

立法會
Legislative Council

LC Paper No. CB(1)1315/08-09

(These minutes have been
seen by the Administration)

Ref : CB1/BC/1/09

**Bills Committee on Road Traffic (Driving-offence Points)
(Amendment) Bill 2009**

**Minutes of the third meeting held on
Monday, 30 March 2009, at 8:30 am
in Conference Room A of the Legislative Council Building**

Members present : Hon Miriam LAU Kin-ye, GBS, JP (Chairman)
Hon James TO Kun-sun
Hon Andrew CHENG Kar-foo
Hon Audrey EU Yuet-mee, SC, JP
Hon WONG Kwok-hing, MH
Hon CHEUNG Hok-ming, SBS, JP
Hon Ronny TONG Ka-wah, SC

**Public officers
attending** : **Agenda item II**

Mr Alan K M CHU
Deputy Secretary for Transport and Housing
(Transport) 3

Ms Irene HO
Assistant Secretary for Transport and Housing
(Transport)

Miss LUI Ying
Assistant Commissioner/Administration &
Licensing
Transport Department

Mrs Margaret CHAN
Principal Executive Officer / Valid & Licensing
Transport Department

Ms Francoise LAM
Senior Government Counsel
Department of Justice

Mr CHAN Ka-kit
SSP (TMPB) (Traffic Branch HQ)
Hong Kong Police Force

Clerk in attendance : Ms Joanne MAK
Chief Council Secretary (1)2

Staff in attendance : Mr Kelvin LEE
Assistant Legal Adviser 1

Ms Sarah YUEN
Senior Council Secretary (1)6

Action

- I Confirmation of minutes of meeting**
(LC Paper No. CB(1)1144/08-09 - Minutes of meeting on 17
March 2009)

The minutes of the meeting held on 17 March 2009 were confirmed.

II Meeting with the Administration

- (LC Paper No. CB(1)1153/08-09(01) - Administration's paper on
follow-up actions required
of the Administration in
relation to the
circumvention problem

- LC Paper No. CB(1)1153/08-09(02) - Administration's paper on
other follow-up actions
required)

2. The Bills committee deliberated (index of proceedings attached at
Annex).

3. The Deputy Secretary for Transport and Housing (Transport) 3 (DSTH(T)3) briefed members on the two papers submitted by the Administration for discussion at the meeting.

4. The Chairman and Mr Ronny TONG expressed concern about the effectiveness of the Bill in tackling the problem that some drivers had tried to circumvent the DOP system by avoiding to receive summonses issued under the Road Traffic (Driving-offence-Points) Ordinance (Cap. 375) and any disqualification order to be made against them. Mr TONG pointed out that the effect of the proposed "deemed served" provision would be mainly to allow the issuance of arrest warrants by the magistrate under section 18A of the Magistrates Ordinance (Cap. 227), which helped bring a person before a magistrate to go through the disqualification proceedings. He considered that whether or not the current proposal could effectively tackle the circumvention problem would depend on how far the arrest warrants could be successfully executed.

5. DSTH(T)3 responded that the Administration was of the view that the current proposal would be effective in tackling the circumvention problem because the proposed "deemed served" provision would facilitate the Administration in applying for the issuance of arrest warrants so as to address the problem of "unserved" summonses and non-appearance at court hearing. According to the Police, the successful rate of execution of traffic arrest warrants in 2008 was as high as 80%. With an arrest warrant issued, the defendant being chased by the Police could be added to the Immigration Department's "Watch List" where circumstances warranted. This measure would be especially effective for apprehending the defendant who could not be located by other means. DSTH(T)3 added that the Administration hoped that the Bill could be implemented as soon as possible to plug the existing loophole. As the Administration already undertook to review its effectiveness in tackling the circumvention problem in about six months after implementation, any other necessary enhancement measures could be further considered in the light of the outcome of the review or any further comments received.

Admin

6. To address members' concern, DSTH(T)3 also agreed to provide the number of cases of successful execution of non-appearance arrest warrants issued to persons who committed scheduled DOP offences (or traffic offences if figures in respect of scheduled DOP offences were unavailable) and failed to appear in court in recent years.

Clause-by-clause examination of the Bill

- | | |
|---------------------------------|-------------------------------|
| (LC Paper No. CB(3)307/08-09 | - The Bill |
| LC Paper No. CB(1)895/08-09(01) | - Marked-up copy of the Bill) |

7. The Bills Committee went through the Bill clause by clause. Members raised no specific comments which required follow-up actions to be taken by the Administration.

Way forward

Clerk 8. The Bills Committee agreed to invite views from the public on the Bill. In this connection, a press release would be issued and a notice to invite public views would be put on the website of the Legislative Council. The Bills Committee also agreed to tentatively schedule a meeting for Friday, 24 April 2009, from 5:00 pm to 7:00 pm to receive public views, if any, on the Bill.

9. The Bills Committee agreed to report its deliberations to the House Committee on 8 May 2009 recommending the resumption of the Second Reading debate on the Bill at the Council meeting on 20 May 2009.

Clerk 10. Referring to the press release issued by the Office of The Ombudsman on 19 March 2009 on its investigation to examine the Transport Department's procedures for enforcing the DOP system and the effectiveness of the proposals contained in the Bill, Mr James TO suggested that the Bills Committee should write to The Ombudsman to enquire whether he wished to express any views on the Bill for members' consideration, before the Bills Committee reported to the House Committee. The Chairman requested the Clerk to follow up.

III Any other business

11. There being no other business, the meeting ended at 9:55 am.

Council Business Division 1
Legislative Council Secretariat
17 April 2009

**Proceedings of the third meeting of
the Bills Committee on Road Traffic (Driving-offence Points) (DOP)
(Amendment) Bill 2009
on Monday, 30 March 2009, at 8:30 am
in Conference Room A of the Legislative Council Building**

Time marker	Speaker	Subject(s)	Action required
Agenda Item I – Confirmation of minutes of meeting			
000052 - 000119	Chairman	- Confirmation of minutes of meeting	
Agenda Item II – Meeting with the Administration			
000120 - 001100	Chairman Administration	- Briefing by the Administration - The Chairman's reference to the Office of The Ombudsman's investigation to examine the Transport Department's procedures for enforcing the DOP System	
001101 - 001920	Chairman Mr James TO Administration	- Explanation of the current status of the 895 summonses remained to be served for 2008 - Discussion on whether a person on whom a notice under section 3(3) of the Fixed Penalty (Criminal Proceedings) Ordinance (Cap. 240) had been served could evade the accumulation of DOPs by not paying the fixed penalty and not appearing in court after his indication of intention to dispute liability for the relevant offence	
001921 - 003033	Chairman Mr WONG Kwok-hing Administration Mr Ronny TONG	- Discussion on the effectiveness of the current proposal in tackling the problem of drivers circumventing the DOP system by avoiding receiving summonses	
003034 - 004058	Chairman Ms Audrey EU Administration	- Discussion on the need to introduce a "deemed served" provision under the Bill and comparison of the means of service of summonses under Cap. 227 and those under the proposed section 14A of Cap. 375	

Action

Time marker	Speaker	Subject(s)	Action required
004059 - 005410	Chairman Mr Ronny TONG Administration	- Discussion on whether the "deemed served" provision could only facilitate the Administration's application for the issue of an arrest warrant	Administration to provide information (paragraph 6 of minutes)
005411 - 005701	Chairman Mr Ronny TONG Mr Andrew CHENG Ms Audrey EU	- Public consultation to be conducted by the Bills Committee	The Clerk to take follow-up action (paragraph 8 of minutes)
005702 - 010715	Chairman Administration Mr James TO Assistant Legal Adviser 1	- Clause-by-clause examination of the Bill - Discussion on the drafting of the Chinese version of the proposed amendment to section 9(2) of Cap. 375	
010716 - 011848	Chairman Mr James TO Administration	- Discussion on whether and how an order made under section 3A(1) of Cap. 240 could be rescinded - Discussion on the circumstances under which a defendant would be included in Immigration Department's "Watch List"	
001849 - 002337	Chairman Mr James TO	- The Clerk to write to The Ombudsman	The Clerk to take follow-up action (paragraph 10 of minutes)

Council Business Division 1

Legislative Council Secretariat

17 April 2009