

**立法會**  
**Legislative Council**

LC Paper No. CB(1)2577/09-10  
(These minutes have been seen  
by the Administration)

Ref : CB1/BC/9/09

**Bills Committee on Road Traffic (Amendment) Bill 2010**

**Minutes of the second meeting  
held on Monday, 21 June 2010, at 8:30 am  
in Conference Room B of the Legislative Council Building**

- Members present** : Hon Miriam LAU Kin-ye, GBS, JP (Chairman)  
Hon Andrew CHENG Kar-foo  
Hon Jeffrey LAM Kin-fung, SBS, JP  
Hon CHEUNG Hok-ming, GBS, JP  
Hon CHAN Kin-por, JP  
Hon IP Wai-ming, MH
- Member absent** : Hon Ronny TONG Ka-wah, SC
- Public Officers attending** : Agenda Item II  
Mr Alan CHU  
Deputy Secretary for Transport and Housing (Transport) 3  
Miss Erica NG  
Principal Assistant Secretary for Transport and Housing  
(Transport) 2  
Ms Irene HO  
Assistant Secretary for Transport and Housing (Transport)  
2C  
Mr Harry CHAN  
Chief Engineer/Road Safety and Standards  
Transport Department

Mr Gilbert MO  
Law Draftsman (Acting)  
Department of Justice

Miss Elaine NG  
Government Counsel  
Department of Justice

Mr Stephen VERRALLS  
Chief Superintendent (Traffic) (Acting)  
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 YUE Tin-po  
Chief Council Secretary (1)3

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

Mr Joey LO  
Council Secretary (1)3

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Action

- I. Confirmation of minutes of meeting**  
(LC Paper No. CB(1)2277/09-10 -- Minutes of meeting held on 3 June 2010)

The minutes of the meeting held on 3 June 2010 were confirmed.

- II. Meeting with the Administration**  
(LC Paper No. CB(1)2279/09-10(01) -- List of follow-up actions arising from the discussion at the meeting on 3 June 2010)

LC Paper Nos. CB(1)2279/09-10(02) -- Administration's response to issues and CB(1)2293/09-10(01) raised at meeting on 3 June 2010

LC Paper No. CB(1)2279/09-10(03) -- Letter from Assistant Legal Adviser to the Administration dated 2 June 2010

LC Paper No. CB(1)2279/09-10(04) -- Administration's paper dated 15 June 2010 in response to letter from Assistant Legal Adviser as set out in LC Paper No. CB(1)2279/09-10(03))

Other relevant papers

(LC Paper No. CB(3)648/09-10 -- The Bill

LC Paper No. CB(1)2081/09-10(01) -- Marked-up copy of the Bill prepared by the Legal Service Division

File Ref: THB(T)CR 3/14/3231/00 -- Legislative Council Brief on Road Traffic (Amendment) Bill 2010 issued by the Transport and Housing Bureau)

2. The Bills Committee deliberated (Index of proceedings attached at **Appendix**).

3. The Administration was requested to provide the following information:

(a) consider proposing Committee Stage amendments to the Bill to include a list of illicit drugs under the "zero tolerance" control, notably heroin, ketamine and Methylamphetamine (ice), so that it would constitute a circumstance of aggravation in all dangerous driving offences if the driver concerned was found to have taken such drugs, so as to provide deterrence against drug driving in addition to drink driving; and

(b) provide information on the detailed age profile of the drivers convicted of drink driving over the past three years.

*(Post-meeting note: The information provided by the Administration was issued to members vide LC Paper Nos. CB(1)2390/09-10(08) and CB(1)2415/09-10(03) on 29 and 30 June 2010.)*

**III. Any other business**

Date of next meeting

4. The Chairman reminded members that the third meeting would be held on 3 July 2010 at 9:00 am to receive deputations' views and continue discussion with the Administration.
5. There being no other business, the meeting ended at 10:05 am.

Council Business Division 1  
Legislative Council Secretariat  
27 July 2010

**Proceedings of the second meeting of  
Bills Committee on Road Traffic (Amendment) Bill 2010  
on Monday, 21 June 2010, at 8:30 am  
in Conference Room B of the Legislative Council Building**

Time marker	Speaker	Subject(s)	Action required
000000 – 000617	Chairman	(a) Opening remarks by the Chairman  (b) Confirmation of minutes of meeting held on 3 June 2010 (LC Paper No. CB(1)2277/09-10)	
000618 – 001206	Chairman Administration	Briefing by the Administration on its response to concerns raised by the Bills Committee at the last meeting in relation to drink driving (LC Paper No. CB(1)2279/09-10(02)).	
001207 – 001555	Chairman Administration	In response to the Chairman's enquiry, the Administration advised that section 39 of the Road Traffic Ordinance (RTO) (Cap. 374) covered drink driving as well as drug driving. Section 39 had been successfully invoked by the Police in prosecutions involving drug driving cases. Five such cases had been successfully prosecuted so far this year.	
001556 – 001818	Chairman Mr CHEUNG Hok-ming Administration	Noting that the number of drivers convicted of drink driving had been declining over the past three years, Mr CHEUNG Hok-ming enquired whether the Administration had taken the above trend into account in determining the severity of the penalties under section 39.  The Administration advised that the majority of the views gathered in the public consultation exercise were that the driving disqualification periods under the existing RTO were too short and should be lengthened. Whilst the number of drivers convicted of drink driving had been declining, the Administration considered it important to keep up the effort in combating drink driving.	
001819 – 002203	Chairman Mr Jeffrey LAM Administration	In response to Mr Jeffrey LAM's enquiry, the Administration undertook to provide the information about the detailed age profile of the drivers convicted of drink driving over the past three years after the meeting.  Mr Jeffrey LAM enquired about the effectiveness of the random breath test and the number of drivers convicted as a result of drink driving.  The Administration advised that since the introduction of the random breath test in 9 February 2009, there had been	The Administration to follow up as stated in paragraph 3(b) of the minutes.

Time marker	Speaker	Subject(s)	Action required
		<p>a 65% decrease in accidents involving drink driving. Up to April 2010, 2.6 out of every 100 drivers were found driving with a level of alcohol in their blood through the random breath test. 0.6 out of every 100 drivers were caught having a level of alcohol concentration in excess of the prescribed limit under section 2 of the RTO. Up to 30 May 2010, 3,827 road blocks had been established to conduct random breath tests on 65,347 drivers. 348 drivers had been prosecuted for drink driving after having undergone the random breath test.</p>	
002204 – 003800	Chairman Mr Andrew CHENG Administration	<p>Mr Andrew CHENG did not subscribe to the Administration's response in relation to paragraph 9 of the Administration's paper that "drink driving cases may not involve any injuries or traffic accidents". He reiterated his request for setting the proposed minimum driving disqualification period on second/subsequent conviction for Tier 3 penalty according to the level of alcohol concentration at life disqualification. This would take repeated offenders off the road permanently and provide effective deterrence as well as enhance public safety.</p> <p>The Administration pointed out that Hong Kong was one of the jurisdictions which imposed the heaviest penalties on drink driving offences. Apart from the 3-tier penalty system, the Bill also provided for the consecutive implementation of imprisonment and driving disqualification for offenders on subsequent conviction of serious traffic offences to enhance deterrence. The proposed disqualification period was only a minimum standard and the court was at liberty to rule a much higher disqualification period as it saw fit.</p> <p>Discussion on the proposed penalty terms for drink driving offences as compared to those in other jurisdictions.</p> <p>Mr Andrew CHENG considered that even though the proposed penalty terms were harsher than those other jurisdictions studied by the Administration, it should not preclude Hong Kong from introducing much heavier penalty terms given the seriousness of the drink driving problem and the small and densely populated territory of Hong Kong. Moreover, comparison should be made to those jurisdictions such as the Mainland which adopted a tiered penalty system.</p> <p>The Administration advised that the present proposal regarding penalty terms was formulated after balancing the views of different stakeholders. The proposed disqualification period was only a minimum standard and</p>	

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		<p>the court had discretion to disqualify a driver for a period much longer than the minimum should individual circumstance so warrant. The Administration would continue to review the effectiveness of the new measures after the passage of the Bill.</p>	
003801 – 004600	Chairman Administration	<p>Briefing by the Administration on its response to concerns raised by the Bills Committee at the last meeting in relation to drug driving (LC Paper No. CB(1)2293/09-10(01)).</p>	
004601 – 005857	<p>Chairman Mr Jeffrey LAM Administration Mr Andrew CHENG</p>	<p>The Chairman, Mr Jeffrey LAM and Mr Andrew CHENG enquired about the scope of the Bill and whether the Administration would consider proposing Committee Stage amendments to the Bill to include certain illicit drug, in order to tackle the problem of drug driving expeditiously.</p> <p>The Administration explained that the Bill mainly dealt with drink driving. To what extent the Bill could also deal with drug driving would depend on the views received on what amendments should be made, and whether such amendments were allowed under the Rules of Procedure (RoP) of the Legislative Council. Depending on what precisely any proposed amendments would cover, the Administration considered that it might contravene the RoP in terms of the scope of the Bill to include certain illicit drug to cover drug driving. It would be more appropriate to introduce a whole set of proposals including the necessary accompanying enforcement powers in another Bill to combat drug driving.</p> <p>Mr Andrew CHENG opined that the scope of the Bill was defined by the Administration, and it was not the RoP which precluded the amendments.</p> <p>The Administration explained that RoP 57(4)(a) stipulated that an amendment must be relevant to the subject matter of the Bill and to the subject matter of the clause to which it related. The restriction applied not only to amendments proposed by Members but also to the Administration. The final decision on whether an amendment was relevant rested with the President of the Legislative Council.</p>	
005858 – 010650	<p>Chairman Mr Ip Wai-ming Administration</p>	<p>Mr Ip Wai-ming called on the Administration to submit the legislative proposal for drug driving immediately after the summer break. He opined that the list of drugs towards which zero-tolerance would be adopted could come in the form of a schedule of the Bill and needed not be a</p>	

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		<p>comprehensive one as more and more new drugs subject to abuse would come into the market. He enquired about the major difficulties encountered by the Administration in drawing up the proposal in a timely manner.</p> <p>The Administration attached great importance to combating drug driving. It aimed to come up with a preliminary proposal for public consultation around July 2010. The Panel on Transport would be consulted on the proposal. The Administration would also consult relevant professional bodies on the proposal to tackle drug driving during the summer. Overseas experience, such as that of Australia which adopted a two-tier system, would be taken into account in formulating the regulatory framework. In the Australian model, the first tier covered prescribed illicit drugs whilst the second tier covered all other drugs. According to the Australian experience, it was impossible to draw up a list of drugs which were commonly abused, as the types of drugs which were commonly abused varied from time to time and might not necessarily be dangerous drugs. The Administration had been advised by medical doctors to adopt a cautious approach when drawing up the list as drivers who took drugs upon doctors' advice might not be fully aware of the drugs' effect upon their ability to drive. According to overseas experience, the introduction of preliminary or rapid tests involved legislation and could not be effected through administrative measures. At present, Hong Kong had not introduced the preliminary or rapid test on drug driving. The Administration was still looking for a rapid test device in the market for the testing of Ketamine which was a major type of drug abused by Hong Kong drivers in detected cases.</p>	
010651 – 011600	Chairman Administration	<p>The Chairman enquired about the reasons for not introducing the drug impairment test at this stage which did not require a special device and the current method of adducing evidence by the police under section 39 of the RTO.</p> <p>The Administration explained that according to overseas experience, legislative framework was required to introduce impairment test. Moreover, police officers had to be trained on the procedures for carrying out such test.</p> <p>The Chairman requested the Administration to consider proposing Committee Stage amendments to the Bill to include a list of illicit drugs under the "zero tolerance" control, notably heroin, ketamine and Methylamphetamine (ice), so that it would constitute a circumstance of aggravation in all dangerous driving offences if the driver</p>	The Administration to follow up as stated in paragraph 3(a) of the minutes.

Time marker	Speaker	Subject(s)	Action required
		<p>concerned was found to have taken such drugs, so as to provide deterrence against drug driving in addition to drink driving. If a dangerous driving offence was committed in circumstances of aggravation, the maximum penalties in terms of fine and imprisonment, and the minimum disqualification period for the offence concerned would be each increased by 50% under the Bill. She was of the view that such amendments would provide deterrence against drug driving.</p> <p>In response to the Chairman's enquiry, the Administration advised that up to 9 June 2010, 34 arrests were carried out for drug driving offences, of which 31 involving Ketamine, one involving cough medicine, one involving Methylamphetamine (ice) and the remaining one involving zopiclone. Five of the suspects had been convicted and the remaining cases were under investigation. On the method of adducing evidence by the police under section 39 of the RTO, all the circumstances of the case had to be relied on, including the driver's behaviour, the way he was driving, his willingness to submit blood samples for testing, circumstantial evidence such as dangerous drug found on the driver, and medical doctors' advice. Out of the 34 cases, seven resulted from accidents involving injuries, seven resulted from accidents with damage only and 20 were identified by enforcement stops and did not involve accidents.</p>	
011601 – 012330	Chairman Mr Andrew CHENG Administration	Discussion on whether the long title of the Bill precluded the amendments involving drug driving, and whether the long title could be amended by the Administration.	
012331 – 012514	Chairman Mr Andrew CHENG	Meeting arrangement	