

**立法會**  
**Legislative Council**

**(issued by email only)**  
LC Paper No. CB(3) 1111/20-21

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Tel : 3919 3300  
Date : 19 October 2021  
From : Clerk to the Legislative Council  
To : All Members of the Legislative Council

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**Council meeting of 20 October 2021**

**Debate and voting arrangements for  
the Smoking (Public Health) (Amendment) Bill 2019**

Further to LC Paper Nos. CB(3) 1071/20-21 and CB(3) 1101/20-21 issued on 11 and 18 October 2021 respectively regarding the proposed amendments to the captioned Bill, I attach a table on the debate and voting arrangements for the captioned Bill for Members' information.

2. Members are reminded that in accordance with Appendix IIIA to the House Rules, the speaking time limits in the debates are as follows:

	<u>Number of speech(es) allowed for each Member</u>	<u>Maximum time for a speech</u>
(a) Resumption of the second reading debate	1	10 minutes
(b) Consideration by committee of the whole Council	Multiple	5 minutes
(c) Third reading debate	1	3 minutes

(Miranda HON)  
for Clerk to the Legislative Council

Encl.

**Smoking (Public Health) (Amendment) Bill 2019**  
**Debate and voting arrangements**

**Object of the Bill :** To amend the Smoking (Public Health) Ordinance (Cap. 371) (“SPHO”) to prohibit the import, manufacture or sale, or use in certain places, of prescribed alternative smoking products (“ASPs”)<sup>1</sup>; to restrict the giving, possession, advertising or promotion of the products; and to make related and miscellaneous amendments to SPHO and related legislation.

**Joint debate : Clauses with no amendment, and clauses with amendments proposed by the Secretary for Food and Health (“SFH”), Hon Frankie YICK and Hon CHUNG Kwok-pan — Clauses 1 to 35**

Joint debate on the original clauses and the amendments.

**SFH’s amendments**

**Clauses 5, 21 and 23**

- To amend the proposed section 15DB of SPHO to the effect that:
  - if a partner in a partnership commits an offence under the proposed section 15DA(4) of SPHO (“Relevant Offence”)<sup>2</sup>, and it is proved that the Relevant Offence (a) was committed with the consent or connivance of a relevant person (i.e. any other partner in the partnership or any other person concerned in the management of the partnership, or a person purporting to act in the capacity of such a person), or (b) is attributable to any neglect on the part of the person, the person also commits the Relevant Offence; and
  - if a member of any other unincorporated body commits the Relevant Offence, and it is proved that the Relevant Offence (a) was committed with the consent or connivance of a relevant person (i.e. any other member, or any manager, secretary or other similar officer, of the unincorporated body, or a person purporting to act in the capacity of such a person), or (b) is attributable to any neglect on the part of the person, the person also commits the Relevant Offence;
- to amend the proposed sections 15DG(2) and 15DH(5)(a) of SPHO to provide expressly that the power of an inspector appointed under section 15F of SPHO/a Customs and Excise officer to detain a person pursuant to the proposed sections is only for a reasonable period;
- to amend the proposed section 15DH(4) of SPHO to substitute “seized” with “seized, removed or detained” to align with the proposed section 15DH(3) of SPHO; and
- to make textual amendments to other provisions of SPHO for better clarity and consistency.

<sup>1</sup> ASP means a product set out in Part 2 of the proposed Schedule 7 of SPHO. Part 2 of the proposed Schedule 7 contains three categories of ASPs. According to the Administration, those ASPs would include products commonly known as electronic cigarettes, heated tobacco products and herbal cigarettes.

<sup>2</sup> “Relevant Offence” refers to the offence for contravening any of the requirements under the proposed section 15DA(1) of SPHO (such as the prohibition on import, manufacture or sale of ASPs).

### **Hon Frankie YICK's amendments**

#### **Clause 23**

- To amend the proposed section 15DD of SPHO to expand the scope of the exemption from the prohibition against importing an ASP to cover not only an article in transit or air transshipment cargo, but also an ASP which is a transshipment cargo imported by a vehicle for export if certain specified conditions are met.

### **Hon CHUNG Kwok-pan's amendment**

#### **Clause 23**

- To add a proposed new section 15DDA to SPHO to provide for an additional exemption for a person engaged in the smoking products trade for importing ASP for product development purpose if certain specified conditions are met.

<b>Voting order</b>	<b>Remarks</b>
Clauses with no amendment (i.e. clauses 1 to 4, 6 to 20, 22, and 24 to 35) standing part of the Bill	—
SFH's amendments (to amend clauses 5, 21 and 23)	<b>Irrespective of whether SFH's amendments <u>are passed or not</u>, Hon Frankie YICK and Hon CHUNG Kwok-pan <u>may move</u> their amendments.</b>
Hon Frankie YICK's amendments (to amend clause 23)	<b>Irrespective of whether Hon Frankie YICK's amendments <u>are passed or not</u>, Hon CHUNG Kwok-pan <u>may move</u> his amendment.</b>
Hon CHUNG Kwok-pan's amendment (to amend clause 23)	—

### **SFH's amendments**

(set out in LC Paper No. CB(3) 1071/20-21 issued on 11 October 2021)

### **Respective amendments proposed by Hon Frankie YICK and Hon CHUNG Kwok-pan**

(set out in LC Paper No. CB(3) 1101/20-21 issued on 18 October 2021)

Council Business Division 3  
Legislative Council Secretariat  
19 October 2021