

Amend the Road Traffic Ordinance, the Traffic Accident Victims (Assistance Fund) Ordinance and the Fixed Penalty (Criminal Proceedings) Ordinance.

Enacted by the Legislative Council.

PART I

Preliminary

1. Short title and commencement

(1) This Ordinance may be cited as the Road Traffic Legislation (Amendment) Ordinance 1999.

(2) This Ordinance shall come into operation on a day to be appointed by the Secretary for Transport by notice in the Gazette.

PART II

Amendment of Road Traffic Ordinance

and Its Subsidiary Legislation

Road Traffic Ordinance

2. Speed limit

Section 40 of the Road Traffic Ordinance (Cap. 374) is amended---

(a) in subsection (5), by repealing everything after "at which a" and substituting---
"---

(a) medium goods vehicle;

(b) heavy goods vehicle;

(c) bus;

(d) motor cycle or motor tricycle driven by the holder of a probationary driving licence,

shall travel on such road shall be 70 km an hour.";

(b) by adding---

"(7) In this section, "probationary driving licence" (暫准駕駛執照) has the meaning assigned to it by regulation 2 of the Road Traffic (Driving Licences) Regulations (Cap. 374 sub. leg.).".

Road Traffic (Driving Licences) Regulations

3. Interpretation

Regulation 2 of the Road Traffic (Driving Licences) Regulations (Cap. 374 sub. leg.) is amended---

(a) in the definition of "full driving licence", by adding ", probationary driving licence" before "or";

(b) by adding---

"probationary driving licence" (暫准駕駛執照) means a driving licence to drive a motor cycle or motor tricycle issued under regulation 12G;

"probationary driving period" (暫准駕駛期) means the probationary driving period

provided for in regulation 12F;".

4. Applications for full driving licences

Regulation 10(3) is amended by repealing everything after "Commissioner that" and substituting---

"on a date within 4 months before the application, the applicant is medically fit to drive and control any vehicle in that class and the Commissioner shall satisfy himself that---

(a) the medical fitness of the applicant has not deteriorated substantially since that date; and

(b) the applicant is able to read a registration mark at a distance of 23 metres in good daylight (with the aid of spectacles or other corrective lenses, if worn).".

5. Issue of full driving licences

Regulation 11 is amended---

(a) in paragraph (1), by adding "(other than a full driving licence to drive a motor cycle or motor tricycle)" after "licence";

(b) by adding---

"(1A) The Commissioner shall issue a full driving licence to drive a motor cycle or motor tricycle to an applicant for such licence if he has complied with regulation 12F.".

6. Regulations added

The following are added---

"12F. Probationary driving period

(1) An applicant for a full driving licence to drive a motor cycle or motor tricycle shall not be issued with such licence unless he has completed a probationary driving period within 3 years before the date of application for such licence.

(2) Subject to paragraphs (4) and (5), a probationary driving period shall last 12 months.

(3) A person's probationary driving period commences on the date a probationary driving licence is issued to him.

(4) A person's probationary driving period shall be extended by 6 months if he is convicted of one offence mentioned in the Twelfth Schedule, and the offence was committed by him while driving a motor cycle or motor tricycle during his probationary driving period.

(5) For the purposes of paragraphs (1) and (4), a person's probationary driving period shall not include---

(a) if his probationary driving licence is cancelled under regulation 12I, a period commencing on the issue of the licence and ending on the cancellation of it; or

(b) a period during which he does not hold a valid probationary driving licence.

12G. Issue of probationary driving licences to drive motor cycles and motor tricycles

(1) A person who wishes to apply for a probationary driving licence to drive a motor cycle or motor tricycle shall apply to the Commissioner in a form specified by the Commissioner, signed by the applicant, together with his identity document and the fee prescribed in the Second Schedule.

(2) Regulation 10(2) and (3) shall apply to an applicant referred to in paragraph (1) to the same extent as regulation 10(2) and (3) applies to an applicant referred to in regulation 10(1).

(3) On receipt of an application under paragraph (1) and of the fee prescribed in the Second Schedule, the Commissioner shall, subject to paragraph (4) and regulations 6, 7 and 9, issue to the applicant a probationary driving licence, valid for 12 months from the date of issue of the licence.

(4) The Commissioner shall refuse to issue a probationary driving licence---
(a) unless the applicant has passed, within 3 years prior to the date of his application, a motor cycle driving test under regulation 12D; and
(b) if the applicant has previously been issued with a probationary driving licence after passing the driving test.

12H. Renewal of probationary driving licences

(1) Subject to paragraph (3) and regulations 6 and 9, the Commissioner shall renew a probationary driving licence for 6 months on receipt of an application for such renewal in a form specified by the Commissioner, signed by the applicant, together with---

- (a) his identity document;
- (b) the probationary driving licence; and
- (c) the fee prescribed in the Second Schedule.

(2) A probationary driving licence may be renewed at any time within---

- (a) 15 days before its expiry, such renewal to be effective from the date of expiry; or
- (b) 3 years after its expiry, such renewal to be effective from the date of renewal.

(3) Regulation 10(3) shall apply to an applicant referred to in paragraph (1) to the same extent as regulation 10(3) applies to an applicant referred to in regulation 10(1).

12I. Cancellation of probationary driving licences

(1) Without prejudice to regulation 20, the Commissioner shall cancel a probationary driving licence if the licence holder---

- (a) has more than once been convicted of an offence mentioned in the Twelfth Schedule;
- (b) has been convicted of 2 or more offences mentioned in the Twelfth Schedule; or

(c) is convicted of an offence in respect of which 10 or more points shall be incurred under section 4 of the Road Traffic (Driving-offence Points) Ordinance (Cap. 375), and such offence or offences was or were committed by him while driving a motor cycle or motor tricycle during his probationary driving period.

(2) If an appeal is lodged against a conviction referred to in paragraph (1) which causes the cancellation of a probationary driving licence under this regulation, such cancellation shall not take effect until the appeal is withdrawn or dismissed.

12J. No fee payable in respect of certain probationary driving licences

No fee shall be payable in respect of a probationary driving licence issued to or renewed for a disabled person.

12K. Driving during probationary driving period

(1) The holder of a probationary driving licence shall not drive a motor cycle or motor tricycle unless it has a plate displayed in accordance with the Thirteenth Schedule.

(2) The holder of a probationary driving licence shall not drive a motor cycle or motor tricycle with any passenger on it.

12L. Cancellation of full driving licences to drive motor cycles and motor tricycles

(1) Without prejudice to regulation 20, the Commissioner shall cancel a full driving licence to drive a motor cycle or motor tricycle if the licence holder is convicted of, after his probationary driving period---

(a) an offence mentioned in the Twelfth Schedule; or

(b) an offence in respect of which 10 or more points shall be incurred under section 4 of the Road Traffic (Driving-offence Points) Ordinance (Cap. 375), and such offence was committed by him while driving such vehicle during his probationary driving period.

(2) If an appeal is lodged against a conviction referred to in paragraph (1) which causes the cancellation of a full driving licence under this regulation, such cancellation shall not take effect until the appeal is withdrawn or dismissed."

7. Offences

Regulation 46(2) is amended by adding "12K(1) or (2)," after "9(5),".

8. Fees

The Second Schedule is amended---

(a) by adding ", 12G(1), 12H(1)" after "12B(2)";

(b) by adding---

"1A. Fee for issue of probationary driving licence 52";

(c) in item 2, by adding---

"(k) Renewal of probationary driving licence 26".

9. Schedules added

The following are added---

"TWELFTH SCHEDULE [regs. 12F, 12I & 12L]

Offences

1. Any offence in respect of which less than 10 points shall be incurred under section 4 of the Road Traffic (Driving-offence Points) Ordinance (Cap. 375).

2. Contravention of section 40(5) of the Ordinance.

3. Contravention of regulation 12K(1) or (2).

4. Contravention of regulation 11(2) of the Road Traffic (Expressway) Regulations (Cap. 374 sub. leg.).

THIRTEENTH SCHEDULE [reg. 12K(1)]

Plate to be Displayed on Vehicles Driven by

Holders of Probationary Driving Licences

1. The vehicle shall have securely fixed, at the front and rear, a white plate 225 millimetres by 150 millimetres on which shall appear in red the letter "P" occupying an area stated above.

2. The plate shall be made of reflex-reflecting material."

Road Traffic (Expressway) Regulations

10. Restriction on vehicles using offside lane

Regulation 11 of the Road Traffic (Expressway) Regulations (Cap. 374 sub. leg.) is amended---

(a) in subregulation (1)---

(i) in paragraph (g), by repealing "and";

(ii) in paragraph (h), by repealing the full stop and substituting "; and";

(iii) by adding---

"(i) a motor cycle or motor tricycle driven by the holder of a probationary driving licence.";

(b) by adding---

"(4) In this regulation, "probationary driving licence" (暫准駕駛執照) has the meaning assigned to it by regulation 2 of the Road Traffic (Driving Licences) Regulations (Cap. 374 sub. leg.).".

PART III

Amendment of Traffic Accident Victims

(Assistance Fund) Ordinance

11. Levy on licence holders

Section 6 of the Traffic Accident Victims (Assistance Fund) Ordinance (Cap. 229)

is amended---

(a) in subsection (1)(a), by repealing "or temporary" and substituting ", temporary driving licence or probationary";

(b) by adding---

"(2A) A levy payable under subsection (1)(a) in respect of a probationary driving licence shall be reduced by 50% where the licence is renewed for 6 months."

12. Schedule amended

The Schedule is amended in Part II by adding---

"3A. Probationary driving licence not applicable \$38".

PART IV

Amendment of Fixed Penalty (Criminal Proceedings) Ordinance

13. Offence

The Schedule to the Fixed Penalty (Criminal Proceedings) Ordinance (Cap. 240) is amended after the heading "Road Traffic (Driving Licences) Regulations (Cap. 374 sub. leg.)" by adding---

"33A. Regulation 12K(1) Driving a vehicle
without a "P"
plate \$450".

33B. Regulation 12K(2) Failing to comply
with restriction on
carrying passengers \$450".

PART V

Transitional

14. Transitional

(1) Subject to subsections (3) and (4), this Ordinance shall not apply in relation to a person who---

(a) before the commencement of this Ordinance, has applied to take a motor cycle driving test under regulation 12B(1) of the Road Traffic (Driving Licences) Regulations (Cap. 374 sub. leg.)("the Regulations"); and

(b) passes the test under regulation 12D of the Regulations without having to take again, after that commencement, any part of the test.

(2) Subject to subsections (3) and (4), the provisions of the Ordinances amended by this Ordinance in force immediately before the commencement of this Ordinance shall apply, where appropriate, in relation to the person referred to in subsection (1).

(3) Section 4 of this Ordinance shall not apply in relation to an applicant referred to in regulation 10(3) of the Regulations if he has made his application under regulation 10(1) of the Regulations to the Commissioner before the commencement

of this Ordinance.

(4) Regulation 10(3) of the Regulations in force immediately before the commencement of this Ordinance shall apply in relation to the applicant referred to in subsection (3).

Explanatory Memorandum

The main purpose of this Bill is to introduce a probationary driving licence scheme so as to provide better regulation of inexperienced drivers of motor cycles and motor tricycles.

2. The main provisions of the Bill are described as follows---

(a) clause 2 amends section 40 of the Road Traffic Ordinance (Cap. 374) so that the holder of a probationary driving licence can only drive a motor cycle or motor tricycle at a maximum speed of 70 km per hour;

(b) clause 3 defines "probationary driving licence" and "probationary driving period";

(c) clause 6 adds several new regulations to the Road Traffic (Driving Licences) Regulations (Cap. 374 sub. leg.) to provide for the new probationary driving licence scheme, the issue, renewal and cancellation of probationary driving licences and the cancellation of full driving licences to drive motor cycles and motor tricycles;

(d) clause 7 creates 2 offences relating to driving a motor cycle or motor tricycle during the probationary driving period;

(e) clause 8 prescribes the fees for the issue and renewal of probationary driving licences;

(f) clause 10 amends regulation 11 of the Road Traffic (Expressway) Regulations (Cap. 374 sub. leg.) to prohibit the holder of a probationary driving licence to drive a motor cycle or motor tricycle in the offside lane of the carriageway of an expressway;

(g) clause 11 amends section 6 of the Traffic Accident Victims (Assistance Fund) Ordinance (Cap. 229) to provide for the levy payable by the holder of a probationary driving licence under that Ordinance;

(h) clause 13 amends the Schedule to the Fixed Penalty (Criminal Proceedings) Ordinance (Cap. 240) so as to include 2 new offences into the list of scheduled offences prescribed in that Ordinance;

(i) clause 14 provides for transitional arrangements.