

立法會
Legislative Council

LC Paper No. CB(1) 1144/08-09

(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 second meeting held on
Tuesday, 17 March 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 Shirley CHU
SSP (Adm) (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

Action

I Confirmation of minutes of meeting
(LC Paper No. CB(1)1031/08-09 - Minutes of meeting on
26 February 2009)

The minutes of the meeting held on 26 February 2009 were confirmed.

II Meeting with the Administration
(LC Paper No. CB(1)1023/08-09(01) - Administration's paper on
provision of a
self-contained
mechanism on the service
of summons under the

	Driving-Offence Points System
LC Paper No. CB(1)1023/08-09(02)	- Administration's paper on follow-up actions required of the Administration
LC Paper No. CB(3)307/08-09	- The Bill
LC Paper No. CB(1)895/08-09(01)	- Marked-up copy of the Bill)

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

3. Deputy Secretary for Transport and Housing (Transport) 3 briefed members on the two papers submitted by the Administration for discussion at the meeting.

4. Members expressed concern that the "deemed served" proposal, which aimed at plugging the loophole that some drivers could circumvent the Driving-offence Points (DOP) system by avoiding receiving summonses, might give rise to a situation that these drivers would change to evade incurring DOPs by -

- (a) not paying the fixed penalty in accordance with a notice served on him under the Fixed Penalty (Criminal Proceedings) Ordinance (Cap. 240); or
- (b) not responding to or avoiding to receive summonses issued to them in respect of a scheduled traffic offence to which the driver could plead guilty by letter.

5. Members pointed out that a driver might succeed in evading incurring DOPs by either of the above ways, because any scheduled offence committed attracted DOPs only if -

- (a) the driver was convicted by court; or
- (b) the driver became liable to the fixed penalty.

6. Members further pointed out that by evading incurring DOPs, a driver could then evade the accumulation of 15 or more DOPs and, therefore, from being subjected to the "deemed served" provision which could allow the triggering of mechanisms (e.g. issue of arrest warrant by the magistrate) to help bring the driver before a magistrate to go through the disqualification proceedings.

7. The Chairman expressed serious concern about the effectiveness of the current legislative proposal because, even with the "deemed served" provision which could allow the triggering of mechanisms (e.g. issue of arrest warrant by the magistrate), until the driver concerned was tracked down by the Police and brought before the magistrate, the driver could still continue to drive and pose a danger to road safety. She requested the Administration to further consider addressing this issue.

Admin

8. To facilitate deliberation on the Bill, the Administration was requested to -

Admin

- (a) explain, with specific reference to relevant provisions in Cap. 240 or any other ordinance as appropriate, the mechanism in place to deal with the situation where a driver tried to evade incurring DOPs as described in paragraph 4(a) and (b);
- (b) provide the number of cases in which the driver had evaded DOPs from being incurred as described in paragraph 4(b) above; and the number of cases in which the driver had avoided to receive summonses issued under the Road Traffic (Driving-offence Points) Ordinance (Cap. 375) and any disqualification order made against the driver after he had accumulated 15 or more DOPs;
- (c) provide the reasons for not considering to introduce additional measures, e.g. empowering the Commissioner for Transport to suspend the driving licences of blatant drivers who had circumvented the DOP system by avoiding receiving summonses;
- (d) address a member's concern that section 3A of Cap. 240 (i.e. a magistrate might order a person to pay the fixed penalty (together with any additional penalty) in the absence of that person and before that person had made any notification in accordance with the notice under section 3(3) of Cap. 240) might be in breach of the Basic Law; and
- (e) undertake that a review of the effectiveness achieved in tackling the circumvention problem would be conducted six months after the Bill had come into operation, and that the outcome of the review would be reported to the Panel on Transport.

III Any other business

9. Members agreed that the next meeting of the Bills Committee would be held on Monday, 30 March 2009, at 8:30 am.
10. There being no other business, the meeting ended at 9:40 am.

Council Business Division 1
Legislative Council Secretariat
27 March 2009

**Proceedings of the second meeting of
the Bills Committee on Road Traffic (Driving-offence Points)
(Amendment) Bill 2009
on Tuesday, 17 March 2009, at 8:30 am
in Conference Room A of the Legislative Council Building**

Time marker	Speaker	Subject(s)	Action required
Agenda Item I – Confirmation of minutes of meeting			
000235 - 000251	Chairman	- Confirmation of minutes of meeting	
Agenda Item II – Meeting with the Administration			
000252 - 000714	Chairman Administration	- Briefing by the Administration	
000715 – 001543	Chairman Mr James TO Administration	- Discussion on the meaning of "leaving it with a third person for that person at that person's last or most usual place of abode" in section 8(2)(e) of the Magistrates Ordinance (Cap. 227) and the Administration's reply	
001544 – 001940	Chairman Mr WONG Kwok-hing Administration	- Discussion on whether enhancement of the computer systems of the Transport Department and the Judiciary would be completed in time to tie in with enactment of the Bill - Request for review of effectiveness of the current proposal in tackling the circumvention problem to be conducted six months after the Bill had come into operation	Administration to take follow-up action as requested in paragraph 8(e)
001941 – 003422	Chairman Ms Audrey EU Administration Mr Ronny TONG	- Discussion on the rationale of the current proposal which sought to specify a self-contained mechanism applicable to the service of DOP summons only - The Chairman's concern about the effectiveness of the current proposal in tackling the circumvention problem and a suggestion of empowering the Commissioner for Transport to suspend the driving licences of blatant drivers	

Action

Time marker	Speaker	Subject(s)	Action required
003423 – 010709	Chairman Mr Ronny TONG Administration Mr James TO Ms Audrey EU	<ul style="list-style-type: none">- Discussion on whether a driver could possibly evade incurring DOPs so that he would never incur sufficient DOPs to trigger the application of the “deemed served” provision.- Request for information on the number of cases in which the driver had evaded DOPs from being incurred through the ways as discussed, and the number of cases in which the driver had avoided to receive summonses issued under the Road Traffic (Driving-offence Points) Ordinance (Cap. 375) and any disqualification order to be made against the driver- Concern about section 3A of Cap. 240 and whether the provision might be in breach of the Basic Law	Administration to take follow-up actions as requested in paragraph 8(a)-(d)
010710 – 011010	Chairman Mr James TO Administration	<ul style="list-style-type: none">- Discussion on whether legislative amendments to relevant ordinances such as Cap. 227 were also necessary in order to tackle effectively loopholes in the DOP system	
011011 - 011133	Chairman Mr Ronny TONG Mr James TO Administration Ms Audrey EU	<ul style="list-style-type: none">- Discussion on the need to invite public views on the Bill- Date of next meeting	

Council Business Division 1

Legislative Council Secretariat

27 March 2009