

立法會
Legislative Council

LC Paper No. CB(1)2277/09-10
(These minutes have been seen
by the Administration)

Ref : CB1/BC/9/09

Bills Committee on Road Traffic (Amendment) Bill 2010

**Minutes of the first meeting
held on Thursday, 3 June 2010, at 2:30 pm
in Conference Room A of the Legislative Council Building**

- Members present** : Hon Miriam LAU Kin-ye, GBS, JP (Chairman)
Hon Andrew CHENG Kar-foo
Hon Jeffrey LAM Kin-fung, SBS, JP
Hon CHEUNG Hok-ming, GBS, JP
Hon CHAN Kin-por, JP
Hon IP Wai-ming, MH
- Member absent** : Hon Ronny TONG Ka-wah, SC
- Public Officers attending** : Agenda Item II
Mr Alan CHU
Deputy Secretary for Transport and Housing (Transport) 3
Miss Erica NG
Principal Assistant Secretary for Transport and Housing
(Transport) 2
Ms Irene HO
Assistant Secretary for Transport and Housing (Transport)
2C
Mr Harry CHAN
Chief Engineer/Road Safety and Standards
Transport Department

Mr Eamonn MORAN, JP
Law Draftsman
Department of Justice

Miss Elaine NG
Government Counsel
Department of Justice

Mr Stephen VERRALLS
Chief Superintendent (Traffic)
Hong Kong Police Force

Ms Angela NG
Senior Superintendent (Administration) (Traffic Branch
Headquarters)
Hong Kong Police Force

Mr Shylock WONG
Superintendent (Law Revision and Projects) (Traffic
Branch Headquarters)
Hong Kong Police Force

Clerk in attendance : Ms YUE Tin-po
Chief Council Secretary (1)3

Staff in attendance : Mr Kelvin LEE
Assistant Legal Advisor 1

Mr Joey LO
Council Secretary (1)3

Action

I. Election of Chairman

Ms Miriam LAU Kin-yee was elected Chairman of the Bills Committee.

II. Meeting with the Administration

(LC Paper No. CB(3)648/09-10 -- The Bill

LC Paper No. CB(1)2081/09-10(01) -- Marked-up copy of the Bill
prepared by the Legal Service
Division

File Ref: THB(T)CR 3/14/3231/00 -- Legislative Council Brief on Road Traffic (Amendment) Bill 2010 issued by the Transport and Housing Bureau

LC Paper No. LS65/09-10 -- Legal Service Division Report

LC Paper No. CB(1)2082/09-10(01) -- Background brief prepared by the Legislative Council Secretariat

2. The Bills Committee deliberated (Index of proceedings attached at **Appendix**).

Admin 3. The Administration was requested to provide the following information:

- (a) the existing legislation and enforcement power to regulate drug driving;
- (b) the rationale for not addressing the problem of drug driving in the current Bill, and the overall plan and proposed timetable for introducing legislative proposals to combat drug driving posing hazard to public safety;
- (c) administrative measures and/or legislation to combat drug driving in overseas jurisdictions, including preliminary tests to help frontline police officers determine whether a driver is driving under the influence of drugs (including dangerous drugs);
- (d) the list of dangerous drugs recognized by international standards that were commonly abused and had influenced the driver to such an extent that he was incapable of having proper control of his vehicle;
- (e) the application of sections 39 and 39A of the Road Traffic Ordinance (Cap. 374) and the scenarios leading to the use of these sections;
- (f) the rationale for not setting the proposed minimum driving disqualification period on second/subsequent conviction for Tier 3 penalty according to the level of blood alcohol concentration at life disqualification to provide effective deterrence;
- (g) the penalty in terms of fine and/or imprisonment/driving disqualification period on conviction cases related to drink driving offences over the past three years; and
- (h) penalty terms for similar offences in overseas jurisdictions such as Australia and the United Kingdom.

(Post-meeting note: The information on items (e) to (h) provided by the Administration was circulated to members vide LC Paper No. CB(1)2279/09-10(02) on 17 June 2010.)

Invitation of views for the third meeting

4. Members agreed to invite deputations to give views to the Bills Committee at the third meeting scheduled for Saturday, 3 July 2010 at 9 am in the Chamber of the Legislative Council Building. Invitation letters would be issued to the list of organizations tabled at the meeting. A general notice would be posted on the website of the Legislative Council to invite submissions from the public. In accordance with the general practice, invitation would be extended to the 18 District Councils.

(Post-meeting note: Members were informed of the meeting arrangements vide LC Paper No. CB(1) 2155/09-10 issued on 4 June 2010.)

III. Any other business

5. There being no other business, the meeting ended at 3:55 pm.

Council Business Division 1
Legislative Council Secretariat
17 June 2010

**Proceedings of the first meeting of
Bills Committee on Road Traffic (Amendment) Bill 2010
on Thursday, 3 June 2010, at 2:30 pm
in Conference Room A of the Legislative Council Building**

Time marker	Speaker	Subject(s)	Action required
000000 – 000138	Ms Miriam LAU Mr CHAN Kin-por Mr Jeffrey LAM Mr CHEUNG Hok-ming	Election of Chairman	
000139 – 000654	Chairman Administration	Briefing by the Administration (Legislative Council Brief on Road Traffic (Amendment) Bill 2010 (File Ref: THB(T)CR 3/14/3231/00))	
000655 – 001918	Chairman Mr Andrew CHENG Administration Assistant Legal Adviser (ALA)	<p>Mr Andrew CHENG called on the Administration to consider scheduling the 149 listed dangerous drugs in the Dangerous Drugs Ordinance (Cap 134) in the Bill, so as to expediently address the problem of drug driving which had become increasingly rampant.</p> <p>The Administration explained that it was concerned about the recent traffic accidents caused by driving under the influence of drugs. An inter-departmental Working Group had been set up to study and formulate preliminary proposals to combat drug driving. The Working Group was taking prompt action to examine the control framework required including the feasibility of adopting a "zero-tolerance" approach to deal with specified dangerous drugs that were commonly abused. In order to tackle the complex issue of drug driving effectively, the Administration was not only required to examine the scope of control but also the more fundamental issue of how best to facilitate evidence gathering and enforcement work by the Police (i.e. supporting facilities/resources required). One of the problems of the current legislation was that it did not require a driver to provide body fluid specimens for analysis. The Working Group had to study how best to update the existing legislation and assess the feasibility of introducing preliminary tests to help frontline police officers determine whether a driver was driving under the influence of drugs and, if so, empower the Police to require the driver to provide body fluid specimen for further analysis. The Administration considered it prudent and appropriate to deal with drink driving and drug driving separately.</p>	The Administration to follow up as stated in paragraphs 3(a) and (b) of the minutes.

Time marker	Speaker	Subject(s)	Action required
		<p>Discussion on whether the scheduling of the 149 listed dangerous drugs fell within the scope of the Bill.</p>	
001919 – 002507	<p>Chairman Mr Jeffrey LAM Administration</p>	<p>Mr Jeffrey LAM opined that the issues of drink driving and drug driving should be addressed separately. The Administration should act swiftly to legislate for drink driving without further delay, and should avoid enacting laws on drug driving hastily before conducting a comprehensive study on the effect of each type of drug on driving behaviour. He noted that some of the drugs on the list of dangerous drugs were commonly prescribed by medical doctors for the treating of illnesses for members of the public, including drivers.</p> <p>The Administration concurred and advised that it planned to consult relevant professional bodies on the proposal to tackle drug driving. In formulating the regulatory framework, overseas experience would be drawn on. The Administration planned to formulate a preliminary proposal around mid 2010.</p>	
002508 – 003344	<p>Chairman Mr IP Wai-ming Administration</p>	<p>Mr IP Wai-ming's enquiry about the application of the proposed provision of causing grievous bodily harm by dangerous driving.</p> <p>The Administration explained that the penalty terms were proposed to be set between dangerous driving and dangerous driving causing death, so as to provide for penalty relating to offences involving dangerous driving causing grievous bodily harm without causing death.</p>	
003345 – 003711	<p>Chairman Mr CHAN Kin-por Administration</p>	<p>Mr CHAN Kin-por and the Chairman opined that the Administration should provide a timeframe, say three months, to come up with a legislative proposal on drug driving. In the meantime, it should devise interim administrative measures, such as random drug test, to combat drug driving.</p> <p>The Administration explained that in overseas experience, the introduction of preliminary drug testing methods required the enactment of legislation. A preliminary proposal for public consultation would be drawn up around mid 2010. The Panel on Transport would be consulted on the proposal.</p> <p>The Chairman opined that in determining the types of drugs on which the approach of "zero tolerance" should be adopted, the Administration should start by focusing on a few types of dangerous drugs such as ketamine and heroin</p>	<p>The Administration to follow up as stated in paragraph 3(c) of the minutes.</p>

Time marker	Speaker	Subject(s)	Action required
		<p>which were most commonly abused by drivers before working on the full range of dangerous drugs.</p> <p>The Administration explained that as in overseas experience, dangerous drugs specified for zero tolerance were usually limited to a few items. Oral fluid tests, a kind of preliminary drug test, was a relatively new concept worldwide and its accuracy on certain drugs had to be ascertained before being introduced in Hong Kong.</p>	
003712 – 004612	Chairman Mr Andrew CHENG Administration	<p>Mr Andrew CHENG enquired about the common types of dangerous drugs which drivers were caught using/having used while driving.</p> <p>The Administration explained that ketamine was the most common type of dangerous drugs which drivers were caught using/having used while driving. From January to end of May 2010, a total of 29 drug driving cases had been recorded, 27 cases out of which involved the abuse of ketamine, one case involved methamphetamine (ice) and one other involved cough medicine.</p>	
004613 – 005129	Chairman Mr Jeffrey LAM Administration	<p>Mr Jeffrey LAM's concern that the introduction of a 3-tier penalty system according to Blood Alcohol Concentration (BAC) might create the misconception that it was acceptable to drink a little before driving. He suggested that the Administration should step up promotion that this was not the case. He also suggested the imposition of a sliding scale for imprisonment and fines in parallel to the minimum disqualification period.</p> <p>The Administration explained that its message to drivers of "if you drink, don't drive" had been loud and clear in that they should not drive after drinking regardless of the amount they had drunk. Under the 3-tier penalty system, the threshold for penalty had not been lowered. On the contrary, minimum disqualification periods had been raised. The 3-tier penalty system was proposed because according to medical evidence, the risk of causing an accident would rise with increases in the BAC level in drivers. Disqualification was considered the most direct means to take drink drivers off the road. According to recent judgements, there was still room for the courts to impose heavier penalties in terms of fines and imprisonment, as they saw fit. Moreover, the Administration was proposing that a BAC level of tier 3 should be made a circumstance of aggravation in all dangerous driving offences to enhance the deterrent effect.</p>	
005130 –	Chairman	Mr IP Wai-ming sought clarification on the application of	

Time marker	Speaker	Subject(s)	Action required
005244	Mr IP Wai-ming Administration	<p>circumstances of aggravation involving a BAC level of tier 3.</p> <p>The Administration explained that it proposed to increase the maximum penalties in terms of disqualification, fine and imprisonment each by 50% in all dangerous driving offences, including dangerous driving, dangerous driving causing death and the proposed offence of dangerous driving causing grievous bodily harm, if such offences were committed in circumstances of aggravation.</p>	
005245 – 010026	Chairman Administration	<p>The Chairman sought clarification on the 3-tier penalty system.</p> <p>The Administration explained that the offence referred to in the 3-tier penalty system related to section 39A of the Road Traffic Ordinance (RTO) which involved drink driving only and might neither involve dangerous driving nor traffic accident. The sliding scale would apply regardless of whether dangerous driving or traffic accident was involved.</p> <p>Discussion on the application of section 39 and 39A of RTO in relation to paragraph 11 of the Legislative Council Brief.</p>	
010027 – 010924	Chairman Mr Andrew CHENG Administration	<p>Mr Andrew CHENG suggested setting the proposed minimum driving disqualification period on second/subsequent conviction for Tier 3 penalty according to BAC level at life disqualification to provide effective deterrence.</p> <p>The Chairman opined that penalty terms for similar offences in overseas jurisdictions such as Australia and the United Kingdom should be taken into account.</p> <p>The Administration explained that the effectiveness of the legislation should be looked at from the total effect of all proposals. Apart from the 3-tier system, the Bill also proposed the consecutive implementation of imprisonment and disqualification upon a second or subsequent conviction of a 10 Driving-offence Points offence which would greatly enhance the deterrence. The proposed disqualification period was only a minimum disqualification period and the court was at liberty to rule a much higher disqualification period as it saw fit.</p>	The Administration to follow up as stated in paragraphs 3(f), (g) and (h) of the minutes.
010925 – 011424	Chairman ALA Administration	ALA's enquiry and the Administration's explanation on the application of sections 39 and 39A of RTO.	The Administration to follow up as

Time marker	Speaker	Subject(s)	Action required
			stated in paragraph 3(e) of the minutes.
011425 – 011719	Chairman Mr Andrew CHENG Administration	Discussion on dangerous drugs recognized by international standards which were commonly abused and had influenced the drivers' proper control of vehicles.	The Administration to follow up as stated in paragraph 3(d) of the minutes.
011720 – 012200	Chairman	Meeting arrangement	

Council Business Division 1
Legislative Council Secretariat
17 June 2010