

立法會
Legislative Council

LC Paper No. CB(1)243/10-11
(These minutes have been seen by
the Administration)

Ref : CB1/BC/9/09

Bills Committee on Road Traffic (Amendment) Bill 2010

**Minutes of the fourth meeting
held on Tuesday, 5 October 2010, at 2:30 pm
in Conference Room B of the Legislative Council Building**

Members present : Hon Miriam LAU Kin-yee, GBS, JP (Chairman)
Hon Andrew CHENG Kar-foo
Hon Jeffrey LAM Kin-fung, SBS, JP
Hon Ronny TONG Ka-wah, SC
Hon CHAN Kin-por, JP
Hon WONG Sing-chi
Hon IP Wai-ming, MH

Member absent : Hon CHEUNG Hok-ming, GBS, JP

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 Eamonn MORAN
Law Draftsman
Department of Justice

Miss Elaine NG
Government Counsel
Department of Justice

Mr Steve VERRALLS
Chief Superintendent (Traffic)
Hong Kong Police Force

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

Mr WONG Yiu-ming
Superintendent (Law Revision and Projects) (Traffic)
Hong Kong Police Force

Mrs Margaret CHAN
Principal Executive Officer/VALID and Licensing
Transport Department

Mr Harry CHAN
Chief Engineer/Road Safety and Standards
Transport Department

Dr KWAN Ming-tak
Senior Superintendent (Penal Operations)
Hong Kong Correctional Services

Clerk in attendance : Ms YUE Tin-po
Chief Council Secretary (1)3

Staff in attendance : Mr Kelvin LEE
Assistant Legal Advisor 1

Mr Joey LO
Council Secretary (1)3

Action

- I. Confirmation of minutes of meetings and matters arising**
(LC Paper No. CB(1)2577/09-10 -- Minutes of meeting held on
21 June 2010
- LC Paper No. CB(1)2927/09-10 -- Minutes of meeting held on
3 July 2010

LC Paper No. CB(1)2929/09-10(01) -- Letter from Hon WONG Sing-chi on application for late membership
(*Chinese version only*)

The minutes of the meetings held on 21 June and 3 July 2010 were confirmed.

2. The Chairman informed the meeting that Mr WONG Sing-chi had submitted a late application to join the Bills Committee. Members agreed to accept Mr WONG's late membership.

II. Meeting with the Administration

(LC Paper No. CB(1)2390/09-10(07) -- List of follow-up actions arising from the discussion at the meeting on 21 June 2010

LC Paper No. CB(1)2390/09-10(08) -- Administration's response to issues raised at the meeting on 21 June 2010
LC Paper No. CB(1)2415/09-10(03)

LC Paper No. CB(1)2929/09-10(02) -- List of follow-up actions arising from the discussion at the meeting on 3 July 2010

LC Paper No. CB(1)2929/09-10(03) -- Administration's response to issues raised at the meeting on 3 July 2010

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

Admin 4. The Administration was requested to:

- (a) consider the Bills Committee's suggestion to delete the wordings "to such an extent as to be incapable of having proper control of the motor vehicle" of the proposed Committee Stage Amendments (CSAs) to Clauses 6(5), 7 and 8(5) of the Bill;
- (b) provide a timetable for introducing the legislative proposal on combating drug driving to LegCo within the 2010-2011 legislative session;
- (c) provide information on the number of prosecution cases in which the driver had refused to submit to a blood test and the number of cases successfully prosecuted in the absence of blood test results; and

- (d) provide information on Police training and manpower requirement for the implementation of preliminary test for drug driving offences.

III. Any other business

Meeting arrangement

5. Members agreed that the next meeting would be held on 4 November 2010 at 4:30 pm in Conference Room B.
6. There being no other business, the meeting ended at 4:30 pm.

Council Business Division 1
Legislative Council Secretariat
27 October 2010

**Proceedings of the fourth meeting of
Bills Committee on Road Traffic (Amendment) Bill 2010
on Tuesday, 5 October 2010, at 2:30 pm
in Conference Room B of the Legislative Council Building**

Time marker	Speaker	Subject(s)	Action required
000000 – 000303	Mr Andrew CHENG Mr Jeffrey LAM Mr Ronny TONG Mr CHAN Kin-por Mr IP Wai-ming	(a) Opening remarks by the Chairman (b) Confirmation of minutes of meetings held on 21 June and 3 July 2010 (LC Paper Nos. CB(1)2577/09-10 and CB(1)2927/09-10) (c) Mr WONG Sing-chi's application for late membership	
000304 – 001600	Chairman Administration	Briefing by the Administration on its response to concerns raised by the Bills Committee at previous meetings and the proposed Committee Stage Amendments (CSAs) (LC Paper Nos. CB(1)2929/09-10(03)and CB(1)2941/09-10(01)).	
001601 – 002158	Chairman Mr Jeffrey LAM Administration Mr Andrew CHENG	In response to Mr Jeffery LAM's enquiry, the Administration advised that the six illicit drugs proposed to be specified in a Schedule covered the most common types of drugs of abuse in Hong Kong. The Administration would adopt a zero tolerance approach towards the six illicit drugs which had no or very limited medical use. Discussion on the calculation of the disqualification period.	
002230 – 003237	Chairman Mr Andrew CHENG Administration	Members considered that amendments should be made to delete the wordings "to such an extent as to be incapable of having proper control of the motor vehicle" of the proposed CSAs to Clauses 6(5), 7 and 8(5) of the Bill, as the subject matter being referred to was illicit drugs to which a "zero tolerance" approach should be adopted. The Administration explained that the proposed CSAs only referred to circumstances of aggravation in respect of dangerous driving relating to section 36, 36A and 37 of the Road Traffic Ordinance (RTO) (Cap. 374), without affecting section 39 relating to drug driving and the "zero-tolerance" control being contemplated in a separate exercise. Nevertheless, the Administration agreed to consider the Bills Committee's suggestion to delete the relevant wordings. In response to the Chairman's enquiry, the Administration advised that the existing legislation did not empower the Commissioner of Correctional Services to impose a condition on the release from custody of the driver under	The Administration to follow up as stated in paragraph 4(a) of the minutes.

Time marker	Speaker	Subject(s)	Action required
		<p>specified circumstances that he was not allowed to drive during the period of release before the expiration of his term of imprisonment.</p>	
003238 – 003943	<p>Chairman Mr IP Wai-ming Administration</p>	<p>Mr IP Wai-ming expressed concern whether a consistent and fair prosecution policy on dangerous driving would be adopted by the Administration.</p> <p>The Administration explained that the Police would take enforcement actions seriously and make objective prosecution decisions based on all the circumstances and evidence of the case as well as the advice of the Department of Justice. In the first six months of 2010, there had been 74 arrests relating to dangerous driving causing death (DDCD). In 58% of the cases, the suspects were charged with DDCD and 31% were charged with careless driving whilst the rest was still under inquiry. In a total of 89% of the cases, the suspects had been charged with an offence.</p>	
003944 – 004546	<p>Chairman Mr WONG Sing-chi Administration</p>	<p>On Clause 18 of the Bill, the Administration advised that the proposed CSAs were precisely to make the requirements clear that the person who was released before the expiration of his imprisonment term must be taken to be disqualified when he was on the street and able to drive.</p> <p>Mr WONG Sing-chi agreed that the person who was released from prison before the expiration of his term of imprisonment under specified circumstances should be barred from driving. He also agreed with the proposed CSAs which provided for the consecutive implementation of imprisonment and driving disqualification.</p> <p>Mr WONG Sing-chi urged the Administration to submit the legislative proposal on combating drug driving to LegCo as soon as practicable.</p> <p>The Administration emphasized that it attached great importance to combating drug driving. The Panel on Transport and the relevant professional bodies had been consulted on the Administration's initial proposals during the summer. The Administration aimed to report the findings of the consultations to the Panel in November 2010 and submit the legislative proposal within the coming legislative year.</p>	
004547 – 004628	<p>Chairman Mr CHAN Kin-por Administration</p>	<p>In response to Mr CHAN Kin-por's enquiry, the Administration advised that the six illicit drugs would be specified in a Schedule which might be amended by the Secretary for Transport and Housing by way of subsidiary legislation through the negative vetting procedure.</p>	

Time marker	Speaker	Subject(s)	Action required
004629 – 010015	Chairman Mr Andrew CHENG Administration	<p>Mr Andrew CHENG enquired about the enforceability of the zero tolerance approach under the present Bill. He expressed concern whether the Bill would provide sufficient deterrent effect to drug driving in the absence of power to require the driver to submit blood samples for testing.</p> <p>The Administration advised that the Police would question a suspicious driver and take into consideration the driver's behaviour and other circumstantial evidence such as dangerous drug found on the driver or in his vehicle. At present, preliminary drug tests on drug driving had not been introduced in Hong Kong. The Administration was still looking for a rapid oral fluid 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. The Police had to rely on the driver's own admission and his willingness to submit himself to blood. In 2010, there were 63 suspected cases of driving under the influence of drugs, of which 40 drivers had been charged. In most cases, the drivers had agreed to undertake a blood test. Nevertheless, there had been successful prosecution cases relying on other circumstantial evidence instead of the driver's blood samples. In response to the Chairman's enquiry, the Administration advised that introduction of impairment test and rapid oral fluid test would be addressed in the upcoming legislative proposal to combat drug driving.</p>	
010016 – 010700	Chairman Mr WONG Sing-chi Administration	<p>Mr WONG Sing-chi expressed reservation about the introduction of a random blood test which was considered an intrusive test and might be subject to abuse by the Police, and hence should not be taken lightly. He favoured a tiered approach of using preliminary tests, such as an impairment test to establish a prima facie case, before the driver was subject to a blood test.</p> <p>The Administration noted and concurred with the member's view on the tiered approach.</p>	
010701 – 011328	Chairman Mr IP Wai-ming Administration	<p>In response to Mr IP Wai-ming's enquiry about the enforcement power of the Police, the Administration advised that to enable police officers to screen out suspected drivers for further testing on presence of drugs, some preliminary impairment or rapid oral fluid tests would need to be conducted. The Police would then be empowered to obtain the driver's blood or other body fluid specimen to enable a charge to be laid.</p>	<p>The Administration to follow up as stated in paragraph 4(c) of the minutes.</p>

Time marker	Speaker	Subject(s)	Action required
011329 – 011848	Chairman Mr Andrew CHENG Administration	Mr Andrew CHENG urged the Administration to speed up the legislative process on combating drug driving which he emphasized was clearly a public consensus. He opined that the Police should be empowered to conduct impairment test on drivers as soon as possible. The Administration pledged that it would endeavour to submit the legislative proposal as soon as practicable to tackle the problem at all angles.	
011849 – 012655	Chairman Mr Ronny TONG Administration	In response to Mr Ronny TONG 's enquiry about the power of the Court, the Administration advised that section 69 of the RTO already provided power to the Court to give a longer period of driving disqualification period to the driver than his term of imprisonment.	
012656 – 015504	Chairman Mr WONG Sing-chi Mr Andrew CHENG Mr IP Wai-ming Administration	Discussion on the possibility of expediting the timetable for submitting the legislative proposal on combating drug driving to LegCo.	The Administration to follow up as stated in paragraph 4(b) and (d) of the minutes.
015505 – 015604	Chairman members	Meeting arrangement	