

立法會
Legislative Council

LC Paper No. LS61/16-17

**Paper for the House Committee Meeting
on 5 May 2017**

**Legal Service Division Report on
Proposed Resolution under section 12 of the Fixed Penalty
(Criminal Proceedings) Ordinance (Cap. 240)**

Members may recall that the Legal Service Division reported at the House Committee meeting on 28 April 2017 (LC Paper No. LS58/16-17) that the Road Traffic (Expressway) (Amendment) Regulation 2017 (L.N. 64 of 2017) was made to amend the Road Traffic (Expressway) Regulations (Cap. 374Q) in order to implement the driving on the right ("right-driving") arrangement in the Hong Kong-Zhuhai-Macao Bridge ("HKZMB") and the Hong Kong Link Road that connects with the main bridge of HKZMB. L.N. 64 of 2017 defines the Hong Kong Link Road as a right-driving expressway and provides, among others, restrictions regarding driving on right-driving and left-driving expressways and the relevant offences. L.N. 64 of 2017 will come into operation on 15 December 2017.

2. The Secretary for Transport and Housing ("Secretary") has given notice to move a motion under section 12 of the Fixed Penalty (Criminal Proceedings) Ordinance (Cap. 240) at the Legislative Council ("LegCo") meeting of 17 May 2017. The motion seeks LegCo's approval to amend the Schedule to Cap. 240 to provide for the fixed penalties for contravention of the following traffic offences with effect from 15 December 2017, following the amendments made to Cap. 374Q by L.N. 64 of 2017:

Offence	Proposed fixed penalty
Failing to comply with restriction on using the right most lane of the carriageway of a left-driving expressway	\$450
Failing to comply with restriction on using the left most lane of the carriageway of a right-driving expressway	\$450
Driving on a left-driving expressway without confining the motor vehicle to the left most lane of the carriageway of the expressway	\$450
Driving on a right-driving expressway without confining the motor vehicle to the right most lane of the carriageway of the expressway	\$450

Offence	Proposed fixed penalty
Overtaking another vehicle on its left-hand side on a left-driving expressway	\$450
Overtaking another vehicle on its right-hand side on a right-driving expressway	\$450

3. Under section 3 of Cap. 240, if a police officer has reason to believe that a person is committing or has committed an offence listed in the Schedule to Cap. 240, he may give that person a notice in the prescribed form offering that person an opportunity to discharge his liability to conviction for that offence by payment of the fixed penalty therefor at any place specified in the notice.

4. According to paragraph 28 of the LegCo Brief (File ref.: THB(T)CR1/55/1/4661/00) issued by the Transport and Housing Bureau on 19 April 2017, if the proposed resolution is approved by LegCo, the Secretary would then make regulations under section 11 of Cap. 240 to make corresponding amendments to Form 1 (i.e. "Notice of particulars of alleged fixed penalty traffic offence") in the Schedule to the Fixed Penalty (Criminal Proceedings) Regulations (Cap. 240A). The regulation so made would be subject to amendment by LegCo under section 34 of the Interpretation and General Clauses Ordinance (Cap. 1).

5. As advised by the Clerk to the Panel on Transport, the Panel was consulted on the proposed legislative amendments on traffic arrangements for HKZMB at its meeting on 24 February 2017. Members of the Panel were most concerned about the adoption of the right-driving arrangement on the Hong Kong Link Road, whereas they did not object to the other legislative proposals.

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

Prepared by

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