

Letterhead of TRANSPORT BUREAU GOVERNMENT SECRETARIAT

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27 April 2000

Mr Andy Lau
Clerk to Subcommittee
Legislative Council Secretariat
3/F, Citibank Tower
3 Garden Road
Central
Hong Kong

Dear Mr Lau,

**Sub-Committee on Road Traffic (Traffic Control)
(Amendment) Regulation 2000 (L.N. 39 of 2000)**

At the meeting of the Sub-Committee held on 7 April 2000, members agreed that the draft Amendment Regulation tabled before the Sub-Committee should be revised so that -

- (a) the Amendment Regulation only regulates the use of hand-held mobile phone and other telecommunication equipment while the motor vehicle concerned is in motion; and
- (b) it clarifies that the prohibited act of "holding between the driver's head and shoulder" only applies to mobile phone but not its accessory.

The Administration has accordingly revised the Amendment Regulation and a copy of the revised version is attached. The Chinese version may be subject to further refinement if appropriate.

At the Sub-Committee meeting, the issue of whether the Amendment Regulation would apply to driving instructors was also raised. The proposed regulation applies to the driver of a motor vehicle and does not specifically target at driving instructors. Under section 2 of the Road Traffic Ordinance (Cap. 374), "driver" means any person who is in charge of or assisting in the control of a vehicle. If in any particular case any person, including a driving instructor, falls within the definition of "driver", the proposed regulation, same as all other provisions in Cap. 374 and its subsidiary legislation which are applicable to "driver", would apply accordingly.

If the Sub-Committee does not have any further comments on the revised Amendment Regulation, the Administration intends to table the Regulation in the Legislative Council for negative vetting in mid-May 2000.

Yours sincerely,

(Brian Lo)
for Secretary for Transport

c.c. D of J (Attn.: Ms Vicki Lee)
C for T (Attn.: Mr Thomas Thumb)
C of P (Attn.: Mr William Tang)

Encl.

ROAD TRAFFIC (TRAFFIC CONTROL)(AMENDMENT)(No. 2) REGULATION 2000

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

1. Commencement

(1) This Regulation, except as provided in subsection (2), shall come into operation on 1 July 2000.

(2) Section 2, as it relates to new regulation 42(1)(g)(ii) and (iii)(B), shall come into operation on 1 July 2001.

2. General driving rules

Regulation 42 of the Road Traffic (Traffic Control) Regulations (Cap. 374 sub. leg.) is amended -

(a) by renumbering it as regulation 42(1);

(b) in subregulation (1) -

(i) in paragraph (f)(ii), by repealing the full stop and substituting a semicolon;

(ii) by adding -

"(g) if a motor vehicle being driven by him is in motion -

(i) use a mobile telephone while holding it in his hand or between his head and shoulder;

(ii) use any other telecommunications equipment while

holding it in his hand;

or

(iii) use, while holding in his hand, any accessory to -

(A) a mobile telephone; or

(B) any other telecommunications equipment.";

(c) by adding -

"(2) In subregulation (1)(g) -

"accessory" (附件) means, in relation to a mobile telephone or any other telecommunications equipment, any accessory or fitting -

(a) which forms part of the mobile telephone or other telecommunications equipment; or

(b) which is associated with, attached or connected to the mobile telephone or other telecommunications equipment in order to facilitate the use of the mobile telephone or telecommunications equipment;

"telecommunications equipment" (電訊設備) means any equipment, apparatus or device, whether or not installed in a motor vehicle, which

is designed to be or capable of being used to communicate with any person orally by means of radio waves or other electromagnetic means."

Secretary for Transport

2000

Explanatory Note

This Regulation amends the Road Traffic (Traffic Control) Regulations (Cap. 374 sub. leg.) by adding a new driving rule that prohibits a driver from using, while the motor vehicle driven by him is in motion, a mobile telephone or other telecommunications equipment in the manner specified. Contravention of the provision constitutes an offence.