

立法會
Legislative Council

LC Paper No. CB(2) 1779/00-01
(These minutes have been seen by
the Administration)

Ref : CB2/SS/2/00

**Subcommittee on Fixed Penalty
(Criminal Proceedings) (Amendment) (No.3) Regulation and
Resolution of the Legislative Council (L.N. 206 of 2000)
(Commencement) Notice 2000**

**Minutes of meeting
held on Friday, 17 November 2000 at 8:30 am
in the Chamber of the Legislative Council Building**

Members Present : Hon James TIEN Pei-chun, JP (Chairman)
Hon LEE Cheuk-yan
Hon CHAN Kwok-keung
Hon Mrs Miriam LAU Kin-yea, JP
Hon Emily LAU Wai-hing, JP
Hon Andrew CHENG Kar-foo
Hon LAW Chi-kwong, JP
Dr Hon TANG Siu-tong, JP
Hon Abraham SHEK Lai-him, JP
Hon Henry WU King-cheong, BBS
Hon IP Kwok-him, JP

Members Absent : Hon Cyd HO Sau-lan
Hon Bernard CHAN
Hon LEUNG Yiu-chung
Hon CHOY So-yuk

Public Officers Attending : Mr Thomas CHOW
Deputy Secretary for the Environment and Food

Mr Howard CHAN
Principal Assistant Secretary for the Environment
and Food

Mr TSE Chin-wan
Assistant Director for the Environmental Protection (Air)

Clerk in Attendance : Mrs Constance LI
Chief Assistant Secretary (2)5

Staff in Attendance : Mr Stephen LAM
Assistant Legal Adviser 4

Miss Betty MA
Senior Assistant Secretary (2)1

Action

I. Meeting with the Administration

[LC Paper Nos. CB(2) 251/00-01(01) and LC Paper No. CB(2) 251/00-01(02)]

The Chairman said that the Administration had provided a response to the concerns raised by members and deputations at the last meeting.

2. At the Chairman's invitation, Deputy Secretary for the Environment and Food (DS(EF)) referred to the Administration's paper [Paper No. CB(2) 251/00-01(01)] and made the following points-

- (a) almost all (99%) heavy goods vehicles passed the smoke emission test conducted by the Environmental Protection Department (EPD) in the absence of chassis dynamometer;
- (b) the maintenance data on pre-Euro vehicles provided by the Services Manager Association had already been sent out to over 2 000 garages. As the mailing list might not be exhaustive, operators in the trade could approach the Administration if any of them did not receive the information;
- (c) one filling station in Lautau had recently started to provide facility for drivers to clean the particulate traps of their diesel vehicles; and

Action

- (d) based on the figures in September 2000, of the 90% smoky vehicles which passed the smoke emission test, none of them had been installed with particulate traps, and over 80% of them were of the pre-Euro design.

3. As some deputations had requested deferment of the commencement date of the new level of fixed penalty for smoky vehicles, the Chairman asked the Administration whether it had explicitly stated its intention to bring the new level of fixed penalty into effect on 1 December 2000 when moving the resolution on 31 May 2000. Mr Henry WU also asked whether the Administration had undertaken that the new level of fixed penalty would only come into effect after all complementary measures for reducing smoke emission were fully implemented.

4. DS(EF) responded that the effective date of the new level of fixed penalty was not specified in the resolution moved by the Secretary for the Environment and Food (SEF) on 31 May 2000, because the Administration needed time to make corresponding amendment to Form 1 in the Schedule to the Fixed Penalty (Criminal Proceedings) Regulations. Nevertheless, SEF had stated clearly in her speech that the Administration proposed to bring the new level of fixed penalty into operation on 1 December 2000 to allow time for the vehicle maintenance trade and the transport trade to improve their maintenance standard. He stressed that the Administration had made no undertaking that the new level of fixed penalty would be effective only after all complementary measures to reduce smoke emissions had been fully implemented.

Release of maintenance information

5. Mrs Miriam LAU said that although the Administration had sent out the technical data on vehicles of pre-Euro design to garage operators, the maintenance trade was of the opinion that the information was insufficient and selective.

6. DS(EF) responded that the need for more maintenance information by the trade was not a strong reason for postponing the effective date of the new level of fixed penalty. He pointed out that over 90% of the smoky vehicles spotted passed the smoke emission test of EPD, even before the release of maintenance information, and before the implementation of the financial assistance scheme for installation of particulate traps. The request for further maintenance information from manufacturers could be followed up by the Working Group on Vehicle Maintenance Services which comprised representatives from the trade, relevant government departments and professional bodies.

7. Principal Assistant Secretary for the Environment and Food (PAS(EF)) added that there were also third-party publications providing maintenance information on almost all running models of vehicles in the market. He reminded members that the Vocational Training Centre (VTC) would set up an Automotive Engineering Database Centre to enable the vehicle maintenance trade and transport trade to access to more detailed

Action

information on vehicle maintenance. A hotline enquiry service would also be put in place by VTC to assist the trade to solve problems encountered in vehicle repairs and maintenance. VTC would eventually make available vehicle maintenance information on the Internet.

8. The Chairman asked whether the Administration would consider requesting manufacturers to provide maintenance data on all new models of both heavy and light vehicles to the VTC Automotive Engineering Database Centre. Mrs Miriam LAU, Mr CHAN Kwok-keung and Dr TANG Siu-tong expressed support for the Chairman's proposal.

Admin

9. DS(EF) responded that the Administration had no plan to introduce legislation to require manufacturers to release maintenance information at this stage. He said that the Working Group on Vehicle Maintenance Services could study ways to make maintenance information more widely available.

10. Mr LAW Chi-kwong urged the Administration to take note of the Members' stance on the matter and to seriously consider introducing mandatory requirements for manufacturers to make available the maintenance information. The Administration noted members' views.

11. The Chairman said that the Panel on Transport could also follow up the concern about the release of vehicle maintenance information. Mrs Miriam LAU said that she was the Chairman of the Panel on Transport and she had no objection to include this in the agenda of the Panel.

Vehicle maintenance standard

12. Mr LEE Cheuk-yan noted that in moving the resolution to increase the fixed penalty on smoky vehicles in the Council on 31 May 2000, SEF had said that the Administration proposed to bring the new level of fixed penalty into operation on 1 December 2000 to allow time for the vehicle maintenance trade and the transport trade to improve their maintenance standard. Since some 10% of the smoky vehicles spotted still failed the smoke emission test of EPD, Mr LEE asked whether this was caused by problems such as insufficient maintenance information or lack of skill.

13. DS(EF) pointed out that more than 80% of the vehicles which passed the smoke test were of the pre-Euro design. He believed that there would be sufficient maintenance data for the trade and that there should not be much problem about maintenance and repair.

14. Referring to the 10% smoky vehicles which failed the smoke emission test, Dr TANG Siu-tong asked how many of them subsequently passed the smoke test after repair.

Action

15. DS(EF) responded that a smoky vehicle spotted must attend a smoke test within 14 days after the issue of a notice. Failure to pass the test would result in cancellation of the vehicle licence. However, it was noted that some vehicle owners did not send their vehicles to repair before attending the test as they could make second attempts if their vehicles failed the first test. Assistant Director/Environmental Protection Department (AD/EPD) added that in 1999, the EPD proposed to cancel the licence of 1 401 vehicles for failing the smoke test; only 246 vehicles eventually had their licences cancelled. The remaining vehicles passed the smoke test after repair.

16. In response to Mr IP Kwok-him, AD/EPD said that over 99% of heavy vehicles spotted (which included franchised buses) passed the smoke emission tests.

17. Mr LAW Chi-kwong asked whether consideration would be given to granting low-interest loan to heavy vehicle owners who had genuine difficulties to pay the relatively expensive maintenance costs if their vehicles were in very poor conditions. DS(EF) stressed that more than 99% of heavy vehicles passed the smoke emission test of EPD. As heavy vehicles were mainly used for commercial activities, he suggested that the owners concerned could seek commercial loans from banks.

18. In response to further enquiries from the Chairman and Mr IP Kwok-him, AD/EPD said that for a properly maintained vehicle, the maintenance cost for the smoke emission parts was about one thousand dollars and a few thousand dollars for small vehicles and large vehicles respectively. DS(EF) stressed that providing low-interest loans for vehicle maintenance would have wide implications. He said that as heavy vehicles were for commercial operations, the vehicle owners concerned should make their own assessments as to whether it was cost-effective to repair their vehicles from the investment point of view.

Complementary measures to reduce vehicular emissions

19. Mrs Miriam LAU said that she did not agree that the problem of vehicle maintenance was just a matter of costs. She pointed out that the industry had encountered practical difficulties such as inadequate supply of LPG taxis, particulate traps and diesel catalyts. She further said that the vehicle maintenance trade did not oppose the increased level of fixed penalty for smoky vehicle, but only requested more time to improve their maintenance standard.

20. In response to Mr Andrew CHENG, Mrs Miriam LAU said that some trade representatives requested to defer the effective date of the increased fixed penalty for twelve months. She added that the heavy vehicles faced greater problems in meeting the smoke emission standards.

Action

21. Referring to the concern about particulate traps, the Chairman sought clarification on the procedures for approval of installation of new models of particulate traps. DS(EF) advised that in order to meet the roadworthiness requirement of the Transport Department (TD), the device must be securely installed and with sufficient clearance from the road surface. As the particulate traps under the Government subsidy scheme were pre-approved by TD, a vehicle owner who wished to install a different model of particulate trap had to apply to TD for approval. The time for approval varied from case to case, and it would normally take two weeks if sufficient information was provided. At the request of the Chairman, DS(EF) agreed to check whether there were statistics on the number of unsuccessful applications for installing new models of particulate traps.

Admin

22. Mr LAW Chi-kwong said that vehicle owners might not be aware of these procedures and the approval criteria. He suggested that the Administration should streamline the procedures and provide one-stop service to assist vehicle owners in seeking approval to install a model of particulate trap which was different from the pre-approved ones. DS(EF) agreed to convey Mr LAW's suggestion to TD.

Admin

23. In response to Mr IP Kwok-him, PAS(EF) replied that on average about 1 000 new LPG taxis arrived in Hong Kong each month. The suppliers indicated that the supply could meet the current demand.

24. DS(EF) also pointed out that according to the suppliers, there was adequate supply of particulate traps and LPG taxis. He said that the LPG taxi scheme was to reduce the overall vehicular emissions and was not directly related to the responsibility of vehicle owners to keep their vehicles' emission system in good conditions. He further said that the installation of particulate reduction device could not reduce excessive smoke emission which was caused by improper vehicle maintenance.

II. Any other business

25. The Chairman said that two written submissions had been received from the Civic Exchange and "Clear the Air" [LC Papers No. CB(2) 285/00-01] which had been circulated to members. He said that the views expressed by deputations and in the written submissions would be included in the Subcommittee's report to the House Committee.

26. Ms Emily LAU said that Members had also received other written submissions and letters expressing support for the early implementation of the increased level of fixed penalty. She said that although the Subcommittee was constrained by the time limit for scrutinising subsidiary legislation under the negative vetting procedure, she wondered whether it was still possible to arrange for a further meeting to listen to the views of concern groups. Ms Emily LAU pointed out that the Legislative Council had passed a

Action

resolution on 31 May 2000 on the new level of fixed penalty, and Members must be careful about the proposal of further postponing the effective date as requested by some members of the trade.

27. The Chairman invited members' views as to whether a further meeting should be held to gauge the views of concern groups and interested parties. Mrs Miriam LAU said that she had no objection to the Subcommittee meeting with concern groups. She stressed that the transport trade and maintenance trade did not oppose increasing the fixed penalty for smoky vehicles from \$450 to \$1,000, but requested deferment of the effective date of the new level of fixed penalty until all complementary measures to reduce vehicular emissions were fully implemented.

28. Mr Henry WU said that the need for providing greater deterrence against smoky vehicles had been debated in the Council in May 2000. Members were fully aware of the public views on the increased level of fixed penalty, and therefore the resolution moved by SEF was passed by a majority of Members at the Council meeting on 31 May 2000. He pointed out that many Members had also received numerous letters and e-mail messages from concern groups in the past few days expressing support for the proposed effective date of the new level of fixed penalty. In view of the time constraint and the fact that concern groups had already made clear their support in their letters and messages, he did not see the need for holding a meeting to gauge public views. Mr Abraham SHEK agreed with Mr WU.

29. As members had expressed different views, the Chairman put Ms LAU's proposal of convening a further meeting to gauge public views to vote. Five members voted in favour of the proposal and two members voted against the proposal. Mrs Miriam LAU abstained from voting.

30. To allow time for the Subcommittee to meet concern groups and to consider moving amendments to the subsidiary legislation, Mrs Miriam LAU suggested that the Subcommittee should seek an extension of the scrutiny period. Members agreed.

31. The Chairman said that he would give notice on 17 November 2000 to move a motion at the Council meeting on 22 November 2000 to extend the scrutiny period to 29 November 2000. Assistant Legal Adviser 4 added that the deadline for giving notice to move amendments was 22 November 2000 if the scrutiny period was extended by resolution of the Council.

32. Mrs Miriam LAU suggested that the meeting with concern groups should be held before the deadline for moving amendments to the proposed subsidiary legislation. Members agreed to schedule a meeting for 21 November 2000 at 8:30 am to meet with concern groups and other interested bodies.

Action

33. The Chairman said that he would make a verbal report at the House Committee meeting in that afternoon that he would give notice to extend the scrutiny period to 29 November 2000.

34. The Chairman further said that the Subcommittee would conclude its deliberations at the next meeting after listening to the views of concerns groups and interested parties. A written report would be submitted to the House Committee afterwards.

35. There being no other business, the meeting ended at 9:52 am.

Legislative Council Secretariat

8 June 2001