

ETWB(T)1/12/41, 1/12/44, 1/12/137  
LS/S/26/04-05  
2869 9216  
2877 5029

Secretary for the Environment, Transport and Works  
(Attention: Ms Elizabeth Tai, Principal Assistant Secretary)  
Environment, Transport and Works Bureau  
16/F Murray Building  
Garden Road Central  
Hong Kong

10 May 2005

**BY FAX**

Fax No. : 2104 7274

Total nos. of pages : (2)

Dear Ms Tai,

**Road Traffic (Safety Equipment) (Amendment) Regulation 2005  
(L.N. 65 of 2005)**

**Road Traffic (Traffic Control) (Amendment) Regulation 2005  
(L.N. 66 of 2005)**

I am scrutinising the above subsidiary legislation with a view to advising Members and should be grateful if you would clarify the following:

L.N. 65 of 2005

It is noted from the LegCo Brief that a notice to be published by the Commissioner for Transport under the proposed paragraph 2 of Schedule 1 to the Road Traffic (Safety Equipment) Regulations (Cap. 374 sub. leg. F) (“the Safety Equipment Regulations”) is intended to be a general notice instead of a legal notice subject to the scrutiny of the Legislative Council. To avoid any doubt on the nature of the notice, will the Administration consider providing expressly in L.N. 65 that the notice concerned is not subsidiary legislation? Please refer to a similar provision (regulation 31(2A)) in the Road Traffic (Construction and Maintenance of Vehicles) Regulations (Cap. 374 sub. leg. A).

L.N. 66 of 2005

- (a) Is it intended that the application of the new regulation 53A of the Road Traffic (Traffic Control) Regulations (Cap. 374 sub. leg. G) (“the Traffic Control Regulations”), added by regulation 3 of L.N. 66 of 2005, should be confined to parades conducted for entertainment or amusement purposes only? If so, should “parade” be defined in L.N. 66 to reflect this intention? It seems that the

ordinary meaning of “parade” is wide enough to include any procession of people or things and it is therefore possible that a float may be decorated for the purpose of a parade held otherwise than for entertainment purposes. To avoid this construction, please consider whether it is necessary to define the term.

- (b) Is an exemption under the new regulation 53A to be granted on an one-off basis or does it have a period of validity? Is it necessary to provide for this in the regulation?
- (c) If the Commissioner for Transport refuses an application for exemption, can an aggrieved person appeal against the Commissioner’s decision?
- (d) Is there any reason why no penalty is provided for contravention of any of the conditions imposed under the new regulation 53A(6)? As you are aware, under regulation 3 of the Road Traffic (Registration and Licensing of Vehicles) (Amendment) (No. 2) Regulation 2005 (L.N. 67 of 2005), contravention of a condition of a movement permit is an offence. Is there any reason for adopting a different approach in relation to contravention of the conditions of an exemption in L.N. 66 of 2005?
- (e) If a float happens to fall within the types of vehicles to which Part III of the Safety Equipment Regulations applies, the provisions relating to seat belts in the said Regulations would become applicable. In the circumstances, apart from applying for an exemption under the new regulation 53A(1), is it necessary for the person concerned to apply for an exemption from the seat belt requirements provided in the Safety Equipment Regulations? If so, should a provision similar to the new regulation 53A of the Traffic Control Regulations be provided in the Safety Equipment Regulations?

As the House Committee will consider the above subsidiary legislation at its meeting on 13 May 2005, I would appreciate it if you could let us have the Administration’s reply in both languages as soon as possible.

Yours sincerely,

(Connie Fung)  
Assistant Legal Adviser

c.c.: DoJ (Attn: Miss Selina LAU, GC)  
LA