

## **LEGISLATIVE COUNCIL BRIEF**

### **Road Traffic (Construction and Maintenance of Vehicles) (Amendment) Regulation 2002 Road Traffic (Traffic Control) (Amendment) Regulation 2002**

#### **Use of Vehicle Headlamps and Hazard Warning Lights**

## **INTRODUCTION**

By virtue of sections 9 and 11 of the Road Traffic Ordinance (Cap. 374) and section 28(1)(c) of the Interpretation and General Clauses Ordinance (Cap. 1), the Secretary for Transport is empowered to make and amend the Road Traffic (Construction and Maintenance of Vehicles) Regulations (Cap. 374, sub. leg. A) and the Road Traffic (Traffic Control) Regulations (Cap. 374, sub. leg. G).

2. In exercise of these powers, the Secretary for Transport has made the Road Traffic (Construction and Maintenance of Vehicles) (Amendment) Regulation 2002 and the Road Traffic (Traffic Control) (Amendment) Regulation 2002 at **Annexes A and B** respectively to improve the existing legislation in respect of the use of vehicle headlamps and hazard warning lights with a view to enhancing road safety.

## **BACKGROUND AND ARGUMENT**

### **Use of Vehicle Headlamps**

3. Regulation 47(1)(a) of the Road Traffic (Traffic Control) Regulations requires drivers of motor vehicles, including motor cycles, to turn on the lamps at the front and rear of the vehicle during the hours of darkness or in poor visibility conditions. The lamps lighted at the front shall be dipped where there is a system of street lights in operation or in the face of approaching traffic.

4. However, the front lamps as defined under the Road Traffic (Construction and Maintenance of Vehicles) Regulations include both the obligatory front lamps (or commonly known as **small front lamps**) and the obligatory headlamps (or commonly known as **main headlamps**).

5. It is a common practice among some drivers, in particular those of commercial vehicles, to only turn on the small front lamps at night. This is highly undesirable from the road safety point of view. There have been complaints from the public and motoring associations about vehicles not turning on their main headlamps during night time, making them difficult to be seen.

6. An analysis of the involvement of vehicles in night-time injury accidents indicates that although the number of accidents involving vehicles with only small front lamps turned on was relatively small when compared with the overall number of accidents involving vehicles in the past five years, there was a significant increase in the number of accidents involving such vehicles (48 in 1997 as against 142 in 2001).

7. In addition, many major developed countries, such as Australia, USA and Singapore etc. have legislation requiring main headlamps to be switched on during the hours of darkness or when the visibility is poor. To enhance road safety and to bring our legislation in line with common practices overseas, it is proposed that the relevant provisions should be amended to clearly stipulate that drivers are required to turn on the main headlamps during the hours of darkness or in poor visibility conditions in order to allow drivers to have a better view at night-time, and to make their vehicles more conspicuous to other road users, including pedestrians.

8. For motor cycles, the Legislative Council Panel on Transport and the Administration both consider that they warrant special consideration as they are smaller in size and less conspicuous in the traffic stream. Even during day time, they are not easily seen by other road users, including pedestrians, if their headlamps are not turned on. In order to enhance road safety, it is further proposed that motorcyclists should turn on the main headlamps of their motor cycles at all times while driving.

### **Use of vehicle hazard warning lights**

9. In accordance with regulation 47(3) of the Road Traffic (Traffic Control) Regulations, no person shall show a hazard warning light on a vehicle on a road unless such vehicle is stationary and likely to be a hazard to other persons using the road.

10. It is a common practice nowadays for many drivers to switch on the hazard warning lights when their vehicles are likely to be a hazard to other road users, e.g. when parking or making sudden deceleration because of congestion ahead, even though their vehicles may not be stationary. While the use of hazard warning lights under such circumstances should be encouraged as a safety practice, this practice contravenes regulation 47(3) and is liable to prosecution by the Police.

11. The Road Safety Council and its Research Committee discussed the issue and considered that the proper use of such lights could warn following drivers to take earlier action to slow down where prevailing traffic conditions dictate. They agreed that their use should not only be limited to situations where the vehicle is stationary.

12. To improve the existing legislation, it is proposed that the “stationary” requirement in the existing legislation should be deleted. In addition, both the Legislative Council Panel on Transport and the Administration consider that there is a need to spell out clearly in the legislation the conditions under which hazard warning lights must be switched on as there could be situations where failure to turn on the warning lights would impose danger on other road users. Having regard to the road design and traffic flow in Hong Kong, it is proposed that drivers must turn on their hazard warning lights under the following two conditions –

- (a) if his/her vehicle breaks down or stops for emergency reasons on an expressway; or
- (b) if his/her vehicle breaks down or stops for emergency reasons on a road with a speed limit exceeding 50 km/h.

## **THE AMENDMENT REGULATIONS**

13. The Road Traffic (Construction and Maintenance of Vehicles) (Amendment) Regulation 2002 amends regulation 89(1) of the Road Traffic (Construction and Maintenance of Vehicles) Regulations to provide that every motor vehicle shall carry two obligatory front lamps whether or not it is in motion on any road.

14. The Road Traffic (Traffic Control) (Amendment) Regulation 2002 –

- (a) amends regulation 47(1) of the Road Traffic (Traffic Control) Regulations to require the driver of a motor vehicle, other than a motor cycle or a motor tricycle, to keep all obligatory front lamps, obligatory headlamps and obligatory rear lamps lighted while driving during the hours of darkness or in poor visibility conditions;
- (b) adds a sub-regulation (proposed regulation 47(1A)) to require the driver of a motor cycle or a motor tricycle to keep all obligatory front lamps, obligatory headlamps and obligatory rear lamps lighted at all times while driving;
- (c) amends regulation 47(3) to allow the use of hazard warning lights when a motor vehicle is likely to be a hazard to other road users whether it is stationary or in motion; and
- (d) adds a sub-regulation (proposed regulation 47(3A)) to provide that where a motor vehicle is stationary on the carriageway of an expressway or a road with a speed limit exceeding 50 km/h because of breakdown of the vehicle or an emergency involving the vehicle, the driver shall show a hazard warning light.

## **PUBLIC CONSULTATION**

15. We have consulted the Legislative Council Panel on Transport, the Transport Advisory Committee, the Road Safety Council and the transport trade, including franchised bus companies, taxi trade associations, and the trucking industry. All are supportive of the proposals.

## **BASIC LAW IMPLICATIONS**

16. The Department of Justice advises that the Amendment Regulations do not conflict with those provisions of the Basic Law carrying no human rights implications.

## **HUMAN RIGHTS IMPLICATIONS**

17. The Department of Justice advises that the Amendment Regulations are consistent with the human rights provisions of the Basic Law.

## **BINDING EFFECT OF THE LEGISLATION**

18. The proposed amendments will not affect the current binding effect of the Road Traffic Ordinance.

## **FINANCIAL AND STAFFING IMPLICATIONS**

19. The proposed amendments will not give rise to additional financial or staffing implications for the Government.

## **ECONOMIC IMPLICATIONS**

20. There will be no economic implications.

## **ENVIRONMENTAL IMPLICATIONS**

21. There will be no environmental implications.

## **LEGISLATIVE TIMETABLE**

22. We will publish the Amendment Regulations in the Gazette on 28 March 2002 and table them in the Legislative Council for negative vetting on 10 April 2002. Subject to negative vetting by the Legislative Council, the amendments will take effect on 1 July 2002.

## **PUBLICITY**

23. A press release will be issued on 28 March 2002 on gazettal of the Amendment Regulations. Another press release will be issued and a series of publicity activities including television and radio Announcements of Public Interest will be launched to inform the general public, road users and the transport trade of the new requirements after the Amendment Regulations have gone through negative vetting by the Legislative Council. A spokesman will be available for answering media enquiries.

## **ENQUIRIES**

24. For any enquiries, please contact Miss Karyn Chan, Assistant Secretary for Transport, at 2189 2102.

Transport Bureau  
Government Secretariat  
27 March 2002

**ROAD TRAFFIC (CONSTRUCTION AND MAINTENANCE  
OF VEHICLES)(AMENDMENT) REGULATION 2002**

(Made under section 9 of the Road Traffic  
Ordinance (Cap. 374))

**1. Commencement**

This Regulation shall come into operation on 1 July 2002.

**2. Obligatory front lamps**

Regulation 89(1) of the Road Traffic (Construction and Maintenance of Vehicles) Regulations (Cap. 374 sub. leg.) is amended by repealing "in motion on any road during the hours of darkness or poor visibility conditions shall carry 2 lamps capable" and substituting "shall carry 2 lamps capable, during the hours of darkness or in poor visibility conditions,".

Secretary for Transport

2002

**Explanatory Note**

This Regulation amends regulation 89(1) of the Road Traffic (Construction and Maintenance of Vehicles) Regulations (Cap. 374 sub. leg.) to provide that every motor vehicle shall carry 2 obligatory front lamps whether or not it is in motion on any road.

## ROAD TRAFFIC (TRAFFIC CONTROL)(AMENDMENT) REGULATION 2002

(Made under section 11 of the Road Traffic Ordinance (Cap. 374))

### 1. Commencement

This Regulation shall come into operation on 1 July 2002.

### 2. Lighting on motor vehicles

Regulation 47 of the Road Traffic (Traffic Control) Regulations (Cap. 374 sub. leg.) is amended -

(a) in subregulation (1), by adding "not being a motor cycle or motor tricycle" before "on";

(b) in subregulation (1)(a), by repealing everything before "shall" and substituting -

"(a) unless he keeps all obligatory front lamps, obligatory headlamps and obligatory rear lamps of the vehicle of the type required to be carried by the vehicle under the Road Traffic (Construction and Maintenance of Vehicles) Regulations (Cap. 374 sub. leg.) lighted but the lighted obligatory headlamps";

(c) in the Chinese text, by repealing subregulation (1)(b) and substituting -

"(b) 在道路上駕駛車尾展示一盞亮着而非紅色或琥珀色的燈的不屬電單車或機動三輪車的汽車(正在倒車則除外); 或";

(d) in subregulation (1)(c), by repealing everything



before "汽車" and substituting -

"(c) 在道路上駕駛正拖曳一輛或多於一輛拖車的不屬電單車或機動三輪車的";

(e) by adding -

"(1A) No person shall drive a motor vehicle being a motor cycle or motor tricycle on a road -

(a) unless -

- (i) he keeps all obligatory front lamps, obligatory headlamps and obligatory rear lamps of the vehicle of the type required to be carried by the vehicle under the Road Traffic (Construction and Maintenance of Vehicles) Regulations (Cap. 374 sub. leg.) lighted; and
- (ii) the lighted obligatory headlamps are dipped except

during the hours of  
darkness or in poor  
visibility  
conditions where  
no system of street  
lights is in  
operation and the  
motor vehicle is  
not being driven in  
the face of  
approaching  
traffic; or

(b) during the hours of darkness  
or in poor visibility  
conditions showing a lighted  
lamp to the rear other than a  
red or amber lamp except while  
engaged in reversing.";

(f) in subregulation (3), by repealing "stationary  
and";

(g) by adding -

"(3A) Subject to subregulation (3B),  
notwithstanding subregulation (3), where a  
motor vehicle is stationary on the carriageway  
of an expressway as defined in section 122 of  
this Ordinance or a road with a speed limit  
exceeding 50 km/h because of the breakdown of  
the vehicle or an emergency involving the  
vehicle, the driver of the motor vehicle shall

show a hazard warning light of the type prescribed in the Road Traffic (Construction and Maintenance of Vehicles) Regulations (Cap. 374 sub. leg.).

(3B) Subregulation (3A) does not apply where the hazard warning light has been rendered inoperative by the breakdown of the vehicle."

### **3. Offences and penalties**

Section 61(1) is amended by repealing "47" and substituting "47(1), (1A), (2), (3) or (3A)".

Secretary for Transport

2002

#### **Explanatory Note**

This Regulation amends the Road Traffic (Traffic Control) Regulations (Cap. 374 sub. leg.) to -

- (a) require the driver of a motor vehicle, other than a motor cycle or motor tricycle, during the hours of darkness or in poor visibility conditions to keep all obligatory front lamps, obligatory headlamps and obligatory rear lamps lighted while driving;
- (b) require the driver of a motor cycle or motor tricycle to keep all obligatory front lamps,

obligatory headlamps and obligatory rear lamps lighted while driving;

- (c) remove the requirement that a driver of a vehicle may show a hazard warning light when the vehicle is stationary; and
- (d) provide that where a motor vehicle is stationary on the carriageway of an expressway or a road with a speed limit exceeding 50 km/h because of the breakdown of the vehicle or an emergency involving the vehicle, the driver of the motor vehicle shall show a hazard warning light.