

**For Discussion
26 February 2010**

Legislative Council Panel on Transport

**Report on the effectiveness of the new arrangements under the
Driving-offence Points System**

PURPOSE

This paper informs Members about the effectiveness of the Road Traffic (Driving-offence Points) (Amendment) Ordinance 2009 (“the Amendment Ordinance”) in tackling the circumvention problem in the service of summons under the Driving-offence Points (“DOP”) system.

BACKGROUND

2. The Amendment Ordinance which amends the Road Traffic (Driving-offence Points) Ordinance (Cap. 375) (“the Ordinance”) and the Road Traffic (Driving Licences) Regulations (Cap. 374B) (“the Regulations”) came into effect on 29 May 2009. The purposes of the Amendment Ordinance are to –

- (a) specify the manner in which a summons issued under the Ordinance is to be served;
- (b) provide that a summons served by registered post in accordance with the Ordinance is deemed to have been served even if it is returned as undelivered; and
- (c) require the Commissioner for Transport to refuse to issue, reissue or renew a driving licence to a person under the Regulations if the person fails to appear in court to answer a summons served on the person under the Ordinance.

3. The Administration has undertaken to review the effectiveness of the Amendment Ordinance in tackling the circumvention problem in the service of summons under the DOP system after its implementation for about six months.

THE REVIEW

4. With the enactment of the Amendment Ordinance on 29 May 2009, when a driver has accumulated 15 or more DOPs within a period of 2 years and has been served with a summons by ordinary post, if he/she fails to appear in court at the date and time specified in the summons, the summons will be served to him/her again by registered post at his/her address shown in the record of driving licences kept by the Commissioner for Transport (“the Commissioner”) under the Road Traffic Ordinance (Cap. 374). The summons is deemed to have been served to the driver even if it is returned undelivered to him/her.

5. If a summons is served or deemed to have been served to the driver and he/she does not appear at the date and time specified in the summons, the court may issue a non-appearance arrest warrant (“NAW”) under section 18A of the Magistrates Ordinance (Cap. 227) against him/her. The details of the NAW will be accessible to all frontline police officers when they carry out their daily patrol duties. The Police will send letters to the drivers concerned asking them to surrender to the Police Division or the Court where the NAWs are issued. Further efforts will be made to locate the drivers at the reported addresses or any addresses that surfaced during subsequent enquiries. Moreover, under the new arrangements, the Commissioner shall refuse to issue, reissue or renew a driving licence for him/her.

6. The present review examines the effectiveness of the new arrangements under the Driving-offence Points System.

(A) “Deemed-served” provision and Non-appearance Arrest Warrant

7. After the Amendment Ordinance came into operation and up to December 2009, 3,119 cases of new DOP summons were issued. Of these cases, as at end January 2010, the drivers in 2,528 cases (81%) appeared before the court at the first hearing (i.e. after being served with summonses by ordinary post). The drivers of a further 228 cases (7%) appeared before the court at the second hearing (i.e. after being served with summonses by registered post and taken as ‘deemed-served’). Five cases (0.2%) were pending scheduled hearings. For the remaining 358 cases (11%), as the drivers concerned failed to appear at the scheduled hearings after summonses have been served or deemed-served, NAWs were issued against them by the court. The above figures indicate that all the new DOP summonses issued after the coming into

operation of the Amendment Ordinance have been dealt with smoothly, i.e. in about 88% of the cases, the drivers appeared in court at the first or second hearing, while for the other 12% of the cases court hearings have been scheduled or NAWs issued.

8. For the NAWs issued to the drivers who failed to appear at the scheduled hearings, as at end January 2010, the drivers in 189 cases (53%) subsequently appeared before the court and were disqualified from driving by the court. Given the relatively short period of time since the Amendment Ordinance came into operation, the execution rate of NAWs is considered satisfactory and effective in bringing the drivers concerned before the court.

9. Apart from the new cases of DOP summonses mentioned in paragraph 7 above, action has been taken on the outstanding cases which were reported at the Bills Committee meeting on 30 March 2009 and to whom summonses could not be served over the years. When the Amendment Ordinance took effect at end May 2009, it was found that 536 of these drivers were yet to be served with summonses. With the provision of 'deemed-served' summons under the Amendment Ordinance, all these drivers were served with summonses again by registered post. As at end January 2010, 320 of them (60%) were disqualified from driving, and the rest have all been issued with NAWs by the court, with a few exception (six in total) for which no summons or NAW could be issued as the drivers concerned are currently outside Hong Kong. By and large, the outstanding cases have all been dealt with within 7 months after the coming into operation of the Amendment Ordinance.

(B) Commissioner's refusal to Issue, Reissue or Renew a Driving Licence

10. For drivers who failed to appear in court at the date and time specified in a summons served by registered post under the 'deemed-served' provision, their requests for issue, reissue or renewal of the driving licences would be refused by the Commissioner. As at end January 2010, 44 drivers were refused on application for issue or renewal of driving licences. Among them, 41 have been disqualified from driving as ordered by the court.

11. The power to refuse issue and renewal of driving licence by the Commissioner has provided an effective means in prompting drivers to show up at court hearings.

CONCLUDING REMARKS

12. The Amendment Ordinance is effective in resolving the circumvention problem in the service of summons and has succeeded in bringing the drivers concerned to the court for disqualification hearings. The Administration will continue to monitor the implementation of the revised mechanism.

ADVICE SOUGHT

13. Members are invited to note the contents of this paper.

Transport and Housing Bureau
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