

**立法會**  
**Legislative Council**

LC Paper No. CB(2)844/17-18

(These minutes have been  
seen by the Administration)

Ref : CB2/SS/4/16

**Subcommittee on Smoking (Public Health) (Notices)  
(Amendment) Order 2017**

**Minutes of the fourth meeting  
held on Friday, 26 May 2017, at 8:30 am  
in Conference Room 1 of the Legislative Council Complex**

**Members present** : Dr Hon KWOK Ka-ki (Chairman)  
Hon Tommy CHEUNG Yu-yan, GBS, JP  
Prof Hon Joseph LEE Kok-long, SBS, JP  
Hon WONG Ting-kwong, SBS, JP  
Hon Paul TSE Wai-chun, JP  
Hon LEUNG Kwok-hung  
Hon YIU Si-wing, BBS  
Hon Charles Peter MOK, JP  
Hon CHAN Chi-chuen  
Hon Alice MAK Mei-kuen, BBS, JP  
Hon Dennis KWOK Wing-hang  
Dr Hon Fernando CHEUNG Chiu-hung  
Hon SHIU Ka-fai  
Hon YUNG Hoi-yan  
Dr Hon Pierre CHAN  
Hon KWONG Chun-yu  
Hon Jeremy TAM Man-ho

**Members absent** : Hon CHAN Han-pan, JP  
Dr Hon Helena WONG Pik-wan  
Hon IP Kin-yuen  
Hon Andrew WAN Siu-kin  
Hon CHU Hoi-dick  
Dr Hon Junius HO Kwan-yiu, JP  
Hon HUI Chi-fung  
Hon LAU Kwok-fan, MH

[According to the Judgment of the Court of First Instance of the High Court on 14 July 2017, LEUNG Kwok-hung, Nathan LAW Kwun-chung, YIU Chung-yim and LAU Siu-lai have been disqualified from assuming the office of a member of the Legislative Council, and have vacated the same since 12 October 2016, and are not entitled to act as a member of the Legislative Council.]

- Public Officers :** Prof Sophia CHAN Siu-chee, JP  
**attending** Under Secretary for Food and Health
- Miss Amy YUEN Wai-yin  
Deputy Secretary for Food and Health (Health) 2  
Food and Health Bureau
- Dr Tina CHAN Siu-mui  
Assistant Director of Health (Special Health Services)  
Department of Health
- Dr Jeff LEE Pui-man  
Head (Tobacco Control Office)  
Department of Health
- Ms Phyllis POON Hon-ying  
Senior Government Counsel  
Department of Justice
- Clerk in :** Ms Maisie LAM  
**attendance** Chief Council Secretary (2) 5
- Staff in :** Miss Rachel DAI  
**attendance** Assistant Legal Adviser 2
- Ms Priscilla LAU  
Council Secretary (2) 5
- Miss Maggie CHIU  
Legislative Assistant (2) 5

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Action

**I. Meeting with the Administration**

[File Ref.: L.N. 66 of 2017, Legislative Council Brief issued by the Food and Health Bureau and the Department of Health in April 2017, LC Paper Nos. LS58/16-17, CB(2)1340/16-17(02) to (03), CB(2)1443/16-17(01), CB(2)1445/16-17(01) and CB(2)1494/16-17(01) to (03)]

Action

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

Disclosure of interests

2. The Chairman reminded members that in accordance with Rule 83A of the Rules of Procedures, they should disclose the nature of any direct or indirect pecuniary interests relating to the Smoking (Public Health) (Notices) (Amendment) Order 2017 ("the Amendment Order") before they spoke on the subject.

3. Mr WONG Ting-kwong said that he was serving as an honorary advisor to the Tobacco Control Concern Group on a pro bono basis in the capacity of being a Member returned from the functional constituency of Import and Export. He noted that an organization had raised concern about the presence of certain Legislative Council ("LegCo") Members, whom it considered to have vested interests in the tobacco industry, at meetings of the Subcommittee. The Legal Adviser to the Subcommittee elaborated on the rule relating to disclosure of personal pecuniary interest under the Rules of Procedures of LegCo.

Extension of the scrutiny period

4. The Subcommittee noted that the resolution to extend the scrutiny period of the Amendment Order to the Council meeting of 14 June 2017 was passed at the Council meeting of 24 May 2017. The deadline for giving notice of amendment to the Amendment Order was 7 June 2017.

Examination of the sections of and the draft amendments to the Amendment Order

5. The Subcommittee completed examination of the sections of the Amendment Order.

6. Members noted Dr Junius HO's proposal to amend the Amendment Order to the effect that the coverage of the health warnings on the two largest surfaces of a packet or retail container of cigarettes and a retail container of pipe tobacco or cigarette tobacco would be reduced from 85% as proposed to 70%, that on the largest surface on the back of a retail container of cigars would be reduced from 100% as proposed to 70%, and that on the curved surface of the drum of a packet or retail container of the above tobacco products in the shape of a cylindrical drum would be reduced from 85% as proposed to 70% [LC Paper No. CB(2)1445/16-17(01)].

Action

7. Members also noted Mr SHIU Ka-fai's set of draft amendments to the Amendment Order which was tabled at the meeting [LC Paper No. CB(2)1515/16-17(01)]. The draft amendments sought to (a) reduce the coverage of the health warnings on the two largest surfaces of a packet or retail container of cigarettes and a retail container of pipe tobacco or cigarette tobacco from 85% as proposed to 65%, and reduce that on the largest surface on the front and back of a retail container of cigars from 70% and 100% as respectively proposed to 65%, and that on the curved surface of the drum of a packet or retail container of the above tobacco products in the shape of a cylindrical drum from 85% as proposed to 65%; (b) allow the seal of soft pack cigarettes to partially obscure the top part of the Chinese and English versions of the same health warning appearing on the two largest surfaces of the packet; and (c) allow the sale of tobacco products with pre-amendment health warnings during the 12 months after the day on which the Smoking (Public Health) (Notices) Order (Cap. 371B) as amended came into operation.

8. Members noted the Administration's written response to the draft amendments proposed by Dr Junius HO [LC Paper No. CB(2)1494/16-17(03)] and its verbal response to the draft amendments proposed by Mr SHIU Ka-fai.

Admin

9. Members noted that the Administration was in the course of considering certain amendments to the Amendment Order and would provide its set of draft amendments before the next meeting of the Subcommittee. Members agreed to consider the draft amendments proposed by Dr Junius HO and Mr SHIU Ka-fai, together with that to be proposed by the Administration, at the next meeting.

Date of next meeting

10. Members agreed that the next meeting would be held on 2 June 2017 at 8:30 am. Members noted that the Chairman would make a verbal report on the deliberations of the Subcommittee to the House Committee at its meeting to be held in the afternoon of 2 June 2017.

**II. Any other business**

11. There being no other business, the meeting ended at 10:00 am.

**Proceedings of the fourth meeting of  
the Subcommittee on Smoking (Public Health) (Notices)  
(Amendment) Order 2017  
held on Friday, 26 May 2017, at 8:30 am  
in Conference Room 1 of the Legislative Council Complex**

<b>Time marker</b>	<b>Speaker</b>	<b>Subject(s)/Discussion</b>	<b>Action required</b>
<i>Agenda item I: Meeting with the Administration</i>			
000827 - 001052	Chairman	<p>Opening remarks</p> <p>The tabling of the draft amendments proposed by Mr SHIU Ka-fai (LC Paper No. CB(2)1515/16-17(01)); a letter dated 25 May 2017 from Mr SHIU Ka-fai to the Administration which was copied to the Subcommittee (LC Paper No. CB(2) 1514/16-17(01)); and a further submission from the British-American Tobacco Company (Hong Kong) Limited respectively (LC Paper No. CB(2)1514/16-17(02)).</p>	
001053 - 001702	Chairman Admin	Briefing by the Administration on its respective responses to the follow-up actions arising from the discussion at the meetings on 16 and 23 May 2017 (LC Paper No. CB(2)1494/16-17(02)) and the draft amendments proposed by Dr Junius HO (LC Paper No. CB(2)1494/16-17(03)) which were tabled at the meeting.	
001703 - 002813	Chairman Mr WONG Ting-kwong Legal Adviser to the Subcommittee Admin	<p>The Chairman's advice that members were required to disclose their direct or indirect pecuniary interests in the matter under discussion.</p> <p>Mr WONG Ting-kwong declared that he was serving as an honorary advisor to the Tobacco Control Concern Group on pro bono basis; and he noted that an organization had raised concern about the presence of certain Legislative Council ("LegCo") Members, whom it considered to have vested interests in the tobacco industry, at the meetings of the Subcommittee. The Legal Adviser to the Subcommittee elaborated on the rule relating to disclosure of personal pecuniary interest under the Rules of Procedures of LegCo.</p> <p>Mr WONG Ting-kwong's call for the Administration to provide a set of health warning images in landscape orientation for retail containers of ten cigarette packets to avoid image distortion; and the Chairman's view that the Administration should provide clear guidelines in this regard for reference of the tobacco trade.</p> <p>The Administration's advice that the Tobacco Control Office would provide advice or support regarding the positioning of the health warning images on packets and retail containers of tobacco products. Provided that the graphical health warning and message were clearly visible, possible distortion of the health warning image could be reduced by proper orientation of the image on the retail containers concerned. That said, the Administration would further look into the matter.</p>	

Time marker	Speaker	Subject(s)/Discussion	Action required
002814 - 003511	Chairman Mr SHIU Ka-fai Admin	In response to Mr SHIU Ka-fai's enquiries, the Administration advised that it would consider proposing amendments to the Smoking (Public Health) (Notices) (Amendment) Order 2017 ("the Amendment Order") to extend the 12-month adaptation period (counting from gazettal of the Amendment Order) by two months and address the technical concerns arising from the imposition of the proposed new requirements on soft pack cigarettes. As regards the proposed increase in the size of the health warnings to cover at least 70% and 100% of the area of the two largest surfaces of the retail containers of cigars, the law enforcement agencies might not prosecute the offender if the alleged contravention was considered to be of a trivial nature.	
003512 - 004502	Chairman Dr Fernando CHEUNG Admin Legal Adviser to the Subcommittee	<p>Dr Fernando CHEUNG's view that in line with the international trend, plain packaging for tobacco products should be implemented in Hong Kong; and his enquiries about the position of the Administration in this regard, as well as the admissibility of any amendments proposed by members to the Amendment Order to the effect of requiring tobacco products to carry plain packaging.</p> <p>The Administration's advice that:</p> <ul style="list-style-type: none"> <li>(a) the Administration would evaluate in due course the planning for further measures, including the introduction of plain packaging, after the implementation of the legislative proposals; and</li> <li>(b) the Amendment Order sought to amend the prescribed forms of the health warning and indication of tar and nicotine yields on packets or retail containers of tobacco products as specified in the Smoking (Public Health) (Notices) Order (Cap. 371B) ("the Order") which was made under section 18(2) of the Smoking (Public Health) Ordinance (Cap. 371). Given that the Amendment Order could only be amended in a manner that was consistent with the power to make it, any amendments seeking to requiring tobacco products to carry plain packaging might be outside scope to be moved.</li> </ul> <p>The Legal Adviser to the Subcommittee concurred with the view of the Administration set out in paragraph (b) above.</p>	
004503 - 004859	Chairman Mr Jeremy TAM Admin	Mr Jeremy TAM's view that since there were more than 800 different variations of retail container packaging for cigars in the local market, it was technically impracticable for the local agents to ensure that the health warning would exactly cover 100% of the area of the largest surfaces on the back of the retail container concerned without any slight deviations arising from the manual procedures. Hence, the Administration should slightly reduce the above requirement, say, to 90%. However, he did not support the respective amendments proposed by Dr Junius HO and Mr SHIU Ka-fai to significantly reduce the coverage of health warnings on retail containers of cigars.	

Time marker	Speaker	Subject(s)/Discussion	Action required
		The Administration's response that it considered the current legislative proposal of requiring the health warning to cover at least 70% and 100% of the area of the largest surface on the front and the back of the retail container of cigar appropriate.	
004900 - 004929	Chairman	Commencement of examination of the sections of the Amendment Order	
004930 - 005242	Chairman Admin	<u>Examination of sections 1 to 5</u>	
005243 - 005904	Admin Chairman Legal Adviser to the Subcommittee	<u>Examination of section 6</u>  In response to the Legal Adviser to the Subcommittee's enquiry, the Administration advised that in line with the existing practice, the health warning and indication of tar and nicotine yields might appear on a label securely affixed to a packet or retail container if either the condition as set out in the proposed new paragraph 3(9)(a) or 3(9)(b) of the Order was satisfied.	
005905 - 010648	Chairman Admin	<u>Examination of section 7</u>  The Chairman's enquiry about the inconsistency between the coverage of the Chinese version of health warning required and the coverage of the English version of the same warning required under the proposed new paragraphs 4A(5) and 4A(7) of the Order.  The Administration's explanation that in both cases, the health warning to be appeared on the more prominent surface of the retail container concerned (i.e. the largest surface on the front of a retailer container of cigars or the curved surface of a drum-shaped retail container of cigars) would be the Chinese version.	
010649 - 010944	Chairman Admin	<u>Examination of section 8</u>  In response to the Chairman's enquiry, the Administration elaborated on the health warning requirements for retail containers of cigars and retail containers containing one cigar as specified under the proposed new paragraphs 4A and 4AA of the Order respectively.	
010945 - 011855	Chairman Admin	<u>Examination of sections 9 to 12</u>  The Chairman's view that for the messages included in the new prescribed forms of health warnings, consideration could be given to increasing the font size or displaying the Chinese characters in different colour so as to enhance legibility. In response, the Administration agreed to consider the suggestions in the next legislative exercise.  In response to the Chairman's enquiry, the Administration advised that the specified size of the health warning on retail containers containing one cigar (i.e. the width and length were 7 cm and 3 cm respectively) would remain unchanged.	

<b>Time marker</b>	<b>Speaker</b>	<b>Subject(s)/Discussion</b>	<b>Action required</b>
011856 - 013041	Chairman Mr SHIU Ka-fai Admin	Briefing by Mr SHIU Ka-fai on his draft amendments to the Amendment Order (LC Paper No. CB(2)1515/16-17(01)); and the response of the Administration to the draft amendments.  Noting that the Administration had indicated at the earlier part of the meeting that it was in the course of considering making certain amendments to the Amendment Order, the Chairman urged the Administration to provide its set of draft amendments before the next meeting for members' consideration.	
<i>Agenda item II: Any other business</i>			
013042 - 013121	Chairman	Date of next meeting  Closing remarks	

Council Business Division 2  
Legislative Council Secretariat  
6 February 2018