

LEGISLATIVE COUNCIL BRIEF

ROAD TRAFFIC LEGISLATION (AMENDMENT) BILL 2001

DRIVER IMPROVEMENT SCHEME

INTRODUCTION

A At the meeting of the Executive Council on 29 May 2001, the Council **ADVISED** and the Chief Executive **ORDERED** that the Road Traffic Legislation (Amendment) Bill 2001, at Annex A should be introduced into the Legislative Council to –

- (a) implement a Driver Improvement Scheme (DIS) under which a motorist could have three driving-offence points (DOPs) deducted from the total number of DOPs he has incurred upon satisfactory completion of a DIS course;
- (b) transfer the power to determine appeals against the Commissioner of Police's decision regarding speed trials or motor racing from the Chief Executive-in-Council to the Administrative Appeals Board; and
- (c) effect necessary adaptations to, and rectify inconsistencies in, the existing road traffic legislation.

BACKGROUND AND ARGUMENT

A. Driver Improvement Scheme (DIS)

2. Analysis of traffic accidents attributable to driver behaviour consistently identifies tailgating, negligently cutting lanes and manoeuvring turns without due care as the principal causes of traffic accidents. According to statistics, about 10% of the drivers who were convicted of the offence of careless driving were repeated offenders. The above studies suggest that improper driving attitude, rather than a lack of skills, is the source of the problem. Punishment therefore may not be the only effective means to rectify problematic driving behaviour. Whilst the Administration has, in the past two

years, introduced a series of legislative amendments to raise the deterrent effect of irresponsible driving behaviour by increasing penalties and tightening up enforcement, there appears to be room for us to introduce a more positive and educational scheme to improve driving behaviour.

3. The Administration set up a Working Group in 1998 to examine the feasibility of introducing a DIS in Hong Kong to educate drivers on the proper driving attitude.

4. DIS has been in existence for more than 20 years in some European countries, Canada and the United States. In Ontario of Canada and Virginia of the United States, the court is empowered to direct a driver who has committed a traffic offence to attend a DIS course as one of the penalty options. Satisfactory completion of the course by the driver is required for discharging his/her liability. In other states of the United States, drivers could attend DIS courses on a voluntary basis. If a driver has satisfactorily completed a DIS course, some of his/her DOPs incurred could be deducted. In the UK, the Police can decide to send a driver to a DIS course as an alternative to prosecution. A two-year research project commissioned in UK has concluded that DIS had a positive change of drivers' attitude with a long-lasting effect.

5. Having regard to overseas experience, the Administration proposes a two-pronged approach –

- (a) to empower the court to direct drivers who have committed any scheduled offence under the Road Traffic (Driving-Offence Points) Ordinance (Cap 375) to attend a DIS course as one of the penalty options (other penalty options currently available include fine and imprisonment); and
- (b) to allow a driver to join the DIS course voluntarily.

6. Under our proposal, a driver would have three DOPs deducted from his/her total DOPs already incurred, subject to satisfactory completion of a driving improvement course.

7. The purpose of having a two pronged approach is that if drivers could only attend the DIS course under the direction of the court, this may be perceived as an additional penalty and we may not be able to achieve our original intention of introducing a positive educational element to improve driving behaviour. The introduction of the voluntary scheme would encourage drivers to attend to the problems of their driving habits and attitudes and make

necessary corrections at an early stage, thereby meeting our objective of enhancing road safety.

8. To avoid possible abuse of the scheme, it is proposed that for those drivers who have a clean DOP record, they would not be allowed to store any credit for redeeming DOPs if incurred in future. Also, each driver would only be permitted to deduct three DOPs for satisfactory completion of a DIS course once every two years. There is, however, no limit on the number of times he/she could attend the DIS course.

9. Similar to the existing practice in driver training, it is proposed that DIS courses should be provided by private operators through a selection process. The course requirements, including maximum fees to be charged as well as the operation of driving improvement schools, would be regulated administratively by means of a code of practice.

B. Transfer of Power to Determine Appeals made under Section 55(4) of the Road Traffic Ordinance to the Administrative Appeals Board

10. Under section 55(4) of Cap.374, any person aggrieved by the Commissioner of Police's decision in restricting motor racing or speed trial may appeal to the Chief Executive-in-Council. Over the past ten years, no application for motor racing or speed trial has been made to the Commissioner of Police, and hence no appeal has ever been lodged to the Chief Executive-in-Council. As this kind of appeal is minor in nature, it is proposed that section 55(4) of Cap.374 should be amended in order to transfer the power to determine any appeal thereunder to the Administrative Appeals Board.

C. Miscellaneous Amendments to Existing Road Traffic Legislation

11. At present, offences related to speeding and crossing continuous double white lines committed in the tunnel areas of Government tunnels, Eastern Harbour Crossing, Tate's Cairn Tunnel, Western Harbour Crossing, and the Tsing Ma Control Area are scheduled offences under the Road Traffic (Driving-Offence Points) Ordinance (Cap.375) and will lead to the registration of DOPs. However, offences of the same nature committed within the area of Tai Lam Tunnel and Discovery Bay Tunnel Link have not been included in the Schedule to Cap.375 and hence commission of those offences would not lead to the registration of DOPs. As the nature of those offences is the same as the said scheduled offences committed in other tunnels, it is proposed that we should rectify this inconsistency by including those offences in the Schedule to Cap.375.

12. Opportunity is also taken to include in the current legislative amendment exercise straightforward adaptation of the references to terms such as the “Governor”, the “Governor-in-Council” and the “Crown” in the relevant provisions of the Road Traffic Ordinance (Cap. 374) and the Road Traffic (Driving-Offence Points) Ordinance (Cap. 375) to bring them into conformity with the Basic Law and with the status of Hong Kong as a Special Administrative Region of the People’s Republic of China.

THE BILL

13. The Bill contains five main provisions. **Clause 3** transfers the power of determining appeals concerning motor racing and speed trials to the Administrative Appeals Board. **Clause 4** empowers the court to order a person to attend driving improvement courses. **Clause 5** empowers the Commissioner for Transport to designate driving improvement schools and to stipulate requirements for the operation of such schools in a Code of Practice. **Clauses 7 to 12** stipulate the arrangement whereby satisfactory completion of a driving improvement course may lead to deduction of three DOPs. **Clauses 14 and 15** effect the necessary adaptations to the two road traffic Ordinances and their subsidiary legislation.

LEGISLATIVE TIMETABLE

14. Subject to Members’ approval of the introduction of the Bill into the Legislative Council, the legislative timetable will be –

| | |
|--|----------------|
| Publication in the Gazette | 8 June 2001 |
| First Reading and commencement of Second Reading debate | 20 June 2001 |
| Resumption of Second Reading Debate, committee stage and Third Reading | to be notified |

BINDING EFFECT

15. The proposed amendments in the Bill will not affect the current binding effect of the Road Traffic Ordinance, the Road Traffic (Driving-Offence Points) Ordinance and the Administrative Appeals Board Ordinance.

BASIC LAW IMPLICATIONS

16. The Department of Justice advises that the Bill does not conflict with those provisions of the Basic Law carrying no human rights implication.

HUMAN RIGHTS IMPLICATIONS

17. The Department of Justice advises that the proposed legislative amendments are consistent with the human rights provisions of the Basic Law.

FINANCIAL AND STAFFING IMPLICATIONS

18. The Transport Department will absorb the additional workload generated from the proposed legislative amendments. There are no financial and staffing implications.

ECONOMIC IMPLICATIONS

19. The proposed legislative amendments will help rectify problematic driving behaviour and will have economic benefits in terms of savings of human lives and reduction in the costs of dealing with traffic accidents.

PUBLIC CONSULTATION

20. The proposal to introduce a DIS in Hong Kong was discussed at the Transport Advisory Committee and the Legislative Council Panel on Transport in January and February 2001 respectively. Both the Committee and the Panel expressed support for the proposed scheme. The Road Safety Council also supported the proposal.

PUBLICITY

21. The Bill will be gazetted on 8 June 2001. A press release will be issued on 6 June 2001.

ENQUIRIES

22. Any enquiries can be directed to the following officer in the Transport Bureau –

Mr Brian Lo
Principal Assistant Secretary for Transport
(Telephone No.: 2189 2182)

Government Secretariat
Transport Bureau
6 June 2001

ROAD TRAFFIC LEGISLATION (AMENDMENT) BILL 2001

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A BILL

To

Amend the Road Traffic Ordinance and the Road Traffic (Driving-offence Points) Ordinance, and to adapt the 2 Ordinances to bring them into conformity with the Basic Law and with the status of Hong Kong as a Special Administrative Region of the people's Republic of China.

Enacted by the Legislative Council.

1. Short title and commencement

(1) This Ordinance may be cited as the Road Traffic Legislation (Amendment) Ordinance 2001.

(2) This Ordinance, except for this section and sections 3, 13, 14, 15 and 16 and Schedules 1 and 2, shall come into operation on a day to be appointed by the Secretary for Transport by notice published in the Gazette.

(3) This section and sections 3, 13 and 16 shall come into operation on the day on which this Ordinance is published in the Gazette.

(4) Sections 14 and 15 and Schedules 1 and 2 shall be deemed to have come into operation on 1 July 1997.

(5) Subsection (4) shall be subject to Article 12 of the Hong Kong Bill of Rights set out in Part II of the Hong Kong Bill of Rights Ordinance (Cap. 383).

Road Traffic Ordinance

2. Interpretation

Section 2 of the Road Traffic Ordinance (Cap. 374) is amended by adding -

"driving improvement course" (駕駛改進課程) means a driving improvement course provided by a driving improvement school under section 102B(3)(a);

"driving improvement school" (駕駛改進學校) means a place designated by the Commissioner as a driving improvement school under section 102B(1) and in respect of which the designation is for the time being in force;"

3. Restriction on motor racing and speed trials

Section 55(4) is amended by repealing everything after "may appeal" and substituting "to the Administrative Appeals Board against such decision."

4. Section added

The following is added -

"72A. Power of court to order persons to attend driving improvement courses

(1) Where a court convicts a person of a scheduled offence within the meaning of the Road Traffic (Driving-offence Points) Ordinance (Cap. 375), it may, in addition to or instead of imposing any penalty that may be imposed for

the offence, order the person to attend and complete a driving improvement course.

(2) A person who is ordered to attend and complete a driving improvement course under subsection (1) shall, within 3 months after the date of making the order, at his own cost, attend and complete a driving improvement course.

(3) Where a judge or magistrate considers, on application made by a person in accordance with subsection (4), that the person is not able to or has failed to comply with subsection (2) with reasonable excuse, the judge or magistrate may order that the period of 3 months referred to in subsection (2) be extended for such period as the judge or magistrate considers appropriate.

(4) An application under subsection (3) shall be made in writing and -

(a) where the application is made to a judge, shall be sent to the Registrar;

(b) where the application is made to a magistrate, shall be sent to the magistrates' clerk.

(5) Where -

(a) a judge makes an order under subsection (3), the Registrar;

(b) a magistrate makes an order under subsection (3), the magistrates' clerk,

shall give notice of the order to the person who made the application and the Commissioner.

(6) A person who is ordered to attend and complete a driving improvement course under subsection (1) may appeal against the order in like manner as if it were an order made against him for the payment of a fine or any other sum.

(7) Where a person appeals against an order under subsection (6), the period of 3 months referred to in subsection (2), or that period as extended under subsection (3), shall not commence or continue to run, as the case may be, until the appeal is withdrawn or dismissed.

(8) A person who, without reasonable excuse, fails to comply with subsection (2) commits an offence and is liable on conviction to a fine of \$3,000 and to imprisonment for 1 month.

(9) In this section -

"court" (法庭) includes a magistrate;

"judge" (法官) means -

(a) in relation to the Court of First Instance, a judge of the Court of First Instance, a recorder of the Court of First Instance and a deputy judge of the Court of First Instance;

(b) in relation to the District Court, the District Judge;

"Registrar" (司法常務官) means -

(a) in relation to proceedings in the Court of First Instance, the Registrar of the High Court;

- (b) in relation to proceedings in the District Court, the Registrar of the District Court."

5. Part added

The following is added -

"PART XA

DRIVING IMPROVEMENT SCHOOLS

102A. Interpretation

In this Part and Schedule 11, unless the context otherwise requires -

"attendance certificate" (修習證書) -

- (a) means a certificate issued under section 102B (3)(b)(i); and
- (b) includes, except for the purposes of section 102B (3)(b)(i), a duplicate of the certificate;

"code of practice" (實務守則) means a code of practice issued under section 102E(a) as it is in force from time to time;

"course certificate" (課程證書) -

- (a) means a certificate issued under section 102B(3)(b)(ii); and
- (b) includes, except for the purposes of section 102B(3)(b)(ii), a duplicate of the certificate;

"designation" (指定) means a designation made under section 102B (1);

"proprietor" (東主), in relation to a driving improvement school, means a person having the conduct or control of it, whether or not he is the owner.

102B. Commissioner may designate driving improvement schools

(1) The Commissioner may, in writing, designate any place as a driving improvement school and may impose such conditions relating to the designation as he considers appropriate.

(2) Where a place is designated as a driving improvement school under subsection (1), such designation -

- (a) shall authorize the person specified in the designation as the proprietor to operate that place as a driving improvement school in compliance with -
 - (i) Schedule 11;
 - (ii) a code of practice;
 - (iii) the condition set out in subsection (3); and
 - (iv) such conditions as may be specified by the Commissioner in the designation; and
- (b) shall not be valid except on payment of the fee determined under Schedule 11.

(3) The condition referred to in subsection (2)(a)(iii) is that the proprietor of a driving improvement school shall ensure that -

(a) driving improvement courses are provided by the school to the holder of a driving licence other than -

(i) a learner's driving licence issued under regulation 12 or 12A of the Road Traffic (Driving Licences) Regulations (Cap. 374 sub. leg.);

(ii) a probationary driving licence issued under regulation 12G of the Road Traffic (Driving Licences) Regulations (Cap. 374 sub. leg.);

(iii) a temporary driving licence issued under regulation 13 of the Road Traffic (Driving Licences) Regulations (Cap. 374 sub. leg.); or

(iv) a driving licence to drive Government vehicles,

in accordance with the code of practice;

(b) where a person attends and completes a driving improvement course at the school -

(i) an attendance certificate in a form specified by the Commissioner is issued by the school to the person

immediately thereafter, indicating that the person has attended and completed the course;

- (ii) a course certificate in a form specified by the Commissioner is issued by the school, on the Commissioner's direction, to the person, indicating that the person has attended and completed the course in accordance with the code of practice.

(4) The Secretary for Transport may by notice published in the Gazette amend any of subparagraphs (i), (ii), (iii) and (iv) in subsection (3)(a).

(5) Without prejudice to the generality of subsection (2)(a) -

- (a) the Commissioner may from time to time determine the maximum fees that may be charged by the proprietor of a driving improvement school for a driving improvement course and the issue of an attendance certificate or course certificate;
- (b) the fees charged by the proprietor of a driving improvement school for a driving improvement course and the issue of an attendance certificate or course certificate

shall not exceed their respective maximum fees as determined under paragraph (a);

- (c) the conditions that may be specified in a designation under subsection (2)(a)(iv) may include conditions relating to the issue of an attendance certificate or course certificate.

(6) The Commissioner shall cause notice of -

- (a) a designation that he has made;
- (b) the maximum fees that he has determined under subsection (5)(a),

to be published in the Gazette.

(7) A notice under subsection (6) is not subsidiary legislation.

(8) Subject to sections 102C and 102D, a designation -

- (a) shall be valid for a maximum period of 3 years from such date as shall be specified in the designation;
- (b) may, on the application of the proprietor of a driving improvement school made to the Commissioner at least 3 months before the date of its expiration, be renewed in writing by the Commissioner.

(9) Where a designation is renewed under subsection (8)(b), the renewed designation shall -

- (a) be valid for a maximum period of 3 years from such date as shall be specified in the renewed designation; and
- (b) not be valid except on payment of the fee determined under Schedule 11.

(10) The Commissioner may waive in whole or in part the payment of a fee under subsection (2)(b) or (9)(b) if he considers that it is in the public interest to do so.

102C. Revocation of designation

(1) If it appears to the Commissioner that any proprietor of a driving improvement school -

- (a) has breached Schedule 11, the code of practice or any of the conditions referred to in section 102B(2)(a)(iii) and (iv);
- (b) has issued any attendance certificate or course certificate improperly;
- (c) has entered any incorrect particulars on an attendance certificate or course certificate for fraudulent purposes; or
- (d) has ceased to have the conduct or control of the school, or is being wound up or grounds exist for a creditor to present a bankruptcy petition against him,

the Commissioner may serve on the proprietor a notice in writing -

- (i) stating the Commissioner's intention to revoke the designation in respect of the school and the ground or grounds therefor; and
 - (ii) stating that the proprietor may make representations in writing, within 28 days after the service of the notice, why the designation should not be so revoked.
- (2) Where -
- (a) a notice has been served on the proprietor of a driving improvement school under subsection (1); and
 - (b) either -
 - (i) the proprietor does not make any representations in writing why the designation should not be revoked within the period specified in subsection (1)(ii); or
 - (ii) the Commissioner, having considered any such representations made by the proprietor, considers that the proprietor has not shown good cause why the designation should not be revoked,

the Commissioner may, by notice in writing served on the proprietor, revoke the designation with effect from such date

being not less than 14 days after service of the notice as he shall specify in the notice.

(3) The proprietor of a driving improvement school aggrieved by a decision of the Commissioner under subsection (2) may appeal to a Transport Tribunal against the decision within 14 days after receiving notice of the decision, and on any such appeal, a Transport Tribunal may affirm, amend or reverse the decision.

(4) A decision of the Commissioner that is appealed against under subsection (3) shall not have effect pending the determination of the appeal.

(5) The Commissioner shall cause notice of the revocation of a designation under subsection (2) to be published in the Gazette as soon as practicable after the revocation has come into effect.

(6) A notice under subsection (5) is not subsidiary legislation.

(7) No compensation is payable to the proprietor of a driving improvement school in respect of the revocation of a designation under subsection (2) which relates to the school.

(8) Where a designation is revoked under subsection (2), any fee paid under section 102B(2)(b) or (9)(b) shall not be refunded.

(9) Within 28 days after the revocation of a designation under subsection (2) has come into effect, the last proprietor of the former driving improvement school to

which the designation relates shall refund a person the fee he has paid for taking a driving improvement course at the school for any part of the course which has not been completed, and the amount to be refunded shall be the amount obtained by dividing the fee paid by the total number of parts of a course and multiplying the result by the number of parts of a course which has not been given.

(10) The revocation of a designation under subsection (2) does not affect the validity of attendance certificates or course certificates issued lawfully by the former driving improvement school to which the designation relates.

102D. Termination of designation

(1) Notwithstanding section 102C, a designation in respect of a driving improvement school shall, if the proprietor of the school serves notice in writing of termination on the Commissioner of not less than 3 months, be terminated on the expiration of the period of the notice.

(2) Upon the termination of a designation under subsection (1), the Commissioner may make a refund in respect of any fee paid under section 102B(2)(b) or (9)(b) of an amount not exceeding the amount obtained by dividing the amount of the fee paid by the number of complete months of the designation and multiplying the result by the number of complete months in the unexpired period of the designation.

(3) Within 28 days after a designation is terminated under subsection (1), the last proprietor of the former driving improvement school to which the designation relates shall refund a person the fee he has paid for taking a driving improvement course at the school for any part of the course which has not been completed, and the amount to be refunded shall be the amount obtained by dividing the fee paid by the total number of parts of a course and multiplying the result by the number of parts of a course which has not been given.

(4) The termination of a designation under subsection (1) does not affect the validity of attendance certificates or course certificates issued lawfully by the former driving improvement school to which the designation relates.

102E. Ancillary powers of Commissioner

For the purposes of this Part, the Commissioner may -

- (a) issue, and from time to time revise, a code of practice setting out -
 - (i) the requirements, procedures and standards in respect of the content and duration of driving improvement courses;
 - (ii) the requirements and procedures for providing information by a driving improvement school to the

Commissioner in respect of a person's completion of driving improvement courses;

- (iii) the facilities to be provided, the safety measures to be adopted and the equipment to be used in a driving improvement school;
 - (iv) the requirements and procedures for issuing an attendance certificate or course certificate to a person who has attended and completed a driving improvement course; and
 - (v) any other matter he considers appropriate;
- (b) specify any form, including the form of any attendance certificate, course certificate or other document; and
 - (c) authorize in writing appropriate persons to sign attendance certificates and course certificates.

102F. Power to enter and inspect

(1) Any public officer authorized in writing by the Commissioner for the purposes of this section may, during the hours when a driving improvement school is open for business, enter the school and, on production of his authorization -

- (a) observe and monitor the giving of driving improvement courses;
- (b) inspect the school and ascertain whether there has been a breach of Schedule 11, the code of practice or the conditions referred to in section 102B(2)(a)(iii) and (iv);
- (c) inspect or test any motor vehicle or equipment used for the giving of driving improvement courses; and
- (d) inspect and make copies of any record, book or document kept or maintained in respect of the giving of driving improvement courses.

(2) Any person who obstructs a public officer in execution of his duty under subsection (1) commits an offence and is liable on conviction to a fine at level 2 and imprisonment for 6 months.

102G. Amendment of Schedule 11

The Commissioner may by order published in the Gazette amend Schedule 11."

6. Schedule 11 added

The following is added -

"SCHEDULE 11

[ss. 102A, 102B,
102C, 102F &
102G]

REQUIREMENTS APPLICABLE TO DRIVING
IMPROVEMENT SCHOOLS

1. Only driving improvement course instructors who have been authorized by the Commissioner and who meet such conditions as may be specified by the Commissioner in the designation concerned may give driving improvement courses.

2. Notice shall be given by the proprietor of a driving improvement school to the Commissioner immediately if -
 - (a) there is any change in the persons employed at the school who are authorized to sign attendance certificates or course certificates under section 102E of this Ordinance;

 - (b) there is any change in the particulars of the proprietor of the school, or any other matter specified by the Commissioner by notice in writing to the proprietor which relates to the school; and

 - (c) grounds exist for a creditor to present a bankruptcy petition against the proprietor or the proprietor has entered into liquidation or has entered into any composition with his creditors or has suffered any distress or execution to be levied upon his goods.

3. The Commissioner may from time to time determine the fees payable for designation, or renewal of designation, of a driving improvement school.
4. The Commissioner shall cause notice of the fees he has determined under section 3 to be published in the Gazette.
5. A notice under section 4 is not subsidiary legislation."

Road Traffic (Driving-offence Points) Ordinance

7. Interpretation

Section 2(1) of the Road Traffic (Driving-offence Points) Ordinance (Cap. 375) is amended by adding -

"course certificate" (課程證書) has the meaning assigned to it by section 102A of the Road Traffic Ordinance (Cap. 374);

"driving improvement course" (駕駛改進課程) has the meaning assigned to it by section 2 of the Road Traffic Ordinance (Cap. 374);".

8. Register of points

Section 3(1) is amended -

- (a) in paragraph (e), by repealing "and";

(b) by adding -

"(ea) if applicable, the date on which the person was issued with a course certificate;

(eb) if applicable, the date on which points were deducted, in accordance with section 6A, from the total number of points that have been incurred by the person; and".

9. Section added

The following is added -

"6A. Deduction of points on completion of driving improvement courses

(1) Subject to subsections (2) and (3), where a person is issued with a course certificate, the Commissioner shall, as soon as practicable thereafter, cause 3 points to be deducted from the total number of points that have been incurred by the person under section 4.

(2) No point may be deducted under subsection (1) if, on the date the person completes the driving improvement course in relation to which he is issued with the course certificate -

(a) the person -

(i) has not incurred any point; or

(ii) has incurred 15 or more points; or

- (b) the Commissioner has within the past 2 years deducted points under subsection (1) from the total number of points incurred by the person.

(3) If, on the date the person completes the driving improvement course in relation to which he is issued with the course certificate, an appeal under section 5(2) against a conviction for a scheduled offence that the person committed within the past 2 years is in progress, no point may be deducted under subsection (1) pending the determination of the appeal.

(4) The points deducted under subsection (1) -

- (a) are deemed to have been deducted on the date the person completes the driving improvement course in relation to which he is issued with the course certificate; and
- (b) are, for the purposes of sections 7 and 8, deemed not to have been incurred by the person."

10. Notice of points

Section 7 is amended by adding -

"(3) For the purposes of subsection (1), in calculating the number of points incurred by a person, any deduction of points in accordance with section 6A shall be taken into account."

11. Disqualification

Section 8 is amended by adding -

"(4A) Account shall be taken under subsection (1) of any deduction of points in accordance with section 6A."

12. Evidence

Section 9(1) is amended -

- (a) in paragraph (c), by repealing "and";
- (b) in paragraph (d), by repealing the comma and substituting a semicolon;
- (c) by adding -
 - "(e) if applicable, the date on which the person was issued with a course certificate; and
 - (f) if applicable, the date on which points were deducted, in accordance with section 6A, from the total number of points that have been incurred by the person,".

13. Schedule amended

The Schedule is amended -

- (a) in item 18, by repealing "9(g)" and substituting "9(1)(g)";
- (b) by adding -

"Tai Lam
Tunnel and
Yuen Long
Approach
Road Bylaw
(Cap. 474
sub. leg.)

| | | | |
|----|---------------|---|----|
| 50 | Section 7 | Driving in excess of speed limit indicated by a speed limit sign of the type shown in Figure No. 6, 7, 8 or 9 in the Schedule to the Tai Lam Tunnel and Yuen Long Approach Road Bylaw (Cap. 474 sub. leg.) by more than 15 kilometres an hour, other than where item 51 or 52 applies | 3 |
| 51 | Section 7 | Driving in excess of speed limit referred to in item 50 by more than 30 kilometres an hour, other than where item 52 applies | 5 |
| 52 | Section 7 | Driving in excess of speed limit referred to in item 50 by more than 45 kilometres an hour | 10 |
| 53 | Section 8 | Crossing continuous double white lines | 3 |
| 54 | Section 10(b) | Crossing a continuous white line with a broken white line of the type shown in Figure No. 502 in Schedule 2 to the Road Traffic (Traffic Control) Regulations (Cap. 374 sub. leg.) | 3 |

Discovery
Bay Tunnel
Link Bylaw
(Cap. 520
sub. leg.)

| | | | |
|----|---------------|--|-----|
| 55 | Section 7 | Driving in excess of speed limit indicated by a speed limit sign of the type shown in Figure No. 6 or 7 in the Schedule to the Discovery Bay Tunnel Link Bylaw (Cap. 520 sub. leg.) by more than 15 kilometres an hour, other than where item 56 or 57 applies | 3 |
| 56 | Section 7 | Driving in excess of speed limit referred to in item 55 by more than 30 kilometres an hour, other than where item 57 applies | 5 |
| 57 | Section 7 | Driving in excess of speed limit referred to in item 55 by more than 45 kilometres an hour | 10 |
| 58 | Section 8 | Crossing continuous double white lines | 3 |
| 59 | Section 10(b) | Crossing a continuous white line with a broken white line of the type shown in Figure No. 502 in Schedule 2 to the Road Traffic (Traffic Control) Regulations (Cap. 374 sub. leg.) | 3". |

Adaptation of Laws

14. Adaptation of Road Traffic Ordinance

The Road Traffic Ordinance (Cap. 374) and its subsidiary legislation are amended in the manner indicated in Schedule 1.

15. Adaptation of Road Traffic (Driving-offence Points) Ordinance

The Road Traffic (Driving-offence Points) Ordinance (Cap. 375) is amended in the manner indicated in Schedule 2.

**Consequential Amendments
Administrative Appeals Board Ordinance**

16. Schedule amended

The Schedule to the Administrative Appeals Board Ordinance (Cap. 442) is amended by adding -

| | |
|--|--|
| "49. Road Traffic Ordinance (Cap. 374) | A decision of the Commissioner of Police under section 55(3)." |
|--|--|

SCHEDULE 1

[s. 14]

ROAD TRAFFIC ORDINANCE AND ITS SUBSIDIARY LEGISLATION

Road Traffic Ordinance

1. Section 2 of the Road Traffic Ordinance (Cap. 374) is amended, in the definition of "international driving permit", by adding "or place" after "country".
2. Section 3 is amended by repealing "Crown" where it twice appears and substituting "State".

3. Section 5(3) is amended by repealing "Governor in Council" where it twice appears and substituting "Chief Executive in Council".
4. Section 6(2) is amended by repealing "Governor in Council" and substituting "Chief Executive in Council".
5. Section 7(1B) and (1C) is amended by repealing "Governor in Council" and substituting "Chief Executive in Council".
6. Section 8 is amended -
 - (a) in subsection (1)(d), by adding "or places" after "countries" where it twice appears;
 - (b) in subsection (1A), by repealing "Governor in Council" and substituting "Chief Executive in Council".
7. Section 10 is amended -
 - (a) in subsection (2), by repealing "Governor in Council" and substituting "Chief Executive in Council";
 - (b) in subsection (5), by repealing "立法局" and substituting "立法會".
8. Section 11(1) is amended by repealing "Crown" and substituting "Government".

9. Section 12(2) is amended by repealing "Governor in Council" and substituting "Chief Executive in Council".
10. Section 12A(1A) is amended by repealing "Governor in Council" and substituting "Chief Executive in Council".
11. Section 14(2) is amended by repealing "立法局" and substituting "立法會".
12. Section 14A(a) is amended by repealing "Governor in Council" and substituting "Chief Executive in Council".
13. Section 23 is amended -
 - (a) in subsection (1), by repealing "Governor in Council" and substituting "Chief Executive in Council";
 - (b) in subsection (3), by repealing "立法局" and substituting "立法會".
14. Section 28(a) is amended by repealing "Governor" and substituting "Chief Executive".
15. Section 39G(2) is amended by repealing "立法局" and substituting "立法會".

16. Section 51(2) is amended by repealing "Crown" and substituting "Government".
17. Section 58(2) is amended by repealing "皇家香港警隊" and substituting "香港警務處".
18. Section 77H(1) is amended by repealing "Governor" and substituting "Chief Executive".
19. Section 77I is amended by repealing "Crown" and substituting "Government".
20. Section 86(2) is amended by repealing "Governor in Council" and substituting "Chief Executive in Council".
21. Section 87 is amended by repealing "Crown" where it twice appears and substituting "Government".
22. Section 88(6) and (7) is amended by repealing "Crown" and substituting "Government".
23. Section 88H(1) is amended by repealing "Governor" and substituting "Chief Executive".
24. Section 88I is amended by repealing "Crown" and substituting "Government".

25. Section 88P is amended by repealing "Governor" and substituting "Chief Executive".
26. Section 88Q is amended by repealing "Crown" and substituting "Government".
27. Section 94(2) is amended by repealing "Crown" and substituting "Government".
28. Section 96(4) is amended by repealing "Crown" and substituting "Government".
29. Section 102 is amended by repealing "Governor in Council" and substituting "Chief Executive in Council".
30. Section 105(2) is amended by repealing "Governor in Council" and substituting "Chief Executive in Council".
31. Section 106 is amended by repealing "Crown" where it twice appears and substituting "Government".
32. Section 107(3)(b)(ii) and (5) is amended by repealing "Crown" and substituting "Government".

33. Section 109(2) is amended by repealing "立法局" and substituting "立法會".
34. Section 111(2)(e) is amended by adding "or place" after "country".
35. Section 112 is amended by repealing "Governor" where it twice appears and substituting "Chief Executive".
36. Section 113(2) is amended by repealing "Governor" and substituting "Chief Executive".
37. Section 114(3) is amended by repealing "Governor" and substituting "Chief Executive".
38. Section 120(4) is amended by repealing "Governor" and substituting "Chief Executive".
39. Section 121(2)(i) is amended by repealing "Crown" and substituting "Government".
40. Section 129(1) and (2) is amended by repealing "Crown" and substituting "Government".
41. Section 131(2) is amended by repealing "Governor in Council" and substituting "Chief Executive in Council".

Road Traffic (Driving Licences) Regulations

42. Regulation 2 of the Road Traffic (Driving Licences) Regulations (Cap. 374 sub. leg.) is amended, in the definition of "international driving permit", by adding "or place" after "country".
43. Regulation 4(1) is amended by repealing "Crown" where it twice appears and substituting "State".
44. Regulation 10(2)(a) is amended by repealing "any other country" and substituting "any country or place other than Hong Kong".
45. Regulation 11(3)(a) and (c)(i) and (iii) and (3A)(a) is amended by adding "or place" after "country".
46. Regulation 13(1)(a) and (2)(a) and (c) is amended by adding "or place" after "country".
47. Regulation 45 is amended by repealing "Governor in Council" where it twice appears and substituting "Chief Executive in Council".

48. The Fourth Schedule is amended, in the heading, by adding "OR PLACES" after "COUNTRIES".

49. The Ninth Schedule is amended, in Form 1 -

- (a) in the heading on Page 1, by repealing "HONG KONG" and substituting "THE HONG KONG SPECIAL ADMINISTRATIVE REGION OF THE PEOPLE'S REPUBLIC OF CHINA";
- (b) by adding "or place" after "country" wherever it appears;
- (c) by adding "or places" after "countries" where it twice appears.

Road Traffic (Parking) Regulations

50. Regulation 3 of the Road Traffic (Parking) Regulations (Cap. 374 sub. leg.) is amended -

- (a) in subregulation (1), by repealing "Crown" and substituting "State";
- (b) in subregulation (2), by repealing "Crown" and substituting "Government".

51. Regulation 27D(3) is amended by repealing "Crown" and substituting "Government".

Road Traffic (Public Service Vehicles) Regulations

52. Regulation 46(1)(i)(i) of the Road Traffic (Public Service Vehicles) Regulations (Cap. 374 sub. leg.) is amended by repealing "皇家香港輔助警務人員" and substituting "香港輔助警察隊隊員".

53. Regulation 61(2) is amended by repealing "Governor" and substituting "Chief Executive".

Road Traffic (Registration and Licensing of Vehicles) Regulations

54. Regulation 2 of the Road Traffic (Registration and Licensing of Vehicles) Regulations (Cap. 374 sub. leg.) is amended -

- (a) in the definition of "nationality sign", by adding "or place" after "country";
- (b) in the definition of "visitor's registration document", in paragraph (a), by adding "or place" after "country" where it twice appears.

55. Regulation 26(1)(c) is amended by repealing "Governor in Council" and substituting "Chief Executive in Council".

56. Regulation 31(4)(d) is amended by adding "or place" after "country".

57. Regulation 34(3) is amended by adding "or place" after "country".

58. Regulation 53(5) is amended by repealing "Governor" and substituting "Chief Executive".

Road Traffic (Safety Equipment) Regulations

59. Regulation 5(2) of the Road Traffic (Safety Equipment) Regulations (Cap. 374 sub. leg.) is amended by repealing "Crown" and substituting "Government".

Road Traffic (Traffic Control) Regulations

60. Regulation 2(1) of the Road Traffic (Traffic Control) Regulations (Cap. 374 sub. leg.) is amended, in the definition of "person in the public service of the Crown" -

- (a) by repealing "Crown" and substituting "State";
- (b) by repealing "(官方" and substituting "(“國家”";
- (c) in paragraph (c) -
 - (i) by repealing subparagraph (ii) and substituting -
"(ii) the Government Flying Service;";
 - (ii) in subparagraph (iii), by repealing "皇家".

61. Regulation 15B(8) is amended by repealing "Crown" and substituting "Government".
62. Regulation 41(2)(a) is amended by repealing "Crown" and substituting "State".
63. Regulation 62 is amended by repealing "Crown" and substituting "State".

Traffic Wardens (Discipline) Regulations

64. Regulation 6 of the Traffic Wardens (Discipline) Regulations (Cap. 374 sub. leg.) is amended by repealing "Crown" and substituting "Government".

Road Traffic (Parking on Private Roads) Regulations

65. Regulation 3(1) of the Road Traffic (Parking on Private Roads) Regulations (Cap. 374 sub. leg.) is amended by repealing "Crown" and substituting "State".
66. Regulation 12(1)(a)(ii)(A) and (2)(b)(i) is amended by repealing "Crown" and substituting "Government".

Road Traffic (Expressway) Regulations

67. Regulation 3 of the Road Traffic (Expressway) Regulations (Cap. 374 sub. leg.) is amended by repealing "Crown" and substituting "State".

SCHEDULE 2

[s. 15]

ROAD TRAFFIC (DRIVING-OFFENCE POINTS) ORDINANCE

1. Section 4(3) of the Road Traffic (Driving-offence Points) Ordinance (Cap. 375) is amended by repealing "立法局" and substituting "立法會".
2. Section 17 is amended by repealing "Crown" and substituting "State".

Explanatory Memorandum

The main purpose of this Bill is to amend the Road Traffic Ordinance (Cap. 374) and the Road Traffic (Driving-offence Points) Ordinance (Cap. 375) -

- (a) to facilitate the introduction of a driving improvement scheme (clauses 2, 4, 5 and 6);
- (b) to provide for deduction of 3 driving-offence points on a person's satisfactory completion of a driving improvement course (clauses 7 to 12);

- (c) to adapt the 2 Ordinances and their subsidiary legislation to bring them into conformity with the Basic Law and with Hong Kong's status as a Special Administrative Region of the People's Republic of China (clauses 14 and 15 and Schedules 1 and 2).

2. Clause 2 provides definitions of terms used in new section 72A and Part XA of and Schedule 11 to the Road Traffic Ordinance (Cap. 374).

3. Clause 3 transfers the power of determining appeals concerning motor racing and speed trials to the Administrative Appeals Board.

4. Clause 4 empowers the courts and the magistrates to order a person who is convicted of a scheduled offence within the meaning of the Road Traffic (Driving-offence Points) Ordinance (Cap. 375) to attend and complete a driving improvement course. A person who fails to complete the course within 3 months after the making of the order commits an offence.

5. Clause 5 introduces Part XA to the Road Traffic Ordinance (Cap. 374) to give effect to the main purpose of the Bill as follows -

- (a) new section 102A provides definitions of terms used in new Part XA and Schedule 11;
- (b) new section 102B enables the Commissioner for Transport ("the Commissioner") to designate any place as a driving improvement school, to be operated in compliance with new Schedule 11, a code

of practice and the conditions referred to in section 102B(2)(a)(iii) and (iv);

- (c) new section 102C enables the Commissioner to revoke a designation in specified circumstances and enables the proprietor of a driving improvement school ("the proprietor") to appeal to a Transport Tribunal against the revocation;
- (d) new section 102D provides for the termination of a designation by the giving of notice by the proprietor;
- (e) new section 102E sets out the ancillary powers of the Commissioner;
- (f) new section 102F confers powers of entry and inspection on public officers authorized in writing by the Commissioner;
- (g) new section 102G provides for amendment of new Schedule 11 introduced by clause 6.

6. Clause 6 introduces Schedule 11 to the Road Traffic Ordinance (Cap. 374) setting out the requirements applicable to driving improvement schools.

7. Clause 13 amends the Schedule to the Road Traffic (Driving-offence Points) Ordinance (Cap. 375) -

- (a) to rectify a minor error in item 18;
- (b) to make certain offences under the Tai Lam Tunnel and Yuen Long Approach Road Bylaw (Cap. 474 sub. leg.) and the Discovery Bay Tunnel Link Bylaw (Cap.

520 sub. leg.) scheduled offences under the Ordinance.

8. Clause 14 and Schedule 1 contain adaptations to the Road Traffic Ordinance (Cap. 374) and its subsidiary legislation.

9. Clause 15 and Schedule 2 contain adaptations to the Road Traffic (Driving-offence Points) Ordinance (Cap. 375).

10. Clause 16 contains a consequential amendment to the Administrative Appeals Board Ordinance (Cap. 442).

11. The Bill also provides that the adaptations when passed into law shall take effect retrospectively, as from the date of the establishment of the Hong Kong Special Administrative Region (clause 1(4)).