

TRAN 3/9/13

LEGISLATIVE COUNCIL BRIEF

Road Traffic (Safety Equipment)(Amendment) Regulation 2000 Fixed Penalty (Criminal Proceedings)(Amendment) Regulation 2000 LegCo Resolution to amend Schedule to Fixed Penalty (Criminal Proceedings) Ordinance

Review of the Seat Belt Legislation

INTRODUCTION

Under section 10 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 (Safety Equipment) Regulations (Cap.374 sub. leg.) for regulating the safety equipment for vehicles.

2. Under section 11 of the Fixed Penalty (Criminal Proceedings) Ordinance (Cap.240) and section 28(1)(c) of the Interpretation and General Clauses Ordinance (Cap.1), the Secretary for Transport is empowered to amend the list of offences and fixed penalty in the Fixed Penalty (Criminal Proceedings) Regulations (Cap.240 sub.leg.).

3. In exercise of these powers, the Secretary for Transport has made the Road Traffic (Safety Equipment)(Amendment) Regulation 2000 and the Fixed Penalty (Criminal Proceedings)(Amendment) Regulation 2000 at Annexes A and B respectively to -

- (a) extend the seat belt legislation to cover rear seats of taxis; and
- (b) improve and rectify the inconsistencies of the existing seat belt legislation.

4. In addition, the Schedule to the Fixed Penalty (Criminal Proceedings) Ordinance (Cap.240) will have to be amended consequentially. Under section 12 of the Fixed Penalty (Criminal Proceedings) Ordinance, the Secretary for Transport will give notice to move the resolution at Annex C at the meeting of the Legislative Council on 21 June 2000.

BACKGROUND AND ARGUMENT

Extension of the seat belt legislation to cover rear seats of taxis

5. To reduce the number of occupant casualties in vehicles, seat belt legislation was first introduced to drivers and front seat passengers of private cars in October 1983. It was subsequently extended to drivers and front seat passengers of taxis and light buses in July 1989 and then to goods vehicles in January 1990. With effect from 1 June 1996, it was further extended to rear

seats of new private cars and middle front seats of all new private cars, taxis, light buses and goods vehicles registered on or after that date. The latest amendment was made on 1 July 1997 which extended the legislation to drivers of buses.

6. After the introduction of the seat-belt legislation, the casualties of drivers and passengers in traffic accidents decreased for all classes of vehicles. A summary of the assessment of the effectiveness of the seat belt legislation is at Annex D.

7. Among the various classes of vehicles, the highest number of rear seat casualties was recorded for private cars followed by taxis, and to a lesser extent, public light buses and buses. With the encouraging result from the application to private cars, it is considered appropriate to extend the legislation to cover the rear seats of taxis as a matter of priority.

8. As taxis are basically the same as private cars in terms of vehicle type and most places already have legislation requiring the fitting and wearing of seat belts for rear seats in taxis, there should not be any technical difficulties in installing rear seat belts on taxis.

9. The Administration consulted the taxi trade on the proposal. The trade supported the proposed extension of the seat belt legislation to the rear seats of taxis but had expressed concern over any proposal to make the drivers responsible for passengers not wearing seat belts.

10. Currently, the legal responsibility of front seat and middle front seat passengers not wearing seat belt on taxis rests with both the driver and the passengers. Taking into account the special circumstances of taxis and the fact that taxi drivers would not be able to control the passenger's behaviour and ensure that passengers observe the legislative requirement during the whole trip, it is considered more fair and practicable to make passengers responsible for not wearing seat belts.

11. In line with the general principle of the existing seat belt legislation, the extension will apply to new vehicles from a designated date and retro-fitting of existing vehicles will not be required. To allow the suppliers of new taxis to prepare for the change, we propose that the proposed requirements should take effect from 1 January 2001. It is further proposed that the responsibility of passengers (whether sitting in front or at the back) not wearing seat belts in taxis should rest with the passengers themselves.

Other improvements to existing seat belt legislation

12. The Administration has also identified three areas in the existing seat belt legislation which require improvements and rectification to facilitate proper enforcement by the Police.

Generalized rules

13. Currently, owners of some “old” vehicles (registered/manufactured before the cut-off dates) which are not required to be fitted with approved seat belts may have installed seat belts on their own volition. Occupants of such vehicles are, however, not legally required to wear seat belts. This creates confusion at times with police officers on site having to make reference to a large number of such cut-off dates in order to enforce the legislation.

14. To enhance the safety of vehicle occupants and to facilitate enforcement, it is proposed to adopt a generalized and simple wearing rule that a seat belt must be worn if it exists. This will apply to those classes of vehicles which the seat belt legislation covers - under the new rules, it includes drivers of private cars, taxis, light buses, goods vehicles and buses, front seat passengers of all the above categories except buses and rear seat passengers of private cars and taxis.

Anomaly in existing offence provisions

15. At present, Regulation 12(3)(a) of the Road Safety (Safety Equipment) Regulations which deals with offences and penalties is not consistent with Regulation 7B(2) which deals with the wearing requirement of middle front seat passengers. It only creates an offence for failing to comply with the seat belt wearing requirement in respect of a private car, but not for light buses, taxis and goods vehicles. This has to be rectified. There is a further anomaly in treatment regarding the responsibility for passengers over 15 years old not wearing seat belts for the front seats and middle front seats of light buses and goods vehicles. This also has to be rectified.

Inclusion of offences in the fixed penalty schedule

16. At present, driver offences relating to himself or front seat passengers not wearing seat belts have been included in the fixed penalty schedule, but those driver offences relating to middle front seat and rear seat passengers have not been included. To maintain consistency and facilitate Police enforcement, it is proposed that all driver offences relating to

the seat belt legislation be included in the fixed penalty schedule.

AMENDMENT REGULATION AND PROPOSED RESOLUTION

17. The purpose of the two Amendment Regulations is to extend the seat belt legislation to cover rear seats of taxis, and to improve and rectify the inconsistencies of the existing seat belt legislation. The purpose of the proposed resolution is to make corresponding amendments to rectify the inconsistencies of the existing seat belt legislation concerning driver offences.

PUBLIC CONSULTATION

18. The Transport Advisory Committee and the Legislative Council Panel on Transport were consulted in February 2000, and supported the proposed amendments.

BASIC LAW IMPLICATIONS

19. The Department of Justice advises that the legislative amendments do not conflict with those provisions of the Basic Law carrying no human rights implications.

HUMAN RIGHTS IMPLICATIONS

20. The Department of Justice advises that the legislative amendments are consistent with the human rights provisions of the Basic Law.

FINANCIAL IMPLICATIONS

21. There are no financial and staffing implications.

ECONOMIC IMPLICATIONS

22. There are no economic implications.

LEGISLATIVE TIMETABLE

23. The two Amendment Regulations and the resolution will come into effect on 1 January 2001.

PUBLICITY

24. The Amendment Regulations and the resolution will be gazetted on 19 May 2000.

Government Secretariat
Transport Bureau
17 May 2000