

立法會
Legislative Council

LC Paper No. CB(2) 1780/00-01
(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 Tuesday, 21 November 2000 at 8:30 am
in the Chamber of the Legislative Council Building**

Members Present : Hon James TIEN Pei-chun, JP (Chairman)
Hon CHAN Kwok-keung
Hon Bernard CHAN
Hon Mrs Miriam LAU Kin-yeet, JP
Hon Emily LAU Wai-hing, JP
Hon CHOY So-yuk
Hon LAW Chi-kwong, JP
Hon Abraham SHEK Lai-him, JP
Hon Henry WU King-cheong, BBS

Members Absent : Hon Cyd HO Sau-lan
Hon LEE Cheuk-yan
Hon LEUNG Yiu-chung
Hon Andrew CHENG Kar-foo
Dr Hon TANG Siu-tong, JP
Hon IP Kwok-him, JP

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)

**Attendance by
invitation** : Civic Exchange

Miss Christine LOH
Ms Lisa Hopkinson

Clear the Air

Mr Lincoln CHAN

Friends of the Earth

Mr Edwin LAU Che-fung
Mr LIU Ka-yip, Eric

Private Sector Committee on the Environment

Mr Edwin LAU

Dr Brian F Walker

Mr John Jarman

**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 deputations

The Chairman welcomed representatives of deputations to the meeting. Their views given at the meeting were summarized below.

Civic Exchange

[LC Paper No. CB(2) 285/00-01(01)]

2. Ms Lisa HOPKINSON and Miss Christine LOH representing the Civic Exchange made the following points -

- (a) A properly maintained vehicle using legal diesel would not emit black smoke. There was therefore no excuse if a vehicle was found emitting black smoke. A high penalty for smoky vehicles was the best method to ensure vehicle owners would maintain their vehicles properly;
- (b) Since over 90% of vehicles spotted passed the smoke emission test, the vehicle maintenance trade must already have acquired the necessary knowledge for repairing smoky vehicles. According to the Hong Kong Productivity Council, about one-third of the garages had already possessed equipment to test smoke emission and the remaining garages had plans to procure such equipment. Moreover, pre-Euro vehicles did not require complicated equipment for smoke emission tests;
- (c) Despite the claim of the maintenance trade that there was insufficient technical data, third-party publications on vehicle maintenance in respect of pre-Euro design were in fact available for sale in the market;
- (d) According to "A Report on Air Pollution in Hong Kong" published by the Administration in 1969, smoke and oily dirt emitted from vehicles were the major sources of pollution at street level. As Government had long been aware of the seriousness of the air pollution problem, there should not be further delay in bringing into effect the new level of fixed penalty for smoky vehicles; and

Action

- (e) Implementation of the new level of fixed penalty should be treated independently of the proposed mandatory registration/licensing of vehicle mechanics as the latter might take some years to materialise.

3. Miss Christine LOH further said that public views were important in the legislative process although the general public was less organised than the relevant industries in giving views on proposed legislation. She stressed that there should not be any further delay in putting into effect the new level of fixed penalty against smoky vehicles. Miss LOH also presented a submission from the Body Shop, together with about 13 000 signatures, which expressed support for the early implementation of the new level of fixed penalty against smoky vehicles.

(Post-meeting note : The submission of The Body Shop was circulated to members vide LC Paper No. CB(2)326/00-01 on 22 November 2000.)

Clear the Air

[LC Paper Nos. CB(2) 285/00-01(02) and CB(2) 309/00-01(01)]

4. Mr Lincoln CHAN of Clear the Air urged the Subcommittee to support the proposed Regulations to increase the fixed penalty for smoky vehicles with effect from 1 December 2000 for the following reasons -

- (a) Clear the Air believed that an increase of fixed penalty for smoky vehicles could enhance the deterrent effect to reduce the emission of black smoke. The community should consider the medical and social costs of excessive smoke emissions from vehicles and should support immediate implementation of the new level of fixed penalty for smoky vehicles;
- (b) There was ample time (two weeks) for a vehicle owner to take his car to repair before attending the smoke emission test of the Environmental Protection Department (EPD). It was also the responsibility of vehicle owners to properly maintain their vehicles; and
- (c) Drivers should support the new level of fixed penalty for smoky vehicles as they would also benefit from the cleaner air. According to the findings of a survey conducted by Clear the Air on 120 taxi drivers, 70% of the respondents believed that their health was affected by driving a taxi and nearly 50% of the respondents used the air-conditioning as a method to protect themselves from polluted air. However, overseas research findings indicated that air-conditioning could not filter particulate in the air and taxi drivers were still inhaling polluted air.

Action

Friends of the Earth

[LC Paper No. CB(2) 309/00-01(03)]

5. Mr Edwin LAU representing the Friends of the Earth expressed support for Government's proposal to increase the level of fixed penalty for smoky vehicles for the following reasons -

- (a) an increase of fixed penalty could enhance the deterrent effect for vehicle owners to maintain properly their vehicles and was consistent with the "polluters pay" principle; and
- (b) the general public should not become victims of the excessive smoke emissions of vehicles on the road.

6. Mr LAU also requested the Administration to consider imposing more severe penalty, such as cancellation of licence, on repeated offenders in order to further enhance the deterrent effect.

Private Sector Committee on the Environment

[LC Paper No. CB(2) 309/00-01(04)]

7. Mr Edwin LAU of the Private Sector Committee on the Environment said that proper maintenance could extend the life span of vehicles, and the investment in vehicle maintenance was worthwhile from a commercial perspective. The business sector was supportive of the increased fixed penalty for smoky vehicles. Although some members of the transport trade and maintenance trade had expressed reservations about the proposal to bring into effect the new level of fixed penalty on 1 December 2000, he considered that they should support the proposal because of the overall benefits of cleaner air to the community. He stressed that the issue had been debated in the Council for a long time and any further delay in the implementation of the new level of fixed penalty would not be of benefit to the community.

Dr Brian F WALKER

[LC Paper No. CB(2) 285/00-01(03)]

8. Referring to his submission, Dr Brian F WALKER said that he was a medical doctor and there was evidence that air pollution was detrimental to public health. Overseas research findings indicated that there was strong association between pollution and illness, for example, there was a direct relationship between an increase in respirable suspended particulate and illnesses such as asthma. He stressed that the well-being of the community should not be measured only in the economic term, and public health was important.

Action

Mr John JARMAN

9. Mr John JARMAN said that in the Chief Executive's Policy Address delivered in October 1999, Chief Executive had already announced his intention to introduce legislation to increase the level of fixed penalty for smoky vehicles from \$450 to \$1,000. Since a grace period of six months had also been allowed for the maintenance trade to improve their maintenance standard after the passage of the resolution in May 2000, the trade actually had 14 months to prepare for the coming into effect of the new level of fixed penalty. Mr JARMAN said that some vehicles were using illegal diesel and were not properly maintained, which were the causes of excessive some emissions. He considered that any delay in implementing the new level of fixed penalty would give the impression that Government cared less on public health and had detrimental effect on the international image of Hong Kong. In his view, the increase in fixed penalty for smoky vehicles was long overdue.

Discussion

10. Ms Emily LAU asked the deputations whether they supported the proposal to impose more severe penalty on repeated offenders.

11. Miss Christine LOH said that the Civic Exchange supported the proposal of imposing more severe penalty on repeated offenders with a view to ensuring that vehicle owners would properly maintain their cars. She further said that as a former legislator, she had been advocating a fixed penalty at a level of \$5,000 in order to provide sufficient deterrence against smoky vehicles. She suggested that the Administration should review the effectiveness of the new level of fixed penalty six months after it had been put into operation.

12. Mr Edwin LAU of the Friends of the Earth said that consideration should be given to introducing an incremental fixed penalty scheme and cancellation of licence for repeated offences committed within a short period of time.

13. Mrs Miriam LAU said that the transport trade was in support of environmental protection and had made a lot of efforts to help achieve cleaner air in Hong Kong. She said that as air pollution was not caused by the transport trade alone, a heavier penalty for smoky vehicles could not solve the air pollution problem at root given the ambient air quality. She cited the submission of the Head of Department of Automotive Engineering, Hong Kong Institute of Vocational Education, Vocational Training Council [LC Paper No. CB(2) 242/00-01(02)] that there were three requisite conditions for proper vehicle maintenance, but these conditions were not met presently. She further said that the maintenance trade had pointed out at the last meeting that no assurance could be given by any garage operators that the vehicles would be free from smoke emission problems after

Action

repair. She asked whether the deputations present would agree that vehicle owners should not be held liable if their vehicles were found to emit excessive smoke after repair.

14. Ms Lisa HOPKINSON of the Civic Exchange responded that over 90% of vehicles spotted did pass the emission test. She considered that the increase in fixed penalty was the best method to ensure that vehicle owners would pay for quality repair service. She added that in the long run, the Administration should consider introducing a mandatory licensing/registration of vehicle mechanics.

15. On the question that garage operators offered no guarantee or warranty on vehicle maintenance service, Mr Edwin LAU of the Private Sector Committee on the Environment said that vehicle owners could ask for quality service, and that all vehicles were repairable.

16. Dr WALKER said that it was the responsibility of vehicle owners to strictly adhere to the preventive maintenance scheme recommended by the manufacturers and to properly maintain their own vehicles.

17. The Chairman thanked the deputations for their views.

II. Meeting with the Administration

[LC Paper Nos. CB(2) 180/00-01(01) and CB(2) 251/00-01(01)]

18. At the invitation of the Chairman, Deputy Secretary for the Environment and Food (DS(EF)) responded to the concerns raised by members and deputations.

19. On the proposal of imposing heavier penalty on repeated offenders, DS(EF) said that various proposals had been put forward by different parties on what should be the appropriate level of fixed penalty to provide sufficient deterrence against smoky vehicles before SEF moved the resolution in Council in May 2000. The Administration would review the effectiveness of the increased level of fixed penalty from \$450 to \$1,000 in about six months, before giving further consideration to the need for further improvements to the fixed penalty scheme. He said that the Administration would revert to the relevant Panel(s) in due course.

20. DS(EF) also clarified that, as far as he knew, the three pre-requisite conditions described in the submission of Head of Department of Automotive Engineering, Hong Kong Institute of Vocational Education, Vocational Training Council did not refer to smoky vehicles but rather the general condition for upgrading the maintenance standard.

21. Ms Emily LAU asked whether the maintenance trade was now capable of repairing smoky vehicles. DS(EF) responded that over 90% of light vehicles and almost

Action

all the heavy vehicles spotted passed the smoke emission test. This showed that the maintenance trade had already acquired the necessary skills for repairing smoky vehicles.

22. Responding to Mrs Miriam LAU on the question of no service guarantee after repair, DS(EF) said that about 85% of the vehicles which passed the smoke test had not been issued another notice by EPD for emission test in the following six months.

23. Ms Emily LAU expressed concern about the maintenance standard of the remaining 15% of vehicles which received further emission testing notices from EPD within six months after passing the smoke test. She also asked about the extent the transport trade adhered to the preventive maintenance scheme.

24. Mrs Miriam LAU said that taxis normally underwent maintenance checks twice per year whereas other types of commercial vehicles were checked annually.

25. Assistant Director/Environmental Protection Department said that the frequency of preventive maintenance varied depending on the conditions and the mileage of vehicles. He added that some large transport companies had their own garages and maintenance staff, and regular inspection and maintenance were carried out for their vehicle fleet. It was noted, however, that many vehicle owners and professional drivers did not strictly adhere to the preventive maintenance programme. He pointed out that it was the responsibility of vehicle owners to adhere to the maintenance programme and send their cars to repair when there were mechanical problems.

Way forward

26. The Chairman asked whether members supported the subsidiary legislation. Mr LAW Chi-kwong said that Members belonging to the Democratic Party supported the subsidiary legislation. Mr Bernard CHAN said that the functional constituency he represented also supported early implementation of the new level of fixed penalty.

27. Members agreed that the Subcommittee would not move amendments to the subsidiary legislation. The Chairman said that for those members who wished to defer the effective date, they could move such amendments in their name. Mrs Miriam LAU said that she would give notice to amend the commencement date to 1 December 2001 in view of the trades' concerns.

28. The Chairman advised that he would move a motion in Council on 22 November 2000 to extend the scrutiny period to 29 November 2000. Assistant Legal Adviser 4 reminded members that the deadline for giving notice to amend the subsidiary legislation was 22 November 2000.

Action

29. The Chairman said that a written report would be provided to the House Committee on the Subcommittee's deliberations.

30. There being no other business, the meeting ended at 9:40 am.

Legislative Council Secretariat

8 June 2001