

立法會
Legislative Council

LC Paper No. LS54/07-08

**Paper for the House Committee Meeting
on 29 February 2008**

**Legal Service Division Report on
Proposed Resolution under section 18E(4) of the
Magistrates Ordinance (Cap. 227)**

The Secretary for Transport and Housing (the Secretary) has given notice to move a motion under section 18E(4) of the Magistrates Ordinance (Cap. 227) (the Ordinance) at the Council meeting on 12 March 2008. The purpose of this motion is to seek the Legislative Council's approval to add any offence against the Tsing Sha Control Area (General) Regulation (L.N. 222 of 2007) and the Tsing Sha Control Area (Tolls, Fees and Charges) Regulation (L.N. 237 of 2007) to the Third Schedule to the Ordinance as an offence to which a defendant may plead guilty by letter addressed to the magistrate when the section of Route 8 between Shatin and Cheung Sha Wan within the Tsing Sha Control Area (TSCA) is open to traffic on 21 March 2008.

2. Section 18E of the Ordinance provides that a defendant may, in the case of an offence specified in the Third Schedule, plead guilty by letter addressed to the magistrate, and thereupon the magistrate may proceed to hear and determine the case in the absence of the defendant in like manner as if the defendant had appeared before him and pleaded guilty provided that the magistrate shall not impose any fine exceeding \$2,000 or any term of imprisonment. The magistrate may also proceed to adjourn the hearing for the purpose of dealing with the complaint or information as if such letter had not been received.

3. At present, offences of the governing legislation for various tunnels including the Eastern Harbour Crossing, Tate's Cairn Tunnel, Western Harbour Crossing, Tai Lam Tunnel and Yuen Long Approach Road and the Tsing Ma Control Area are set out in the Third Schedule. The Legislative Council may by resolution amend the Third Schedule.

4. According to the draft speech of the Secretary, allowing a defendant to plead guilty by letter to offences relating to the TSCA is a simple and technical amendment aiming to achieve consistency between the relevant legislation for the TSCA and the legislation for the other tunnels and control area and will save the time and resource for the defendants and the magistrates. The Judiciary has also agreed to such amendment.

5. The Panel on Transport was not consulted on the motion.
6. The legal and drafting aspects of the draft resolution are in order.

Prepared by

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