

## **LEGISLATIVE COUNCIL BRIEF**

Road Traffic Ordinance (Chapter 374)  
Road Traffic (Driving Licences) Regulations (Chapter 374B)  
and  
Road Traffic (Driving-offence Points) Ordinance (Chapter 375)

### **ROAD TRAFFIC LEGISLATION (AMENDMENT) BILL 2008**

#### **INTRODUCTION**

At the meeting of the Executive Council on 22 January 2008, the Council ADVISED and the Chief Executive ORDERED that the Road Traffic Legislation (Amendment) Bill 2008, at **Annex**, should be introduced into the Legislative Council.

Annex

#### **JUSTIFICATIONS**

##### **Penalties on Causing Death by Dangerous Driving**

###### *Existing Penalties*

2. Under section 36 of the Road Traffic Ordinance (Cap. 374), a person who causes the death of another person by driving a motor vehicle on a road dangerously can be charged with the offence of causing death by dangerous driving. A person convicted of this offence is liable to a maximum fine of \$50,000 and five years of imprisonment. He is also liable to be disqualified from driving for not less than two years for a first conviction and for not less than three years for a second or subsequent conviction.

###### *Views of the Community*

3. There is a general public view that the maximum imprisonment term for the offence is not commensurate with the severity of the offence. Many also consider that heavier penalties should be imposed not only for punitive purposes, but also for a stronger deterrent effect to reduce fatal traffic accidents.

## *No Change in the Maximum Imprisonment Term Since 1982*

4. The maximum imprisonment term of this offence has not changed for over 20 years. When the penalties for this offence were last revised in 2000<sup>1</sup>, we raised the level of the maximum fine from Level 4 (\$25,000) to Level 5 (\$50,000). We also lengthened the duration of disqualification and extended this penalty to first convictions but there was no increase in the maximum imprisonment term.

## *The Obiter Dicta by Judges*

5. There are obiter dicta by judges in at least two cases which suggest that we should increase the maximum sentence for the offence because of the serious consequences caused by dangerous driving<sup>2</sup>.

## *The Proposal*

6. We propose to raise the maximum imprisonment term for causing death by dangerous driving from five to ten years.

## **Penalties on Drink Driving Offences and Screening Breath Tests**

### *Existing Penalties and Screening Breath Tests*

7. Under Cap. 374, drink driving offenders are liable to a maximum fine of \$25,000 and three years of imprisonment. They are also liable to be disqualified from driving for not less than two years for a second or subsequent conviction. If a traffic accident is caused by drink driving and causes the death of another person, the driver can be charged with causing death by dangerous driving.

8. At present, the Police can only require a person to conduct a roadside screening breath test if there is a reasonable cause to suspect that he has alcohol in his body when driving or attempting to drive a vehicle on a road, or if he has

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<sup>1</sup> In 2000, we amended the penalties on fines and disqualifications when we abolished the offence of “reckless driving causing death” and replaced it with “dangerous driving causing death” to instill more objectivity in the test of the driving behaviour or standard.

<sup>2</sup> In *SJ v Poon Wing-kay & Liu Chun-pong CAAR2/2006 & CACC 536/2005*, Hon MA CJHC remarked that there must be considerable merit in increasing the maximum sentence for the offence of dangerous driving causing death. Also, in *HKSAR v. MOK King-yin [2002] 2 H.K.L.R.D. 76*, Hon Deputy Judge Wong made an obiter dictum that the loss of a human life was a very serious consequence and there was no reason why Hong Kong should not increase the maximum sentence for causing death by dangerous driving to 10 years, and follow the English sentencing approach.

been involved in a traffic accident, or has committed a traffic offence while the vehicle is in motion.

### *Traffic Accidents Involving Drink Driving*

9. In 2002-2006, the average number of traffic accidents involving drink driving was 94 per year. The average number of casualties in drink driving accident was 154 per year. Among them, an average of 35 persons were killed or seriously injured per year. Although the average percentage of drink driving accidents among all traffic accidents (about 0.63%) was relatively low, the average Killed and Serious Injuries (KSI)<sup>3</sup> rate of 22.5% for drink driving accidents was relatively high when compared with that of 15.8% for all traffic accidents.

10. Drink driving has increasingly been regarded as a serious offence that can bring about grave consequences not only to the drivers of the vehicles concerned but also to other road users. The public and legislators have asked for increased penalties on drink driving offences, and a power for the Police to require drivers to conduct screening breath tests at random and without the need for reasonable suspicion. Both are considered to be a strong deterrent.

### *International Practice on Penalties and Screening Breath Tests*

11. We have compared our penalties on drink driving offences with some jurisdictions, including Australia (New South Wales), Singapore, Canada (Quebec), the United Kingdom, New Zealand and the United States (Arizona). We found that whilst the level of fines and imprisonment terms for drink driving offences in Hong Kong are generally comparable with those overseas, offenders on first convictions in Hong Kong would not be disqualified from driving, as opposed to overseas practice where drink driving offenders would normally be disqualified from driving upon first convictions.

12. As for screening breath tests, there is no standard overseas practice. Law enforcers may conduct breath tests at random in Australia, France, Belgium, Sweden, the Netherlands and New Zealand, but not in the United States, Singapore, Japan, Germany, Canada and the United Kingdom.

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<sup>3</sup> Killed casualties are those died within 30 days after the traffic accidents. Serious injuries are casualties detained in hospital as “in-patients” for over 12 hours after the traffic accidents. KSI rate is the percentage of KSI casualties over total casualties.

## *The Proposals*

13. We propose to –
- (a) disqualify a drink driving offender from driving for not less than three months on a first conviction, and require him to attend a driving improvement course (“DIC”) on a mandatory basis;
  - (b) provide the Police with a general power so that police officers in uniform can require a person who is driving or attempting to drive a vehicle on a road to conduct a screening breath test without the need for reasonable suspicion; and
  - (c) introduce a pre-screening device to facilitate the conduct of the screening breath tests at random.

### **Mandatory Driving Improvement Course Scheme**

#### *Existing DIC Arrangements*

14. DICs are courses that are specially designed to instill in drivers a stronger sense of road safety and good driving behaviour. Currently, under section 72A(1)(b) of Cap. 374, the court has the discretionary power to order traffic offenders who incur five driving-offence points (DOPs) or above under the Road Traffic (Driving-offence Points) Ordinance (Cap. 375) to complete DICs at their own cost and within a period of three months. Three DOPs will be deducted on completion of a DIC, and the deduction is allowed once within a period of two years.

15. Since the introduction of the current DIC scheme in September 2002, a total of 7 563 persons attended the DIC up to end-June 2006. About 57% of the DIC attendees did not commit any traffic offence within 12 months after completing a DIC. Given the effectiveness of the DIC, legislators and the public are of the view that mandatory attendance of educational courses should be imposed on certain traffic offenders.

16. The current maximum penalties for non-compliance of a court order for attending DIC are a fine of \$3,000 and one-month imprisonment. The rate of non-compliance of the court order has been high (about 40%), and a person convicted of non-compliance of the court order for attending a DIC may only be required to pay a fine without the need to attend the DIC.

## *The Proposals*

17. We propose that –

- (a) in addition to the existing discretionary power of the court to order traffic offenders to attend DICs, a person shall be required to attend a DIC on a mandatory basis if he falls within any of the following categories –
  - (i) repeat traffic offenders who have accumulated ten or more DOPs within a period of two years;
  - (ii) persons convicted of any one of the following serious traffic offences under Cap. 374 –
    - causing death by dangerous driving under section 36
    - dangerous driving under section 37
    - drink driving offences under sections 39, 39A, 39B and 39C
    - driving in excess of speed limit by more than 45 km/h under section 41
    - motor racing and speed trials under section 55;
- (b) a person will not be required to attend more than one DICs for the same offence or for different offences of which he is convicted in the same proceedings. Besides, no DOPs incurred by the person will be counted twice for the purpose of the mandatory DIC requirement;
- (c) the Commissioner for Transport (“the Commissioner”) will be empowered to notify a person having incurred ten or more DOPs to attend a DIC within a period of three months; and on an application by the person, may fix a longer period within which he shall attend and complete the DIC;
- (d) new measures will be introduced to tie in with the mandatory DIC scheme to deter non-compliance, and to rectify the existing anomaly that a person convicted of non-compliance to the DIC requirement is not subsequently required to attend the DIC. The following penalties are to be imposed for a person failing to attend the mandatory DIC as required –
  - (i) the maximum fine is raised from \$3,000 to \$5,000 for the first conviction of non-compliance to the DIC requirement;

- (ii) a person convicted of non-compliance shall be ordered to complete a DIC again. If he fails to comply with the second order, he is liable to a fine of \$10,000, two months of imprisonment, and disqualification from driving for not less than three months;
- (iii) if the person has been disqualified from driving and ordered to complete a DIC when convicted of any one of the serious traffic offences (as set out at paragraph 17(a)(ii)), the disqualification period is either that ordered by the court or until he has completed the DIC, whichever is the later; and
- (iv) the Commissioner may refuse to issue, re-issue or renew all of his driving licences until he has completed the DIC as required.

## **Probationary Driving Licence Scheme**

### *Results of the Probationary Driving Licence Scheme for Motorcyclists*

18. The probationary driving licence (“PDL”) scheme was first introduced for motorcyclists in October 2000. Under the scheme, newly qualified motorcyclists are required to undergo a mandatory 12-month probationary driving period after being issued with the PDLs. After the introduction of the scheme, the accident involvement rate of novice motorcyclists has dropped. In 1996-2000, before the PDL scheme was introduced, the average annual accident involvement rate of novice motorcyclists (less than 1 year experience) was 72 per 1 000 motorcyclists. The rate dropped to an average of 47 per 1 000 motorcyclists in 2001-2006 after commencement of the scheme. The significant drop in the accident rate for novice motorcyclists indicates that the PDL scheme has helped reduce accidents involving novice motorcyclists.

19. Statistics further show that motorcyclists who have undergone the PDL scheme continue to have a lower accident rate when they drive in the second and third years, as compared with the group of drivers with similar experience before the introduction of the PDL scheme. The average annual accident involvement rate of those motorcyclists with over one year’s but less than two years’ driving experience was 33 per 1 000 motorcyclists in 2002-2006 after the introduction of the PDL scheme, as compared with 52 per 1 000 motorcyclists in 1997-2001 for those with the same driving experience but had not undergone the PDL scheme. The average accident involvement rate of those motorcyclists with over two years’ but less than three years’ experience was 24 per 1 000 motorcyclists in 2003-2006 after the introduction of the PDL scheme, as compared with 44 per 1 000 motorcyclists in 1999-2002 for those

with the same driving experience but had not undergone the PDL scheme. This reflects the lasting benefit of the scheme.

### *Restrictions on Novice Drivers of Other Vehicle Classes*

20. Currently, under the Road Traffic (Driving Licences) Regulations (Cap. 374B), applicants for full driving licences of taxis, light buses, medium/heavy goods vehicles and buses are required to have at least three years' driving experience. In other words, while novice drivers of taxis, light buses, buses and medium/heavy goods vehicles should have adequate on-road experience, such may not be the case for novice drivers of private cars and light goods vehicles ("LGVs").

### *Accident Statistics Involving Private Cars and LGVs*

21. Statistics in 2002-2006 show that the accident involvement rates of both the first-year private car and LGV drivers are higher than those with over one year's driving experience. On average, the annual accident involvement rate for LGV drivers with less than one year's driving experience is 3.72 per 1 000 drivers, as compared to 2.15 for LGV drivers with driving experience of one year or more. For private car drivers, the average annual accident involvement rate for those with less than one year's driving experience is 6.95 per 1 000 drivers, as compared to 3.51 for those with driving experience of one year or more.

### *Recommendation of the Tuen Mun Road Traffic Incident Independent Expert Panel*

22. Separately, the Tuen Mun Road Traffic Incident Independent Expert Panel<sup>4</sup>, in examining measures to enhance highway safety in Hong Kong, recommended that Government should explore the feasibility of introducing the PDL scheme for private cars and LGVs, so that novice drivers would obtain more driving experience on roads during the probationary driving period before being issued with full driving licences.

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<sup>4</sup> Following the traffic incident on Tuen Mun Road on 10 July 2003, the Chief Executive appointed an Independent Expert Panel to examine and make recommendations on safety measures to prevent similar incidents. The Panel made over 100 recommendations in the areas of driving behaviour, road engineering, parapet design, road safety legislation and traffic management in its Report on Enhancement of Highway Safety. Its recommendations have been accepted by the Legislative Council Panel on Transport and the Administration.

### *International Practices*

23. In many overseas countries, there are restrictions imposed on novice drivers of various types of vehicles. The duration of the probationary driving period is mostly 12 months or more. Novice drivers in Australia and Singapore must carry “P” plates on their vehicles. Those in Canada, New Zealand and some US states have to comply with night-time driving and passenger restrictions. Some countries require novice drivers to be accompanied by supervisors. If the drivers are convicted of traffic offences, the probationary driving period would be extended or the licence would be suspended. These measures aim to reduce the accident risks of inexperienced drivers by sharpening their awareness and reducing their exposure to high-risk situations.

24. In view of Hong Kong’s traffic conditions, the higher accident involvement rates of novice private car and LGV drivers, as well as the recommendation of the Tuen Mun Road Traffic Incident Independent Expert Panel and international practices, we propose to extend the PDL scheme to novice drivers of private cars and LGVs. The scheme can be considered as extended training for inexperienced drivers, allowing them to accumulate sufficient on-road driving experience. At the same time, the display of “P” plate would help reminding other drivers to be more cautious of and patient with novice drivers.

### *The Proposals*

25. We propose that –

- (a) when an applicant has passed the road test for private cars, he can only apply for a PDL for private car. In line with the existing practice<sup>5</sup>, those who have passed the road test for LGVs can apply for a PDL for both private car and LGV. Upon satisfactory completion of the probationary driving period, the holder of the PDL may apply for a full driving licence;
- (b) the probationary driving period should be set at 12 months, which is in line with the existing arrangement for motorcyclists;

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<sup>5</sup> Under the current licensing regime, applicants for LGV driving licences will be issued both private car and LGV driving licences after they have passed the LGV driving test.

- (c) during the probationary driving period, drivers will be subject to the following restrictions<sup>6</sup> –
- (i) displaying “P” plates on both the front and rear of the windscreen or body of the vehicle;
  - (ii) prohibited from driving at a speed of above 70km/h even when the prescribed speed limit is above 70km/h; and
  - (iii) prohibited from driving on the offside lane of expressways where there are three or more lanes;
- (d) in line with the existing arrangements for probationary motorcyclists, when a probationary driver of private car or LGV is convicted of a minor road traffic offence<sup>7</sup>, his probationary driving period will be extended by six months;
- (e) the PDL of a probationary driver of private car or LGV will be cancelled under the following circumstances –
- (i) when he is convicted of a serious road traffic offence<sup>8</sup> during the probationary driving period; or
  - (ii) when he is convicted of any two or more minor road traffic offences during the probationary driving period;
- (f) if the PDL is cancelled, the probationary drivers will be required to retake the driving test, and on passing the test, start a fresh 12-month probationary driving period;
- (g) in line with the practice regarding disqualification from holding full driving licences, if the PDL is either extended or cancelled, all vehicle classes under the person’s PDL will be affected, regardless of the class

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<sup>6</sup> These restrictions are similar to the PDL scheme for motorcyclists, except that probationary motorcyclists can only display the “P” plates at the vehicle body as there is no rear windscreen and the front windscreen is usually very small. Also, an additional restriction of not being allowed to carry passengers is applicable to motorcyclists.

<sup>7</sup> Minor road traffic offences are those that incur less than ten driving-offence points under the Road Traffic (Driving-offence Points) Ordinance including those restrictions listed in paragraph 25(c) which do not incur any driving offence points.

<sup>8</sup> Serious road traffic offences are those that incur ten or more driving-offence points under the Road Traffic (Driving-offence Points) Ordinance.

of vehicle driven at the time when the traffic offences are committed. This is because a traffic offender who exhibits unsatisfactory driving behaviour should not be allowed to drive on the road and put the safety of other drivers and road users at risk;

- (h) in addition to the extension of the probationary driving period and cancellation of the PDL, drivers holding PDL who commit traffic offences during the probationary driving period will also be subject to, as appropriate, pecuniary penalties, imprisonment and the driving-offence points system for those offences, just like drivers with full driving licences;
- (i) in line with the PDL scheme for motorcyclists, the fee for the one-year PDL for private cars and LGVs will be \$52, which is one-tenth of that of a ten-year full driving licence. The proposed fee for the extension of the PDL for six months is \$26;
- (j) during consultation with the Legislative Council Panel on Transport, some members suggested that the PDL scheme should not apply to an applicant passing the LGV driving test if he/she already holds licence(s) of other vehicle types. We agree that since the PDL scheme is targeted at novice drivers, exemptions should be granted to the following –
  - (i) holders of a valid full driving licence of private car for three or more years<sup>9</sup> who have passed the LGV driving test and apply for an LGV driving licence;
  - (ii) holders of a valid full driving licence of medium goods vehicle or heavy goods vehicle, who apply for an LGV driving licence.
- (k) in addition, exemptions should also be granted to the following two groups of drivers –
  - (i) temporary driving licences are issued to a small number of applicants<sup>10</sup> holding a valid driving licence issued by a competent authority in other countries, and who have arrived in

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<sup>9</sup> After the implementation of the proposed PDL scheme and if the driver has completed the probationary driving period, the requirement for holding a valid full driving licence will be adjusted from three years to two years.

<sup>10</sup> About 80 temporary driving licences are issued annually, which is 0.06% of the total number of full driving licence issued.

Hong Kong to take up residence. The licences allow them to drive for a limited period of time, usually around three months, before passing the driving test in Hong Kong. We propose that they should be exempted from the PDL scheme after passing the driving test because they have already had driving experience in other countries and have demonstrated that their driving skills do meet the standard set by the Transport Department ; and

- (ii) similar to the transitional arrangements when we introduced the PDL scheme for motorcyclists in 2000, those candidates who have applied to take a private car or LGV driving test before the commencement of the Bill and who subsequently pass the test will be exempted from the PDL scheme.

### **Review of the Commissioner's Decisions on Driving Licences and Driving Instructors' Licences**

26. Regulation 45 of Cap. 374B stipulates that if a person is aggrieved by the Commissioner's refusal to issue or renew a driving licence or driving instructor's licence or the Commissioner's cancellation of these licences, he can appeal by petition to the Chief Executive in Council. On appeal, the Chief Executive in Council may make such order as he thinks fit, which shall be binding on the Commissioner.

27. Since 2000, there have been seven appeals lodged under this provision. Four of them were heard by the Chief Executive in Council, two were abandoned and the remaining one is now being processed. All of them were technical in nature. For instance, one appellant appealed against the Commissioner's decision not to issue him with a driving licence on the ground that the driving examiner was unfair in failing him in his driving test. As appeals of this nature neither involve nor give rise to any major policy or political implications, we consider that they need not be heard by the Chief Executive in Council and can be considered by Transport Tribunals instead.

#### *The Proposal*

28. We propose that the above appeals be heard by Transport Tribunals, which are appointed by the Secretary for Transport and Housing under section 17 of Cap. 374 to review certain decisions made by the Commissioner, such as refusal to register a motor vehicle or issue a permit, etc.

## **THE BILL**

29. The main provisions of the Bill include –

### **Amendment to increase penalties for causing death by dangerous driving**

- (a) Clause 5(1) amends section 36 of Cap. 374 so that the maximum term of imprisonment on conviction of the offence of causing death by dangerous driving is increased from five years to ten years.

### **Amendments to increase penalties on drink driving offences**

- (b) Clauses 7(1), 8(1), 9(2) and 10(1) amend sections 39, 39A, 39B and 39C of Cap. 374 so that persons who are convicted of the drink driving offences for the first time are to be disqualified from driving for not less than three months.

### **Amendments to empower police officers to conduct screening breath tests without the need for reasonable suspicion**

- (c) Clause 9(1) amends section 39B(1) of Cap. 374 so that a police officer in uniform is provided with a general power to require a person who is driving or attempting to drive, or is in charge of, a motor vehicle on a road to provide such a breath specimen for screening breath tests without the need for a reasonable cause to suspect that he has alcohol in his body. The clause also adds a new subsection (1A) on the circumstance under which the person provided a specimen of breath for pre-screening test under section 39B(1)(a) is not to be required to provide a specimen of breath for a screening breath test.
- (d) Clause 11 amends section 39F of Cap. 374 so that the Commissioner of Police may approve types of instruments as an approved pre-screening device for the purpose of indicating whether a person has any alcohol in his body.

### **Amendments relating to the mandatory DIC scheme**

- (e) Clause 20 amends section 72A of Cap. 374, so that a person who is convicted of a serious traffic offence is to be ordered to attend and complete a DIC under the new subsection (1A). Apart from fine and imprisonment, a failure to comply with the order can result in the person being disqualified from driving.

- (f) Clause 59 adds a new section 8AA to Cap. 375, so that a person who incurs ten or more DOPs within two years is required to attend and complete a DIC, failing which fine, imprisonment and disqualification can be ordered against him.
- (g) Clause 20(2) amends section 72A to provide for the respective periods within which a person who is disqualified from driving and ordered to attend and complete a DIC under the new subsection (1A) has to comply with such an order.
- (h) Clause 20(8) amends section 72A(9) of Cap. 374, so that the maximum fine for failing to attend and complete a DIC when ordered to do so under subsection (1)(b) or the new subsection (1A) is increased from \$3,000 to \$5,000.

**Amendments relating to the PDL scheme for novice drivers of private cars and LGVs**

- (i) Clause 12 amends section 40 of Cap. 374 to provide that the holder of a PDL to drive a private car or LGV can only drive at a maximum speed of 70 km/h (proposed section 40(5)(d)).
- (j) Clause 3 amends section 2 of Cap. 374 to add the amended definition of “probationary driving licence”. Clause 23 amends the definition of “probationary driving period” in Cap. 374B to take into account the wider application of the PDL scheme. It also adds two new definitions to regulation 2 of Cap. 374B.
- (k) Clause 25 amends regulation 8 of Cap. 374B so that if a person has held, for at least two years, a valid full driving licence to drive a private car or LGV issued to him after he has completed the probationary driving period, he is eligible to apply for a full driving licence in respect of certain commercial vehicles after passing the appropriate driving tests (proposed regulation 8(1A)).
- (l) Clause 28 amends regulation 11 of Cap. 374B, so that subject to certain exceptions a person must complete a probationary driving period before being issued a full driving licence to drive a private car or LGV (proposed regulation 11(1B)(a) and (1C)(a)).
- (m) Clause 32 amends regulation 12F of Cap. 374B to provide that the 12-month probationary driving period is to be extended by six months if the person is convicted of certain traffic offence committed by him

during that period while driving a class of motor vehicle under a PDL (proposed regulation 12F(2)(b)).

- (n) Clause 33 amends regulation 12G of Cap. 374B to –
  - (i) provide for the application for a PDL to drive a private car or LGV (proposed regulation 12G(1)); and
  - (ii) empower the Commissioner, on issuing to a person a PDL to drive a class of motor vehicle, to issue to the person a PDL to drive another class of motor vehicle (proposed regulation 12G(3A)).
- (o) Clause 34 amends regulation 12I of Cap. 374B, so that the Commissioner shall cancel a PDL to drive a class of motor vehicle if the licence holder has been convicted of certain traffic offences committed by him during the probationary driving period while driving a class of motor vehicle under a PDL (proposed regulation 12I(1)).
- (p) Clause 36 amends regulation 12K of Cap. 374B to require the holder of a PDL for any class of motor vehicle to display a “P” plate on the vehicle, and to provide a smaller-sized plate and more flexible means of display (proposed regulation 12K(1)).
- (q) Clause 37 amends regulation 12L of Cap. 374B, so that –
  - (i) The Commissioner shall cancel a full driving licence to drive a class of motor vehicle if the licence holder is convicted of certain traffic offence committed by him during the probationary driving period for that class of motor vehicle, while driving a class of motor vehicle under a PDL (proposed regulation 12L(1)); and
  - (ii) The Commissioner shall also, as a result of the cancellation under paragraph (i), cancel other full driving licences (proposed regulation 12L(1A), (1B), (1C) and (1D)).
- (r) Clause 38 adds a new regulation 12M of Cap. 374B to provide for reissue of a PDL under certain circumstances.
- (s) Clause 51 amends the Thirteenth Schedule to Cap. 374B by showing the diagrams of “P” plates to be fixed on motor vehicles driven by holders of PDLs.

## **Amendments relating to review the Commissioner's decisions on driving licences and driving instructors' licences**

- (t) Clause 4 amends section 8(1) of Cap. 374 to empower the Secretary for Transport and Housing to make regulations to provide for the review by a Transport Tribunal of any decision of the Commissioner to refuse to issue, re-issue, renew or cancel a driving licence or a driving instructor's licence.
- (u) Clause 46 amends regulation 45 of Cap. 374B by repealing the existing right of appeal by petition to the Chief Executive in Council against the Commissioner's decision to refuse to issue, renew or cancel a driving licence or driving instructor's licence and substituting a right of review of such decisions by a Transport Tribunal.
- (v) Clause 47 adds new provisions to Cap. 374B for procedural matters of review (proposed new regulations 45A, 45B and 45C).

## **Other amendments to the Road Traffic (Driving Licences) Regulations (Cap. 374B)**

- (w) Clause 24 amends regulation 6 to clarify the circumstances under which the Commissioner shall not issue a driving licence to a person.
- (x) Clauses 28(8), 31, 35 and 40(2) amend regulations 11(6A), 12E, 12J and 22 respectively to provide for the circumstances under which a full driving licence, learner's driving licence, PDL and driving instructor's licence can be issued without payment of fees.
- (y) Clause 29 amends regulation 12 to provide for the requirements to be fulfilled for the issuing of a learner's driving licence to drive certain commercial vehicles (proposed regulation 12(5) and (6)).
- (z) Clause 30 adds a new regulation 12DA to provide for the cancellation of certain learner's driving licences.
- (aa) Clause 48 amends regulation 46(1) to make it an offence if a person fails to surrender the cancelled driving licence to the Commissioner under the proposed regulations 12DA(4), 12I(1A) or 12L(1E).
- (bb) Clauses 49 and 50 make consequential amendments to the Second Schedule and the Twelfth Schedule respectively.

- (cc) Clauses 41, 52 and 53 make formal alternations to the Chinese text of various provisions.

### **Consequential amendments**

- (dd) Clauses 54 and 55 make consequential amendments to the Road Traffic (Parking) Regulations (Cap. 374C) and the Road Traffic (Village Vehicles) Regulations (Cap. 374N).
- (ee) Clauses 56 and 57 make consequential and related amendments to the Road Traffic (Expressway) Regulations (Cap. 374Q).
- (ff) Clauses 63, 64, 65, 66, 67, 68, 69 and 70 make consequential amendments to the Dutiable Commodities Ordinance (Cap. 109), the Eastern Harbour Crossing Road Tunnel By-laws (Cap. 215E), the Traffic Accident Victims (Assistance Fund) Ordinance (Cap. 229), the Ocean Park Bylaw (Cap. 388B), the Tate's Cairn Tunnel By-laws (Cap. 393B), the Western Harbour Crossing Bylaw (Cap. 436D), the Tai Lam Tunnel and Yuen Long Approach Road Bylaw (Cap. 474C), and the Discovery Bay Tunnel Link Bylaw (Cap. 520B) respectively.

### **LEGISLATIVE TIMETABLE**

30. The legislative timetable will be –

Publication in the Gazette	6 February 2008
First Reading and commencement of Second Reading debate	20 February 2008
Resumption of Second Reading debate, committee stage and Third Reading	to be notified.

### **COMMENCEMENT**

31. Clauses 4, 5(1), 46, 47 and 63 of the Bill shall come into operation on the day on which the enacted Road Traffic Legislation (Amendment) Ordinance is published in the Gazette. Other clauses shall come into operation on a day to be appointed by the Secretary for Transport and Housing by notice published in the Gazette.

## **IMPLICATIONS OF THE PROPOSAL**

32. The proposal has no productivity, environmental or sustainability implications.

### **Basic Law Implications**

33. The Bill is in conformity with the Basic Law, including the provisions concerning human rights.

### **Binding Effect of the Legislation**

34. The amendments in the Bill will not affect the current binding effect of Cap. 374 and Cap. 375.

### **Financial and Civil Service Implications**

35. It is estimated that a total staff cost of about \$3.693 million per year (involving one Transport Officer II, two Clerical Officers, six Assistant Clerical Officers and three Clerical Assistants) and departmental expenses of \$390,000 from 2009-2010 onwards is required by the Transport Department to implement and manage the PDL scheme and the mandatory DIC scheme. The above resource requirements will be met from within the operating expenditure envelope of the Secretary for Transport and Housing and we will seek to create these posts through established procedures in due course. A one-off capital cost totalling \$16.56 million involving two enhancement projects of the existing computer system for driving licensing arrangements in the Transport Department is also required. The capital funding will be sought through established resource allocation procedures.

36. The Police will carry out related enforcement actions on the various traffic offences and conduct random screening breath tests as part of their routine duties and the additional recurrent cost, if any, will be minimal.

### **Economic Implications**

37. The raising of penalties on drink driving and other traffic offences, the introduction of mandatory DIC scheme, and the PDL scheme to novice private car and LGV drivers will combat and deter inappropriate driving behaviour through both punitive and educational means. These will help generate economic benefits in terms of savings in human lives, and reduction in the direct costs of traffic accidents such as productivity loss from casualties and repair/replacement of damaged vehicles. By enhancing road safety, the

proposal will also help raise the quality of life in Hong Kong.

## **PUBLIC CONSULTATION**

38. We have consulted motoring associations, viz. the Hong Kong Automobile Association and the Institute of Advanced Motorists, the Road Safety Council, Transport Advisory Committee and the Legislative Council Panel on Transport, as well as goods vehicle, public light bus and taxi trades and related driver associations on the proposed package of measures to enhance road safety. These organisations had no strong views on the proposals in general. Some trades expressed support to the proposed power for the Police to conduct screening breath tests at random. Many of the transport trades indicated their support to the proposed disqualification of drink driving offenders from driving on first conviction. In the meeting of the Legislative Council Panel on Transport held in December 2007, some legislators suggested that the proposed period of disqualification of not less than three months for drink driving offenders on first conviction should be increased.

39. On the proposed DIC scheme, the trades expressed support for imposing such a requirement on offenders of serious traffic offences, but they showed some concern about imposing the same on repeat traffic offenders, as they considered the offences incurring three or five DOPs were minor in nature.

40. As for the PDL scheme, there were some concerns that the proposal might affect the business and employment opportunities of novice LGV drivers and they might feel being discriminated against. The LGV trade also expressed the concern that the scheme might reduce new entrants to the LGV trade. Some Legislative Councillors also suggested granting exemptions to those who already had some driving experience.

41. Since the proposal of transferring the existing right of review against the Commissioner's decisions on the issue and cancellation of driving licences and driving instructors' licences to Transport Tribunals only changes the channel of appeal without affecting the public's right to a review of the Commissioner's decisions on these licensing matters, public consultation is not necessary.

## **PUBLICITY**

42. We will issue a press release on 4 February 2008. A spokesman will be available to answer media enquiries.

## **ENQUIRIES**

43. Any enquiries concerning the brief can be directed to Miss Rosanna Law, Principal Assistant Secretary for Transport and Housing, at 2189 2182.

**Transport and Housing Bureau**  
**4 February 2008**

ROAD TRAFFIC LEGISLATION (AMENDMENT) BILL 2008

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A BILL

To

Amend the Road Traffic Ordinance, the Road Traffic (Driving Licences) Regulations and other subsidiary legislation under that Ordinance and the Road Traffic (Driving-offence Points) Ordinance so as to -

- (a) increase the term of imprisonment of the offence of causing death by dangerous driving under section 36 of the Road Traffic Ordinance;
- (b) increase the penalties on offences under sections 39, 39A, 39B and 39C of the Road Traffic Ordinance, and provide police officers with a general power to conduct screening breath tests;
- (c) introduce a pre-screening device for the purposes of the new section 39B(1)(a) of the Road Traffic Ordinance;
- (d) provide that certain traffic offenders are required to attend driving improvement courses;
- (e) extend the probationary driving licence scheme to novice drivers of private cars and light goods vehicles;
- (f) provide for the review by a Transport Tribunal of certain decisions made by the Commissioner for Transport to refuse to issue, reissue or renew driving licences or driving instructor's licences or to cancel those licences; and
- (g) make related, consequential and other minor amendments.

Enacted by the Legislative Council.

PART 1

PRELIMINARY

**1. Short title**

This Ordinance may be cited as the Road Traffic Legislation (Amendment) Ordinance 2008.

**2. Commencement**

(1) This Ordinance, other than this Part and sections 4, 5(1), 46, 47 and 63, shall come into operation on a day to be appointed by the Secretary for Transport and Housing by notice published in the Gazette.

(2) This Part and sections 4, 5(1), 46, 47 and 63 shall come into operation on the day on which this Ordinance is published in the Gazette.

PART 2

AMENDMENTS TO ROAD TRAFFIC ORDINANCE

**3. Interpretation**

(1) Section 2 of the Road Traffic Ordinance (Cap. 374) is amended, in the definition of "screening breath test", by adding ", but does not include a test of a specimen of breath by an approved pre-screening device" after "39B".

(2) Section 2 is amended, in paragraph (b) of the definition of "special reasons", by repealing "to such other circumstance that the court" and substituting "such other circumstance that the court or magistrate".

(3) Section 2 is amended by adding -

“approved pre-screening device” (認可預檢設備) means a device of a type approved by the Commissioner of Police under section 39F for indicating whether a person has any alcohol in his body;

“learner’s driving licence” (學習駕駛執照) means a learner’s driving licence issued under regulation 12 or 12A of the Road Traffic (Driving Licences) Regulations (Cap. 374 sub. leg. B);

“probationary driving licence” (暫准駕駛執照) means a probationary driving licence to drive a motor cycle, motor tricycle, private car or light goods vehicle issued under regulation 12G of the Road Traffic (Driving Licences) Regulations (Cap. 374 sub. leg. B);

“temporary driving licence” (臨時駕駛執照) means a temporary driving licence issued under regulation 13 of the Road Traffic (Driving Licences) Regulations (Cap. 374 sub. leg. B);”.

#### **4. Regulation of driving licences**

(1) Section 8(1)(a) is amended by adding “, reissue” after “issue”.

(2) Section 8(1) is amended by adding -

“(aa) the review by a Transport Tribunal of any decision of the Commissioner to refuse to issue, to reissue, to renew or to cancel a driving licence or a driving instructor’s licence;”.

#### **5. Causing death by dangerous driving**

(1) Section 36(1)(a) is amended by repealing "5 years" and substituting "10 years".

(2) Section 36(2) is repealed and the following substituted -

"(2) If a court or magistrate convicts a person of an offence under subsection (1), the court or magistrate shall order that the person be disqualified in accordance with subsection (2A) or (2B) unless the court or magistrate for special reasons orders that the person be disqualified for a shorter period or that the person not be disqualified.

(2A) Subject to subsection (2B), the person is to be disqualified -

- (a) in the case of a first conviction, for a period of not less than 2 years; and
- (b) in the case of a second or subsequent conviction, for a period of not less than 3 years.

(2B) If the court or magistrate has ordered the person to attend and complete a driving improvement course under section 72A(1A), the person is to be disqualified -

- (a) in the case of a first conviction, for a period of not less than 2 years, or until the person has attended and completed the course at his own cost, whichever is the later; and
- (b) in the case of a second or subsequent conviction, for a period of not less than

3 years, or until the person has attended and completed the course at his own cost, whichever is the later.

(2C) For the purposes of subsection (2), a person to whom subsection (2B) applies is disqualified for a shorter period if he is disqualified -

- (a) in the case of a first conviction, for a period of less than 2 years, or until the person has attended and completed the driving improvement course at his own cost, whichever is the later; and
- (b) in the case of a second or subsequent conviction, for a period of less than 3 years, or until the person has attended and completed the driving improvement course at his own cost, whichever is the later."

(3) Section 36(3) is repealed and the following substituted -

"(3) The court or magistrate may deal with the conviction of an offence as a first conviction if, as at the date on which the offence was committed, at least 5 years have elapsed since the person's last conviction under subsection (1)."

## **6. Dangerous driving**

(1) Section 37(2) is repealed and the following substituted -

"(2) If a court or magistrate convicts a person of

an offence under subsection (1), the court or magistrate shall order that the person be disqualified in accordance with subsection (2A) or (2B) unless the court or magistrate for special reasons orders that the person be disqualified for a shorter period or that the person not be disqualified.

(2A) Subject to subsection (2B), the person is to be disqualified -

- (a) in the case of a first conviction, for a period of not less than 6 months; and
- (b) in the case of a second or subsequent conviction, for a period of not less than 18 months.

(2B) If the court or magistrate has ordered the person to attend and complete a driving improvement course under section 72A(1A), the person is to be disqualified -

- (a) in the case of a first conviction, for a period of not less than 6 months, or until the person has attended and completed the course at his own cost, whichever is the later; and
- (b) in the case of a second or subsequent conviction, for a period of not less than 18 months, or until the person has attended and completed the course at his own cost, whichever is the later.

(2C) For the purposes of subsection (2), a person to whom subsection (2B) applies is disqualified for a

shorter period if he is disqualified -

- (a) in the case of a first conviction, for a period of less than 6 months, or until the person has attended and completed the driving improvement course at his own cost, whichever is the later; and
- (b) in the case of a second or subsequent conviction, for a period of less than 18 months, or until the person has attended and completed the driving improvement course at his own cost, whichever is the later."

(2) Section 37(3) is repealed and the following substituted -

"(3) The court or magistrate may deal with the conviction of an offence as a first conviction if, as at the date on which the offence was committed, at least 5 years have elapsed since the person's last conviction under subsection (1)."

**7. Driving a motor vehicle under the influence of drink or drugs**

(1) Section 39(2) is repealed and the following substituted -

"(2) If a court or magistrate convicts a person of an offence under subsection (1), the court or magistrate shall order that the person be disqualified in accordance with subsection (2A) or (2B) unless the court or magistrate for special reasons orders that the person be disqualified for a shorter period or that the person

not be disqualified.

(2A) Subject to subsection (2B), the person is to be disqualified -

- (a) in the case of a first conviction, for a period of not less than 3 months; and
- (b) in the case of a second or subsequent conviction, or a conviction subsequent to a conviction under section 39A, 39B or 39C, for a period of not less than 2 years.

(2B) If the court or magistrate has ordered the person to attend and complete a driving improvement course under section 72A(1A), the person is to be disqualified -

- (a) in the case of a first conviction, for a period of not less than 3 months, or until the person has attended and completed the course at his own cost, whichever is the later; and
- (b) in the case of a second or subsequent conviction, or a conviction subsequent to a conviction under section 39A, 39B or 39C, for a period of not less than 2 years, or until the person has attended and completed the course at his own cost, whichever is the later.

(2C) For the purposes of subsection (2), a person to whom subsection (2B) applies is disqualified for a shorter period if he is disqualified -

- (a) in the case of a first conviction, for a period of less than 3 months, or until the person has attended and completed the driving improvement course at his own cost, whichever is the later; and
- (b) in the case of a second or subsequent conviction, or a conviction subsequent to a conviction under section 39A, 39B or 39C, for a period of less than 2 years, or until the person has attended and completed the driving improvement course at his own cost, whichever is the later."

(2) Section 39(3) is repealed and the following substituted -

"(3) The court or magistrate may deal with the offence as a first offence, or the conviction of an offence as a first conviction if, as at the date on which the offence was committed, at least 5 years have elapsed since the person's last conviction under subsection (1) or section 39A, 39B or 39C."

**8. Driving, attempting to drive or being in charge of a motor vehicle with alcohol concentration above prescribed limit**

(1) Section 39A(2) is repealed and the following substituted -

"(2) If a court or magistrate convicts a person of an offence under subsection (1), the court or magistrate

shall order that the person be disqualified in accordance with subsection (2A) or (2B) unless the court or magistrate for special reasons orders that the person be disqualified for a shorter period or that the person not be disqualified.

(2A) Subject to subsection (2B), the person is to be disqualified -

- (a) in the case of a first conviction, for a period of not less than 3 months; and
- (b) in the case of a second or subsequent conviction, or a conviction subsequent to a conviction under section 39, 39B or 39C, for a period of not less than 2 years.

(2B) If the court or magistrate has ordered the person to attend and complete a driving improvement course under section 72A(1A), the person is to be disqualified -

- (a) in the case of a first conviction, for a period of not less than 3 months, or until the person has attended and completed the course at his own cost, whichever is the later; and
- (b) in the case of a second or subsequent conviction, or a conviction subsequent to a conviction under section 39, 39B or 39C, for a period of not less than 2 years, or until the person has attended and completed the course at his own cost,

whichever is the later.

(2C) For the purposes of subsection (2), a person to whom subsection (2B) applies is disqualified for a shorter period if he is disqualified -

- (a) in the case of a first conviction, for a period of less than 3 months, or until the person has attended and completed the driving improvement course at his own cost, whichever is the later; and
- (b) in the case of a second or subsequent conviction, or a conviction subsequent to a conviction under section 39, 39B or 39C, for a period of less than 2 years, or until the person has attended and completed the driving improvement course at his own cost, whichever is the later."

(2) Section 39A(3) is repealed and the following substituted -

"(3) The court or magistrate may deal with the offence as a first offence, or the conviction of an offence as a first conviction if, as at the date on which the offence was committed, at least 5 years have elapsed since the person's last conviction under subsection (1) or section 39, 39B or 39C."

**9. Screening breath tests**

(1) Section 39B(1) is repealed and the following substituted -

"(1) A police officer in uniform may require any of the following persons to provide a specimen of breath for a screening breath test -

(a) a person who is driving or attempting to drive, or is in charge of, a motor vehicle on a road;

(b) a person whom the police officer has reasonable cause to suspect of -

(i) having been driving or attempting to drive, or been in charge of, a motor vehicle on a road with alcohol in his body, and still having alcohol in his body; or

(ii) having been driving or attempting to drive, or been in charge of, a motor vehicle on a road, and having committed a traffic offence while the vehicle was in motion.

(1A) Subsection (1)(a) does not apply to a person if, immediately before the police officer requires him to provide the specimen of breath -

(a) the person has, at the request of the police officer, provided a specimen of breath to be tested by an approved pre-screening device; and

(b) the test does not indicate that the person has any alcohol in his body."

(2) Section 39B(7) is repealed and the following substituted -

"(7) If a court or magistrate convicts a person of an offence under subsection (6), the court or magistrate shall order that the person be disqualified in accordance with subsection (7A) or (7B) unless the court or magistrate for special reasons orders that the person be disqualified for a shorter period or that the person not be disqualified.

(7A) Subject to subsection (7B), the person is to be disqualified -

- (a) in the case of a first conviction, for a period of not less than 3 months; and
- (b) in the case of a second or subsequent conviction, or a conviction subsequent to a conviction under section 39, 39A or 39C, for a period of not less than 2 years.

(7B) If the court or magistrate has ordered the person to attend and complete a driving improvement course under section 72A(1A), the person is to be disqualified -

- (a) in the case of a first conviction, for a period of not less than 3 months, or until the person has attended and completed the course at his own cost, whichever is the later; and
- (b) in the case of a second or subsequent conviction, or a conviction subsequent to

a conviction under section 39, 39A or 39C, for a period of not less than 2 years, or until the person has attended and completed the course at his own cost, whichever is the later.

(7C) For the purposes of subsection (7), a person to whom subsection (7B) applies is disqualified for a shorter period if he is disqualified -

- (a) in the case of a first conviction, for a period of less than 3 months, or until the person has attended and completed the driving improvement course at his own cost, whichever is the later; and
- (b) in the case of a second or subsequent conviction, or a conviction subsequent to a conviction under section 39, 39A or 39C, for a period of less than 2 years, or until the person has attended and completed the driving improvement course at his own cost, whichever is the later."

(3) Section 39B(8) is repealed and the following substituted -

"(8) The court or magistrate may deal with the offence as a first offence, or the conviction of an offence as a first conviction if, as at the date on which the offence was committed, at least 5 years have elapsed since the person's last conviction under subsection (6) or section 39, 39A or 39C."

**10. Provision of specimens for analysis**

(1) Section 39C(16) is repealed and the following substituted -

"(16) If a court or magistrate convicts a person of an offence under subsection (15), the court or magistrate shall order that the person be disqualified in accordance with subsection (16A) or (16B) unless the court or magistrate for special reasons orders that the person be disqualified for a shorter period or that the person not be disqualified.

(16A) Subject to subsection (16B), the person is to be disqualified -

- (a) in the case of a first conviction, for a period of not less than 3 months; and
- (b) in the case of a second or subsequent conviction, or a conviction subsequent to a conviction under section 39, 39A or 39B, for a period of not less than 2 years.

(16B) If the court or magistrate has ordered the person to attend and complete a driving improvement course under section 72A(1A), the person is to be disqualified -

- (a) in the case of a first conviction, for a period of not less than 3 months, or until the person has attended and completed the course at his own cost, whichever is the later; and

- (b) in the case of a second or subsequent conviction, or a conviction subsequent to a conviction under section 39, 39A or 39B, for a period of not less than 2 years, or until the person has attended and completed the course at his own cost, whichever is the later.

(16C) For the purposes of subsection (16), a person to whom subsection (16B) applies is disqualified for a shorter period if he is disqualified -

- (a) in the case of a first conviction, for a period of less than 3 months, or until the person has attended and completed the driving improvement course at his own cost, whichever is the later; and
- (b) in the case of a second or subsequent conviction, or a conviction subsequent to a conviction under section 39, 39A or 39B, for a period of less than 2 years, or until the person has attended and completed the driving improvement course at his own cost, whichever is the later."

(2) Section 39C(17) is repealed and the following substituted -

"(17) The court or magistrate may deal with the offence as a first offence, or the conviction of an offence as a first conviction if, as at the date on which the offence was committed, at least 5 years have

elapsed since the person's last conviction under subsection (15) or section 39, 39A or 39B."

#### **11. Approval of instruments and operators**

Section 39F(1) is amended -

(a) in paragraph (b), by repealing the full stop and substituting a semicolon;

(b) by adding -

"(c) an approved pre-screening device for the purpose of indicating whether a person has any alcohol in his body."

#### **12. Speed limit**

(1) Section 40(5)(d) is repealed and the following substituted -

"(d) motor cycle, motor tricycle, private car or light goods vehicle driven by a person who is authorized to drive it by a probationary driving licence,"

(2) Section 40(7) is repealed.

#### **13. Driving in excess of speed limit**

(1) Section 41(3)(a) is amended by repealing "a person is convicted" and substituting "a court or magistrate convicts a person".

(2) Section 41(3) is amended by repealing "person shall be disqualified for a period of not less than 6 months," and substituting "court or magistrate shall order that the person be disqualified in accordance with subsection (4)".

(3) Section 41 is amended by adding -

"(4) The person is to be disqualified -

- (a) subject to paragraph (b), for a period of not less than 6 months; or
- (b) if the court or magistrate has ordered the person to attend and complete a driving improvement course under section 72A(1A), for a period of not less than 6 months, or until the person has attended and completed the course at his own cost, whichever is the later.

(5) For the purposes of subsection (3), a person to whom subsection (4)(b) applies is disqualified for a shorter period if he is disqualified for a period of less than 6 months, or until the person has attended and completed the driving improvement course at his own cost, whichever is the later."

**14. Offence of obtaining licence, or driving, while disqualified**

Section 44(2) is repealed and the following substituted -

"(2) If a court or magistrate convicts a person of an offence under subsection (1), the court or magistrate shall order that the person be disqualified -

- (a) in the case of a first conviction, for a period of not less than 12 months; and
- (b) in the case of a second or subsequent conviction, or a conviction subsequent to a conviction under section 25 of the repealed Ordinance, for a period of not less than 3 years,

unless the court or magistrate for special reasons orders

that the person be disqualified for a shorter period or that the person not be disqualified.".

**15. Restriction on motor racing and speed trials**

Section 55(2) is repealed and the following substituted -

"(2) If a magistrate convicts a person of an offence under subsection (1), the magistrate shall order that the person be disqualified in accordance with subsection (2A) unless the magistrate for special reasons orders that the person be disqualified for a shorter period or that the person not be disqualified.

(2A) The person is to be disqualified -

(a) subject to paragraph (b), for a period of 12 months; or

(b) if the magistrate has ordered the person to attend and complete a driving improvement course under section 72A(1A), for a period of 12 months, or until the person has attended and completed the course at his own cost, whichever is the later.

(2B) For the purposes of subsection (2), a person to whom subsection (2A)(b) applies is disqualified for a shorter period if he is disqualified for a period of less than 12 months, or until the person has attended and completed the driving improvement course at his own cost, whichever is the later.".

**16. Disqualification on conviction of certain offences**

Section 69(1) is amended by adding "or magistrate" after

"court" where it twice appears.

**17. Re-testing of drivers**

(1) Section 70(2) is amended by adding "or magistrate" after "court".

(2) Section 70(2) is amended, in the Chinese text, by repealing "取得合格" and substituting "及格".

(3) Section 70(2) is amended, in the Chinese text, by repealing "合格" and substituting "及格".

(4) Section 70(3) is amended, in the Chinese text, by repealing "合格" and substituting "及格".

**18. Notification and effect of, and appeal against, disqualification**

Section 71(1), (2) and (4) is amended by adding "or magistrate" after "court" wherever it appears.

**19. Removal of disqualification**

Section 72(1) and (6) is amended by adding "or magistrate" after "court" wherever it appears.

**20. Power of court to order persons to attend driving improvement courses**

(1) Section 72A is amended by adding -

"(1A) Subject to subsection (1B), where a court convicts a person of an offence under section 36, 37, 39, 39A, 39B, 39C or 55, or convicts an applicable person of an offence under section 41(1), it shall order the person to attend and complete a driving improvement course, unless the court for special reasons decides not to make such an order.

(1B) If a person, on being convicted of an offence in any proceedings, is ordered under subsection (1)(b) or (1A) to attend and complete a driving improvement course, the person is not to be ordered under that subsection to attend and complete a driving improvement course in respect of any other offence of which he is convicted in those proceedings."

(2) Section 72A is amended by adding -

"(3A) A person who is ordered to attend and complete a driving improvement course under subsection (1A) shall, within the period specified in subsection (3B), at his own cost, attend and complete a driving improvement course.

(3B) The period specified for the purposes of subsection (3A) is -

- (a) in the case where, under section 36(2), 37(2), 39(2), 39A(2), 39B(7), 39C(16), 41(4) or 55(2), the court orders the person be disqualified for a fixed period of more than 12 months, or until the person has attended and completed the driving improvement course at his own cost, whichever is the later, the period of 3 months ending on the date on which that fixed period expires; or
- (b) in any other case, the period of 3 months after the date of making the order."

(3) Section 72A(4) is amended by adding "or (3A)" before "with reasonable excuse".

(4) Section 72A(4) is amended by adding ", or the period specified in subsection (3B) for the purposes of subsection (3A)," before "be extended".

(5) Section 72A(5)(a), (b) and (c) is amended by adding "or (1A)" after "(1)(b)".

(6) Section 72A(7) and (8) is repealed.

(7) Section 72A(9) is amended by adding "or (3A)" after "(3)".

(8) Section 72A(9) is amended by repealing "of \$3,000" and substituting "at level 2".

(9) Section 72A is amended by adding -

"(9A) If a court convicts a person of an offence under subsection (9), the court shall order the person to attend and complete a driving improvement course at his own cost within the period specified in the order, unless the court for special reasons decides not to make such an order.

(9B) A person who, without reasonable excuse, fails to comply with the order made under subsection (9A) commits an offence and is liable on conviction to a fine at level 3 and to imprisonment for 2 months.

(9C) If a court convicts a person of an offence under subsection (9B), and the person is not disqualified, the court shall order that the person be disqualified for a period of not less than 3 months, or until the person has attended and completed a driving improvement course at his own cost, whichever is the later, unless the court for special reasons orders that the person be disqualified for a shorter period or that

the person not be disqualified.

(9D) If a person is ordered to attend and complete a driving improvement course under subsection (1)(b), (1A) or (9A), he may appeal against the order in like manner as if it were an order made against him for the payment of a fine.

(9E) If a person appeals against an order under subsection (9D), the compliance period does not commence or continue to run, as the case may be, until the appeal is withdrawn or dismissed."

(10) Section 72A(11) is amended, in the Chinese text, in the definition of "法庭", by repealing the full stop and substituting a semicolon.

(11) Section 72A(11) is amended by adding -

"compliance period" (遵從期間) means -

- (a) in relation to an order made under subsection (1)(b), the period of 3 months referred to in subsection (3), or that period as extended under subsection (4);
- (b) in relation to an order made under subsection (1A), the period specified in subsection (3B) for the purposes of subsection (3A), or that period as extended under subsection (4);
- (c) in relation to an order made under subsection (9A), the period specified in the order within which the person is required to attend and complete a driving improvement course;"

(12) Section 72A is amended by adding -

"(12) For the purposes of subsection (1A), a person is, in relation to an offence under section 41(1), an applicable person if it is proved or admitted that, at the time of the offence, the person was driving the vehicle at a speed exceeding the relevant speed limit as described in that section by more than 45 km an hour.

(13) For the purposes of subsection (9C), a person is disqualified for a shorter period if he is disqualified for a period of less than 3 months, or until the person has attended and completed a driving improvement course at his own cost, whichever is the later."

**21. Commissioner may designate driving improvement schools**

(1) Section 102B(3)(a) is repealed and the following substituted -

"(a) driving improvement courses are provided by the school in accordance with the code of practice -

(i) to a holder of a driving licence other than -

(A) a learner's driving licence;

(B) a temporary driving licence; or

(C) a driving licence to drive Government vehicles;

(ii) to a person who is ordered under section 72A(1)(b), (1A) or (9A), or is required under section 8AA(1) of or ordered under section 8AA(6) of the Road Traffic

(Driving-offence Points) Ordinance (Cap. 375), to attend and complete a driving improvement course; and

(iii) to a person who is disqualified until he has attended and completed a driving improvement course at his own cost; and".

(2) Section 102B(4) is amended by repealing "any of subparagraphs (i), (ii) and (iii) in subsection (3)(a)" and substituting "subsection (3)(a)(i)(A), (B) or (C)".

## **22. Offences specified for the purposes of section 72A**

(1) Schedule 11 is amended by repealing "5" and substituting "1, 2, 4, 4A, 4B, 4C, 5, 5B, 6".

(2) Schedule 11 is amended by repealing "12,".

## PART 3

### AMENDMENTS TO ROAD TRAFFIC (DRIVING LICENCES) REGULATIONS

## **23. Interpretation**

(1) Regulation 2 of the Road Traffic (Driving Licences) Regulations (Cap. 374 sub. leg. B) is amended, in the definition of "applicant", by adding "reissue or" before "renewal".

(2) Regulation 2 is amended by repealing the definitions of "learner's driving licence", "probationary driving licence" and "temporary driving licence".

(3) Regulation 2 is amended by repealing the definition of "probationary driving period" and substituting -

"probationary driving period" (暫准駕駛期), in relation to an application for a full driving licence, means

the probationary driving period for the purpose of that application as provided in regulation 12F;".

(4) Regulation 2 is amended, in the Chinese text, in the definition of "整體式車輛", by repealing the semicolon and substituting a full stop.

(5) Regulation 2 is amended by adding -

"“relevant date” (有關日期) means the date on which section 28 of the Road Traffic Legislation (Amendment) Ordinance 2008 ( of 2008) comes into operation;

“relevant motor vehicle” (有關汽車), in relation to a person who holds a probationary driving licence to drive a class of motor vehicle, means -

- (a) a motor vehicle of the class; or
- (b) if the person holds a probationary driving licence to drive another class of motor vehicle and has not completed the probationary driving period for the purpose of his application for a full driving licence to drive that other class of motor vehicle, a motor vehicle of that other class;".

#### **24. Regulation substituted**

Regulation 6 is repealed and the following substituted -

##### **"6. Restrictions on issue of driving licences**

- (1) Without prejudice to regulation 35, if -
  - (a) a person applies to the Commissioner under these regulations for the issue, reissue or

renewal of a driving licence to drive a class of motor vehicle; and

- (b) the person is disqualified to drive the class of motor vehicle,

the Commissioner shall not issue, reissue or renew the driving licence to the person.

- (2) Without prejudice to regulation 35, if -

- (a) a person applies to the Commissioner under these regulations for the issue, reissue or renewal of a driving licence;

- (b) the person is ordered under section 72A(1)(b), (1A) or (9A) of the Ordinance, or is required under section 8AA(1) of or ordered under section 8AA(6) of the Road Traffic (Driving-offence Points) Ordinance (Cap. 375), to attend and complete a driving improvement course; and

- (c) the person has not complied with the order or requirement,

the Commissioner shall not issue, reissue or renew the driving licence to the person."

**25. Previous experience and driving record**

(1) Regulation 8(1) is amended by repealing everything after "application for such" and substituting "licence, the person satisfies the conditions set out in paragraph (1A)."

- (2) Regulation 8 is amended by adding -

"(1A) The conditions referred to in paragraph (1)

are -

- (a) the person is a holder of a valid full driving licence to drive a private car or light goods vehicle;
- (b) subject to paragraph (1B), the person has held the licence -
  - (i) if the licence was issued to him before the relevant date, for at least 3 years immediately preceding his application;
  - (ii) if the licence was issued to him pursuant to regulation 11(1B)(a) or (1C)(a), for at least 2 years immediately preceding his application; or
  - (iii) if the licence was issued to him pursuant to regulation 11(1B)(b) or (c), (1C)(b), (c) or (d), (2), (3) or (3A), for at least 3 years immediately preceding his application; and
- (c) the person has subsequently passed the appropriate driving test.

(1B) The Commissioner may, in relation to a person's application for a full driving licence referred to in paragraph (1), exempt, in writing, the person from the condition set out in paragraph (1A)(b)."

(3) Regulation 8(2)(b) is amended, in the Chinese text, by repealing "取得合格" and substituting "及格".

## **26. Physical fitness**

(1) Regulation 9(1) is amended by adding "reissue or" before "renewal".

(2) Regulation 9(2) is amended by adding ", reissue" before "or renew".

(3) Regulation 9(2) is amended, in the Chinese text, in paragraph (b) of the proviso, by repealing "合格" and substituting "及格".

(4) Regulation 9(2A) is amended by adding ", reissue" before "or renewal".

(5) Regulation 9(2C) is amended, in the Chinese text, by repealing "取得合格" and substituting "及格".

(6) Regulation 9(3) is amended, in the Chinese text, by repealing "測驗合格" and substituting "測驗及格".

(7) Regulation 9(3) is amended, in the Chinese text, in the proviso, by repealing "取得合格" and substituting "及格".

(8) Regulation 9(6) is amended by adding ", reissue" before "or renew".

## **27. Applications for full driving licences**

Regulation 10(2)(c) is amended by adding "or reissue" after "issue".

## **28. Issue of full driving licences**

(1) Regulation 11(1) is repealed and the following substituted -

"(1) Subject to regulations 6, 7, 8 and 9, the Commissioner shall issue a full driving licence (other

than a full driving licence to drive a motor cycle, motor tricycle, private car or light goods vehicle) to an applicant if he has passed, within 3 years prior to the date of his application for the full driving licence, a driving test in respect of the class of motor vehicle to which his application relates.”.

(2) Regulation 11(1A) is repealed and the following substituted -

“(1A) Subject to regulations 6, 7, 8 and 9, the Commissioner shall issue a full driving licence to drive a motor cycle or motor tricycle to an applicant if he has completed, within 3 years prior to the date of his application for the full driving licence, the probationary driving period for the purpose of the application.

(1B) Subject to regulations 6, 7, 8 and 9, the Commissioner shall issue a full driving licence to drive a private car to an applicant if -

(a) he has completed, within 3 years prior to the date of his application for the full driving licence, the probationary driving period for the purpose of the application;

(b) he -

(i) has applied, before the relevant date, for a driving test in respect of private cars; and

(ii) has passed, within 3 years

prior to the date of his application for the full driving licence, the test; or

(c) he -

- (i) has applied for a driving test in respect of private cars;
- (ii) has been issued with a temporary driving licence to drive a private car pending the test; and
- (iii) has passed, within 3 years prior to the date of his application for the full driving licence, the test.

(1C) Subject to regulations 6, 7, 8 and 9, the Commissioner shall issue a full driving licence to drive a light goods vehicle to an applicant if -

(a) he has completed, within 3 years prior to the date of his application for the full driving licence, the probationary driving period for the purpose of the application;

(b) he -

- (i) has applied, before the relevant date, for a driving test in respect of light goods vehicles; and
- (ii) has passed, within 3 years prior to the date of his

application for the full  
driving licence, the test;

(c) he -

- (i) has applied for a driving test in respect of light goods vehicles;
- (ii) has been issued with a temporary driving licence to drive a light goods vehicle pending the test; and
- (iii) has passed, within 3 years prior to the date of his application for the full driving licence, the test; or

(d) he -

- (i) is a holder of a valid full driving licence to drive a private car;
- (ii) has held the licence -
  - (A) if the licence was issued to him before the relevant date, for at least 3 years immediately preceding his application for the full driving licence to drive a light goods vehicle;
  - (B) if the licence was issued to him pursuant to paragraph (1B)(a), for at

least 2 years immediately preceding his application for the full driving licence to drive a light goods vehicle; or

(C) if the licence was issued to him pursuant to paragraph (1B)(b) or (c), (2), (3) or (3A), for at least 3 years immediately preceding his application for the full driving licence to drive a light goods vehicle; and

(iii) has subsequently passed, within 3 years prior to the date of his application for the full driving licence to drive a light goods vehicle, a driving test in respect of light goods vehicles."

(3) Regulation 11(2) is amended by repealing "The" and substituting "Subject to regulations 6, 7, 8 and 9, the".

(4) Regulation 11(3) is amended by repealing ", the Commissioner may" and substituting "and regulations 6, 7, 8 and 9, the Commissioner may also".

(5) Regulation 11(3A) is amended by repealing ", the Commissioner may" and substituting "and regulations 6, 7, 8 and 9, the Commissioner may also".

(6) Regulation 11(4) is amended by adding "or (3A)" after "paragraph (3)".

(7) Regulation 11(6) is repealed and the following substituted -

"(6) A full driving licence to drive any class of motor vehicle may, subject to paragraph (6A), be issued on payment of the fee prescribed in the Second Schedule."

(8) Regulation 11(6A) is amended by repealing everything after "licence" and substituting -

"-

- (a) issued to a disabled person; or
- (b) issued to a person to drive a class of motor vehicle if he holds a valid full driving licence to drive another class of motor vehicle."

(9) Regulation 11 is amended by adding -

"(6B) A full driving licence issued to an applicant to drive a class of motor vehicle shall be valid for -

(a) subject to subparagraph (b) -

- (i) if, on the date of application, the applicant is at or less than the age of 60, a period of 10 years from the date of issue of the licence;
- (ii) if, on the date of application, the applicant is over the age of 60 but less than the age of 70 -

- (A) a period from the date of issue of the licence up to the day before he attains the age of 70; or
- (B) a period of 3 years from the date of issue of the licence,  
whichever is the longer; or
- (iii) if, on the date of application, the applicant is at or over the age of 70, a period of one year or 3 years from the date of issue of the licence as the applicant chooses; or
- (b) if, on the date of application, the applicant holds a valid full driving licence to drive another class of motor vehicle, a period that expires at the end of the expiry date of that licence."

**29. Application for and issue of learners' driving licences**

(1) Regulation 12(3) is repealed and the following substituted -

"(3) Subject to paragraphs (5) and (6) and regulations 6, 7 and 9, the Commissioner shall on receipt of -

- (a) an application under paragraph (1); and
- (b) subject to regulation 12E, the fee prescribed in the Second Schedule,

issue to the applicant a learner's driving licence to drive the class of motor vehicle the subject of his application."

(2) Regulation 12 is amended by adding -

"(5) The Commissioner shall refuse to issue a learner's driving licence to drive a public light bus or private light bus, a public bus or private bus, a medium goods vehicle, a heavy goods vehicle or a special purpose vehicle unless, on the date of his application for such licence, the applicant -

(a) is a holder of a valid full driving licence to drive a private car or light goods vehicle; and

(b) subject to paragraphs (7) and (8), has held the licence -

(i) if the licence was issued to him before the relevant date, for at least 3 years immediately preceding his application;

(ii) if the licence was issued to him pursuant to regulation 11(1B)(a) or (1C)(a), for at least 2 years immediately preceding his application; or

(iii) if the licence was issued to him pursuant to regulation 11(1B)(b) or (c), (1C)(b), (c) or (d), (2), (3) or (3A), for

at least 3 years immediately preceding his application.

(6) The Commissioner shall refuse to issue a learner's driving licence to drive an articulated vehicle unless, on the date of his application for such licence, the applicant is a holder of a valid full driving licence to drive a medium goods vehicle or heavy goods vehicle.

(7) The Commissioner may, in relation to a person's application for a learner's driving licence under paragraph (1), exempt, in writing, the person from the condition set out in paragraph (5)(b).

(8) The Commissioner may in his discretion take into consideration driving experience gained other than under a driving licence issued in Hong Kong.

(9) A learner's driving licence issued to an applicant to drive a class of motor vehicle shall be valid for -

- (a) subject to subparagraph (b), 12 months from the date of issue of the licence; or
- (b) if, on the date of application, the applicant holds a valid learner's driving licence to drive another class of motor vehicle, a period that expires at the end of the expiry date of that licence."

**30. Regulation added**

The following is added -

**"12DA. Cancellation of learners'  
driving licences**

- (1) Without prejudice to regulation 20, if -
  - (a) the Commissioner cancels under regulation 12L(1) a full driving licence issued to a person to drive a private car or light goods vehicle; and
  - (b) the Commissioner has previously issued to the person, as a holder of the full driving licence to drive a private car or light goods vehicle, as the case may be, pursuant to regulation 12(5) a learner's driving licence to drive a public light bus or private light bus, a public bus or private bus, a medium goods vehicle, a heavy goods vehicle or a special purpose vehicle,

the Commissioner shall also cancel that learner's driving licence.

- (2) Without prejudice to regulation 20, if -
  - (a) the Commissioner cancels under regulation 12L(1B) a full driving licence issued to a person to drive a medium goods vehicle or heavy goods vehicle; and
  - (b) the Commissioner has previously issued to the person, as a holder of the full driving licence to drive a medium goods vehicle or heavy goods vehicle, as the case may be, pursuant to regulation 12(6) a learner's driving licence to drive an articulated vehicle,

the Commissioner shall also cancel that learner's driving

licence.

(3) If a full driving licence is cancelled under regulation 12L which causes the cancellation of a learner's driving licence under this regulation, such cancellation of the learner's driving licence shall not take effect until the cancellation under regulation 12L takes effect.

(4) On cancellation of a learner's driving licence under this regulation, the Commissioner shall give to the licence holder notice of such cancellation, and the licence holder shall, within 72 hours after receipt of the notice, surrender the learner's driving licence to the Commissioner."

**31. No fee payable in respect of certain learners' driving licences**

Regulation 12E is amended -

- (a) in paragraph (a), by repealing "or" at the end;
- (b) in paragraph (b), by repealing the full stop and substituting "; or";
- (c) by adding -

"(c) issued to a person to drive a class of motor vehicle if he holds a valid learner's driving licence to drive another class of motor vehicle."

**32. Regulation substituted**

Regulation 12F is repealed and the following substituted -

**"12F. Probationary driving period**

(1) A probationary driving period for the purpose of a person's application for a full driving licence to drive a

class of motor vehicle -

(a) commences on the date on which the probationary driving licence to drive the class of motor vehicle is issued to the person; and

(b) subject to paragraph (3), lasts for a period of such length as specified in paragraph (2).

(2) For the purpose of paragraph (1)(b), the period -

(a) is 12 months; and

(b) is to be extended by 6 months if -

(i) the person is convicted of one offence mentioned in the Twelfth Schedule; and

(ii) the offence was committed by him during those 12 months while driving -

(A) subject to sub-sub-subparagraph (B), a relevant motor vehicle; or

(B) in the case of a probationary driving licence to drive a motor cycle or motor tricycle that was issued to him before the relevant date, a motor cycle or motor tricycle.

(3) In calculating the length of the period, the following is excluded -

(a) a period during which the person does not hold a valid probationary driving licence to drive

the class of motor vehicle;

- (b) if the person's probationary driving licence to drive the class of motor vehicle is cancelled under regulation 12I, a period commencing on the issue of the licence and ending on the cancellation of it."

**33. Issue of probationary driving licences to drive motor cycles and motor tricycles**

(1) The heading of regulation 12G is repealed and the following substituted -

**"Application for and issue of probationary driving licences".**

(2) Regulation 12G(1) is amended by repealing "or motor tricycle" and substituting ", motor tricycle, private car or light goods vehicle".

(3) Regulation 12G(3) is repealed and the following substituted -

"(3) Subject to paragraph (4) and regulations 6, 7 and 9, the Commissioner shall on receipt of -

(a) an application under paragraph (1); and

(b) subject to regulation 12J(a) or (b), the

fee prescribed in the Second Schedule, issue to the applicant a probationary driving licence to drive the class of motor vehicle the subject of his application.

(3A) On issuing a probationary driving licence to a person under paragraph (3) to drive a class of motor vehicle, the Commissioner may, subject to regulation

12J(c), if -

- (a) the fact that the person has passed the relevant driving test is accepted by the Commissioner as evidence of the person's competence to drive a motor vehicle of another class; and
  - (b) the person does not hold a probationary, temporary or full driving licence to drive that other class of motor vehicle,
- at the same time issue to the person a probationary driving licence to drive that other class of motor vehicle.

(3B) A probationary driving licence issued to an applicant to drive a class of motor vehicle shall be valid for -

- (a) subject to subparagraph (b), 12 months from the date of issue of the licence; or
- (b) if, on the date of application, the applicant holds a valid probationary driving licence to drive another class of motor vehicle, a period that expires at the end of the expiry date of that licence."

(4) Regulation 12G(4) is repealed and the following substituted -

"(4) The Commissioner shall refuse to issue a probationary driving licence to drive a class of motor vehicle unless the applicant -

- (a) has passed, within 3 years prior to the

date of his application, the relevant driving test; and

- (b) has not previously been issued with a probationary driving licence to drive the class of motor vehicle after passing that relevant driving test.

(5) In this regulation, "relevant driving test" (有關駕駛測驗) -

- (a) in relation to a probationary driving licence to drive a motor cycle or motor tricycle, means a motor cycle driving test;
- (b) in relation to a probationary driving licence to drive a private car or light goods vehicle, means a driving test in respect of private cars or light goods vehicles, as the case may be."

#### **34. Cancellation of probationary driving licences**

Regulation 12I(1) is repealed and the following substituted -

"(1) Without prejudice to regulation 20, the Commissioner shall cancel a probationary driving licence to drive a class of motor vehicle if -

(a) the licence holder -

- (i) has more than once been convicted of an offence mentioned in the Twelfth Schedule;
- (ii) has been convicted of 2 or more offences mentioned in the Twelfth

Schedule; or

- (iii) is convicted of an offence in respect of which 10 or more points shall be incurred under section 4 of the Road Traffic (Driving-offence Points) Ordinance (Cap. 375); and

(b) the offence was committed, during the probationary driving period for the purpose of the application for a full driving licence to drive the class of motor vehicle, by the licence holder while driving -

- (i) subject to sub-subparagraph (ii), a relevant motor vehicle; or
- (ii) in the case of a probationary driving licence to drive a motor cycle or motor tricycle that was issued to him before the relevant date, a motor cycle or motor tricycle.

(1A) On cancellation of a probationary driving licence under paragraph (1), the Commissioner shall give to the licence holder notice of such cancellation, and the licence holder shall, within 72 hours after receipt of the notice, surrender the probationary driving licence to the Commissioner."

**35. No fee payable in respect of certain probationary driving licences**

Regulation 12J is amended by repealing everything after

"licence" and substituting -

"-

- (a) issued or reissued to or renewed for a disabled person;
- (b) issued or reissued to a person to drive a class of motor vehicle if he holds a valid probationary driving licence to drive another class of motor vehicle;
- (c) issued under regulation 12G(3A); or
- (d) reissued under regulation 12M(3)."

**36. Regulation substituted**

Regulation 12K is repealed and the following substituted -

**"12K. Driving under probationary driving licences**

(1) The holder of a probationary driving licence shall not drive a motor vehicle of a class specified in the licence unless -

- (a) in the case of a probationary driving licence to drive a private car or light goods vehicle, the motor vehicle has -
  - (i) a Small Plate securely fixed at the front of the motor vehicle, or on the left-hand side of the front windscreen of the motor vehicle, in such a manner that the Plate is clearly visible from the front of the motor vehicle; and
  - (ii) a Small Plate securely fixed at the rear of the motor vehicle, or on the

left-hand side of the rear  
windscreen of the motor vehicle, in  
such a manner that the Plate is  
clearly visible from the rear of the  
motor vehicle;

- (b) in the case of a probationary driving licence to drive a motor cycle or motor tricycle that is issued on or after the relevant date, the motor vehicle has a Small Plate securely fixed at the front and rear of the motor vehicle; or
- (c) in the case of a probationary driving licence to drive a motor cycle or motor tricycle that was issued before the relevant date or is reissued or renewed within 12 months from the relevant date, the motor vehicle has -
  - (i) a Large Plate securely fixed at the front and rear of the motor vehicle;  
or
  - (ii) a Small Plate securely fixed at the front and rear of the motor vehicle.

(2) The holder of a probationary driving licence to drive a motor cycle or motor tricycle shall not drive the motor cycle or motor tricycle with any passenger on it.

(3) In this regulation -

"Large Plate" (大字牌) means a white plate -

- (a) the size of which is 225 mm by 150 mm;
- (b) on which the letter "P", appearing in red, occupies an area stated in the diagram in Part II of the Thirteenth Schedule; and

- (c) which is made of reflex-reflecting material;
- "Small Plate" (小字牌) means a white plate -
- (a) the size of which is 150 mm by 150 mm;
  - (b) on which the letter "P", appearing in red, occupies an area stated in the diagram in Part I of the Thirteenth Schedule; and
  - (c) which is made of reflex-reflecting material."

**37. Cancellation of full driving licences to drive motor cycles and motor tricycles**

(1) The heading of regulation 12L is amended by repealing **"to drive motor cycles and motor tricycles"** and substituting **"issued to holders of probationary driving licences, etc."**.

(2) Regulation 12L(1) is repealed and the following substituted -

"(1) Without prejudice to regulation 20, the Commissioner shall cancel a full driving licence to drive a motor cycle, motor tricycle, private car or light goods vehicle if -

(a) the licence holder is, after the probationary driving period for the purpose of the application for the full driving licence, convicted of -

- (i) an offence mentioned in the Twelfth Schedule; or
- (ii) an offence in respect of which 10 or more points shall be incurred under section 4 of the Road Traffic (Driving-offence

Points) Ordinance (Cap. 375);

and

(b) the offence was committed, during that probationary driving period, by the licence holder while driving -

(i) subject to sub-subparagraph

(ii), a relevant motor vehicle;

or

(ii) in the case of a probationary driving licence to drive a motor cycle or motor tricycle that was issued to him before the relevant date, a motor cycle or motor tricycle.

(1A) Without prejudice to regulation 20, if -

(a) the Commissioner cancels under paragraph (1) a full driving licence issued to a person to drive a private car; and

(b) the Commissioner has previously issued to the person pursuant to regulation 11(1C)(d) a full driving licence to drive a light goods vehicle as a holder of the full driving licence to drive a private car,

the Commissioner shall also cancel the full driving licence to drive a light goods vehicle.

(1B) Without prejudice to regulation 20, if -

(a) the Commissioner cancels under paragraph (1) a full driving licence issued to a

person to drive a private car or light goods vehicle; and

- (b) the Commissioner has previously issued to the person pursuant to regulation 11(1) a full driving licence to drive a motor vehicle of another class for which the person is eligible under regulation 8(1) as a holder of the full driving licence to drive a private car or light goods vehicle, as the case may be,

the Commissioner shall also cancel the full driving licence to drive a motor vehicle of that other class.

(1C) Without prejudice to regulation 20, if -

- (a) the Commissioner cancels under paragraph (1B) a full driving licence issued to a person to drive a medium goods vehicle or heavy goods vehicle; and
- (b) the Commissioner has previously issued to the person pursuant to regulation 11(1) a full driving licence to drive an articulated vehicle for which the person is eligible under regulation 8(2) as a holder of the full driving licence to drive a medium goods vehicle or heavy goods vehicle, as the case may be,

the Commissioner shall also cancel the full driving licence to drive an articulated vehicle.

(1D) Without prejudice to regulation 20, if -

- (a) the Commissioner cancels under paragraph

(1), (1B) or (1C) a full driving licence issued to a person to drive a motor vehicle of a class; and

(b) the Commissioner has previously -

(i) accepted the full driving licence as evidence of the person's competence to drive a motor vehicle of another class; and

(ii) issued to the person pursuant to regulation 11(2) a full driving licence to drive a motor vehicle of that other class,

the Commissioner shall also cancel the full driving licence to drive a motor vehicle of that other class.

(1E) On cancellation of a full driving licence under this regulation, the Commissioner shall give to the licence holder notice of such cancellation, and the licence holder shall, within 72 hours after receipt of the notice, surrender the full driving licence to the Commissioner."

(3) Regulation 12L is amended by adding -

"(3) If a full driving licence is cancelled under paragraph (1) which causes the cancellation of another full driving licence under this regulation, such cancellation of that other full driving licence shall not take effect until the cancellation under that paragraph takes effect."

**38. Regulation added**

The following is added -

**12M. Reissue of probationary driving licences**

(1) If a person's full driving licence to drive a class of motor vehicle is cancelled under regulation 12L(1) because the person is convicted of one offence mentioned in the Twelfth Schedule, the person may, for the purpose of regulation 12F(2)(b), within 3 years after the cancellation, apply to the Commissioner in a form specified by the Commissioner for the reissue to him of the probationary driving licence to drive the class of motor vehicle that was held by him before the issue of the full driving licence.

(2) Subject to regulations 6 and 9, the Commissioner shall, for the purpose of regulation 12F(2)(b), on receipt of -

- (a) an application under paragraph (1) signed by the applicant;
- (b) the applicant's identity document; and
- (c) subject to regulation 12J(a) or (b), the fee prescribed in the Second Schedule,

reissue to the applicant the probationary driving licence to drive the class of motor vehicle the subject of his application.

(3) On reissuing a probationary driving licence to a person under paragraph (2) to drive the class of motor vehicle the subject of his application under paragraph (1), the Commissioner may, subject to regulation 12J(d), at the same time reissue to the person the probationary driving

licence to drive a motor vehicle of another class, if -

(a) the probationary driving licence to drive that other class of motor vehicle -

(i) was issued to him under regulation 12G(3A) on issuing the probationary driving licence to drive the class of motor vehicle the subject of his application; and

(ii) was held by him before the issue of the full driving licence to drive that other class of motor vehicle which was cancelled under regulation 12L(1) because he is convicted of one offence mentioned in the Twelfth Schedule; and

(b) he does not hold a probationary, temporary or full driving licence to drive that other class of motor vehicle.

(4) A probationary driving licence reissued under this regulation to an applicant to drive a class of motor vehicle shall be valid for -

(a) subject to subparagraph (b), 6 months from the date of reissue of the licence; or

(b) if, on the date of application, the applicant holds a valid probationary driving licence to drive another class of motor vehicle, a period that expires at the end of the expiry date of that licence.

(5) If a probationary driving licence is reissued under

this regulation, the licence shall, for the purposes of these regulations, be treated as a licence renewed under regulation 12H."

**39. Variation of licence on change of particulars**

Regulation 18A(2) is amended by adding "reissue or" before "renewal".

**40. Issue of driving instructors' licences**

(1) Regulation 22(1) is repealed and the following substituted -

"(1) Subject to paragraph (2), the Commissioner may on receipt of -

(a) an application under regulation 21 or 21A; and

(b) subject to paragraph (1B), the fee prescribed in the Second Schedule,

issue to the applicant a driving instructor's licence in respect of any group of motor vehicles the subject of his application subject to the conditions set out in the Fifth Schedule and to any further conditions which the Commissioner may impose."

(2) Regulation 22 is amended by adding -

"(1B) No fee shall be payable in respect of a driving instructor's licence in respect of a group of motor vehicles issued to a person if he holds a valid driving instructor's licence in respect of another group of motor vehicles."

(3) Regulation 22(2)(b) is amended, in the Chinese text, by

repealing “取得合格” and substituting “及格”.

(4) Regulation 22(3) is repealed and the following substituted -

“(3) A driving instructor’s licence in respect of a group of motor vehicles shall be valid for -

- (a) subject to subparagraph (b), 12 months from the date of issue of the licence; or
- (b) if, on the date of application, the applicant holds a valid driving instructor’s licence in respect of another group of motor vehicles, a period that expires at the end of the expiry date of that licence.”.

#### **41. Conduct of driving test**

(1) Regulation 32(1) is amended, in the Chinese text, by repealing “取得合格” and substituting “及格”.

(2) Regulation 32(3) is amended, in the Chinese text, by repealing “取得經授權考牌主任主持的駕駛測驗合格” and substituting “在經授權考牌主任主持的駕駛測驗及格”.

#### **42. Re-testing of driving licence holders**

Regulation 34(1) is amended by adding “or magistrate” after “court”.

#### **43. Procedure on disqualification**

(1) Regulation 35(1) is amended by adding “or magistrate” after “court”.

(2) Regulation 35(1)(c) is amended, in the Chinese text, by repealing “取得合格” and substituting “及格”.

**44. Application of other provisions to visiting drivers**

Regulation 38 is amended by adding "or magistrate" after "court".

**45. Power of Commissioner to require proof of address**

Regulation 44B(a) is amended by adding ", reissue" before "or renewal".

**46. Regulation substituted**

Regulation 45 is repealed and the following substituted -

**"45. Right of review**

A person aggrieved by -

- (a) the refusal of the Commissioner to issue, reissue or renew a driving licence or driving instructor's licence; or
- (b) the cancellation by the Commissioner of a driving licence or driving instructor's licence,

may within 14 days of being notified of the refusal or cancellation apply in writing to the Commissioner for a review by a Transport Tribunal of the refusal or cancellation."

**47. Regulations added**

The following are added -

**"45A. Practice and procedure on review**

(1) On receiving an application for a review made under regulation 45, the Commissioner shall -

- (a) fix a date, time and place for the review;
- (b) give the applicant not less than 14 days' notice in writing informing the applicant -
  - (i) the date, time and place for the review; and
  - (ii) that if he or his authorized representative does not appear at the hearing and makes no written representations, the application shall be treated as withdrawn.

(2) A Transport Tribunal may postpone a review if it thinks fit.

(3) Where a review is postponed, the Commissioner shall, by a notice in writing, inform the applicant -

- (a) the date to which the review has been postponed; and
- (b) that if he or his authorized representative does not appear at the hearing and makes no written representations, the application for a review shall be treated as withdrawn.

(4) If -

- (a) an applicant or his authorized representative does not appear before the Transport Tribunal on the date of the review notified to him in a notice under paragraph (1) or (3); and
- (b) the applicant or his authorized representative makes no written representations,

the application for a review is deemed to have been withdrawn.

(5) Where an application for a review is deemed to have

been withdrawn under paragraph (4), the Commissioner shall, by a notice in writing, inform the applicant that the application is deemed to have been withdrawn.

**45B. Determination of review**

- (1) On a review a Transport Tribunal shall consider -
  - (a) any evidence received by it, whether tendered on behalf of the applicant or otherwise, which it considers relevant to the review;
  - (b) any representations made by or on behalf of the applicant, whether orally or in writing;
  - (c) any representations made by or on behalf of the Commissioner, whether orally or in writing.

(2) The Transport Tribunal may confirm or reverse the refusal or cancellation of the Commissioner referred to in regulation 45(a) or (b).

(3) The Commissioner shall notify the applicant by notice in writing of the Transport Tribunal's decision under paragraph (2).

(4) The decision of the Transport Tribunal under paragraph (2) shall be final.

**45C. Service of notices**

A notice required to be served on or given to an applicant under regulation 45A(1)(b), (3) or (5) or 45B(3) shall be served on or given to the applicant either personally or by registered post."

**48. Offences**

Regulation 46(1) is amended by adding "12DA(4), 12I(1A),

12L(1E)," before "13(9)".

**49. Fees**

(1) The Second Schedule is amended, within the square brackets at the beginning, by repealing ", 12H(1)" and substituting "& (3), 12H(1), 12M(2)".

(2) The Second Schedule is amended, in item 2(k), by adding "or reissue" after "Renewal".

**50. Offences**

The Twelfth Schedule is amended, within the square brackets at the beginning, by repealing "& 12L" and substituting ", 12L & 12M".

**51. Thirteenth Schedule substituted**

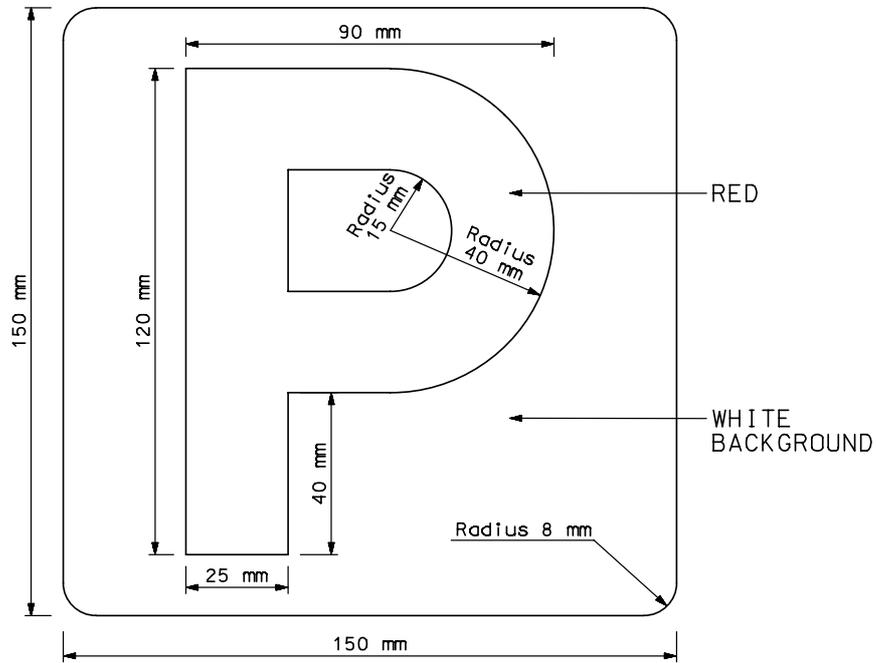
The Thirteenth Schedule is repealed and the following substituted -

"THIRTEENTH SCHEDULE

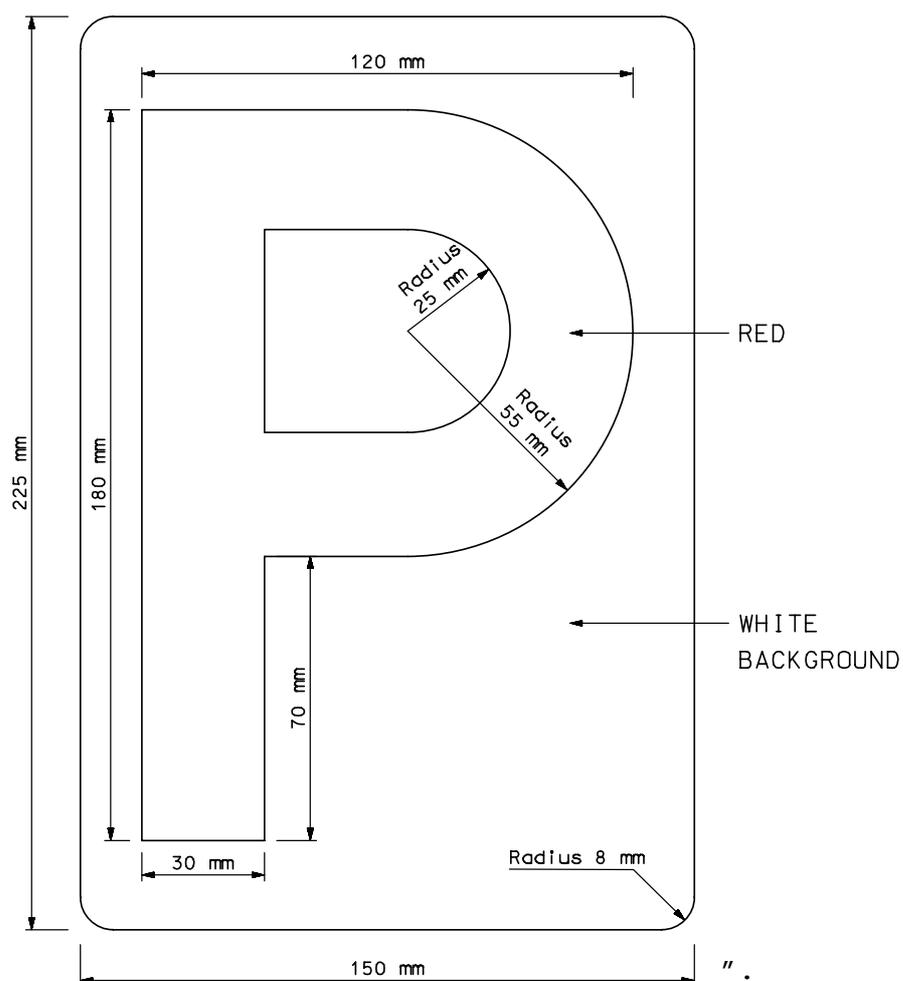
[reg. 12K]

PLATE TO BE FIXED ON MOTOR VEHICLES DRIVEN BY  
HOLDERS OF PROBATIONARY DRIVING LICENCES

PART I  
SMALL PLATE



PART II  
LARGE PLATE



## 52. “及格” substituted for “取得合格”

The following provisions are amended, in the Chinese text, by repealing “取得合格” wherever it appears and substituting “及格” -

- (a) regulation 12A(4);
- (b) regulation 12C(1) and (4);
- (c) regulation 13(8);
- (d) regulation 24(1) and (4);
- (e) regulation 25(4);
- (f) regulation 28(1)(c);
- (g) Part I of the Sixth Schedule;
- (h) paragraph 4 of the Tenth Schedule.

**53. “及格” substituted for “合格”**

(1) The following provisions are amended, in the Chinese text, in the heading, by repealing “合格” wherever it appears and substituting “及格” -

- (a) regulation 12D;
- (b) regulation 33.

(2) The following provisions are amended, in the Chinese text, by repealing “合格” wherever it appears and substituting “及格” -

- (a) regulation 12D;
- (b) regulation 33(1).

PART 4

AMENDMENTS TO OTHER SUBSIDIARY LEGISLATION  
UNDER ROAD TRAFFIC ORDINANCE

**Road Traffic (Parking) Regulations**

**54. Interpretation**

Regulation 2(1) of the Road Traffic (Parking) Regulations (Cap. 374 sub. leg. C) is amended by repealing the definition of “learner’s driving licence”.

**Road Traffic (Village Vehicles) Regulations**

**55. Restriction on vehicle use**

Regulation 18(7A)(a) of the Road Traffic (Village Vehicles) Regulations (Cap. 374 sub. leg. N) is amended by repealing “as defined in regulation 2 of the Road Traffic (Driving Licences) Regulations (Cap. 374 sub. leg.)”.

## Road Traffic (Expressway) Regulations

### 56. Vehicles driven by learner drivers prohibited

Regulation 5 of the Road Traffic (Expressway) Regulations (Cap. 374 sub. leg. Q) is amended by repealing "issued under regulation 12 or 12A of the Road Traffic (Driving Licences) Regulations (Cap. 374 sub. leg.)".

### 57. Restriction on vehicles using offside lane

(1) Regulation 11(1)(i) is repealed and the following substituted -

"(i) a motor cycle, motor tricycle, private car or light goods vehicle driven by a person who is authorized to drive it by a probationary driving licence."

(2) Regulation 11(4) is repealed.

## PART 5

### AMENDMENTS TO ROAD TRAFFIC (DRIVING-OFFENCE POINTS) ORDINANCE

### 58. Long title amended

The long title to the Road Traffic (Driving-offence Points) Ordinance (Cap. 375) is amended by adding ", or the obligatory attendance of driving improvement courses by," after "the disqualification from driving of".

### 59. Section added

The following is added before section 8A -

#### "8AA. Obligatory attendance of driving improvement courses

(1) Subject to sections 4A, 5 and 6, where a person

incurs 10 or more points in respect of offences that were committed during a period of 2 years, the person shall attend and complete a driving improvement course at his own cost -

- (a) within 3 months after the date of a notice served on him under subsection (2); or
- (b) if the Commissioner has fixed a longer period under subsection (3), within the period after the date of a notice served on him under subsection (2).

(2) For the purposes of subsection (1), the Commissioner shall serve on the person a notice -

- (a) specifying -
  - (i) the number of points incurred by him; and
  - (ii) the offence in respect of which the points have been incurred; and
- (b) informing him that he shall attend and complete a driving improvement course at his own cost in accordance with subsection (1)(a) or (b).

(3) If the Commissioner, on an application by the person, considers that the person is not able to, or has failed to, attend and complete a driving improvement course at his own cost within 3 months after the date of the notice with reasonable excuse, the Commissioner -

- (a) may fix a longer period within which the person shall attend and complete the course for the purposes of subsection (1); and
- (b) shall, as soon as practicable after fixing the

period, notify the person of his decision.

(4) An application for the purposes of subsection (3) is to be made by the person in writing to the Commissioner before the end of the period of 3 months.

(5) A person who, without reasonable excuse, contravenes subsection (1) commits an offence and is liable on conviction to a fine at level 2 and to imprisonment for 1 month.

(6) If a court or magistrate convicts a person of an offence under subsection (5), the court or magistrate shall order the person to attend and complete a driving improvement course at his own cost within the period specified in the order, unless the court or magistrate for special reasons decides not to make such an order.

(7) A person who, without reasonable excuse, fails to comply with the order made under subsection (6) commits an offence and is liable on conviction to a fine at level 3 and to imprisonment for 2 months.

(8) If a court or magistrate convicts a person of an offence under subsection (7), and the person is not disqualified, the court or magistrate shall order that the person be disqualified for a period of not less than 3 months, or until the person has attended and completed a driving improvement course at his own cost, whichever is the later, unless the court or magistrate for special reasons orders that the person be disqualified for a shorter period or that the person not be disqualified.

(9) If a person is ordered to attend and complete a driving improvement course under subsection (6), he may

appeal against the order in like manner as if it were an order made against him for the payment of a fine.

(10) If a person appeals against an order under subsection (9), the period specified in the order within which the person is required to attend and complete a driving improvement course does not commence or continue to run, as the case may be, until the appeal is withdrawn or dismissed.

(11) For the purposes of subsection (8), a person is disqualified for a shorter period if he is disqualified for a period of less than 3 months, or until the person has attended and completed a driving improvement course at his own cost, whichever is the later."

#### **60. Calculation of points**

(1) Section 8A is amended by renumbering it as section 8A(1).

(2) Section 8A(1) is amended by repealing "and 8" and substituting ", 8 and 8AA".

(3) Section 8A is amended by adding -

"(2) If a person, on being convicted of an offence in any proceedings, is ordered under section 72A(1)(b) or (1A) of the Road Traffic Ordinance (Cap. 374) to attend and complete a driving improvement course, that offence, or any scheduled offence of which he is convicted in those proceedings, is not to be taken into account in calculating the number of points incurred by the person for the purposes of section 8AA.

(3) Subsection (4) applies -

(a) if -

- (i) a person, on having incurred 10 or more points, is required to attend and complete a driving improvement course under section 8AA(1);
  - (ii) a notice is served on the person under section 8AA(2) on the requirement; and
  - (iii) the person has attended and completed a driving improvement course;
- (b) if -
- (i) a person, on having incurred 10 or more points, is required to attend and complete a driving improvement course under section 8AA(1); and
  - (ii) the person has, on his own initiative, attended and completed a driving improvement course before a notice is served on him under section 8AA(2) on the requirement; or
- (c) if a person has, on his own initiative, attended and completed a driving improvement course before he is required to do so under section 8AA(1).

(4) In calculating the number of points incurred by the person for the purposes of section 8AA as at the

date of completion of the driving improvement course -

- (a) the person under subsection (3)(a) or (b) no longer incurs the number of points specified in the notice served on him under section 8AA(2); and
- (b) the person under subsection (3)(c) no longer incurs any number of points that was incurred immediately before the date of completion of the course."

**61. Service**

Section 14 is amended by repealing "registered post or recorded mail to him at" and substituting "post or registered post to".

**62. Offence**

Items 50 and 55 of the Schedule are amended, in the Chinese text, by repealing "圖型" and substituting "圖形".

PART 6

CONSEQUENTIAL AMENDMENTS

**Dutiable Commodities Ordinance**

**63. Disqualification order for hydrocarbon oil offences**

Section 46AA(6)(b)(ix) of the Dutiable Commodities Ordinance (Cap. 109) is amended by repealing "appeals" and substituting "right of review".

**Eastern Harbour Crossing Road Tunnel By-laws**

**64. Vehicles prohibited**

By-law 17(1)(q) of the Eastern Harbour Crossing Road Tunnel By-laws (Cap. 215 sub. leg. E) is amended by repealing "(Driving Licences) Regulations (Cap. 374 sub. leg. B)" and substituting "Ordinance (Cap. 374)".

**Traffic Accident Victims (Assistance Fund) Ordinance**

**65. Levy on licence holders**

Section 6(2A) of the Traffic Accident Victims (Assistance Fund) Ordinance (Cap. 229) is amended by adding "reissued or" before "renewed".

**Ocean Park Bylaw**

**66. Interpretation**

Section 2 of the Ocean Park Bylaw (Cap. 388 sub. leg. B) is amended, in the definition of "learner's driving licence", by repealing everything after "as in" and substituting "section 2 of the Road Traffic Ordinance (Cap. 374);".

**Tate's Cairn Tunnel By-laws**

**67. Vehicles prohibited**

By-law 17(1)(q) of the Tate's Cairn Tunnel By-laws (Cap. 393 sub. leg. B) is amended by repealing "(Driving Licences) Regulations (Cap. 374 sub. leg.)" and substituting "Ordinance (Cap. 374)".

**Western Harbour Crossing Bylaw**

**68. Vehicles prohibited**

Section 20(1)(q) of the Western Harbour Crossing Bylaw (Cap. 436 sub. leg. D) is amended by repealing "(Driving Licences) Regulations (Cap. 374 sub. leg.)" and substituting "Ordinance (Cap. 374)".

**Tai Lam Tunnel and Yuen Long Approach Road Bylaw**

**69. Vehicles prohibited**

Section 20(1)(b)(xiii) of the Tai Lam Tunnel and Yuen Long Approach Road Bylaw (Cap. 474 sub. leg. C) is amended by repealing "(Driving Licences) Regulations (Cap. 374 sub. leg.)" and substituting "Ordinance (Cap. 374)".

**Discovery Bay Tunnel Link Bylaw**

**70. Vehicles prohibited**

Section 19(1)(q) of the Discovery Bay Tunnel Link Bylaw (Cap. 520 sub. leg. B) is amended by repealing "(Driving Licences) Regulations (Cap. 374 sub. leg.)" and substituting "Ordinance (Cap. 374)".

**Explanatory Memorandum**

The main purposes of this Bill are to -

- (a) increase the term of imprisonment of the offence of causing death by dangerous driving under section 36 of the Road Traffic Ordinance (Cap. 374) ("the Ordinance");
- (b) increase the penalties on offences under sections

39, 39A, 39B and 39C of the Ordinance, and give police officers a general power to conduct screening breath tests;

- (c) introduce a pre-screening device to facilitate the implementation of the new section 39B(1)(a) of the Ordinance;
- (d) provide that repeat traffic offenders or persons convicted of serious traffic offences are required to attend and complete driving improvement courses;
- (e) extend the probationary driving licence scheme to novice drivers of private cars and light goods vehicles; and
- (f) provide for the review by a Transport Tribunal of certain decisions made by the Commissioner for Transport ("the Commissioner") in relation to driving licences and driving instructor's licences.

2. The following are the main provisions of the Bill.

**Amendment to increase penalties for causing death  
by dangerous driving**

3. Clause 5(1) amends section 36 of the Ordinance so that the maximum term of imprisonment on conviction of the offence of causing death by dangerous driving is increased from 5 years to 10 years.

**Amendments to increase penalties on certain offences**

4. Sections 39, 39A, 39B and 39C of the Ordinance provide for, among other offences, alcohol-related offences. Currently, only

persons who are convicted more than once are to be disqualified. Clauses 7(1), 8(1), 9(2) and 10(1) amend those sections so that persons who are convicted for the first time are to be disqualified for not less than 3 months.

**Amendments to empower police officers to conduct screening breath tests generally**

5. Under the existing section 39B(1) of the Ordinance, only when a police officer has reasonable cause to suspect that a specified circumstance has taken place that he may require a person to provide a specimen of breath for a screening breath test. Clause 9(1) amends that section so that a police officer is empowered generally to require a person who is driving or attempting to drive, or is in charge of, a motor vehicle on a road to provide such a specimen.

**Amendments to introduce pre-screening device for purposes of new section 39B(1)(a) of Road Traffic Ordinance**

6. Clause 11 amends section 39F of the Ordinance so that the Commissioner of Police may approve types of instruments as an approved pre-screening device for the purpose of indicating whether a person has any alcohol in his body. Accordingly, a definition of "approved pre-screening device" is added to section 2 of the Ordinance in clause 3(3).

7. In clause 9(1), a new subsection (1A) is added to section 39B of the Ordinance. After the amendment, if a person to whom section 39B(1)(a) of the Ordinance applies has provided a specimen of

breath to be tested by an approved pre-screening device, and the test does not indicate that the person has any alcohol in his body, the person is not to be required to provide a specimen of breath for a screening breath test.

**Amendments relating to mandatory attendance of driving improvement courses**

8. Under the existing section 72A(1) of the Ordinance, the court has a discretion to order a person who is convicted of an offence specified in Schedule 11 to the Ordinance to attend and complete a driving improvement course. Clause 20 amends section 72A of the Ordinance so that a person who is convicted of a more serious traffic offence is to be ordered to attend and complete a driving improvement course. Apart from fine and imprisonment, a failure to comply with the order will result in the person being disqualified.

9. Also, clause 20(8) amends section 72A(9) of the Ordinance so that the maximum fine for failing to attend and complete a driving improvement course when ordered to do so under section 72A(1)(b) or (1A) of the Ordinance is increased from \$3,000 to \$5,000.

10. Similarly, clause 59 adds a new section 8AA to the Road Traffic (Driving-offence Points) Ordinance (Cap. 375). Under the new section, a person who incurs 10 or more driving-offence points within 2 years is required to attend and complete a driving improvement course, failing which fine, imprisonment and even disqualification are to be ordered against him.

**Amendments relating to probationary driving licences**

11. Clause 12 amends section 40 of the Ordinance to provide that the holder of a probationary driving licence to drive a private car or light goods vehicle can only drive it at a maximum speed of 70 km per hour (proposed section 40(5)(d)).

12. Clause 3 amends section 2 of the Ordinance by adding the amended definition of "probationary driving licence" and 2 other definitions which currently appear in regulation 2 of the Road Traffic (Driving Licences) Regulations (Cap. 374 sub. leg. B) ("the Regulations"). Clause 23 amends the definition of "probationary driving period" in regulation 2 of the Regulations to take into account the wider application of the probationary driving licence scheme. It also adds 2 new definitions to regulation 2 of the Regulations.

13. Clause 25 amends regulation 8 of the Regulations so that if a person has held, for at least 2 years, a valid full driving licence to drive a private car or light goods vehicle issued to him after he has completed the probationary driving period, he is eligible to apply for a full driving licence in respect of certain commercial vehicles after passing the appropriate driving tests (proposed regulation 8(1A)).

14. Clause 28 amends regulation 11 of the Regulations so that subject to certain exceptions a person must complete a probationary driving period before being issued a full driving licence to drive a private car or light goods vehicle (proposed regulation 11(1B)(a) and (1C)(a)).

15. Clause 32 amends regulation 12F of the Regulations to provide that the 12-month probationary driving period is to be extended by

6 months if the person is convicted of certain traffic offences committed by him during that period while driving a class of motor vehicle under a probationary driving licence (proposed regulation 12F(2)(b)).

16. Clause 33 amends regulation 12G of the Regulations to -

- (a) provide for the application for a probationary driving licence to drive a private car or light goods vehicle (proposed regulation 12G(1)); and
- (b) empower the Commissioner, on issuing a probationary driving licence to a person to drive a class of motor vehicle, to issue to the person a probationary driving licence to drive another class of motor vehicle (proposed regulation 12G(3A)).

17. Clause 34 amends regulation 12I of the Regulations so that the Commissioner shall cancel a probationary driving licence to drive a class of motor vehicle if the licence holder has been convicted of certain traffic offences committed by him during the probationary driving period while driving a class of motor vehicle under a probationary driving licence (proposed regulation 12I(1)).

18. Clause 36 amends regulation 12K of the Regulations to require the holder of a probationary driving licence for any class of motor vehicle to display a "P" plate on the vehicle and to provide a more flexible requirement on display of a "P" plate (proposed regulation 12K(1)).

19. Clause 37 amends regulation 12L of the Regulations so that -

- (a) the Commissioner shall cancel a full driving licence to drive a class of motor vehicle if the licence holder is convicted of certain traffic offences committed by him during the probationary

driving period for that class of motor vehicle while driving a class of motor vehicle under a probationary driving licence (proposed regulation 12L(1)); and

- (b) the Commissioner shall also, as a result of the cancellation under subparagraph (a), cancel other full driving licences (proposed regulation 12L(1A), (1B), (1C) and (1D)).

20. Clause 38 adds a new regulation 12M to the Regulations to provide for reissue of a probationary driving licence under certain circumstances.

21. Clause 51 amends the Thirteenth Schedule to the Regulations by showing the diagrams of "P" plates to be fixed on motor vehicles driven by holders of probationary driving licences.

**Amendments relating to review Commissioner for Transport's decisions in relation to driving licences and driving instructors' licences by Transport Tribunal**

22. Clause 4 amends section 8(1) of the Ordinance by empowering the Secretary for Transport and Housing to make regulations to provide for the review by a Transport Tribunal of any decision made by the Commissioner to refuse to issue, to reissue, to renew or to cancel a driving licence or driving instructor's licence (proposed section 8(1)(aa)).

23. Clause 46 amends regulation 45 of the Regulations by repealing the existing right of appeal by petition to the Chief Executive in Council against the Commissioner's decision to refuse to issue, renew or cancel a driving licence or driving instructor's licence and substituting a right of review of such

decision by a Transport Tribunal.

24. Clause 47 adds new provisions for procedural matters of review to the Regulations (proposed regulations 45A, 45B and 45C).

#### **Other amendments to Road Traffic (Driving Licences) Regulations**

25. Clause 24 amends regulation 6 of the Regulations to clarify under what circumstances the Commissioner shall not issue a driving licence to a person.

26. Clauses 28(8), 31, 35 and 40(2) amend regulations 11(6A), 12E, 12J and 22 of the Regulations respectively to provide that under what circumstances a full driving licence, learner's driving licence, probationary driving licence and driving instructor's licence can be issued without payment of fees.

27. Clause 29 amends regulation 12 of the Regulations to provide for the requirements to be fulfilled for the issuing of a learner's driving licence to drive certain commercial vehicles (proposed regulation 12(5) and (6)).

28. Clause 30 adds a new regulation 12DA to the Regulations to provide for cancellation of certain learner's driving licences.

29. Clause 48 amends regulation 46(1) of the Regulations to make it an offence if a person fails to surrender the cancelled driving licence to the Commissioner under the proposed regulation 12DA(4), 12I(1A) or 12L(1E) of the Regulations.

30. Clauses 49 and 50 make consequential amendments to the Second Schedule and the Twelfth Schedule to the Regulations respectively.

31. Clauses 41, 52 and 53 make formal alterations to the Chinese text of various provisions in the Regulations.

#### **Consequential amendments**

32. Clauses 54 and 55 make consequential amendments to the Road Traffic (Parking) Regulations (Cap. 374 sub. leg. C) and the Road Traffic (Village Vehicles) Regulations (Cap. 374 sub. leg. N) respectively.

33. Clauses 56 and 57 make consequential and related amendments to the Road Traffic (Expressway) Regulations (Cap. 374 sub. leg. Q).

34. Clauses 63, 64, 65, 66, 67, 68, 69 and 70 make consequential amendments respectively to -

- (a) the Dutiable Commodities Ordinance (Cap. 109);
- (b) the Eastern Harbour Crossing Road Tunnel By-laws (Cap. 215 sub. leg. E);
- (c) the Traffic Accident Victims (Assistance Fund) Ordinance (Cap. 229);
- (d) the Ocean Park Bylaw (Cap. 388 sub. leg. B);
- (e) the Tate's Cairn Tunnel By-laws (Cap. 393 sub. leg. B);
- (f) the Western Harbour Crossing Bylaw (Cap. 436 sub. leg. D);
- (g) the Tai Lam Tunnel and Yuen Long Approach Road Bylaw (Cap. 474 sub. leg. C); and
- (h) the Discovery Bay Tunnel Link Bylaw (Cap. 520 sub. leg. B).