

立法會
Legislative Council

LC Paper No. CB(2)1506/19-20

(These minutes have been
seen by the Administration)

Ref : CB2/BC/4/18

Bills Committee on Smoking (Public Health) (Amendment) Bill 2019

**Minutes of the Ninth meeting
held on Tuesday, 2 June 2020, at 4:30 pm
in Conference Room 2 of the Legislative Council Complex**

Members present :

- Hon KWOK Wai-keung, JP (Chairman)
- Hon Elizabeth QUAT, BBS, JP (Deputy Chairman)
- Hon Tommy CHEUNG Yu-yan, GBS, JP
- Prof Hon Joseph LEE Kok-long, SBS, JP
- Hon WONG Ting-kwong, GBS, JP
- Hon Paul TSE Wai-chun, JP
- Hon Frankie YICK Chi-ming, SBS, JP
- Hon YIU Si-wing, BBS
- Hon MA Fung-kwok, SBS, JP
- Hon Charles Peter MOK, JP
- Hon CHAN Chi-chuen
- Hon Kenneth LEUNG
- Hon Alice MAK Mei-kuen, BBS, JP
- Dr Hon KWOK Ka-ki
- Hon Christopher CHEUNG Wah-fung, SBS, JP
- Dr Hon Fernando CHEUNG Chiu-hung
- Dr Hon Helena WONG Pik-wan
- Hon IP Kin-yuen
- Ir Dr Hon LO Wai-kwok, SBS, MH, JP
- Hon CHUNG Kwok-pan
- Hon Andrew WAN Siu-kin
- Hon Jimmy NG Wing-ka, JP
- Hon Junius HO Kwan-yiu, JP
- Hon SHIU Ka-fai
- Dr Hon Pierre CHAN
- Hon LUK Chung-hung, JP
- Hon Kenneth LAU Ip-keung, BBS, MH, JP
- Dr Hon CHENG Chung-tai

Hon Jeremy TAM Man-ho

Member attending : Hon Tony TSE Wai-chuen, BBS

Members absent : Hon LEUNG Yiu-chung
Hon Dennis KWOK Wing-hang
Hon CHU Hoi-dick
Hon CHEUNG Kwok-kwan, JP

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

Dr FUNG Ying
Head (Tobacco and Alcohol Control Office)
Department of Health

Dr Manny LAM
Senior Medical and Health Officer (Tobacco and
Alcohol Control Office) 1
Department of Health

Mr CHAN Tsz-tat
Assistant Commissioner (Intelligence and Investigation)
Customs and Excise Department

Mr LEE Kam-wing
Head of Revenue and General Investigation Bureau
Customs and Excise Department

Miss Celia HO
Government Counsel
Department of Justice

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

Staff in attendance : Ms Wendy KAN
Assistant Legal Adviser 6

Miss Kay CHU
Senior Council Secretary (2) 5

Mr Ronald LAU
Council Secretary (2) 5

Miss Maggie CHIU
Legislative Assistant (2) 5

Action

I. Meeting with the Administration

II. Way forward of the Bills Committee

[LC Paper No. CB(2)1096/19-20(03)]

[File Ref.: FH CR 1/3231/19, LC Paper Nos. LS48/18-19, CB(3)397/18-19, CB(2)244/19-20(01), CB(2)966/18-19(02), CB(2)1096/19-20(01) to (03), CB(2)1175/18-19(01), CB(2)1431/18-19(04), CB(2)1651/18-19(01)]

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

2. Having taken into account members' views, the Chairman decided to combine the discussion of agenda items I and II.

3. As there were divided views among members on the way forward of the Bills Committee, the Chairman put to vote the question "That the Bills Committee should discontinue its scrutiny work on the Bill and report to the House Committee its decision to discontinue its work". At the request of Mr Kenneth LEUNG, the Chairman ordered that a division would be taken.

The following eight members voted in favour of the question:

Mr Tommy CHEUNG, Mr WONG Ting-kwong, Mr Frankie YICK, Mr CHAN Chi-chuen, Ms Alice MAK, Mr SHIU Ka-fai, Mr CHUNG Kwok-pan and Dr CHENG Chung-tai

The following four members voted against the question:

Mr Kenneth LEUNG, Dr Fernando CHEUNG, Dr Pierre CHAN and Mr Kenneth LAU

Dr Junius HO abstained from voting.

Action

4. The Chairman declared that the question was supported and he would report the deliberations and the above decision of the Bills Committee to the House Committee.

III. Any other business

5. There being no other business, the meeting ended at 5:36 pm.

Council Business Division 2
Legislative Council Secretariat
23 September 2020

**Proceedings of the Ninth meeting of
the Bills Committee on Smoking (Public Health) (Amendment) Bill 2019
held on Tuesday, 2 June 2020, at 4:30 pm
in Conference Room 2 of the Legislative Council Complex**

Time marker	Speaker	Subject(s)/Discussion	Action required
<i>Agenda item I: Meeting with the Administration</i>			
<i>Agenda item II: Way forward of the Bills Committee</i>			
000655 - 000838	Chairman	<p>Opening remarks</p> <p>Members noted that the Administration had provided its response to issues raised at the meeting on 4 May 2020 [LC Paper No. CB(2)1096/19-20(02)].</p>	
000839 - 001309	Chairman Mr SHIU Ka-fai	<p>Mr SHIU Ka-fai's view that the Bills Committee should first discuss the way forward of the Bills Committee before continuing its discussion with the Administration.</p> <p>The Chairman highlighted the results of the two rounds of consultation with all members conducted by way of circulation of paper in early and mid-May 2020 respectively on (a) members' availability for nine meeting dates in May and June 2020; and (b) members' views on the proposal that the Bills Committee would discontinue its scrutiny work on the Smoking (Public Health) (Amendment) Bill 2019 ("the Bill") and report to the House Committee its decision to discontinue its work as set out in LC Paper No. CB(2)1096/19-20(03), and invited members' views on the way forward of the Bills Committee.</p>	
001310 - 002921	Chairman Mr Jeremy TAM Mr Tommy CHEUNG Dr Pierre CHAN Dr KWOK Ka-ki Mr SHIU Ka-fai Mr WONG Ting-kwong Mr Frankie YICK	<p>Mr Jeremy TAM considered that the Bills Committee should continue its scrutiny work. Given that the Bills Committee on Franchised Taxi Services Bill had decided at its meeting on 1 June 2020 to discontinue its scrutiny work on the Franchised Taxi Services Bill, more meeting slots should become available.</p> <p>In the capacity of the Chairman of the Bills Committee on Franchised Taxi Services Bill, Mr Tommy CHEUNG explained the reasons why the above Bills Committee considered it not feasible for it to complete its scrutiny work in time before the prorogation of the Sixth Legislative Council ("LegCo"). Given the divergent views of members on the Bill, he considered that this Bills Committee should not rush through the scrutiny of the Bill without addressing the various issues of concern.</p> <p>Dr KWOK Ka-ki held a contrary view. He opined that the Bills Committee should endeavour to complete scrutiny of the Bill by holding additional meetings. Citing the frequent special meetings held by the Panel on Manpower to discuss issues relating to the Employment (Amendment) Bill 2019 as a reference, Dr Pierre CHAN saw no reason for the Bills Committee to discontinue its scrutiny work at this stage.</p> <p>Mr SHIU Ka-fai and Mr WONG Ting-kwong criticized that many members who attended this meeting had not participated</p>	

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		<p>actively in the discussion of the Bills Committee at previous meetings. In the view of Mr SHIU Ka-fai, Mr WONG Ting-kwong and Mr Frankie YICK, it was unrealistic for the Bills Committee to complete its scrutiny work, including the clause-by-clause examination of the Bill, under such a tight timeframe.</p> <p>The Chairman remarked that the suggestion of holding about 10 more meetings for the Bills Committee to complete its scrutiny work in time before the prorogation of the Sixth LegCo was originally raised in early May 2020. He did not consider it practicable for the Bills Committee to arrange the same number of meetings at this time when there was little time left before the prorogation of the Sixth LegCo. That said, it would be up to members to decide the way forward of the Bills Committee.</p>	
002923 - 004117	<p>Chairman Mr Kenneth LEUNG Dr CHENG Chung-tai Dr Pierre CHAN Clerk Mr Frankie YICK</p>	<p>Mr Kenneth LEUNG remarked that there was no provision in the Rules of Procedure to disallow the Administration to give notice on the resumption of the Second Reading debate on the Bill even if the Bills Committee could not complete its scrutiny work. The Chairman informed members that the Bills Committee would report its deliberations to the House Committee regardless of whether it would discontinue its scrutiny work on the Bill or not.</p> <p>Dr CHENG Chung-tai, Mr WONG Ting-kwong, Mr Kenneth LEUNG and Dr Pierre CHAN enquired as to whether members could move without notice a motion to adjourn the discussion on the current agenda item. The Chairman advised that the question under consideration was whether the Bills Committee, which was formed to study the Bill, would discontinue its scrutiny work given the limited time left before the prorogation of the Sixth LegCo. A motion to adjourn the discussion could not serve the purpose of deciding the way forward of the Bills Committee. In the light of this, he would decide that such a motion could not be moved. The Clerk supplemented that as a reference, the Bills Committee on Town Planning Bill had decided to curtail its work in May 2000 as it would be unrealistic to complete its scrutiny work within the term of the First LegCo.</p> <p>On Mr WONG Ting-kwong, Mr Kenneth LEUNG, Dr Pierre CHAN and Mr Frankie YICK's remarks on whether the Chairman could decide the way forward of the Bills Committee after consulting members, the Clerk advised that matters for the decision of a Bills Committee were decided by a majority of the members voting. In the event that a matter for the decision of a Bills Committee was to be considered by circulation of papers to its members, the matter would be deemed to be approved by the Bills Committee if a majority of the members of the Bills Committee had signified approval, and no member had signified disapproval or had requested that the matter should be discussed at a meeting.</p>	
004118 - 005445	<p>Chairman Dr Fernando CHEUNG Ms Alice MAK Mr CHUNG Kwok-pan Mr Kenneth LEUNG</p>	<p>Pointing out that the scrutiny work on some bills which were of a more controversial nature, such as the Guangzhou-Shenzhen-Hong Kong Express Rail Link (Co-location) Bill, could be completed within a few months, Dr Fernando CHEUNG was of the view that the work progress of this Bills Committee was</p>	

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	Mr WONG Ting-kwong Mr Tommy CHEUNG	<p>dragged by Members of the pro-establishment camp. He expressed regret that it was hardly possible for the Bill to be passed to safeguard the health of the public, in particular that of the adolescents. Summarizing the response from members of the opposition camp to his consultation in early May 2020 on members' availability for nine meeting dates, the Chairman said that the outcome of the above consultation was not related to which camp members belonged to.</p> <p>While considering it necessary to legislate for electronic cigarettes ("e-cigarettes") and heat-not-burn ("HNB") products in order to safeguard public health, Ms Alice MAK remarked that it was unrealistic that the Bills Committee could complete the scrutiny of the Bill in time without active participation of members. She was concerned about whether the Administration would step up public education to facilitate the re-introduction of the relevant legislative proposals in the future if the Bills Committee decided to discontinue its scrutiny work.</p> <p>Pointing out that it was clear that members would not have a consensus on the policy issues of the Bill and in view of the time constraint, Mr Kenneth LEUNG opined that the Bills Committee should proceed to the clause-by-clause examination of the Bill. In his view, the Bills Committee would require only about four hours, instead of nine meetings, to complete the examination and then report its deliberations to the House Committee. Mr WONG Ting-kwong did not agree that the Bills Committee could complete its scrutiny work in just a four-hour meeting. Mr Tommy CHEUNG said that a Bills Committee was a deliberative forum for studying the policy aspect of the bill under scrutiny, its merits and principles, detailed provisions and any proposed amendments to it. The scrutiny work of any Bills Committee had to comply with the same stages of work.</p>	
005446 - 005954	Chairman Mr WONG Ting-kwong Mr CHAN Chi-chuen Mr Kenneth LEUNG Clerk	Voting on the way forward of the Bills Committee	
005955 - 010931	Chairman Dr Pierre CHAN Admin Mr SHIU Ka-fai Mr CHAN Chi-chuen	<p>Mr CHAN Chi-chuen expressed concern about whether the Administration would give notice on the resumption of the Second Reading debate on the Bill. Noting that any legislative items which could not complete the scrutiny process would lapse upon the end of the current term of LegCo, Dr Pierre CHAN asked whether the Administration would introduce a bill on alternative smoking products ("ASPs") afresh in the next term of LegCo.</p> <p>Mr SHIU Ka-fai urged the Administration to take into account that the Bills Committee had passed a motion requesting the Government to employ different means to regulate e-cigarettes, HNB products and other ASPs and 53% of the deputations making oral representation to the Bills Committee considered that HNB products should be subject to a regulatory regime similar to that of conventional cigarettes. Mr CHAN Chi-chuen remarked</p>	

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		<p>that the Administration should learn from the experience of this legislative exercise in considering the way forward.</p> <p>The Chairman called on the Administration to commence the legislative exercise to prohibit the import, manufacture or sale and restrict the giving, possession or promotion of ASPs, in particular e-cigarettes, as early as possible in the next LegCo term so as to safeguard the health of adolescents. In the meantime, the Administration should take proactive enforcement actions to combat the sale of e-cigarettes containing nicotine in the market.</p> <p>The Administration advised that it would take into account the discussions and concerns of the Bills Committee on the Bill and consider introducing legislative proposals on ASPs in the next LegCo term whenever the opportunity arose. In the meantime, it would continue to step up public education on the harms of e-cigarettes and HNB products and enforcement actions in relation to these products under the existing legislative regime.</p>	
<i>Agenda item III: Any other business</i>			
010932 - 010956	Chairman	Closing remarks	

Council Business Division 2
Legislative Council Secretariat
 23 September 2020