

LEGISLATIVE COUNCIL BRIEF

Resolution of the Legislative Council under section 12 of the Fixed Penalty (Criminal Proceedings) Ordinance (Cap. 240)

INTRODUCTION

The Schedule to the Fixed Penalty (Criminal Proceedings) Ordinance (Cap. 240) needs to be amended to reflect that it is not an offence for a person to drive a public light bus (PLB) where a front seat passenger under 15 years of age is not securely fastened with a seat belt.

BACKGROUND AND ARGUMENT

2. The accident rate and the rear seat casualty rate of PLBs have been relatively high compared to other vehicle types. Given that PLB is a popular transport mode, we consider it necessary to install passenger protection equipment, including seat belts, on PLBs to enhance passenger safety. In this connection, the Road Traffic (Safety Equipment) (Amendment) Regulation 2002 and the Road Traffic (Construction and Maintenance of Vehicles) (Amendment) (No. 2) Regulation 2002 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 passed by the Legislative Council in November 2002. To allow sufficient time for the vehicle manufacturers to develop and produce the new protection equipment, the Administration intends to bring the two Regulations into effect on 1 August 2004.

3. With the installation of seat belts on new PLBs, we consider 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 monitoring and ensuring that passengers observe the seat belt requirement throughout the journey. The Road Traffic (Safety Equipment) (Amendment) Regulation 2002 already specifies that the responsibility of wearing seat belts rests with passengers on PLBs. However, under Cap. 240, a PLB driver is still subject to a fixed penalty if any of his passengers under the age of 15 in the front seat is not securely fastened with a seat belt. To reflect the change in the responsibility of wearing seat belts for PLBs, a consequential amendment has to be made to the Schedule to Cap. 240.

THE RESOLUTION

4. Section 12 of Cap. 240 provides that the Schedule to Cap. 240 may be amended by a resolution of the Legislative Council. The objective of the Resolution is to reflect the change in the responsibility of wearing seat belts for PLBs as provided in section 4 of the Road Traffic (Safety Equipment) (Amendment) Regulation 2002 while keeping the requirement for private light buses intact. A copy of the resolution is at the **Annex**.

LEGISLATIVE TIMETABLE

5. The Secretary for the Environment, Transport and Works will move a resolution in the Legislative Council for the proposed amendment on 19 May 2004. Subject to the approval of the Legislative Council, the Resolution will be published in the gazette on 21 May 2004 and will come into effect on a date specified in the gazette.

IMPLICATIONS OF THE RESOLUTION

6. The Resolution will not affect the current binding effect of Cap. 240 and is in conformity with the Basic Law, including the provisions concerning human rights. The proposed amendment has no additional financial and staffing implications, nor will there be any economic, productivity, environmental or sustainability implications.

PUBLIC CONSULTATION

7. The Legislative Council Panel on Transport, the Transport Advisory Committee and the PLB trade have been consulted and are supportive of the proposal.

PUBLICITY

8. A press release will be issued on 21 May 2004 on the gazettal of the Resolution. A spokesman will be available to respond to media enquiries. In addition, a separate publicity programme will be launched to remind passengers of their responsibility to wear seat belts, if provided, when travelling on PLBs.

OTHERS

9. For any enquiries, please contact Ms Elizabeth Tai, Principal Assistant Secretary for the Environment, Transport and Works, at 2189 2182.

Environment, Transport and Works Bureau
Government Secretariat
3 May 2004

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 2004.

RESOLVED –

- (a) that the Schedule to the Fixed Penalty (Criminal Proceedings) Ordinance be amended, in item 53, by adding "private" before "light"; and
- (b) that this Resolution 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.

Clerk to the Legislative Council

2004

Explanatory Note

Section 4 of the Road Traffic (Safety Equipment) (Amendment) Regulation 2002 (L.N. 148 of 2002) amends regulation 7A(3) of the Road Traffic (Safety Equipment) Regulations (Cap. 374 sub. leg. F) so that it is no longer an offence for a person to drive a public light bus when a front seat passenger under 15 years of age is not securely fastened with a seat belt. This Resolution consequentially amends the description of that regulation 7A(3) in the Schedule to the Fixed Penalty (Criminal Proceedings) Ordinance (Cap. 240).

FIXED PENALTY (CRIMINAL PROCEEDINGS) ORDINANCE

RESOLUTION

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

RESOLVED –

- (a) that the Schedule to the Fixed Penalty (Criminal Proceedings) Ordinance be amended, in item 53, by adding "private" before "light"; and
- (b) that this Resolution 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.