

**立法會**  
**Legislative Council**

LC Paper No. CB(1) 1031/08-09

(These minutes have been  
seen by the Administration)

Ref : CB1/BC/1/09

**Bills Committee on Road Traffic (Driving-offence Points)  
(Amendment) Bill 2009**

**Minutes of first meeting held on  
Thursday, 26 February 2009, at 8:30 am  
in Conference Room A of the Legislative Council Building**

**Members present** : Hon Miriam LAU Kin-ye, GBS, JP (Chairman)  
Hon James TO Kun-sun  
Hon Andrew CHENG Kar-foo  
Hon Audrey EU Yuet-mee, SC, JP  
Hon WONG Kwok-hing, MH  
Hon Ronny TONG Ka-wah, SC

**Member absent** : Hon CHEUNG Hok-ming, SBS, JP

**Public officers  
attending** : **Agenda item II**

Mr Alan K M CHU  
Deputy Secretary for Transport and Housing  
(Transport) 3

Miss Rosanna LAW  
Principal Assistant Secretary for Transport and  
Housing (Transport) 2

Ms Irene HO  
Assistant Secretary for Transport and Housing  
(Transport)

Miss LUI Ying  
Assistant Commissioner/Administration &  
Licensing  
Transport Department

Mrs Margaret CHAN  
Principal Executive Officer / Valid & Licensing  
Transport Department

Ms Francoise LAM  
Senior Government Counsel  
Department of Justice

Ms Roxana CHENG Pui-lan  
Senior Assistant Solicitor General  
Department of Justice

Ms LAI Yuen-man  
Senior Government Counsel  
Department of Justice

Mr Charlie SO  
Chief Inspector (Traffic Summons Unit 2)  
(Traffic Branch HQ)  
Hong Kong Police Force

**Clerk in attendance :** Ms Joanne MAK  
Chief Council Secretary (1)2

**Staff in attendance :** Mr Kelvin LEE  
Assistant Legal Adviser 1

Ms Sarah YUEN  
Senior Council Secretary (1)6

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Action

**I Election of Chairman**

Ms Miriam LAU was elected Chairman of the Bills Committee.

**II Meeting with the Administration**

(File Ref: THB(T)CR 2/14/3231/00

- The Legislative Council Brief issued by the Transport and Housing Bureau
  
- LC Paper No. CB(3)307/08-09 - The Bill
  
- LC Paper No. LS34/08-09 - Legal Service Division's Report on the Bill
  
- LC Paper No. LS40/08-09 - Legal Service Division's Further Report on the Bill
  
- LC Paper No. CB(1)895/08-09(01) - Marked-up copy of the Bill prepared by the Legal Service Division
  
- LC Paper No. CB(1)895/08-09(02) and (03) - Letter dated 11 February 2009 from Assistant Legal Adviser to the Administration and the Administration's reply letter dated 24 February 2009
  
- LC Paper No. CB(1)896/08-09 - Background brief prepared by the Legislative Council Secretariat )

2. The Bills Committee deliberated (index of proceedings attached at **Annex**).

3. The Administration briefed members on the Road Traffic (Driving-offence Points (DOP)) (Amendment) Bill 2009 (the Bill).

4. Members were generally supportive of the Bill. To facilitate further discussion on the Bill, the Administration was requested to provide information on the following –

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- (a) types of offences involved in regard to the 80% success rate in the execution of traffic arrest warrants in 2008 and those involved in the remaining cases of unsuccessful execution;
  
- (b) reasons for not being able to deal with the circumvention problem in the service of summonses issued under the Road Traffic (Driving-offence Points) Ordinance (Cap 375) by sections 8 and 18A under the Magistrates Ordinance (Cap

227), and the need for introducing the "deemed served" provision under the Bill;

- (c) measures to be implemented by the Transport Department (TD) and the Judiciary to avoid the issue of summonses under Cap 375 addressed to a driver at his old address due to TD's failure to update its record or failure to keep the Judiciary informed of the change of address of any driver to whom a summons would be issued;
- (d) on clause 4, to address Mr James TO's concern that the "third person" in the proposed new section 14A(2)(b) might require qualification to reflect that this third person should be one who the police officer serving the summons had reasons to believe would pass the summons to the driver to whom the summons was directed; and
- (e) on clause 6, to address Mr Ronny TONG's concern that the proposed new Regulation 6(3) of the Road Traffic (Driving Licences) Regulations (Cap. 374 sub. leg. B) as currently drafted might be misinterpreted as once a driver failed to appear in court in answer to a traffic summons, the Commissioner for Transport would not issue, reissue or renew the driving licence to him, even though the driver had subsequently answered the summons.

### **III Any other business**

5. Members agreed that the next meeting of the Bills Committee would be held on Tuesday, 17 March 2009, at 8:30 am.
6. There being no other business, the meeting ended at 10:35 am.

**Proceedings of the first meeting of  
the Bills Committee on Road Traffic (Driving-offence Points)  
(Amendment) Bill 2009  
on Thursday, 26 February 2009, at 8:30 am  
in Conference Room A of the Legislative Council Building**

Time marker	Speaker	Subject(s)	Action required
<b>Agenda Item I – Election of Chairman</b>			
000031 – 000132	Mr James TO Mr WONG Kwok-hing Ms Audrey EU Ms Miriam LAU	- Election of Chairman	
<b>Agenda Item II – Meeting with the Administration</b>			
000133 – 000431	Chairman Administration	- Briefing by the Administration on the Road Traffic (Driving-offence points) (Amendment) Bill 2009 (the Bill)	
000432 – 000845	Chairman Assistant Legal Adviser 1 (ALA1)	- Briefing by ALA1 on his correspondence with the Administration on the effect of the proposed section 16(1A) on the court's discretionary power to try a charge in the absence of a defendant (LC Papers Nos CB(1)859/08-09(02) and (03))	
000846 - 001429	Chairman Mr WONG Kwok-hing Administration	- Discussion on the gravity of the problem of “unserved” summonses and non-appearance at court hearings  - Discussion on whether the problem of “unserved” summonses could be addressed by enhanced enforcement of the requirement that a driver would have to notify the Commissioner for Transport (the Commissioner) within 72 hours of the change if there was any change to his particulars, including his address (the notification requirement)	
001430 - 002623	Chairman Ms Audrey EU Administration	- Discussion on the need for and effect of the proposed section 16(1A), and how it could deal with the problem of deliberate absence from a hearing whilst ensuring that a person would not be disqualified from driving without being given a fair hearing  - Discussion on how the proposed	

Action

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		<p>“deemed served” provision could enable the Administration to apply to the magistrate for the issue of an arrest warrant to help bring a person before a magistrate to go through the disqualification proceedings, and could enable the Commissioner to refuse to issue, reissue or renew the person’s driving licence if the person failed to appear before the court after the summons had been served</p> <ul style="list-style-type: none"> <li>- Discussion on the need for a clearer definition of the "third person" in proposed section 14A(2)(b)</li> </ul>	
002624 - 003929	Chairman Mr James TO Administration	<ul style="list-style-type: none"> <li>- Discussion on measures that had been taken/could be taken to track down the some 652 drivers who had not been successfully served with summonses, in particular, whether assistance had been sought from other departments such as the Immigration Department, and whether staff of the Transport Department (TD) could help serve summonses on the drivers concerned when they renewed their vehicle licences</li> <li>- Discussion on the additional workload and resources incurred for the Police in executing non-appearance arrest warrants as the number of which would inevitably increase as a result of the Bill</li> </ul>	
003930 - 005256	Chairman Mr Andrew CHENG Administration	<ul style="list-style-type: none"> <li>- Discussion on improvements that could be/had been made to ensure timely updating of the address register of drivers kept by TD, and to keep the Judiciary informed of the change in address of any driver to whom a summons would be issued</li> <li>- Discussion on the address(es) at which a summons would be served</li> </ul>	Administration to take follow-up action as requested in paragraph 4(c)
005257 – 010219	Mr Ronny TONG Administration	<ul style="list-style-type: none"> <li>- Indication of support for the proposed section 16(1A) to ensure that a person would not be disqualified from driving</li> </ul>	

Action

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		<p>without being given a chance of rebutting the deeming provision</p> <ul style="list-style-type: none"> <li>- Discussion on the need to improve the drafting of the proposed Regulation 6(3)(c) of the Road Traffic (Driving Licences) Regulations (Cap. 374 sub. leg. B) (clause 6) to reflect more clearly the policy intent</li> </ul>	<p>Administration to take follow-up action as requested in paragraph 4(e)</p>
010220 - 011123	<p>Mr WONG Kwok-hing Administration Mr James TO</p>	<ul style="list-style-type: none"> <li>- Discussion on the desirability and feasibility of gearing up enforcement of the notification requirement</li> </ul>	
011124 – 012614	<p>Chairman Mr James TO Administration</p>	<ul style="list-style-type: none"> <li>- Discussion on the problems in serving summonses to the some 652 drivers who had not been successfully served with summonses, and the need to map out measures to specifically tackle the problems</li> <li>- Discussion on the success rate in the execution of arrest warrants issued by the magistrate under section 18A of Cap. 227, and whether arrest warrants could help reduce the number of "unserved" summonses</li> </ul>	<p>Administration to take follow-up action as requested in paragraph 4(a)</p> <p>Administration to take follow-up action as requested in paragraph 4(a) or paragraph 4(b)</p>
012615 – 014657	<p>Chairman Ms Audrey EU Administration</p>	<ul style="list-style-type: none"> <li>- Clarification of the address(es) at which a summons would be served (the proposed section 14A)</li> <li>- Comparison of the means of service of summonses under section 8 of Cap. 227 and those under the proposed section 14A of the Road Traffic (Driving-offence Points) Ordinance (Cap. 375)</li> </ul>	
014658 - 015303	<p>Chairman Mr James TO Administration Ms Audrey EU</p>	<ul style="list-style-type: none"> <li>- Discussion on the circumstances under which a summons could be considered served</li> <li>- Discussion on whether the problem of "unserved" summonses could be addressed by section 9 of Cap. 227</li> </ul>	<p>Administration to take follow-up action as requested in paragraph 4(b)</p>
015304 – 015853	<p>Chairman Mr James TO</p>	<ul style="list-style-type: none"> <li>- Discussion on the need to more clearly define the "third person" mentioned in</li> </ul>	<p>Administration to take follow-up action as</p>

Action

<b>Time marker</b>	<b>Speaker</b>	<b>Subject(s)</b>	<b>Action required</b>
	Administration	the proposed section 14A(2)(b)	requested in paragraph 4(d)
015854 – 020341	Ms Audrey EU Administration	- Discussion on the need to introduce a "deemed served" provision under the Bill since section 8 of Cap. 227 also applied to the service of summons under Cap. 375	Administration to take follow-up action as requested in paragraph 4(b)
020342 - 020412	Chairman	- Date of next meeting	

Council Business Division 1

Legislative Council Secretariat

16 March 2009