

立法會
Legislative Council

LC Paper No. CB(4)1551/16-17
(These minutes have been seen
by the Administration)

Ref: CB4/SS/6/16

**Subcommittee on Two Proposed Resolutions
under the Fixed Penalty (Traffic Contraventions) Ordinance and
the Fixed Penalty (Criminal Proceedings) Ordinance**

**Minutes of the fourth meeting held on
Monday, 19 June 2017, at 10:45 am
in Conference Room 1 of the Legislative Council Complex**

Members present : Hon Frankie YICK Chi-ming, JP (Chairman)
Hon James TO Kun-sun
Hon Jeffrey LAM Kin-fung, GBS, JP
Hon Paul TSE Wai-chun, JP
Hon YIU Si-wing, BBS
Hon CHAN Han-pan, JP
Ir Dr Hon LO Wai-kwok, SBS, MH, JP
Hon CHAN Chun-ying
Hon LUK Chung-hung
Hon LAU Kwok-fan, MH
Hon Jeremy TAM Man-ho

Members absent : Dr Hon Helena WONG Pik-wan
Hon Tanya CHAN
Hon CHEUNG Kwok-kwan, JP
Hon HUI Chi-fung

Public Officers attending : Agenda item I

Ms Ivy LAW
Deputy Secretary for Transport and Housing
(Transport)3

Mr Tony LI
Principal Assistant Secretary for Transport and
Housing (Transport) 2

Mr Chris CHAN
Assistant Commissioner/Planning
Transport Department

Mr Luke YUEN Chi-kin
Chief Superintendent/Traffic (Acting)
Hong Kong Police Force

Mr Gary LI Ming-fung
Government Counsel
Department of Justice

Attendance by invitation : Agenda item I

Lok Ma Chau China-Hong Kong Freight
Association

Mr Stanley CHAING
Chairman

DAB

Mr CHUNG Kin-fung
Deputy Spokesperson

Hong Kong Professional Hoisting Engineering
Association

Mr CHAN Fai-hung
Vice Chairman

Tsuen Wan District Tourists and Passengers
Omnibus Operators Association

Mr C K TANG
Chairman

China Hong Kong & Macau Boundary Crossing Bus
Association

Mr Alan CHAN
Secretary General

Kowloon Truck Merchants Association Limited

Mr LEUNG Kun-kuen
Chairman

The Lion Rock Institute

Mr NG Kin-wah

Democratic Party

Mr Leo CHU
社區主任

Hong Kong Container Tractor Owner Association
Limited

Mr LAM Hoi-tat
Chairman

Hong Kong Van Drivers Association

Mr FUNG Chun-pong
副秘書長

Hong Kong Container Drayage Services Association

Mr WONG Siu-wah
Chairman

The Chamber of Hong Kong Logistics Industry

Mr CHAN Fu-chuen
Executive Vice Chairman

Public Transport Research Team

Mr Ben HON Ka-mo
Chairman

Individual

Mr Paulus-johannes ZIMMERMAN
Southern District Council Member

Liberal Party

Mr CHAN Kin-yip
Member

香港公共交通關注組

Mr Quentin CHENG Hin-kei
幹事

九龍公共小型巴士潮籍工商聯誼會

吳順利先生
董事

專業吊機貨車聯會

Mr Michael LUI

Clerk in attendance : Ms Doris LO
Chief Council Secretary (4)6

Staff in attendance : Ms Vanessa CHENG
Assistant Legal Adviser 5

Ms Macy NG
Senior Council Secretary (4)6

Ms Emily LIU
Legislative Assistant (4)6

Action

I. Meeting with deputations and the Administration

(LC Paper Nos. CB(4)1232/16-17(01) - List of follow-up actions
and (02) arising from the meeting on
23 May 2017 and the
Administration's response

LC Paper No. CB(4)1068/16-17(01) Administration's paper on its
revised proposals

LC Paper Nos. CB(4)973/16-17(01) - Letter dated 4 May 2017
and CB(4)1028/16-17(01) from Legal Adviser to the
Subcommittee to the
Administration and the
Administration's reply letter
dated 17 May 2017

LC Paper Nos. CB(4)1028/16-17(02) - List of follow-up actions
and (03) arising from the meeting on
5 May 2017 and the
Administration's response

LC Paper Nos. CB(4)932/16-17(01) - List of follow-up actions
and (02) arising from the meeting on
21 March 2017 and the
Administration's response

Relevant papers

File Ref: THB(T)L1/12/65 - Legislative Council Brief

LC Paper No. LS35/16-17 - Legal Service Division
Report

LC Paper No. CB(4)675/16-17(01) - Paper on the two proposed
resolutions under the Fixed
Penalty (Traffic

Contraventions) Ordinance
(Cap. 237) and the Fixed
Penalty (Criminal
Proceedings) Ordinance
(Cap. 240) prepared by the
Legislative Council
Secretariat (Background
brief)

- LC Paper Nos. CB(4)675/16-17(02) and (03) - Marked-up copies of the two proposed resolutions under the Fixed Penalty (Traffic Contraventions) Ordinance (Cap. 237) and the Fixed Penalty (Criminal Proceedings) Ordinance (Cap. 240) prepared by the Legal Service Division

Submissions from deputations/individuals attending the meeting

- LC Paper No. CB(4)1232/16-17(03) - Submission from Public Transport Research Team
- LC Paper No. CB(4)1246/16-17(01) - Submission from the Lion Rock Institute
- LC Paper No. CB(4)1264/16-17(01) - Submission from the Chamber of Hong Kong Logistics Industry

Submissions from deputations/individuals not attending the meeting

- LC Paper Nos. CB(4)910/16-17(04) and CB(4)1232/16-17(04) - Two submissions from a member of the public
- LC Paper No. CB(4)1192/16-17(01) - Submission from a member of the public
- LC Paper No. CB(4)1192/16-17(02) - Submission from Hong Kong Automobile Association

- LC Paper No. CB(4)1192/16-17(03) - Submission from Mr Norris NG Hin-lung, Tsuen Wan District Council member
- LC Paper No. CB(4)1192/16-17(04) - Submission from Hong Kong Scheduled (GMB) Licensee Association
- LC Paper No. CB(4)1192/16-17(05) - Submission from Professional Crane Lorry Association Ltd.)

The Subcommittee received views from 18 deputations/individuals attending the meeting on the Administration's revised proposals on increasing the fixed penalty charges for Congestion-Related Traffic Offences under the Fixed Penalty (Traffic Contraventions) Ordinance (Cap. 237) and the Fixed Penalty (Criminal Proceedings) Ordinance (Cap. 240) by 25% instead of the originally proposed 50%. The Subcommittee deliberated (index of proceedings in **Annex**).

Follow-up actions to be taken by the Administration

2. The Administration was requested to supplement information on the use and disposal of the now vacant vehicle queuing and waiting area adjoining the To Kwa Wan Vehicle Examination Centre of the Transport Department, which was suggested by the non-franchised bus trade to be used for providing night-time coach parking spaces.

(Post-meeting note: The Administration's written response was issued vide LC Paper No. CB(4)1374/16-17(01) on 7 July 2017.)

II. Any other business

3. The Chairman said that he would work out the date of the next meeting with the Clerk and inform members accordingly. There being no other business, the meeting ended at 12:45 pm.

**Proceedings of the fourth meeting of
Subcommittee on Two Proposed Resolutions
under the Fixed Penalty (Traffic Contraventions) Ordinance and
the Fixed Penalty (Criminal Proceedings) Ordinance
on Monday, 19 June 2017, at 10:45 am
in Conference Room 1 of the Legislative Council Complex**

Time marker	Speaker	Subject(s)	Action required
Agenda item I – Meeting with deputations and the Administration			
000621 – 001015	Chairman	Opening remarks and meeting arrangements The Chairman welcomed the deputations attending the meeting to give their views on the Administration's revised proposals on increasing the fixed penalty charges for Congestion-Related Traffic Offences under the Fixed Penalty (Traffic Contraventions) Ordinance (Cap. 237) and the Fixed Penalty (Criminal Proceedings) Ordinance (Cap. 240) by 25% instead of the originally proposed 50% ("the Revised Proposals") (LC Paper No. CB(4)1068/16-17(01)).	
001016 – 001325	Lok Ma Chau China- Hong Kong Freight Association	Presentation of views	
001326 – 001632	Democratic Alliance for the Betterment and Progress of Hong Kong ("DAB")	Presentation of views	
001633 – 001703	Hong Kong Professional Hoisting Engineering Association	Presentation of views	
001704 – 002017	Tsuen Wan District Tourists and Passengers Omnibus Operators Association	Presentation of views	
002018 – 002350	China Hong Kong & Macau Boundary Crossing Bus Association	Presentation of views	
002351 – 002504	Kowloon Truck Merchants Association Limited	Presentation of views	
002505 – 002732	The Lion Rock Institute	Presentation of views (LC Paper No. CB(4)1246/16-17(01))	

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002733 – 002950	Democratic Party	Presentation of views	
002951 – 003155	Hong Kong Container Tractor Owner Association Limited	Presentation of views	
003156 – 003422	Hong Kong Van Drivers Association	Presentation of views	
003423 – 003609	Hong Kong Container Drayage Services Association	Presentation of views	
003610 – 003852	The Chamber of Hong Kong Logistics Industry	Presentation of views (LC Paper No. CB(4)1264/16-17(01))	
003853 – 004212	Public Transport Research Team	Presentation of views (LC Paper No. CB(4)1232/16-17(03))	
004213 – 004454	Liberal Party	Presentation of views	
004455 – 004758	香港公共交通關注組	Presentation of views	
004759 – 004827	九龍公共小型巴士潮籍工商聯誼會	Presentation of views	
004828 – 005117	專業吊機貨車聯會	Presentation of views	
005118 – 005424	Mr Paulus-johannes ZIMMERMAN, Southern District Council ("DC") Member	Presentation of views	
005425 – 010234	Chairman Administration	<p>The Administration responded that:</p> <p>(a) it had taken note of the concerns of the deputations, including the commercial vehicle drivers. It had, after considering the views of the Subcommittee and stakeholders, put forward the Revised Proposals which should be more acceptable to concerned parties while still partially restore the deterrent effect eroded by inflation;</p> <p>(b) increasing the fixed penalty charges of the congestion-related traffic offences was not the only</p>	

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		<p>measure to tackle road traffic congestion. It had also been progressively taking forward other measures recommended by the Transport Advisory Committee to tackle road traffic congestion under a multi-pronged approach;</p> <p>(c) on parking provision, the current policy was to accord priority to addressing the parking needs of commercial vehicles. It had rolled out various immediate measures to provide more parking spaces for commercial vehicles as soon as practicable, such as providing "on-street night time only" parking spaces for commercial vehicles, and would commence a consultancy study for formulating longer term measures;</p> <p>(d) the limited land resources did not permit the provision of additional parking spaces to match the rapidly growing private car fleet. The public was encouraged to use public transport as far as possible; and</p> <p>(e) restoring the deterrent effect of fixed penalty charges would bring improvements in road traffic conditions and hence benefit the majority of road users, including commercial vehicle drivers, as well as the general public using public transport who were affected by traffic congestion. Thus, this small step should be taken immediately.</p>	
010235 – 010849	<p>Chairman Mr LAU Kwok-fan Administration Mr Alan CHAN, representative of the China Hong Kong & Macau Boundary Crossing Bus Association</p>	<p>Mr LAU Kwok-fan expressed the views that:</p> <p>(a) given the shortage of parking spaces for commercial vehicles in particular, he objected to increasing indiscriminately the fixed penalty charges for all Congestion-Related Traffic Offences;</p> <p>(b) the Administration had failed to take into account the drop in the income of commercial vehicle drivers over the past years when determining the magnitude of increasing the fixed penalty charges; and</p> <p>(c) to achieve deterrent effect, the Administration should take stringent enforcement actions at traffic black spots, such as towing away the vehicles concerned.</p> <p>Mr Alan CHAN agreed with Mr LAU's views. He further said that the acute shortage of parking spaces had forced commercial vehicle drivers to park illegally more often, and hence they were facing a higher chance of being served with fixed penalty tickets ("FPTs").</p>	

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		<p>The Administration responded that even though the Police had stepped up enforcement actions, and 22% more FPTs were issued in 2016 than in 2015, illegal parking was still rampant. As such, there was a need to increase the fixed penalty charges to raise the opportunity costs of parking illegally and restore at least partially the deterrent effect eroded by inflation since the last increase in 1994.</p>	
<p>010850 – 011541</p>	<p>Chairman Mr CHAN Han-pan Administration</p>	<p>Mr CHAN Han-pan considered that:</p> <ul style="list-style-type: none"> (a) increasing the fixed penalty charges for Congestion-Related Traffic Offences without addressing the root problem of the lack of parking spaces would only drive up parking fees, and in turn undermine the expected deterrent effect; and (b) the Administration might first increase the fixed penalty charges for offences that were less contentious, such as "unlawfully entering box junction" and "making 'U' turn causing obstruction" under Cap. 240, and put on hold those that were more controversial. <p>The Administration responded that:</p> <ul style="list-style-type: none"> (a) illegal parking was an unlawful act and should not be condoned on any grounds. Despite the stringent enforcement actions as evidenced by the increase in the FPT to vehicle ratio from 1.11 in 2005 to 2.18 in 2016, illegal parking had remained rampant; (b) it was imperative to increase the fixed penalty charges for the offences stipulated in Cap. 237 and Cap. 240 together in order to alleviate traffic congestion effectively; and (c) the Administration remained open to members' suggestion of increasing the fixed penalty charges in respect of certain offences under Cap. 240 first if there was a consensus among members of the Subcommittee. <p>The Chairman pointed out that if compared to 1994/1995, the FPT to vehicle ratio had dropped by as much as 50% from 4.63/4.25 to 2.18 in 2016.</p>	
<p>011542 – 012154</p>	<p>Chairman Mr LUK Chung-hung Administration</p>	<p>Mr LUK Chung-hung indicated that The Hong Kong Federation of Trade Unions opposed against any level of increase in the fixed penalty charges for Congestion-Related Traffic Offences. He then expressed the views that:</p>	

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		<p>(a) many professional drivers were forced to park illegally due to a lack of parking spaces. Any increase in the fixed penalty charges would affect their livelihood; and</p> <p>(b) the Administration should exhaust every means to meet the parking needs of commercial vehicles, such as, facilitating the Link Asset Management Limited ("the Link") to apply for waivers of land lease conditions so that some of its parking spaces for goods vehicles could be used for parking school buses/nanny vans, and developing open-air car parks at brownfield sites under short-term tenancies ("STT") into automated multi-level car parking systems.</p> <p>The Administration responded that:</p> <p>(a) as at February 2017, the Lands Department had granted temporary waivers of land lease conditions for the Link to let out 456 parking spaces for goods vehicles for parking other types of vehicles including school buses/nanny vans;</p> <p>(b) operators of open-air car parks at STT sites were unlikely to be willing to make large investments to develop multi-level parking facilities at the sites. As one of the short-term measures to increase the supply of parking spaces for commercial vehicles, the Transport Department ("TD") had requested the operators to provide a minimum number of parking spaces for commercial vehicles on the sites upon renewal of STTs. In the past three years, about 800 to 1 000 parking spaces for commercial vehicles had been provided at 13 STT car parks; and</p> <p>(c) the Administration would examine the possible development of multi-storey commercial car parks in the consultancy study on parking for commercial vehicles.</p>	
012155 – 013111	<p>Chairman Mr YIU Si-wing Administration Mr C K TANG, representative of the Tsuen Wan District Tourists and Passengers Omnibus Operators Association Mr Alan CHAN, representative of the</p>	<p>Mr YIU Si-wing considered that:</p> <p>(a) a major factor accounting for illegal parking and traffic congestion was the shortage of parking spaces. Increasing the fixed penalty alone would not solve the problem. This would however affect the livelihood of commercial vehicle drivers in particular; and</p> <p>(b) in view that the prevalent of illegal parking by some commercial vehicles at traffic black spots like To Kwa Wan and North Point had caused serious traffic</p>	

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	<p>China Hong Kong & Macau Boundary Crossing Bus Association Mr Paulus-johannes ZIMMERMAN, Southern DC Member</p>	<p>disruption, the Administration should on the one hand step up enforcement at these black spots, and on the other hand liaise with the commercial vehicle trade on measures like providing parking subsidies to impel the drivers to park their vehicles at proper parking spaces or car parks.</p> <p>At the invitation of the Chairman, Mr C K TANG relayed that the tourist coach trade had proposed to TD on using the vehicle queuing and waiting area adjoining To Kwa Wan Vehicle Examination Centre for parking tourist coaches at night time, with the parking fees to be subsidized by the coach operators, but TD had not responded positively. Currently, the area had been left abandoned for almost two years. On this, the Chairman requested the Administration to supplement information on the use and disposal of the said area.</p> <p>Mr Alan CHAN also indicated that their association was positive towards providing parking subsidies for the coach drivers.</p> <p>Mr Paulus-johannes ZIMMERMAN considered that the Administration should revise the Hong Kong Planning Standards and Guidelines to provide more parking spaces for goods vehicles and coaches at new public housing estates, so that more commercial vehicle drivers could park their vehicles nearby their places of residence.</p>	<p>Admin (paragraph 2 of the minutes refers)</p>
<p>013112 – 020004</p>	<p>Chairman Mr Jeremy TAM Assistant Legal Adviser ("ALA")5 Administration Clerk Mr LAU Kwok-fan Mr YIU Si-wing Mr CHAN Chun-ying Mr CHAN Han-pan</p>	<p><u>Proposed amendments by Mr Jeremy TAM</u></p> <p>Mr Jeremy TAM explained his proposed amendments to the proposed resolution under Cap. 237, as set out in the draft amending motion appended to his letter tabled at the meeting (LC Paper No. CB(4)1253/16-17(01)). His proposed amendments sought to prescribe two levels of fixed penalties at \$400 and \$320 respectively for contraventions under sections 5, 6, 7(2), 8(2), 8(4), 8(5) and 10(4) of Cap. 237, and those under other sections, to the effect that the fixed penalties for some offences thereof would be increased by 25%, while others would remain unadjusted. Further to the views of the Administration and ALA5 given at earlier meetings regarding whether the Legislative Council ("LegCo") might prescribe, by resolution, different levels of fixed penalties instead of a uniform penalty for the different offences under Cap. 237, he wished to know whether his proposed amendments would be ruled admissible.</p>	

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		<p>Mr TAM further said that he was considering proposing amendments to the proposed resolution under Cap. 240 seeking to increase only the fixed penalties for "unlawfully entering box junction" and "making 'U' turn causing obstruction" by an appropriate magnitude, while keeping the others at the current levels. However, if the Administration's proposed resolution under Cap. 237 was passed, he would not propose the said amendments in respect of Cap. 240, so as to maintain consistency in the levels of fixed penalty charges among offences of similar severity. He then asked if a pre-condition could be set such that his proposed amendments in respect of Cap. 240 would be dealt with at the Council only when the Administration's proposed resolution under Cap. 237 was withdrawn or negated.</p> <p>In response, ALA5 stressed that:</p> <p>(a) any proposed amendments to the proposed resolutions by Members would be subject to the rulings of the President of LegCo. In determining the admissibility of a Member's proposed amendments to the proposed resolutions, the Administration's response to the proposed amendments, the long title of Cap. 237, the explanatory memorandum to the Fixed Penalty (Traffic Contraventions) Bill 1970 ("the Bill"), other provisions of Cap. 237 and the legislative history such as the statement made by the responsible official of the Government in relation to the Bill in LegCo, and other reports if the legislation in question implemented the recommendation of a report would be taken into account. The legislative history of Cap. 237 as detailed in the Administration's reply letter dated 17 May 2017 (LC Paper No. CB(4)1028/16-17(01)) would be one of the considerations for the President of LegCo to rule on the admissibility of any proposed amendments thereto;</p> <p>(b) the legislative history of the Fixed Penalty (Criminal Proceedings) Ordinance (Cap. 240) might also shed some light on the legislative intent of section 13 of Cap. 237. The then Attorney General made a statement in the second reading of the Fixed Penalty (Criminal Proceedings) Bill 1974 ("the 1974 Bill") that the scheme proposed under the 1974 Bill (those traffic contraventions varied significantly in seriousness) differed in a major respect from the fixed penalty system relating to parking contraventions that there was a certain uniformity about parking contraventions which justified a fixed penalty only. Such legislative history of Cap. 240 would also be taken into account by</p>	

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		<p>the President of LegCo in considering the admissibility of a Member's proposed amendments; and</p> <p>(c) the two proposed resolutions respectively under Cap. 237 and Cap. 240 would be voted upon separately.</p> <p>The Chairman remarked that the procedural issues might need to be further sorted out. At the invitation of the Chairman, the Clerk explained that amendments to the two separate resolutions under Cap. 237 and Cap. 240 would be dealt with separately at the Council, and the setting of a pre-condition as mentioned by Mr TAM was not feasible.</p> <p><u>Members' views on the two proposed resolutions</u></p> <p>At the invitation of the Chairman, members recapped their views towards the proposed resolution under Cap. 237:</p> <p>(a) Mr LAU Kwok-fan and Mr CHAN Han-pan, both representing DAB, objected to the uniform increase in the fixed penalties under Cap. 237. They made clear that they were not giving consent or connivance to illegal parking, but considered it imperative for the Administration to first formulate a blueprint for addressing the shortage of parking spaces in the short, medium and long term;</p> <p>(b) Mr YIU Si-wing also objected to the uniform increase in the fixed penalties under Cap. 237; and</p> <p>(c) Mr CHAN Chun-ying indicated that he had yet to determine how he would vote on the proposed resolution. He considered that at some point it might be necessary to increase the fixed penalty charges and take forward measures to mitigate the shortage of parking spaces in parallel.</p> <p>As regards the proposed resolution under Cap. 240, the Chairman, Mr Jeremy TAM and Mr CHAN Han-pan agreed with the proposed increase in the fixed penalty charges for "unlawfully entering box junction" and "making 'U' turn causing obstruction". The Chairman relayed the trade's reservation over the proposed increase in respect of "loading or unloading goods in a restricted zone". Some members advised that they supported the increase of fixed penalty charges on illegal and prolonged stopping at bus stops.</p> <p>The Administration reiterated that it would consider members' suggestions as appropriate if there was a</p>	

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		<p>consensus among members of the Subcommittee. In response to Mr Jeremy TAM's concerns over possible difficulties or confusions in enforcement arising from the different levels of penalties prescribed under Cap. 240, the Administration advised that there were all along different levels of penalties under Cap. 240 and no major difficulties in enforcement had been observed.</p> <p>The Chairman suggested holding an informal meeting to further discuss with the Administration on the proposed increase in the fixed penalty charges for the various contraventions under Cap. 237 and Cap. 240 one by one. Members and the Administration agreed with the suggestion.</p>	
Agenda item II – Any other business			
020005 – 020035	Chairman	Concluding and closing remarks	