

立法會
Legislative Council

LC Paper No. CB(1)1595/12-13
(These minutes have been seen
by the Administration)

Ref: CB1/SS/8/12

**Subcommittee on Proposed Resolution under the Road Traffic Ordinance
and the Road Traffic (Driving-offence Points) Ordinance**

**Minutes of the first meeting held on
Tuesday, 30 April 2013, at 5:30 pm
in Conference Room 4 of the Legislative Council Complex**

Members present : Hon Frankie YICK Chi-ming (Chairman)
Hon WU Chi-wai, MH
Dr Hon KWOK Ka-ki
Hon TANG Ka-piu

Member absent : Hon CHUNG Kwok-pan

**Public officers
attending** : **Agenda item III**

Mr Patrick CHAN Chi-king, JP
Deputy Secretary for Transport and Housing
(Transport)³

Ms Cordelia LAM Wai-ki
Principal Assistant Secretary for Transport and
Housing (Transport)²

Mr Albert SU Yau-on
Assistant Commissioner/Management and Paratransit
Transport Department

Mr Michael NG Shi-hung
Principal Transport Officer/Management
Transport Department

Mrs Magdalen WONG TSE Bing-sum
Principal Executive Officer/VALID and Licensing
Transport Department

Ms Karmen KWOK Man-yi
Senior Government Counsel
Law Drafting Division
Department of Justice

Clerk in attendance : Ms Sophie LAU
Chief Council Secretary (1)2

Staff in attendance : Miss Evelyn LEE
Assistant Legal Adviser 10

Miss Katherine CHAN
Council Secretary (1)2

Ms Emily LIU
Legislative Assistant (1)2

Action

I Election of Chairman

Mr Frankie YICK, the member who had the highest precedence among those present at the meeting, presided at the election of Chairman of the Subcommittee. He invited nominations for the chairmanship of the Subcommittee.

2. Mr TANG Ka-piu nominated Mr Frankie YICK, and the nomination was seconded by Mr WU Chi-wai. Mr Frankie YICK accepted the nomination.

3. There being no other nominations. Mr Frankie YICK was elected Chairman of the Subcommittee.

Action

II Consideration of the late application for membership by Dr Hon KWOK Ka-ki

(LC Paper No. CB(1)910/12-13(01) - Letter dated 22 April 2013 from Dr Hon KWOK Ka-ki)

4. The Chairman referred to Dr KWOK Ka-ki's letter dated 22 April 2013 and invited members' views on the late application for membership by Dr KWOK. Members agreed to accept Dr KWOK's late application for membership.

III Meeting with the Administration

(File Ref: THB(T)L 3/1/42

LC Paper No. LS38/12-13

LC Paper No. CB(1)901/12-13(01)

- Legislative Council Brief

- Legal Service Division Report

- Copy of the relevant sections of the Road Traffic Ordinance and the Road Traffic (Driving-offence Points) Ordinance prepared by the Legal Service Division)

5. At the invitation of the Chairman, the Administration briefed members on the proposed resolution under the Road Traffic Ordinance and the Road Traffic (Driving-offence Points) Ordinance. The Subcommittee deliberated (index of proceedings attached at **Annex**).

6. The Chairman concluded that members were in support of the proposed resolution. Members noted that the Secretary for Transport and Housing would move the proposed resolution at the Council meeting by end of May 2013.

IV Any other business

7. There being no other business, the meeting ended at 6:20 pm.

**Proceedings of the first meeting of
Subcommittee on Proposed Resolution under the Road Traffic Ordinance and the Road Traffic
(Driving-offence Points) Ordinance
on Tuesday, 30 April 2013, at 5:30 pm
in Conference Room 4 of the Legislative Council Complex**

Time marker	Speaker	Subject(s)	Action required
Agenda item I – Election of Chairman			
000558 - 000609	Mr Frankie YICK Mr TANG Ka-piu Mr WU Chi-wai	- Election of Chairman. - Mr Frankie YICK was elected Chairman of the Subcommittee.	
Agenda item II – Consideration of the late application for membership by Dr Hon KWOK Ka-ki			
000610 - 000818	Chairman	- The Chairman referred to Dr KWOK Ka-ki's letter dated 22 April 2013 and invited members' views on the late application for membership by Dr KWOK. Members agreed to accept Dr KWOK's late application for membership.	
Agenda item III – Meeting with the Administration			
000819 - 001332	Chairman Administration	- Briefing by the Administration on the proposed resolution under the Road Traffic Ordinance ("RTO") and the Road Traffic (Driving-offence Points) Ordinance ("DPO").	
001333 - 001403	Chairman	- The Chairman reminded members to disclose any pecuniary interest, whether direct or indirect, relating to the proposed resolution under RTO and DPO. No conflict of interests was reported by members.	
001404 - 001806	Chairman Mr WU Chi-wai Administration	- Mr WU Chi-wai made the following enquiries about the proposed resolution: (a) The Administration proposed legislative amendments to the four Build-Operate-Transfer ("BOT") tunnel by-laws in July 2012. As such legislative amendments should be regarded as a general practice, the Administration should amend all relevant legislations in one go. He, therefore, questioned why inconsistencies were resulted in the references to the traffic offences between the Schedule to DPO (Cap. 375) and the amended BOT tunnel by-laws and how the Administration would avoid similar problems in future; and (b) It was known that the maximum speed limits	

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		<p>at which vehicles might be driven in the Western Harbour Crossing and the Tai Lam Tunnel and Yuen Long Approach Road were in excess of 70 kilometres per hour while RTO (Cap. 374) restricted the speed limit for certain vehicles in these two tunnels to 70 kilometres per hour. He asked whether confusion would be caused for tunnel users or not.</p> <p>- The Administration responded that:</p> <p>(a) There had been inconsistencies after the legislative amendments were made to the four BOT tunnel by-laws to standardise the signage for autotoll lanes and others in July 2012. On discovering the problem, they had reviewed the current mechanism to avoid similar problems in future amendment exercises. They appealed to members' support to rectify the situation soonest possible; and</p> <p>(b) Section 40(5) of RTO (Cap. 374) stipulated that the maximum speed for a bus, a medium or heavy goods vehicle and vehicles (i.e. motor cycle, motor tricycle, private car or light goods vehicle) driven by a person holding a probationary driving licence should be 70 kilometres per hour, even if the maximum speed limits for some roads and tunnels were above 70 kilometres per hour. Drivers of the vehicles specified above knew very well that their speed limits were restricted to 70 kilometres per hour on any roads and tunnels and therefore, there should be no confusion in respect of law enforcement.</p>	
001807 - 002122	Chairman Mr TANG Ka-piu Administration	<p>- Mr TANG Ka-piu expressed the following views and concerns:</p> <p>(a) He wondered why the resolution was not proposed immediately at the commencement of this legislative session in October 2012 and would like to know how the problem of the inconsistencies in the references to the relevant traffic offences between the Schedule to DPO (Cap. 375) and the four BOT tunnel by-laws amended in July 2012</p>	

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		<p>was found out;</p> <p>(b) He enquired the number of cases where it was unable for an offender to incur any driving-offence points for offences under DPO (Cap. 375) from 20 July 2012 to 30 April 2013 (Vacuum Period); and</p> <p>(c) Apart from the Administration and BOT tunnels, whether the said inconsistencies would affect the law enforcement in relation to the Discovery Bay Tunnel Link.</p> <p>- The Administration made the following response:</p> <p>(a) The inconsistencies were first identified by the staff of tunnel companies when discharging their usual law enforcement duties. On realising the problems, the Administration immediately reviewed the current mechanism and prepared the proposed resolution quickly for members' consideration;</p> <p>(b) The cases in which driving-offence points could not be incurred under Cap. 375 concerned speeding vehicles in the Eastern Harbour Crossing ("EHC"). There were 9 such cases where the offenders had been convicted, after the legislative amendments had been made to the four BOT tunnel by-laws in July 2012; and</p> <p>(c) The Discovery Bay Tunnel Link was not affected because the Discovery Bay Tunnel Link Bylaw was not amended during the legislative amendment exercise in July 2012. They supplemented that the scheduled offences in such Bylaw aligned with that of Cap. 375.</p>	
002123 - 002744	Chairman Dr KWOK Ka-ki Administration	<p>- While showing support to the proposed resolution, Dr KWOK Ka-ki expressed the following concerns:</p> <p>(a) Regarding law enforcement, the police had faced challenges by the public about the accuracy of their speed detecting devices. He was worried that the devices used in the</p>	

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		<p>tunnels would face similar challenges and if that occurred, how the Administration would handle such cases;</p> <p>(b) He further enquired if the franchisees of the four BOT tunnels should meet certain standards in setting up their systems for detecting speeding vehicles and how the Transport Department monitored the situation; and if the results of the devices for detecting speeding vehicles in the tunnels had ever been challenged in the past; and</p> <p>(c) Concerning the 9 cases of speeding offences in EHC where no driving-offence points could be incurred under Cap. 375 he enquired how the Administration would handle them.</p> <p>- The Administration explained that:</p> <p>(a) All the devices for detecting speeding vehicles in the tunnels had to meet certain standards such that the data collected by these devices would be acceptable to the court;</p> <p>(b) When facing challenges by the public, the private tunnel companies would seek expert opinion on the case;</p> <p>(c) The devices and systems for detecting speeding vehicles in the tunnels would be maintained and calibrated regularly to ensure accuracy and compliance with the required standards;</p> <p>(d) From 20 July 2012 up to the present, the law enforcement actions in tunnels were conducted as usual. Despite the fact that driving-offence points in relation to certain BOT tunnel related traffic offences under Cap. 375 could not be incurred, the tunnel companies were able to penalise traffic offenders according to the relevant provisions in the BOT tunnel by-laws;</p> <p>(e) In order to have effective enforcement, the private tunnel companies would not disclose the details of their law enforcement</p>	

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		<p>operations;</p> <p>(f) Driving-offence points could not be incurred for the aforesaid 9 cases; and</p> <p>(g) As per the request of Dr KWOK Ka-ki, the Administration would submit supplementary information on the enforcement arrangement against speeding adopted by the BOT tunnel companies, including the maintenance of the devices for detecting speeding vehicles and the number of prosecutions challenged, if any, by the offenders in the past.</p>	<p>The Administration would submit the information in due course.</p>
<p>002745 - 003232</p>	<p>Chairman Mr TANG Ka-piu Administration</p>	<p>- Mr TANG Ka-piu enquired about:</p> <p>(a) The legislative timetable as proposed by the Administration to rectify the situation;</p> <p>(b) What remedial measures the Administration had in place to combat the problem of speeding by vehicles during the Vacuum Period; and</p> <p>(c) How the Administration monitored the law enforcement actions taken by the private company running the Discovery Bay Tunnel Link as the company was not required to disclose the relevant details to the Administration to protect personal privacy as discussed earlier.</p> <p>- The Administration responded as follows:</p> <p>(a) The Administration appealed for members' support to the proposed resolution and added that if members did not have any objection to the proposed resolution, the Secretary for Transport and Housing would move the proposed resolution at the Council Meeting of 29 May 2013. If approved by the Legislative Council, the proposed resolution would come into operation by the end of May 2013 on gazettal;</p> <p>(b) The Administration, having realised the inconsistencies in the references to the traffic offences between the Schedule to DPO (Cap. 375) and the amended BOT tunnel by-laws, had already instructed the tunnel companies</p>	

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		<p>to take law enforcement actions as usual and asked the Police to enhance law enforcement in areas near the entrances and exits of tunnels. It was observed that the situation was more or less the same during the Vacuum Period; and</p> <p>(c) The Administration mentioned that they would continue to monitor the operations of the private tunnel companies. Although the private tunnel companies would not disclose the details of law enforcement such as the exact time and locations of their actions to ensure fairness, the Administration could ask the private tunnel companies to provide figures of their law enforcement actions if necessary.</p>	
003233 - 003630	Chairman Mr WU Chi-wai Administration	<p>- While expressing support to the proposed resolution, Mr WU Chi-wai raised the below concerns:</p> <p>(a) Whether inconsistencies in the references to the traffic offences between the Schedule to DPO (Cap. 375) and the amended BOT tunnel by-laws would lead to any difficulties in prosecution;</p> <p>(b) Whether the omission in the legislative amendments in July 2012 was a common problem or an individual case; and</p> <p>(c) If similar problems happened before.</p> <p>- In response to Mr WU Chi-wai's worries, the Administration explained that:</p> <p>(a) The prosecution under the BOT tunnel by-laws would not be affected because the traffic offenders could still be penalised in accordance with the relevant provisions in the BOT tunnel by-laws;</p> <p>(b) The inconsistency issue resulting from the legislative amendments in July 2012 should be regarded as an individual case. On discovering the problem, the Administration had immediately reviewed and improved the current mechanism, and reminded colleagues of relevant departments to avoid similar</p>	

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		<p>omissions in future legislative amendment exercises; and</p> <p>(c) The Administration hoped that the proposed resolution would receive members' support so that the situation could be rectified as soon as practicable.</p>	
003631 - 004004	Chairman Administration	- Clause-by-clause examination of the proposed resolution under RTO and DPO.	
004005 - 004544	Chairman Dr KWOK Ka-ki Administration	<p>- In response to Dr KWOK Ka-ki's and the Chairman's queries, the Administration explained that:</p> <p>(a) When a traffic offender was convicted of a scheduled offence in DOP (Cap. 375) in court, driving-offence points would be incurred on him / her;</p> <p>(b) The Administration confirmed that driving-offence points could not be incurred on the convicted offenders in the aforesaid 9 cases; and</p> <p>(c) The Administration pointed out that prosecution actions under the BOT tunnel by-laws had not been affected during the Vacuum Period.</p>	
004545 - 004811	Chairman Mr WU Chi-wai Administration	- Mr WU Chi-wai enquired the number of similar cases that the Administration was processing. In response, the Administration explained that, as at end March 2013, there were 114 cases in EHC during the Vacuum Period, among which 54 cases were pending issuance of summonses; 51 cases with summonses issued and pending hearing by the court; and 9 cases convicted as discussed earlier.	
004812 - 005043	Chairman Dr KWOK Ka-ki Administration	<p>- As regards Dr KWOK Ka-ki's concerns, the Administration responded as below:</p> <p>(a) The inconsistencies in the references to the traffic offences between the Schedule to DPO (Cap. 375) and the amended BOT tunnel by-laws had only affected the incurrance of driving-offence points in the speeding cases in EHC; and</p>	

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		(b) There would be no hearings in April and May 2013 for traffic offences that took place in EHC. In this connection, apart from the aforementioned 9 convicted cases, there would be no more cases in which driving-offence points could not be incurred if the Legislative Council could approve the proposed resolution by the end of May 2013.	
005044 - 005514	Chairman Administration	- Clause-by-clause examination of the proposed resolution under RTO and DPO. - The Chairman concluded that members were in support of the proposed resolution.	The Clerk to prepare a report for submission to the House Committee.

Council Business Division 1
Legislative Council Secretariat
22 July 2013