

**President's ruling on  
Committee Stage Amendments proposed by Hon Andrew CHENG to the  
Road Traffic Legislation (Amendment) Bill 1999**

Hon Andrew CHENG has proposed to move amendments to the above Bill at its Committee Stage.

2. According to the Explanatory Memorandum of the Bill, its main purpose is to introduce a probationary driving licence (PDL) scheme so as to provide better regulation of inexperienced drivers of motor cycles and motor tricycles. In regard to drivers of other vehicles, the Legislative Council Brief on the Bill provided to Members states that the "Administration will continue to monitor the accident involvement rates of newly-qualified drivers of private cars and light goods vehicles to assess whether similar schemes would be required for this group".

3. Mr CHENG's proposed amendments seek to include inexperienced drivers of private cars and light goods vehicles in the PDL scheme proposed in the Bill.

4. The Secretary for Transport has been invited to offer his comments on the proposed amendments and Mr CHENG has been invited to respond.

**The Administration's view**

5. The Secretary for Transport comments that Mr CHENG's proposed amendments to extend the PDL scheme to cover drivers of private cars and light goods vehicles will incur additional Government expenditure, hence has a "charging effect" within the meaning of Rule 57(6) of the Rules of Procedure. The Secretary estimates that an additional capital cost of \$4 million would be required to revise Transport Department's computer system and computer programme on driving licences, and an additional recurrent cost of \$0.65 million required to administer the extended scheme. These costs, according to the Secretary, cannot be absorbed in the departmental expenditure.

## **Hon Andrew CHENG's response**

6. Mr CHENG considers that the proposed CSA has no charging effect and does not contravene Rule 57(6). In the 2000-01 Budget, the Financial Secretary clearly stated that government fees and charges would be charged on the fair "user pays" principle. The Financial Secretary has declared that taxpayers should not be asked to subsidize the users in their use of government services. The costs of these services should be borne by the users themselves. In the circumstances, Mr CHENG contends that there is little, if any, likelihood that applicants of motor vehicle licences, be it a probationary or a full licence, would find special favour in the eyes of the Government. As such, the Administration's allegation that the proposed CSA contravenes Rule 57(6) is both absurd and illogical.

## **Opinion of Counsel to the Legislature**

7. Counsel to the Legislature advises that under the Bill's proposed PDA scheme, the Commissioner for Transport would be obliged to process applications for issue or renewal of provisional licences and to exercise the power of cancellation if the conditions prescribed in regulation 12I proposed in the Bill exist. Since the proposed scheme is one new to the Road Traffic Ordinance, it would be quite clear that the Administration would have to incur additional expenditure for its implementation. Mr CHENG's proposal to add the two categories of vehicles to the proposed scheme would require additional expenditure to administer the expanded scheme. The Administration has submitted that the extension of the scheme to new drivers of the other two categories of vehicles would incur additional government expenditure by a capital cost of \$4 million for revising the computer system and computer programme on driving licences and a recurrent cost of \$0.65 million for the administration of the scheme, which includes the issue, extension and renewal of the probationary driving licence as well as handling appeal cases. It is a matter for the President to decide whether the additional expenditure is so negligible that she could disregard it for the purpose of the "charging effect" under Rule 57(6).

8. As regards the "user pays" principle put forward by Mr CHENG, Counsel to the Legislature advises that whether the expenditure required for implementation of the expanded scheme (if Mr CHENG's amendments are passed) could be recovered by the Government from the applicants for provisional licences is not relevant to the question of whether the proposed CSAs would have a charging effect.

## **Ruling**

9. Having considered the arguments put forth by the Secretary for Transport and Mr CHENG, together with the opinion of the Counsel to the Legislature, I am of the opinion that the proposed extension of the PDL scheme to include inexperienced drivers of private cars and light goods vehicles incurs additional expenditure not envisaged in the Bill's proposed scheme and, as such, has a charging effect within the meaning of Rule 57(6). I therefore rule that Mr CHENG may not move his proposed amendments.

( Mrs Rita FAN )  
President  
Legislative Council

23 June 2000