

立法會
Legislative Council

LC Paper No. CB(2)408/20-21
(These minutes have been seen
by the Administration)

Ref : CB2/SS/6/20

**Subcommittee on Smoking (Public Health) (Designation of No
Smoking Areas) (Amendment) Notice 2020**

**Minutes of meeting
held on Monday, 9 November 2020, at 4:45 am
in Conference Room 2A of the Legislative Council Complex**

Members present : Dr Hon Pierre CHAN (Chairman)
Hon James TO Kun-sun
Hon LEUNG Yiu-chung
Prof Hon Joseph LEE Kok-long, SBS, JP
Hon KWOK Wai-keung, JP
Hon Andrew WAN Siu-kin
Hon HUI Chi-fung
Dr Hon CHENG Chung-tai
Hon Jeremy TAM Man-ho

Member attending : Hon Wilson OR Chong-shing, MH

Members absent : Hon Abraham SHEK Lai-him, GBS, JP
Hon Kenneth LEUNG
Dr Hon KWOK Ka-ki
Hon Dennis KWOK Wing-hang
Dr Hon Fernando CHEUNG Chiu-hung
Hon Elizabeth QUAT, BBS, JP
Hon Alvin YEUNG
Hon LAM Cheuk-ting
Hon KWONG Chun-yu

[According to the announcement made by the Hong Kong Special Administrative Region Government on 11 November 2020 pursuant to the Decision of the Standing Committee of the National People's Congress on Issues Relating to the Qualification of the Members of the Legislative Council of the Hong Kong Special Administrative Region, Kenneth LEUNG, KWOK Ka-ki, Dennis KWOK Wing-hang and Alvin YEUNG were disqualified from being a member of the Legislative Council on 30 July 2020.]

**Public Officers : Item I
attending**

Miss Amy YUEN, JP
Deputy Secretary for Food and Health (Health) 2

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

Miss Wendy HO
Government Counsel
Department of Justice

**Clerk in : Miss Josephine SO
attendance Chief Council Secretary (2) 2**

**Staff in : Ms Vanessa CHENG
attendance Assistant Legal Adviser 5**

Mr Clement HAU
Council Secretary (2) 2

Miss Cally LAI
Legislative Assistant (2) 2

Action

I. Meeting with the Administration

(L.N. 204 of 2020, File Ref: FH CR 7/52/581/89, LC Paper No. LS2/20-21 and CB(2)152/20-21(01))

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

II. Any other business

Legislative timetable

2. The Chairman concluded that the Subcommittee had completed the scrutiny of the Smoking (Public Health) (Designation of No Smoking Areas) (Amendment) Notice 2020 ("the Amendment Notice").

Action

3. The Chairman said that, as agreed at the Subcommittee meeting on 3 November 2020, he would move at the Council meeting of 11 November 2020 a proposed resolution to extend the scrutiny period of the Amendment Notice to the Council meeting of 2 December 2020. Members noted that, if the scrutiny period was extended, the deadline for giving notice of amendment to the Amendment Notice would be 25 November 2020. The Chairman further said that he would report the Subcommittee's deliberations to the House Committee on 20 November 2020.

4. There being no other business, the meeting ended at 5:42 pm.

Council Business Division 2
Legislative Council Secretariat
26 November 2020

**Proceedings of the meeting of the Subcommittee on Smoking
(Public Health) (Designation of No Smoking Areas) (Amendment) Notice 2020
on Monday, 9 November 2020, at 4:45 pm
in Conference Room 2A of the Legislative Council Complex**

Time marker	Speaker	Subject(s)/Discussion	Action Required
000418 - 000542	Chairman	The Chairman's opening remarks	
000543 - 001425	Chairman Admin	The Administration's briefing on the Smoking (Public Health) (Designation of No Smoking Areas) (Amendment) Notice 2020 ("the Amendment Notice").	
001426 - 002101	Chairman Mr KWOK Wai-keung Admin	<p>Mr KWOK Wai-keung's indication of support for the Amendment Notice. His suggestion that the Administration should, by drawing reference from the regulatory regime in overseas countries such as Japan, consider turning the future development trend in respect of smoking restriction by moving towards a total ban on smoking in public places leaving with certain areas permitted by law to be designated smoking areas.</p> <p>The Administration's advice that in determining a total ban on smoking in public places, due consideration should be given to the overall readiness of the community as well as the legal feasibility, practicality and enforceability.</p> <p>Mr KWOK's enquiries and the Administration's responses on the relevant figures on prosecutions taken out against people contravening the smoking ban at public transport facilities ("PTFs") designated as no smoking areas ("NSAs").</p>	
002102 - 002845	Chairman Mr Wilson OR Admin	<p>Mr Wilson OR's expression of support for the Amendment Notice. His concern about the effectiveness of the Administration's work in discouraging smoking and containing the proliferation of tobacco use. Mr OR's enquiries and the Administration's responses about the objectives of tobacco control measures on different fronts and how they were achieved with a view to further reducing smoking prevalence.</p> <p>Mr OR's concern that smokers might not be aware that they were smoking in an NSA, especially for those PTFs which were newly designated as NSAs or those existing NSAs the</p>	

Time marker	Speaker	Subject(s)/Discussion	Action Required
		boundaries of which had been updated. His enquiries and the Administration's responses on the publicity efforts to be made by the Government before the Amendment Notice took effect.	
002846 - 003430	Chairman Mr LEUNG Yiu-chung Admin	<p>Mr LEUNG Yiu-chung's concern about the impact of passive smoking on non-smokers. His suggestion that the Administration should consider designating "smoking areas" instead of NSAs. Mr LEUNG pointed out that smoking ban had already been applied in all common areas (other than designated smoking areas) in public housing estates as well as public pleasure grounds managed by the Leisure and Cultural Services Department, and the results were positive.</p> <p>The Administration's advice that the suggestion of expanding the smoking ban to all public areas (by designating "smoking areas" instead) involved fundamental changes in and comprehensive review of the policy relating to smoking ban in public as well as outdoor places. Over the past few decades, the Administration had been adopting a progressive and multi-pronged approach to step up tobacco control, having regard to the expectation and acceptance of the community.</p>	
003431 - 005312	Chairman Dr CHENG Chung-tai Admin ALA5	<p>Dr CHENG Chung-tai expressed reservations over the suggestion of designating "smoking areas", as it might create a negative "labeling effect" on smokers. His enquiry on whether private car drivers would be prosecuted if they parked their cars within the boundaries/in the proximity of PTFs designated as NSAs and smoked inside the cars.</p> <p>The Administration's and ALA5's advice that as the scenario envisaged by Dr CHENG was not one of the exemptions provided for under section 3(2A) of the Smoking (Public Health) Ordinance (Cap. 371) ("the Ordinance"), it was more likely than not that the said private car drivers would commit an offence under section 3(2) of the Ordinance. ALA5 further pointed out that whether a suspected offender would be prosecuted in a particular case would also depend on the prosecution policy of the relevant law enforcement agencies.</p>	

Time marker	Speaker	Subject(s)/Discussion	Action Required
005313 - 005628	Chairman Admin	<p>The Chairman's enquiries and the Administration's responses concerning the implementation and enforcement of the smoking ban in NSAs.</p> <p>The Administration's elaboration on its previous response on enforcement against smoking offences committed in NSAs and advice that in case of disputes, the person concerned might lodge an appeal which would be dealt with by a magistrate.</p>	
005629 - 005943	Chairman Admin ALA5	<p>Examination of the provisions of the Amendment Notice, with the aid of the marked-up copy of relevant provisions to be amended by the Amendment Notice prepared by the Legal Service Division (LC Paper No. CB(2)152/20-21(01)).</p> <p>ALA5's advice that no discrepancy was detected between the Chinese and English versions of the Amendment Notice.</p>	
005944 - 010147	Chairman	<p>The Chairman's concluding remarks covering (a) the Subcommittee's completion of the scrutiny work, and (b) the legislative timetable in relation to the Amendment Notice.</p>	