

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

ROAD TRAFFIC (SAFETY EQUIPMENT) (AMENDMENT) REGULATION 2000

(Made under sections 7(1) and 10(1) of the Road Traffic
Ordinance (Cap. 374))

1. Commencement

This Regulation shall come into operation on 1 January 2001.

2. Interpretation

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

- (a) by renumbering it as regulation 2(1);
- (b) by adding -

"(2) For the purposes of these regulations, each seat
belt in a vehicle may be used by only one person at a time and
where more than one person is using the same seat belt at the
same time each such person shall be deemed to be not securely
fastened to his seat by means of that seat belt."

**3. Rear seat belts and anchorage
points**

Regulation 6B(4) is amended by adding "and every taxi registered on or after 1
January 2001" after "1996".

4. Regulations substituted

Regulations 7, 7A, 7B and 7C are repealed and the following substituted -

"7. Drivers and passengers of private cars required to wear seat belts

(1) Subject to regulations 8 and 10, no person shall -

(a) drive; or

(b) ride as a passenger in the specified passenger's seat of,

a private car on any road unless he is securely fastened to his seat by means of a seat belt, if any, provided for his seat.

(2) Subject to regulation 10, no person shall ride as a passenger in a private car on any road in a middle front seat -

(a) subject to paragraph (b), unless he is securely fastened to his seat by means of a seat belt, if any, provided for his seat;

(b) when the specified passenger's seat is provided with a seat belt and is not occupied by another person, unless he is securely fastened to his seat by means of a seat belt provided for his seat.

(3) Subject to regulation 8, no person shall drive a private car on any road -

(a) when there is in the specified passenger's seat or a middle front seat of the car -

- (i) a passenger of 2 years of age or less who is not securely fastened to his seat by means of -
 - (A) if regulation 6 or 6A, as the case requires, applies to the car, an approved restraining device for a young person;
 - (B) if regulation 6 or 6A, as the case requires, does not apply to the car but a seat belt is provided for his seat, an approved restraining device for a young person;
 - (ii) a passenger over 2 years of age who is not securely fastened to his seat by means of a seat belt, if any, provided for his seat; or
- (b) when there is a passenger in a middle front seat and the specified passenger's seat is provided with a seat belt and is not occupied by another person, unless he is securely fastened to his seat by means of a seat belt provided for his seat,
- unless the passenger has been exempted under regulation 10 from compliance with subregulation (1) or (2).

**7A. Drivers and passengers of taxis,
light buses and goods vehicles
required to wear seat belts**

(1) Subject to regulations 8 and 10, no person shall -

(a) drive; or

(b) ride as a passenger in the specified passenger's seat of,

a taxi, light bus or goods vehicle on any road unless he is securely fastened to his seat by means of a seat belt, if any, provided for his seat.

(2) Subject to regulation 10, no person shall ride as a passenger in a taxi, light bus or goods vehicle on any road in a middle front seat -

(a) subject to paragraph (b), unless he is securely fastened to his seat by means of a seat belt, if any, provided for his seat;

(b) when the specified passenger's seat is provided with a seat belt and is not occupied by another person, unless he is securely fastened to his seat by means of a seat belt provided for his seat.

(3) Subject to regulation 8, no person shall drive a light bus or goods vehicle on any road when there is in the specified passenger's seat or a middle front seat of the light bus or goods vehicle -

(a) a passenger of 2 years of age or less who is not securely fastened to his seat by means of -

- (i) if regulation 6 or 6A, as the case requires, applies to the light bus or goods vehicle, an approved restraining device for a young person;
 - (ii) if regulation 6 or 6A, as the case requires, does not apply to the light bus or goods vehicle but a seat belt is provided for his seat, an approved restraining device for a young person;
- (b) a passenger over 2 years of age but under the age of 15 years who is not securely fastened to his seat by means of a seat belt, if any, provided for his seat,

unless the passenger has been exempted under regulation 10 from compliance with subregulation (1) or (2).

7B. Passengers in rear seats of private cars and taxis required to wear seat belts, etc.

(1) Subject to regulation 10, no person shall ride as a passenger in a rear seat of a private car or taxi on any road unless he is securely fastened to his seat by means of a seat belt, if any, provided for his seat.

(2) Subject to subregulation (3) and to regulation 8, no person shall drive a private car on any road when there is a passenger in a rear seat who is not securely fastened to

his seat by means of a seat belt, if any, provided for his seat unless the passenger has been exempted under regulation 10 from compliance with subregulation (1).

(3) Subject to regulation 8, no person shall drive a private car on any road where there is in a rear seat -

- (a) a passenger of 2 years of age or less who is not securely fastened to his seat by means of an approved restraining device for a young person if such device is available for use;
- (b) a passenger over 2 years of age but under the age of 15 years who is not securely fastened to his seat by means of an approved seat belt (which shall be a body restraining seat belt or a lap belt or a restraining device for a young person), if such seat belt is available for use unless such passenger has been exempted under regulation 10 from compliance with subregulation (1).

(4) An approved restraining device for a young person shall only be considered to be available for use if one is fitted to the vehicle and it is not being used by another passenger.

(5) No person shall ride as a passenger in a rear seat of a private car or taxi on any road where -

- (a) that seat is not provided with a seat belt; and
- (b) there is another rear seat in the private car

or taxi which is provided with a seat belt and is not occupied by another person,

unless the passenger has been exempted under regulation 10 from compliance with subregulation (1).

(6) Subject to regulation 8, no person shall drive a private car on any road when there is -

(a) a passenger in a rear seat which is not provided with a seat belt;
and

(b) another rear seat which is provided with a seat belt and is not occupied by another person,

unless the passenger has been exempted under regulation 10 from compliance with subregulation (1).".

5. Circumstances in which regulations 7, 7A and 7B do not apply

Regulation 8 is amended by repealing ", 7B and 7C" and substituting "and 7B".

6. Power of Commissioner to exempt persons from regulations 3, 7, 7A, 7B and 8B

Regulation 10 is amended by repealing ", 7C(1)".

7. Offences

Regulation 12 is amended -

(a) in subregulation (1), by repealing ", 7C(1)" and substituting "or (5)";

(b) by deleting subregulation (3) and substituting -

"(3) Any driver of -

- (a) a private car, who contravenes regulation 7(3) or 7B(2), (3) or (6); or
- (b) a light bus or goods vehicle, who contravenes regulation 7A(3),

without reasonable excuse, commits an offence and is liable to a fine at level 1."

Consequential Amendments

Road Traffic (Public Service Vehicles) Regulations

8. Driver may refuse hire or to drive if passenger fails to wear seat belt

Regulation 37A of the Road Traffic (Public Service Vehicles) Regulations (Cap. 374 sub. leg.) is amended by adding "or 7B" after "7A".

9. Conduct of passengers in relation to seat belts

Regulation 45A is amended by adding "or 7B" after "7A".

10. Notices and numbers to be displayed on certain public service vehicles

Regulation 51(3) is amended by adding "or 7B" after "7A".

Secretary for Transport

15 May 2000

Explanatory Note

This Regulation amends the Road Traffic (Safety Equipment) Regulations (Cap. 374 sub. leg.) to -

- (a) require taxis registered on or after 1 January 2001 to comply with the provisions of regulation 6B in relation to the provision of rear seat belts and their anchorage points (section 3);
- (b) repeal and replace regulations 7, 7A, 7B and 7C in order, inter alia, to extend the provisions presently applicable to the wearing of seat belts which have been mandatorily installed in vehicles to seat belts which have been voluntarily installed in vehicles (section 4);
- (c) introduce 2 new prohibitions concerning the occupation in private car or taxis of rear seats not fitted with seat belts when there are unoccupied rear seats fitted with seat belts (new regulation 7B(5) and (6) at section 4); and
- (d) make consequential amendments to those Regulations

and the Road Traffic (Public Service Vehicles) Regulations (Cap. 374 sub. leg.) (sections 2 and 5 to 10).

**FIXED PENALTY (CRIMINAL PROCEEDINGS)
(AMENDMENT) REGULATION 2000**

(Made under section 11 of the Fixed Penalty (Criminal Proceedings) Ordinance (Cap. 240))

1. Commencement

This Regulation shall come into operation on 1 January 2001.

2. Schedule amended

The Schedule to the Fixed Penalty (Criminal Proceedings) Regulations (Cap. 240 sub. leg.) is amended, in Form 1, in the List of Offences and Fixed Penalty, by repealing code numbers 50 to 55 inclusive and substituting -

"50.	Driving private car without being securely fastened with seat belt	Regulation 7(1)(a)	\$320
51.	Driving private car when front seat passenger not securely fastened with seat belt	Regulation 7(3)	\$230
52.	Driving taxi without being securely fastened with seat belt	Regulation 7A(1)(a)	\$320
53.	Driving light bus without being securely fastened	Regulation 7A(1)(a)	\$320

with seat belt		
54. Driving goods vehicle without being securely fastened with seat belt	Regulation 7A(1)(a)	\$320
55. Driving light bus when front seat passenger under 15 years of age not securely fastened with seat belt	Regulation 7A(3)	\$230
55A. Driving goods vehicle when front seat passenger under 15 years of age not securely fastened with seat belt	Regulation 7A(3)	\$230
55B. Driving private car when rear seat passenger not securely fastened with seat belt	Regulation 7B(2)	\$230
55C. Driving private car when rear seat passenger under 15 years of age not securely fastened with seat belt	Regulation 7B(3)	\$230
55D. Driving private car when rear seat passenger occupies rear seat without	Regulation 7B(6)	\$230".

seat belt when there is vacant rear seat with seat belt

Secretary for Transport

15 May 2000

Explanatory Note

This Regulation amends the Schedule to the Fixed Penalty (Criminal Proceedings) Regulations (Cap. 240 sub. leg.) by repealing code numbers 50 to 55 inclusive and substituting new code numbers 50 to 55D inclusive. The new code numbers reflect the new offences to carry fixed penalties by virtue of the amendments made to the Schedule to the Fixed Penalty (Criminal Proceedings) Ordinance (Cap. 240) in consequence of the amendments made to the Road Traffic (Safety Equipment) Regulations (Cap. 374 sub. leg.) by the Road Traffic (Safety Equipment) (Amendment) Regulation 2000 (L.N. of 2000).

FIXED PENALTY (CRIMINAL PROCEEDINGS) ORDINANCE

RESOLUTION OF THE LEGISLATIVE COUNCIL

Resolution made and passed by the Legislative Council under section 12 of the Fixed Penalty (Criminal Proceedings) Ordinance (Cap. 240) on 2000.

RESOLVED that, with effect from 1 January 2001, the Schedule to the Fixed Penalty (Criminal Proceedings) Ordinance be amended by repealing items 50 to 55 inclusive and substituting -

"50.	Regulation	Driving private car without being	
	7(1)(a)	securely fastened with seat belt	\$320
51.	Regulation	Driving private car when front seat	
	7(3)	passenger not securely fastened with	
		seat belt	\$230
52.	Regulation	Driving taxi without being securely	
	7A(1)(a)	fastened with seat belt	\$320
53.	Regulation	Driving light bus	

	7A(1)(a)	without being securely fastened with seat belt	\$320
54.	Regulation	Driving goods vehicle without being securely fastened with seat belt	\$320
55.	Regulation	Driving light bus when front seat passenger under 15 years of age not securely fastened with seat belt	\$230
	7A(3)		
55A.	Regulation	Driving goods vehicle when front seat passenger under 15 years of age not securely fastened with seat belt	\$230
	7A(3)		
55B.	Regulation	Driving private car when rear seat passenger not securely fastened with seat belt	\$230
	7B(2)		
55C.	Regulation	Driving private car when rear seat passenger under 15 years of age not securely fastened	
	7B(3)		

		with seat belt	\$230
55D.	Regulation	Driving private car when rear seat	
	7B(6)	passenger occupies rear seat	
		without seat belt when there is	
		vacant rear seat with seat belt	\$230".

Clerk to the Legislative Council

2000

Explanatory Note

This Resolution amends the Schedule to the Fixed Penalty (Criminal Proceedings) Ordinance (Cap. 240) by repealing items 50 to 55 inclusive and substituting new items 50 to 55D inclusive. The new items reflect the new offences to carry fixed penalties by virtue of the amendments made to the Road Traffic (Safety Equipment) Regulations (Cap. 374 sub. leg.) by the Road Traffic (Safety Equipment) (Amendment) Regulation 2000 (L.N. of 2000).

FIXED PENALTY (CRIMINAL PROCEEDINGS) ORDINANCE

RESOLUTION

(Under section 12 of the Fixed Penalty (Criminal
Proceedings) Ordinance (Cap. 240))

RESOLVED that, with effect from 1 January 2001, the Schedule to the Fixed Penalty
(Criminal Proceedings) Ordinance be amended by repealing items 50 to 55
inclusive and substituting -

- | | | | |
|------|------------|---|-------|
| "50. | Regulation | Driving private car without being
7(1)(a) securely fastened with seat belt | \$320 |
| 51. | Regulation | Driving private car when front seat
7(3) passenger not securely fastened with
seat belt | \$230 |
| 52. | Regulation | Driving taxi without being securely
7A(1)(a) fastened with seat belt | \$320 |
| 53. | Regulation | Driving light bus | |

	7A(1)(a)	without being securely fastened with seat belt	\$320
54.	Regulation	Driving goods vehicle without being securely fastened with seat belt	\$320
55.	Regulation	Driving light bus when front seat passenger under 15 years of age not securely fastened with seat belt	\$230
55A.	Regulation	Driving goods vehicle when front seat passenger under 15 years of age not securely fastened with seat belt	\$230
55B.	Regulation	Driving private car when rear seat passenger not securely fastened with seat belt	\$230
55C.	Regulation	Driving private car when rear seat passenger under 15 years of age not securely fastened	

		with seat belt	\$230
55D.	Regulation	Driving private car when rear seat	\$230".
	7B(6)	passenger occupies rear seat without seat belt when there is vacant rear seat with seat belt	

**Development of seat belt legislation and the effectiveness
of the respective legislative amendments**

Vehicle class	Seat Occupant to which legislation applies	Legislation Effective Date	Effectiveness Studies		
			Total Casualties of respective seats in the legislative amendments (for the 12 month period before)	Total Casualties of respective seats in the legislative amendments (for the 12 month period thereafter)	% Change
Private Car	Driver & front seat passenger	1.10.1983	3,814	2,765	-28%
Taxi & Light Buses	Driver & front seat passenger	1.7.1989	1,780	1,521	-15%
Goods Vehicles	Driver & front seat passenger	1.1.1990	2,594	2,241	-14%
Private Car	Rear seat and middle front seat * passenger	1.6.1996	1,438	1,191	-17%
Taxi, Light bus and good vehicle	middle front seat * passenger	1.6.1996	-	-	-
Bus	Driver	1.7.1997	162	164	+1%

accident casualties for private car rear seat only

- * The 'Traffic Accident Data System' cannot separate casualties of middle front seat occupants from those of the front occupants. Hence, it was not able to carry out a meaningful assessment on the effectiveness of middle front seat belts on these vehicle classes after the introduction of the legislation.