

立法會
Legislative Council

LC Paper No. LS35/16-17

**Paper for the House Committee Meeting
on 24 February 2017**

**Legal Service Division Report on two
Proposed Resolutions under section 13 of the Fixed Penalty
(Traffic Contraventions) Ordinance (Cap. 237) and section 12 of the
Fixed Penalty (Criminal Proceedings) Ordinance (Cap. 240)**

The Secretary for Transport and Housing has given notice to move two motions at the Legislative Council ("LegCo") meeting of 1 March 2017 under section 13 of the Fixed Penalty (Traffic Contraventions) Ordinance (Cap. 237) and section 12 of the Fixed Penalty (Criminal Proceedings) Ordinance (Cap. 240) respectively. The proposed resolutions seek to increase the fixed penalty for traffic offences under Cap. 237 and certain traffic offences under Cap. 240 by 50% with effect from 1 June 2018.

2. Under section 15 of Cap. 237 and section 3 of Cap. 240, if a police officer has reasonable cause to believe that a traffic contravention is being or has been committed thereunder in respect of a motor vehicle, he may give the registered owner or driver of the motor vehicle (as the case may be) a notice in the prescribed form offering him an opportunity to discharge his liability in respect of such contravention by payment of a fixed penalty.

3. The proposed resolution under Cap. 237 seeks to increase, with effect from 1 June 2018, the fixed penalty prescribed under section 13 of Cap. 237 for any of the parking-related traffic contraventions provided in section 4, 5, 6, 7, 8, 9, 10 or 11(1) of Cap. 237 from \$320 to \$480. These contraventions include parking in a manner likely to cause unnecessary obstruction of a road or danger to other persons using the road, stopping of motor vehicles at zebra crossings, parking at unauthorized places and parking in contravention of traffic signs or road markings.

4. The proposed resolution under Cap. 240 seeks to amend the Schedule to Cap. 240 to increase, with effect from 1 June 2018, the fixed penalties for six traffic offences under the Road Traffic (Traffic Control)

Regulations (Cap. 374G) and the Road Traffic (Public Service Vehicles) Regulations (Cap. 374D) as follows:

Offence	Current fixed penalty	Proposed fixed penalty
Unlawfully entering box junction under regulation 10(1) of Cap. 374G	\$320	\$480
Picking up/setting down passengers in restricted zone under regulation 14(6) of Cap. 374G	\$450	\$680
Loading/unloading goods in restricted zone under regulation 14(7) of Cap. 374G	\$450	\$680
"U" turn causing obstruction under regulation 42(1)(d) of Cap. 374G	\$320	\$480
Unauthorized stopping at bus stop/public light bus stand/taxi stand/public light bus stopping place under regulation 45 of Cap. 374G	\$320	\$480
Stopping public bus, public light bus or taxi longer than necessary when picking up/setting down passengers under regulation 45(1)(h) of Cap. 374D	\$320	\$480

5. The last adjustments to the above fixed penalties were made in 1994. According to paragraphs 3 and 7 of the LegCo Brief (Ref: THB(T) L1/12/65) issued by the Transport and Housing Bureau in February 2017, the above increase was proposed in order to restore the deterrent effect of the fixed penalty charges for the relevant offences and to reflect the increase in the Composite Consumer Price Index from 1994 to 2016.

6. According to paragraphs 9 and 15 of the LegCo Brief, the new fixed penalty charges under the proposed resolutions are proposed to take effect on 1 June 2018 to allow time for the Administration to complete other legislative procedures and to print and distribute the revised fixed penalty tickets to

frontline police officers and traffic wardens. According to paragraphs 13 and 14 of the LegCo Brief, subject to the passage of the two proposed resolutions, corresponding amendments would be made to the relevant forms in the Fixed Penalty (Traffic Contraventions) Regulations (Cap. 237A) and the Fixed Penalty (Criminal Proceedings) Regulations (Cap. 240A). Corresponding amendments would also be made to the relevant form in the Housing (Traffic Contraventions) (Fixed Penalty) Bylaw (Cap. 283C)¹.

7. According to paragraph 17 of the LegCo Brief, the Administration has consulted the Transport Advisory Committee ("TAC") on 15 December 2015 on the proposed increase in fixed penalty. TAC Members supported the Administration's proposal.

8. As advised by the Clerk to the Panel on Transport, the Panel was consulted on the proposed increase in fixed penalty at its meeting of 16 December 2015. The Administration also attended the special meeting of the Panel on 5 January 2016 to listen to the views of deputations and individuals on the same subject. Panel members in general do not support the proposed increase and a motion was passed at the Panel meeting that "the Panel opposes the Government raising the level of parking fines when the mismatch of parking spaces remains unsolved and law enforcement is lacking in strength". The Administration has taken note of Panel members' concerns including inadequate provision of parking spaces for commercial vehicles and insufficient enforcement actions taken against illegal parking. The Administration has pledged to study the demand and supply situation in respect of commercial vehicles and proposed short-term corresponding solutions. Besides, law enforcement actions have been stepped up against illegal parking in 2016.

9. No difficulties relating to the legal and drafting aspects of the proposed resolutions have been identified.

Prepared by

CHENG Kiu-fung, Vanessa
Assistant Legal Adviser
Legislative Council Secretariat
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¹ Section 6 of Cap. 283C provides that there shall be a fixed penalty for a contravention of any of the provisions of section 4 (parking on restricted roads) which shall be a sum equal to the fixed penalty under section 13 of the Fixed Penalty (Traffic Contraventions) Ordinance (Cap 237).