

香港特別行政區政府
The Government of the Hong Kong Special Administrative Region

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By email and fax
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15 May 2020

Dear Miss CHAN,

Road Traffic Legislation (Parking Spaces) (Amendment) Bill 2019

Thank you for your letter of 17 January 2020, raising a number of issues in relation to the Road Traffic Legislation (Parking Spaces) (Amendment) Bill 2019 (“the Bill”). Our responses are set out in the **Annex**.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Joanne'.

(Miss Joanne Chui)
for Secretary for Transport and Housing

Encl

C.C.

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Government's Responses to LegCo Assistant Legal Adviser's Questions on the Road Traffic Legislation (Parking Spaces) (Amendment) Bill 2019

Definitions of “parking meter” and “pay and display machine”

At present, under section 2 of the Road Traffic Ordinance (Cap. 374) (“RTO”), the definition of “parking meter” refers to “an apparatus” (with further descriptions) while the definition of “pay and display machine” refers to “any machine or other apparatus” (with further descriptions). The proposed amendments to the definitions of “parking meter” and “pay and display machine” under Clause 3 of the Bill are built on the current wording. There is no real difference between “an apparatus” and “a machine” in the actual context of a “parking meter” and a “pay and display machine”.

2. During the day-to-day operation, after making payment for the use of an on-street metered parking space, payment information and the time that a vehicle may be parked is displayed on the parking meter concerned. There are currently no pay and display machines for processing payment for the use of on-street metered parking spaces in Hong Kong. Generally speaking, the idea is that after making payment at a pay and display machine, payment details (such as the parking time purchased and the start and end of parking time) would be printed on a display ticket and a motorist is required to display the ticket on the windscreen of his/her vehicle to facilitate examination by the enforcement agents.

Meanings of “parking space” and “parking spaces in a parking place”

3. In accordance with section 2 of RTO, a “parking space” means “a space in a parking place indicated by lines or other marks for the accommodation of one vehicle” whereas a “parking place” means “a place designated by the Commissioner [for Transport] under this Ordinance as a parking place”. It is common for a parking place to comprise several or a number of parking spaces. Nevertheless, unlike a “parking meter”, a “pay and display machine” is normally not installed in respect of just one or two parking

spaces despite that there is no such machine installed. Instead, normally speaking, such a machine is installed in respect of up to several dozen parking spaces within the same parking place. With such circumstances taken into account, it is considered better to use “a parking space within a parking place” for the purpose of emphasising this nature of a pay and display machine, given that the power of the Commissioner for Transport under Clause 8(1) of the Bill relates to both parking meters and pay and display machines.

Repeal of “parking cards”

4. Subject to the passage of the Bill as it is, the proposed amendment to the heading of regulation 12D of the Road Traffic (Parking) Regulations (Cap. 374C) (“RT(P)R”) under Clause 13(1) of the Bill (i.e. replacing “parking cards” by “payment means”) was originally intended to take effect on 1 May 2020 prior to the repeal of the whole of regulation 12D(1) of RT(P)R under Clause 13(3), which is proposed to come into operation on 1 January 2022. We consider that the arrangement is consistent with our objective of removing the obsolete reference to “parking cards” without affecting the continued operation of regulation 12D(1) until “parking cards” cease to exist under RTO and RT(P)R. In this regard, it is relevant to note that the term “payment means” in the revised heading of regulation 12D is a generic term which covers any means of payment (as opposed to the defined term “approved payment means”). On the other hand, according to section 18 of the Interpretation and General Clauses Ordinance (Cap. 1), a section heading to any provision of any Ordinance shall not have any legislative effect and shall not in any way limit the interpretation of any Ordinance.

Repeal of “card operated parking meter”

5. According to regulation 2(3) of RT(P)R, “[t]he meaning of every traffic sign and road marking erected or placed under these regulations shall be in accordance with the traffic signs and road markings and the notes relating thereto specified in Schedule 1”. Although Figure No. 18 in Schedule 1 to RT(P)R indicates the words “2-hour meters (card-operated)”, there is no reference to “card operated parking meter”. Further, the notes under Figure No. 18 refer to “the parking meter erected adjacent to the parking spaces”. In

the circumstances, the traffic sign of the type shown in Figure No. 18 (the notes of which are to be amended by replacing the reference to “a parking card or an approved card” with “an approved payment means”) may be used even though the definition of “card operated parking meter” is repealed. Figure No. 18 needs to be kept in place for a certain period because of the practical difficulty to replace all existing traffic signs of the type shown in Figure No. 18 in one go.

6. In practical terms, the Transport Department (“TD”) has engaged a contractor to develop, manage, operate and maintain a new generation of on-street parking meters. According to the planned implementation timetable, the replacement of all the existing parking meters (which are “[Octopus] card operated parking meters”) by the new parking meters in batches is expected to commence in September 2020 and take around two years to complete in mid-2022. In other words, the existing parking meters and the new parking meters for use of on-street metered parking spaces (both of which fall within the definition of “parking meter” to be amended under Clause 3(1) of the Bill) will co-exist for a period of about two years.

7. Currently, over 4 800 plates with the traffic sign of the type shown in Figure No. 18 are installed with the existing parking meters in the territory. When TD’s contractor for the new parking meters replaces the existing parking meters on streets progressively by the new ones, the contractor will concurrently replace the traffic sign of the type shown in Figure No. 18 in Schedule 1 to RT(P)R by Figure No. 18A as proposed under Clause 16(4) of the Bill. It is thus estimated that the plates with the traffic sign of the type shown in Figure No. 18 installed with existing parking meters could be fully replaced by those with the traffic sign of the type shown in Figure No. 18A by 1 January 2023. Given the installation programme for the new parking meters, there is a need to keep Figure No. 18 in Schedule 1 to RT(P)R until 1 January 2023 and hence, the proposed repeal of Figure No. 18 under Clause 16(3) of the Bill is proposed to come into operation on 1 January 2023 under Clause 1(4) of the Bill.

Limitation on parking card refund arrangement

8. As stated in paragraph 18 of the Legislative Council Brief on the Bill, parking cards branded as e-Park cards have ceased to be accepted as payment

means for on-street parking meters since 2003-04. Prior to replacement of e-Park card-operated meters by Octopus card-operated parking meters in 2003-04, TD issued a press release to inform the public that e-Park cards would continue to be valid and accepted for payment on e-Park cards meters until completion of the whole replacement programme and that motorists who wanted to have refunds for their e-Park cards could approach the designated refund outlets. In other words, for over 15 years by now, TD has been maintaining services available for holders of e-Park cards to apply for refund of the residual values in their e-Park cards at designated outlets. In the past five years between 2015 and 2019, there were only 122 refund applications involving a total of \$7,554.2.

9. Having regard to the small number of refund requests in recent years and the fact that the electronic readers which determine the residual values of individual e-Park cards are approaching the end of their serviceable life, not to mention the administrative cost incurred by engaging the contractor to handle refund applications, we consider it an appropriate time to announce that the Government will cease accepting refund applications for e-Park cards with effect from 1 January 2022. Under the proposed arrangement, holders of unredeemed e-Park cards will have about 18 more months to apply for refund if they so wish. Coupled with the publicity mentioned below, and the fact that the refund option has been made available for over 15 years by now, we do not find the proposed arrangement unreasonable.

10. To remind holders of e-Park cards to seek refund in a timely manner, TD has commenced a new round of publicity activities since November 2019, including posting notices in TD's car parks, licensing offices and vehicle examination centres, as well as on TD's website and "HKeMobility" mobile application. TD has also taken the opportunity of regular transport trade conferences to remind transport trade practitioners to seek early refund in respect of any e-Park cards they may have. After passage of the Bill, TD will make further publicity efforts to arouse public awareness of the upcoming cessation of refund arrangements for e-Park cards. The Government has put and will continue to put in place practicable steps (including those publicity efforts mentioned above) to implement the proposed cessation of refund arrangements.

Typographical error

11. The typographical error in the existing heading of Part III of RT(P)R (i.e. “Dispay Machines”) is noted. We are prepared to rectify it to read “Display Machines” in the current legislative exercise.
