

## LEGISLATIVE COUNCIL BRIEF

### **Road Traffic Ordinance (Chapter 374) ROAD TRAFFIC (AMENDMENT) BILL 2003**

## INTRODUCTION

At the meeting of the Executive Council on 7 October 2003, the Council **ADVISED** and the Chief Executive **ORDERED** that the Road Traffic (Amendment) Bill 2003 should be introduced into the Legislative Council to-

- (a) relax the gross vehicle weight limit of light buses from 4 tonnes to 5.5 tonnes; and
- (b) transfer the power to appoint Transport Tribunals and the power to appoint members into the Transport Tribunals' Panel from the Chief Secretary for Administration to the Secretary for the Environment, Transport and Works.

## JUSTIFICATIONS

### Relaxation of the Gross Weight Limit of Light Buses

2. The accident rate and the rear seat casualty rate per 1,000 licensed PLBs have been relatively high among all classes of vehicles. The 2002 figures were 241 and 172 respectively whereas those for all motor vehicles were 28 and 8 respectively. Given that PLBs carry some 1.6 million passenger trips a day, the Administration considers it necessary to install passenger protection equipment including seat belts and high back seats on PLBs to enhance the safety of passengers.

3. In this connection, two amendment Regulations, viz Road Traffic (Construction and Maintenance of Vehicles) (Amendment) (No. 2) Regulation 2002 and Road Traffic (Safety Equipment) (Amendment) Regulation 2002, which set out in detail the standards required for the installation of passenger protection equipment in new PLBs were passed by the Legislative Council (LegCo) on 5 November 2002. In order to allow sufficient lead time for the vehicle manufacturers to develop and produce the new passenger protection equipment, the Administration has committed to enact the two amendment Regulations on 1 August 2004.

4. The existing gross vehicle weight limit of light buses is stipulated in the Road Traffic Ordinance and is 4 tonnes. To accommodate the installation of new passenger protection equipment in PLBs, it is necessary to relax the gross vehicle weight limit of light buses from 4 tonnes to 5.5 tonnes.

Transfer of the Power to Appoint Transport Tribunals and the Power to Appoint Members into the Transport Tribunals' Panel from the Chief Secretary for Administration to the Secretary for the Environment, Transport and Works

5. Transport Tribunals are appointed by the Chief Secretary for Administration in exercise of his power under section 17 of the Road Traffic Ordinance. Transport Tribunals are constituted to provide members of the public, who may feel aggrieved by certain decisions of the Commissioner for Transport made under the Road Traffic Ordinance<sup>1</sup> and the Road Traffic (Public Service Vehicles) Regulations<sup>2</sup>, with an expedient means by which such decisions can be reviewed by an independent tribunal, whose members are other than public officers.

6. A Transport Tribunal consists of a chairman and two members of the Transport Tribunals' Panel. The appointments are made by the Chief Secretary for Administration. Since Transport Tribunals are appointed on a case by case basis, under the existing statutory requirement, every time when an application for a Tribunal hearing is received, the Secretary for the Environment, Transport and Works has to seek the approval of the Chief Secretary for Administration to appoint a Transport Tribunal and to appoint members from the Transport Tribunals' Panel for the hearing.

7. In order to enable Directors of Bureaux to assume full responsibility and authority in managing their statutory functions and policy portfolios after the implementation of the accountability system in July 2002, a list of powers vested in the Chief Secretary for Administration has been drawn up for transferring to the respective Directors of Bureaux. It is now proposed that the powers vested in the Chief Secretary for Administration to appoint

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<sup>1</sup> According to the Road Traffic Ordinance, the Commissioner for Transport (the Commissioner) can exercise the following powers-

- (i) Section 33 (1) : refuses to register a vehicle; refuses to license a vehicle or cancels a licence; refuses to issue a passenger service licence, or cancels, suspends or varies a passenger service licence;
- (ii) Section 77 D : revokes the designation of a vehicle emission testing centre;
- (iii) Section 88 D : revokes the designation of a car testing centre;
- (iv) Section 88 L : revokes the designation of a driving school;
- (v) Section 90 (2)(c) : suspends a vehicle licence on the conviction of a driver; and
- (vi) Section 102C(3) : revokes the designation of a driving improvement school.

<sup>2</sup> According to Regulation 8 of the Road Traffic (Public Service Vehicles) Regulations, the Commissioner may amend the terms or conditions of a passenger service licence; and under Regulation 23, the Commissioner may specify any condition in a hire car permit, cancel or refuse to issue a hire car permit.

Transport Tribunals and to appoint members into the Transport Tribunals' Panel be transferred to the Secretary for the Environment, Transport and Works.

## **THE BILL**

8. The Bill contains three main clauses. Clauses 2 and 5 relax the gross vehicle weight limit of light buses from 4 tonnes to 5.5 tonnes. Clauses 6 and 7 are consequential amendments to the Motor Vehicles (First Registration Tax) Ordinance (Chapter 330) and the Road Tunnels (Government) Regulations (Chapter 368A) in which the gross vehicle weight limit of light buses also appears. Clauses 3 and 4 effect the transfer of the powers from the Chief Secretary for Administration to the Secretary for the Environment, Transport and Works to appoint Transport Tribunals and to appoint members into the Transport Tribunals' Panel.

## **LEGISLATIVE TIMETABLE**

9. Subject to Members' approval of the submission of the Bill to the Legislative Council on 22 October 2003, the legislative timetable will be –

Publication in the Gazette	10 October 2003
First Reading and commencement of Second Reading debate	22 October 2003
Resumption of Second Reading debate, Committee Stage and Third Reading	to be notified

## **IMPLICATIONS OF THE PROPOSAL**

10. The proposal will facilitate installation of the new safety equipment in PLBs, which will bring broader benefits in terms of enhancement to passenger safety and reduction in costs of dealing with traffic accidents. The proposed relaxation of weight limit will allow greater flexibility in accommodating different vehicle mix and designs, including possibly enabling the introduction of at least six more light bus models for use in Hong Kong.

11. The estimated cost of the installation of seat belts and high back seats is about \$36,000 per vehicle, which is about 10% of the price of a new PLB with an average life span of 8 years. The average additional operating

cost of a new PLB with seat belts and high back seats is therefore \$375 per month. With a PLB on average carrying 11,600 passenger trips per month, the cost per passenger trip is about \$0.03 per passenger trip. There should hence be minimal implications on PLB fares.

12. The proposal is in conformity with the Basic Law, including the provisions concerning human rights. The proposed amendments in the Bill will not affect the current binding effect of the legislation being amended. It has no financial and civil service, productivity, environmental and sustainability implications.

## **PUBLIC CONSULTATION**

13. LegCo Panel on Transport, the Transport Advisory Committee, the public light bus trade and the vehicle manufacturing industry have been consulted on the proposed relaxation of the gross vehicle weight limit of light buses and they were supportive of the proposal.

14. The Constitutional Affairs Bureau reported to the LegCo Panel on Constitutional Affairs on 21 July 2003 on the review of statutory powers and functions of the Chief Secretary for Administration and the proposed transfer of powers from the Chief Secretary for Administration to the respective Directors of Bureaux and members noted the proposal.

## **PUBLICITY**

15. The Bill will be gazetted on 10 October 2003. A press release will be issued on 8 October 2003. A spokesman will be available to handle media enquiries.

## **OTHERS**

16. For any enquiries, please contact Mrs Sharon Yip, Principal Assistant Secretary for the Environment, Transport and Works, at 2189 2182.

**Environment, Transport and Works Bureau**  
**Government Secretariat**  
**8 October 2003**

A BILL

To

Amend the Road Traffic Ordinance and the Road Traffic  
(Construction and Maintenance of Vehicles) Regulations.

Enacted by the Legislative Council.

**1. Short title and commencement**

(1) This Ordinance may be cited as the Road Traffic  
(Amendment) Ordinance 2003.

(2) Sections 2, 5, 6 and 7 shall come into operation on a  
day to be appointed by the Secretary for the Environment,  
Transport and Works by notice published in the Gazette.

**2. Interpretation**

Section 2 of the Road Traffic Ordinance (Cap. 374) is amended  
in the definition of "light bus" by repealing "having a permitted  
gross vehicle weight not exceeding 4 tonnes which is".

**3. Transport Tribunals' panel**

Section 16(2) and (4) is amended by repealing "Chief  
Secretary for Administration" and substituting "Secretary for the  
Environment, Transport and Works".

#### **4. Appointment of Transport Tribunals**

Section 17(1) and (2)(a) is amended by repealing "Chief Secretary for Administration" and substituting "Secretary for the Environment, Transport and Works".

#### **Road Traffic (Construction and Maintenance of Vehicles) Regulations**

#### **5. Second Schedule amended**

The Second Schedule to the Road Traffic (Construction and Maintenance of Vehicles) Regulations (Cap. 374 sub. leg. A) is amended in Part I by repealing "4.0" and substituting "5.5".

#### **Consequential Amendments**

#### **Motor Vehicles (First Registration Tax) Ordinance**

#### **6. Interpretation**

Section 2(1) of the Motor Vehicles (First Registration Tax) Ordinance (Cap. 330) is amended in the definition of "light bus" by repealing "having a permitted gross vehicle weight not exceeding 4 tonnes which is".

## **Road Tunnels (Government) Regulations**

### **7. Interpretation**

Regulation 2(1) of the Road Tunnels (Government) Regulations (Cap. 368 sub. leg. A) is amended in the definition of "light bus" by repealing "having a permitted gross vehicle weight not exceeding 4 tonnes which is".

### **Explanatory Memorandum**

The main purpose of this Bill is to amend the Road Traffic Ordinance (Cap. 374)("the Ordinance") to -

- (a) increase the maximum gross vehicle weight of a light bus from 4.0 tonnes to 5.5 tonnes; and
- (b) transfer the power to appoint a Transport Tribunals' panel and Transport Tribunals from the Chief Secretary for Administration to the Secretary for the Environment, Transport and Works.

2. Clause 2 amends section 2 of the Ordinance to remove the restriction on gross vehicle weight from the definition of "light bus".

3. Clause 3 amends section 16(2) of the Ordinance to transfer the power to appoint a Transport Tribunals' panel from the Chief Secretary for Administration to the Secretary for the Environment, Transport and Works. The clause also amends section 16(4) of the Ordinance so that a notice of resignation by a member of the panel may be given to the Secretary for the Environment, Transport and Works.

4. Clause 4 amends section 17(1) and (2)(a) of the Ordinance to transfer the power to appoint Transport Tribunals and a chairman of a Transport Tribunal from the Chief Secretary for Administration to the Secretary for the Environment, Transport and Works.

5. Clause 5 amends the Second Schedule to the Road Traffic (Construction and Maintenance of Vehicles) Regulations (Cap. 374 sub. leg. A) to increase the maximum gross vehicle weight of a light bus from 4.0 tonnes to 5.5 tonnes.

6. Clauses 6 and 7 repeal the references to permitted gross vehicle weight of a light bus in other enactments.



Chapter:	374	Title:	ROAD TRAFFIC ORDINANCE	Gazette Number:	23 of 2002
Section:	<b>2</b>	Heading:	<b>Interpretation</b>	Version Date:	19/07/2002

In this Ordinance, unless the context otherwise requires-

"light bus" (小型巴士) means a motor vehicle having a permitted gross vehicle weight not exceeding 4 tonnes which is constructed or adapted for use solely for the carriage of a driver and not more than 16 passengers and their personal effects, but does not include an invalid carriage, motor cycle, motor tricycle, private car or taxi; (Amended 89 of 1988 s. 2)

Chapter:	374	Title:	ROAD TRAFFIC ORDINANCE	Gazette Number:	L.N. 362 of 1997
Section:	16	Heading:	<b>Transport Tribunals' panel</b>	Version Date:	01/07/1997

### PART III

#### TRANSPORT TRIBUNALS

- (1) There shall be a panel from which members of Transport Tribunals may be appointed under this Ordinance. (Amended 89 of 1994 s. 12)
- (2) The panel shall consist of such persons, not being public officers, as the Chief Secretary for Administration may appoint. (Amended L.N. 362 of 1997)
- (3) The appointment of any person as a member of the panel shall have effect for not more than 3 years and a member of the panel shall be eligible for reappointment.
- (4) A member of the panel may resign at any time by notice in writing to the Chief Secretary for Administration. (Amended L.N. 362 of 1997)

Chapter:	374	Title:	ROAD TRAFFIC ORDINANCE	Gazette Number:	L.N. 362 of 1997
Section:	17	Heading:	<b>Appointment of Transport Tribunals</b>	Version Date:	01/07/1997

- (1) The Chief Secretary for Administration may appoint such Transport Tribunals as may from time to time be necessary for the purposes of this Ordinance.
- (2) A Transport Tribunal shall consist of-
- (a) a chairman, who shall be a person other than a public officer, appointed by the Chief Secretary for Administration; and (Amended 89 of 1994 s. 13)
  - (b) 2 members of the panel appointed under section 16. (Replaced 89 of 1994 s. 13)
  - (c) (Repealed 89 of 1994 s. 13)
- (Amended L.N. 362 of 1997)

Chapter:	374A	Title:	ROAD TRAFFIC (CONSTRUCTION AND MAINTENANCE OF VEHICLES) REGULATIONS	Gazette Number:	
Schedule:	2	Heading:		Version Date:	30/06/1997

PART I

MAXIMUM WEIGHT OF VEHICLES  
(Subject to Parts II, III, IV, V and VI)

Column 1 Class of Vehicle	Column 2 Maximum Gross Vehicle Weight
Private Car	3.0 tonnes
Taxi	3.0 tonnes
Invalid Carriage	3.0 tonnes
Light Bus	4.0 tonnes
Bus	24 tonnes
Light Goods Vehicle	5.5 tonnes
Medium Goods Vehicle	24 tonnes
Heavy Goods Vehicle	38 tonnes
Motor Cycle	500 kilograms
Motor Tricycle	600 kilograms
Trailer	38 tonnes

(L.N. 242 of 1985; L.N. 146 of 1990)

Chapter:	330	Title:	MOTOR VEHICLES (FIRST REGISTRATION TAX) ORDINANCE	Gazette Number:	L.N. 59 of 2003 & 22 of 2003
Section:	2	Heading:	<b>Interpretation</b>	Version Date:	05/03/2003

- (1) In this Ordinance unless the context otherwise requires- (Amended 11 of 1997 s. 2)

"light bus" (小型巴士) means a motor vehicle having a permitted gross vehicle weight not exceeding 4 tonnes which is constructed or adapted for use solely for the carriage of a driver and not more than 16 persons and their personal effects, but does not include an invalid carriage, motor cycle, motor tricycle, private car or taxi; (Added 23 of 1983 s. 2. Amended 89 of 1988 s. 4)

Chapter:	368A	Title:	ROAD TUNNELS (GOVERNMENT) REGULATIONS	Gazette Number:	44 of 1999; 49 of 1999
Regulation:	2	Heading:	<b>Interpretation</b>	Version Date:	01/09/1999

- (1) In these regulations, unless the context otherwise requires- (44 of 1999 s. 32; 49 of 1999 s. 3)

"light bus" (小型巴士) means a motor vehicle having a permitted gross vehicle weight not exceeding 4 tonnes which is constructed or adapted for use solely for the carriage of a driver and not more than 16 passengers and their personal effects, but does not include an invalid carriage, motor cycle, motor tricycle, private car or taxi; (L.N. 196 of 1984; 89 of 1988 s. 6)