
Road Traffic (Amendment) (No. 2) Bill 2011

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Part 1

Clause 1

A BILL

To

Amend the Road Traffic Ordinance and its subsidiary legislation to impose a cap on the maximum speed at which a public light bus may travel; to provide for the fitting of speed limiters and electronic data recording devices to public light buses; to provide for the obtaining of data stored in electronic data recording devices; to provide for the authorization of persons to install devices required to be fitted to vehicles; to provide for the designation of pre-service training schools for drivers of public service vehicles; to make attendance and completion of a pre-service course provided by a pre-service training school a condition for the issue of a full driving licence to drive a public light bus; to provide for the display of driver identity plates by drivers of public light buses; to make consequential and miscellaneous amendments; and to provide for related matters.

Enacted by the Legislative Council.

Part 1

Preliminary

1. Short title and commencement

- (1) This Ordinance may be cited as the Road Traffic (Amendment) (No. 2) Ordinance 2011.

Part 1

Clause 2

- (2) Subject to subsection (3), this Ordinance comes into operation on the day on which it is published in the Gazette.
- (3) Part 4 comes into operation on a day to be appointed by the Secretary for Transport and Housing by notice published in the Gazette.

2. Enactments amended

The enactments specified in Parts 2, 3, 4, 5 and the Schedule are amended as set out in those Parts and that Schedule.

Part 2

Amendments to Road Traffic Ordinance (Cap. 374)

3. Section 2 amended (Interpretation)

Section 2—

Add in alphabetical order

“*franchised bus* (專利巴士) has the meaning given to it by regulation 2(1) of the Road Traffic (Traffic Control) Regulations (Cap. 374 sub. leg. G);

pre-service course (職前課程) means a course provided under section 102I(2)(a);

pre-service training school (職前訓練學校) means a place designated as a pre-service training school under section 102I(1) and in respect of which the designation is for the time being in force;

Secretary (局長) means the Secretary for Transport and Housing;”.

4. Section 9 amended (Regulation of construction and maintenance of vehicles)

(1) Section 9, Chinese text, heading—

Repeal

“維修”

Substitute

“保養”.

(2) Section 9(1), Chinese text—

Repeal

“維修” (wherever appearing)

Part 2
Clause 5

Substitute

“保養”.

- (3) After section 9(2)—

Add

“(2A) Regulations under this section may provide for the authorization of persons to install devices required to be fitted to vehicles, the specification of conditions of any such authorization, the revocation and termination of any such authorization, and the review by a Transport Tribunal of any decision to revoke any such authorization.”.

5. Section 40 amended (Speed limit)

- (1) Section 40(1)—

Repeal

“(2) and (5)”

Substitute

“(2), (5) and (5A)”.

- (2) After section 40(5)—

Add

“(5A) If a variation in the speed limit is in effect under this section and permits a vehicle to travel on any road at a speed in excess of 80 km an hour, the maximum speed at which a public light bus may travel on that road is 80 km an hour.”.

6. Section 41 amended (Driving in excess of speed limit)

- (1) Section 41(1)(a)—

Repeal

“; or”

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Clause 7

Substitute a semicolon.

- (2) Section 41(1)(b)—

Repeal the comma

Substitute

“; or”.

- (3) After section 41(1)(b)—

Add

“(c) 80 km an hour as provided for in section 40(5A),”.

7. Section 67A added

After section 67—

Add

“67A. Power to retrieve electronic data

- (1) This section applies to a motor vehicle with a fitted EDRD.
- (2) The Commissioner may cause any data stored in the fitted EDRD to be retrieved by a vehicle examiner during any examination of a motor vehicle carried out under section 78 or, under an examination order served or caused to be served by the Commissioner, under section 79.
- (3) If a police officer has reasonable cause to believe that a motor vehicle has been involved in an accident or any offence under this Ordinance, the police officer may—
 - (a) if there is a driver or any other person inside the vehicle—

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-
- (i) direct the driver to drive it to the vehicle examination centre or police station specified by the police officer; or
 - (ii) direct the driver and any other person to leave the vehicle and himself or herself drive or remove the vehicle or cause it to be driven or removed to any vehicle examination centre or police station; or
 - (b) if there is no person inside the vehicle, drive or remove the vehicle or cause it to be driven or removed to any vehicle examination centre or police station.
- (4) The police officer referred to in subsection (3) may—
- (a) cause the vehicle to be detained at a vehicle examination centre or police station for not more than 72 hours; and
 - (b) during the detention, cause any data stored in the fitted EDRD to be retrieved by a vehicle examiner or any person authorized by the Commissioner of Police.
- (5) In any criminal proceedings, a document purporting to be a record of the data retrieved under subsection (4)(b) is admissible as evidence of the matters appearing from the record without further proof.
- (6) Any person who without reasonable excuse fails to comply with any direction of a police officer under subsection (3)(a) commits an offence and is liable to a fine at level 2.
- (7) In this section—
- fitted EDRD*** (已裝配電子數據記錄儀) has the meaning given to it by regulation 2 of the Road Traffic (Construction and Maintenance of Vehicles) Regulations (Cap. 374 sub. leg. A).”.

Part 2
Clause 8

8. Part XB added

After section 102G—

Add

“Part XB

Pre-service Training Schools

102H. Interpretation

In this Part—

attendance certificate (修習證書)—

- (a) means an attendance certificate issued under section 102I(3)(c)(i) or 102L(d); and
- (b) includes, except in section 102I(3)(c)(i) or 102L(d), a duplicate of the certificate;

code of practice (《實務守則》) means a code of practice issued under section 102L(a) as it is in force from time to time;

course certificate (課程證書)—

- (a) means a course certificate issued under section 102I(3)(c)(ii) or 102L(d); and
- (b) includes, except in section 102I(3)(c)(ii) or 102L(d), a duplicate of the certificate;

designation (指定) means a designation made under section 102I(1);

proprietor (東主), in relation to a pre-service training school, means a person having the conduct or control of the school, whether or not the person is the owner.

102I. Commissioner may designate pre-service training schools

- (1) The Commissioner may, in writing, designate any place as a pre-service training school for drivers of public service vehicles and may impose any conditions relating to the designation which the Commissioner considers appropriate.
- (2) If a place is designated as a pre-service training school, the designation—
 - (a) authorizes the person specified in the designation as the proprietor to operate that place as a pre-service training school to provide pre-service courses to drivers of public service vehicles; and
 - (b) is not valid except on payment of the fee payable under subsection (5)(a) for the designation.
- (3) The proprietor of a pre-service training school must ensure that—
 - (a) the school is operated in compliance with—
 - (i) Schedule 13;
 - (ii) the code of practice; and
 - (iii) the conditions specified under subsection (1) in respect of the designation;
 - (b) pre-service courses are provided at the school in accordance with the code of practice—
 - (i) to a person who has applied to take a driving test in respect of public light buses, private light buses, public buses, private buses or franchised buses, or a test in respect of any combination of such types of vehicle;

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Clause 8

- (ii) to a person who has passed a driving test in respect of public light buses, private light buses, public buses, private buses or franchised buses, or a test in respect of any combination of such types of vehicle;
 - (iii) to a holder of a full driving licence to drive a public light bus, private light bus, public bus, private bus or franchised bus; and
 - (iv) to a person holding any other driving licence who has been permitted by the Commissioner in writing to take the course; and
- (c) if a person attends and completes a pre-service course at the school—
 - (i) an attendance certificate in a form specified by the Commissioner is issued for the school to the person immediately afterwards, indicating that the person has attended and completed the course; and
 - (ii) a course certificate in a form specified by the Commissioner is issued for the school, on the Commissioner's direction, to the person, indicating that the person has attended and completed the course in accordance with the code of practice.
- (4) The Secretary may by order published in the Gazette amend subsection (3)(b).
- (5) The Commissioner may from time to time determine—
 - (a) the fees payable for the designation, or the renewal of the designation, of a pre-service training school; and

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Clause 8

- (b) the maximum fees that may be charged by the proprietor of a pre-service training school for a pre-service course and the issue of an attendance certificate or course certificate.
- (6) The fees charged by the proprietor of a pre-service training school for a pre-service course and the issue of an attendance certificate or course certificate must not exceed the maximum fees as determined under subsection (5)(b).
- (7) The Commissioner must cause notice of—
 - (a) a designation;
 - (b) the fees determined under subsection (5)(a); or
 - (c) the maximum fees determined under subsection (5)(b),to be published in the Gazette.
- (8) A notice under subsection (7) is not subsidiary legislation.
- (9) Subject to sections 102J and 102K, the designation of a pre-service training school—
 - (a) is valid for a maximum period of 3 years from the date specified in the designation; and
 - (b) may, on the application of the proprietor of the school made to the Commissioner at least 3 months before the date of its expiration, be renewed in writing by the Commissioner.
- (10) If a designation is renewed under subsection (9)(b), the renewed designation—
 - (a) is valid for a maximum period of 3 years from the date specified in the renewed designation; and

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Clause 8

- (b) is not valid except on payment of the fee payable under subsection (5)(a) for the renewal of the designation.
- (11) The Commissioner may waive in whole or in part the payment of a fee payable under subsection (5)(a) if the Commissioner considers that it is in the public interest to do so.

102J. Revocation of designation

- (1) If in respect of a pre-service training school it appears to the Commissioner that—
- (a) the proprietor has contravened section 102I(3) or (6);
 - (b) the proprietor has issued any attendance certificate or course certificate improperly;
 - (c) the proprietor has entered any incorrect particulars on an attendance certificate or course certificate for fraudulent purposes;
 - (d) the proprietor has ceased to have the conduct or control of the school; or
 - (e) the proprietor is being wound up or grounds exist for a creditor to present a bankruptcy petition against the proprietor,
- the Commissioner may serve a notice in writing on the proprietor.
- (2) A notice served under subsection (1) must—
- (a) state the Commissioner's intention to revoke the designation of the school and the ground for the intention; and
 - (b) state that the proprietor may make representations in writing, within 28 days after the service of the notice, why the designation should not be revoked.

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Clause 8

- (3) If—
- (a) a notice has been served on the proprietor of a pre-service training school under subsection (1); and
 - (b) either—
 - (i) the proprietor does not make any representations in writing why the designation should not be revoked within the period specified in subsection (2)(b); or
 - (ii) the Commissioner, having considered any representations made by the proprietor, is of the opinion that the proprietor has not shown good cause why the designation should not be revoked,
- the Commissioner may, by notice in writing served on the proprietor, revoke the designation with effect from the date specified in the notice, being a date later than 14 days after the service of the notice.
- (4) The proprietor of a pre-service training school aggrieved by a decision of the Commissioner under subsection (3) may appeal to a Transport Tribunal against the decision within 14 days after the service of the notice of the decision.
- (5) If a decision of the Commissioner is appealed against under subsection (4)—
- (a) a Transport Tribunal may on the appeal affirm, amend or reverse the decision; and
 - (b) the decision does not have effect pending the determination of the appeal.
- (6) If the designation of a pre-service training school is revoked—

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Clause 8

- (a) the Commissioner must cause notice of the revocation to be published in the Gazette as soon as practicable after the revocation has come into effect;
 - (b) no compensation is payable to the proprietor of the school in respect of the revocation; and
 - (c) no fee paid under section 102I(2)(b) or (10)(b) is to be refunded.
- (7) Within 28 days after the revocation of the designation of a pre-service training school has come into effect, the last proprietor of the school must refund a person the fee that person has paid for taking a pre-service course at the school for any part of the course which has not been given.
- (8) The revocation of the designation of a pre-service training school does not affect the validity of attendance certificates or course certificates which have been issued lawfully for the school.

102K. Termination of designation

- (1) Despite section 102J, if the proprietor of a pre-service training school gives the Commissioner not less than 3 months' notice in writing of termination, the designation of the school is terminated on the expiry of the period of the notice.
- (2) On the termination of a designation, the Commissioner may make a refund in respect of any fee paid under section 102I(2)(b) or (10)(b) of an amount not exceeding the amount obtained by dividing the amount of the fee paid by the number of complete months of the validity period of the designation and multiplying the result by the number of complete months in the unexpired period of the designation.

Part 2
Clause 8

- (3) Within 28 days after the designation in respect of a pre-service training school is terminated, the last proprietor of the school must refund a person the fee that person has paid for taking a pre-service course at the school for any part of the course which has not been given.
- (4) The termination of the designation of a pre-service training school does not affect the validity of attendance certificates or course certificates which have been issued lawfully for the school.

102L. Ancillary powers of Commissioner

For the purposes of this Part, the Commissioner may—

- (a) issue, and from time to time revise, a code of practice setting out—
 - (i) the requirements, procedures and standards in respect of the content and duration of pre-service courses;
 - (ii) the requirements and procedures for providing information by the proprietor of a pre-service training school to the Commissioner in respect of a person's completion of pre-service courses;
 - (iii) the facilities to be provided, the safety measures to be adopted and the equipment to be used in a pre-service training school;
 - (iv) the requirements and procedures for issuing an attendance certificate or a course certificate to a person who has attended and completed a pre-service course; and
 - (v) any other matter the Commissioner considers appropriate;

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Clause 8

- (b) specify any form, including the form of any attendance certificate, course certificate or other document;
- (c) authorize in writing persons to sign attendance certificates and course certificates; and
- (d) (if the proprietor of a pre-service training school fails to issue an attendance certificate under section 102I(3)(c)(i) or a course certificate under section 102I(3)(c)(ii)) cause the certificate to be issued for the school, and recover any expenses incurred from—
 - (i) the proprietor of the school; or
 - (ii) (if the designation of the school has been revoked under section 102J(3) or terminated under section 102K(1)) the last proprietor of the school.

102M. Power to enter and inspect

- (1) Any public officer authorized in writing by the Commissioner for the purposes of this section may, during the hours when a pre-service training school is open for business, enter the school and, on production of the Commissioner's authorization—
 - (a) observe and monitor the giving of pre-service courses;
 - (b) inspect the school for the purpose of ascertaining whether there has been a contravention of section 102I(3) or (6);
 - (c) inspect or test any motor vehicle or equipment used for the giving of pre-service courses; and
 - (d) inspect and make copies of any record, book or document kept or maintained in respect of the giving of pre-service courses.

Part 2
Clause 9

- (2) Any person who obstructs a public officer in exercise of the public officer's power under subsection (1) commits an offence and is liable to a fine at level 2 and to imprisonment for 6 months.

102N. Amendment of Schedule 13

The Commissioner may by order published in the Gazette amend Schedule 13.”.

9. Schedule 12 amended (Requirements Applicable to Driving Improvement Schools)

Schedule 12, section 2(b)—

Repeal

“and”

Substitute

“or”.

10. Schedule 13 added

After Schedule 12—

Add

“Schedule 13 [ss. 102I & 102N]

Requirements Applicable to Pre-service Training Schools

1. Only pre-service course instructors who have been authorized by the Commissioner and who meet all conditions that may be specified by the Commissioner in the designation concerned may give pre-service courses.

Part 2

Clause 10

2. Notice must be given by the proprietor of a pre-service training school to the Commissioner immediately if—
 - (a) there is any change in the persons employed at the school who are authorized to sign attendance certificates or course certificates under section 102L;
 - (b) there is any change in the particulars of the proprietor of the school, or any other matter specified by the Commissioner by notice in writing to the proprietor which relates to the school; or
 - (c) grounds exist for a creditor to present a bankruptcy petition against the proprietor or the proprietor has entered into liquidation or has entered into any composition with the proprietor's creditors or has suffered any distress or execution to be levied upon the proprietor's goods.

3. In this Schedule—

attendance certificate (修習證書), *course certificate* (課程證書), *designation* (指定) and *proprietor* (東主) have the meaning given by section 102H.”.

Part 3

Amendments to Road Traffic (Construction and Maintenance of Vehicles) Regulations (Cap. 374 sub. leg. A)

11. Regulation 2 amended (Interpretation)

(1) Regulation 2, English text, definition of *approval mark*—

Repeal

“requirements”

Substitute

“requirements”.

(2) Regulation 2—

Add in alphabetical order

“*approved EDRD* (認可電子數據記錄儀)—see regulation 24C(3);

approved speed limiter (認可車速限制器)—see regulation 24B(2);

EDRD means an electronic data recording device;

electronic data recording device (電子數據記錄儀) means a device which records and stores running data digitally by a solid state electronic method and includes all components of the EDRD referred to in section 1 of Schedule 19;

fitted EDRD (已裝配電子數據記錄儀) means an approved EDRD fitted to a motor vehicle to which regulation 24C applies;

fitted speed limiter (已裝配車速限制器) means an approved speed limiter fitted to a motor vehicle to which regulation 24B applies;

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Clause 12

maximum stabilized speed (最高穩定速度), in relation to a motor vehicle fitted with a speed limiter, means the highest speed at which the vehicle is able to travel when the vehicle is under the continuous and stable control of the speed limiter;

running data (行車數據), in relation to an EDRD fitted to a motor vehicle, means those data of the vehicle and the EDRD which are referred to in sections 3 and 4 of Schedule 19;

set speed (設定速度), in relation to a speed limiter fitted to a motor vehicle, means the intended maximum speed of the vehicle as limited by the speed limiter;

speed limiter (車速限制器) means a device the function or one of the functions of which is to limit the maximum stabilized speed of a motor vehicle by controlling—

- (a) for a vehicle propelled by an internal combustion engine only, the fuel feed to the engine;
- (b) for a vehicle propelled by an electric motor only, the electric motor output; or
- (c) for a vehicle capable of being propelled by both an internal combustion engine and electric motor either in combination or separately, both the fuel feed to the engine and the electric motor output;”.

12. Regulations 24B and 24C added

After regulation 24A—

Add

“24B. Speed limiter

- (1) Every public light bus must be fitted with an approved speed limiter that has been installed by an authorized speed limiter installer.

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Clause 12

- (2) A speed limiter is an approved speed limiter if it—
 - (a) conforms with the requirements set out in Schedule 17;
 - (b) has been examined to the satisfaction of the Commissioner; and
 - (c) bears an approval mark recognized or assigned by the Commissioner.
- (3) For the purposes of paragraph (2)(b), the satisfaction of the Commissioner is to be signified in writing.
- (4) A fitted speed limiter must be—
 - (a) calibrated so that—
 - (i) a setting corresponding to the set speed is stored in it; and
 - (ii) the maximum stabilized speed of the motor vehicle to which it is fitted will not exceed the set speed;
 - (b) sealed by the Commissioner or a person authorized by the Commissioner in writing; and
 - (c) maintained in good and efficient working order.
- (5) The set speed with which a fitted speed limiter is calibrated must be identical to the set speed determined by the Commissioner for the motor vehicle to which the speed limiter is fitted.
- (6) The set speed determined under paragraph (5) must not exceed the speed limit stipulated under section 40(5A) of the Ordinance.
- (7) The seal referred to in paragraph (4)(b) must remain intact.
- (8) No alteration in respect of the design or accuracy may be made to a fitted speed limiter, except as permitted in writing by the Commissioner.

Part 3

Clause 12

- (9) A plate marked legibly and correctly with the information specified in paragraph (10) must be affixed on a fitted speed limiter or on a place adjacent to the speed limiter.
- (10) The information referred to in paragraph (9) is the following information of the speed limiter—
- (a) the type approval number assigned by the Commissioner;
 - (b) the name of the installer;
 - (c) the set speed;
 - (d) the date of installation;
 - (e) the make and model.
- (11) For every public light bus with a fitted speed limiter, a sign which complies with paragraph (12) must be displayed in a conspicuous position in the passengers' compartment.
- (12) A sign displayed as required by paragraph (11) must—
- (a) contain only the words “THE MAXIMUM SPEED OF THIS VEHICLE IS LIMITED TO x KM/H” and the characters “本車最高時速限於 x 公里” where—
 - (i) “x” is the set speed with which the fitted speed limiter has been calibrated, expressed in Arabic numerals; and
 - (ii) the characters and words must be at least 50 mm high and legible at all times when the vehicle is in service; and
 - (b) be kept free from any obstruction which might prevent it from being easily read by any passenger.

Part 3

Clause 12

- (13) It is a defence in any proceedings in respect of a contravention of paragraph (4)(b) or (7) to prove that at the time when the contravention was detected steps had already been taken to have the fitted speed limiter sealed, or resealed, with all reasonable expedition.
- (14) It is a defence in any proceedings in respect of a contravention of paragraph (4)(c) to prove that—
- (a) the defect occurred in the course of the journey during which the contravention was detected; or
 - (b) at the time when the contravention was detected steps had already been taken to have the defect remedied with all reasonable expedition.
- (15) For a speed limiter which has been fitted to a public light bus before the relevant date—
- (a) if the Commissioner has done any act referred to in this regulation in respect of the speed limiter before the relevant date, the act is deemed to be done under this regulation;
 - (b) if it was installed by a person who at the time of installation was a person recognized by the Commissioner for the purposes of installing speed limiters, the speed limiter is deemed to have been installed by an authorized speed limiter installer; and
 - (c) without limiting subparagraph (a), if a set speed has been determined by the Commissioner as the set speed for the public light bus before the relevant date, that speed is deemed to be a set speed determined under paragraph (5).
- (16) In this regulation—
- authorized speed limiter installer*** (獲授權車速限制器安裝人) means a person authorized under regulation 120AA(2) to install approved speed limiters;

relevant date (有關日期) means the date on which section 12 of the Road Traffic (Amendment) (No. 2) Ordinance 2011 (of 2011) comes into operation.

24C. Electronic data recording device

- (1) This regulation applies to a public light bus which is of a description specified in Schedule 18.
- (2) Every public light bus to which this regulation applies must be fitted with an approved EDRD that has been installed by an authorized EDRD installer.
- (3) An electronic data recording device is an approved EDRD if it—
 - (a) conforms with the requirements set out in Schedule 19;
 - (b) has been examined to the satisfaction of the Commissioner; and
 - (c) bears an approval mark recognized or assigned by the Commissioner.
- (4) For the purposes of paragraph (3)(b), the satisfaction of the Commissioner is to be signified in writing.
- (5) A fitted EDRD must be—
 - (a) calibrated so that—
 - (i) an over-speed threshold is stored in it; and
 - (ii) all running data will be accurately recorded and stored;
 - (b) sealed by the Commissioner or a person authorized by the Commissioner in writing; and
 - (c) maintained in good working order.

Part 3

Clause 12

- (6) The over-speed threshold stored in a fitted EDRD for a motor vehicle must be identical to the set speed of the fitted speed limiter of that vehicle.
- (7) The seal referred to in paragraph (5)(b) must remain intact.
- (8) No alteration in respect of the design or accuracy may be made to a fitted EDRD, except as permitted in writing by the Commissioner.
- (9) A plate marked legibly and correctly with the information specified in paragraph (10) must be affixed on a fitted EDRD or on a place adjacent to the EDRD.
- (10) The information referred to in paragraph (9) is the following information of the fitted EDRD—
 - (a) the type approval number assigned by the Commissioner;
 - (b) the name of the installer;
 - (c) the over-speed threshold stored;
 - (d) the date of installation;
 - (e) the make and model.
- (11) It is a defence in any proceedings in respect of a contravention of paragraph (5)(b) or (7) to prove that at the time when the contravention was detected steps had already been taken to have the fitted EDRD sealed, or resealed, with all reasonable expedition.
- (12) It is a defence in any proceedings in respect of a contravention of paragraph (5)(c) to prove that—
 - (a) the defect occurred in the course of the journey during which the contravention was detected; or

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Clause 13

(b) at the time when the contravention was detected steps had already been taken to have the defect remedied with all reasonable expedition.

(13) In this regulation—

authorized EDRD installer (獲授權電子數據記錄儀安裝人) means a person authorized under regulation 120AA(2) to install approved EDRDs.”.

13. Regulation 120AA added

Part IX, before regulation 120A—

Add

“120AA. Authorized installer

(1) In this regulation—

applicable provision (適用條文), in relation to—

(a) an approved speed limiter, means regulation 24B;

(b) an approved EDRD, means regulation 24C;

approved device (認可設備) means—

(a) an approved speed limiter; or

(b) an approved EDRD;

authorized installer (獲授權安裝人) means a person authorized under paragraph (2).

(2) The Commissioner may authorize any person in writing to install an approved device for the purposes of an applicable provision and may impose any conditions in respect of the authorization that the Commissioner thinks fit.

(3) If it appears to the Commissioner that—

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Clause 13

(a) an authorized installer has contravened any of the conditions imposed in respect of the authorization; or

(b) an authorized installer has ceased to carry on business or is being wound up,

the Commissioner may serve a notice in writing on the installer.

(4) A notice served under paragraph (3) must—

(a) state the Commissioner's intention to revoke the authorization and the ground for the intention; and

(b) state that the installer may show cause in writing, within 28 days after the service of the notice, why the authorization should not be revoked.

(5) If after a notice is served on an authorized installer under paragraph (3)—

(a) the installer does not show cause in writing why the authorization should not be revoked within the period specified in paragraph (4)(b); or

(b) the Commissioner, having considered any representations made by the installer, is of the opinion that the installer has not shown good cause why the authorization should not be revoked,

the Commissioner may, by notice in writing served on the installer, revoke the authorization with effect from the date specified in the notice, being a date later than 14 days after the service of the notice.

(6) An authorized installer aggrieved by a decision of the Commissioner under paragraph (5) may appeal to a Transport Tribunal against the decision within 14 days after the service of the notice of the decision.

Part 3

Clause 14

- (7) If a decision of the Commissioner is appealed against under paragraph (6)—
 - (a) a Transport Tribunal may on the appeal affirm, amend or reverse the decision; and
 - (b) the decision does not have effect pending the determination of the appeal.
- (8) Despite paragraph (5)—
 - (a) if the Commissioner gives an authorized installer not less than 14 days' notice in writing of termination, the authorization of the installer is terminated on the expiry of the period of the notice; or
 - (b) if an authorized installer gives the Commissioner notice in writing specifying a date of termination of authorization, the authorization of the installer is terminated on the date specified.
- (9) A notice under paragraph (8)(a) may only be given when an approved device is no longer required to be fitted under these Regulations and may only terminate an authorization in respect of the installation of that device.”.

14. Regulation 121 amended (Offences)

After regulation 121(4)—

Add

- “(5) Any person who without lawful authority or reasonable excuse wilfully—
 - (a) interferes with the proper operation of any part of a fitted speed limiter; or
 - (b) alters the set speed with which a fitted speed limiter is calibrated to a value that does not comply with regulation 24B(5),

Part 3

Clause 15

commits an offence and is liable to a fine at level 3 and to imprisonment for 6 months.

(6) Any person who without lawful authority or reasonable excuse wilfully—

(a) interferes with the proper operation of any part of a fitted EDRD;

(b) alters the over-speed threshold stored in a fitted EDRD to a value that does not comply with regulation 24C(6);

(c) removes a fitted EDRD from the motor vehicle; or

(d) falsifies, suppresses or destroys any data stored in a fitted EDRD, whether or not the EDRD has been removed from the motor vehicle,

commits an offence and is liable to a fine at level 3 and to imprisonment for 6 months.”.

15. Schedules 17, 18 and 19 added

After Schedule 16—

Add

“Schedule 17

[reg. 24B]

**Installation and Performance Requirements for
Speed Limiter**

1. A speed limiter must be so constructed that, after the limiter has been fitted to a motor vehicle and calibrated—

Part 3

Clause 15

- (a) the vehicle may not be accelerated by the operation of acceleration devices, such as an accelerator pedal, when the vehicle is running at the set speed with which the limiter has been calibrated; and
 - (b) the set speed with which the limiter has been calibrated must not, in any case, be capable of being altered or bypassed when the vehicle is in use.
2. A speed limiter may be so designed to allow normal accelerator control for the purpose of gear changing.
3. A speed limiter must not limit the speed of a motor vehicle by actuating the service braking system. However, after the speed limiter has restricted the fuel feed or the electric motor input to the minimum position it may in addition limit the speed by actuating a permanent brake, such as a retarder.
4. Any malfunction of or interference with a speed limiter must not result in an increase in engine power or motor power above that demanded by the position of the accelerator pedal.
5. Any malfunction of a speed limiter must not affect the normal vehicular performance.
6. The speed limiter must operate satisfactorily in its electromagnetic environment without unacceptable electromagnetic disturbance to any other device or system in that environment.
7. The performance of a speed limiter must conform with—

Part 3

Clause 15

- (a) ECE Regulation No. 89 made by the Economic Commission for Europe dated 24 June 2008 (E/ECE/324-E/ECE/TRANS/505/REV. 1/Add. 88/Corr. 1) with regard to speed limitation devices including their installation;
 - (b) Council Directive 92/24/EEC of 31 March 1992 made by the Council of the European Communities, including all revisions as amended by Directive 2004/11/EC, relating to speed limitation devices or similar speed limitation on-board systems of certain categories of motor vehicles; or
 - (c) any other specifications and standards which are demonstrated to the Commissioner to be substantially the same as or more stringent than any specification or standard specified in paragraph (a) or (b).
8. A speed limiter must, when defective, operating abnormally or not in a functional state, prompt the person seated in the driver's seat by a fault signal telltale or other means.
9. A speed limiter must be so designed to prevent tampering of its accuracy and the set speed with which it is calibrated.

Schedule 18

[reg. 24C]

**Public Light Buses to which Regulation 24C
Applies**

Schedule 19 [regs. 2 and 24C]**Installation and Performance Requirements for
Electronic Data Recording Devices**

1. In this Schedule—
 - (a) *sensor* (感應器) means the component of an EDRD which senses running data of a motor vehicle;
 - (b) *on-board device* (車載記錄器) means the component of an EDRD which serves to transmit running data and any other data as electronic signals to the recording medium;
 - (c) *recording medium* (記錄媒介) means the component of an EDRD which records and stores running data digitally by a solid state electronic method;
 - (d) *analysis system* (分析系統) means the component of an EDRD which comprises analysis software, reader, analyzer, electronic file storage unit and, if available, printer.
2. An EDRD must be strong, durable and capable of withstanding frequent use. All the constituent parts of an EDRD must be made of materials with sufficient durability and mechanical strength and stable electrical and magnetic characteristics.
3. An EDRD must be capable of recording and storing the following data of a motor vehicle during at least the latest 30 days, except for the period when the internal combustion engine or electric motor of the vehicle is not in operation—

Part 3

Clause 15

- (a) time data from a real-time digital clock including date and time;
 - (b) actual speed of the vehicle at intervals not exceeding 1 second, recorded in km/h;
 - (c) the latest 15 records of vehicle activity with an acceleration or deceleration identical to or exceeding $0.4g$ (where g means the standard acceleration due to gravity) or 3.92 m/s^2 ;
 - (d) all records of vehicle activity when the actual speed of the vehicle exceeds an over-speed threshold stored in the EDRD for a continuous period of more than 3 seconds; and
 - (e) the latest 30 records of the following data of the vehicle during the last 20 seconds before its actual speed comes to zero, sampled at a rate of not less than 5 sample data per 1 second—
 - (i) actual speed;
 - (ii) status of the headlamps and direction indicators; and
 - (iii) status of the service braking system.
4. An EDRD must be capable of recording and storing the following data of the EDRD during at least the latest 30 days—
- (a) the power status (i.e. “ON” or “OFF”);
 - (b) the date and time when a data retrieval or download is performed;
 - (c) the date and time, and a description of the setting altered, when there is any alteration to a setting, such as the over-speed threshold, calibration constant factor or time clock, of the EDRD; and

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Clause 15

- (d) the date and time when a common fault, such as a power supply failure, input signal fault or memory fault, is detected by the system of the EDRD.
5. For the purposes of sections 3 and 4 of this Schedule—
date (日期) includes day, month and year;
time (時間) includes second, minute and hour.
6. An EDRD must at any time automatically collect, record and store the running data.
7. The on-board device and recording medium must be so constructed that—
- (a) all data recorded on the recording medium will not be lost or changed as a result of ordinary electromagnetic interference found on a motor vehicle; and
 - (b) even when the necessary power for recording is turned off, all data already stored on the recording medium will not be lost or changed.
8. The analysis system must be so constructed that—
- (a) all data recorded on the recording medium can be accurately read by a reader and displayed in a legible form using a special purpose analyzer or a general purpose computer;
 - (b) the functions of data retrieval, enquiry, statistics, chart or table generation and system operation management are included; and
 - (c) all data stored on the recording medium are encrypted.

Part 3

Clause 15

9. Any malfunction of an EDRD must not affect the normal vehicular performance.
 10. An EDRD must operate satisfactorily in its electromagnetic environment without unacceptable electromagnetic disturbance to any other device or system in that environment.
 11. The following telltales, being easily visible to the driver but not necessarily steady, must be provided—
 - (a) a coloured signal lamp which will light up when any data is stored on the recording medium;
 - (b) a coloured signal lamp which will light up when the EDRD is defective, operating abnormally or not in a functional state.
 12. An EDRD must be so designed to prevent tampering of its operation.”.
-

Part 4

Amendments to Road Traffic (Driving Licences) Regulations (Cap. 374 sub. leg. B)

16. Regulation 8A added

After regulation 8—

Add

“8A. Pre-service course

- (1) This regulation applies to an applicant for the issue of a full driving licence to drive a public light bus under regulation 11(2C).
- (2) Despite paragraph (1), this regulation does not apply to—
 - (a) an applicant falling within regulation 11(2C)(b)(i) if the applicant has applied for the test before the commencement date; or
 - (b) an applicant falling within regulation 11(2C)(b)(iii) if the applicant has applied for the driving test which entitles the applicant to be issued with the licence before the commencement date.
- (3) An applicant to which this regulation applies is not eligible for a full driving licence to drive a public light bus unless the applicant has attended and completed a pre-service course in accordance with the code of practice within the year preceding the date of application.

Part 4

Clause 17

- (4) For the purposes of paragraph (3), the date on which a person has attended and completed a pre-service course in accordance with the code of practice is the date of completion of the course as specified in the course certificate issued to the person.
- (5) In this regulation—
- code of practice* (《實務守則》) has the meaning given to it by section 102H of the Ordinance;
- commencement date* (生效日期) means the date on which section 16 of the Road Traffic (Amendment) (No. 2) Ordinance 2011 (of 2011) comes into operation;
- course certificate* (課程證書) has the meaning given to it by section 102H of the Ordinance.”.

17. Regulation 11 amended (Issue of full driving licences)

- (1) Regulation 11(1B)—
- Repeal**
- “public light bus,”.
- (2) Regulation 11(1B)(b), Chinese text—
- Repeal**
- “取得合格”
- Substitute**
- “中及格”.
- (3) Regulation 11(2A)—
- Repeal**
- “public light bus,”.
- (4) After regulation 11(2B)—
- Add**

Part 4

Clause 17

- “(2C) Subject to regulations 6, 7, 8, 8A and 9, the Commissioner must issue a full driving licence to drive a public light bus to an applicant for such a licence if—
- (a) the applicant—
 - (i) is the holder of a permanent identity card; or
 - (ii) is the holder of an identity card (other than a permanent identity card) and is not subject to any condition of stay other than a limit of stay as defined in section 2(1) of the Immigration Ordinance (Cap. 115); and
 - (b) the applicant—
 - (i) has passed, within 3 years prior to the date of his or her application, a driving test in respect of public light buses and private light buses;
 - (ii) holds a valid full driving licence to drive a private light bus obtained under paragraph (1B); or
 - (iii) holds a valid full driving licence for a class of motor vehicle which the Commissioner accepts as evidence of the applicant’s competence to drive a public light bus.
- (2D) The Commissioner may waive the requirement of paragraph (2C)(a) if the Commissioner considers it appropriate to do so.”.
-

Part 5

Amendments to Road Traffic (Public Service Vehicles) Regulations (Cap. 374 sub. leg. D)

18. Regulation 51 amended (Notices and numbers to be displayed on certain public service vehicles)

(1) After regulation 51(5)—

Add

“(5A) When a public light bus is standing for the purpose of picking up passengers, or being used for the carriage of passengers, for hire or reward, the driver must display in it a public light bus driver identity plate that complies with subregulation (6) in a holder that complies with subregulation (7) and neither of which is in any way obscured.”.

(2) Regulation 51(6)—

Repeal

everything after “The” and before paragraph (c)

Substitute

“driver identity plate referred to in subregulations (1)(c), (5) and (5A) must—

(a) be of the size, design, form and construction, and displayed in the position in the taxi or public light bus, as specified by the Commissioner by notice in the Gazette; and

(b) show—

(i) in the case of a taxi driver identity plate, the captions “TAXI DRIVER IDENTITY PLATE” and “的士司機證”; or

Part 5

Clause 19

(ii) in the case of a public light bus driver identity plate, the captions “PUBLIC LIGHT BUS DRIVER IDENTITY PLATE” and “公共小巴司機證”;

(3) Regulation 51(7)—

Repeal

everything after “subregulations (1)(c)”

Substitute

“, (5) and (5A) must—

- (a) be of the size, design and construction, and displayed in the position in the taxi or public light bus, as specified by the Commissioner by notice in the Gazette; and
- (b) show the registration mark of the taxi or public light bus.”.

(4) After regulation 51(7)—

Add

“(8) A notice under subregulation (6) or (7) is not subsidiary legislation.”.

19. Regulation 57 amended (Offences)

Regulation 57(2)—

Repeal

“or (5)”

Substitute

“, (5) or (5A)”.

Part 5

Clause 20

20. Schedule 2 amended

Schedule 2, Chinese text, immediately before the figure—

Add

“第 2 號圖形”。

Schedule

[s. 2]

Substitution of “Secretary” for “Secretary for Transport and Housing”

1. “Secretary” substituted for “Secretary for Transport and Housing”

The following provisions—

- (a) Road Traffic Ordinance (Cap. 374)—
 - (i) section 2, definition of *prescribed limit*;
 - (ii) sections 5(1) and (2)(a), 6(1), 7(1), 8(1), 9(1), 10(1), 11, 12(1), 12A(1), 16(2) and (4), 17(1) and (2)(a), 21(2), 39G(1), 39H(1), 39I(1), 88B(3), 102B(4), 109(1) and (2), 116(1), 121(2);
 - (iii) section 122, definition of *expressway works*;
 - (iv) section 131(1);
- (b) Road Traffic (Parking) Regulations (Cap. 374 sub. leg. C), regulations 12(5) and 17(1) and (3);
- (c) Road Traffic (Expressway) Regulations (Cap. 374 sub. leg. Q), regulation 28—

Repeal

“Secretary for Transport and Housing” (wherever appearing)

Substitute

“Secretary”.

Explanatory Memorandum
Paragraph 1

Explanatory Memorandum

The main object of this Bill is to amend the Road Traffic Ordinance (Cap. 374) (*the Ordinance*) and certain subsidiary legislation under the Ordinance in order to introduce the following measures to improve the safety of operation of public light buses—

- (a) imposing a cap on the maximum speed at which a public light bus may travel;
- (b) requiring every public light bus to be fitted with a speed limiter;
- (c) requiring every public light bus which is of any description to be specified to be fitted with an electronic data recording device (*EDRD*);
- (d) making the attendance and completion of a pre-service course for drivers of public service vehicles a condition for the issue of a full driving licence to drive a public light bus;
- (e) requiring every public light bus driver to display a driver identity plate in the public light bus when it is in passenger service.

2. The Bill also makes certain related and miscellaneous amendments to the Ordinance and its subsidiary legislation.

Preliminary provision

3. Clause 1 sets out the short title and provides for commencement.

Explanatory Memorandum

Paragraph 4

Provisions for cap on maximum speed

4. Clauses 5 and 6 amend sections 40 and 41 of the Ordinance so that even if the speed limit of a road is over 80 km/h, the maximum speed at which a public light bus is permitted by law to travel on that road is 80 km/h.

Provisions for speed limiter and EDRD

5. Part 3 of the Bill contains amendments to the Road Traffic (Construction and Maintenance of Vehicles) Regulations (Cap. 374 sub. leg. A) which are relevant to the requirements for fitting of speed limiter and EDRD.
6. Clause 11 adds new definitions. The most significant are the definitions of *speed limiter* (basically a device to limit the maximum speed of a motor vehicle), *electronic data recording device* (basically a device to record and store the operating data of a motor vehicle) and *set speed* (that is, the intended maximum speed as limited by the speed limiter).
7. Clause 12 adds new regulations 24B and 24C—
 - (a) regulation 24B requires every public light bus to be fitted with an approved speed limiter (basically a speed limiter approved by the Commissioner for Transport (*the Commissioner*)) and lays down the installation and maintenance requirements of a fitted speed limiter (basically an approved speed limiter fitted as required);
 - (b) regulation 24C makes similar provisions for EDRD, except that the requirement for fitting of an EDRD applies only to a public light bus which is of a description to be specified in the new Schedule 18.

Explanatory Memorandum

Paragraph 8

8. Clause 13 adds a new regulation 120AA which provides for the authorization by the Commissioner of persons to install certain devices specified, the specification of conditions, and the revocation and termination, of such authorization, and the review by a Transport Tribunal of the Commissioner's decision to revoke any such authorization.
9. Clause 14 amends regulation 121 to provide for offences relating to the tampering of a fitted speed limiter or a fitted EDRD (including any data stored in a fitted EDRD).
10. Clause 15 adds new Schedules 17, 18 and 19—
 - (a) Schedules 17 and 19 set out the installation and performance requirements for speed limiter and EDRD respectively. The requirements are relevant for the Commissioner's approval of the devices;
 - (b) Schedule 18 specifies public light buses to which new regulation 24C applies. The Schedule is currently left blank and the Secretary for Transport and Housing may later amend the Schedule to specify those public light buses by any description.

Provisions for pre-service course

11. Clause 3 adds, among others, new definitions of *pre-service course* and *pre-service training school* to section 2 of the Ordinance.
12. Clause 8 adds a new Part XB to the Ordinance, which contains provisions relating to the designation by the Commissioner of pre-service training schools which may provide pre-service courses to drivers of public service vehicles—
 - (a) new section 102H provides definition of terms used in new Part XB;

Explanatory Memorandum

Paragraph 13

- (b) new section 102I enables the Commissioner to designate any place as a pre-service training school, which is to be operated by a proprietor for providing pre-service courses, and sets out requirements with which the proprietor must comply;
 - (c) new section 102J enables the Commissioner to revoke a designation in specified circumstances and enables the proprietor to appeal to a Transport Tribunal against the revocation;
 - (d) new section 102K provides for the termination of a designation by giving of notice by the proprietor;
 - (e) new section 102L sets out ancillary powers of the Commissioner;
 - (f) new section 102M confers power of entry and inspection on public officers authorized in writing by the Commissioner;
 - (g) new section 102N provides for amendment of the new Schedule 13 by the Commissioner.
13. Clause 10 adds a new Schedule 13 to the Ordinance to set out certain requirements applicable to pre-service training schools.
14. Clause 16 adds a new regulation 8A to the Road Traffic (Driving Licences) Regulations (Cap. 374 sub. leg. B) (*the Driving Licences Regulations*) so that an applicant for a full driving licence to drive a public light bus is not eligible unless the person has attended and completed a pre-service course within 1 year before the date of application. Transitional arrangement is provided for applicants who have applied for a relevant driving test before the coming into operation of this requirement.

Explanatory Memorandum

Paragraph 15

15. Clause 17 amends regulation 11 of the Driving Licences Regulations to reorganize the existing provisions on when the Commissioner must issue a full driving licence to drive a public light bus into a separate new provision which is subject to, among other provisions, the new regulation 8A.

Provisions for display of driver identity plate

16. Clauses 18 and 19 amend regulations 51 and 57 of the Road Traffic (Public Service Vehicles) Regulations (Cap. 374 sub. leg. D) (*the PSV Regulations*) so that every driver of a public light bus must display in the public light bus a driver identity plate complying with specified requirements when the public light bus is in passenger service.

Related and miscellaneous provisions

17. Clause 4 amends section 9 of the Ordinance to provide for a power of the Secretary for Transport and Housing to make regulations with respect to the authorization of persons to install devices required to be fitted to vehicles.
18. Clause 7 adds a new section 67A to the Ordinance to provide for the power of the Commissioner or a police officer to cause data stored in a fitted EDRD to be retrieved and to make evidential provision for such data caused to be retrieved by a police officer.
19. Clause 9 amends Schedule 12 to the Ordinance to rectify a textual mistake relating to the events for which the proprietor of a driving improvement school must give notice to the Commissioner.
20. Clause 20 amends Schedule 2 to the PSV Regulations to add a correct figure number to the Chinese text of that Schedule.

Explanatory Memorandum

Paragraph 21

21. The Schedule contains textual amendments to the Ordinance, the Road Traffic (Parking) Regulations (Cap. 374 sub. leg. C) and the Road Traffic (Expressway) Regulations (Cap. 374 sub. leg. Q) to replace references to “Secretary for Transport and Housing” by “Secretary”, as a definition of *Secretary* (meaning the Secretary for Transport and Housing) is added to the Ordinance by clause 2.