

立法會
Legislative Council

LC Paper No. LS75/03-04

**Paper for the House Committee Meeting
on 7 May 2004**

**Legal Service Division Report on
Proposed Resolution under section 12 of the
Fixed Penalty (Criminal Proceedings) Ordinance (Cap. 240)**

The Secretary for the Environment, Transport and Works ("the Secretary") has given notice to move a motion under section 12 of the Fixed Penalty (Criminal Proceedings) Ordinance (Cap. 240) ("the Ordinance") at the Legislative Council meeting of 19 May 2004. The motion seeks the Legislative Council's approval to amend item 53 of the Schedule to the Ordinance to the effect that drivers of public light buses will not be subject to a fixed penalty when passengers in the front seats are under the age of 15 and are not securely fastened with seat belts.

2. The Schedule to the Ordinance sets out various offences under the Road Traffic Ordinance (Cap. 374) and its subsidiary legislation which are punishable by a fixed penalty. One of these offences is the offence of driving a light bus (private or public) on any road when there is in the front seat a passenger under the age of 15 years who is not securely fastened with a seat belt, contrary to section 7A(3) of the Road Traffic (Safety Equipment) Regulations (Cap. 374 sub. leg. F) ("the Safety Equipment Regulations"). Section 7A(3) was subsequently amended by the Road Traffic (Safety Equipment) (Amendment) Regulation 2002 ("the Amendment Regulation") to the effect that the offence will no longer apply to drivers of public light buses. The proposed resolution, therefore, is made to reflect the amendment made to section 7A(3) of the Safety Equipment Regulations.

3. According to the LegCo Brief (Ref.: ETWB(T)1/12/65(03) Pt.12) issued by the Environment, Transport and Works Bureau on 3 May 2004, the proposed amendment is necessary to reflect the change in the responsibility of wearing seat belts on public light buses made in the Amendment Regulation. Members may recall that the Amendment Regulation and the Road Traffic (Construction and Maintenance of Vehicles) (Amendment) (No. 2) Regulation 2002, gazetted on 18 October 2002, require the installation of passenger protection equipment including rear seat belts and high back seats on all new public light buses registered on or after a designated date to enhance the safety of passengers. A Subcommittee was formed to study the two Regulations. The Subcommittee

noted the Administration's intention to bring the two Regulations into operation on or after 1 August 2004. With the installation of seat belts on newly registered public light buses, the Administration considers it fair and more practicable to hold the passengers rather than the drivers criminally liable when the passengers fail to fasten themselves securely with seat belts.

4. The Panel on Transport was briefed on 5 December 2003 on the latest development and progress of the measures to enhance passenger safety on public light buses. The Panel noted that similar to the arrangement for taxis, the legal responsibility for not wearing seat belts on public light buses should rest with the passengers because it would not be possible for a public light bus driver to monitor and ensure that all passengers on his vehicle have securely fastened their seat belts. According to the LegCo Brief, the Transport Advisory Committee and the public light bus trade have been consulted on the proposed amendment and are supportive of the proposal.

5. If passed, the proposed resolution will come into operation on a day to be appointed by the Secretary by notice published in the Gazette.

6. The legal and drafting aspects of the proposed resolution present no problem.

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