

立法會
Legislative Council

LC Paper No. LS38/12-13

**Paper for the House Committee Meeting
on 12 April 2013**

**Legal Service Division Report on
Proposed Resolution to approve amendments to Road Traffic Ordinance
and Road Traffic (Driving-Offence Points) Ordinance**

The Acting Secretary for Transport and Housing has given notice to move a motion at the Legislative Council on 24 April 2013 to seek the Council's approval to amend Schedule 11 to the Road Traffic Ordinance (Cap. 374) (RTO) and the Schedule to the Road Traffic (Driving-Offence Points) Ordinance (Cap. 375) (DPO). Section 72A(10) of RTO and section 4(3) of DPO respectively provide that the Council may, by resolution, amend the said Schedules.

Updating of references in the Schedule to DPO

2. Section 4 of the DPO provides that, subject to section 6(2) of DPO, where a person is convicted of an offence specified in the Schedule to DPO or becomes liable to a fixed penalty in respect of an offence specified in the Schedule, the person shall incur the appropriate number of driving-offence points as set out opposite that offence in the Schedule. Such offences include crossing continuous double white line and driving in excess of the speed limits as prescribed under the respective bylaws of the Eastern Harbour Crossing Road Tunnel¹, Tate's Cairn Tunnel², Western Harbour Crossing³ and Tai Lam Tunnel and Yuen Long Approach Road⁴ (collectively known as "Build-Operate-Transfer" (BOT) tunnels).

3. Those bylaws were amended in July 2012 and the amendments came into operation on 20 July 2012. The amendments were made to standardise the signage for autotoll lanes at the above BOT tunnels, to tally their respective signage with those adopted at all government tunnels and to align the

¹ Eastern Harbour Crossing Road Tunnel By-laws (Cap. 215E)

² Tate's Cairn Tunnel By-laws (Cap. 393B)

³ Western Harbour Crossing Bylaw (Cap. 436D)

⁴ Tai Lam Tunnel and Yuen Long Approach Road Bylaw (Cap. 474C)

bylaws with the government tunnel regulations or other BOT tunnel bylaws. Further, certain provisions of the bylaws (including provisions which concern speed limits and requirement to obey traffic signals) were also renumbered. As the existing Schedule to DPO refers to those provisions by their old numbering⁵, the Administration proposes to amend the Schedule to update the references to those provisions in the Schedule.

Extension of driving-offence points to additional offences

4. Under the respective sections 7(1) of the Western Harbour Crossing Bylaw and Tai Lam Tunnel and Yuen Long Approach Road Bylaw, the respective maximum speed limits at which vehicles may be driven in the two tunnels are 80 kilometers per hour and 100 kilometers per hour. Section 7(2)(b)(ii) of these bylaws provides that, despite the aforesaid speed limit, the maximum speed at which a bus, a medium or heavy goods vehicle as well as a motor cycle, motor tricycle, private car or a light goods vehicle driven by a person who is authorized to drive it by holding a probationary driving licence shall be 70 kilometers per hour⁶. Contravention of section 7(2)(b)(ii) is an offence under section 25 of each of the bylaws. However, at present, a person who contravenes section 7(2)(b)(ii) of either bylaw will not incur any number of driving-offence points under the DPO. The Administration proposes to add section 7(2)(b)(ii) of both bylaws to the Schedule and specify the number of points to be incurred upon contravention any of these sections so that a person who commits the offences shall incur the appropriate number of points.

Amendments to Schedule 11 to RTO

5. Section 72A(1) of RTO, in effect, provides that if a person is convicted of an offence which is specified in the Schedule to DPO, the Court or Magistrate may impose any penalty that may be imposed for the offence on that person and/or order the person to attend and complete a driving improvement course. However, some of such specified offences are excluded from the section and they are specified in Schedule 11 to RTO by referring to their respective item numbers in the DPO Schedule. The Administration proposes to add to Schedule 11 those item numbers in the DPO Schedule which correspond to the offences in relation to the said sections 7(2)(b)(ii). In effect, what are excluded are offences under those sections 7(2)(b)(ii) where the speed limit of 70 kilometers an hour are exceeded by more than 15 kilometers an hour

⁵ i.e. the numbering of the provisions in the bylaws that were in force before 20 July 2012

⁶ According to the Administration, the restriction does not apply to Eastern Harbour Crossing Road Tunnel and Tate's Cairn Tunnel users as the maximum speed limit prescribed for the two tunnels is 70km/hour.

but not more than 30 kilometers an hour. Further, the Administration also proposes to update the item numbers in Schedule 11 to tally with the references in the Schedule to DPO which is proposed to be updated.

Commencement Dates

6. According to the Administration, the proposed additions to the two Schedules and the renumbering of the provisions in the same Schedules shall come into operation on 26 April 2013. However, the repeal of the existing references in the said Schedules which refer to the numbering of the relevant provisions under the old bylaws⁷ will come into operation on a date to be appointed by the Secretary for Transport and Housing by notice published in the Gazette when all the relevant legal processes of the relevant traffic offences under those bylaws are completed.

7. According to the Clerk to Panel on Transport, the Panel was consulted on the proposal on 18 January 2013. Members raised no particular views on the proposals. Members may wish to refer to LegCo Brief (File Ref: THB(T)L 3/1/42) issued by Transport and Housing Bureau dated April 2013 for further information.

8. No difficulties relating to the legal and drafting aspects of the proposed resolution have been identified.

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⁷ Bylaws that were in force before 20 July 2012