

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

At the meeting of the Subcommittee on 23 May 2017, Members asked whether the fixed penalty charges for certain items under the Fixed Penalty (Traffic Contraventions) Ordinance (Cap. 237) and the Fixed Penalty (Criminal Proceedings) Ordinance (Cap. 240) could be adjusted individually. The Government's response is as follows.

2. From the **statutory interpretation perspective**, section 13 of Cap. 237 has not empowered the Legislative Council ("LegCo") to adjust the fixed penalty charges for the 21 offences under Cap. 237 individually by resolution (details of the legal advice have been set out in the Government's papers submitted to the Subcommittee on 26 April and 17 May 2017 respectively, i.e. CB(4)932/16-17(02) and CB(4)1028/16-17(01)). Regarding the fixed penalty charges for the six congestion-related traffic offences under Cap. 240, the LegCo may amend the Schedule to adjust the penalty charges for those offences individually under section 12 of Cap. 240.

3. From the **policy perspective**, illegal parking etc. are rampant at present, aggravating traffic congestion to such an extent that immediate action needs to be taken to raise the penalty charges for congestion-related traffic offences in order to restore their deterrent effects. The illegal parking offences stipulated in Cap. 237 and the six non parking-related offences stipulated in Cap. 240 will likewise cause traffic congestion and all are contraventions against traffic regulations. We consider that illegal parking must not be condoned. Therefore, **it is imperative that the fixed penalty charges for the offences stipulated in Cap. 237 and the six congestion-related traffic offences stipulated in Cap. 240 be increased at the same time in order to alleviate traffic congestion effectively.**

4. After considering the comments expressed by the Subcommittee and deputations/individuals, the Government put forward a revised proposal at the meeting on 23 May 2017 with a downward revision of the magnitude of increase in fixed penalty charges for the offences under Cap. 237 and six congestion-related traffic offences in the Schedule to Cap. 240 from the

originally proposed 50% to 25%. In other words, the 21 fixed penalty charges stipulated in section 13 of Cap. 237 will be increased from \$320 to \$400, and the fixed penalty charges for the six congestion-related traffic offences stipulated in the Schedule to Cap. 240 will be increased from \$320 and \$450 to \$400 and \$560 respectively. The proposed increase in fixed penalty charges will take effect from 1 June 2018. The proposals are so revised as to make them more acceptable to the public while still partially restore the deterrent effect eroded by inflation.

5. As for the related issues raised by Members, including provision of more parking spaces, stepping up enforcement efforts and applying technology for enforcement etc., we must stress that **the Government has, and is implementing progressively plans to provide more parking spaces,** particularly for commercial vehicles. **The Police will also continue to step up enforcement efforts,** including collaborating with relevant Government departments to study the application of closed-circuit television, etc. for the monitoring and prosecution of traffic contraventions, and the related legal, technical, resources and privacy matters, etc.

6. We urge the Subcommittee to endorse as soon as possible the revised proposal for increasing the fixed penalty charges for congestion-related traffic offences as mentioned in paragraph 4 above. We must take a multi-pronged approach: mitigate shortage of parking spaces and step up enforcement efforts on the one hand and restore the deterrent effect of fixed penalty charges on the other. The LegCo last increased the fixed penalty charges some 23 years ago (i.e. in 1994). We consider that if the level of penalty charges is not adjusted now, their deterrent effect will continue to diminish. It will also fail to **meet up to the community's aspiration for prompt, effective and decisive actions from the Government and the LegCo to tackle traffic congestion, air pollution and road safety problems caused by illegal parking.**

Transport and Housing Bureau
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