

**BILLS COMMITTEE ON
ROAD TRAFFIC LEGISLATION (AMENDMENT) BILL**

Follow-up to meeting on 22 October 2001

PURPOSE

This paper sets out the Administration's response to the information requested by Members in relation to the Driving Improvement Scheme.

BACKGROUND

2. At the meeting of the Bills Committee on Road Traffic Legislation (Amendment) Bill 2001 held on 22 October 2001, Members requested the Administration to consider further the following issues –

- (a) the possibility of double penalty on driving offence;
- (b) the mechanism for regulating the maximum fees for a driving improvement course; and
- (c) the eligible driving-offence points (DOP) balance threshold for the DIS.

Possibility of Double Penalty on Driving Offence

3. Under our proposal, the Court is empowered to direct a driver who has committed any scheduled offence under the Road Traffic (Driving-Offence Points) Ordinance to attend the DIS course as one of the penalty options. In making such a judgement, the Court will have regard to the circumstances of an individual case. The penalty the Court imposes should be commensurate with the severity of the offence a driver has been convicted of. As such, there should be no question of double penalty.

4. Some Members have suggested that the Court should only be empowered to direct drivers who have committed more serious offences, say, offences which would lead to 5 DOPs or above, to attend the DIS course. Under such a proposal, the Court would not be able to direct a repeated offender of traffic offences which attract 3 DOPs or a driver who had been convicted concurrently of several traffic offences which lead to 3 DOPs each to attend the DIS course. However, those would be the sort of drivers that would most likely suffer from an improper driving attitude, and would benefit more from the DIS. The Administration is hence of the view that it would be more appropriate for the Court to be given the discretion to make the judgement with reference to the circumstances of an individual case.

5. In Canada, France, USA and New Zealand, the Court is empowered to direct drivers who have been convicted of traffic offences to attend a DIS course as one of the penalty options. The court has full discretion to decide whether attendance of the courses should be in addition to or in lieu of the other penalties set out under the relevant ordinances. Our current proposal is in line with overseas practices.

The Mechanism for Regulating the Maximum Fees for a Driving Improvement Course

6. In considering the maximum fee that may be charged by the course providers, the Commissioner for Transport (C for T) will take into account all relevant factors including, but not limited to, the demand and supply of the course, affordability of the public, the average fine for traffic offences attracting 3 to 5 DOPs (i.e. about \$1,000), the operating environment of the course providers and their profit margins, etc. The proposed level of \$1,000 is the estimated ceiling taking into account all the above factors. To allow C for T to adjust the maximum fee chargeable having regard to changing circumstances in a responsive manner, we propose to empower C for T with the necessary flexibility under the law. By stipulating only a maximum fee, participants of DIS will be able to compare prices offered by different course providers and competition between the course providers should keep the fees at a reasonable level.

7. According to the information gathered from overseas countries, the course fees are all set by the private sector course providers, the only exception being Switzerland, where the cantonal authorities run the courses and set the fees. Regarding the amount of course fees, it varies between different overseas schemes, ranging from \$500 for a 4-6 hour course to \$1,500 for a 11-hour course. The proposed maximum fee of \$1,000 for a 8-hour course is roughly in line with similar schemes overseas.

The Eligible DOP Balance Threshold for the DIS

8. The Chairman has suggested that the eligibility criteria for the DIS be restricted to drivers with a DOP balance of 10 points or less. Under the principle of fairness, we consider that all drivers, regardless of the number of demerit points accumulated, should be treated in a similar manner under the proposed DIS. According to our statistics, the total number of drivers with 11-14 demerit points as at 6 October 2001 is 48,036 (29,649 are non-professional drivers and 18,387 are professional drivers). Such drivers are more likely to be repeated offenders who should benefit more from schemes such as DIS to rectify their problematic driving behaviour. If we were to remove the incentive of deduction of 3 DOPs for such drivers, this could have the unfortunate effect of discouraging voluntary participation, hence defeating the objective of our proposed scheme. We, however, fully appreciate the importance of ensuring that there would be no abuse of the scheme. We have hence proposed that a driver could only have 3 DOPs deducted from his balance as a result of attending the DIS once every two years.

9. According to the information gathered from overseas countries, Canada, US, and New Zealand have similar DOP systems and there is no restriction on the eligible DOP balance threshold for attending DIS course in these overseas countries. In Canada and US, drivers are also restricted to have DOPs deducted no more than once every two years for attending the DIS.

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