立法會
Legislative Council

LC Paper No. CB(4)1115/20-21
(These minutes have been seen by the Administration)

Ref : CB2/SS/2/20

Subcommittee on Subsidiary Legislation Relating to the Prevention and Control of Disease

Minutes of the seventh meeting held on Wednesday, 27 January 2021, at 10:00 am in Conference Room 3 of the Legislative Council Complex

Members present	:	Dr Hon CHIANG Lai-wan, SBS, JP (Chairman) Hon YIU Si-wing, BBS (Deputy Chairman) Hon Mrs Regina IP LAU Suk-yee, GBS, JP Hon Frankie YICK Chi-ming, SBS, JP Hon Elizabeth QUAT, BBS, JP Hon POON Siu-ping, BBS, MH Hon SHIU Ka-fai, JP Hon Wilson OR Chong-shing, MH Dr Hon Pierre CHAN Hon CHAN Chun-ying, JP Dr Hon CHENG Chung-tai
Members absent	:	Hon CHAN Han-pan, BBS, JP Hon LUK Chung-hung, JP
Public Officers attending	:	Dr CHUI Tak-yi, JP Under Secretary for Food and Health Ms Joan HUNG Sze-man Principal Assistant Secretary for Food and Health (Health) 6 Food and Health Bureau

Dr Heston KWONG Kwok-wai, JP
Head, Emergency Response and Programme Management Branch
Department of Health

Mr Frank CHAN Ling-fung
Assistant Director (Drug), Drug Office
Department of Health

Mr Henry CHAN Ngai-him
Senior Government Counsel
Department of Justice

Miss Annet LAI Chau-mei
Government Counsel
Department of Justice

Clerk in attendance : Mr Colin CHUI
Chief Council Secretary (4) 3

Staff in attendance : Mr Alvin CHUI
Assistant Legal Adviser 3

Ms Peggy CHUNG
Council Secretary (4) 3

Miss Ariel SHUM
Legislative Assistant (4) 3

Action

I. Meeting with the Administration

[L.N. 258 of 2020, Legislative Council Brief issued by the Food and Health Bureau in December 2020, LC Paper Nos. LS26/20-21, CB(2)624/20-21(04) to (05), CB(2)647/20-21(01), CB(2)663/2021(01) to (02) and CB(4)413/20-21(01) to (02)]

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

2. The Subcommittee requested the Administration to make a comprehensive assessment of whether Hong Kong had sufficient air cargo capacity to ensure timely delivery of COVID-19 vaccines to Hong Kong

Action

given the Administration's new 14-day hotel quarantine plus 7-day medical surveillance requirement for the Hong Kong-based pilots and cabin crew of airlines.

(*Post-meeting note*: The Administration's written response had been issued to members vide LC Paper No. CB(4)447/20-21(02)) on 28 January 2021.)

3. The Chairman concluded that the Subcommittee had completed scrutiny of and generally supported the subsidiary legislation.

4. The Chairman informed members that she would move a motion at the Council meeting on 27 January 2021 to extend the scrutiny period of the subsidiary legislation to the Council meeting of 24 February 2021. A verbal report of the Subcommittee on its deliberations would be made to the House Committee ("HC") at its meeting on 29 January 2021. A written report thereof would be submitted to HC on 17 February 2021.

II. Any other business

5. There being no other business, the meeting ended at 10:54 am.

Council Business Division 4
Legislative Council Secretariat
15 June 2021

Annex

Proceedings of the seventh meeting of the Subcommittee on Subsidiary Legislation Relating to the Prevention and Control of Disease on Wednesday, 27 January 2021, at 10:00 am in Conference Room 3 of the Legislative Council Complex

Time marker	Speaker	Subject(s)/Discussion	Action required
Agenda item I: Meeting with the Administration			
000526-000902	Chairman Administration	Briefing by the Administration	
000903-001218	Dr Pierre CHAN Administration Chairman	<u>Section-by-section examination</u> Members continued to examine the provisions of the Prevention and Control of Disease (Use of Vaccines) Regulation (L.N. 258 of 2020) in detail. <u>Section 7 –Use of vaccine</u> Dr CHAN asked whether members of the public would be provided with general information on vaccines or an information kit on individual vaccines. The Administration replied that the characteristics, sides effects and research data on each vaccine, as well as generic information on vaccines, would be released to the public.	
001219-001444	Mr YIU Si-wing Chairman Administration	Mr YIU was concerned that arising from the Administration's new 14-day hotel quarantine plus 7-day medical surveillance requirement for the Hong Kong-based pilots and cabin crew of airlines, their cargo capacity would be reduced. He asked the Administration to make a comprehensive assessment of whether Hong Kong had sufficient air cargo capacity to ensure timely delivery of COVID-19 vaccines to Hong Kong. The Administration replied that it would liaise with the relevant vaccine suppliers and the Airport Authority to ensure timely delivery of the vaccines concerned.	Supplementary information was provided by the Administration on 28 January 2021 vide LC Paper No. CB(4)447/20-21(02).
001445-001903	Dr CHENG Chung-tai Chairman Administration	<u>Section 7 –Use of vaccine</u> Dr CHENG enquired about the details of the monitoring mechanism put in place under section 7(3), particularly whether there was a time limit on such monitoring. The Administration advised that the Expert Committee on Clinical Events Assessment Following COVID-19 Immunization (Expert Committee) had	

Time marker	Speaker	Subject(s)/Discussion	Action required
		been set up to tie in with the vaccination programme and to monitor any adverse event that occurred to the recipient associated with the administration of the relevant vaccine. The Expert Committee would perform continuous monitoring of the possible adverse event following administration of COVID-19 vaccines, and provide professional views and suggestions on safety monitoring of the authorized vaccines. Under the monitoring mechanism imposed by section 7(3), there were two types of monitoring (i.e. active and passive). Under active monitoring, the Administration would partner with local university to retrieve specific adverse events primarily through medical records of the Hospital Authority to look for specific adverse reactions to vaccinations and check if such adverse reactions also occurred to recipients after the administration of COVID-19 vaccines for identification of possible safety concern. Under passive monitoring, a recipient suspecting to have an adverse event following immunization of COVID-19 vaccine might consult a healthcare professional who could report the adverse event online to the Department of Health for assessment. There was no time limit for such reporting.	
001904-002236	Mr POON Siu-ping Chairman Administration	Mr POON asked about the exact time for delivery of the Fosun Pharma/BioNTech vaccine. He also enquired about the Administration's assessment of the suitability of target groups (e.g. the elderly) for vaccination when including them on the list of priority groups for vaccination. He further asked whether the Administration would consider providing consumption voucher to members of the public as an incentive to encourage them to receive vaccination. The Administration estimated that the Fosun Pharma/BioNTech vaccine would arrive in Hong Kong at the end of February 2021. The Administration advised that having regard to the views of experts, vaccination for the priority groups could reduce both their incidence rate and the mortality rate after contracting the disease. The Advisory Panel on COVID-19 Vaccines (Advisory Panel) had recommended that if in doubt, members of the public should seek medical advice before deciding whether or not to receive COVID-19 vaccination. The Administration would do well the work on information dissemination, promotion and education in respect of vaccination and would not consider the provision of a monetary incentive to encourage vaccination.	
002237-002550	Mr SHIU Ka-fai Chairman Administration	Mr SHIU asked when the vaccines procured through advance purchase agreements would be authorized for emergency use. He also suggested that the Administration should provide information about the	

Time marker	Speaker	Subject(s)/Discussion	Action required
		vaccines through advertisements to the public as soon as possible. The Administration advised that only the Fosun Pharma/BioNTech vaccine had been authorized for emergency use. The provision of further data from Sinovac was still pending. The Administration would later set up a thematic website for the vaccination programme, so that members of the public could have access to correct and the most updated information and messages on vaccines from an official channel.	
002551-003110	Administration Dr CHENG Chung-tai Chairman	<u>Section-by-section examination</u> Members continued to examine the provisions of the Prevention and Control of Disease (Use of Vaccines) Regulation (L.N. 258 of 2020) in detail. <u>Section 8 - Authorized vaccine to be administered with informed consent</u> In response to Dr CHENG's enquiry, the Administration replied that information about the side effects and characteristics of individual vaccines would be published at the thematic website for the vaccination programme. Such information would also be accessible online for perusal by members of the public when they made appointments for vaccination. Such information would be provided again by the medical practitioner administering the vaccine on the spot. Dr CHENG was concerned whether statutory powers would be given to the Expert Committee responsible for the aforesaid active and passive monitoring mechanism.	
003111-003805	Administration Chairman Dr CHENG Chung-tai	<u>Section 9 - Advisory panel</u> The Chairman enquired about the composition and role of the Advisory Panel. She also sought the Administration's clarification of the meaning of section 9(3). The Administration replied that the Chief Executive appointed 12 local experts in various aspects to form the Advisory Panel in 2020. It also pointed out that while section 9(2) provided for the immunity from civil liability of members of the Advisory Panel for an act done or omitted to be done in good faith in relation to the giving of advice for the purposes of the Regulation, section 9(3) expressly provided that such immunity did not affect any liability of the Government for the aforesaid act or omission to act.	

Time marker	Speaker	Subject(s)/Discussion	Action required
		Dr CHENG sought clarification of the meaning of "to have relevant expertise" under section 9(1). The Administration advised that the relevant expertise referred to knowledge at an expert level of the safety, efficacy and quality of the vaccines concerned.	
003806-004650	Administration Chairman Assistant Legal Adviser 3 ("ALA3") Dr CHENG Chung-tai	<u>Section 10 - Jurisdiction and immunity</u> ALA sought clarification of the meanings of "dispenses" in section 10(1)(a) and "attributable to the intrinsic property of the vaccine as manufactured" in section 10(2). Dr CHENG enquired whether persons participating in the delivery of a vaccine would be liable for any loss or damage to the vaccine in the course of such delivery. The Administration replied that "dispenses" in section 10 referred to supplying the vaccine in accordance with a prescription given by a registered medical practitioner. The wording "attributable to the intrinsic property of the vaccine as manufactured" referred to any property that was intrinsic or inherent in the vaccine itself. The immunity given under section 10 did not cover vaccine developers, the Government and other related parties. The immunity was only provided for doctors-in-charge of the vaccination, as well as nurses, pharmacists or drug dispensers who assisted in preparing or making available the vaccines for vaccination, to their acts done or omitted to be done in good faith in relation to the administration of the vaccine if the loss or damage resulting from any risk as to the safety of the administration of the vaccine was attributable to the intrinsic property of the vaccine as manufactured. These persons, however, were still civilly liable for any loss or damage which was not so attributable.	
004651-004800	Chairman Administration	In response to the Chairman's enquiry, the Administration explained that the indemnity fund would be set up administratively and would provide financial support to individuals who had suffered serious side effects. The Administration was formulating the relevant mechanism and details and would seek funding approval from the Finance Committee as soon as possible.	
004801-005129	Dr CHENG Chung-tai Chairman Administration	<u>Section 10 - Jurisdiction and immunity</u> In response to the enquiries of Dr CHENG and the Chairman, the Administration reiterated its aforesaid reply to the scope of the immunity.	

Time marker	Speaker	Subject(s)/Discussion	Action required
005137-005645	Administration Chairman Dr CHENG Chung-tai	Section 11 - Certain notices are not subsidiary legislation Members raised no question on the above section. Section 12 – Expiry Dr CHENG sought clarification of whether the monitoring mechanism put in place under section 7(3) and the immunity given under section 10(2) expired at the same time as the Regulation (i.e. midnight on 23 December 2021). The Administration replied that while section 7 which concerned the use of vaccine was effective until the expiry of the Regulation, the effective period of the immunity might need to extend beyond that expiry date as the immunity given under section 10(2), which concerned legal liability, might come into play some time after the use of vaccine had ended.	
Agenda item II: Any other business			
005646-005755	Chairman	Closing remarks	

Council Business Division 4
Legislative Council Secretariat
15 June 2021