

立法會
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Paper for the House Committee meeting on 10 May 2013

Report of the Subcommittee on Proposed Resolution under the Road Traffic Ordinance (Cap. 374) and the Road Traffic (Driving-offence Points) Ordinance (Cap. 375)

Purpose

This paper reports on the deliberations of the Subcommittee on Proposed Resolution under the Road Traffic Ordinance ("RTO")(Cap. 374) and the Road Traffic (Driving-offence Points) Ordinance ("DPO")(Cap. 375).

Background

2. The driving-offence point ("DOP") system is a measure designed to enhance road safety. It aims primarily at deterring habitual traffic offenders and improving driving standards in order to reduce traffic accidents and casualties. 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, crossing a continuous white line with a broken white line and driving in excess of the speed limits as prescribed under the respective bylaws of the Eastern Harbour Crossing Road Tunnel¹ ("EHC"), Tate's Cairn Tunnel² (TCT"), Western Harbour Crossing³ ("WHC") and Tai Lam Tunnel and Yuen Long Approach Road⁴ ("known as "Route 3") (collectively known as "Build-Operate-Transfer" (BOT) tunnels).

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)

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 bylaws with the government tunnel regulations or other BOT tunnel bylaws. As a result, certain provisions of the bylaws (including provisions which concern speed limits and requirement to obey traffic signals) were renumbered. As the existing Schedule to DPO refers to those provisions by their old numbering⁵, the Administration has proposed 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 WHC Bylaw and Route 3 Bylaw, the respective maximum speed limits at which vehicles may be driven in WHC is 80 kilometers per hour ("km/h") and 100 km/h in Route 3. Section 7(2)(b) 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 km/h⁶. Contravention of section 7(2)(b) is an offence under section 25 of each of the bylaws. To facilitate enforcement and to put things beyond doubt, the Administration has proposed to add the offence under section 7 of both bylaws to the Schedule and specify the number of points to be incurred upon contravention in each of the scenarios.

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. In view of the amendments made to the DPO Schedule, the Administration has also proposed to update Schedule 11 to RTO consequentially so that the references to item numbers will correspond

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

with the amended DPO Schedule.

The Proposed Resolution

6. By virtue of section 72A(10) of the RTO and section 4(3) of the DPO, the Legislative Council ("LegCo") may by resolution amend Schedule 11 to RTO and the Schedule to DPO respectively.

7. The Secretary for Transport and Housing ("STH") intends to move a motion at a LegCo meeting to seek LegCo's approval to amend Schedule 11 to the RTO and the Schedule to the DPO so as to accord with the amendments made to the By-laws of four BOT tunnels that took effect on 20 July 2012 ("the Proposed Resolution").

The Subcommittee

8. At the meeting of the House Committee held on 12 April 2013, members agreed to form a subcommittee to study the Proposed Resolution. At the request of the House Committee, the STH wrote to the Clerk to LegCo on 15 April 2013 to withdraw his notice to move the Proposed Resolution at the Council meeting of 24 April 2013. The membership list of the Subcommittee is in **Appendix**. Under the chairmanship of Hon Frankie YICK Chi-ming, the Subcommittee has held one meeting with the Administration.

Deliberations of the Subcommittee

9. In the course of deliberation, the Subcommittee acknowledges the need to amend the Schedules and urges the Administration to rectify the situation as soon as possible and to ensure the reliability of the speed detecting devices used in tunnels.

10. Members have expressed concern over the circumstances leading to the current inconsistencies and the resultant impact on the enforcement of relevant legislation. The Administration has stated that they had already reviewed the current mechanism to avoid future recurrence of inconsistencies in legislative updating exercises. The Administration has also confirmed that there have been no such inconsistencies or confusion in respect of the bylaws governing other privately-owned tunnels.

11. The Administration has further explained that enforcement of the

four tunnel bylaws was not affected by the state of affairs mentioned in paragraph 3 and that tunnel companies could still penalize traffic offenders according to the relevant provisions in the tunnel bylaws. The Administration has indicated that they are currently unable to incur any DOPs for speeding vehicles in EHC only, but not in other BOT and Government tunnels. At present, there have been nine speeding cases in total after the legislative amendments were made to the four BOT tunnel by-laws on 20 July 2012 that the DOP system could not be applied as court judgment have already be made. There would be no additional case if the proposed technical amendments to Schedule 11 to RTO and the Schedule to DPO can be made by the end of May 2013.

12. At the request of the Subcommittee, the Administration has clarified that all heavy vehicles including buses and trucks and drivers holding a probationary driving licence on all highways or tunnels are subject to a maximum driving speed of 70 km/h even if the driving speed limit on a certain road is above 70 km/h. For example, the maximum speed limit for the North Lantau Highway is 110 km/h but the speed limit of heavy vehicles is still 70 km/h. The Administration has commented that the 70 km/h speed limit is governed by the current RTO which is a kind of general knowledge to all drivers of heavy vehicles and thus the addition of this speed limit to the schedules to RTO and DPO should not create any confusion on the part of the drivers.

Reliability of speed detecting devices

13. Members take the opportunity to urge the Administration to implement measures to ensure that the speed detecting devices used by different BOT tunnels are up to standard and certified because information collected or captured by the said devices may form part of the evidence when the relevant provisions are enforced. Hence, the Administration or those who enforce the law might be challenged by the public if the said devices are not functioning properly at the material time. The Administration has been requested to provide information on the speed enforcement operations in the BOT tunnels to the LegCo in due course.

Commencement date of the resolution

14. The STH will move a motion at the Legislative Council meeting on 29 May 2013 for approval of the Proposed Resolution. According to the Administration, if the Proposed Resolution is approved by LegCo, it

will be published in the Gazette on 31 May 2013 and come into operation on the same day.

Recommendation

15. The Subcommittee is in support of the Proposed Resolution. The Subcommittee does not propose any amendment to the Proposed Resolution to be moved by the STH.

Advice sought

16. Members are invited to note the deliberations of the Subcommittee.

Council Business Division 1
Legislative Council Secretariat
9 May 2013

Appendix

Subcommittee on Proposed Resolution under the Road Traffic Ordinance and the Road Traffic (Driving-offence Points) Ordinance

Membership List

Chairman Hon Frankie YICK Chi-ming

Members Hon WU Chi-wai, MH
Dr Hon KWOK Ka-ki (since 30 April 2013)
Hon TANG Ka-piu
Hon CHUNG Kwok-pan

(Total : 5 Members)

Clerk Ms Sophie LAU

Legal Adviser Miss Evelyn LEE