

立法會
Legislative Council

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**Paper for the House Committee Meeting
of the Legislative Council
on 22 June 2001**

**Legal Service Division Report on
Road Traffic Legislation (Amendment) Bill 2001**

Object(s) of the Bill

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

- (a) to introduce a driving improvement scheme and to provide for deduction of 3 driving-offence points on a person's satisfactory completion of a driving improvement course; and
- (b) to adapt the Road Traffic Ordinance and its subsidiary legislation and the Road Traffic (Driving-offence Points) Ordinance 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.

LegCo Brief Reference

- 2. TRAN 3/7/28(01) Pt.5 dated 6 June 2001 issued by the Transport Bureau.

Date of First Reading

- 3. 20 June 2001.

Comments

A. *Driving improvement scheme*

- 4. The Bill seeks to introduce a driving improvement scheme to educate

drivers on the proper driving attitude with a view to enhancing road safety. In proposing the scheme, the Administration has taken into consideration similar schemes in European countries, Canada and the United States. Members may refer to paragraph 4 of the LegCo Brief for information on how the driving improvement schemes operate in those overseas countries.

5. Under the driving improvement scheme as proposed in the Bill, a person may attend a driving improvement course on his own accord or under the direction of the court where the court convicts the person of a scheduled offence under the Road Traffic (Driving-offence Points) Ordinance. The scheduled offences under that Ordinance range from the more serious traffic offences of causing death by dangerous driving and dangerous driving to the less serious ones of crossing double white lines and failing to comply with traffic signals.

6. The Bill proposes that on satisfactory completion of a driving improvement course, a person will have 3 points deducted from the total number of driving-offence points that have been incurred. To avoid possible abuse of the scheme, it is proposed that the deduction of points will not apply to:

- (a) persons who have not incurred any driving-offence points;
- (b) persons who have incurred 15 or more points; and
- (c) persons whose total number of driving-offence points have been deducted for satisfactory completion of a driving improvement course within the past 2 years.

7. To implement the driving improvement scheme, the Bill proposes to empower the Commissioner for Transport to designate driving improvement schools to provide driving improvement courses to drivers. A designation will be valid for 3 years and is renewable. The Commissioner may determine the fees payable for designation or renewal of designation of a driving improvement school. It is proposed that these schools should be operated by private operators. However, the course requirements, including the maximum fees that may be charged for a driving improvement course and the operation of driving improvement schools will be regulated administratively by a code of practice issued by the Commissioner.

B. Adaptation of laws

8. The Bill also seeks to adapt the Road Traffic Ordinance and its subsidiary legislation and the Road Traffic (Driving-offence Points) Ordinance. A summary of the proposed amendments is at Annex A.

9. Members may wish to note that the Road Traffic Ordinance and the Road Traffic (Driving-offence Points) Ordinance were among the 14 Ordinances proposed to be adapted in the Adaptation of Laws (No. 9) Bill 1999 ("the 1999 Bill"). The 1999 Bill was introduced into the Legislative Council of the previous session on

31 March 1999. The Bills Committee on the 1999 Bill had no objection to the Administration's proposed adaptations to the Road Traffic Ordinance and the Road Traffic (Driving-offence Points) Ordinance. The Bills Committee, however, could not reach consensus with the Administration over the adaptation of the reference to "Crown" to "State" in the provision in the Motor Vehicles Insurance (Third Party Risks) Ordinance (Cap. 272) relating to the grant of exemption to vehicles owned by the State from taking out third party insurance and provisions in certain tunnel legislation exempting vehicles that carry persons in the service of the State from the payment of toll. Having regard to the issues raised by the Bills Committee, the Administration decided not to resume Second Reading debate of the 1999 Bill in the 1999/2000 legislative session pending a comprehensive review of the tunnel legislation.

10. The adaptation amendments to the Road Traffic Ordinance and the Road Traffic (Driving-offence Points) Ordinance proposed in this Bill are essentially identical to those proposed in the 1999 Bill. The proposed adaptation of "Crown" to "State" in the two Ordinances relates to the application of the provisions on traffic offences, driving licences, parking, traffic control and the driving-offence points to persons or vehicles in the service of the State. The Bills Committee on the 1999 Bill had considered these proposed amendments and had no objection to the amendments.

C. Other provisions

11. Other provisions of the Bill relate to the following matters:

- (a) transfer of power to determine appeals concerning motor racing and speed trials from the Chief Executive in Council to the Administrative Appeals Board; and
- (b) making certain traffic 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 Road Traffic (Driving-offence Points) Ordinance.

D. Commencement of the Bill

12. If enacted, the provisions of the Bill relating to the driving improvement scheme and the deduction of driving-offence points will come into operation on a day to be appointed by the Secretary for Transport by notice published in the Gazette. The proposed adaptation amendments to the Road Traffic Ordinance and the Road Traffic (Driving-offence Points) Ordinance shall be deemed to have come into operation on 1 July 1997 to ensure that there is consistency in the interpretation of all laws on and after 1 July 1997. The other provisions of the Bill will come into operation on the date of publication in the Gazette.

Public Consultation

13. According to the LegCo Brief, both the Transport Advisory Committee and the Road Safety Council have been consulted on the proposal to introduce a driving improvement scheme. Both organizations support the proposal.

Consultation with the LegCo Panel

14. The Administration briefed the LegCo Panel on Transport on the proposal to introduce a driving improvement scheme at the Panel meeting on 23 February 2001. While members of the Panel generally supported the proposal, they had raised various questions relating to the operation of the scheme, such as the duration of driving improvement courses, the standard of evaluation adopted by driving improvement schools, etc. They also had different views on whether drivers who have not incurred any driving-offence points should be allowed to earn redeemable credits on satisfactory completion of a driving improvement course.

Conclusion

15. There are some technical issues which the Legal Service Division will raise with the Administration. A further report will be issued in due course. Meanwhile, Members may wish to consider whether a Bills Committee is necessary to consider in detail the policy aspects of the Bill and the operation of the driving improvement scheme.

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**Adaptation of the Road Traffic Ordinance (Cap. 374) and its subsidiary legislation
and the Road Traffic (Driving-offence Points) Ordinance (Cap. 375)**

Summary of the proposed amendments

Original Terms	Proposed Amendments
Governor in Council 總督會同行政局	Chief Executive in Council 行政長官會同行政會議
Governor 總督	Chief Executive 行政長官
person or vehicle in the service/public service of the <u>Crown</u> ¹ 官方的服務人員或車輛/官方的公共服 務人員或車輛	person or vehicle in the service/public service of the <u>State</u> 國家的服務人員或車輛/國家的公共服 務人員或車輛
Crown 官方 ²	Government 政府
a country outside Hong Kong ³ 香港以外國家	a country or place outside Hong Kong 香港以外國家或地方
a country which is a party to an international Convention ⁴ 國際公約締約國	a country or place which is a party to an international Convention 國際公約締約國或地方
HONG KONG ⁵ 香港	THE HONG KONG SPECIAL ADMINISTRATIVE REGION OF THE PEOPLE'S REPUBLIC OF CHINA 中華人民共和國香港特別行政區
立法局	立法會
皇家香港警隊	香港警務處
皇家香港輔助警務人員	香港輔助警察隊隊員

Notes:

- ¹ This reference relates to the application of the following Ordinances and subsidiary legislation to vehicles and persons in the public service of the Crown except where otherwise expressly provided -
- (i) Road Traffic Ordinance (Cap. 374), Road Traffic (Driving Licences) Regulations, Road Traffic (Parking) Regulations, Road Traffic (Traffic Control) Regulations, Road Traffic (Parking on Private Roads) Regulations and Road Traffic (Expressway) Regulations (Cap. 374 sub. leg.);
 - (ii) Road Traffic (Driving-offence Points) Ordinance (Cap. 375).
- ² The reference to “Crown” which appears in the Road Traffic Ordinance (Cap. 374) and its subsidiary legislation relates to -
- (i) forfeiture of unclaimed and abandoned vehicles, unapproved traffic signs, etc. to the Crown;
 - (ii) exempting the Crown from proceedings in tort by reason only of the fact that a place is designated as a car testing centre or as a driving school; and
 - (iii) penalty payable under the Ordinance to be a debt owed to the Crown.
- ^{3 & 4} These references relate to the issue of an international driving permit under the authority of a country outside Hong Kong which is a party to an international agreement for the time being in force in respect of Hong Kong and the registration of vehicles in a country outside Hong Kong.
- ⁵ This reference relates to the issue of an international driving permit by Hong Kong under the Convention on International Road Traffic of 1949.