

LEGISLATIVE COUNCIL BRIEF

Road Traffic Ordinance
(Chapter 374)

ROAD TRAFFIC (PUBLIC SERVICE VEHICLES) (AMENDMENT) REGULATION 2015

INTRODUCTION

Annex The Secretary for Transport and Housing has made the Road Traffic (Public Service Vehicles) (Amendment) Regulation 2015 (“the Amendment Regulation”) at **Annex** by virtue of the power conferred upon him by section 7(1)(l) of the Road Traffic Ordinance (Cap. 374) (“the Ordinance”) and section 28(1)(c) of the Interpretation and General Clauses Ordinance (Cap. 1). This amendment exercise aims to remove on a permanent basis the fees for issue of passenger service licences (“PSL”) and PSL certificates (“PSLC”) in respect of school private light bus (“SPLB”).

JUSTIFICATIONS

2. At present, operators of vehicular passenger services are regulated by a system of PSL issued by the Commissioner for Transport (“the Commissioner”) under section 27 of the Ordinance. Each vehicle operating under a PSL must also display a PSLC pursuant to regulation 12(3) of the Road Traffic (Public Service Vehicles) Regulations (Cap. 374D) (“the Regulations”). The fees payable for issuance of PSL and PSLC are set out in Parts A and B of Schedule 1 to the Regulations respectively according to the type of service under the PSL. Through licensing conditions, the Commissioner regulates matters such as routes, safety requirements, service to be provided, etc. The PSL regime covers non-franchised public buses (17 seats or more) (“non-franchised public bus”), non-franchised private buses

(17 seats or more), public light buses (16-seat red or green minibuses) and SPLBs (16 seats or less).

3. SPLB, commonly known as “nanny van”, was brought under the PSL regime by the Road Traffic (Amendment) Bill 1998 (“the 1998 Bill”) which aimed to better regulate “nanny van” services by establishing a uniform regulatory mechanism and bringing SPLB in line with other non-franchised bus services. When scrutinising the 1998 Bill, some Legislative Council Members expressed concern over the additional financial burden arising from the PSL and PSLC fees imposed on the SPLB trade since the annual vehicle licence fee for SPLB was significantly higher than that for non-franchised public buses. It was subsequently agreed that SPLB would be brought under the PSL regime on the condition that the Government would waive the PSL and PSLC fees pending the outcome of a review¹ of the relevant vehicle licence fee. Against such background, the fees for PSL and PSLC in respect of SPLB have been waived by the Commissioner on an annual basis since the commencement of the relevant fee items in Schedule 1 to the Regulations in 1999². By the end of March 2015, there were 730 SPLB operators with a fleet of 1 924 SPLB in total.

4. While the number of SPLB has increased by 53% since 2011, the number of non-franchised public buses with student service endorsement (“SSE”) has slightly decreased by 9% during the same period. Both schools and parents have expressed concern about the supply of school transport services³. Furthermore, more parents prefer to bring their children, in

¹ Given the fiscal principle that annual vehicle licence fees for different categories of vehicles are determined on a basis different from that for determination of PSL and PSLC fees (i.e. vehicle class for the former and vehicle use for the latter), the Government subsequently considered that there was no basis to bring parity between the vehicle licence fees for different categories of vehicles.

² Fees for duplicates of PSL and PSLC in respect of SPLB have not been waived. During the period from November 1999 to March 2015, the Commissioner issued 49 duplicates of PSL and 90 duplicates of PSLC to SPLB operators on fees payable.

³ There are three types of vehicles that can carry school children –
(i) SPLB;
(ii) private buses operating a student service operated by schools or school sponsoring bodies direct; and
(iii) non-franchised public buses with SSE.

particular students of tender age, to schools either by their own cars or by taxi. This intensifies the traffic congestion around school areas before and after school and affects not only the trade's income but also increases their operational time, fuel cost, etc. To help maintain a stable supply of school transport service, we consider that the current waiver of PSL and PSLC fees in respect of SPLB should be made permanent to provide certainty over the operators' operational cost. To give effect to the proposal, our intention is to remove the fees for PSL and PSLC⁴ in respect of SPLB on a permanent basis by amending the law.

THE AMENDMENT REGULATION

5. The Amendment Regulation at **Annex** seeks to remove on a permanent basis the fees for issue of PSL and PSLC in respect of SPLB. We propose that the Amendment Regulation should come into effect on 1 September 2015.

LEGISLATIVE TIMETABLE

6. The legislative timetable is set out below –

Publication in the Gazette	15 May 2015
Tabling at the Legislative Council	20 May 2015
Commencement	1 September 2015

⁴ The fees for duplicates of PSL and PSLC are still applicable in accordance with regulations 11A and 12(5) of the Regulations as the fee for the duplicates is only charged where the PSL/PSLC is "*lost, defaced or destroyed*" but not on all operators. Since PSL and PSLC are important documents authorizing the holder to operate the concerned SPLB, the PSL holder has the responsibility to ensure safe keeping of such certificates.

IMPLICATIONS OF THE PROPOSAL

7. The proposed removal of the fees for PSL and PSLC in respect of SPLB on a permanent basis will result in revenue forgone of around \$0.6 million per annum. The proposal is in conformity with the Basic Law, including the provisions concerning human rights. It does not affect the current binding effect of the Ordinance. The proposal has no civil service, family, sustainability, productivity, economic, environmental and gender implications.

PUBLIC CONSULTATION

8. We consulted the Legislative Council Panel on Transport on 27 February 2015. Members generally supported the proposal.

PUBLICITY

9. A spokesperson will be available to answer media and public enquiries.

ENQUIRIES

10. Enquiries about this brief could be addressed to Miss Amy Chan, Principal Assistant Secretary for Transport at 3509 8196.

Transport and Housing Bureau
13 May 2015

Road Traffic (Public Service Vehicles) (Amendment) Regulation 2015

(Made by the Secretary for Transport and Housing under section 7(1) of the
Road Traffic Ordinance (Cap. 374))

1. Commencement

This Regulation comes into operation on 1 September 2015.

2. Road Traffic (Public Service Vehicles) Regulations amended

The Road Traffic (Public Service Vehicles) Regulations (Cap. 374 sub. leg. D) are amended as set out in sections 3 to 6.

3. Regulation 7 amended (contents of passenger service licence)

(1) Regulation 7—

Renumber the regulation as regulation 7(1).

(2) After regulation 7(1)—

Add

“(2) Subregulation (1)(h) does not apply to a licence that—

(a) is issued on or after 1 September 2015; and

(b) authorizes the holder of the licence to operate a school private light bus service.”.

4. Regulation 10 substituted

Regulation 10—

Repeal the regulation

Substitute

“10. Fees for passenger service licence

(1) This regulation applies to a passenger service licence other than one that authorizes its holder to operate a school private light bus service.

(2) A fee specified in Part A of Schedule 1 is payable for a passenger service licence.

(3) The fee is payable on the date specified in the licence.”.

5. Regulation 12 amended (passenger service licence certificates and plates)

Regulation 12—

Repeal subregulation (1)

Substitute

“(1) The Commissioner may—

(a) on application by a licensee; and

(b) if the application is not one that relates to a passenger service licence that authorizes its holder of the licence to operate a school private light bus service, on payment of the fee specified in Part B of Schedule 1,

issue, in respect of a vehicle operated under a passenger service licence, a certificate, in the form specified by the Commissioner.”.

6. Schedule 1 amended

(1) Schedule 1, Part A—

Repeal item 3A.

(2) Schedule 1, Part B—

Repeal item 3A.

Secretary for Transport and Housing

2015

Explanatory Note

The purpose of this Regulation is to amend the Road Traffic (Public Service Vehicles) Regulations (Cap. 374 sub. leg. D) to remove—

- (a) the requirement for the payment of a fee for a passenger service licence in respect of a school private light bus; and
- (b) the requirement for the payment of a fee for the issue of a passenger service licence certificate in respect of a school private light bus.