

**立法會**  
**Legislative Council**

LC Paper No. CB(4)270/17-18  
(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 fifth meeting held on  
Tuesday, 24 October 2017, at 9:00 am  
in Conference Room 2A of the Legislative Council Complex**

- Members present** : Hon Frankie YICK Chi-ming, JP (Chairman)  
Hon James TO Kun-sun  
Hon YIU Si-wing, BBS  
Hon CHAN Chun-ying  
Hon LUK Chung-hung  
Hon LAU Kwok-fan, MH  
Hon Jeremy TAM Man-ho
- Members absent** : Hon Jeffrey LAM Kin-fung, GBS, JP  
Hon Paul TSE Wai-chun, JP  
Hon CHAN Han-pan, JP  
Dr Hon Helena WONG Pik-wan  
Ir Dr Hon LO Wai-kwok, SBS, MH, JP  
Hon CHEUNG Kwok-kwan, JP  
Hon HUI Chi-fung
- Public Officers attending** : Ms Ivy LAW  
Deputy Secretary for Transport and Housing  
(Transport)<sup>3</sup>

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

Mr Chris CHAN Yu-yuen  
Assistant Commissioner/Planning  
Transport Department

Mr CHAN Wai-tak  
Chief Engineer/Strategic Studies (Acting)  
Transport Department

Mr Martin CADMAN  
Chief Superintendent/Traffic  
Hong Kong Police Force

Mr Eric TSANG Moon-lun  
Superintendent (Administration)  
(Traffic Branch Headquarters)  
Hong Kong Police Force

Mr Gary LI Ming-fung  
Government Counsel  
Department of Justice

**Clerk in attendance :** Mr Lemuel WOO  
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

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Action

- I. Meeting with the Administration**  
(LC Paper No. CB(4)1374/16-17(01) - Administration's response to  
the issues raised at the  
meeting on 19 June 2017

- 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) and CB(4)1028/16-17(01) - Letter dated 4 May 2017 from Legal Adviser to the Subcommittee to the Administration and the Administration's reply letter dated 17 May 2017
- LC Paper Nos. CB(4)1232/16-17(01) and (02) - List of follow-up actions arising from the meeting on 23 May 2017 and the Administration's response
- LC Paper Nos. CB(4)1028/16-17(02) and (03) - List of follow-up actions arising from the meeting on 5 May 2017 and the Administration's response
- LC Paper Nos. CB(4)932/16-17(01) and (02) - List of follow-up actions 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) - Marked-up copies of the two  
and (03) 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

The Subcommittee deliberated (index of proceedings is in **Annex**).

### Motion

2. The Subcommittee agreed to deal with the motion moved by the Chairman as follows:

#### *Original motion moved by the Chairman —*

鑒於泊車位供不應求的情況嚴重，在沒有制訂有效的解決方案及落實時間表前，本會要求政府現階段先行收回《定額罰款(交通違例事項)條例》(第237章)所建議的13項定額罰款修訂；另外，對於《定額罰款(刑事訴訟)條例》(第240章)中6項定額罰款修訂建議，考慮到現時嚴重欠缺上落貨泊位，就算增加"在限制區內裝卸貨物"的定額罰款，司機還是會因欠缺上落貨泊位而迫於無奈地繼續違泊，無助改善因違泊造成的道路擠塞，反因增加罰款後把有關成本轉嫁給消費者，因此，本會同意政府提出修訂《條例》(第240章)附表a、b、d、e及f項有關違反交通規則的定額罰款建議調高幅度由原來的50%減至25%，但要求政府擱置增加《條例》(第240章)附表c項之"在限制區內裝卸貨物"的定額罰款，直至政府當局推出有效的措施改善上落貨泊位的問題。"

(Translation)

Given the acute shortfall of parking spaces and in the absence of any effective solution and implementation timetable, this Subcommittee requests the Government to first withdraw its proposed adjustments to the fixed penalty charges for 13 items of offences stipulated under the Fixed Penalty (Traffic Contraventions) Ordinance (Cap. 237) at this stage; moreover, regarding the proposed adjustments to the fixed

penalty charges for six items of offences stipulated under the Fixed Penalty (Criminal Proceedings) Ordinance ("the Ordinance") (Cap. 240), in view of the current acute shortfall of loading/unloading spaces, even if the fixed penalty charge for "loading or unloading goods in a restricted zone" is to be increased, drivers, due to the shortfall of loading/unloading spaces, are left with no choice but to continue to park illegally, which is not conducive to improving road congestion caused by illegal parking, and will on the contrary pass onto customers the cost arising from the increase of the penalty charge; as such, this Subcommittee agrees with the Government's proposal to revise the magnitude of the increase of the fixed penalty charges for items a, b, d, e and f of the offences stipulated in the Schedule to the Ordinance (Cap. 240) from the originally proposed 50% down to 25%, but requests the Government to shelve the increase of the fixed penalty charge for "loading or unloading goods in a restricted zone" stipulated in item c of the Schedule to the Ordinance (Cap. 240) until the Administration's launching of effective measure(s) to improve the problem relating to loading/unloading spaces.

3. Mr LUK Chung-hung moved amendments to the Chairman's motion as follows:

*Amendments moved by Mr LUK Chung-hung —*

鑒於泊車位供不應求的情況嚴重，在沒有制訂有效的解決方案及落實時間表前，本會要求政府現階段先行收回《定額罰款(交通違例事項)條例》(第237章)所建議的13項定額罰款修訂；另外，對於《定額罰款(刑事訴訟)條例》(第240章)中6項定額罰款修訂建議，考慮到現時嚴重欠缺上落**客**貨泊位，就算**分別**增加"在限制區內裝卸貨物，**以及讓乘客上落**"的定額罰款，司機還是會因欠缺上落**客**貨泊位而迫於無奈地繼續違泊，無助改善因違泊造成的道路擠塞，反因增加罰款後把有關成本轉嫁給消費者，因此，本會同意政府提出修訂《條例》(第240章)附表a、~~b~~—d、e及f項有關違反交通規則的定額罰款建議調高幅度由原來的50%減至25%，但要求政府擱置增加《條例》(第240章)附表**b項之"在限制區內讓乘客上落"**，**以及c項之"在限制區內裝卸貨物"**的定額罰款，直至政府當局推出有效的措施改善上落**客**貨泊位的問題。

(Translation)

Given the acute shortfall of parking spaces and in the absence of any effective solution and implementation timetable, this Subcommittee requests the Government to first withdraw its proposed adjustments to the fixed penalty charges for 13 items of offences stipulated under the Fixed Penalty (Traffic Contraventions) Ordinance (Cap. 237) at this stage; moreover, regarding the proposed adjustments to the fixed penalty charges for six items of offences stipulated under the Fixed Penalty (Criminal Proceedings) Ordinance ("the Ordinance") (Cap. 240), in view of the current acute shortfall of *spaces for picking up/setting down passengers and loading/unloading spaces goods*, even if the fixed penalty ~~charge~~ *charges* for *picking up or setting down passengers and* "loading or unloading goods in a restricted zone" ~~is~~ *are* to be increased *respectively*, drivers, due to the shortfall of ~~loading/unloading~~ *such* spaces, are left with no choice but to continue to park illegally, which is not conducive to improving road congestion caused by illegal parking, and will on the contrary pass onto customers the cost arising from the increase of the penalty ~~charge~~ *charges*; as such, this Subcommittee agrees with the Government's proposal to revise the magnitude of the increase of the fixed penalty charges for items a, ~~b~~, d, e and f of the offences stipulated in the Schedule to the Ordinance (Cap. 240) from the originally proposed 50% down to 25%, but requests the Government to shelve the increase of the fixed penalty ~~charge~~ *charges for "picking up or setting down passengers in a restricted zone" and "loading or unloading goods in a restricted zone"* stipulated *respectively in item b and* item c of the Schedule to the Ordinance (Cap. 240) until the Administration's launching of effective measure(s) to improve the problem relating to *spaces for picking up/setting down passengers and loading/unloading spaces goods*.

(Amendments were marked in *bold and italic type* or with deletion line.)

4. The Chairman put to vote the amendments moved by Mr LUK Chung-hung. Two members voted for the motion, four members voted against it and none abstained from voting. The Chairman declared that the motion was negatived.

5. The Chairman put to vote the original motion moved by him. Six members voted for, none voted against it, and none abstained from voting. The Chairman declared that the motion was carried.

6. The Subcommittee did not support the proposed resolution under the Fixed Penalty (Traffic Contraventions) Ordinance (Cap. 237) and completed the examination of the proposed resolution under the Fixed Penalty (Criminal Proceedings) Ordinance (Cap. 240).

7. The Administration noted that the proposed increases to five fixed penalty items as contained in the motion passed by the Panel was not the most effective to alleviate traffic congestion. Nonetheless, as a first step to restore deferent effect of the penalties, it agreed to amend the resolution in relation to Cap. 240 pursuant to the motion passed above.

#### Legislative timetable

8. The Subcommittee agreed that members' agreement to the Administration's amended resolution in relation to Cap. 240 should be sought by circulation. If no comments were received from members, the Administration's amended resolution would be taken as agreed by members and no further meeting of the Subcommittee would be arranged.

*(Post-meeting note: The Administration's amended resolution in relation to Cap. 240 was circulated to members vide LC Paper No. CB(4)102/17-18(01) issued on 25 October 2017. By the deadline on 30 October 2017, the Secretariat had not received any comment from members on the amended resolution. The Chairman would report the deliberations of the Subcommittee to the House Committee on 24 November 2017.)*

## **II. Any other business**

9. There being no other business, the meeting ended at 9:31 am.

**Proceedings of the fifth meeting of  
Subcommittee on Two Proposed Resolutions  
under the Fixed Penalty (Traffic Contraventions) Ordinance and  
the Fixed Penalty (Criminal Proceedings) Ordinance  
on Tuesday, 24 October 2017, at 9:00 am  
in Conference Room 2A of the Legislative Council Complex**

Time marker	Speaker	Subject(s)	Action required
<b>Agenda item I – Meeting with the Administration</b>			
000459 – 001328	Chairman Mr LUK Chung-hung Administration	<p>The Chairman briefed members on the motion to be moved by him at the meeting. He stated that the motion was based on members' views expressed since the last Subcommittee meeting. Wordings of the motion had been circulated to the Subcommittee members for comments with no response received before the present meeting.</p> <p>Mr LUK briefed members on his proposed amendments to the Chairman's motion. The Administration responded that:</p> <p>(a) the impact of the Administration's proposal to increase the fixed penalty for picking up/setting down passengers in restricted zone under the Fixed Penalty (Criminal Proceedings) Ordinance (Cap. 240) on taxi drivers should be limited as permits for picking up and setting down passengers in peak hours and "7am-7pm/8pm" restricted zones had been granted to taxis, a measure which was going to be made permanent; and</p> <p>(b) increasing the fixed penalty for picking up/setting down passengers in restricted zone would discourage drivers of other vehicles, such as private cars, from committing the above offence.</p>	
001329 – 001632	Chairman Mr LAU Kwok-fan	<p>Mr LAU indicated support for the Chairman's motion which requested the Administration to withdraw the adjustments of the fixed penalty for the parking-related traffic contraventions in the proposed resolution under the Fixed Penalty (Traffic Contraventions) Ordinance (Cap. 237). He pointed out that:</p> <p>(a) illegal parking problem could not be solved simply by increasing the fixed penalty charges so long as the lack of sufficient parking spaces persisted;</p> <p>(b) given that the wage level of the transport trade had largely remained unchanged over the years, the current fixed penalty (i.e. \$320) for parking-related</p>	



Time marker	Speaker	Subject(s)	Action required
		<p>traffic contraventions should have sufficient deterrent effect; and</p> <p>(c) stepping up law enforcement at black spots and employing more traffic wardens to discharge the enforcement duties should be more effective means to combat illegal parking.</p>	
001633 – 001837	Chairman Mr Jeremy TAM	Mr TAM indicated support for the motion moved by the Chairman and said that the motion had reflected members' views expressed since the last Subcommittee meeting.	
001838 – 002056	Chairman Mr LUK Chung-hung	Mr LUK explained that given the inadequacies of parking facilities and the serious illegal parking problem on roadsides, the taxi trade was very concerned about the impact of the proposal of increasing the fixed penalty charge of picking up/setting down passengers in restricted zone on them. He urged the Administration to step up the enforcement action against the above offence instead of increasing the relevant fixed penalty charge.	
002057 – 002216	Chairman Mr YIU Si-wing	Mr YIU indicated support for the original motion moved by the Chairman but not the amendments moved by Mr LUK Chung-hung.	
002217 – 002449	Chairman Mr CHAN Chun-ying Administration	<p>Mr CHAN indicated that he did not support the amendments moved by Mr LUK Chung-hung since, according to the Administration, the impact on taxi drivers would be limited while increasing the fixed penalty for picking up or setting down of passengers in a restricted zone would maintain the deterrent effect to other vehicle drivers who commit the offence which was a major cause of traffic congestion.</p> <p>In response to Mr CHAN's concern about the late implementation of the increase in fixed penalties on 1 June 2018 as proposed, the Administration explained that subject to the approval of the relevant resolution by the Legislative Council to increase the fixed penalties, corresponding legislative amendments to revise the relevant forms and the fixed penalty tickets would be required.</p>	
002450 – 003157	Chairman Mr Jeremy TAM Clerk Administration	The Chairman said that his motion was to reflect the Subcommittee members' views that they did not support any of the proposed increase in the fixed penalty for the parking-related traffic contraventions in the proposed resolution under Cap. 237, and their support of the proposed increase in the fixed penalties for five of the	

Time marker	Speaker	Subject(s)	Action required
		<p>six traffic offences in the proposed resolution under Cap. 240 with the rate of increase reduced from 50% to 25% as agreed by the Administration.</p> <p>Voting on the amendments moved by Mr LUK Chung-hung and the motion moved by the Chairman</p> <p>The Administration stated that:</p> <p>(a) illegal parking was rampant and had aggravated traffic congestion to such an extent that immediate action should be taken to increase the penalty charges for congestion-related traffic offences in order to restore their deterrent effects. Therefore, it was imperative to increase the fixed penalty charges for the offences stipulated in Cap. 237 and the six congestion-related traffic offences stipulated in Cap. 240 at the same time so as to alleviate traffic congestion. While the Administration accepted the Subcommittee's views as a first step towards restoring the deterrent effect of the penalties, the proposal of only increasing the fixed penalty charges of five offences under Cap. 240 by 25% was not most effective in alleviating road traffic congestion;</p> <p>(b) the Administration would continue to implement a series of short- and medium- to long-term measures to increase parking spaces in various districts as announced in the Chief Executive's 2017 Policy Address. The Police would also continue to strengthen law enforcement against illegal parking;</p> <p>(c) the Administration would continue to engage the Legislative Council to increase the fixed penalty of the parking offences under Cap. 237 after the legislative amendments for the five offences under Cap. 240 were completed; and continue to closely monitor whether the increased penalties of the five offences under Cap. 240 were able to effectively deter the related traffic contraventions; and</p> <p>(d) the Administration would follow up on the fixed penalties of traffic offences not dealt with in the current legislative amendment under Cap. 240 and might adjust the relevant penalties moderately but with greater frequency to avoid a steep increase.</p> <p>The Administration indicated that it would amend the resolution in relation to Cap. 240 pursuant to the motion passed by the Subcommittee and would give a fresh</p>	

<b>Time marker</b>	<b>Speaker</b>	<b>Subject(s)</b>	<b>Action required</b>
		<p>notice for moving the amended resolution at a Council meeting.</p> <p>The Chairman welcomed the Administration's initiative to increase parking spaces and urged the Administration to timely review the fixed penalty levels of other traffic offences such as speeding.</p>	
003158 – 003521	Chairman Administration	<p>The Subcommittee did not support the proposed resolution under Cap. 237 and proceed with examining the provisions of the proposed resolution under Cap. 240.</p> <p>Members agreed that the Administration's amended resolution under Cap. 240 should be circulated to members for comments. If no comments were received from members, the Administration's revised proposal would be taken as agreed by members and the Administration could give fresh notice for moving the revised resolution under Cap. 240 at a Council meeting.</p>	
<b>Agenda item II – Any other business</b>			
003522 – 003527	Chairman	Closing remarks	