

立法會
Legislative Council

LC Paper No. CB(1)1754/04-05
(These minutes have been seen
by the Administration)

Ref: CB1/SS/6/04

**Subcommittee to Study Four Items of Subsidiary Legislation
under the Road Traffic Ordinance**

**Meeting on
Friday, 20 May 2005, at 4:30 pm
in Conference Room B of the Legislative Council Building**

- Members present** : Hon Miriam LAU Kin-ye, GBS, JP (Chairman)
Hon LEE Cheuk-yan
Hon Mrs Selina CHOW LIANG Shuk-ye, GBS, JP
Hon CHAN Yuen-han, JP
Hon Howard YOUNG, SBS, JP
Hon LAU Kong-wah, JP
Hon Andrew CHENG Kar-foo
Hon LEE Wing-tat
Hon Jeffrey LAM Kin-fung, SBS, JP
- Member absent** : Hon Margaret NG
- Public Officers
Attending** : Ms Annie CHOI
Deputy Secretary for the Environment, Transport and Works
- Ms Elizabeth TAI
Principal Assistant Secretary for the Environment,
Transport and Works
- Miss Amy CHOW
Acting Assistant Commissioner for Transport
(Administration and Licensing)
- Mr T F LEUNG
Chief Engineer/Road Safety and Standards
Transport Department

Mr H W TSENG
Senior Engineer/Vehicle Regulations and Standards
Transport Department

Miss Selina LAU
Government Counsel
Department of Justice

Clerk in attendance : Mr Andy LAU
Chief Council Secretary (1)2

Staff in attendance : Ms Connie FUNG
Assistant Legal Adviser 3

Ms Anita SIT
Senior Council Secretary (1)9

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I Election of Chairman

Mr Miriam LAU was elected Chairman of the Subcommittee.

II Meeting with the Administration

- L.Ns. 65 to 68 of 2005
 - the Legal Service Division Report (LC Paper No. LS64/04-05)
 - the Legislative Council Brief issued by the Environment, Transport and Works Bureau on 4 May 2005 (File Ref: ETWB(T) 1/12/41, 1/12/44, 1/12/137)
 - Marked-up copies of the relevant subsidiary legislation under the Road Traffic Ordinance (*LC Paper No. CB(1)1584/04-05(01)*)
 - Letter dated 10 May 2005 from the Legal Adviser to the Administration (*LC Paper No. CB(1)1584/04-05(02)*)
 - Reply from the Administration dated 18 May 2005 to the Legal Adviser (*LC Paper No. CB(1)1584/04-05(03)*)
2. The Subcommittee deliberated (index of proceedings attached at **Annex A**).
3. The Administration was requested to provide further information in response to members' views and enquiries as follows -
- (a) members' view that vehicles used for and in connection with canvassing activities during elections should be eligible for exemption from regulation

Action

53(2) of the Road Traffic (Traffic Control) Regulations, and if necessary, the Administration could consider imposing certain conditions or safety requirements for compliance by candidates;

- (b) members' enquiry on whether the closure of one or more lanes of a road but not the entire road, which was often the case for demonstrations and canvassing activities, could satisfy the relevant condition for exemption under the new regulation 53A of the Road Traffic (Traffic Control) Regulations
- (c) members' enquiry on the justifications for the proposed regulation 53(3A)(b) of the Road Traffic (Registration and Licensing of Vehicles) Regulations, and the conditions to be imposed under the proposed regulation; and
- (d) members' request that the Administration consider amending the drafting of the proposed regulation 53(3A)(b) of the Road Traffic (Registration and Licensing of Vehicles) Regulations to “可就車輛行駛許可證，施加署長在諮詢警務處處長及其他主管當局後認為就道路安全必需的其他條件。”。

4. The Subcommittee agreed to extend the scrutiny period of the four items of subsidiary legislation to 29 June 2005. The Chairman would move a motion to this effect at the Council meeting on 1 June 2005.

III Any other business

Date of next meeting

5. Members agreed that the next meeting of the Subcommittee would be held on 30 May 2005 at 3:00 pm.

6. There being no other business, the meeting ended at 6:30 pm.

Council Business Division 1
Legislative Council Secretariat
9 June 2005

**Proceedings of the meeting of
the Subcommittee to Study Four Items of Subsidiary Legislation
under the Road Traffic Ordinance
Friday, 20 May 2005, at 4:30 pm
in Conference Room B of the Legislative Council Building**

Time marker	Speaker	Subject(s)	Action required
<i>Agenda Item I – Election of Chairman</i>			
000147-000446	Mr LEE Cheuk-yan Ms Miriam LAU	Election of Chairman	
<i>Agenda Item II – Meeting with the Administration</i>			
000447-000903	Chairman ALA3	<p>Correspondence between ALA3 and the Administration (LC Papers No. CB(1)1584/04-05(02) and (03))</p> <p>ALA3’s recapitulation from the Administration’s reply that –</p> <p>(a) the Administration had confirmed its intention that the new regulation 53A of the Road Traffic (Traffic Control) Regulations (“the Traffic Control Regulations”) would be applicable to parades for all purposes, not just those for entertainment or amusement; and</p> <p>(b) the Administration considered it unnecessary to create a separate offence in respect of the contravention of an exemption condition imposed by the Commissioner for Transport (C for T) in granting an application for a vehicle to be exempted from regulation 53(2) of the Traffic Control Regulations, as C for T would set out clearly in the exemption document that the exemption would become invalid if any of the conditions was not fulfilled. However, the exemption so granted could continue to apply if the drivers could fulfil the conditions again.</p> <p>Whether it was necessary to provide expressly in new regulation 53A that the exemption would become invalid if there was a breach of any of the conditions of the exemption, having regard to similar provisions in existing legislation</p>	
000904-001649	Administration Chairman	<p>Administration’s briefing on the objectives of the Amendment Regulations</p> <p>On point (b) above, the Administration’s advice that –</p>	

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		<p>(a) its paramount consideration was the safety of the passengers standing on the vehicle concerned, and this would be ensured through the exemption conditions imposed by C for T in granting the exemption, which would cover the route of the parade, the speed of the vehicle and other necessary safety measures</p> <p>(b) enforcement actions were to ensure safety of the passengers on the vehicle, and hence, in the case that there was a breach of any of the exemption conditions, e.g. the vehicle was moving at a speed exceeding the prescribed speed limit, what the enforcement authority on the spot would do was to order the passengers standing on the vehicle to be seated, and the passengers might stand on the vehicle again when all the exemption conditions were subsequently complied with</p>	
001650-002374	Mr LEE Cheuk-yan Chairman Administration	<p>Noting that according to new regulation 53A of the Traffic Control Regulations, the exemption from regulation 53(2) only applied to vehicles used as a float in a parade, Mr LEE's concern that without a definition of "parade" specified in the legislation, certain activities that were intended to be covered by the Administration at present might subsequently be regarded as being not a parade</p> <p>Mr LEE's suggestion that the word "parade" be replaced by "procession", which was defined in the Public Order Ordinance (Cap. 245)</p> <p>Administration's advice that –</p> <p>(a) an ordinary vehicle with a banner hung on the vehicle for the purpose of a parade could be regarded as a float</p> <p>(b) since the meaning of "parade" was generally understood, there was no need to provide a definition of the word in the legislation</p>	

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		(c) according to dictionary, a parade was a procession of people or vehicles moving through a public place	
002375-003155	Miss CHAN Yuen-han Administration Chairman	<p>Miss CHAN Yuen-han's view that vehicles used for and in connection with canvassing activities during elections should be eligible for exemption from regulation 53(2) of the Traffic Control Regulations, and if necessary, the Administration could consider imposing certain conditions or safety requirements for compliance by candidates</p> <p>Administration's response that for safety and traffic control considerations, the current intention was to confine the application of the exemption to situations where the roads along the route of the parade were designated to be used exclusively for the parade and the vehicle was to move at a speed not exceeding a specified speed limit</p> <p>Miss CHAN's comment that the Administration should not evade the long standing issue of the need to enact legislation to provide for exemption from regulation 53(2) of the Traffic Control Regulations for vehicles used for canvassing activities during elections</p> <p>The Chairman's request for the Administration to consider Miss CHAN's view and if appropriate, put up the relevant proposal to Legislative Council as soon as possible</p>	Administration to consider Ms CHAN's view
003156-004669	Mr Andrew CHENG Chairman Administration	<p>Mr CHENG's view that the Administration should take a wider view and the proposed Amendment Regulations should aim at facilitating not only the float parades to be held at the Hong Kong Disneyland but also demonstrations for expression of opinions and for canvassing activities during elections, and hence exemption of the latter activities from regulation 53(2) of the Traffic Control Regulations should also be dealt with on this occasion</p> <p>Mr CHENG's concern that new regulation 53(3A)(b) proposed in the Road Traffic (Registration and Licensing of Vehicles) (Amendment) (No. 2) Regulation 2005 might have the effect of imposing</p>	Administration to provide a response to Mr CHENG's request and his enquiry on whether partial road closure could satisfy the relevant condition for exemption under proposed regulation 53A of the Traffic Control Regulations

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		<p>additional restrictions on applications for movement permits</p> <p>Administration's advice that new regulation 53(3A)(b) proposed in the Road Traffic (Registration and Licensing of Vehicles) (Amendment) (No. 2) Regulation 2005 was not an entirely new provision, as under existing regulation 53(3)(b), C for T already had the power to impose on a movement permit "such other conditions in regard to the timeas the Commissioner, in consultation with the Commissioner of Police and any other authority, may consider necessary"</p> <p>Mr CHENG's request that the Administration –</p> <p>(a) set out the justifications for new regulation 53(3A)(b) of the Road Traffic (Registration and Licensing of Vehicles) Regulations ("the Registration and Licensing Regulations"), and the conditions to be imposed under the proposed regulation; and</p> <p>(b) consider amending the drafting of new regulation 53(3A)(b) of the Registration and Licensing Regulations to “可就車輛行駛許可證，施加署長在諮詢警務處處長及其他主管當局後認為就道路安全必需的其他條件。”</p> <p>Mr CHENG's enquiry on whether the closure of one or more lanes of a road but not the entire road, which was often the case for demonstrations and canvassing activities, could satisfy the relevant condition for exemption under proposed regulation 53A of the Traffic Control Regulations</p> <p>The Chairman's request for the Administration to provide a response to Mr CHENG's request and enquiry</p>	
004670-005058	Mr LEE Wing-tat Chairman Miss CHAN Yuen-han	Sharing the concern of Miss CHAN Yuen-han and Mr CHENG Kar-foo, Mr LEE's suggestion that the exemption of vehicles used for canvassing activities from regulation 53(2) of the Traffic Control Regulations be restricted to	

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		<p>specified days such as public holidays when the road traffic could allow partial closure of a road to facilitate the activities</p> <p>The Chairman's advice that the Subcommittee could not insist that exemption of vehicles used for canvassing activities must be dealt with through the subsidiary legislation under scrutiny, as strictly speaking, the matter went beyond the ambit of the subsidiary legislation under scrutiny</p>	
005059-005288	Mr Jeffrey LAM Administration Chairman	Application of regulation 53(2) and new regulation 53A of the Traffic Control Regulations to vehicles used for a parade held on a private road	
005289-005959	Mr LEE Cheuk-yan Administration	<p>Mr LEE's enquiry about the use of movement permits and the Administration's advice that the three major types of vehicles which might require a movement permit were floats, vehicles used within a construction site and vintage cars which were not licensed but were driven on the road on specific occasions</p> <p>Administration's advice that for a vehicle which had been licensed, and if any decoration or modification made to the vehicle did not render the vehicle in contravention of the Road Traffic (Construction and Maintenance of Vehicles) Regulations applicable to the vehicle when driven on a road, there was no need to obtain a movement permit for the vehicle for the purpose of using the vehicle in a parade</p> <p>Administration's advice that a movement permit was not a necessary condition for granting an exemption under new regulation 53A of the Traffic Control Regulations</p>	
005960-010296	Chairman Mr Andrew CHENG Administration	Mr CHENG's view that C for T, in granting a movement permit under the Registration and Licensing Regulations or an exemption under new regulation 53A of the Traffic Control Regulations, should not impose additional conditions other than those pertinent to road safety	

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		Administration's advice on the matters on which C for T would need to consult the Commissioner of Police in considering an application for a movement permit or an application for exemption under new regulation 53A of the Traffic Control Regulations, and the Chairman's request that the Administration set out such matters and circumstances in writing for the Subcommittee's consideration	
010297-010690	Chairman Mr LEE Cheuk-yan	<p>Subcommittee's agreement to extend the scrutiny period for the four items of subsidiary legislation under scrutiny from 8 June 2005 to 29 June 2005</p> <p>Administration's advice that new regulation 53A of the Traffic Control Regulations would come into operation on 30 June 2005 if not amended by the Council. An application for exemption under new regulation 53A of the Traffic Control Regulations in respect of a float used in a parade on 1 July 2005 could be made to C for T before 30 June 2005 so that C for T might grant exemption in respect of the float on 30 June 2005</p> <p>Date of next meeting</p>	
<i>Agenda Item III – Any other business</i>			
	Chairman	The Chairman's declaration of close of meeting	