

立法會
Legislative Council

LC Paper No. CB(2)1534/17-18
(These minutes have been seen
by the Administration)

Ref : CB2/SS/7/17

Subcommittee on Smoking (Public Health)
(Designation of No Smoking Areas) (Amendment) Notice 2018

Minutes of meeting
held on Tuesday, 15 May 2018, at 10:45 am
in Conference Room 2 of the Legislative Council Complex

Members present : Dr Hon KWOK Ka-ki (Chairman)
Hon WONG Ting-kwong, GBS, JP
Hon YIU Si-wing, BBS
Hon CHAN Chi-chuen
Dr Hon Helena WONG Pik-wan
Hon SHIU Ka-fai
Dr Hon Pierre CHAN
Hon HUI Chi-fung

Public Officers attending : Miss Amy YUEN Wai-yin
Deputy Secretary for Food and Health (Health)2,
Food and Health Bureau

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

Miss Selina LAU Suet-ching
Senior Government Counsel, Department of
Justice

Clerk in attendance : Mr Colin CHUI
Chief Council Secretary (2) 4

Staff in attendance : Miss Evelyn LEE
Assistant Legal Adviser 10

Ms Catherina YU
Senior Council Secretary (2) 4

Mr Roger CHUNG
Council Secretary (2) 4

Miss Alison HUI
Legislative Assistant (2) 4

Action

I. Election of Chairman

Election of Chairman

Mr YIU Si-wing, member present who had the highest precedence, presided over the election of Chairman of the Subcommittee. Mr YIU called for nominations for the chairmanship of the Subcommittee. Dr KWOK Ka-ki was nominated by Mr CHAN Chi-chuen and the nomination was seconded by Dr Pierre CHAN. Dr KWOK accepted the nomination.

2. As there was no other nomination, Mr YIU Si-wing declared Dr KWOK Ka-ki elected as Chairman of the Subcommittee. Dr KWOK then took the chair.

3. Members agreed that there was no need to elect a Deputy Chairman for the Subcommittee.

II. Meeting with the Administration

[File Ref.: FH CR 7/52/581/89, L.N. 70 of 2018 and LC Paper Nos. LS54/17-18 and CB(2)1392/17-18(01)]

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

Follow-up actions to be taken by the Administration

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5. The Subcommittee requested the Administration to provide the following information:

- (a) the plans of the no smoking areas ("NSAs") of the two public transport facilities ("PTFs") which had been removed from the Schedule to the Smoking (Public Health) (Designation of No Smoking Areas) Notice (Cap. 371D), the plans showing the new locations of bus stops which had been relocated arising from the removal of such PTFs, and the proposed use of the sites where such PTFs were located;
- (b) the results of laboratory tests conducted by the Administration on electronic cigarettes and heat-not-burn tobacco products, including relevant analysis and the effect of the smoke of such substance on health;
- (c) the number of successful appeals against conviction of smoking offence committed in NSAs; and
- (d) the number of prosecutions arising from smoking of electronic cigarettes and heat-not-burn tobacco products.

(Post-meeting note: The Administration's response was issued to members vide LC Paper No. CB(2)1428/17-18(01) on 18 May 2018.)

III. Any other business

6. Members noted that the Subcommittee would give a verbal report on its deliberations to the House Committee at its meeting on 18 May 2018. The deadline for giving notice of amendment to the Smoking (Public Health) (Designation of No Smoking Areas) (Amendment) Notice 2018 was 23 May 2018 and the expiry date of scrutiny period for the subsidiary legislation was 30 May 2018.

7. There being no other business, the meeting ended at 12:01 pm.

**Proceedings of the meeting of the
Subcommittee on Smoking (Public Health)
(Designation of No Smoking Areas) (Amendment) Notice 2018
on Tuesday, 15 May 2018, at 10:45 am
in Conference Room 2 of the Legislative Council Complex**

Time marker	Speaker(s)	Subject(s)	Action required
<i>Agenda item I – Election of Chairman</i>			
000457 - 000559	Mr YIU Si-wing Mr CHAN Chi-chuen Dr Pierre CHAN Dr KWOK Ka-ki Chairman	Nominations for the chairmanship of the Subcommittee. Election of Chairman	
<i>Agenda item II – Meeting with the Administration</i>			
000600 - 001032	Chairman Administration	Briefing by the Administration on the Smoking (Public Health) (Designation of No Smoking Areas) (Amendment) Notice 2018 ("the Amendment Notice") (Legislative Council Brief (File Ref.: FH CR 7/52/581/89) issued by the Food and Health Bureau).	
001033 - 001511	Chairman Mr YIU Si-wing Administration	<p>Mr YIU Si-wing's enquiry and the Administration's response regarding the number of complaints and substantiated complaints against smoking in no smoking areas ("NSAs") in the past five years, as well as the number of prosecutions in relation to smoking offence committed therein in the same period.</p> <p>Mr YIU's enquiry regarding the reasons for designating the public transport facility ("PTF") at Siu Sai Wan Estate Bus Terminus as a new NSA. The Administration's response that in addition to the bus route (i.e. 694), the PTF concerned had become the bus terminus of another bus route (i.e. 788 special departure). As a result, the PTF concerned met the criteria for designation of PTF as an NSA (i.e. any bus terminus of more than one specified route as defined in section 2 of the Public Bus Services Ordinance (Cap. 230)).</p> <p>Mr YIU's view that the Administration should have the number of prosecutions arising from complaints against smoking in NSAs, with a view to showing the effectiveness of lodging such complaints.</p>	

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001512 - 002048	Chairman Dr Helena WONG Administration	<p>Dr Helena WONG's enquiry regarding the reasons for updating the details of the eight existing PTFs specified in the Schedule to the Smoking (Public Health) (Designation of No Smoking Areas) Notice (Cap. 371D). The Administration's response that changes in location, physical features and settings on the ground necessitated amendments to the extent of NSAs designated in the eight PTFs.</p> <p>Dr WONG's enquiry regarding the reasons for removing Ho Man Tin Estate Public Transport Interchange ("PTI") from the Schedule to Cap. 371D. The Administration's response that the PTF concerned no longer met the criteria for designation of an NSA owing to closure of the PTI concerned and the subsequent relocation of the relevant bus stops.</p> <p>Given that the bus stops at that PTI had been relocated to places which were not NSAs, Dr WONG was concerned about the impact of passive smoking on passengers waiting for buses at these places. The Administration's response that the Tobacco Control Office ("TCO") had conducted site visits to the bus stops and confirmed that they did not meet the criteria for designation as NSA under Section 3(1AB) of the Smoking (Public Health) Ordinance (Cap. 371).</p> <p>At Dr WONG's request, the Administration undertook to provide the plan of NSA of PTF at Ho Man Tin Estate PTI, the plan showing the new locations of bus stops which had been relocated arising from the closure of that PTI, and the proposed use of the site where that PTI was located.</p>	Admin (paragraph 5(a) of the minutes)
002049 - 002931	Chairman Mr CHAN Chi-chuen Administration	<p>In response to Mr CHAN Chi-chuen's enquiry about updating of the list of PTFs in the Schedule to Cap. 371D, the Administration advised that TCO intended to update the list of PTFs annually with a view to ensuring that the list was up-to-date in line with the actual situation. In addition, eight of the 11 bus interchanges leading to expressways or tunnels had also been designated as NSAs and the Administration planned to further designate the remaining three through another piece of subsidiary legislation which would be tabled at the Council meeting of 16 May 2018.</p> <p>Mr CHAN Chi-chuen's enquiry regarding whether the Administration would review Cap. 371. The Administration's response that Cap.</p>	

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		<p>371 provided for the designation of NSAs as necessary. The Administration had no plan to review Cap. 371 as such at this stage.</p> <p>Mr CHAN's view that no smoking signs and markings on the ground to indicate the boundaries of NSAs in PTFs were unclear and the Administration should improve in this regard. The Administration advised that TCO would arrange to display signs, publicity materials, and other demarcations including markings on the ground as appropriate to indicate clearly and visibly to the public the boundaries of NSA in each PTF, having regard to their respective physical settings. The plans showing the boundaries of NSAs would be posted at prominent positions such as the main entrances and exits. All plans of NSAs of PTFs had been deposited in the Land Registry for inspection by the public and such plans would also be posted on TCO's website.</p> <p>Mr CHAN's enquired whether a person might appeal against conviction of smoking offence committed in NSAs. The Administration's response that a fixed-penalty notice of \$1,500 would be issued to an offender of smoking offence committed in an NSA. The person concerned might lodge an appeal which would be dealt with by a magistrate. At Mr CHAN's request, the Administration undertook to provide the number of successful appeals in this regard.</p> <p>The Chairman's view and the Administration's response regarding changing the colour of the markings on the ground to indicate the boundaries of NSAs in PTFs.</p>	<p>Admin (paragraph 5(c) of the minutes)</p>
002932 - 003354	Chairman Mr HUI Chi-fung Administration	<p>Mr HUI Chi-fung's enquiry regarding the mechanism for updating the list of PTFs which were designated as NSAs. The Administration advised that an updated public transport list would be obtained from the Transport Department to identify any change of PTF. Besides, TCO would conduct site visits to PTFs to review the situation. Service contractors for maintaining the signs and publicity materials in NSAs would also inform the Administration of any change of PTF. The Administration would then conduct topographical surveys and prepare plans. It would then submit a draft amendment notice to the Legislative Council for deliberation.</p> <p>Mr HUI's enquiry and the Administration's response regarding the number of PTFs</p>	

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		designated as NSAs.	
003355 - 004634	Chairman Dr Helena WONG Administration	<p>Dr Helena WONG's enquiry and the Administration's response regarding the results of laboratory tests conducted by the Administration on electronic cigarettes and heat-not-burn tobacco products, including relevant analysis and the effect of the smoke of such substance on health. Dr WONG's request for a written response in this regard.</p> <p>Dr WONG's concerns and the Administration's response regarding the regulation of and enforcement action against electronic cigarettes and heat-not-burn tobacco products. At the request of the Chairman, the Administration undertook to provide information on the number of prosecutions arising from smoking of electronic cigarettes and heat-not-burn tobacco products.</p>	<p>Admin (paragraphs 5(b) of the minutes)</p> <p>Admin (paragraph 5(d) of the minutes)</p>
004635 - 005555	Chairman Mr SHIU Ka-fai Administration	<p>Mr SHIU Ka-fai's view that no smoking signs should be clear and visible to the public so that they could be aware of the smoking ban at a PTF, while signs should be displayed at NSA of a PTF to show the location of the nearest place where smoking was not prohibited and its approximate distance from the NSA concerned. The Administration advised that people could smoke outside the boundaries of NSAs. Signs showing the nearest place to smoke might encourage people to smoke, which was contrary to the Administration's tobacco control policy to discourage smoking. Mr SHIU's further view that such signs could be displayed by the Transport Department or bus companies to safeguard the interests of smokers.</p> <p>Mr SHIU's enquiry and the Administration's response on the enforcement action against smoking of electronic cigarettes and heat-not-burn tobacco products in NSAs. Views of the Chairman and Mr SHIU that the Administration should expeditiously regulate electronic cigarettes and heat-not-burn tobacco products, including their importation.</p>	
005556 - 010100	Chairman Administration Mr SHIU Ka-fai	The Chairman's view about strengthening the publicity, education and enforcement efforts at the five new PTFs which had been designated as NSAs. The Administration's response that TCO would arrange to display signs, publicity materials and other demarcations to indicate the boundaries of NSA in each PTF. If necessary, smoke free ambassadors would also promote the	

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		<p>implementation of the smoking ban on site before the commencement of the Amendment Notice.</p> <p>The Chairman's enquiry and the Administration's response regarding the number of NSAs the designation of which arose from public suggestions.</p> <p>The Chairman's view that the Administration should extend the scope of the smoking ban to cover bus stops in order to provide further protection against passive smoking in public places.</p> <p>The Administration reiterated its plan to further designate the remaining three bus interchanges leading to expressways or tunnels as NSAs which were mentioned above (time marker: 002049 - 002931). In designating NSAs, the Administration had to strike a proper balance between protecting non-smokers from passive smoking and the interests of smokers. It would also take into account feasibility of drawing boundaries of NSAs and enforceability of the smoking ban. The Administration had to study the situation of various bus stops and gauge the public's views before deciding the way forward.</p> <p>Members agreed that it was not necessary for the Subcommittee to meet with deputations.</p>	
010101 - 011918	Chairman Administration Dr Helena WONG	<p>Section-by-section examination of the Amendment Notice</p> <p>Dr Helena WONG's view that in briefing members about the updating of the list of PTFs, the Administration should provide the plans of NSAs of the PTFs concerned for members' reference.</p> <p>Views of the Chairman and Dr Helena WONG that the Administration should strengthen the publicity and enforcement efforts at the five new PTFs designated as NSAs.</p> <p>Dr WONG's enquiry and the Administration's response about consulting District Councils on the designation of the five new PTFs as NSAs.</p> <p>At the request of the Chairman, the Administration undertook to provide the plan of NSA of PTF at Yuen Long (East) PTI which had been removed from the Schedule to Cap. 371D, the plan showing the new locations of bus stops which had been relocated arising from the</p>	Admin (paragraph 5(a) of the minutes)

Time marker	Speaker(s)	Subject(s)	Action required
		<p>removal of that PTF, and the proposed use of the site where that PTF was located.</p> <p>In response to the Chairman's view on expanding the boundaries of NSA at Fo Tan Station PTI, the Administration advised that it had conducted site visits to the PTF concerned and taken into account the effect of passive smoking on queuing and boarding passengers in deciding the boundary of new NSAs. It had struck a balance between protecting non-smokers from passive smoking and the interests of smokers.</p> <p>Completion of scrutiny.</p>	
<i>Agenda item III - Any other business</i>			
011919 - 012024	Chairman Dr Helena WONG	<p>Members noted the legislative timetable.</p> <p>Members agreed that it was not necessary for the Subcommittee to extend the scrutiny period.</p>	