

**LEGISLATIVE COUNCIL BRIEF**

Road Traffic Ordinance  
(Chapter 374)

**Road Traffic (Driving Licences) (Amendment) Regulation 2021**

**INTRODUCTION**

The Secretary for Transport and Housing has, under section 8(1) of the Road Traffic Ordinance (Cap. 374) (“the Ordinance”), made the Road Traffic (Driving Licences) (Amendment) Regulation 2021 (“the Amendment Regulation”) (at **Annex**). The main purposes are to –

- (a) improve the issuing mechanism for new private driving instructors’ licences (“PDI licences”); and
- (b) enhance the quality of private driving instructors (“PDIs”) and restricted driving instructors (“RDIs”) of driving schools.

**JUSTIFICATIONS**

*Improve the issuing mechanism for new PDI licences*

2. Currently, PDI licences have been issued for three groups of motor vehicles, namely group 1 (private cars and light goods vehicles), group 2 (light buses and buses) and group 3 (medium goods vehicles, heavy goods vehicles and articulated vehicles). Under the existing issuing mechanism, any new PDI licences are for open application and there is no quota reserved for any particular class of persons. In order to utilise the driving competence and training experience of those with PDI licences for group 2 and group 3 motor vehicles as well as of RDIs while encouraging new blood to join the trade, we propose the amendments as set out in the Amendment Regulation. With the refinements to the existing issuing mechanism and the new powers conferred to the Commissioner for Transport (“the Commissioner”) by virtue of the Amendment Regulation, it is our policy intent to –

- (a) allocate a specified quota of new PDI licences for group 1 motor vehicles to eligible members of the public by open application so as to attract new blood to join the PDI industry;
- (b) allocate the remaining specified quota of new PDI licences for group 1 motor vehicles for application by holders of valid PDI licences for group 2 and group 3 motor vehicles, as well as serving and ex-RDIs<sup>1</sup> (of driving schools and franchised bus companies (“FBCs”)) in recognition of their driving competence and training experience; and
- (c) adopt the new issuing mechanism for the issue of new PDI licences for group 2 or group 3 motor vehicles in the future, i.e. a specified quota of new PDI licences for group 2 or group 3 motor vehicles will be allocated to eligible holders of PDI licences for group 1 motor vehicles, as well as serving and ex-RDIs of driving schools and FBCs.

### ***Enhance the quality of PDIs and RDIs of driving schools***

3. We see it vital to enhance the quality of PDIs and RDIs of driving schools<sup>2</sup>, including their driving attitude, for setting a good example for learner drivers. To this end, we propose raising the minimum period of holding a full driving licence for group 1 motor vehicles from three years to six years immediately before the date of application for a licence of PDI or RDI of driving schools; and requiring that, in addition to the existing requirements for no conviction records on certain traffic offences, the applicants must not have been convicted of dangerous driving and careless driving offence under section 37 and section 38 of the Ordinance during the five and two years respectively immediately before the application date.

4. We also propose that all new licence holders of PDI and RDI of driving schools must attend a mandatory induction course before they are issued with the licence. The purpose of the induction course is to instill proper knowledge, skills and attitude into these prospective driving instructors, covering the role and conduct of a driving instructor, the driving test system, areas where candidates are prone to make mistakes, etc. In respect of the existing licence holders of PDI and RDI of driving schools, we propose that they should attend a mandatory refresher course once every

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<sup>1</sup> Ex-RDI refers to a person who once held a RDI licence in respect of group 1, 2 or 3 motor vehicles within three years immediately preceding the application date for the new licence.

<sup>2</sup> RDIs of driving schools are similar to PDIs in that they also provide driver training to members of the public. As such, it is proposed that they will also be subject to the new stricter requirements.

three years as a prerequisite for renewal of their licences so as to keep them abreast of the latest development of the profession. Meanwhile, in order to deter illegal driving training services, we propose that a PDI shall also be required to display an identity plate inside the vehicles which should be clearly visible to the public.

## THE AMENDMENT REGULATION

5. The Amendment Regulation seeks to –
- (a) amend **regulation 2** to provide for certain new definitions;
  - (b) amend **regulation 21A** to provide for a mechanism so that when new PDI licences for group 1, 2 or 3 motor vehicles are issued, the Commissioner may determine a quota of the new licences to be allocated to the existing PDIs in the other two groups, as well as serving and ex-RDIs of driving schools and FBCs;
  - (c) amend **regulation 22** to require a person applying for a PDI licence or RDI licence of driving schools, among other conditions –
    - (i) not to have been convicted of a dangerous driving offence during the five years, or a careless driving offence during the two years, immediately before the date of the application;
    - (ii) to have completed a driving instructor’s induction course; and
    - (iii) to have held a full driving licence to drive group 1 motor vehicles for at least six years (increased from the existing three years) immediately before the date of the application,before the person may be issued the licence;
  - (d) amend **regulations 23 and 23A** to require the completion of a driving instructor’s refresher course within three years immediately before the date of application for renewal, among other conditions, before a PDI licence or RDI licence of driving schools may be renewed;
  - (e) add **regulations 24A, 24B and 29A** to provide for the driving instructor’s induction and refresher courses, and the authorisation of trainers to provide the courses;

- (f) amend *regulations 27 and 28* to add *regulation 27A* to provide for the issue, display and other requirements regarding PDI identity plates, as well as amend *regulation 46* to make it an offence (liable to fine of \$2,000) for contravening the requirements regarding PDI identity plates;
- (g) amend *regulation 30* to make a technical update (by replacing “handbrake” with “braking system”) on the requirement of motor vehicle driven by a learner driver; and
- (h) amend *regulation 48* to provide for the transitional arrangements, so that the new requirements for applications of PDI licences or RDI licences of driving schools (paragraph (c) above) will take effect from 1 December 2021; and the new requirement for renewal of PDI licences or RDI licences of driving schools (paragraph (d) above) will take effect from 1 December 2023, so that after this date, all PDIs and RDIs of driving schools holding valid driving instructor’s licences should have completed the refresher course within the past three years before their licences are renewed.

## LEGISLATIVE TIMETABLE

6. The legislative timetable will be as follows –

Gazetting	13 August 2021
Tabling at the Legislative Council (“LegCo”) for negative vetting	18 August 2021
Commencement date	1 December 2021

## IMPLICATIONS OF PROPOSALS

7. Additional staffing and financial implications, if any, arising from the implementation of the proposals will be absorbed within the existing manpower and financial resources of the Transport Department (“TD”). As to economic implications, the proposal of setting aside some new PDI licences of a specific category for existing PDIs of other vehicle categories would help leverage on the experience of existing PDIs, though the overall teaching capacity and the chances of eligible members of the public in obtaining a PDI licence will be lowered. The proposals have no sustainability implications, other than the said economic implications. They do not have any family, gender, productivity and environmental

implications. The Amendment Regulation is in conformity with the Basic Law, including the provisions concerning human rights, and will not affect the current binding effect of the Ordinance and its Regulations.

## **PUBLIC CONSULTATION**

8. Trade consultation was conducted by TD, and the driving instructor trade in general has two main divergent views. The trade associations mainly representing PDIs for group 2 and group 3 motor vehicles as well as RDIs expressed general support for the proposals. On the other hand, the majority of associations of PDIs for group 1 motor vehicles opposed the proposed new PDI license issuing mechanism, as well as the proposed mandatory induction and refresher courses for PDIs<sup>3</sup>. One association of PDIs for group 1 motor vehicles expressed support for enhancing the quality of PDIs. Four driving schools and five FBCs were consulted and have no comment on the proposed new PDI licence issuing mechanism in general. The LegCo Panel on Transport was also consulted in April 2020.

## **PUBLICITY**

9. A spokesperson will be available to answer media enquiries.

## **BACKGROUND**

10. The Government adopts a “two-pronged approach” in respect of driver training in Hong Kong by promoting off-street driver training through the establishment of driving schools while maintaining a proper supply of PDIs for on-street driver training, with a view to providing a choice for learner drivers.

11. In response to Members’ suggestions raised at the meeting of the LegCo Panel on Transport in February 2018, TD conducted a comprehensive review on PDI licences and made the following recommendations –

- (a) maintaining the “two-pronged approach” of driver training policy;

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<sup>3</sup> They expressed that the proposed new PDI licence issuing mechanism had damaged the consensus reached among the PDI trade in 1999, and would deprive the public of a fair opportunity to join the PDI industry. They also objected to the proposed refresher courses as they anticipated that the PDI licence holders would not benefit much from the courses.

- (b) raising the benchmark<sup>4</sup> for PDI licences for group 1 motor vehicles from 1 050 to 1 170, while maintaining the benchmarks for group 2 and group 3 motor vehicles at 130 and 230 respectively given the adequate supply of both groups of PDIs to meet the market demand;
- (c) improving the issuing mechanism for new PDI licences as per paragraph 2 above; and
- (d) enhancing the quality of PDIs as per paragraphs 3-4 above.

12. To take forward the above recommendations, TD has adopted a two-stage approach by first inviting applications for new PDI licences for group 1 motor vehicles from members of the public in accordance with the prevailing practice as allowed under the existing legislation, followed by the invitation of applications from holders of valid PDI licences for group 2 and group 3 motor vehicles as well as serving and ex-RDIs of driving schools and FBCs which will be subject to the enactment of the Amendment Regulation. TD is now processing the applications from members of the public for the new PDI licences for group 1 motor vehicles received from November to December 2020.

## **ENQUIRIES**

13. Any enquiry on this brief can be directed to Mr Percy LEUNG, Principal Assistant Secretary for Transport and Housing (Transport) at 3509 8196 or Miss Tiana WONG, Assistant Secretary for Transport and Housing (Transport) at 3509 8203.

**Transport and Housing Bureau**  
**Transport Department**  
**August 2021**

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<sup>4</sup> The Commissioner may consider issuing new PDI licences for a particular group when the number of respective valid licences falls below the benchmark by 10%.

**Road Traffic (Driving Licences) (Amendment)  
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## Road Traffic (Driving Licences) (Amendment) Regulation 2021

(Made by the Secretary for Transport and Housing under section 8(1) of the  
Road Traffic Ordinance (Cap. 374))

### 1. Commencement

This Regulation comes into operation on 1 December 2021.

### 2. Road Traffic (Driving Licences) Regulations amended

The Road Traffic (Driving Licences) Regulations (Cap. 374 sub. leg. B) are amended as set out in sections 3 to 15.

### 3. Regulation 2 amended (interpretation)

Regulation 2—

#### Add in alphabetical order

*“authorized trainer* (經授權導師) means a person authorized under regulation 29A to be a trainer;

*designated group* (指定組別) means group 1, group 2 or group 3 within the meaning of regulation 20A;

*private driving instructor identity plate* (私人駕駛教師證) means a private driving instructor identity plate issued under regulation 27A(1);”.

### 4. Regulation 21A amended (application for private driving instructors’ licences)

(1) Regulation 21A(1)—

#### Repeal

“any group of motor vehicles, he”

#### Substitute

“a group of motor vehicles (*target group*), the Commissioner”.

(2) Regulation 21A(1)(a)—

#### Repeal

“that group; and”

#### Substitute

“the target group;”.

(3) After regulation 21A(1)(a)—

#### Add

“(ab) determine for the target group the quota of licences to be issued to any or all of the classes of persons specified in paragraph (1A); and”.

(4) Regulation 21A(1)(b)—

#### Repeal

“a notice published once”

#### Substitute

“notice published”.

(5) Regulation 21A(1)(b)—

#### Repeal

“the issue of licences of that group”

#### Substitute

“licences of the target group”.

(6) After regulation 21A(1)—

#### Add

“(1A) For the purposes of paragraph (1)(ab), the classes of persons are—

(a) a person who holds a valid private driving instructor’s licence in respect of a designated group;



- (b) a person who holds a valid restricted driving instructor's licence in respect of a designated group for giving driving instruction on behalf of a driving school;
  - (c) a person who holds a valid restricted driving instructor's licence for giving driving instruction on behalf of a franchised bus company;
  - (d) a person who previously held a restricted driving instructor's licence, within 3 years immediately before the date of the relevant application made under paragraph (4), in respect of a designated group for giving driving instruction on behalf of a driving school; and
  - (e) a person who previously held a restricted driving instructor's licence, within 3 years immediately before the date of the relevant application made under paragraph (4), for giving driving instruction on behalf of a franchised bus company.”.
- (7) Regulation 21A(2)—
- Repeal**
- “he is satisfied that the issue of private driving instructors' licences in respect of any particular group of motor vehicles”
- Substitute**
- “the Commissioner is satisfied that the issue of private driving instructors' licences in respect of the target group”.
- (8) Regulation 21A(2)(c)—
- Repeal**
- “that group of motor vehicles”
- Substitute**
- “the target group”.

- (9) Regulation 21A(3)(a)—
- Repeal**
- “any group of motor vehicles in respect of that invitation; and”
- Substitute**
- “the target group in respect of that invitation;”.
- (10) After regulation 21A(3)(a)—
- Add**
- “(ab) any quota for specified persons for the target group in respect of that invitation; and”.
- (11) Regulation 21A—
- Repeal paragraph (5)**
- Substitute**
- “(5) A specified person may only deliver 1 application, either as a member of the public or under any quota for specified persons, in response to an invitation.
- (6) The Commissioner may refuse to issue a private driving instructor's licence to a specified person who delivers more than one application in response to an invitation.
- (7) If—
- (a) the total number of applications received in response to an invitation exceeds the number of licences proposed to be issued in respect of the invitation; or
  - (b) the number of applications under any quota for specified persons received in response to an invitation exceeds the quota in respect of the invitation,
- the Commissioner may determine by lot the order in which the applications are to be dealt with.
- (8) In this regulation—

**invitation** (邀請) means an invitation by notice published under paragraph (1)(b);

**quota for specified persons** (指明人士配額) means a quota determined under paragraph (1)(ab);

**restricted driving instructor's licence** (受限制駕駛教師執照) means the driving instructor's licence of a restricted driving instructor;

**specified person** (指明人士) means a person of a class specified in paragraph (1A).”.

**5. Regulation 22 amended (issue of driving instructors' licences)**

(1) Regulation 22(1)—

**Repeal**

“paragraph (2)”

**Substitute**

“paragraphs (2), (2A), (2B), (2C) and (2D)”.

(2) Regulation 22—

**Repeal paragraph (1A)**

**Substitute**

“(1A) Without limiting paragraph (1), the Commissioner may impose a condition that the applicant may only give driving instruction on behalf of the driving school, or the organization, specified in the driving instructor's licence.”.

(3) Regulation 22—

**Repeal paragraph (2)**

**Substitute**

“(2) A person must not be issued a driving instructor's licence in respect of the group for which the person's application for the licence is made—

(a) unless the person is the holder of a full driving licence to drive all classes of motor vehicles in the group, and has held the licence for at least 3 years immediately before the date of the application; and

(b) unless the person has passed the driving instructor's test in relation to the driving instructor's licence for which the application is made, or has been exempted by the Commissioner from attending all parts of the driving instructor's test.”.

(4) After regulation 22(2)—

**Add**

“(2A) Also, a person must not be issued a driving instructor's licence if the person has been convicted of an offence under section 36, 36A, 39, 39A, 39B, 39C, 39J, 39K, 39L, 39O(1) or 39S of the Ordinance during the 5 years immediately before the date of the application.

(2B) In addition to paragraphs (2) and (2A), paragraphs (2C) and (2D) apply if the driving instructor's licence is not subject to the condition as may be imposed by the Commissioner under paragraph (1A) that the person may only give driving instruction on behalf of the organization specified in the licence.

(2C) A person must not be issued a driving instructor's licence described in paragraph (2B)—

(a) if the application is for a driving instructor's licence in respect of a designated group—unless the person is the holder of a full driving licence to drive all classes of motor vehicles in group 1 within the

meaning of regulation 20A, and has held the licence for at least 6 years immediately before the date of the application; and

- (b) unless the person has completed the driving instructor's induction course mentioned in regulation 24A, within the period specified under regulation 24A(2), for the group for which the person's application for the licence is made.
- (2D) Also, a person must not be issued a driving instructor's licence described in paragraph (2B) if the person has been convicted of an offence—
- (a) under section 37 of the Ordinance during the 5 years immediately before the date of the application; or
- (b) under section 38 of the Ordinance during the 2 years immediately before the date of the application.”
- (5) After regulation 22(4)—

**Add**

“(5) Without limiting paragraph (4), the Commissioner may impose a condition that the person may only give driving instruction on behalf of the driving school, or the organization, specified in the driving instructor's licence.”.

**6. Regulation 23 amended (renewal of driving instructors' licences)**

- (1) Regulation 23(1)—

**Repeal**

“paragraph (3)”

**Substitute**

“paragraphs (3), (3A), (3B) and (3C)”.

- (2) Regulation 23—

**Repeal paragraph (3)**

**Substitute**

“(3) For an application to renew a driving instructor's licence in respect of a group, the Commissioner must not renew the licence unless the applicant is the holder of a full driving licence to drive all classes of motor vehicles in the group.”.

- (3) After regulation 23(3)—

**Add**

“(3A) Also, the Commissioner must not renew a driving instructor's licence if the applicant has been convicted of an offence under section 36, 36A, 39, 39A, 39B, 39C, 39J, 39K, 39L, 39O(1) or 39S of the Ordinance since the driving instructor's licence was issued to the applicant.

(3B) In addition to paragraphs (3) and (3A), paragraph (3C) applies if the driving instructor's licence is not subject to the condition as may be imposed by the Commissioner under regulation 22(1A) that the person may only give driving instruction on behalf of the organization specified in the licence.

(3C) If the application to renew a driving instructor's licence described in paragraph (3B) is made after a period of 3 years beginning on the date of the first issue of the licence, the Commissioner must not renew the licence unless the applicant has completed, within 3 years immediately before the date of the application, the driving instructor's refresher course mentioned in regulation 24B.”.

**7. Regulation 23A amended (renewal of certain driving instructors' licences issued under regulation 22(4))**

- (1) Regulation 23A(2)—

**Repeal**

“paragraph (4)”

**Substitute**

“paragraphs (4), (4A) and (4B)”.

(2) After regulation 23A(4)—

**Add**

“(4A) In addition to paragraph (4), paragraph (4B) applies if the driving instructor’s licence is not subject to the condition as may be imposed by the Commissioner under regulation 22(5) that the person may only give driving instruction on behalf of the organization specified in the licence.

(4B) A driving instructor’s licence described in paragraph (4A) must not be renewed unless the applicant has completed, within 3 years immediately before the date of the application, the driving instructor’s refresher course mentioned in regulation 24B.”.

**8. Regulations 24A and 24B added**

After regulation 24—

**Add****“24A. Driving instructors’ induction courses**

- (1) A driving instructor’s induction course may only be provided by an authorized trainer.
- (2) The Commissioner must specify a period that commences immediately after a person’s passing of a driving instructor’s test within which a driving instructor’s induction course must be completed by the person.
- (3) To avoid doubt, the fact that a person has completed a driving instructor’s induction course for a group of motor

vehicles does not exempt the person from the requirement under regulation 22(2C)(b) to complete a driving instructor’s induction course for another group of motor vehicles.

- (4) For the purposes of regulation 22(2C)(b), the date on which a person completes a driving instructor’s induction course is the date of completion of the course as specified in the course certificate issued to the person.

**24B. Driving instructors’ refresher courses**

- (1) A driving instructor’s refresher course may only be provided by an authorized trainer.
- (2) For the purposes of regulations 23(3C) and 23A(4B), the date on which a person completes a driving instructor’s refresher course is the date of completion of the course as specified in the course certificate issued to the person.”.

**9. Regulation 27 amended (conduct of driving instructions, etc.)**

(1) Regulation 27(1)(a)—

**Repeal**

“and”.

(2) After regulation 27(1)(a)—

**Add**

“(ab) if the person giving the driving instruction is a private driving instructor—a private driving instructor identity plate that complies with regulation 27A(4) and (5) is displayed (as required under regulation 27A(3)) in the motor vehicle in which the driving instruction is given; and”.

**10. Regulation 27A added**

After regulation 27—

**Add****“27A. Private driving instructor identity plate**

- (1) If the Commissioner issues or renews a private driving instructor’s licence, the Commissioner must also issue to the licence holder a private driving instructor identity plate after the licence holder has delivered to the Commissioner the information or materials in the form as the Commissioner may require for the purpose of issuing the identity plate.
- (2) A private driving instructor identity plate is valid as long as the private driving instructor’s licence for which the identity plate is issued is valid.
- (3) A private driving instructor identity plate must be displayed in a motor vehicle in which driving instruction is given—
  - (a) in such way that it is clearly visible to the person to whom the driving instruction is given and to any other persons in the motor vehicle;
  - (b) in the position as specified by the Commissioner by notice published in the Gazette; and
  - (c) in a plate holder—
    - (i) that is of the size, design and construction as specified by the Commissioner by notice published in the Gazette; and
    - (ii) that shows the registration mark of the motor vehicle.
- (4) A private driving instructor identity plate must be of the size, design and construction, and be in the form, as

specified by the Commissioner by notice published in the Gazette.

- (5) A private driving instructor identity plate must show—
  - (a) the captions “PRIVATE DRIVING INSTRUCTOR IDENTITY PLATE” and “私人駕駛教師證”;
  - (b) the full name of the private driving instructor as shown in the instructor’s identity card in English and, if appropriate, in Chinese;
  - (c) a photograph of the instructor that is recent as at the issue date of the identity plate;
  - (d) the group of motor vehicles in respect of which the instructor is entitled to give driving instruction; and
  - (e) the issue date and expiry date of the identity plate.
- (6) A notice under paragraph (3) or (4) is not subsidiary legislation.”.

**11. Regulation 28 amended (cancellation of driving instructors’ licences)**

- (1) Regulation 28(2)—

**Repeal**

everything after “surrender”

**Substitute**

“to the Commissioner the person’s driving instructor’s licence and (if the person holds a private driving instructor’s licence) the person’s private driving instructor identity plate.”.

- (2) Regulation 28(3)—

**Repeal**

“that has been”

**Substitute**

“and any private driving instructor identity plate that have been”.

**12. Regulation 29A added**

After regulation 29—

**Add**

**“29A. Authorized trainers**

The Commissioner may, in writing, authorize a person to be a trainer for the purposes of regulations 24A and 24B.”.

**13. Regulation 30 amended (driving under instruction)**

Regulation 30(3)(a)—

**Repeal**

“handbrake”

**Substitute**

“braking system”.

**14. Regulation 46 amended (offences)**

(1) Regulation 46(1), after “20(3),”—

**Add**

“27(1)(ab),”.

(2) Regulation 46(2), after “27”—

**Add**

“(other than paragraph (1)(ab))”.

**15. Regulation 48 amended (transitional provisions)**

At the end of regulation 48—

**Add**

- “(3) Regulation 22 as amended by the 2021 Amendment Regulation applies only in relation to an application made on or after 1 December 2021 for the issue of a driving instructor’s licence under that regulation.
- (4) Regulation 23 as amended by the 2021 Amendment Regulation applies only in relation to an application made on or after 1 December 2023 for the renewal of a driving instructor’s licence under that regulation.
- (5) Regulation 23A as amended by the 2021 Amendment Regulation applies only in relation to an application made on or after 1 December 2023 for the renewal of a driving instructor’s licence under that regulation.
- (6) In this regulation—
- 2021 Amendment Regulation* (《2021年修訂規例》) means the Road Traffic (Driving Licences) (Amendment) Regulation 2021.”.



Secretary for Transport and Housing

10 August 2021

### Explanatory Note

This Regulation amends the Road Traffic (Driving Licences) Regulations (Cap. 374 sub. leg. B) (*principal Regulations*) mainly to—

- (a) provide for a mechanism for quotas of private driving instructors' licences for certain classes of persons;
- (b) require a person applying for a driving instructor's licence (one that is not subject to the condition that the person may only give driving instruction on behalf of the organization specified in the licence) (*relevant driving instructor's licence*), among other conditions—
  - (i) not to have been convicted of a dangerous driving offence during the 5 years, or a careless driving offence during the 2 years, immediately before the date of the application;
  - (ii) to have completed a driving instructor's induction course; and
  - (iii) to be the holder of a full driving licence to drive private cars and light goods vehicles, and to have held the licence for at least 6 years immediately before the date of the application,before the person may be issued the licence;
- (c) require the completion by a person of a driving instructor's refresher course, among other conditions, before the relevant driving instructor's licence of the person may be renewed;
- (d) provide for driving instructors' induction courses and driving instructors' refresher courses, and the authorization of trainers to provide the courses;

- (e) provide for the issue, and display and other requirements, regarding private driving instructor identity plates; and
- (f) make it an offence under regulation 46 of the principal Regulations to contravene the requirements regarding private driving instructor identity plates.