

立法會
Legislative Council

LC Paper No. CB(2)199/18-19

(These minutes have been
seen by the Administration)

Ref : CB2/BC/2/17

Bills Committee on Inland Revenue (Amendment) (No. 4) Bill 2018

**Minutes of the second meeting
held on Monday, 9 July 2018, at 10:45 am
in Conference Room 3 of the Legislative Council Complex**

- Members present** :
- Hon Kenneth LEUNG (Chairman)
 - Hon Holden CHOW Ho-ding (Deputy Chairman)
 - Hon Starry LEE Wai-king, SBS, JP
 - Hon CHAN Chi-chuen
 - Hon Alice MAK Mei-kuen, BBS, JP
 - Dr Hon KWOK Ka-ki
 - Hon KWOK Wai-keung, JP
 - Dr Hon Helena WONG Pik-wan
 - Hon CHUNG Kwok-pan
 - Dr Hon Pierre CHAN
- Members absent** :
- Hon WONG Ting-kwong, GBS, JP
 - Hon Charles Peter MOK, JP
- Public Officers attending** :
- Mr FONG Ngai
Deputy Secretary for Food and Health (Health) 3
Food and Health Bureau

 - Mr Bill LI Chi-pang
Principal Assistant Secretary for Food and Health
(Health) 4
Food and Health Bureau

 - Ms Iris YICK Pui-yin
Assistant Secretary for Food and Health (Health) 4A
Food and Health Bureau

Mr CHIU Kwok-kit
Deputy Commissioner (Technical)
Inland Revenue Department

Ms WONG Pui-ki
Senior Assessor (Research) 2
Inland Revenue Department

Mr Salvador TSANG Hoi-fung
Government Counsel
Department of Justice

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

Staff in attendance : Mr Bonny LOO
Assistant Legal Adviser 4

Ms Priscilla LAU
Council Secretary (2) 5

Miss Maggie CHIU
Legislative Assistant (2) 5

Action

I. Meeting with the Administration

[File Ref: FH CR 1/3822/13, LC Paper Nos. CB(3)608/17-18, LS59/17-18, CB(2)1602/17-18(02) to (07) and CB(2)1729/17-18(01) to (08)]

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

Follow-up actions required of the Administration

Admin

2. The Bills Committee requested the Administration to:

- (a) in respect of the proposed section 26I of the Inland Revenue Ordinance (Cap. 112) ("the Ordinance") which defined "adopted" as "adopted in any manner recognized by the laws

Action

of Hong Kong", in relation to a taxpayer who was adopted by a same-sex couple ("the Parents") in any place outside Hong Kong according to the law of that place, please clarify whether the following individuals would qualify as the taxpayer's "specified relative" for the purposes of the proposed section 26J(1) of the Ordinance:

- (i) the Parents;
 - (ii) the parents of each of the Parents (i.e. the taxpayer's adoptive grandparents);
 - (iii) an individual born of a heterosexual marriage to which one of the Parents was or is a party; and
 - (iv) an individual (other than the taxpayer) adopted by one or both of the Parents in any place outside Hong Kong according to the law of that place;
- (b) consider the suggestion of some members that given that administration cost took up as much as 37% of the total spending in privately purchased health insurance schemes in 2014-2015, the administration cost of those hospital indemnity insurance policies certified by the Secretary for Food and Health to be in compliance with the Voluntary Health Insurance Scheme ("VHIS policies"), or at the very least that of the standard plans under the VHIS policies, should be subject to regulation; and
- (c) in respect of the annual benefit limit for psychiatric treatment as a result of confinement in a psychiatric hospital or psychiatric ward of a hospital in Hong Kong on the recommendation by a specialist (i.e. \$30,000 per policy year) as set out in the Standard Plan Policy Template, provide for reference of the Bills Committee the number of patients using private inpatient psychiatric service in the past two years and the average treatment expenses incurred by these patients during the confinement period.

Admin

3. The Administration agreed to consider the Chairman's suggestion of making public information on expense loading of the individual indemnity hospital insurance plans certified by the Secretary for Food and Health to be in compliance with the Voluntary Health Insurance Scheme ("VHIS"), say, through a dedicated VHIS website.

Action

Written submissions on the Bill

- Admin 4. Members noted the five written submissions on the Bill (LC Paper No. CB(2)1729/17-18(03) to (07)). The Administration agreed to provide after the meeting a written response to the issues raised in the submissions.

Way forward

5. Members agreed that the Bills Committee would proceed to clause-by-clause examination of the Bill at the next meeting.
6. Mr CHUNG Kwok-pan indicated his intention to propose an amendment to the Bill to increase the maximum deduction allowable to a taxpayer as provided for in the proposed Schedule 3E to the Ordinance.
7. Dr KWOK Ka-ki indicated his intention to propose an amendment to the Bill to cap the administration cost to be charged by a VHIS provider to a VHIS policy.
- Admin 8. The Chairman requested the Administration to provide its draft amendments to the Bill for members' consideration at the next meeting.

II. Any other business

9. Members agreed that the next meeting of the Bills Committee would be held on 19 July 2018 at 10:45 am.
10. There being no other business, the meeting ended at 12:44 pm.

**Proceedings of the second meeting of
the Bills Committee on Inland Revenue (Amendment) (No. 4) Bill 2018
held on Monday, 9 July 2018, at 10:45 am
in Conference Room 3 of the Legislative Council Complex**

Time marker	Speaker	Subject(s)/Discussion	Action required
<i>Agenda item I: Meeting with the Administration</i>			
000847 - 001034	Chairman	Opening remarks	
001035 - 001233	Chairman Admin	Briefing by the Administration on its response to the follow-up actions arising from the discussion at the meeting on 15 June 2018 [LC Paper No. CB(2)1219/17-18(02)]	
001234 - 001929	Chairman Dr Pierre CHAN Admin	<p>Dr Pierre CHAN's views that given the extremely expensive drug treatments for cancer, the Administration should increase the benefit limit of the Standard Plan (i.e. individual indemnity hospital insurance plan which met the minimum compliant product requirements of Voluntary Health Insurance Scheme ("VHIS") in respect of its terms and conditions) for prescribed non-surgical cancer treatments; and a mechanism should be put in place to adjust the benefit limits of Standard Plan in order to catch up with medical inflation.</p> <p>The Administration's advice that it was prudent to set the benefit limit of Standard Plan for non-surgical cancer treatments at \$80,000 per policy year so as to achieve a proper balance between consumer protection and premium affordability. Consumers who wished to have enhanced protection could choose to purchase policies issued under the Flexi Plan which provided enhancement(s) to any or all of the protections or terms and benefits that the Standard Plan provided. The level of benefit limits of Standard Plan would be subject to review from time to time after the implementation of VHIS.</p>	
001930 - 002756	Chairman Mr CHAN Chi-chuen Admin	The Administration was requested to provide a written response to the scenarios cited by Mr CHAN Chi-chuen concerning, for the purposes of the proposed section 26J(1) of the Inland Revenue Ordinance ("the Ordinance"), which persons would qualify as "specified relatives" of a taxpayer who was adopted by a same-sex couple in any place outside Hong Kong according to the law of that place.	Admin
002757 - 005028	Chairman Dr Pierre CHAN Admin Mr CHUNG Kwok-pan Dr KWOK Ka-ki	<p>In response to Mr CHUNG Kwok-pan's enquiry, the Administration advised that it was estimated that about 1.5 million people would purchase or migrate to VHIS policies (with 70% to 80% being Flexi Plan policies) in the first three years of implementation of VHIS.</p> <p>Dr Pierre CHAN's view that the levels of administration cost and commission of individual indemnity hospital insurance plans certified by the Administration to be in compliance with VHIS ("Certified Plans") should be subject to regulation.</p> <p>Pointing out that tax revenue would be forgone under the legislative proposal and making reference to the statutory fee</p>	

Time marker	Speaker	Subject(s)/Discussion	Action required
		<p>control requirement under the Mandatory Provide Fund Default Investment Strategy, Mr CHUNG Kwok-pan was of the view that at the very least, the level of administration cost of the Standard Plans should be subject to regulation.</p> <p>Dr KWOK Ka-ki's view that given that administration cost took up as much as 37% of the total spending in privately purchased health insurance schemes in Hong Kong in 2014-2015 and the legislative proposal of offering an annual tax deduction for the qualifying premiums paid during a year of assessment for an insured person under a VHIS policy would incentivize people to take up VHIS policies, the Administration should consider regulating the level of administration cost of VHIS policies.</p> <p>The Administration's advice that VHIS was a voluntary system. In accordance with the free market principle, it had no intention to regulate the level of the administration cost charged by the VHIS providers to a VHIS policy. It should also be noted that VHIS would bring about enhanced transparency and product comparability, which in turn would foster market competition amongst the VHIS providers.</p> <p>The Chairman pointed out that the online Fee Comparative Platform of the Mandatory Provident Fund Schemes Authority had set out, for reference of scheme members, the Fund Expense Ratio of various funds as well as the average Fund Expense Ratio of different fund types. In response, the Administration agreed to consider the Chairman's suggestion of making public the expense loading of the Certified Plans offered by different VHIS providers, say, through a dedicated VHIS website.</p>	Admin
005029 - 005909	Chairman Mr CHUNG Kwok-pan Admin	<p>In response to Mr CHUNG Kwok-pan's enquiry, the Administration advised that it was proposed that the maximum deduction allowable to a taxpayer in respect of qualifying premiums paid during a year of assessment for each insured person who was either the taxpayer or a specified relative of the taxpayer in the year of assessment would be \$8,000. About 90% of the policy holders of Standard Plans, the average premium of which was projected to be around \$4,800 per policy year, could have their qualifying premiums fully deductible under the current proposal. The estimated tax revenue forgone would be about \$800 million in the third year of implementation of VHIS.</p> <p>Mr CHUNG Kwok-pan considered that qualifying premiums paid under a policy issued under a Flexi Plan should be granted a higher maximum deduction. In response, the Administration advised that pegging the maximum deduction allowable in respect of each insured person at \$8,000 per year was already very generous. The arrangement that there would be no cap on the number of specified relatives for whom tax deductions might be claimed by a taxpayer provided more flexibility.</p>	
005910 - 011114	Chairman Dr KWOK Ka-ki Admin	Noting that there were around 2.3 million individual indemnity hospital insurance policy holders in 2016, Dr KWOK Ka-ki cast doubt as to whether the legislative proposal could incentivize	

Time marker	Speaker	Subject(s)/Discussion	Action required
		<p>people to take up VHIS policies as most people who were willing and able to purchase such policies had already done so. In response, the Administration advised that among the insured persons, about half of their local hospital admissions pertained to the public sector. The objective of VHIS was to enhance transparency and accessibility of the VHIS market segment, so that the insured persons would have greater confidence in using private healthcare services.</p> <p>Dr KWOK Ka-ki's view that given that the benefit limit of Standard Plan for non-surgical cancer treatments, which was at the level of \$80,000, was far from adequate to cover the cancer drug treatment expenses, the Administration should provide subsidy to cover the remaining balance to be borne by VHIS policy holders who were incentivized to take up VHIS.</p> <p>The Administration's advice that VHIS was part and parcel of the Administration's efforts in strengthening the dual-track healthcare system. It should be noted that there were measures in place to subsidize the medical expenses of eligible patients under the care of the public healthcare system. A review on the existing means test of the medical assistance programmes to address, among others, the community's concern of recurrent use of ultra-expensive drugs was also underway.</p>	
011115 - 011920	Chairman Ms Alice MAK Admin	<p>Ms Alice MAK's view that the legislative proposal would mainly attract policy holders of existing individual indemnity hospital insurance policies to migrate to VHIS policies. There was a need to re-examine the proposal to establish a high risk pool under VHIS.</p> <p>The Administration's remark that compared with many existing individual indemnity hospital insurance products, VHIS policies were more attractive in a number of ways, such as guaranteed renewal until the insured person turns 100; no "lifetime benefit limit"; and coverage extended to include ambulatory procedures.</p> <p>In response to Ms Alice MAK's enquiry about the timetable for implementing VHIS, the Administration advised that if the Bill was passed at a Council meeting in October 2018, the ordinance (if enacted) would come into operation on 1 April 2019. During that interim period, insurance companies could submit their individual indemnity hospital insurance plans to the Food and Health Bureau to certify if such plans were VHIS-compliant. It was expected that some certified VHIS policies would be available for application in early 2019. Concessionary tax deduction in respect of the qualifying premium paid would come into force starting from the year of assessment commencing on 1 April 2019.</p>	
011921 - 012248	Chairman Admin	<p>The Administration's verbal response to the issues raised in the written submissions to the Bills Committee (LC Paper Nos. CB(2)1729/17-18(03) to (07)) and its undertaking to provide a written response in this regard after the meeting.</p>	Admin

Time marker	Speaker	Subject(s)/Discussion	Action required
012249 - 012527	Chairman Mr CHUNG Kwok-pan ALA4	<p>In response to Mr CHUNG Kwok-pan's enquiry, the Administration advised that except for the psychiatric treatment, all benefits under the Standard Plans were applicable worldwide.</p> <p>Mr CHUNG Kwok-pan's indication of his intention to propose an amendment to the Bill to increase the maximum deduction allowable to a taxpayer as provided for in the proposed Schedule 3E to the Ordinance.</p> <p>The Legal Adviser to the Bills Committee advised on the possible "charging effect" of any proposed amendments to the Bill to increase concessionary deductions (and hence decrease the Government's revenue), which might dispose of or charge any part of the revenue or other public moneys of Hong Kong, and further advised that whether an amendment might have possible charging effect would be considered by the President of the Legislative Council ("LegCo") in determining its admissibility under Rule 57(6) of the Rules of Procedure.</p>	
012528 - 014111	Chairman Dr KWOK Ka-ki Admin	<p>Dr KWOK Ka-ki's suggestion that the maximum deduction allowable to a taxpayer should be on a sliding scale in accordance with the age groups (say, below 20; 20-40; 40-60; and 60 or above) the insured persons belonged to, such that a VHIS policy holder who had to pay a higher premium due to the higher health risks of an insured person of an older age would be able to claim more concessionary deduction.</p> <p>The Administration's explanation of the nature of the three types of deductions that taxpayers might claim to deduct from their assessable income under salaries tax, i.e. outgoing and expenses, concessionary deductions, and allowances; and its reiteration that about 90% of the policy holders of Standard Plans could have their qualifying premiums fully deductible under the current proposal and there was no cap on the number of specified relatives in respect of whom a taxpayer might claim deduction.</p>	
014112 - 014304	Chairman Dr KWOK Ka-ki ALA4	<p>In respect of Dr KWOK Ka-ki's intention to propose an amendment to the Bill to cap the administration cost to be charged by a VHIS provider to a VHIS policy, the Legal Adviser to the Bills Committee advised that from a drafting perspective an option was to amend the definition of the term "VHIS policy" as set out in the proposed section 26I of the Ordinance. However, as far as admissibility was concerned, Rule 57(4)(a) of the Rules of Procedure required any amendments to the Bill to be relevant to the subject matter of the Bill and to the subject matter of the clause to which it related. Whether an amendment was relevant and hence admissible would be subject to the ruling of the President of LegCo after taking into account all relevant considerations.</p>	
014305 - 014831	Chairman Mr CHUNG Kwok-pan Admin Dr KWOK Ka-ki	<p>Mr CHUNG Kwok-pan's enquiry as to whether re-underwriting was required if a policy holder who had signed up for existing individual indemnity hospital insurance policy before the implementation of VHIS ("existing policy holders") opted to migrate to a VHIS policy.</p>	

Time marker	Speaker	Subject(s)/Discussion	Action required
		<p>The Administration's advice that VHIS providers were required to offer a one-off VHIS-compliant product option to all existing policy holders. Under the migration arrangement, the existing policy holders could be offered (a) without re-underwriting, the same plan with the incorporation of VHIS features for renewal; and/or (b) subject to re-underwriting, a different plan incorporating VHIS features. In the case of (b), the existing policy would not be renewed if the policy holder opted to switch to the new plan.</p> <p>Dr KWOK Ka-ki's concern that those existing policy holders who could not afford to migrate to VHIS-compliant products were not eligible to claim the concessionary tax deduction in question.</p>	
014832 - 020213	Chairman Dr KWOK Ka-ki Admin	<p>Pointing out that private inpatient psychiatric service was still at its developmental stage in Hong Kong, Dr KWOK Ka-ki was of the view that, in terms of psychiatric treatment, the benefit items of the Standard Plan should be expanded from covering only psychiatric treatment as a result of confinement in a psychiatric hospital or psychiatric ward of a hospital in Hong Kong to psychiatric outpatient treatment.</p> <p>The Administration's advice that at present, around 90% of inpatient services (in terms of number of bed days) were provided by public hospitals. An objective of VHIS was to adjust the balance of the public-private healthcare sectors in this regard by improving the accessibility, quality and transparency of individual indemnity hospital insurance products and, hence, consumers' confidence in making use of their insurance coverage to patronize private healthcare services. It should be noted that in terms of attendance, around 70% of outpatient services were provided by the private sector.</p> <p>Dr KWOK Ka-ki's request for the Administration to provide the number of patients using private inpatient psychiatric service in the past two years and the average treatment expenses incurred by these patients during the confinement period.</p>	Admin
<i>Agenda item II: Any other business</i>			
020214 - 020330	Chairman Admin	<p>Closing remarks</p> <p>Arrangements for the next meeting</p>	