

## **LEGISLATIVE COUNCIL BRIEF**

### **Resolutions of the Legislative Council**

#### **Fixed Penalty (Traffic Contraventions) Ordinance (Cap. 237) Fixed Penalty (Criminal Proceedings) Ordinance (Cap. 240)**

### **INTRODUCTION**

To restore the deterrent effect of fixed penalty charges for congestion-related traffic offences (i.e. all offences under the Fixed Penalty (Traffic Contraventions) Ordinance (Cap. 237) and the six offences listed in paragraph 4(b) below under the Fixed Penalty (Criminal Proceedings) Ordinance (Cap. 240)) (hereinafter referred to as “Congestion-Related Traffic Offences”), the Government proposes to increase these charges by 50% in tandem with inflation since the last increase in 1994. The proposed new charges will take effect from 1 June 2018.

### **BACKGROUND**

2. The fixed penalty system was introduced in the 1970s to reduce the burden on the Police and the courts to take summons actions on less serious but frequently committed road traffic offences. At present, fixed penalty tickets (“FPTs”) for road traffic offences are issued under Cap. 237 and Cap. 240. FPTs issued under Cap. 237 are against parking related offences with a uniform penalty of \$320 for each offence. FPTs issued under Cap. 240 are against traffic offences such as speeding, overloading, picking up / setting down passengers at restricted zones, etc. as regulated under the Road Traffic Ordinance (Cap. 374) and its subsidiary legislation. The level of the fixed penalties for the traffic offences stipulated in Cap. 240 ranges from \$230 to \$1,000.

### **JUSTIFICATIONS**

3. Road traffic condition in Hong Kong has been deteriorating in recent years. Despite the enforcement actions taken by the Police, illegal parking and loading / unloading activities in restricted zones, etc. are rampant. The FPTs issued by the Police against Congestion-Related Traffic Offences increase

substantially (97%) from 821 989 in 2011 to 1 621 514<sup>1</sup> in 2016. The Transport Advisory Committee (“TAC”) has pointed out in its “Report on Study of Road Traffic Congestion in Hong Kong”<sup>2</sup> that the deterrent effect of fixed penalty charges for certain traffic offences has been gradually eroded over time due to inflation and increase in income levels, and recommended that the Government raises the fixed penalty charges to restore the deterrent effect. To follow up on TAC’s report and help alleviate road traffic congestion, we propose to increase the level of the fixed penalties as provided in Cap. 237 and Cap. 240 in respect of the Congestion-Related Traffic Offences stipulated therein as a matter of priority.

### *Legislative Proposal*

4. Among the offences listed in Cap. 237 and Cap. 240, we have identified, in conjunction with the Transport Department (“TD”) and the Police, the following Congestion-Related Traffic Offences -

(a) *All offences stipulated in Cap. 237 (details at **Annex A**):*

These are parking-related offences, the commission of which will reduce road capacity, thus affecting the smooth flow of the general traffic. The current penalty is \$320 for each of these offences; and

(b) *The following six offences stipulated in the Schedule to Cap. 240 :*

These are road traffic offences, the commission of which will cause obstruction to local traffic, resulting in traffic queues upstream or affecting the operation of critical road junctions -

- (i) picking up / setting down passengers in restricted zone;
- (ii) loading / unloading goods in restricted zone;
- (iii) unlawfully entering box junction;
- (iv) making ‘U’ turn causing obstruction;

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<sup>1</sup> Provisional figure as at 31 January 2017.

<sup>2</sup> The TAC report can be viewed at the following link:  
[http://www.thb.gov.hk/eng/boards/transport/land/Full\\_Eng\\_C\\_cover.pdf](http://www.thb.gov.hk/eng/boards/transport/land/Full_Eng_C_cover.pdf)

- (v) unauthorised stopping at bus stop, public light bus stand, taxi stand or public light bus stopping place; and
- (vi) public bus, public light bus or taxi making stops longer than necessary when picking up / setting down passengers.

The current penalty for items (i) and (ii) is \$450 while that for items (iii) to (vi) is \$320.

5. For other offences listed in the Schedule to Cap. 240 which may not directly result in, or are less likely to cause, traffic congestion (e.g. speeding or overloading), we will review at a later time the need to increase the respective fixed penalty levels.

*Proposed increase magnitude*

6. While the Police have already stepped up enforcement actions against Congestion-Related Traffic Offences, the problem remains unchecked. It should be noted that the level of fixed penalties of the Congestion-Related Traffic Offences has remained the same since the last increase over two decades ago in 1994. The Composite Consumer Price Index (“CCPI”) has, in the meantime, substantially increased by 53% from 1994 to 2016.

7. It is therefore imperative to restore the deterrent effect of such FPTs. The TAC has recommended raising the level of fixed penalties having regard to CCPI increase since 1994. We consider that an increase in tandem with CCPI is reasonable in order to restore the deterrent effect eroded by inflation over the years. Any increase by a lower percentage would reduce such effect. The Government therefore proposes to increase the fixed penalty charges by 50%, i.e. traffic offences currently set at \$320 and \$450 will be increased to \$480 to \$680 respectively.

8. At the same time, the Police will continue to step up enforcement actions to combat the problems of illegal parking and loading / unloading activities in restricted zones, etc. Apart from routine traffic enforcement, the Police carried out four territory-wide enforcement operations last year under the Selected Traffic Enforcement Priorities (“STEP”) 2016. During these operations, the Police targeted undesirable behaviours that would cause traffic accidents or obstruct traffic flow. Stringent enforcement actions were taken, including issuing FPTs without prior warning, issuing summons to drivers who intentionally violated the law, and towing away illegally parked vehicles which caused serious obstruction or danger to other road users. The Police issued a total of 147 048 FPTs and towed away 54 vehicles during the operations.

Stringent enforcement actions such as issuing FPTs without prior warning and towing of vehicles will continue in 2017. In fact, the Police conducted another enforcement operation in mid-January 2017. During the operation, more than 39 000 FPTs were issued and 28 vehicles were towed away. Apart from enhanced enforcement actions, the Police have also stepped up publicity and public education with a view to increasing the safety awareness of road users and changing their improper behaviours and attitudes.

#### *Effective date*

9. Taking into account the time required to complete the legislative procedures, including further legislative amendments necessary to revise the corresponding prescribed forms for FPTs (see paragraph 13 below), and to print and distribute the revised FPTs to frontline police officers and traffic wardens, we propose the new penalty charges to take effect on 1 June 2018.

### **RESOLUTION**

10. By virtue of section 13 of Cap. 237 and section 12 of Cap. 240, the Legislative Council (“LegCo”) may by resolution amend the fixed penalty levels stipulated in section 13 of Cap. 237 and the Schedule to Cap. 240.

11. The level of fixed penalty stipulated in section 13 of Cap. 237 shall be amended from \$320 to \$480 and the resolution is at **Annex B**. The fixed penalties of four offences identified in paragraph 4(b)(iii) to (vi) above (as set out in items 9, 18, 20 and 48 of the Schedule to Cap. 240) shall be amended from \$320 to \$480 and that the fixed penalties of the other two offences identified in paragraph 4(b)(i) and (ii) above (as set out in items 12 and 13 of the Schedule to Cap. 240) shall be amended from \$450 to \$680. The resolution is at **Annex C**.

### **LEGISLATIVE TIMETABLE**

12. The proposed increase in fixed penalty charges requires the approval of LegCo by way of resolution under section 13 of Cap. 237 and section 12 of Cap. 240. The Secretary for Transport and Housing will move two separate motions at the LegCo meeting on 1 March 2017 for approval of the resolutions by positive vetting.

13. Subject to the approval of resolutions by LegCo to increase the fixed penalties, corresponding amendments shall be made to the amount of the fixed

penalty specified in Form 1<sup>3</sup> in the Schedule to the Fixed Penalty (Traffic Contraventions) Regulations (Cap. 237A) and the amounts of fixed penalty of the six identified offences specified in Form 1<sup>4</sup> in the Schedule to the Fixed Penalty (Criminal Proceedings) Regulations (Cap. 240A).

14. At the same time, section 6 of the Housing (Traffic Contraventions) (Fixed Penalty) Bylaw (Cap. 283C) provides that “[t]here shall be a fixed penalty for a contravention of any of the provisions of section 4 which shall be a sum equal to the fixed penalty under section 13 of Cap. 237”. Thus, the fixed penalty for a contravention of any of the provisions of section 4 of Cap. 283C will also be increased from \$320 to \$480 immediately upon the approval of the resolution by LegCo to increase the fixed penalty under section 13 of Cap. 237. Corresponding amendments will subsequently be made to the amount of the fixed penalty specified in Form 1 in Schedule 3 to Cap. 283C.

15. Taking into account the time required to complete the legislative procedures and to print and distribute the revised FPTs to frontline police officers and traffic wardens, we propose that the new penalty charges take effect on 1 June 2018.

## **IMPLICATIONS OF THE PROPOSAL**

16. The proposed increase in fixed penalty for Congestion-Related Traffic Offences has economic and financial implications as set out at **Annex D**. It has no other sustainability implications and no civil service, environmental, competition productivity, family and gender implications. The proposal is in conformity with the Basic Law, including provisions concerning human rights. It will not affect the current binding effect of Cap. 237 and Cap. 240.

## **CONSULTATION**

17. We consulted the TAC on 15 December 2015 on the proposed increase in fixed penalty. TAC Members noted that the level of the fixed penalties set in respect of the Congestion-Related Traffic Offences has remained the same

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<sup>3</sup> The FPTs issued for offences under Fixed Penalty (Traffic Contraventions) Ordinance Cap. 237 shall be in accordance with Form 1 in the Schedule to the Fixed Penalty (Traffic Contraventions) Regulations (Cap. 237A).

<sup>4</sup> The FPTs issued for offences under Fixed Penalty (Criminal Proceedings) Ordinance (Cap. 240) shall be in accordance with Form 1 in the Schedule to the Fixed Penalty (Criminal Proceedings) Regulations (Cap. 240A).

since the last increase in 1994 and the deterrent effect has been eroded. They supported the Government's proposal to raise the charges in tandem with the increases in CCPI in the corresponding period to restore the deterrent effect.

18. We also consulted the LegCo Panel on Transport on 16 December 2015 and attended the special meeting of the Transport Panel held on 5 January 2016 to listen to the views of the deputations and individuals. Panel Members and the deputations were more concerned about inadequate provision of parking spaces for commercial vehicles, which allegedly left some drivers with no choice but to park the vehicles illegally, and insufficient enforcement actions taken by the Police against illegal parking. Some Members also suggested the Government to lower the magnitude of the increase, or to implement the proposed increase in phases. 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".

19. The Government has given careful thought to Members' views and their motion. On parking provision, our existing policy is to accord priority to accommodating the needs of commercial vehicles. We do note that there is some mismatch of parking provision for commercial vehicles in some areas. A parking review by TD will commence soon this year to study the demand and supply situation in respect of commercial vehicles. As a short-term solution, TD will endeavor to provide "on-street night-time only" parking spaces at various locations for goods vehicles and coaches. In the light of the review findings, we will examine further improvement measures, including updating the Hong Kong Planning Standards and Guidelines in respect of parking standards for commercial vehicles if necessary. We also appeal to local businesses to adjust their delivery requests so that goods vehicles could carry out on-street loading and unloading outside peak hours as far as possible so as to avoid further aggravating traffic congestion.

20. Regarding parking for private cars, we have all along pointed out that given the scarce land resources in Hong Kong, the Government cannot accommodate the growing private car fleet by providing parking spaces continuously. Committing to do that will also indirectly encourage the public to buy private cars, hence further aggravating road traffic congestion. We are studying various means to curb the growth of private cars.

21. The Government's transport policy is to encourage the community to use public transport and avoid commuting by private cars as far as possible. Our objective is to expand public transport capacity according to the demand of the public and pace of development of each district and to enhance service as



necessary. We aim to improve public accessibility to the public transport system. Before buying private cars, the public should first ensure that there are suitable parking spaces for parking their cars, whether close to their place of work or residence. When motorists take trips, they should also consider whether there are enough parking spaces at the destination. Otherwise, they should choose public transport or park their cars in the areas nearby and then switch to other modes of transport. From the society's point of view, violation of traffic regulations should not be condoned on any grounds. There is also no reason why the costs of such violations should be borne by law abiding road users.

22. Regarding the enforcement actions taken by the Police, the increasing trend in the number of FPTs issued against illegal parking in the past few years has clearly shown that the Police have stepped up their actions (please also refer to paragraph 8 above). Under STEP, the Police will continue their efforts in public engagement and proactive enforcement so as to change the undesirable behaviours of road users that cause accidents or obstruct traffic flow.

23. In respect of the proposed magnitude of increase, as the level of fixed penalties for the Congestion-related Traffic Offences has not been increased for more than 20 years since the last increase in 1994 and the CCPI has already increased by 53% during the period, the proposed magnitude of a 50% increase is merely to restore the deterrent effect eroded by inflation over the years. Any increase of a lower percentage would reduce such effect.

## **PUBLICITY**

24. A Government spokesperson will be available to answer media enquiries.

## **ENQUIRIES**

25. Any enquiries concerning this brief can be directed to Mr Tony Li, Principal Assistant Secretary for Transport and Housing, at 3509 8192.

**Transport and Housing Bureau  
February 2017**

**Offences under the Fixed Penalty  
(Traffic Contraventions) Ordinance, Cap. 237**

<b>Item</b>	<b>Offences stipulated in Cap. 237</b>
1	Parked in a manner likely to cause an unnecessary obstruction of a road or danger to other persons using the road (section 4 of Cap. 237).
2	Stopped within the limits of a zebra crossing (section 5 of Cap. 237).
3	Stopped in a zebra controlled area (section 6 of Cap. 237).
4	Parked other than in an authorized parking place (section 7(1) of Cap. 237).
5	Parked on a pavement, pedestrian way, central reservation, verge, hard shoulder or traffic island (section 7(2)(a) of Cap. 237).
6	Parked so as to obstruct vehicular access to or from premises adjacent to the carriage-way (section 7(2)(b) of Cap. 237).
7	Parked so as to obstruct access to a fire hydrant from the carriage-way (section 7(2)(c) of Cap. 237).
8	Parked in a parking place in contravention of a traffic sign or road marking (section 8(1) of Cap. 237).
9	Unnecessarily parked in more than one space, or unnecessarily projecting over any line delineating a parking space (section 8(2) of Cap. 237).
10	Parked in a parking place where parking is suspended or cancelled by the Commissioner for Transport (section 8(4) of Cap. 237).
11	Parked in a parking place where parking is suspended by the Commissioner of Police (section 8(5) of Cap. 237).
12	Parked in a temporary parking place contrary to a traffic sign (section 8(6) of Cap. 237).



Item	Offences stipulated in Cap. 237
13	Parked in contravention of no parking traffic sign or road marking (section 9 of Cap. 237).
14	Parked in a parking space in respect of which there is a coin operated parking meter without as soon as possible after parking inserting an appropriate coin in the meter (section 10(1)(a)(i) of Cap. 237).
15	Parked in a parking space in respect of which there is a card operated parking meter without as soon as possible after parking using a parking card or where applicable an approved card for the payment of the parking fee (section 10(1)(a)(ii) of Cap. 237).
16	Parked in a pay and display parking space without as soon as possible after parking displaying a display ticket on the inside of the windscreen so that the ticket shows the payment of the parking fee, the relevant parking space, the date on and the time until which payment is made (section 10(1)(b)(i) of Cap. 237).
17	Parked in a pay and display parking space beyond the time indicated on the display ticket as the time until which payment is made or when the display ticket does not indicate payment for the use of that parking space or for that date (section 10(1)(b)(ii) of Cap. 237).
18	Parked in more than one parking space in respect of which there is a coin operated parking meter without inserting an appropriate coin in each meter (section 10(4) of Cap. 237).
19	Parked in more than one parking space in respect of which there is a card operated parking meter without inserting a parking card or where applicable an approved card in each meter (section 10(4) of Cap. 237).
20	Parked in more than one pay and display parking space without displaying the appropriate number of display tickets (section 10(4) of Cap. 237).
21	Parked in a parking space in respect of which there is a parking meter when the meter does not indicate that payment has been made (section 11(1) of Cap. 237).

**Fixed Penalty (Traffic Contraventions) Ordinance****Resolution of the Legislative Council**

Resolution made and passed by the Legislative Council under section 13 of the Fixed Penalty (Traffic Contraventions) Ordinance (Cap. 237) on 2017.

**Resolved** that, with effect from 1 June 2018—

- (a) \$480 be prescribed as a fixed penalty for a contravention of any of the provisions of section 4, 5, 6, 7, 8, 9, 10 or 11(1) of the Fixed Penalty (Traffic Contraventions) Ordinance (Cap. 237); and
- (b) this Resolution is to replace the Resolution made and passed by the then Legislative Council on 23 February 1994 and published in the Gazette as Legal Notice No. 109 of 1994.

Clerk to the Legislative Council

2017

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**Explanatory Note**

This Resolution increases the fixed penalty for obstruction, unlawful parking and other similar traffic contraventions from \$320 to \$480.

**Fixed Penalty (Criminal Proceedings) Ordinance****Resolution of the Legislative Council**

Resolution made and passed by the Legislative Council under section 12 of the Fixed Penalty (Criminal Proceedings) Ordinance (Cap. 240) on 2017.

**Resolved** that, with effect from 1 June 2018, the Fixed Penalty (Criminal Proceedings) Ordinance (Cap. 240) be amended as set out in the Schedule.

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**Schedule****Amendments to Fixed Penalty (Criminal Proceedings) Ordinance****1. Schedule amended (offence)**

- (1) The Schedule, item 9—

**Repeal**

“\$320”

**Substitute**

“\$480”.

- (2) The Schedule, item 12—

**Repeal**

“\$450”

**Substitute**

“\$680”.

- (3) The Schedule, item 13—

**Repeal**

“\$450”

**Substitute**

“\$680”.

- (4) The Schedule, item 18—

**Repeal**

“\$320”

**Substitute**

“\$480”.

- (5) The Schedule, item 20—

**Repeal**

“\$320”

**Substitute**

“\$480”.

- (6) The Schedule, item 48—

**Repeal**

“\$320”

**Substitute**

“\$480”.

Clerk to the Legislative Council

2017

**Explanatory Note**

This Resolution amends the Schedule to the Fixed Penalty (Criminal Proceedings) Ordinance (Cap. 240)—

- (a) to increase the fixed penalty for a contravention of regulation 10(1) of the Road Traffic (Traffic Control) Regulations (Cap. 374 sub. leg. G) (*Regulations*) (unlawfully entering a box junction) from \$320 to \$480;
- (b) to increase the fixed penalty for a contravention of regulation 14(6) of the Regulations (picking up or setting down passengers in a restricted zone) from \$450 to \$680;
- (c) to increase the fixed penalty for a contravention of regulation 14(7) of the Regulations (loading or unloading goods in a restricted zone) from \$450 to \$680;
- (d) to increase the fixed penalty for a contravention of regulation 42(1)(d) of the Regulations (“U” turn causing obstruction) from \$320 to \$480;
- (e) to increase the fixed penalty for a contravention of regulation 45 of the Regulations (unauthorized stopping at a bus stop, public light bus stand, taxi stand or public light bus stopping place) from \$320 to \$480; and
- (f) to increase the fixed penalty for a contravention of regulation 45(1)(h) of the Road Traffic (Public Service Vehicles) Regulations (Cap. 374 sub. leg. D) (stopping a public bus, public light bus or taxi longer than necessary when picking up or setting down passengers) from \$320 to \$480.

## **Economic and Financial Implications**

### **Economic Implications**

The proposed increase in fixed penalty charges will help reduce the commissioning of Congestion-related Traffic Offences. It is conducive to a smoother and better traffic flow on roads, thereby bringing certain benefits, such as decrease in travel time and better roadside air quality.

### **Financial Implications**

2. The proposed increase seeks to restore the deterrent effect of fixed penalty charges. The revenue implications would not be significant. The proposal will not entail additional workload on the enforcement authority.