement of smoking ban on footbridges, such as the one referred to by Serving Through Intelligence at the meeting; and (d) the Government had been adopting a progressive and multi-pronged approach on tobacco control. The Administration would continue to examine the feasibility of the suggestions to designate more public transport facilities as NSAs. 	
010010 - 011415	Chairman Mr Albert CHAN	Mr Albert CHAN's expression of dissatisfaction that while consumption of both tobacco and alcohol would give rise to adverse health effects, the Government introduced more stringent regulatory measures for tobacco consumption; his concern on the rationale for designating the eight bus interchanges at the eight tunnel portal areas as NSAs; and his invitation for deputations' view on the proposal to set up separately ventilated smoking room in the vicinity of all NSAs, including the bus interchanges at the eight tunnel portal areas.	
010416 - 011955	Chairman Mr Albert CHAN Mr Michael MAK Kwok-fung	Mr Michael MAK expressed reservation on the proposal as smoking room could not effectively prevent environmental tobacco smoke constituents from leaking out of the room and reduce exposure to second-hand smoke to a safe level.	

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	<p>School of Public Health, HKU Momentum 107 I Smoke Alliance Coalition of Hong Kong Newspaper and Magazine Merchants The Association of Ma On Shan Neighbourhood Ms Scarlett PONG Oi-lan, JP, Sha Tin District Council Member Ms Yolanda NG, Wan Chai District Council Member</p>	<p>Representative of the School of Public Health, HKU agreed that the Administration should be mindful of the adverse public health impacts arising from the reduction of liquor duty.</p> <p>Representatives of Momentum 107 and I Smoke Alliance considered that the right of smokers should be respected.</p> <p>Representatives of Coalition of Hong Kong Newspaper and Magazine Merchants, and the Association of Ma On Shan Neighborhood considered that areas where smoking was not prohibited should be provided in all NSAs.</p> <p>Ms Scarlett PONG agreed that the Administration should strength regulatory control over alcohol consumption; and remarked that the result of the survey she conducted at the Shing Mun Tunnels Bus Interchange showed that majority of the respondents supported the implementation of smoking ban at the Bus Interchange.</p> <p>Ms Yolanda NG expressed support for the designation of the eight bus interchanges at the eight tunnel portal areas as NSAs.</p>	
011956 - 012618	Chairman Admin	<p>In response to the Chairman's enquiries, the Administration's advice that -</p> <ul style="list-style-type: none"> (a) a Working Group on Alcohol and Health had been set up under the Steering Committee on Prevention and Control of Non-communicable Diseases to study how to reduce alcohol-related harm; (b) at present, the number of bus routes passing the eight bus interchanges at the eight tunnel portal areas ranged from six to over 30. Crowd of passengers were observed at these bus interchanges, particularly during peak hours; (c) overseas experience revealed that setting up areas for smoking was not the best option nor most desirable. The arrangement for the proposed new NSAs was that smokers could smoke outside the boundaries of NSAs. However, it was not feasible to provide areas where smoking was not prohibited in the vicinity of Shing Mun Tunnels Bus Interchange as space was extremely limited; and (d) elevated walkways which met the definition of "indoor" under the Smoking (Public Health) Ordinance (Cap. 371) ("the Ordinance") (i.e. having a ceiling or roof, or a cover that functioned as a ceiling or roof; and enclosed at least up to 50% of the total area on all sides) were statutory NSAs. TCO would conduct inspections of various NSAs in response to complaints and carry out blitz operations at black spots. 	

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012619 - 012832	Chairman Admin	On the Chairman's enquiry about the publicity for and the enforcement of the proposed smoking ban at the eight bus interchanges at the eight tunnel portal areas, the Administration's elaboration of the measures as set out in paragraphs 4 and 5 of LC Paper No. CB(2)719/15-16(02).	
012833 - 013449	Chairman Hong Kong Smoker's Rights Concern Group School of Nursing, HKU Coalition of Hong Kong Newspaper and Magazine Merchants Momentum 107 Admin	At the Chairman's invitation, representatives of the following deputations expressed their views - (a) Hong Kong Smoker's Rights Concern Group's expression of opposition to the proposed smoking ban at the Cross-Harbour Tunnel Bus Interchange's adjoining staircase and part of the adjoining elevated walkways; (b) School of Nursing, HKU's doubt on the effectiveness of smoking room in separating smokers and non-smokers and protecting non-smokers outside the room from exposure to second-hand smoke; (c) Coalition of Hong Kong Newspaper and Magazine Merchants' concern about the dangerous behavior of smokers in smoking on the carriageways where smoking was not prohibited under the proposal; and (d) Momentum 107's suggestion of setting up an indoor bus waiting areas for non-smokers.	
<i>Agenda item II: Meeting with the Administration</i>			
013450 - 013719	Chairman Mr Albert CHAN Admin	The Chairman's remarks that as the resolution to extend the period for amending the Smoking (Public Health) Ordinance (Amendment of Schedule 2) Order 2015 (L.N. 237 of 2015) had not been dealt with at the Council meeting of 13 January 2016, the 28-day period for amending L.N. 237 had expired. As such, L.N. 237 would come into operation on 31 March 2016 as gazetted. Arrangements for the site visit on 1 February 2016 Mr Albert CHAN's request for the Administration to provide a list of bus interchanges which had been designated as NSAs.	Admin
013720 - 020031	Chairman Mr Albert CHAN ALA3	In response to Mr Albert CHAN's enquiry, the Legal Adviser to the Subcommittee's advice that as the period for amending L.N. 237 had expired on 13 January 2016, any amendments to L.N. 237 (including its commencement date) could only be made by the Administration through the gazettal of another order to such effect. The Chairman and Mr Albert CHAN's view that given the grave concerns raised by some members on the boundaries and enforceability of the proposed new NSAs and that members might give further views in this regard during the forthcoming site visit and the next meeting to be scheduled after the site visit, the Administration should	

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		<p>defer the commencement date of L.N. 237 while discussion of the Subcommittee was still in progress. At the request of Mr Albert CHAN, the Legal Adviser to the Subcommittee was requested to advise after the meeting the relevant legislative procedure.</p> <p>The Administration's response that it would continue to listen to members' views on boundaries of the proposed NSAs as well as other issues of concern prior to the commencement of L.N. 237 on 31 March 2016. The Administration would review the implementation of designating the eight bus interchanges at the eight tunnel portal areas as NSAs in 12 months.</p> <p>The Chairman and Mr Albert CHAN's expression of dissatisfaction with the Administration's response, and their views that the Administration did not respect the Subcommittee.</p>	<p>ALA3</p>
020032 - 021228	Chairman Admin	Presentation by the Administration on the two sets of Powerpoint materials entitled "Plans and photos of NSAs and areas where smoking is not prohibited at bus interchanges at tunnel portal areas (supplementary illustration)" (LC Paper No. CB(2)739/15-16(01)) and "Publicity plan" (LC Paper No. CB(2)739/15-16(02)) which were tabled at the meeting	
021229 - 021336	Chairman Mr Albert CHAN Clerk	Site visit to the Bus-Bus Interchanges on Tuen Mun Road	
021337 - 022424	Chairman Mr KWOK Wai-keung Admin	<p>Mr KWOK Wai-keung's concern about the availability of facilities, such as cigarette butt containers and panels to separate smokers and non-smokers, at areas in the vicinity of the eight bus interchanges where smoking was not prohibited, as well as the arrangement for clearing the containers.</p> <p>The Administration's advice that where appropriate, the Food and Environmental Hygiene Department and the venue managers concerned would place litter bins with ashtray and/or cigarette butt containers at areas outside the boundary of the proposed new NSAs; and its elaboration of the response given in paragraph 4 of LC Paper No. CB(2)719/15-16(02) on efforts to be made to facilitate the implementation of the proposed smoking ban.</p>	
022425 - 023002	Chairman Mr Albert CHAN Mr KWOK Wai-keung	<p>The Chairman's remarks that the Subcommittee would hold another meeting after the site visit to be conducted on 1 February 2016, and that the Administration should consider deferring the commencement date of L.N. 237 in the light of members' concerns.</p> <p>Mr Albert CHAN's view that the Administration should, in the formulation of its tobacco control measures, strike a proper balance between protecting non-smokers from second-hand smoking and safeguarding the interests of</p>	

Time marker	Speaker	Subject(s)/Discussion	Action required
		smokers through measures such as setting up smoking rooms in NSAs where appropriate. Mr KWOK Wai-keung's view that the Administration should further improve the measures for implementing the proposed smoking ban. He did not hold a strong view on whether the commencement date of L.N. 237 should be deferred.	
<i>Agenda item III: Any other business</i>			
023003 - 023017	Chairman	Site visit to three bus interchanges on 1 February 2016 Closing remarks	

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Legislative Council Secretariat
24 March 2016