

# 立法會

## *Legislative Council*

LC Paper No. CB(1)875/11-12  
(These minutes have been seen  
by the Administration)

Ref : CB1/BC/8/10

### **Bills Committee on Road Traffic (Amendment) Bill 2011**

**Minutes of the fourth meeting held on  
Wednesday, 19 October 2011, at 8:30 am  
in Conference Room 1 of the Legislative Council Complex**

**Members present** : Hon Miriam LAU Kin-ye, GBS, JP (Chairman)  
Dr Hon Philip WONG Yu-hong, GBS  
Hon LAU Kong-wah, JP  
Hon Andrew CHENG Kar-foo  
Hon CHEUNG Hok-ming, GBS, JP  
Hon KAM Nai-wai, MH  
Hon CHAN Hak-kan  
Dr Hon LEUNG Ka-lau  
Hon WONG Sing-chi  
Hon IP Wai-ming, MH  
Hon Tanya CHAN

**Member absent** : Hon LI Fung-ying, SBS, JP

**Public Officers  
attending** : **Agenda item I**

Mr Patrick CHAN, JP  
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

Ms Nilmini DISSANAYAKE  
Deputy Principal Government Counsel  
Department of Justice

Mr Peter SZE  
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

Dr Teresa LI  
Principal Medical Officer (5)  
Department of Health

Mr Lot CHAN  
Senior Pharmacist (Pharmaceutical Service)5  
Department of Health

Dr CHENG Wing-chi  
Senior Chemist (Forensic Toxicology A Section)  
Government Laboratory

Mr Harry CHAN  
Chief Engineer/Road Safety & Standards  
Transport Department

Action

Mr Michael NG  
Chief Transport Officer/Driving Services  
Transport Department

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

**Staff in attendance :** Miss Evelyn LEE  
Assistant Legal Adviser 10

Ms Macy NG  
Senior Council Secretary (1)2

Ms Emily LIU  
Legislative Assistant (1)2

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Action

**I Meeting with the Administration**

- (LC Paper No. CB(1)78/11-12(01) - Administration's response to issues raised at previous meetings
- LC Paper No. LS1/11-12 - Paper provided by legal adviser to the Bills Committee)

The Bills Committee deliberated (index of proceedings attached at **Annex**).

2. The Administration briefed members on its paper setting out the Administration's response to the issues raised by members at the meetings on 5 and 12 July 2011.

3. Members noted that Assistant Legal Adviser 10 (ALA10) had prepared a paper (LS1/11-12) in response to the concerns raised by the Chairman at the previous meeting regarding the proposed sections 36(2BA) and 39J(4) in clauses 6(3) and 14 of the Bill. The Administration was requested to provide a written response to the amendment suggested by ALA10 in her paper to address Ms LAU's concerns.

4. As members had no more questions on policy issues relating to the Bill, the Bills Committee agreed to proceed to clause-by-clause examination of the Bill.

Admin

Action

Clause-by-clause examination of the Bill

- (LC Paper No. CB(3)746/10-11 - The Bill  
File Ref: THB(T)CR4/14/3231/00 - The Legislative Council Brief issued by the Transport and Housing Bureau  
LC Paper No. CB(1)2512/10-11(02) - Marked-up copy of the Bill  
LC Paper No. CB(1)78/11-12(02) - Letter dated 11 October 2011 from legal adviser to the Bills Committee to the Administration)

5. The Bills Committee completed scrutiny of the long title and clauses 1 to 12(4) of the Bill, except clause 6 which would be examined after the Administration had considered ALA10's suggestion made in LC Paper No. LS1/11-12.

Follow-up actions required of the Administration

Admin 6. To facilitate further discussion on the Bill, the Administration was requested to take the following actions –

- (a) to liaise with the Prosecutions Division of the Department of Justice and provide a paper to explain the prosecution policy in relation to the newly proposed offence of driving under the influence of a drug;
- (b) to provide information and data on the sensitivity of the Impairment Test based on the implementation experience of overseas countries;
- (c) to consider ALA10's suggestion in LC Paper No. LS1/11-12 on amending the proposed sections 36(2BA) and 39J(4) to make it clear that they should not affect the imposition of life-disqualification on any other traffic offences that were provided in other ordinances;
- (d) to provide information on the highest and lowest penalties imposed on drivers convicted of major traffic offences in the past;
- (e) to provide information on whether the drug driving offences proposed under the Bill would apply to cyclists; and
- (f) to improve the readability of the proposed amendments to the Chinese text of existing sections 39A(4), 39A(5) and 39B(10)(b).

Action

Date of next meeting

7. The Bills Committee agreed that the next meeting would be held on 2 November 2011 at 8:30 am.

**II Any other business**

8. There being no other business, the meeting ended at 10:35 am.

Council Business Division 1  
Legislative Council Secretariat  
17 January 2012

**Annex**

**Proceedings of the fourth meeting of  
the Bills Committee on Road Traffic (Amendment) Bill 2011  
on Wednesday, 19 October 2011, at 8:30 am  
in Conference Room 1 of the Legislative Council Complex**

Time marker	Speaker	Subject(s)	Action required
<b>Agenda Item I – Meeting with the Administration</b>			
000653 - 000841	Chairman	- Opening remarks	
000842 - 001820	Chairman Administration	- Briefing by the Administration on its response to issues raised at the meetings on 5 July 2011 and 12 July 2011 (LC Paper No. CB(1)78/11-12(01))	
001821 - 003159	Chairman Administration Dr LEUNG Ka-lau	- Discussion on the prosecution policy in relation to the newly proposed offence of driving under the influence of any other drug (DUIOD), in particular when the drivers concerned were unable to provide evidence on whether the drug, which was prescribed or supplied outside Hong Kong, was a lawfully obtained drug  - Administration's confirmation in response to the Chairman that the Pharmacy and Poisons Ordinance (Cap 138) had provided relevant drug labeling requirements and the codes of practice for local doctors had already provided that the side effects of drugs should be clearly explained to patients	Administration to provide information/response (paragraph 6 of minutes)
003200 - 003436	Chairman Dr LEUNG Ka-lau Administration	- Dr LEUNG's enquiry on the sensitivity of Impairment Test (IT) based on overseas experience	Administration to provide information/response (paragraph 6 of minutes)

Action

Time marker	Speaker	Subject(s)	Action required
003437 - 003957	Chairman Mr IP Wai-ming Administration	<ul style="list-style-type: none"> <li>- Mr IP's enquiry on the Administration's view regarding a suggestion that driving under the influence of a specified illicit drug (DUISID) and DUIOD should be dealt with and presented in different sections so as to send a clear message to the community that these two offences were very distinct in nature and severity</li> </ul>	
003958 - 004636	Chairman Mr Andrew CHENG Administration	<ul style="list-style-type: none"> <li>- Mr CHENG's view that the Administration should make available the draft Committee Stage Amendments (CSAs) as soon as possible for scrutiny by the Bills Committee, and the Administration's agreement to submit the proposed CSAs to the Bills Committee at the next meeting</li> <li>- Mr CHENG's enquiry on the progress of developing the rapid oral fluid test devices and the Administration's advice that a supplier had recently developed a prototype device that could test the six specified illicit drugs as proposed in the Bill</li> </ul>	
004637 - 004928	Chairman Mr KAM Nai-wai Administration	<ul style="list-style-type: none"> <li>- Discussion on Mr KAM's suggestion that the penalties for DUISID offence should be increased to a maximum fine of \$50,000 and a maximum term of imprisonment of five years</li> <li>- Mr KAM's indication that he might propose CSAs to the Bill if his suggestion was not accepted by the Administration</li> </ul>	
004929 - 005603	Chairman Administration	<ul style="list-style-type: none"> <li>- Discussion on Assistant Legal Adviser 10 (ALA10)'s suggestion in LC Paper No. LS1/11-12 on amending the proposed sections</li> </ul>	Administration to provide information/response (paragraph 6 of

Action

Time marker	Speaker	Subject(s)	Action required
		36(2BA) and 39J(4) to make it abundantly clear that the parameters set under these sections should not affect the imposition of life-disqualification on any other traffic offences that were provided in other ordinances and the Administration's agreement to consider the suggestion	minutes)
005604 - 010303	Chairman Administration Mr Andrew CHENG	<ul style="list-style-type: none"> <li>- Mr CHENG's view on the need to order life disqualification upon subsequent conviction of the Dangerous Driving Causing Death offence</li> <li>- The Chairman's request for information on the highest and lowest penalties imposed on drivers convicted of major traffic offences in the past</li> </ul>	Administration to provide information/response (paragraph 6 of minutes)
<b><i>Clause-by-clause examination of the Bill</i></b>			
010304 - 010827	Chairman Administration Mr Andrew CHENG	<u>Long title of the Bill</u>	
010828 - 011822	Chairman Administration Mr Andrew CHENG	<u>Clause 3</u> <ul style="list-style-type: none"> <li>- Discussion on Drug Influence Recognition Observation and IT</li> <li>- Administration's confirmation in response to Mr CHENG that only authorized police officers could carry out preliminary drug tests and not all police officers would be authorized in this regard</li> <li>- Administration's explanation in response to Mr CHENG on the difference in meaning between "consumption of drugs" and "use of drugs" under the Bill</li> </ul>	



Action

Time marker	Speaker	Subject(s)	Action required
011823 - 012019	Chairman Administration	<u>Clause 4</u>  - Discussion on application of new drug driving offences to cyclists	Administration to provide information/response (paragraph 6 of minutes)
012020 - 012114	Chairman Administration Mr Andrew CHENG	- Mr CHENG's suggestion of concurrently scrutinizing the Chinese and English versions of the Bill	
012115 - 012511	Chairman Administration Mr CHEUNG Hok-ming	<u>Clause 5</u>  - Administration's explanation on the meaning of "village vehicles"	
012512- 012933	Chairman Administration	<u>Clause 6</u>  - Members' agreement to defer examination of clause 6 pending Administration's response to ALA10's views in LC Paper No. LS1/11-12	Administration to provide information/response (paragraph 6 of minutes)
012934 - 013122	Chairman Administration	<u>Clauses 7, 8 and 9</u>	
013123 - 015731	Chairman Administration Mr Andrew CHENG Miss Tanya CHAN Mr IP Wing-ming	<u>Clauses 10 and 11</u>  Discussion on improving the readability of the proposed Chinese text of sections 39A(4), 39A(5) and 39B(10)(b), and the Administration's explanation that the amendments were to make the text reflect the legislative intent as expressed by the corresponding English text more accurately and for consistency with similar provisions to be added by the Bill	Administration to provide information/response (paragraph 6 of minutes)
015732 - 020213	Chairman Administration Mr Andrew CHENG	<u>Clause 12</u>  - Administration's explanation in response to Mr CHENG on the use	

Action

<b>Time marker</b>	<b>Speaker</b>	<b>Subject(s)</b>	<b>Action required</b>
		of "must" to replace "shall" in ordinances	
020317 020345	Chairman	- Date of next meeting	

Council Business Division 1  
Legislative Council Secretariat  
17 January 2012