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

Background brief

Purpose

This paper provides background information on the two proposed resolutions under the Fixed Penalty (Traffic Contraventions) Ordinance (Cap. 237) and the Fixed Penalty (Criminal Proceedings) Ordinance (Cap. 240). It also summarizes the views and concerns expressed by the Panel on Transport ("the Panel") on the proposed increase in fixed penalty charges for congestion-related offences.

Background

2. In March 2014, the Secretary for the Transport and Housing invited the Transport Advisory Committee ("TAC") to conduct a study to identify various factors contributing to road traffic congestion in Hong Kong and to put forward practicable recommendations to the Administration to tackle the problem. TAC submitted its report on 30 December 2014 ("TAC Report") and concluded that there is a need for the Administration to consider implementing additional measures and strengthening the existing ones.¹ TAC has recommended a total of 12 short, medium and long-term practicable measures at the territorial level to contain road traffic congestion.

3. Stringent penalty and enforcement of traffic offences are among the 12 measures recommended by TAC. In the TAC Report, TAC has noted that the

¹ Available at http://www.thb.gov.hk/eng/boards/transport/land/Full_Eng_C_cover.pdf

fixed penalty charges for congestion-related traffic offences,² which are set at \$320 or \$450, have not been adjusted since 1994. The deterrent effect of the charges has been gradually eroded over time due to inflation and the increase in income level. TAC has thus considered that the Administration should raise the fixed penalty charges having regard to Composite Consumer Price Index ("CCPI") increase since 1994.³

4. In response to the TAC Report, the Administration indicated its view in May 2015 that the 12 recommendations made by TAC were in principle effective means to alleviate road traffic congestion. The Administration agreed that to effectively tackle the problem, it was necessary to implement a whole package of concerted measures, instead of relying on one or two single initiatives. Therefore, it was inclined to take forward the 12 TAC recommendations (with modifications and supplementary measures as appropriate) in phases, having regard to various factors including public sentiments and stakeholders' views, the availability of resources, and the latest technology and overseas experience.

5. In the 2017 Policy Address, the Chief Executive indicated that to tackle road traffic congestion, the Administration had adopted a multi-pronged approach, and was taking forward progressively the short, medium and long-term measures recommended by TAC. Those recommendations included carrying out an in-depth feasibility study on an Electronic Road Pricing Pilot Scheme in Central and its adjacent areas, commencing a parking space policy review to accord priority to meeting the parking needs of commercial vehicles, exploring measures to control vehicle growth, and conducting a study on the overall strategy for the rationalization of traffic distribution among the three road harbour crossings to formulate toll adjustment options for timely discussion in the Legislative Council ("LegCo"). To combat illegal parking, apart from the Police's continued efforts to strengthen enforcement actions against congestion-related traffic offences, the Administration planned to introduce legislative amendments to raise the fixed penalty charges for congestion-related traffic offences.

The two proposed resolutions

6. The Administration has given notice to move two motions at the Council meeting on 1 March 2017 to seek LegCo's approval to increase the fixed penalty for traffic offences under Cap. 237 and certain traffic offences under Cap. 240 by

² Congestion-related traffic offences include illegal parking, loading/unloading goods or picking up/setting down passengers in restricted zones, etc. These offences are set out under the Fixed Penalty (Traffic Contraventions) Ordinance (Cap. 237) and the Fixed Penalty (Criminal Proceedings) Ordinance (Cap. 240).

³ In the TAC Report, TAC has recommended increasing the fixed penalty charges by at least 40%, having regard to the CCPI increase of about 40% from 1994 to 2013.

50% with effect from 1 June 2018.

7. The proposed resolution under Cap. 237 seeks to increase, with effect from 1 June 2018, the fixed penalty prescribed under section 13 of Cap. 237 for any of the parking-related traffic contraventions provided in section 4, 5, 6, 7, 8, 9, 10 or 11(1) of Cap. 237 from \$320 to \$480. These contraventions include parking in a manner likely to cause unnecessary obstruction of a road or danger to other persons using the road, stopping of motor vehicles at zebra crossings, parking at unauthorized places and parking in contravention of traffic signs or road markings.

8. The proposed resolution under Cap. 240 seeks to amend the Schedule to Cap. 240 to increase, with effect from 1 June 2018, the fixed penalties for six traffic offences under the Road Traffic (Traffic Control) Regulations (Cap. 374G) and the Road Traffic (Public Service Vehicles) Regulations (Cap. 374D) as follows:

Offence	Current fixed penalty	Proposed fixed penalty
(a) Unlawfully entering box junction under regulation 10(1) of Cap. 374G	\$320	\$480
(b) Picking up/setting down passengers in restricted zone under regulation 14(6) of Cap. 374G	\$450	\$680
(c) Loading/unloading goods in restricted zone under regulation 14(7) of Cap. 374G	\$450	\$680
(d) "U" turn causing obstruction under regulation 42(1)(d) of Cap. 374G	\$320	\$480
(e) Unauthorized stopping at bus stop/public light bus stand/taxi stand/public light bus stopping place under regulation 45 of Cap. 374G	\$320	\$480
(f) Stopping public bus, public light bus or taxi longer than necessary when picking up/setting down passengers under regulation 45(1)(h) of Cap. 374D	\$320	\$480

9. According to the LegCo Brief (Ref: THB(T) L1/12/65) issued by the Transport and Housing Bureau in February 2017, subject to the passage of the two proposed resolutions, corresponding amendments would be made to the relevant forms in the Fixed Penalty (Traffic Contraventions) Regulations (Cap. 237A) and the Fixed Penalty (Criminal Proceedings) Regulations (Cap. 240A).

Corresponding amendments would also be made to the relevant form in the Housing (Traffic Contraventions) (Fixed Penalty) Bylaw (Cap. 283C).⁴

Major views and concerns expressed by the Panel on Transport

10. The Panel was briefed on the TAC Report and the proposed increase in fixed penalty charges at its meetings on 12 May and 16 December 2015 respectively. The Panel also held a special meeting on 5 January 2016 to receive views from the public on the subject. Panel members and deputations who attended the special meeting in general did not support the proposed increase. At the meeting on 16 December 2015, the Panel passed a motion opposing the raising of the level of parking fines when the mismatch of parking spaces remains unsolved and law enforcement is lacking in strength. The major views and concerns expressed by members are summarized in the ensuing paragraphs.

Shortage and mismatch of parking spaces

11. Quite a number of members considered that shortage and mismatch of parking spaces in various districts were the major reasons leading to illegal parking. They pointed out that some drivers had to park their vehicles, in particular commercial vehicles, by the roadside due to lack of parking facilities. Members also discussed the issue of the shortage of parking spaces for tourist coaches that had aggravated traffic congestion in certain areas. Some members considered that without provision of adequate parking spaces, the Administration should shelve its proposal for raising the fixed penalty charges against illegal parking. Members urged the Administration to expedite the review of parking policy and increase provision of parking spaces, such as building more public car parks and providing additional on-street parking spaces during night time. With a view to preventing aggravation of traffic congestion caused by motorists circulating on roads in search of parking spaces, some members suggested disseminating real-time information on parking vacancies of car parks to the public via smartphone applications.

12. In response, the Administration stated that it had been adopting a multi-pronged approach to tackle road traffic congestion, which included measures not limited to the proposed increase in fixed penalty charges. Some mismatch of parking provision for commercial vehicles in some areas was noted. As a short-term solution, the Transport Department ("TD") would endeavor to provide "on-street night-time only" parking spaces at various locations for goods vehicles and coaches. On the other hand, the Administration would study various means to

⁴ Section 6 of Cap. 283C provides that there shall be a fixed penalty for a contravention of any of the provisions of section 4 (parking on restricted roads) which shall be a sum equal to the fixed penalty under section 13 of the Fixed Penalty (Traffic Contraventions) Ordinance (Cap. 237).

curb the growth of private cars and enhance the public transport service to encourage the community to use public transport. To reduce the number of vehicles circulating on roads looking for available parking spaces, TD had contacted operators of commercial public car parks to encourage them to provide real-time information on parking vacancies of their car parks. TD was also enhancing its traffic information system to disseminate real-time parking vacancies data to the public through TD's websites and mobile applications.

13. Members noted that TD would conduct a parking policy review, with priority accorded to considering and meeting the parking need of commercial vehicles. As advised by the Administration, it has planned to report to the Panel the progress of the review in May 2017.

Traffic management and enforcement

14. Some members expressed concerns about road traffic congestion caused by drivers who parked illegally to pick up/set down their bosses in certain busy areas, in particular Central. They suggested strengthening enforcement actions against congestion-related traffic offences by deploying more police officers or traffic wardens to discharge duties in the most affected areas. Some members suggested installation of surveillance cameras to monitor the traffic condition at major signalized junctions to strengthen the monitoring of congested areas.

15. The Administration advised that the Police had stepped up enforcement against illegal parking. The number of fixed penalty tickets issued in the past few years had increased. Stringent enforcement actions of the Police included issuing fixed penalty tickets without prior warning and towing away illegally parked vehicles which caused serious obstruction or danger to other road users. Under the Selected Traffic Enforcement Priorities, the Police would continue their efforts in public engagement and proactive enforcement so as to change the undesirable behaviours of road users that caused accidents or obstructed traffic flow.

Impact on the livelihood of professional drivers

16. Some members were concerned that the Administration's proposal to increase fixed penalty for illegal parking might adversely affect the livelihood of professional drivers. They pointed out that given the shortage of proper loading/unloading bays, some drivers of goods vehicles were forced to park illegally.

17. The Administration advised that, legally speaking, the Administration should treat offences committed by all drivers equally. Nevertheless, noting that professional drivers had substantive demand for parking spaces in their daily operations, the Administration's current policy in the provision of parking spaces was to accord, as far as possible, priority to considering and meeting the parking

demand of commercial vehicles.

Magnitude of increase in the fixed penalties charges

18. Some members supported increasing the level of penalties for congestion-related traffic offences, such as picking up/setting down passengers at restricted zones. However, they took the view that the proposed magnitude of increase was too high for the public to accept. Some members suggested that the Administration's proposal should be implemented in phases.

19. The Administration explained that the road traffic condition in Hong Kong had been deteriorating in recent years, and rampant illegal parking and loading/unloading activities in restricted zones further aggravated traffic conditions. As the level of fixed penalties for the congestion-related traffic offences had not been increased for more than 20 years since the last increase in 1994 and CCPI had already increased by 53% during the period, the proposed magnitude of a 50% increase was merely to restore the deterrent effect eroded by inflation over the years. Any increase of a lower percentage would reduce such effect.

Latest development

20. At the meeting held on 24 February 2017, the House Committee agreed to form a Subcommittee to study the two proposed resolutions made under the Fixed Penalty (Traffic Contraventions) Ordinance (Cap. 237) and the Fixed Penalty (Criminal Proceedings) Ordinance (Cap. 240) respectively. At the request of the House Committee, the Administration has withdrawn the notices to move the motions mentioned in paragraph 6 above.

Relevant papers

21. A list of relevant papers is set out in the **Appendix**.

**Subcommittee on Two Proposed Resolutions
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List of relevant papers

Date of meeting	Panel/ Committee	Minutes/Paper	LC Paper No.
12.5.2015	Panel on Transport ("TP")	Administration's paper	CB(4)922/14-15(04) http://www.legco.gov.hk/yr14-15/english/panels/tp/papers/tp20150512cb4-922-4-e.pdf
		Minutes of the meeting	CB(4)85/15-16 http://www.legco.gov.hk/yr14-15/english/panels/tp/minutes/tp20150512.pdf
16.12.2015	TP	Administration's paper	CB(4)344/15-16(03) http://www.legco.gov.hk/yr15-16/english/panels/tp/papers/tp20151216cb4-344-3-e.pdf
		Background brief	CB(4)344/15-16(04) http://www.legco.gov.hk/yr15-16/english/panels/tp/papers/tp20151216cb4-344-4-e.pdf
		Follow-up paper	CB(4)1065/15-16(01) http://www.legco.gov.hk/yr15-16/english/panels/tp/papers/tp20151216cb4-1065-1-e.pdf
		Minutes of the meeting	CB(4)1270/15-16 http://www.legco.gov.hk/yr15-16/english/panels/tp/minutes/tp20151216.pdf
5.1.2016	TP	Minutes of the meeting	CB(4)1277/15-16 http://www.legco.gov.hk/yr15-16/english/panels/tp/minutes/tp20160105.pdf

Date of meeting	Panel/ Committee	Minutes/Paper	LC Paper No.
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--	--	Legal Service Division Report	LS35/16-17 http://www.legco.gov.hk/yr16-17/english/hc/papers/hc20170224ls-35-e.pdf

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