

**立法會**  
***Legislative Council***

LC Paper No. LS36/17-18

**Paper for the House Committee Meeting  
on 23 February 2018**

**Legal Service Division Report on  
Proposed Resolution under section 30 of  
the Housing Ordinance (Cap. 283)**

The Secretary for Transport and Housing has given notice to move a motion at the Legislative Council ("LegCo") meeting of 21 March 2018 to seek the approval of LegCo of the Housing (Traffic Contraventions) (Fixed Penalty) (Amendment) Bylaw 2018 ("Amendment Bylaw") made by the Housing Authority ("HA") under section 30 of the Housing Ordinance (Cap. 283) ("proposed resolution").

2. Under section 8 of the Housing (Traffic Contraventions) (Fixed Penalty) Bylaw (Cap. 283C), a registered owner or driver of a vehicle may discharge his liability in respect of traffic contraventions under section 4 of Cap. 283C by payment of a fixed penalty. A fixed penalty notice in Form 1 and a notice demanding payment of fixed penalty in Form 2 in Schedule 3 to Cap. 283C may be issued by the officers authorized by HA to the registered owner or the driver of the vehicle concerned. A person who receives a notice in Form 1 or Form 2 may pay the fixed penalty within the period of time stated in the notice by any of the means specified in section 9(1) of Cap. 283C including payment at any magistracy specified in the notice.

3. The proposed resolution seeks to amend Cap. 283C to :

- (a) repeal certain references related to the magistracies so that the fixed penalty payable under Cap. 283C may no longer be paid at the magistracies;
- (b) specify that the fixed penalty payable under Cap. 283C may be paid through the phone-banking service provided by banks;
- (c) update the URL addresses of the Treasury and Hongkong Post's websites in Form 1 and Form 2 in Schedule 3 to Cap. 283C; and

- (d) provide for transitional arrangement so that a notice in Form 1 or Form 2 issued before 1 June 2018 may continue to be paid at any magistracy specified in the notice within the period stated in the notice until 21 June 2018.

4. The above proposed amendments are similar to those in the Fixed Penalty (Criminal Proceedings) (Amendment) Regulation 2018 (L.N. 14 of 2018) and the Fixed Penalty (Traffic Contraventions) (Amendment) Regulation 2018 (L.N. 15 of 2018) gazetted on 2 February 2018. At the House Committee meeting on 9 February 2018, members considered L.N. 14 and L.N. 15 of 2018 and raised no questions on them.

5. According to paragraph 4 of the LegCo Brief issued by the Housing Department and the Transport and Housing Bureau ("THB") (File Ref: HD3-3/SS2/1-55/4/7) in January 2018, the Judiciary considers that, in light of its institutional independence, it would not be appropriate for the Magistrates' Courts to be involved in the collection of fixed penalty payments before the initiation of court proceedings as this may affect the neutrality of the Judiciary, perceived or real.

6. As advised by the Clerk to the Panel on Administration of Justice and Legal Services, the Panel has not been consulted on the proposed resolution. However, at the Panel meeting on 18 July 2017, THB and the Judiciary Administration tabled an information paper regarding "Judiciary's Proposed Removal of the Payment Collection Functions of Magistrates' Courts for Fixed Penalty in respect of Traffic Contraventions not Involving Court Proceedings" (LC Paper No. CB(4)1386/16-17 (01)). Members of the Panel noted the proposal and raised no objection to the proposal.

7. If the proposed resolution is passed, the Amendment Bylaw would come into operation on 1 June 2018.

8. No difficulties relating to the legal and drafting aspects of the Amendment Bylaw have been identified.

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21 February 2018  
LS/R/3/17-18