

**立法會**  
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**Paper for the House Committee meeting on 24 November 2017**

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

**Purpose**

This paper reports on the deliberations of the Subcommittee on Two Proposed Resolutions under the Fixed Penalty (Traffic Contraventions) Ordinance and the Fixed Penalty (Criminal Proceedings) Ordinance ("the Subcommittee").

**Background**

2. At present, fixed penalty tickets ("FPTs") for road traffic offences are issued under the Fixed Penalty (Traffic Contraventions) Ordinance (Cap. 237) and the Fixed Penalty (Criminal Proceedings) Ordinance (Cap. 240). FPTs issued under Cap. 237 are against 21 parking-related offences with a uniform penalty of \$320 for each offence. FPTs issued under Cap. 240 are against traffic offences such as speeding, overloading, picking up/setting down passengers at restricted zones, etc. with the level of penalty ranges from \$230 to \$1,000 for each offence.

3. In March 2014, the Administration 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 tackle the problem. In its "Report on Study of Road Traffic Congestion in Hong Kong" issued in December 2014,<sup>1</sup> TAC recommended a total of 12 short, medium and long-term practicable measures at

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<sup>1</sup> The report is available at:  
[http://www.thb.gov.hk/eng/boards/transport/land/Full\\_Eng\\_C\\_cover.pdf](http://www.thb.gov.hk/eng/boards/transport/land/Full_Eng_C_cover.pdf)

the territorial level to contain road traffic congestion. TAC pointed out that the fixed penalty charges for "Congestion-Related Traffic Offences",<sup>2</sup> which are set at \$320 or \$450, had not been adjusted since 1994. The Composite Consumer Price Index ("CCPI") had substantially increased by 40% from 1994 to 2013. The deterrent effect of the charges had been gradually eroded over time due to inflation and the increase in income level. As such, TAC considered that the Administration should raise the fixed penalty charges having regard to CCPI increase since 1994 to restore the deterrent effect.<sup>3</sup> In response, the Administration indicated that it was inclined to take forward TAC's recommendations in phases. The Administration therefore proposes to increase the fixed penalty charges by 50% in tandem with CCPI, which has increased by 53% from 1994 to 2016, to restore the deterrent effect of such FPTs.

4. The Administration adopts a multi-pronged approach to tackle road traffic congestion and has been taking forward progressively the measures recommended by TAC. To combat illegal parking, apart from the Police's continued efforts to strengthen enforcement actions, the Administration introduces legislative amendments to raise the fixed penalty charges for Congestion-Related Traffic Offences. Separately, the Administration will also commence a consultancy study on parking for commercial vehicles, implement a series of short and medium to long terms measures to increase the provision of parking spaces having regard to the situation in various districts, take forward the study on the rationalisation of the traffic distribution among the three road harbour crossings and the three land tunnels between Kowloon and Sha Tin, and conduct a feasibility study for the Electronic Road Pricing Pilot Scheme in Central and its adjacent areas with a view to making early preparation for implementation the pilot scheme in certain parts of Hong Kong to improve traffic flow with the aid of technology.

### **The two proposed resolutions**

5. The Secretary for Transport and Housing ("STH") gave notice in February 2017 to move two motions at the Council meeting of 1 March 2017 to seek the Legislative Council ("LegCo")'s approval to increase the fixed penalty charges for the Congestion-Related Traffic Offences under Cap. 237 and Cap. 240 by 50% with effect from 1 June 2018.

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<sup>2</sup> Congestion-related traffic offences herein refer to all offences under Cap. 237, and six offences under Cap. 240 (viz. items 9, 12, 13, 18, 20 and 48 of the Schedule to Cap. 240). These offences include illegal parking, loading/unloading goods or picking up/setting down passengers in restricted zones, etc.

<sup>3</sup> TAC recommended increasing the fixed penalty charges by at least 40%, having regard to the increase in CCPI of about 40% from 1994 to 2013.

6. The proposed resolution under Cap. 237 sought to increase the fixed penalty charges 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. Details are given in **Appendix I**.

7. The proposed resolution under Cap. 240 sought to amend the Schedule to Cap. 240 to increase the fixed penalty charges for six traffic offences under the Road Traffic (Traffic Control) Regulations (Cap. 374G) and the Road Traffic (Public Service Vehicles) Regulations (Cap. 374D). Pursuant to the proposed resolution, the fixed penalty charges of the six offences, which are set at \$320 and \$450 at present, will be increased to \$480 and \$680 respectively. Details are given in **Appendix II**.

8. 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 will 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 will also be made to the relevant form in the Housing (Traffic Contraventions) (Fixed Penalty) Bylaw (Cap. 283C).<sup>4</sup>

### **The Subcommittee**

9. At the meeting of the House Committee ("HC") held on 24 February 2017, Members agreed to form a subcommittee to study the two proposed resolutions. The membership list of the Subcommittee is in **Appendix III**. At the request of HC, STH withdrew his notice for moving the two proposed resolutions at the Council meeting of 1 March 2017 to allow time for the Subcommittee to study the two proposed resolutions in detail.

10. Under the chairmanship of Hon Frankie YICK, the Subcommittee held five meetings on 21 March, 5 May, 23 May, 19 June and 24 October 2017 to examine the two proposed resolutions, including two meetings to receive views from the public. A list of organizations and individuals which/who have

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<sup>4</sup> 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).

provided views to the Subcommittee is in **Appendix IV**.

### **Deliberations of the Subcommittee**

11. The Subcommittee has strong reservations about the Administration's broad-brush approach to increase the fixed penalty charges for Congestion-Related Traffic Offences across the board by 50%. Members generally object to increasing the fixed penalty charges for parking-related offences without addressing the problem of shortage of parking spaces. They urge the Administration to review the parking need of commercial vehicles and private cars. When considering the magnitude of increase by 50%, some members have suggested implementing the increases in phases. To restore the deterrent effect of the fixed penalty, members consider it more effective to step up enforcement efforts. The deliberations are summarized in the ensuing paragraphs.

#### Magnitude of the proposed increase in fixed penalty charges

12. When considering the appropriateness of the proposed magnitude of increase of 50% in the fixed penalty charges, members have asked about the reference point based on which the Administration can ascertain that the proposed increase can restore the deterrent effect. They have expressed concern about the affordability of motorists and asked if the rate of increase in the income of commercial vehicle drivers over the years has caught up with the proposed rate of increase in the fixed penalty charges by 50%.

13. Members are worried about the burden that the increase in fixed penalty charges will add to commercial vehicle drivers, whilst its effectiveness in solving the traffic congestion problem has yet to be seen. Members have noted that the Administration proposed to LegCo in March 1999 vide the Revenue Bill 1999 to increase the fixed penalty charges under Cap. 237 and Cap. 240 in line with inflation since 1994. However, the proposed increase was subsequently withdrawn due to strong reservations of members of the Bills Committee formed then to scrutinize the Bill.

14. Mr LAU Kwok-fan holds the view that the Congestion-Related Traffic Offences are committed by a small number of drivers but the Administration's proposal to increase the fixed penalty charges will adversely affect the whole transport trade and the public. Given that the wage level of the transport trade has remained largely unchanged or even decreased since 1994, the current fixed penalty charges for parking-related offences should have sufficient deterrent effect. He also expresses that with the shortage of parking spaces, the proposed increase may further push up parking fees and hence incentivize illegal parking.

15. The Administration has explained that when the fixed penalty charges were last increased in 1994, the level of increase as approved by the then LegCo was considered effective to serve a deterrent effect. Using the level of the fixed penalty charges in 1994 as a baseline, the Administration has proposed to restore the deterrent effect by making reference to the increase in CCPI by about 53% from 1994 to 2016. The proposed magnitude of a 50% increase is merely to restore the deterrent effect of the fixed penalty charges which have been eroded by inflation over the years. Any increase by a lower percentage would reduce such effect. The Administration has further advised that the growth in per capita Gross Domestic Product in Hong Kong during the period has been higher than that of CCPI.

16. Mr LAU Kwok-fan also considers it not justified to increase the fixed penalty charges for Congestion-Related Traffic Offences to a level excessively higher than that for other offences like speeding and overloading of vehicles. On this, the Administration has explained that it has accorded priority to increase Congestion-Related Traffic Offences, whereas at a later juncture it will also review the need to increase the penalty levels for other offences, such as speeding or overloading, which may not directly result in, or are less likely to cause traffic congestion.

17. Members are generally of the view that increasing the fixed penalty charges of Congestion-Related Traffic Offices across the board will have negative impact on the livelihood of the transport trade. Dr Helena WONG and Mr HUI Chi-fung have urged the Administration to increase the fixed penalty charges in phases so that the public will find the increases more acceptable.

#### Proposed increase in the fixed penalty charges for parking-related offences

##### *Shortage of parking spaces*

18. The Subcommittee agrees in general that rampant illegal parking has been induced by the shortage of parking spaces. Mr LUK Chung-hung has pointed out that the lack of suitable parking spaces is particularly critical for specific classes of commercial vehicles such as school buses. Many drivers of commercial vehicles used to park at open air parking lots on brownfield sites, but many of these sites have been used for housing developments in recent years and hence they have to park the vehicles by their own means and at their own costs.

19. The Administration has submitted that some illegal parking cases are not related to the lack of parking spaces as it is noted in some cases that public parking facilities are indeed available nearby. The Administration has stated

that the increasingly serious problem of illegal parking in busy districts will cause traffic obstruction which will adversely affect the journey time of passengers, roadside air quality and has adverse social and economic consequences for the community.

20. Members are of grave concern that, for the purpose of redevelopments or the needs to cater for other works projects, many public car park buildings, such as Yau Ma Tei Multi-storey Carpark, Middle Road Carpark in Tsim Sha Tsui, Murray Road Multi-storey Carpark, Star Ferry Carpark and Rumsey Street Carpark in Central and Western District are being or will be demolished. Demolition of these public car parks has aggravated the shortage of parking spaces and worsened the illegal parking problem in the districts concerned. Members urge the Administration to address the newly generated parking needs arising from the new developments.

21. Members have noted that before demolition of a public car park building, the Administration will first conduct a traffic impact assessment ("TIA") to review the impact of the closure of parking spaces in the vicinity. Apart from providing parking spaces having regard to the Hong Kong Planning Standards and Guidelines ("HKPSG") to meet the parking demands arising from the development based on the gross floor areas ("GFAs") of various uses, the TIA will contain proposal to provide public parking spaces to compensate for the reduction in public parking spaces due to the demolition.

22. Nevertheless, some members are still worried that as the number of parking spaces to be reprovisioned after demolition of existing car park buildings will be fewer than originally provided, the parking needs in the districts concerned will unlikely be met. They have urged the Administration to review the standards for the provision of parking spaces in residential, commercial and industrial areas set out in HKPSG to take into account the latest position.

23. The Administration has indicated that it will review from time to time the standards and guidance in relation to supply of parking spaces set out in HKPSG and will make revisions as appropriate. To encourage private developers to provide more parking spaces for public use, the Buildings Department issued in March 2017 a revised Practice Note, providing that underground public parking spaces that are electric vehicle charging-enabling will not be GFA accountable (i.e. 100% concession from GFA calculation) in a private development project.

#### *Review of the need for parking spaces*

24. The Subcommittee has noted that the Transport Department ("TD") would conduct a consultancy study on parking for commercial vehicles soon

and, as a short-term measure, TD has identified around 390 additional on-street overnight parking spaces for commercial vehicles<sup>5</sup>, among which about 120 spaces have been available for use at various locations. The Administration has indicated that there was a positive growth in the overall number of parking spaces over the years but mismatch of parking space provision for commercial vehicles in some areas was noted.

25. The Subcommittee considers that apart from commercial vehicles, the Administration should also review the parking need for private cars, taking into account the genuine need of households with young children or elderly and those living in remote areas without convenient connections by public transport. Citing the examples of some innovative car parking solutions in Japan such as automatic underground car parks that occupy relatively limited ground spaces, members consider that the Administration shall explore various means to increase the number of parking spaces, such as building multi-storey car parks on short-term tenancy sites and underground car parks, and introducing mechanised parking systems.

26. Members consider that when gauging the demand for parking spaces, the Administration should make reference to the utilization rate of car parks during peak hours, instead of averaging out the utilization rate in a 24-hour period. The Administration should also closely monitor the utilization of parking spaces in the public car parks so as to avoid a waste of parking resources. For on-street metered parking spaces, the Administration should consider shortening the parking time units to 30 minutes or one hour so as to facilitate turnover of such parking spaces particularly in busy districts.

27. The Administration has advised that it will provide an appropriate supply of parking spaces for private cars where practicable but stresses that it is not desirable to accommodate the growing private car fleet by providing extra parking spaces endlessly. The Administration maintains that it is the Administration's policy to contain the growth of the private car fleet, and encourage the use of public transport. It has also reiterated that public transport is the most dominant mode of commuting in Hong Kong, accounting for nearly 90% of the daily passenger trips. Excessive increase in the number of private cars is causing serious traffic congestion and air pollution. When assessing the demand of parking spaces in a district, the Administration will, in addition to population growth, also consider the availability of public transport services.

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<sup>5</sup> as at August 2017.

*Stepping up enforcement against Congestion-Related Traffic Offences*

28. Members hold the views that a more effective means to combat illegal parking is to step up enforcement actions such as taking targeted enforcement actions at black spots, repeated issuance of FPTs to drivers involved in illegal parking, recruiting more traffic wardens to enable the taking of thorough enforcement actions and taking stricter actions such as towing away illegally parked vehicles; and such actions should be taken at all times, not just during special enforcement operations. The Administration is requested to actively take forward the initiative of introducing Electronic FPTs to enhance enforcement efficiency. However, members have noted with disappointment that a mere number of 54 and 58 vehicles were towed away in 2016 and the first three months of 2017 respectively.

29. Mr CHAN Chun-ying has noted the relatively low FPT to vehicle ratios in 2016 (i.e. 2.18) and 2005 (i.e. 1.11) compared to that of 1994 (i.e. 4.63) whilst the level of fixed penalty charges had remained unchanged, he finds it questionable whether the rampant illegal parking problem in recent years has been primarily due to the loss of deterrent effect of the level of fixed penalty charges. Rather, the relatively low FPT to vehicle ratios in recent years may have suggested that the enforcement actions have been lacking in strength.

30. The Chairman has also pointed out that, according to the statistics provided by the Administration, the FPT to vehicle ratio had dropped by more than half from 4.63 in 1994 to 2.18 in 2016. He is therefore not convinced that the enforcement efforts are adequately enhanced.

31. The Administration stresses that the Police has been taking stringent enforcement actions against Congestion-Related Traffic Offences. The Police has implemented the Selected Traffic Enforcement Priorities targeting undesirable behaviours that could cause traffic accidents or obstructed traffic flow at traffic black spots. Apart from that, about 1.63 million FPTs to drivers illegally parking their vehicles by roadside for a long time, representing an increase of about 20% compared to that of 2015. In 2016, more than 4 000 FPTs in total and about 200 to 300 FPTs in each police district were issued daily on average. For serious offences, the Police will issue FPTs without prior warning and will issue more than one FPT for illegally parked vehicles if warranted.

32. The Administration has also advised that both patrol police officers and traffic wardens can issue FPTs. There are about 20 to 30 patrol officers on duty in each shift. The number of traffic wardens in recent years stands at about 300, and the Administration will review the establishment of the traffic warden grade from time to time. In response to some members' concerns, the Administration has also affirmed that frontline police officers are not required to



meet any quotas or targets in issuing FPTs. Enforcement actions aside, the Police has stepped up publicity and public education to raise safety awareness and bring about law-abiding behaviour and attitudes of road users.

33. According to the Administration, despite the enforcement efforts, illegal parking is still rampant. The number of complaints relating to illegal parking received by the Transport Complaints Unit of TAC increased by about 24% between 2015 and 2016. The number of FPTs issued in respect of Congestion-Related Traffic Offences had decreased since 1994, with a drop of 7% in the following year (i.e. from 2 139 526 in 1994 to 1 982 551 in 1995) after the increase in the level of penalty charges, and decreased further to 599 233 in 2005, but rose to 1 627 511 in 2016. During the same period (from 1994 to 2016), there was only a slight difference in the ratios of parking spaces to vehicles. As at February 2017, the number of designated parking spaces was 744 238, whilst the number of designated licensed vehicles was 710 398.

34. The Subcommittee is generally of the view that in the absence of a comprehensive policy and effective means to address the root problem of illegal parking, increasing the fixed penalty charges for those parking-related offences significantly by 50% is not justified.

#### Proposed increase in the fixed penalty charges for Congestion-Related Traffic Offences under Cap. 240

35. Mr CHAN Chun-ying is of the view that the Administration should impose sharper increases of more than 50% for those serious road traffic offences, such as unlawfully entering box junction or making "U" turn causing obstruction, complemented with stricter enforcement actions including towing away illegally parked vehicles that had caused serious obstruction. For offences relating to the lack of parking spaces, the Administration should consider shelving the proposed increase in fixed-penalty charges for parking-related offences under Cap. 237 unless there are effective means to solve the root problems of inadequate parking spaces and transport facilities in some areas.

36. Some members have expressed keen concern about the prevailing problem of illegally parking by drivers picking up/setting down their bosses in busy areas, in particular Central. Mr James TO considered that the Administration should sharply increase the fixed penalty charges against illegally parking at black spots to increase punitive effect.

#### Revised proposals submitted by the Administration

37. After considering the comments expressed by the Subcommittee and deputations/individuals, the Administration has revised the magnitude of the

proposed increase from 50 % as originally proposed down to 25% ("the Revised Proposals) which the Administration believes should be more acceptable to the public while still partially restore the deterrent effect eroded by inflation. The proposed amendments to the two proposed resolutions in the mark-up mode are shown as **Appendix V** and **Appendix VI** respectively.

*Revised proposal for the increase in fixed penalty charges under Cap. 237*

38. Many members remain unconvinced by the Administration's explanation on the need to increase the fixed penalty charges for parking-related offences under Cap. 237 without addressing the problem of lack of parking spaces. Mr LAU Kwok-fan and Mr CHAN Han-pan, both representing the Democratic Alliance for the Betterment of Hong Kong, object to the uniform increase in the fixed penalty charges under Cap. 237. They make it clear that they are not giving consent or connivance to illegal parking, but consider it imperative for the Administration to first formulate a blueprint for addressing the shortage of parking spaces in the short, medium and long term. Mr YIU Si-wing also objects to the uniform increase in the fixed penalty charges under Cap. 237. Mr CHAN Chun-ying has considered that it might be necessary to increase the fixed penalty charges and take forward measures to mitigate the shortage of parking spaces in parallel.

39. Mr LUK Chung-hung reiterates that many commercial drivers are forced to park illegally due to a lack of parking spaces and any increase in the fixed penalty charges of illegal parking will affect their livelihood. He requests the Administration to 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 into automated multi-level car parking systems.

40. The Administration advises that the Lands Department has granted temporary waivers of land lease conditions for the Link to let out 456 parking spaces for goods vehicles for the parking of other types of vehicles including school buses/nanny vans. It also undertakes to examine the possible development of multi-storey commercial car parks in the consultancy study on parking for commercial vehicles.

41. Mr Jeremy TAM has stated that unless the Administration excludes those offences caused by unavailable parking facilities instead of a uniform increase in the penalty charges for all offences under Cap. 237, he will not support the proposal of increasing the fixed penalty charges. He has informed the Subcommittee that he is considering proposing amendments to the proposed resolution to prescribe different levels of fixed penalty charges instead of a

uniform penalty for the different offences as provided for in section 4, 5, 6, 7, 8, 9, 10 or 11(1) of Cap. 237.

42. The Administration has pointed out that section 13 of Cap. 237 provides that "[t]here shall be a fixed penalty for a contravention of any of the provisions of section 4, 5, 6, 7, 8, 9, 10 or 11(1) which shall be \$200 or such larger amount as may be prescribed by the Legislative Council by resolution.", and there is only one fixed penalty set out in section 13 (currently at the level of \$320). By relying on the interpretation on the formulation of words of "a fixed penalty" [*underline added*] as appeared in section 13, the long title of Cap. 237 and the Explanatory Memorandum to the Fixed Penalty (Traffic Contraventions) Bill 1970 ("1970 Bill"), the Administration contended that the ordinary and natural meaning of section 13 is that LegCo may only increase the amount of the fixed penalty set out therein. In gist, the Administration is of the view that LegCo has not been empowered to prescribe, by resolution under section 13, different levels of fixed penalty charges for contravention of different provisions (i.e. section 4, 5, 6, 7, 8, 9, 10 or 11(1)) under Cap. 237. Subsequently, the Administration provided further information from the Hansard for the 1970 Bill which refers to a scheme of uniform penalty and the simplicity and practicability of such a scheme to reinforce its views that LegCo is not empowered to prescribe different levels of fixed penalties for contravention of different provisions in Cap. 237. In other words, any changes to the fixed penalty by resolution pursuant to section 13 of Cap. 237 shall uniformly apply to all offences under sections 4, 5, 6, 7, 8, 9, 10 and 11(1) of Cap. 237.

43. The Legal Adviser to the Subcommittee has pointed out that under section 7(2) of the Interpretation and General Clauses Ordinance (Cap. 1), words and expressions in the singular include the plural and words and expressions in the plural include the singular. Thus, a fixed penalty can mean more than one fixed penalty. Reference can be made to Cap. 240. Although similar formulation of words "a fixed penalty" has been adopted (in the long title of Cap. 240 and the Explanatory Memorandum to the Fixed Penalty (Criminal Proceedings) Bill 1974 ("1974 Bill"), different levels of fixed penalties are prescribed in the Schedule for different traffic offences under Cap. 240. Thus, it is not conclusive as to whether different levels of fixed penalties can be prescribed by resolution by LegCo for different contraventions under Cap. 237 by merely relying on the formulation of words "a fixed penalty" as contended by the Administration.

44. The Legal Adviser to the Subcommittee has further pointed out that according to the Hansard for the 1974 Bill, the then Attorney General made a statement in the second reading of the 1974 Bill that the scheme proposed under the 1974 Bill (those traffic contraventions vary significantly in seriousness) differed in a major respect from the fixed penalty system relating to parking contraventions (under Cap. 237) that there was a certain uniformity about

parking contraventions which justified a fixed penalty only. In determining the admissibility of a member's proposed amendments to the proposed resolution, the Legal Adviser to the Subcommittee has advised that the long title of Cap. 237, the Explanatory Memorandum to the 1970 Bill, other provisions of Cap. 237, the statements made by the responsible officials of the Administration in relation to the 1970 Bill and 1974 Bill in LegCo, the Administration's response to the proposed amendments and all other relevant factors may also be taken into account by the President of LegCo. Ultimately, members' proposed amendment, if any, to the resolution would be subject to the ruling of the President of LegCo on whether it is admissible after taking into account all relevant considerations.

*Revised proposal for the increase in fixed penalty charges under Cap. 240*

45. 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.

46. Mr CHAN Chun-ying suggests that, instead of increasing the fixed penalty charges for all Congestion-Related Traffic Offences, the Administration may consider members' suggestion of a differential treatment by increasing the fixed penalty charges by 50% for the more serious traffic offences, such as "U" turn causing obstruction and unlawfully entering the box junction.

47. The Administration has stated that the suggested differential treatment of offences under Cap. 237 and Cap. 240 may disappoint those members of the public affected by traffic congestion, and gave rise to a misconception that the Administration was condoning illegal parking. However, it will consider members' suggestions as appropriate if there is a 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 penalty charges prescribed under Cap. 240, the Administration has advised that there have all along been different levels of penalty charges under Cap. 240 and no major difficulties in enforcement had been observed.

Motion passed by the Subcommittee

48. The Chairman has moved a motion at the meeting of the Subcommittee on 24 October 2017 which reflects the Subcommittee's objection to any of the proposed increase in the fixed penalty charges for the Congestion-Related Traffic Offences which are parking-related in the proposed resolution under Cap.

237, and its support of the proposed increase in the fixed penalty charges for the traffic offences in the proposed resolution under Cap. 240 except the loading/unloading of goods in a restricted zone, with the rate of increase revised from 50% to 25%. Wording of the motion is in **Appendix VII**.

49. Mr LUK Chung-hung has moved amendments to the Chairman's motion to further exclude the proposed increase to the fixed penalty of the traffic offence in relation to picking up or setting down passengers in a restricted zone. He explains that given the inadequacies of parking facilities and the serious illegal parking problem on roadsides, the taxi trade has been 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. Mr LUK urges the Administration to step up the enforcement action against the above offence instead of increasing the relevant fixed penalty charge.

50. Regarding Mr LUK's concern, the Administration has stated that the impact of the Administration's proposal to increase the fixed penalty for picking up/setting down passengers in restricted zone under 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 have been granted to taxis, a measure which is going to be made permanent, whilst increasing the fixed penalty for picking up/setting down passengers in restricted zone will discourage drivers of other vehicles, such as private cars, from committing the above offence.

51. The Subcommittee votes on the amendments moved by Mr LUK Chung-hung and the original motion of the Chairman. Mr LUK's amendment motion is negated while the original motion is carried.

52. The Administration has indicated that it will amend the resolution in relation to Cap. 240 pursuant to the Subcommittee's views and the motion passed, and will give a fresh notice for moving the amended resolution at a Council meeting.

53. The Administration has also stated that illegal parking was rampant and had aggravated traffic congestion. It is 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 accepts 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% may not be most effective in alleviating road traffic congestion. The Administration undertakes to continue implementing 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, strengthen law

enforcement against illegal parking, continue to engage LegCo to increase the fixed penalty of the parking offences under Cap. 237 after the legislative amendments for the five offences under Cap. 240 are completed, closely monitor whether the increased penalties of the five offences under Cap. 240 can effectively deter the related traffic contraventions, follow up on the fixed penalty charges of traffic offences not dealt with in the current legislative amendment under Cap. 240 and may adjust the relevant penalty charges moderately but with greater frequency to avoid a steep increase.

### **Proposed amendments**

54. As mentioned in paragraphs 52 above, the Administration has agreed to propose amendments to the proposed resolution under Cap. 240 to address members' concerns. The proposed amendments are shown at **Appendix VIII** in the mark-up mode.

### **Recommendation**

55. The Subcommittee raises no objection to the proposed amendments by the Administration and notes that the Administration will give fresh notice for moving the motions to seek LegCo's approval of the proposed resolution which has incorporated the proposed amendments.

### **Advice sought**

56. Members are invited to note the deliberations of the Subcommittee.

Council Business Division 4  
Legislative Council Secretariat  
22 November 2017

**Proposed resolution under Fixed Penalty (Traffic Contraventions)  
Ordinance (Cap. 237)**

Proposed increase in the fixed penalty for offences stipulated in Cap. 237

<b>Item</b>	<b>Section</b>	<b>Offence</b>	<b>Current fixed penalty</b>	<b>Proposed fixed penalty</b>
1	4	Parked in a manner likely to cause an unnecessary obstruction of a road or danger to other persons using the road	\$320	\$480
2	5	Stopped within the limits of a zebra crossing		
3	6	Stopped in a zebra controlled area		
4	7(1)	Parked other than in an authorized parking place		
5	7(2)(a)	Parked on a pavement, pedestrian way, central reservation, verge, hard shoulder or traffic island		
6	7(2)(b)	Parked so as to obstruct vehicular access to or from premises adjacent to the carriage-way		
7	7(2)(c)	Parked so as to obstruct access to a fire hydrant from the carriage-way		
8	8(1)	Parked in a parking place in contravention of a traffic sign or road marking		
9	8(2)	Unnecessarily parked in more than one space, or unnecessarily projecting over any line delineating a parking space		
10	8(4)	Parked in a parking place where parking is suspended or cancelled by the Commissioner for Transport		
11	8(5)	Parked in a parking place where parking is suspended by the Commissioner of Police		
12	8(6)	Parked in a temporary parking place contrary to a traffic sign		
13	9	Parked in contravention of no parking traffic sign or road marking		
14	10(1)(a)(i)	Parked in a parking space in respect of which there is a coin operated parking meter without as soon as possible after parking inserting an appropriate coin in the meter		

Item	Section	Offence	Current fixed penalty	Proposed fixed penalty
15	10(1)(a)(ii)	Parked in a parking space in respect of which there is a card operated parking meter without as soon as possible after parking using a parking card or where applicable an approved card for the payment of the parking fee		
16	10(1)(b)(i)	Parked in a pay and display parking space without as soon as possible after parking displaying a display ticket on the inside of the windscreen so that the ticket shows the payment of the parking fee, the relevant parking space, the date on and the time until which payment is made		
17	10(1)(b)(ii)	Parked in a pay and display parking space beyond the time indicated on the display ticket as the time until which payment is made or when the display ticket does not indicate payment for the use of that parking space or for that date	\$320	\$480
18	10(4)	Parked in more than one parking space in respect of which there is a coin operated parking meter without inserting an appropriate coin in each meter		
19	10(4)	Parked in more than one parking space in respect of which there is a card operated parking meter without inserting a parking card or where applicable an approved card in each meter		
20	10(4)	Parked in more than one pay and display parking space without displaying the appropriate number of display tickets		
21	11(1)	Parked in a parking space in respect of which there is a parking meter when the meter does not indicate that payment has been made		



**Proposed resolution under the Fixed Penalty (Criminal Proceedings)  
Ordinance (Cap. 240)**

Proposed increase in the fixed penalty charges for six traffic offences under the Road Traffic (Traffic Control) Regulations (Cap. 374G) and the Road Traffic (Public Service Vehicles) Regulations (Cap. 374D)

<b>Offence</b>	<b>Current fixed penalty</b>	<b>Proposed fixed penalty</b>
(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

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

**Membership list**

**Chairman** Hon Frankie YICK Chi-ming, JP

**Members** 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  
Dr Hon Helena WONG Pik-wan  
Ir Dr Hon LO Wai-kwok, SBS, MH, JP  
Hon CHAN Chun-ying  
Hon CHEUNG Kwok-kwan, JP  
Hon HUI Chi-fung  
Hon LUK Chung-hung  
Hon LAU Kwok-fan, MH  
Hon Jeremy TAM Man-ho

(Total : 14 Members)

**Clerk** Ms Doris LO (up to 2 October 2017)  
Mr Lemuel WOO (since 3 October 2017)

**Legal Adviser** Ms Vanessa CHENG

\* Changes in membership are set out in Annex to Appendix III

**Annex to Appendix III**

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

**Changes in membership**

<b>Member</b>	<b>Relevant date</b>
Hon Tanya CHAN	Up to 10 October 2016

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

**Organizations/individuals which/who have given oral representation of  
views to the Bills Committee at the meetings on 5 May and 19 June 2017**

1. Hong Kong Taxi Owners' Association Limited
2. Labour Party
3. Public Omnibus Operators Association Limited
4. Tai Wo Motors Limited
5. Kowloon Truck Merchants Association Limited
6. Hong Kong Public Light Bus Owner & Driver Association
7. Hong Kong-Guang Dong Transportation Drivers and Employees Association
8. Container Transportation Employees General Union
9. Tsuen Wan District Tourists and Passengers Omnibus Operators Association
10. Hong Kong Container Tractor Owner Association Limited
11. Public Light Bus General Association
12. Democratic Alliance for the Betterment and Progress of Hong Kong
13. Hong Kong Van Drivers Association
14. Hong Kong Container Drayage Services Association Limited
15. Liberal Party
16. The Chamber of Hong Kong Logistics Industry Ltd
17. Hong Kong Automobile Association

18. CALL4VAN客貨車
19. Clean Air Network
20. 汽車交通運輸業總工會貨運車從業員分會
21. United Friendship Taxi Owners & Drivers Association Limited
22. New World First Bus Services Limited
23. Citybus Limited
24. Civic Exchange
25. Public Transportation Think Tank of Hong Kong
26. 何志強先生
27. School Buses Operators Association Ltd.
28. Trans-Consult Asia Ltd.
29. Motor Transport Workers General Union
30. 汽車交通運輸業總工會非專利巴士分會
31. CTOD Association
32. 勞士正先生
33. Yuen Long District Tourists and Passengers Omnibus Operators Association
34. Tuen Mun District Tourists and Passengers Omnibus Operators Association
35. The Kowloon Motor Bus Co. (1933) Ltd.
36. Keung Kee Tours and Transportation Co., Ltd.
37. Keung Kee Tours & Services Company Limited
38. Motor Transport Workers General Union Public Light Bus Branch

39. Lok Ma Chau China-Hong Kong Freight Association
40. DAB
41. Hong Kong Professional Hoisting Engineering Association
42. China Hong Kong & Macau Boundary Crossing Bus Association
43. The Lion Rock Institute
44. Democratic Party
45. Public Transport Research Team
46. Mr Paulus-johannes ZIMMERMAN
47. 香港公共交通關注組
48. 九龍公共小型巴士潮籍工商聯誼會
49. 專業吊機貨車聯會
- \*50. Hong Kong Society for Transportation Studies (HKSTS) Limited
- \*51. New Lantao Bus Co. (1973) Ltd.
- \*52. Professor S C WONG, BBS, JP, the University of Hong Kong
- \*53. The Federation of Bus Industry Trade Unions
- \*54. Hong Kong Scheduled (GMB) Licensee Association
- \*55. Federation of Hong Kong Transport Worker Organizations
- \*56. Mr Jacky LIM
- \*57. Non-franchised Public Buses Workers Association
- \*58. Civic Party
- \*59. Green Power
- \*60. Mr Norris NG Hin-lung, Tsuen Wan District Council member

\*61. Professional Crane Lorry Association Ltd.

\* views given by written submission only

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**Fixed Penalty (Traffic Contraventions) Ordinance****Resolution of the Legislative Council**

Resolution made and passed by the Legislative Council under section 13 of the Fixed Penalty (Traffic Contraventions) Ordinance (Cap. 237) on 2017.

**Resolved** that, with effect from 1 June 2018—

- (a) ~~\$480~~\$400 be prescribed as a fixed penalty for a contravention of any of the provisions of section 4, 5, 6, 7, 8, 9, 10 or 11(1) of the Fixed Penalty (Traffic Contraventions) Ordinance (Cap. 237); and
- (b) this Resolution is to replace the Resolution made and passed by the then Legislative Council on 23 February 1994 and published in the Gazette as Legal Notice No. 109 of 1994.

Clerk to the Legislative Council

2017

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**Explanatory Note**

This Resolution increases the fixed penalty for obstruction, unlawful parking and other similar traffic contraventions from \$320 to ~~\$480~~\$400.



## Fixed Penalty (Criminal Proceedings) Ordinance

### Resolution of the Legislative Council

Resolution made and passed by the Legislative Council under section 12 of the Fixed Penalty (Criminal Proceedings) Ordinance (Cap. 240) on 2017.

**Resolved** that, with effect from 1 June 2018, the Fixed Penalty (Criminal Proceedings) Ordinance (Cap. 240) be amended as set out in the Schedule.

## Schedule

### Amendments to Fixed Penalty (Criminal Proceedings) Ordinance

#### 1. Schedule amended (offence)

(1) The Schedule, item 9—

**Repeal**

“\$320”

**Substitute**

“~~\$480~~\$400”.

(2) The Schedule, item 12—

**Repeal**

“\$450”

**Substitute**

“~~\$680~~\$560”.

(3) The Schedule, item 13—

**Repeal**

“\$450”

**Substitute**

“~~\$680~~\$560”.

(4) The Schedule, item 18—

**Repeal**

“\$320”

**Substitute**

“~~\$480~~\$400”.

(5) The Schedule, item 20—

**Repeal**

“\$320”

**Substitute**

“~~\$480~~\$400”.

(6) The Schedule, item 48—

**Repeal**

“\$320”

**Substitute**

“~~\$480~~\$400”.

Clerk to the Legislative Council

2017

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**Explanatory Note**

This Resolution amends the Schedule to the Fixed Penalty (Criminal Proceedings) Ordinance (Cap. 240)—

- (a) to increase the fixed penalty for a contravention of regulation 10(1) of the Road Traffic (Traffic Control) Regulations (Cap. 374 sub. leg. G) (**Regulations**) (unlawfully entering a box junction) from \$320 to ~~\$480~~\$400;
- (b) to increase the fixed penalty for a contravention of regulation 14(6) of the Regulations (picking up or setting down passengers in a restricted zone) from \$450 to ~~\$680~~\$560;
- (c) to increase the fixed penalty for a contravention of regulation 14(7) of the Regulations (loading or unloading goods in a restricted zone) from \$450 to ~~\$680~~\$560;
- (d) to increase the fixed penalty for a contravention of regulation 42(1)(d) of the Regulations (“U” turn causing obstruction) from \$320 to ~~\$480~~\$400;
- (e) to increase the fixed penalty for a contravention of regulation 45 of the Regulations (unauthorized stopping at a bus stop, public light bus stand, taxi stand or public light bus stopping place) from \$320 to ~~\$480~~\$400; and
- (f) to increase the fixed penalty for a contravention of regulation 45(1)(h) of the Road Traffic (Public Service Vehicles) Regulations (Cap. 374 sub. leg. D) (stopping a public bus, public light bus or taxi longer than necessary when picking up or setting down passengers) from \$320 to ~~\$480~~\$400.

(Translation)

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

**Motion passed at the meeting on 24 October 2017**

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.

Moved by : Hon Frankie YICK Chi-ming

*Remark: Members requested the Administration at the meeting to withdraw all its proposed adjustments to the fixed penalty charges in the proposed resolution under the Fixed Penalty (Traffic Contraventions) Ordinance (Cap. 237).*

## Fixed Penalty (Criminal Proceedings) Ordinance

### Resolution of the Legislative Council

Resolution made and passed by the Legislative Council under section 12 of the Fixed Penalty (Criminal Proceedings) Ordinance (Cap. 240) on 2017.

**Resolved** that, with effect from 1 June 2018, the Fixed Penalty (Criminal Proceedings) Ordinance (Cap. 240) be amended as set out in the Schedule.

## Schedule

### Amendments to Fixed Penalty (Criminal Proceedings) Ordinance

#### 1. Schedule amended (offence)

(1) The Schedule, item 9—

**Repeal**

“\$320”

**Substitute**

“~~\$480~~\$400”.

(2) The Schedule, item 12—

**Repeal**

“\$450”

**Substitute**

“~~\$680~~\$560”.

~~(3) The Schedule, item 13—~~

~~**Repeal**~~

~~“\$450”~~

~~**Substitute**~~

~~“\$680”.~~

(43) The Schedule, item 18—

**Repeal**

“\$320”

**Substitute**

“~~\$480~~\$400”.

(~~54~~) The Schedule, item 20—

**Repeal**

“\$320”

**Substitute**

“~~\$480~~\$400”.

(~~65~~) The Schedule, item 48—

**Repeal**

“\$320”

**Substitute**

“~~\$480~~\$400”.

Clerk to the Legislative Council

2017

**Explanatory Note**

This Resolution amends the Schedule to the Fixed Penalty (Criminal Proceedings) Ordinance (Cap. 240)—

- (a) to increase the fixed penalty for a contravention of regulation 10(1) of the Road Traffic (Traffic Control) Regulations (Cap. 374 sub. leg. G) (*Regulations*) (unlawfully entering a box junction) from \$320 to ~~\$480~~\$400;
- (b) to increase the fixed penalty for a contravention of regulation 14(6) of the Regulations (picking up or setting down passengers in a restricted zone) from \$450 to ~~\$680~~\$560;
- ~~(c) to increase the fixed penalty for a contravention of regulation 14(7) of the Regulations (loading or unloading goods in a restricted zone) from \$450 to \$680;~~
- (~~dc~~) to increase the fixed penalty for a contravention of regulation 42(1)(d) of the Regulations (“U” turn causing obstruction) from \$320 to ~~\$480~~\$400;
- (~~ed~~) to increase the fixed penalty for a contravention of regulation 45 of the Regulations (unauthorized stopping at a bus stop, public light bus stand, taxi stand or public light bus stopping place) from \$320 to ~~\$480~~\$400; and
- (~~fe~~) to increase the fixed penalty for a contravention of regulation 45(1)(h) of the Road Traffic (Public Service Vehicles) Regulations (Cap. 374 sub. leg. D) (stopping a public bus, public light bus or taxi longer than necessary when picking up or setting down passengers) from \$320 to ~~\$480~~\$400.