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**Legislative Council**

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**Paper for the House Committee meeting  
on 2 July 2004**

**Report of the Subcommittee on four items of subsidiary legislation  
relating to the installation of passenger protection equipment on  
all newly registered public light buses**

**Purpose**

This paper reports on the deliberations of the Subcommittee on four items of subsidiary legislation (L.N. 120 - L.N.123) relating to the installation of passenger protection equipment on all newly registered public light buses (PLBs).

**Background**

2. LN 120 - LN 123 are commencement notices of four items of subsidiary legislation relating to the installation of passenger protection equipment on all newly registered PLBs and the resulting change in responsibility of wearing seat belts on PLBs. The commencement notices specify that the related legislation shall come into operation on 1 August 2004.

Installation of passenger protection equipment on public light buses

3. An analysis of the accident statistics revealed that the accident rate and the rear seat casualty rate of PLBs have been relatively high among all classes of vehicles. The 2003 accident and casualty rates per 1000 vehicles for PLBs were about 221 and 145 respectively whereas those for all motor vehicles were about 25 and 9 respectively. Given that PLBs are a very popular mode of public transport, the Administration considers it necessary to install passenger protection equipment, including seat belts and high back seats, on all newly registered PLBs to enhance the safety of passengers.

Relevant legislative amendments

4. There are three major areas of legislative amendments relating to the proposed installation of passenger protection equipment on all newly registered PLBs:

- (a) amending the Road Traffic (Safety Equipment) Regulations (Cap. 374 sub. leg. F) ("the Safety Equipment Regulations") and the Road Traffic (Construction and Maintenance of Vehicles) Regulations (Cap. 374 sub. leg. A) ("the Construction and Maintenance Regulations") to provide for the fitting and wearing of seat belts in the rear seats of newly registered PLBs and to provide for the installation of high back seats on these PLBs;
- (b) introducing consequential amendments to the Fixed Penalty (Criminal Proceedings) Ordinance (Cap. 240) ("the Fixed Penalty Ordinance") and its Regulations to reflect that it is no longer an offence for a person to drive a PLB when a front seat passenger under 15 years of age is not securely fastened with a seat belt as provided in the Road Traffic (Safety Equipment) (Amendment) Regulation 2002 (L.N. 148 of 2002) ("the Safety Equipment Amendment Regulation") ; and
- (c) amending the Road Traffic Ordinance (Cap. 374) (RTO) and the Second Schedule to the Construction and Maintenance Regulations to increase the maximum gross vehicle weight of a light bus from 4 to 5.5 tonnes to allow for the installation of the new passenger protection equipment.

5. On paragraph 4(a), the Road Traffic (Construction and Maintenance of Vehicles) (Amendment) (No. 2) Regulation 2002 (L.N. 147 of 2002) ("the Construction and Maintenance Amendment Regulation") and the Safety Equipment Amendment Regulation, which provide for the fitting and wearing of seat belts in the rear seats of newly registered PLBs plus the requirement of high back seats, were tabled at the Legislative Council on 23 October 2002 and have gone through the negative vetting procedure of the Council without amendments.

6. L.N. 120 and L.N. 121 appoint 1 August 2004 as the day on which the Construction and Maintenance Amendment Regulation and the Safety Equipment Amendment Regulation will come into operation.

7. On paragraph 4(b), the Administration considers it fair and more practicable to hold passengers rather than the driver responsible for not wearing seat belts. This has taken into account the fact that PLB drivers would have difficulties in monitoring and ensuring that all passengers observe the seat belt requirement throughout the journey. To reflect this change of responsibility as provided in the Safety Equipment Amendment Regulation, the Administration needs to move a resolution to introduce a consequential amendment to the Schedule to the Fixed Penalty Ordinance to reflect that it is not an offence for a person to drive a PLB when a front seat passenger under 15 years of age is not securely fastened with a seat belt. The resolution made under section 12 of the Fixed Penalty Ordinance was passed by the Council on 9 June 2004.

8. A similar consequential amendment is required to be made to Form 1 of the Schedule to the Fixed Penalty (Criminal Proceedings) Regulations ("the Fixed Penalty

Regulations"). The Fixed Penalty (Criminal Proceedings) (Amendment) Regulation 2004 (L.N. 103 of 2004) ("the Fixed Penalty Amendment Regulation") amends the description of offence under Regulation 7A(3) in Form 1 in the Schedule to the Fixed Penalty Regulations by removing the offence for a person to drive a PLB when a front seat passenger under the age of 15 years is not securely fastened to his seat by means of a seat belt. The Fixed Penalty Amendment Regulation was gazetted on 28 May 2004.

9. L.N. 122 and L.N. 123 appoint 1 August 2004 as the day on which the Fixed Penalty Amendment Regulation and the Fixed Penalty Ordinance - Resolution of the Legislative Council ("the Fixed Penalty Resolution") will come into operation.

10. As regards paragraph 4(c), according to section 2 of the RTO and the Second Schedule to the Construction and Maintenance Regulations, the maximum gross vehicle weight of a light bus is 4 tonnes. The requirements of high back seats and seat belts will increase the weight of PLBs to beyond the current limit of the gross vehicle weight. To accommodate the installation of the new passenger protection equipment, the Road Traffic (Amendment) Bill 2003 was introduced into the Legislative Council on 22 October 2003. The Bills Committee formed to study the Bill supported the Administration's proposal to increase the maximum gross vehicle weight of light buses. The Second Reading debate on the Bill will be resumed at the Council meeting on 30 June 2004. The Administration will move a Committee Stage amendment to amend the commencement date of the Bill to 1 August 2004.

### **The Subcommittee**

11. At the meeting of the House Committee on 25 June 2004, members agreed that a Subcommittee should be formed to study the commencement of the four items of subsidiary legislation as set out in L.N. 120 - L.N. 123.

12. Chaired by Hon Miriam LAU Kin-ye, the Subcommittee held a meeting with the Administration. It also received views from the PLB trade and vehicle suppliers of PLB. The membership list of the Subcommittee is in **Appendix I**.

### **Deliberations of the Subcommittee**

13. The Subcommittee notes that the PLB trade as well as the vehicle suppliers of PLBs in Hong Kong are in full support of the proposal to install passenger protection equipment, including seat belts and high back seats, on PLBs to enhance the safety of passengers.

14. The PLB trade however is concerned that the proposed commencement of the four items of subsidiary legislation in relation to the installation of passenger protection equipment on all newly registered PLBs on 1 August 2004 might disrupt their plans to replace diesel PLBs with liquefied petroleum gas (LPG) PLBs as one of

the major vehicle suppliers of LPG PLBs has indicated that the new short wheel base vehicles will not be available until November/December 2004 due to changes in the manufacturing process to cope with the installation of passenger protection equipment on new PLBs. The PLB trade informs the Subcommittee that for orders placed in late June, the earliest delivery date is February/March 2005. The PLB trade points out that as a result of the shortage of supply of short wheel base LPG vehicles, owners of diesel PLBs will be deprived of the right to obtain the one-off grant of \$60,000 as provided for under the incentive scheme to encourage diesel PLB owners to replace their vehicles with ones that are run on LPG<sup>1</sup>. The PLB trade therefore requests the Administration to consider extending the deadlines of application for the grant to end-2005 for owners of existing diesel PLBs aged 10 or above at the time of de-registration.

15. The Administration advises that when the Construction and Maintenance Amendment Regulation and the Safety Equipment Amendment Regulation were passed in November 2002, it made clear in all the public documents and media releases that the new requirements would come into effect on 1 August 2004. A period of 20 months has been given to vehicle manufacturers to enable them to prepare for the new requirements. The Administration has also repeatedly reminded PLB suppliers that 1 August 2004 would be the commencement date for implementing the new statutory requirements.

16. The Subcommittee understands that with the exception of Crown Motors, the franchise dealer of Toyota, all the other PLB suppliers have confirmed their readiness to comply with the new requirements by 1 August 2004. The Administration points out that Toyota's long wheel base LPG PLBs and diesel PLBs that are currently available in the Hong Kong market are already equipped with high back seats and seat belts. This indicates that Toyota is technically capable of producing light buses in compliance with the new requirements. The Administration is very concerned about the company failing to deliver short wheel base LPG PLBs equipped with passenger protection equipment by August 2004. The Administration has urged Toyota to take all necessary actions to expedite its production schedule to meet the market demand in Hong Kong as early as possible.

17. The Subcommittee notes that the Administration does not consider it appropriate to amend the legislative timetable simply because one supplier is unable to supply one of the PLB models in time. It would be inequitable to other suppliers who have endeavoured to adjust their production line to meet the planned timetable. In addition, deferring the implementation timetable would be unfair to PLB operators and passengers.

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<sup>1</sup> On 15 July 2002, the Finance Committee approved the Administration's funding request to provide a one-off grant to encourage diesel PLB owners to replace their vehicles early with ones that are run on LPG or electricity. Under the proposal, the Administration agrees to provide a one-off grant of \$60,000 or \$80,000 for each eligible diesel PLB that is replaced by an LPG or electric one respectively. In order to be eligible for the scheme, owners of diesel PLBs aged 10 or above at the time of de-registration must replace their vehicles by end-2004, and owners of diesel PLBs below 10 years old at the time of de-registration must replace their vehicles by end-2005.

18. Nevertheless, in the light of concerns expressed by some PLB operators about the impact of the problem on their eligibility for the grant for conversion of diesel PLBs to LPG PLBs, the Administration agrees to put in place the following administrative arrangements –

- (a) a PLB owner whose diesel PLB is reaching the age of 10 years or above by the end of 2004, and who has placed a purchase order for an LPG PLB on or before 31 December 2004 for replacing the diesel PLB, may be eligible for the grant for an extended period;
- (b) the period of extension will be one year counting from the due date (within 2004) for vehicle examination for the certificate of roadworthiness of the aforesaid diesel PLB;
- (c) an application for the grant and the supporting documents must be submitted on or before 31 December 2004; and
- (d) the application will be examined on a case-by-case basis.

19. The Subcommittee notes that the PLB trade in principle accepts the above proposal. The Subcommittee has urged the Administration to liaise with the PLB trade on the details of implementation as soon as possible.

20. The Subcommittee accepts that the new safety requirements shall come into effect on 1 August 2004 to enhance the safety of PLB passengers.

#### **Advice sought**

21. Members are invited to note the deliberation of the Subcommittee.

**Subcommittee on  
four items of subsidiary legislation relating to the  
installation of passenger protection equipment on  
all newly registered public light buses**

**Membership list**

**Chairman** Hon Miriam LAU Kin-yee, JP

**Members** Ir Dr Hon Raymond HO Chung-tai, JP  
Hon LAU Kong-wah, JP  
Hon Andrew CHENG Kar-foo  
Hon LI Fung-ying, JP  
Hon LEUNG Fu-wah, MH, JP

(Total : 6 Members)

**Clerk** Mr Andy LAU

**Legal Adviser** Ms Connie FUNG

**Date** 29 June 2004