

立法會

Legislative Council

LC Paper No. CB(2)441/19-20

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by the Administration)

Ref : CB2/SS/13/18

Subcommittee on Prohibition on Face Covering Regulation

**Minutes of the second meeting
held on Monday, 28 October 2019, at 2:30 pm
in Conference Room 1 of the Legislative Council Complex**

Members present : Hon WONG Ting-kwong, GBS, JP (Chairman)
Hon YUNG Hoi-yan, JP (Deputy Chairman)
Hon James TO Kun-sun
Hon LEUNG Yiu-chung
Prof Hon Joseph LEE Kok-long, SBS, JP
Hon Starry LEE Wai-king, SBS, JP
Hon CHAN Hak-kan, BBS, JP
Hon CHAN Kin-por, GBS, JP
Dr Hon Priscilla LEUNG Mei-fun, SBS, JP
Hon Paul TSE Wai-chun, JP
Hon Claudia MO
Hon Steven HO Chun-yin, BBS
Hon Frankie YICK Chi-ming, SBS, JP
Hon WU Chi-wai, MH
Hon YIU Si-wing, BBS
Hon MA Fung-kwok, SBS, JP
Hon Charles Peter MOK, JP
Hon CHAN Chi-chuen
Hon CHAN Han-pan, BBS, JP
Hon LEUNG Che-cheung, SBS, MH, JP
Hon Kenneth LEUNG
Hon Alice MAK Mei-kuen, BBS, JP
Dr Hon KWOK Ka-ki
Hon KWOK Wai-keung, JP
Hon Dennis KWOK Wing-hang
Hon Christopher CHEUNG Wah-fung, SBS, JP
Dr Hon Helena WONG Pik-wan
Hon IP Kin-yuen

Hon Elizabeth QUAT, BBS, JP
Hon POON Siu-ping, BBS, MH
Dr Hon CHIANG Lai-wan, SBS, JP
Ir Dr Hon LO Wai-kwok, SBS, MH, JP
Hon CHUNG Kwok-pan
Hon Alvin YEUNG
Hon Andrew WAN Siu-kin
Hon Jimmy NG Wing-ka, BBS, JP
Hon HO Kai-ming
Hon LAM Cheuk-ting
Hon Holden CHOW Ho-ding
Hon SHIU Ka-fai, JP
Hon SHIU Ka-chun
Hon Wilson OR Chong-shing, MH
Dr Hon Pierre CHAN
Hon CHAN Chun-ying, JP
Hon Tanya CHAN
Hon HUI Chi-fung
Hon LUK Chung-hung, JP
Hon LAU Kwok-fan, MH
Dr Hon CHENG Chung-tai
Hon KWONG Chun-yu
Hon Jeremy TAM Man-ho
Hon Gary FAN Kwok-wai
Hon AU Nok-hin
Hon Vincent CHENG Wing-shun, MH, JP
Hon Tony TSE Wai-chuen, BBS
Hon CHAN Hoi-yan

Member attending : Hon Martin LIAO Cheung-kong, GBS, JP

Members absent : Dr Hon Fernando CHEUNG Chiu-hung
Hon CHU Hoi-dick
Dr Hon Junius HO Kwan-yiu, JP

Public Officers attending : Item II
Mr Sonny AU Chi-kwong, PDSM, PMSM, JP
Under Secretary for Security

Ms Mimi LEE Mei-mei, JP
Deputy Secretary for Security 1

Mr Kevin LAI Ming-fai
Principal Assistant Secretary for Security (Special Duties)

Mr Raymond LAM Cheuk-ho
Assistant Secretary for Security E4

Ms Irene KWOK Hoi-ying
Assistant Secretary for Security E5

Mr Gilbert MO Sik-keung
Deputy Law Draftsman I
Department of Justice

Mr LOH Vernon
Senior Assistant Solicitor General (Human Rights) (Acting)
Department of Justice

Clerk in attendance : Miss Betty MA
Chief Council Secretary (2) 1

Staff in attendance : Mr Alvin CHUI
Assistant Legal Adviser 3

Ms Gloria TSANG
Senior Council Secretary (2) 7

Ms Priscilla LAU
Council Secretary (2) 1

Miss Lulu YEUNG
Clerical Assistant (2) 1

I. Application for late membership

Members accepted the application for late membership from Mr KWONG Chun-yu.

II. Meeting with the Administration

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

3. Members noted that as agreed at the previous meeting on 22 October 2019, Mr Alvin YEUNG's proposed motion on repealing the Prohibition on Face Covering Regulation ("Regulation") would be dealt with at the meeting today. The Chairman invited members to consider whether the motion should be proceeded with. As there were divided views among members, the Chairman ordered that a vote be taken on it. Members requested a division.

The following members voted for it:

Mr James TO, Mr LEUNG Yiu-chung, Prof Joseph LEE, Ms Claudia MO, Mr WU Chi-wai, Mr Charles MOK, Mr CHAN Chi-chuen, Mr Kenneth LEUNG, Dr KWOK Ka-ki, Mr Dennis KWOK, Dr Helena WONG, Mr IP Kin-yuen, Mr Alvin YEUNG, Mr Andrew WAN, Mr LAM Cheuk-ting, Mr SHIU Ka-chun, Ms Tanya CHAN, Mr HUI Chi-fung, Dr CHENG Chung-tai, Mr KWONG Chun-yu, Mr Jeremy TAM, Mr Gary FAN and Mr AU Nok-hin. (23 members)

The following members voted against it:

Deputy Chairman, Ms Starry LEE, Mr CHAN Hak-kan, Mr CHAN Kin-por, Dr Priscilla LEUNG, Mr Paul TSE, Mr Steven HO, Mr Frankie YICK, Mr YIU Si-wing, Mr CHAN Han-pan, Mr LEUNG Che-cheung, Ms Alice MAK, Mr KWOK Wai-keung, Mr Christopher CHEUNG, Ms Elizabeth QUAT, Mr POON Siu-ping, Dr CHIANG Lai-wan, Ir Dr LO Wai-kwok, Mr Jimmy NG, Mr HO Kai-ming, Mr Holden CHOW, Mr SHIU Ka-fai, Mr Wilson OR, Mr CHAN Chun-ying, Mr LUK Chung-hung, Mr LAU Kwok-fan, Mr Vincent CHENG, Mr Tony TSE and Ms CHAN Hoi-yan. (29 members)

4. The Chairman said that 23 members voted for and 29 members voted against it, and no member abstained from voting. He declared that the motion would not be proceeded with.

5. The Subcommittee requested the Administration to provide the written responses to the letters from Mr James TO and Mr IP Kin-yuen, as well as the request and issues raised at the previous meeting, in particular the English version of the Administration's reply to the letter from Assistant Legal Adviser 3, preferably before the next meeting.

6. The Subcommittee agreed that members' views on the arrangements for holding meeting(s) to receive public views on the Regulation would be sought by circulation after the meeting. The Chairman would decide on the relevant meeting arrangements having regard to members' replies.

(Post-meeting note: A circular on relevant meeting arrangements was issued vide LC Paper No. CB(2)125/19-20 on 1 November 2019.)

III. Any other business

7. The Subcommittee further agreed that the next meeting would be held on 5 November 2019 at 10:45 am to continue discussion with the Administration.

8. There being no other business, the meeting ended at 4:32 pm.

Council Business Division 2
Legislative Council Secretariat
23 December 2019

**Proceedings of the second meeting of the
Subcommittee on Prohibition on Face Covering Regulation
held on Monday, 28 October 2019, at 2:30 pm
in Conference Room 1 of the Legislative Council Complex**

Time marker	Speaker	Subject(s) / Discussion	Action Required
000417 - 000820	Chairman Ms Claudia MO	Opening remarks	
000821 - 000944	Chairman Mr KWONG Chun-yu	Application for late membership	
000945 - 002856	Chairman Mr Alvin YEUNG Mr Christopher CHEUNG ALA3 Mr SHIU Ka-fai Ms Elizabeth QUAT Mr Dennis KWOK Mr LAM Cheuk-ting Dr Priscilla LEUNG Mr KWOK Wai-keung Deputy Chairman Mr Holden CHOW	Discussion on whether the motion proposed by Mr Alvin YEUNG should be proceeded with [LC Paper No. CB(2)59/19-20(03)].	
002857 - 010737	Chairman Dr Helena WONG Mr SHIU Ka-fai Mr Alvin YEUNG Mr LAM Cheuk-ting Mr CHAN Chi-chuen Ms Tanya CHAN Mr AU Nok-hin Mr KWONG Chun-yu Dr KWOK Ka-ki Dr CHENG Chung-tai Dr Priscilla LEUNG Mr Kenneth LEUNG Mr KWOK Wai-keung Ms Elizabeth QUAT Ms Tanya CHAN	Discussion on various options and arrangements for holding meeting(s) to receive public views on the Prohibition on Face Covering Regulation ("the Regulation"). It was agreed that members' views on relevant meeting arrangements would be sought by circulation after the meeting. The Chairman would make a decision having regard to members' replies.	Clerk
010738 - 011452	Chairman Ms Tanya CHAN Admin	Briefing by the Administration on the Regulation.	

Time marker	Speaker	Subject(s) / Discussion	Action Required
011453 - 013146	Chairman Mr Dennis KWOK Mr Andrew WAN Ms Claudia MO Admin	<p>Mr Dennis KWOK asked:</p> <p>(a) whether journalists, being in a circumstance as stipulated in section 3(1) of the Regulation, were given exemption to use facial coverings; and</p> <p>(b) whether the Administration realized that the facial coverings of journalists were removed by police officers while performing an act connected with the employment in a demonstration area.</p> <p>Mr Andrew WAN sought clarification on whether journalists and healthcare personnel would have a reasonable excuse under section 4(3) of the Regulation, and asked whether there were frontline police officers who wrongfully applied the Regulation to journalists and healthcare personnel in certain circumstances.</p> <p>Ms Claudia MO expressed grave dissatisfaction about the impolite removal of the facial coverings of journalists by frontline police officers.</p> <p>The Administration responded that:</p> <p>(a) section 5 of the Regulation empowered a police officer to stop any person in a public place and require the person to remove the facial covering to enable the officer to verify the identity of that person, and to remove the facial covering if the person failed to comply with it;</p> <p>(b) although it was stipulated in section 3 of the Regulation that the use of facial covering in certain circumstances was an offence, section 4(1) of the Regulation provided for a defence of lawful authority or reasonable excuse for a person charged with the offence. Journalists and other persons who were engaged in employment and were using facial covering for their physical safety while performing activities connected with the employment would have a reasonable excuse for using facial covering;</p> <p>(c) frontline police officers and journalists were generally professional and dedicated to</p>	

Time marker	Speaker	Subject(s) / Discussion	Action Required
		<p>undertaking their jobs or duties. For safety reasons and to avoid unnecessary clashes, it was advisable for journalists to keep a reasonable distance from frontline police officers who were taking enforcement actions; and</p> <p>(d) there was a statutory mechanism to handle and investigate complaints against the Police.</p>	
013147 - 013712	Chairman Mr Alvin YEUNG Admin	<p>Mr Alvin YEUNG sought information about the figures relating to complaints/reports on wrongful implementation of the Regulation. The Administration said that it did not have such figures.</p> <p>Mr Alvin YEUNG's view and the Administration's response regarding the complaint handling mechanism against the Police.</p>	
013713 - 014231	Chairman Mr HUI Chi-fung Admin	<p>Mr HUI Chi-fung's enquiry and the Administration's response regarding:</p> <p>(a) the proportionality of the Regulation;</p> <p>(b) whether an assumption that the Police would not abuse their power was made before making the Regulation; and</p> <p>(c) whether police officers were excluded from the application of the Regulation.</p>	
014232 - 014737	Chairman Mr Gary FAN Admin	<p>Mr Gary FAN asked:</p> <p>(a) the reasons for invoking the Emergency Regulations Ordinance (Cap. 241) ("ERO") to make the Regulation despite the Chief Executive's remark that Hong Kong was not in a state of emergency; and</p> <p>(b) whether the Administration was going to make more new regulations under ERO.</p> <p>The Administration responded that:</p> <p>(a) the Regulation was made under section 2(1) of ERO, which provided that on any occasion which the Chief Executive in Council considered to be an occasion of public danger,</p>	

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		<p>he could make any regulations whatsoever desirable in the public interest; and</p> <p>(b) ERO would only be invoked based on the society's situation. The Government had no intention to make other new regulations under ERO for the time being.</p>	
014738 - 015250	Chairman Mr SHIU Ka-fai Admin	<p>Mr SHIU Ka-fai sought clarification and the Administration's response regarding:</p> <p>(a) whether the use of facial covering in circumstances not being stipulated in section 3(1) of the Regulation was an offence;</p> <p>(b) the reasonable excuse as stipulated under section 4(3) of the Regulation;</p> <p>(c) whether police officers, in order to verify the identity of a journalist in a public place, could remove the facial covering of the journalist concerned; and</p> <p>(d) the reasons for the presence of voluntary healthcare personnel at the regulated events.</p>	
015251 - 015756	Chairman Dr CHIANG Lai-wan Admin	<p>Dr CHIANG Lai-wan said that consideration should be given to request journalists to apply via the Police for standardized reflective clothing to facilitate easy identification of their identities at events regulated under the Regulation. She further suggested that the Administration should liaise with relevant journalist associations to enhance communication between frontline police officers and journalists.</p> <p>The Administration responded that the Police were always willing to discuss with relevant associations and assist the press in carrying out their work smoothly.</p>	
015757 - 020650	Chairman Admin Ms Tanya CHAN Dr Helena WONG Mr CHAN Chi-chuen	<p>The Subcommittee's request that the written responses to issues raised at the previous meeting, in particular the English version of the Administration's reply to ALA3' letter, and the letters from Mr James TO and Mr IP Kin-yuen be provided before the next meeting.</p> <p>Dr Helena WONG's request and the Administration's response regarding the attendance</p>	Admin

Time marker	Speaker	Subject(s) / Discussion	Action Required
		<p>of the Secretary for Justice and the Secretary for Security at upcoming meetings of the Subcommittee.</p> <p>Mr CHAN Chi-chuen's view and the Chairman's advice regarding the extension of the scrutiny period of the Regulation.</p> <p>Upcoming meeting arrangements and date of next meeting.</p>	

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