

**立法會**  
**Legislative Council**

LC Paper No. CB(1)1041/11-12  
(These minutes have been seen  
by the Administration)

Ref : CB1/BC/12/10

**Bills Committee on Road Traffic (Amendment) (No. 2) Bill 2011**

**Minutes of the second meeting held on  
Tuesday, 20 December 2011, at 10:45 am  
in Conference Room 2A of the Legislative Council Complex**

**Members present** : Hon Miriam LAU Kin-yee, GBS, JP (Chairman)  
Dr Hon Philip WONG Yu-hong, GBS  
Hon LI Fung-ying, SBS, JP  
Hon CHAN Hak-kan  
Hon WONG Sing-chi  
Hon Tanya CHAN

**Members absent** : Hon LEE Cheuk-yan  
Hon Andrew CHENG Kar-foo  
Hon CHEUNG Hok-ming, GBS, JP  
Dr Hon PAN Pey-chyou  
Hon WONG Yuk-man

**Public Officers attending** : **Agenda item II**  
  
Mr Patrick CHAN, JP  
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 Peter SZE  
Government Counsel  
Department of Justice

Mr Albert YUEN, JP  
Assistant Commissioner/Management & Paratransit  
Transport Department

Mr Albert SU  
Principal Transport Officer/Management  
Transport Department

Mr Walter FOO  
Senior Engineer/Vehicle Regulations & Standards  
Transport Department

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

Mr Eric CHENG  
Senior Superintendent  
(Traffic Management & Prosecutions Bureau)  
Hong Kong Police Force

Mr YEUNG Yiu-chung  
Chief Inspector of Police (Management)  
(Traffic Management)  
Hong Kong Police Force

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

**Staff in attendance :** Mr YICK Wing-kin  
Assistant Legal Adviser 8

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Ms Macy NG  
Senior Council Secretary (1)2

Ms Emily LIU  
Legislative Assistant (1)2

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Action

**I Confirmation of minutes of meeting**

(LC Paper No. CB(1)658/11-12 - Minutes of the meeting held on 9 December 2011)

The minutes of the meeting held on 9 December 2011 were confirmed.

**II Meeting with the Administration**

(LC Paper No. CB(3)987/10-11 - The Bill  
File Ref: THB(T)CR5/14/3231/00 - The Legislative Council Brief issued by the Transport and Housing Bureau

LC Paper No. LS96/10-11 - Legal Service Division Report on the Bill

LC Paper No. CB(1)439/11-12(01) - Background brief on "Road Traffic (Amendment) (No. 2) Bill 2011" prepared by the Legislative Council Secretariat

LC Paper No. CB(1)647/11-12(01) - Marked-up copy of the Bill prepared by the Legal Service Division

LC Papers Nos. CB(1)647/11-12(02) - Letter dated 3 October 2011 from legal adviser to the Bills Committee to the Administration and the Administration's reply letter dated 16 December 2011)

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

3. The Administration briefed members on the Road Traffic (Amendment) (No. 2) Bill 2011 (the Bill).

Discussion

4. Members expressed the following major views and concerns about the Bill at the meeting –

- (a) as the Bill would empower the Commissioner for Transport and the Police to retrieve any data stored in an approved electronic data recording device (EDRD) and to use that data as evidence in any criminal proceedings, people's right to privacy should be taken into account as to the kinds of information and data that would be recorded and stored in an EDRD;
- (b) whether it was justifiable to mandate the installation of EDRD since the functions of the device seemed to be limited. Some members queried if it was premature to provide the statutory framework for governing the proposed mandatory use of the EDRD to public light buses (PLBs) when there was a lack of information on the functions and features of EDRD, as well as the supply of compliant models in the market;
- (c) it might not be fair to hold a PLB owner legally liable for failure to ensure the correct functioning of an EDRD as the malfunctioning might be due to inherent defects of the device or tampering by individual PLB drivers concerned;
- (d) why the Administration still considered it necessary to mandate the installation of speed limiters on PLBs by legislation since the Administration had already introduced administrative measures through new licensing conditions to require installation of a speed limiter; and
- (e) a lead time of six to nine months after enactment of the legislation for selection and designation of pre-service training schools to provide the pre-service course would be too long. Some members suggested that consideration should be given to shortening it to one to three months.

Action

Admin 5. To facilitate further discussion on the Bill, the Administration was requested to take the following actions –

- (a) to provide an information paper on the EDRD to explain –
  - (i) the functions of an EDRD and the kinds of information and data that would be recorded and stored in an EDRD, and the purposes intended to be achieved by mandating the installation of EDRD;
  - (ii) the rationale of setting the minimum data storage period of 30 days and figures in the length of the storage period of EDRD or similar devices used in overseas countries/Mainland;
  - (iii) the experience of the franchised buses in Hong Kong in their use of EDRD;
  - (iv) the experience of use of EDRD (or similar devices) in overseas countries and on the Mainland and the relevant legislation;
  - (v) the specifications (e.g. required warranty period/life span of the device) that would be prescribed for EDRD by the Transport Department; and
  - (vi) how to determine whether a defect of an EDRD was an inherent defect of the device or the result of tamper or interference by unauthorized person(s);
- (b) to arrange a demonstration of the operation and functions of an EDRD to be installed on the specified PLBs;
- (c) to provide an information paper on speed limiters, which should include –
  - (i) the numbers of traffic accidents involving PLBs and numbers of cases of PLBs speeding before and after the introduction of administrative measures in June 2010 to require the installation of a speed limiter on all PLBs;
  - (ii) the effectiveness of speed limiters; and

- (iii) statistics on the problem of tampering with the speed limiters on PLBs, and why the Administration considered the present arrangement of requiring installation of a speed limiter through licensing conditions inadequate and needed to mandate the installation of the device through legislation;
- (d) to provide statistics on the problem of tampering with the speed display device on PLBs;
- (e) to explain why a lead time of six to nine months would be required after enactment of the legislation for selection and designation of pre-service training schools to provide the pre-service course; and
- (f) to provide a sample of the PLB driver identity plate to be prescribed under the Bill as members wished to know more about the size, font size and position of display of the PLB driver identity plate.

Date of next meeting

6. Members noted that the next meeting would be held on 12 January 2012 at 2:30 pm to receive views from the public.

**III Any other business**

7. There being no other business, the meeting ended at 12:25 pm.

Council Business Division 1  
Legislative Council Secretariat  
10 February 2012

**Annex**

**Proceedings of the second meeting of  
the Bills Committee on Road Traffic (Amendment) (No. 2) Bill 2011  
on Tuesday, 20 December 2011, at 10:45 am  
in Conference Room 2A of the Legislative Council Complex**

Time marker	Speaker	Subject(s)	Action required
<b>Agenda Item I – Confirmation of minutes of meeting</b>			
000119 - 000133	Chairman	- Confirmation of minutes of meeting	
<b>Agenda Item II – Meeting with the Administration</b>			
000134 - 000339	Chairman	- Opening remarks	
000340 - 000929	Chairman Administration	- Briefing by the Administration on the Bill	
000930 - 001918	Chairman Ms LI Fung-ying Administration	- Request for the Administration to provide the numbers of traffic accidents involving public light buses (PLBs) and numbers of cases of PLB speeding before and after the introduction of administrative measures in June 2010 to require the installation of a speed limiter on all PLBs  - Administration's reply in response to Ms LI that PLB owners were responsible for maintaining the EDRD in good working order, and the Administration would monitor the correct functioning of the EDRD by requiring the installation be carried out by an "authorized EDRD installer" authorized by the Commissioner for Transport (C for T) and conducting regular inspections of PLBs installed with an EDRD	Administration to provide information/response (paragraph 5 of minutes)
001919 - 002719	Chairman Miss Tanya CHAN Administration	- Miss CHAN's concern about the size, font size and position of displaying PLB driver identity plate and the Administration's agreement	Administration to provide information/response (paragraph 5 of

Time marker	Speaker	Subject(s)	Action required
		<p>to provide a sample of the identity plate to be prescribed under the Bill</p> <ul style="list-style-type: none"> <li>- Miss CHAN's emphasis that people's right to privacy should be taken into account carefully as to the kinds of information and data that would be recorded and stored in an EDRD if the C for T and the Police were empowered to retrieve any data stored in an approved EDRD</li> <li>- Request for the Administration to provide information on the kinds of information and data that would be recorded and stored in an EDRD and to arrange demonstration of the operation and functions of an EDRD to be installed on PLBs</li> </ul>	<p>minutes)</p> <p>Administration to provide information/response (paragraph 5 of minutes)</p>
002720 - 003548	Chairman Dr Philip WONG Administration	<ul style="list-style-type: none"> <li>- Administration's reply in response to Dr WONG that the Administration had consulted the registered owners and holders of passenger service licence for PLBs, and the operators and trade associations of the PLB trade, including PLB drivers, on the Bill and they generally supported the Administration to make continuous efforts to improve the safety of PLB operation</li> <li>- Administration's confirmation that it had no plan to require installation of EDRD in private cars</li> <li>- Administration's reply in response to Dr WONG that all fines relating to a PLB should be settled before a PLB licence could be renewed and information on whether there were outstanding fines was currently not available in Transport Department (TD)'s computer system</li> </ul>	

Time marker	Speaker	Subject(s)	Action required
		<ul style="list-style-type: none"> <li>- Discussion on the legal responsibility of tampering with the EDRD and the features of an EDRD to indicate whether its operation had been tampered</li> </ul>	
003549 - 004235	Chairman Mr CHAN Hak-kan Administration	<ul style="list-style-type: none"> <li>- Mr CHAN's enquiry on whether a driver driving a PLB with passengers on it would have to stop the vehicle at once and seek repair in case malfunctioning of the speed limiter/EDRD occurred, and the Administration's reply that the driver would be required to remedy the defect within a reasonable period of time, which depended on the circumstances</li> <li>- Administration's confirmation that the minimum data storage period of the EDRD would be required to be set at 30 days</li> <li>- Mr CHAN's enquiry on whether the drivers concerned would be subject to prosecution if the data in EDRD had shown the PLB speeding at one point of time, and the Administration's reply that prosecution for speeding offence would require information on the location of offence (which was not recorded by the EDRD) and data on the speed of a vehicle collected by well-tested speed detectors (e.g. laser speed detector), and mere speed data alone collected by the EDRD would not be sufficient for the prosecution of speeding offence</li> </ul>	
004236 - 004944	Chairman Administration	<ul style="list-style-type: none"> <li>- Discussion on the problem of tampering with the speed limiters on PLBs, and why the Administration considered the present arrangement of requiring installation of a speed limiter</li> </ul>	Administration to provide information/response (paragraph 5 of minutes)

Time marker	Speaker	Subject(s)	Action required
		<p>through new licensing conditions inadequate and needed to mandate the installation of the device by legislation</p> <ul style="list-style-type: none"> <li>- Discussion on why the lead time of six to nine months would be required after enactment of the legislation for selection and designation of pre-service training schools to provide the pre-service course</li> <li>- Request for the Administration to provide written response in relation to the experience of application of EDRD in overseas countries and on the Mainland and the relevant legislation</li> </ul>	
004945 - 010253	Chairman Miss Tanya CHAN Administration	<ul style="list-style-type: none"> <li>- Administration's explanation in response to Miss CHAN that:               <ul style="list-style-type: none"> <li>(a) the EDRD would facilitate fleet management, deter PLB drivers from improper driving, and facilitate investigation of accidents and other offences under the Road Traffic Ordinance (Cap. 374) and its subsidiary legislation as well as law enforcement involving PLB operation; and</li> <li>(b) the Police would only prosecute drivers for speeding when sufficient evidence was available</li> </ul> </li> <li>- Discussion on the rationale of setting the minimum data storage period of 30 days for an EDRD and the length of the storage period in overseas/ Mainland experience</li> </ul>	Administration to provide information/ response (paragraph 5 of minutes)

<b>Time marker</b>	<b>Speaker</b>	<b>Subject(s)</b>	<b>Action required</b>
010254 - 011123	Chairman Dr Philip WONG Administration	<ul style="list-style-type: none"> <li>- Discussion on the specifications (e.g. required warranty period/life span of the device) that would be prescribed for EDRD by the TD</li> <li>- Discussion on how to determine whether a defect of an EDRD was an inherent defect of the device or the result of interference by unauthorized person(s)</li> </ul>	Administration to provide information/response (paragraph 5 of minutes)
011124 - 012247	Chairman Miss Tanya CHAN Administration Assistant Legal Adviser 8	<ul style="list-style-type: none"> <li>- Some members queried if it was premature to make a statutory framework governing the proposed mandatory use of the EDRD when there was a lack of information on the functions and features of EDRD, as well as its availability in the market</li> <li>- Administration's explanation that if the proposal of mandatory installation of EDRD on PLBs was supported by the Legislative Council, the Administration would liaise with potential suppliers to introduce suitable models of EDRD required to be installed on PLBs, and once the equipment was suitably adapted and confirmed to be ready, the commencement date of implementation would be prescribed by way of subsidiary legislation</li> <li>- Administration's reply in response to Miss CHAN on the range of personnel who might be qualified as "authorized EDRD installers"</li> </ul>	
012248 - 012631	Chairman Dr Philip WONG Administration	<ul style="list-style-type: none"> <li>- Discussion on the rationale of setting the minimum data storage period of 30 days for an EDRD instead of a longer period, say, until the licence renewal date of the PLB concerned</li> </ul>	Administration to provide information/response (paragraph 5 of minutes)

<b>Time marker</b>	<b>Speaker</b>	<b>Subject(s)</b>	<b>Action required</b>
012632 - 012815	Chairman Administration	- Request for the Administration to explain why it considered the present arrangement of requiring installation of a speed limiter through new licensing conditions inadequate and needed to mandate the installation of the device by legislation	Administration to provide information/response (paragraph 5 of minutes)
012816 - 013011	Chairman Miss Tanya CHAN	- Discussion on whether installation of speed limiter would suffice to deter speeding behaviour of PLB drivers and whether there was an actual need to mandate installation of EDRD on newly registered PLBs	
013012 - 013453	Chairman Dr Philip WONG Administration	- Administration's explanation in response to Dr WONG that as a speed limiter limited the vehicle speed to a specified level by controlling the fuel feed, a limiter was unable to control the speed of a PLB driving downhill (in that circumstance the driver had to control the speed of his PLB by engaging low gear and/or brake)	
013454 - 013519	Chairman	- Concluding remarks	
013520 - 013752	Chairman Dr Philip WONG Administration	- Administration's reiteration in response to Dr WONG that the Police would not just rely on the data recorded by an EDRD as the sole evidence of speeding offence and they would not institute prosecution merely based on such data. Availability of other evidence such as data on speed as collected by the laser speed detector and evidence on the location of offence would be required in deciding whether to prosecute a driver for speeding	

<b>Time marker</b>	<b>Speaker</b>	<b>Subject(s)</b>	<b>Action required</b>
013753 - 013805	Chairman	- Date of next meeting	

Council Business Division 1  
Legislative Council Secretariat  
10 February 2012