

立法會
Legislative Council

LC Paper No. CB(1)1163/10-11
(These minutes have been seen
by the Administration)

Ref : CB1/BC/6/09

Bills Committee on Motor Vehicle Idling (Fixed Penalty) Bill

**Minutes of the thirteenth meeting held on
Thursday, 13 January 2011, at 8:30 am
in Conference Room A of the Legislative Council Building**

Members present : Hon Audrey EU Yuet-mee, SC, JP (Chairman)
Hon CHAN Kam-lam, SBS, JP
Hon Miriam LAU Kin-ye, GBS, JP
Hon LI Fung-ying, SBS, JP
Hon WONG Kwok-hing, MH
Hon Andrew LEUNG Kwan-yuen, GBS, JP
Hon CHEUNG Hok-ming, GBS, JP
Hon KAM Nai-wai, MH
Hon Tanya CHAN

Members absent : Hon LEE Cheuk-yan
Hon LEUNG Yiu-chung
Hon LEE Wing-tat
Hon Cyd HO Sau-lan
Hon CHAN Hak-kan
Hon IP Wai-ming, MH
Dr Hon PAN Pey-chyou
Hon LEUNG Kwok-hung

Public officers attending : **Agenda item II**
Mr Carlson CHAN
Deputy Director of Environmental Protection (3)

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Mr W C MOK
Assistant Director of Environmental Protection
(Air Policy)

Miss Susanna LAI
Senior Administrative Officer
(Air Policy Division)
Environmental Protection Department

Mr Paul O'BRIEN
Senior Assistant Law Draftsman
Department of Justice

Ms Angie LI
Senior Government Counsel
Department of Justice

Mr S H VERRALLS
Chief Superintendent of Police
(Traffic Branch Headquarters)
Hong Kong Police Force

Ms Angela NG
Senior Superintendent
(Administration, Traffic Branch Headquarters)
Hong Kong Police Force

Mr Shylock WONG
Superintendent (Law Revision and Projects,
Traffic Branch Headquarters)
Hong Kong Police Force

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

Staff in attendance : Ms Kitty CHENG
Assistant Legal Adviser 5

Ms Sarah YUEN
Senior Council Secretary (1)6

Action

I Confirmation of minutes of meeting

- (LC Paper No. CB(1)867/10-11 - Minutes of meeting on 5 November 2010
- LC Paper No. CB(1)944/10-11 - Minutes of meeting on 12 November 2010
- LC Paper No. CB(1)1009/10-11 - Minutes of meeting on 2 December 2010)

The minutes of the meetings held on 5 November, 12 November and 2 December 2010 respectively were confirmed.

II Meeting with the Administration

- (LC Paper No. CB(1)999/10-11(01) - Administration's response to issues raised at the meeting on 2 December 2010
- LC Paper No. CB(3)598/09-10 - The Bill
File Ref: EP CR 9/150/27 - Legislative Council Brief issued by the Environmental Protection Department
- LC Paper No. CB(3)1066/10-11(01) - Joint submission from The Parent's Association of Pre-school Handicapped Children, The Association of Parents of the Severely Mentally Handicapped and Hong Kong Association for Parents of Persons with Physical Disabilities)

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

Discussion on joint submission from parents' associations of persons with disabilities

3. Members noted the joint submission from three parents' associations of persons with disabilities (PwDs) [LC Paper No. CB(1)1066/10-11(01)] tabled at the meeting, which called for the granting of a blanket exemption from the idling prohibition to all rehabuses. In response to members' request, the Administration made the following comments –

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- (a) Exemption from the idling prohibition in this Bill was provided to a driver, not to a particular vehicle or a class of vehicles;
- (b) Considering the operational mode of rehabuses which, like tourist coaches, might also need to pick up passengers at various locations and, therefore, might need to idle while waiting, the Administration was willing to consider exempting rehabuses;
- (c) It should be noted that there was not a definition for "rehabuses" in the Road Traffic Ordinance (Cap. 374) and, according to the Transport Department (TD), any buses could be used as rehabuses without having to meet any licensing requirements. Given the difficulties to define "rehabuses" as reference could not be drawn to Cap. 374, there would be difficulty to add a provision to provide an explicit exemption for rehabuses in the Bill;
- (d) The Administration proposed instead that a rehabilitation organization (e.g. the Hong Kong Society for Rehabilitation) could apply for exemption to drivers of rehabuses under clause 6, which provided that the Director of Environmental Protection (the Director) might exempt a driver or class of drivers from complying with the idling prohibition, subject to any conditions he or she thought fit. In the course of processing relevant applications for exemptions, the Social Welfare Department would be consulted to ascertain the nature of services provided by the organizations concerned. If an exemption was granted, a written notice would be issued by the Director to the applicant specifying the driver of which vehicle(s) had been granted exemption from the idling prohibition under clause 6. Details of the vehicles concerned such as the licence plate numbers would be stated in the written notice for identification purpose; and
- (e) The merit of adopting this approach for exempting rehabuses was that applications for the exemption would be considered case-by-case based on their own merits, thereby enabling the Administration to impose conditions as necessary to prevent abuses.

4. In response to Ms LI FUNG-ying, the Administration explained that as rehabuses were also used for transportation of PwDs, it was arguable whether they could be regarded as "vehicles for medical purpose" under section 3 of Schedule 1 to the Bill.

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5. To allow enforcement agents greater flexibility in considering requests from persons with genuine needs for exemption, the Chairman asked whether consideration would be given to adding a new provision under section 3 of Schedule 1 to provide that the idling prohibition did not apply to a driver of a vehicle carrying one or more passengers who needed continued supply of air-conditioning on medical grounds. She considered that if such a provision was added, the issue brought up in the joint submission would also be addressed. The Administration responded that the proposed provision might create enforcement problems as it would be difficult for the enforcement officer to ascertain whether the passenger concerned had a genuine need or not and abuses of the exemption might arise. Moreover, as the Administration had explained before, the three-in-sixty-minute grace period should serve the general driving needs of all drivers including those carrying in their vehicles an infirm or sick passenger, who should indeed not be left waiting in an idling vehicle for an unduly long time. The Administration also highlighted that it would mainly be due to the reason in paragraph 3(b) above that it would decide to grant exemption to rehabuses under clause 6. The Administration did not consider that all PwDs had justified needs on medical grounds to keep the rebus idle for continued operation of the air-conditioning.

Admin 6. At the request of the Chairman, the Administration agreed to -

- (a) Explain to the three parents' associations of PwDs concerned the proposed arrangements of exempting rehabuses under clause 6 of the Bill and report to the Bills Committee their responses in writing; and
- (b) Convey the Bills Committee's request for the Secretary for the Environment (SEN) to give an undertaking on the following in his speech at the resumption of the Second Reading debate on the Bill -
 - (i) explanation of the exemption arrangements that would be made to cater for the operational needs of rehabuses; and
 - (ii) the Administration's performance pledge regarding the time needed for processing and approving applications for exempting rehabuses from the idling prohibition under clause 6.

Matters arising from previous discussions

Clerk 7. At the suggestion of Ms Miriam LAU, a referral would be made to the

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Panel on Environmental Affairs (EA Panel)) and the Panel on Transport (TP Panel) to request them to conduct follow-up discussion on the development of the retrofit device which could enable the operation of air-conditioning system by battery when the engine of a vehicle was switched off.

8. Members noted that the Administration maintained the position that amendments to Schedule 1 to the Bill would be introduced in the form of subsidiary legislation subject to the negative vetting procedure. While Miss Tanya CHAN considered that Schedule 1 should be amended in the form of subsidiary legislation subject to the positive vetting procedure, Mr CHAN Kam-lam, Ms LI Fung-ying and Ms Miriam LAU accepted the proposed arrangement provided that the Administration would honour its undertaking that, when proposing any such amendment, the Administration would first consult the stakeholders and the EA Panel. Ms LI and Ms LAU added that the consultation should also include the TP Panel.

Proposed Committee Stage amendments

9. The Administration took members through the revised draft Committee Stage amendments (CSAs) [Annex A to LC Paper No. CB(1)999/10-11(01)]. Mr CHAN Kam-lam advised that he might propose CSAs to provide a blanket exemption to all drivers from the idling prohibition on rainy days. However, he had not yet decided at the present stage. The Chairman requested members who intended to propose CSAs to inform the Clerk in writing so that she could include them in the report to be submitted to the House Committee.

Follow-up actions required of the Administration

Admin 10. In addition to the follow-up actions in paragraph 6, the Administration was requested to take the following actions to address concerns raised by members at the meeting –

- (a) To request SEN to include in his speech at the resumption of the Second Reading debate an explanation that a vehicle queuing up for entry into a petrol filling station, a car park, a container terminal or a landfill would be regarded as "a motor vehicle that is stationary because of traffic conditions" and therefore would be exempted from the idling prohibition;
- (b) To follow up with the EA and TP Panels to ensure that the retrofit device would be made available before the Bill came into operation and to request TD to make active efforts to facilitate the installation of the retrofit device; and

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- (c) To undertake in writing that, in the event of proposing any amendment to Schedule 1 or 2 in the future, the Administration would first consult the stakeholders and both the EA and TP Panels and thoroughly consider the Panels' views.

Legislative timetable and cancellation of meetings

Clerk 11. The Bills Committee completed scrutiny of the Bill. The Bills Committee agreed to resume the Second Reading debate on the Bill on 2 March 2011, and that the Bills Committee would report its deliberations to the House Committee at its meeting on 18 February 2011. The Chairman reminded members that the deadline for giving notice of CSAs was 21 February 2011.

12. Members agreed to cancel meetings earlier scheduled for the following dates –

- (a) 24 January 2011 at 8:30 am; and
- (b) 31 January 2011 at 2:30 pm.

II Any other business

13. There being no other business, the meeting ended at 9:50 am.

Council Business Division 1
Legislative Council Secretariat
9 February 2011

**Proceedings of the thirteenth meeting of
the Bills Committee on Motor Vehicle Idling (Fixed Penalty) Bill
on Thursday, 13 January 2011, 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 – 000400	Chairman	<ul style="list-style-type: none"> - Confirmation of minutes of meetings - Opening remarks 	
Agenda item II – Meeting with the Administration			
<i>Discussion on the joint submission from The Parent's Association of Pre-school Handicapped Children, The Association of Parents of the Severely Mentally Handicapped and Hong Kong Association for Parents of Persons with Physical Disabilities (the joint submission) (LC Paper No. CB(1)1066/10-11(01))</i>			
000401 - 000730	Chairman Administration	<ul style="list-style-type: none"> - Administration's initial response to the joint submission, in particular its view that it was undesirable to grant rehabuses a blanket exemption from the idling prohibition as requested therein because there were difficulties in defining rehabuses, which could be of any model and size, and that the request could already be addressed by applying for exemption on a case by case basis under clause 6 of the Bill 	
000731 - 001256	Chairman Ms Miriam LAU Administration	<ul style="list-style-type: none"> - Administration's explanation in response to Ms LAU on how clause 6 could address the above request in the joint submission, namely, by providing exemption from the idling prohibition to drivers driving vehicles identified by their registration numbers as vehicles for carrying PwDs with continued need for air-conditioning - Discussion on the desirability and feasibility of providing to rehabuses a blanket exemption from the idling prohibition, and the Administration's explanation that exemption was provided to the driver and not a particular vehicle or class of vehicle, and that there were difficulties in defining rehabuses 	

Time marker	Speaker	Subject(s)	Action required
		<ul style="list-style-type: none"> - Discussion on how applications for exemptions under clause 6 would be processed, and how enforcement agents could be made aware of such exemptions - Discussion on the Chairman's proposal to explain to the parents' associations about the exemption under clause 6 and the relevant application mechanism and arrangements, and to ensure that SEN would explain this in his speech at the resumption of the Second Reading debate on the Bill 	<p>Administration to provide information (paragraph 6 of minutes)</p>
001257 – 002646	Chairman Ms LI Fung-ying Administration	<ul style="list-style-type: none"> - Discussion on Ms LI's proposal to include The Hong Kong Society for Rehabilitation (HKSR) in the list of bodies under section 3(2) of Schedule 1 to the Bill, and the Administration's explanation that the proposal might not be desirable because rehabuses were used for transportation and not medical purposes, and hence might not qualify for exemption under the section as vehicles idling for medical, emergency or law enforcement purposes; that HKSR was not the only organization that provided rebus service; and that not all rehabuses would be used for transporting PwDs throughout the day - Discussion on the Chairman's proposal to add a new section 3(1)(c) to Schedule 1 to the Bill to provide exemption to a driver of a vehicle carrying a passenger who for medical reasons required that temperature or humidity be maintained within a certain range 	
002647 – 003150	Chairman Ms Miriam LAU Administration	<ul style="list-style-type: none"> - Administration's explanation in response to Ms LAU that the driver exempted from the idling prohibition by virtue of his driving a rebus would be treated as exempting a 	

Time marker	Speaker	Subject(s)	Action required
		<p>driver, not exempting a driver of a defined type of vehicles</p> <ul style="list-style-type: none"> - Discussion on the time needed for processing and approving applications for exemptions under clause 6 	<p>Administration to provide information (paragraph 6 of minutes)</p>
<i>Discussion on the progress made in developing the retrofit device to enable the operation of air-conditioning system by battery when the engine of a vehicle was switched off</i>			
<p>003151 – 004504</p>	<p>Chairman Ms Miriam LAU Mr CHAN Kam-lam</p>	<ul style="list-style-type: none"> - Administration's report in response to Ms LAU on the progress made in developing the retrofit device to enable the operation of air-conditioning system by battery when the engine of a vehicle was switched off, namely, that the relevant trial was at an advanced stage, and that the device under trial could enable the operation of air-conditioning system by battery for 15 to 30 minutes after the engine was switched off - Discussion on the planned legislative timetable, and on whether there was a need to ensure the availability of the retrofit device for all types of vehicles and its effectiveness before completing scrutiny of the Bill, or that the issue could be followed up by the relevant Panel(s) after dissolution of the Bills Committee - Discussion on the need to ensure that the retrofit device would be made available before the Bill came into operation, and that the Transport Department would make an effort to facilitate the installation of the retrofit device 	<p>Administration to provide information (paragraph 10 of minutes)</p> <p>Administration to provide information (paragraph 10 of minutes)</p>
<i>Administration's briefing on LC Paper No CB(1)999/10-11(01)</i>			
<p>004505 – 005635</p>	<p>Chairman Administration</p>	<ul style="list-style-type: none"> - Administration's briefing on LC Paper No CB(1)999/10-11(01) 	
<p>005636 – 010037</p>	<p>Chairman Ms Miriam LAU</p>	<ul style="list-style-type: none"> - Discussion on whether the grace period of three-in-sixty-minutes 	

Time marker	Speaker	Subject(s)	Action required
	Administration	would suffice to defog the windscreens of vehicles the engines of which had been switched off on rainy days, and whether windshield wipers and towels could help shorten the waiting time	
010038 – 010932	Chairman Ms Miriam LAU Ms LI Fung-ying Mr CHAN Kam-lam Miss Tanya CHAN	<ul style="list-style-type: none"> - Discussion on whether it was acceptable for amendments to Schedule 1 to be made in the form of subsidiary legislation subject to the negative vetting procedure - Ms LI's view that the Administration should first consult not only the Panel on Environmental Affairs but also the Panel on Transport and the stakeholders before proposing any amendment to Schedule 1 to the Bill in future 	Administration to provide information (paragraph 10 of minutes)
010933 – 011324	Chairman Administration	<ul style="list-style-type: none"> - Administration's briefing on the draft CSAs revised in response to views made at the meeting on 2 December 2010 (clauses 19(2) and section 2(4) of Schedule 1 to the Bill) (Annex A to LC Paper No. CB(1)999/10-11(01)) 	
011325 – 011559	Chairman Ms Miriam LAU Administration	<ul style="list-style-type: none"> - Discussion on the need to explain that a vehicle queuing up for entry into a petrol filling station, a car park, a container terminal or a landfill would be regarded as "a motor vehicle that is stationary because of traffic conditions" and therefore would be exempted from the idling prohibition (section 1 of Schedule 1 to the Bill) (LC paper No. CB(1)495/10-11(02)) 	Administration to provide information (paragraph 10 of minutes)
011600 – 011923	Chairman Mr CHAN Kam-lam	<ul style="list-style-type: none"> - The legislative timetable - Mr CHAN Kam-lam's explanation of the CSAs that he was considering 	The Clerk to prepare a report of the Bills Committee for submission to the House Committee

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