

**立法會**  
**Legislative Council**

LC Paper No. LS3/03-04

**Paper for the House Committee Meeting  
on 24 October 2003**

**Legal Service Division Report on  
Road Traffic (Amendment) Bill 2003**

**I. SUMMARY**

1. **Object of the Bill** To increase the maximum gross vehicle weight of a light bus from 4.0 tonnes to 5.5 tonnes and to transfer the statutory power vested in the Chief Secretary for Administration ("CS") under sections 16 and 17 of the Road Traffic Ordinance (Cap. 374) to the Secretary for the Environment, Transport and Works ("SETW").
  
2. **Comments**
  - (a) The proposed increase in the maximum gross vehicle weight of light buses is necessary to allow for the installation in public light buses of the new passenger protection equipment required by the Road Traffic (Construction and Maintenance of Vehicles) (Amendment) (No. 2) Regulation 2002 and the Road Traffic (Safety Equipment) (Amendment) Regulation 2002.
  - (b) The Bill proposes to transfer the power to appoint Transport Tribunals and the power to appoint members into a Transport Tribunals' panel from CS to SETW to enable SETW to assume full responsibility and authority in managing her statutory functions and policy portfolios after the implementation of the accountability system for principal officials.
  
3. **Public Consultation** The Transport Advisory Committee, the public light bus trade and the vehicle manufacturing industry have been consulted on the proposal relating to light buses.
  
4. **Consultation with LegCo Panel**
  - (a) The Panels on Transport and Environmental Affairs have been consulted on the proposed increase in the maximum gross vehicle weight limit of light buses.
  - (b) The Panel on Constitutional Affairs has not been briefed specifically on the transfer of power proposed in the Bill.
  
5. **Conclusion** The legal and drafting aspects of the Bill present no problem.

## **II. REPORT**

### **Object of the Bill**

The Bill amends the Road Traffic Ordinance (Cap. 374) 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 Transport Tribunals and the power to appoint members of the panel from which members of Transport Tribunals may be appointed from the Chief Secretary for Administration ("CS") to the Secretary for the Environment, Transport and Works ("SETW").

### **LegCo Brief Reference**

- 2. ETWB(T)3/9/21 (03) Pt.11 dated 8 October 2003 issued by the Environment, Transport and Works Bureau.

### **Date of First Reading**

- 3. 22 October 2003.

### **Comments**

#### *Increase in the maximum gross vehicle weight of light buses*

- 4. A light bus, as defined in section 2 of the Road Traffic Ordinance (Cap. 374) ("the Ordinance"), 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". Under the Road Traffic (Construction and Maintenance of Vehicles) Regulations (Cap. 374 sub. leg. A) ("the Regulations"), the existing maximum gross vehicle weight for a light bus is specified to be 4.0 tonnes. It is an offence under the Regulations for a person to use or cause or permit to be used on any road a light bus with its gross vehicle weight exceeding the specified weight. The maximum penalty for the offence is a fine at \$10,000 and imprisonment for 6 months.

5. The Bill proposes to remove the restriction on gross vehicle weight from the definition of "light bus" in the Ordinance, and to increase the maximum gross vehicle weight of light buses specified in the Regulations from 4.0 tonnes to 5.5 tonnes. According to the LegCo Brief, the proposed increase is necessary to allow for the installation of new passenger protection equipment required by the Road Traffic (Construction and Maintenance of Vehicles) (Amendment) (No. 2) Regulation 2002 and the Road Traffic (Safety Equipment)(Amendment) Regulation 2002 ("the Amendment Regulations"). Members may recall that the Amendment Regulations, gazetted on 18 October 2002, require the installation of passenger protection equipment including 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 Amendment Regulations. The Subcommittee noted the Administration's intention to bring the Amendment Regulations into operation on or after 1 August 2004 and to apply the Amendment Regulations to new public light buses registered on or after that date so as to provide sufficient lead time for the design and installation of the new safety equipment.

*Transfer of the power to appoint a Transport Tribunals' panel and Transport Tribunals from CS to SETW*

6. Under sections 16 and 17 of the Ordinance, CS is vested with the power to appoint Transport Tribunals and to appoint members of the panel from which members of Transport Tribunals may be appointed. A person who is aggrieved by certain decisions made by the Commissioner for Transport ("the Commissioner") under the Ordinance may apply for a review by a Transport Tribunal or lodge an appeal to a Transport Tribunal. The decisions that are reviewable by a Transport Tribunal include refusal to register a vehicle, refusal to license a vehicle or cancellation of a licence. Appeals which may be made to a Transport Tribunal are the Commissioner's decisions to revoke the designation of a vehicle emission testing centre, a car testing centre, a driving school and a driving improvement school.

7. The Bill proposes to transfer the said powers of CS to SETW. According to the LegCo Brief, the proposed transfer will enable SETW to assume full responsibility and authority in managing her statutory functions and policy portfolios after the implementation of the accountability system for principal officials in July 2002.

*Commencement dates*

8. If the Bill is passed, the increase in maximum gross vehicle weight of light buses will come into operation on a day to be appointed by SETW by notice published in the Gazette. The transfer of CS's power, on the other hand, will come into operation on the day on which the relevant Ordinance is published in the Gazette.

## **Public Consultation**

9. According to the LegCo Brief, the Transport Advisory Committee, the public light bus trade and the vehicle manufacturing industry have been consulted on the proposed increase in the maximum gross vehicle weight of light buses and they support the proposal. No public consultation has been made in respect of the proposal to transfer CS's statutory powers relating to Transport Tribunals.

## **Consultation with LegCo Panel**

10. At the joint meeting of the Panel on Transport and the Panel on Environmental Affairs held on 13 June 2002, members were briefed on, among others, the Administration's proposal to increase the maximum gross vehicle weight of light buses from 4.0 tonnes to 5.5 tonnes. Members, in general, supported the proposal.

11. The Panel on Constitutional Affairs discussed the Twelve-month Report on Implementation of the Accountability System for Principal Officials (the Report) at its meeting on 21 July 2003. Paragraph 50 of the Report states that the Administration has completed a review to examine whether those statutory powers and functions which are currently vested in CS and the Financial Secretary but which fall clearly within the policy portfolio of a Director of Bureau should be transferred to the latter to enable him or her to assume full responsibility and authority in managing his or her statutory functions and policy portfolios. The respective Directors of Bureau will work out their implementation timetables and present proposals to the Legislative Council in due course. The Panel has not been briefed specifically on the transfer of power from CS to SETW as proposed in the Bill.

## **Conclusion**

12. The legal and drafting aspects of the Bill present no problem. Members may wish to decide whether and how to consider the proposed transfer of power from CS to SETW.

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