

LEGISLATIVE COUNCIL BRIEF

Road Traffic Ordinance
(Chapter 374)

SEATING CAPACITY OF LIGHT BUSES

ROAD TRAFFIC (AMENDMENT) BILL 2017

INTRODUCTION

A At the meeting of the Executive Council on 28 March 2017, the Council ADVISED and the Chief Executive ORDERED that the Road Traffic (Amendment) Bill 2017 (the Bill) (at Annex A) should be introduced into the Legislative Council (LegCo) to –

- (a) increase the maximum seating capacity of light buses¹ (i.e. both Public Light Buses (PLBs) and private light buses) from 16 to 19 seats;
- (b) provide for transitional arrangement for existing public buses and private buses with seating capacities of 17 to 19 seats and remove obsolete transitional provisions added by the Road Traffic (Amendment) (No. 3) Ordinance 1988 (89 of 1988)²; and

¹ According to section 2 of the Road Traffic Ordinance (Cap. 374), “light bus” is defined as “a motor vehicle constructed or adapted for use solely for the carriage of a driver and not more than 16 passengers and their personal effects, but does not include an invalid carriage, motor cycle, motor tricycle, private car or taxi”. Vehicles with passenger seating capacity exceeding that of light buses will be classified as “buses” by virtue of the definition of “bus” under section 2 of the Cap. 374.

² Transitional provisions added by the Road Traffic (Amendment) (No. 3) Ordinance 1988 (89 of 1988) stipulate that a motor vehicle constructed or adapted for the carriage of 15 or 16 passengers and registered as a private bus or public bus before the commencement of that ordinance shall be deemed to be a private bus or public bus, as may be appropriate. They are obsolete because there are no longer any private or public buses with maximum seating capacities of 15 or 16 registered in Hong Kong.

- (c) make consequential amendments.

JUSTIFICATIONS

Role of PLBs and their Carrying Capacity

2. Among the public transport system, the role of PLBs is to provide supplementary feeder service and to serve areas with relatively lower passenger demand or where the use of high-capacity transport modes is not suitable. Over the past five years, the average daily patronage of PLBs at over 1.8 million passengers made up about 15% of the total public transport patronage in Hong Kong. It is the Government's established policy to set a limit on the number of PLBs to maintain control on the overall supply of PLBs having regard to their supplementary feeder role in the public transport system. The current cap is 4 350, of which about 3 250 (over 70%) are green minibuses (GMBs) and the rest are red minibuses (RMBs)³. The existing law provides that each PLB can carry up to 16 passengers. The maximum seating capacity of PLBs was last increased in 1988 by the Government from 14 to the current 16 seats.

3. A comprehensive survey on PLB services conducted by the Transport Department (TD) in 2015 shows that while the supply and demand for PLB services have remained generally stable over the past few years, the passenger demand during peak periods has generally increased. Services of some routes are insufficient to cope with demand. There is thus a need to study whether the carrying capacity of PLBs is sufficient and whether an increase in the carrying capacity of PLBs is warranted. At the same time, the PLB trade has indicated from time to time that the operating environment is becoming more difficult and they experience the problem of shortage of drivers. In recent years, the GMB trade has been pressing the Government to increase the seating capacity of PLBs. Specifically, their latest proposal is to increase the number of seats from 16 to 20-24. They are of the view that an increase in the seating capacity of PLBs can help meet passenger demand and reduce waiting time. The seat

³ GMBs operate scheduled services with their routes, fares, vehicle allocation and timetable subject to approval by the Transport Department. RMBs are not required to operate on fixed routes or timetable and can set their own fares. However, they are subject to certain restrictions on their service area under existing policy. Meanwhile, it is Government's policy to encourage the RMBs to switch to GMBs (see paragraph 5 for details).

increase will also improve the financial position of the trade, which will in turn facilitate the sustainable development of the trade and further enhancement of service quality.

4. In the light of the above as well as the community's concerns over the unmet passenger demand in particular during the peak periods, the Government conducted a study on the feasibility and desirability of increasing the maximum seating capacity of PLBs.

Seating Capacity

5. In order to examine whether the carrying capacity of PLBs is sufficient and whether it should be increased, the study has analysed the data on the operation and occupancy rates of almost all the GMB and RMB routes – totalling about 510 and 120 routes respectively – in 2015. As revealed in the findings, while the number of PLBs has all along been set at 4 350, there has been growth in both the number of GMBs and GMB route packages, resulting in an increase in the overall supply of GMB services. The number of GMBs has increased from about 2 810 in 2006 to about 3 200 in 2015, an increase of over 13% within a decade. During the same period, the number of GMB route packages has increased from 147 to 160. One of the main reasons behind the increase in the number of GMBs is Government's policy to encourage the conversion of RMBs to GMBs. At present, in the selection exercise of operators for new GMB routes, the TD will give additional marks to new entrants to GMB trade including applicants who are incumbent RMB operators⁴. This is to provide stronger incentive to RMB operators to bid for new GMB routes so as to pursue further the policy of converting RMB routes to GMB routes. Another reason is the opening of new GMB routes to cater for passenger demand arising from new development areas. Nonetheless, despite the increase in overall supply of GMB services, there is still some noticeable unmet passenger demand for GMB services during the peak periods.

6. In terms of passenger demand for GMB services, while it has remained generally stable, the demand during peak periods and non-peak periods differs quite significantly. The occupancy rates of GMBs during the two periods also vary. The overall average daily (i.e. including both peak and non-peak periods) occupancy rate of GMBs is about 50%. The occupancy rate may rise to about

⁴ To further encourage RMB operators to bid for new GMB routes, the percentage of additional marks given to new entrants has been increased from 10% to 15% since 2004.

70% in the peakiest one hour⁵ but may drop to around 40% during non-peak periods. During the peakiest one hour, about 70% of the GMB routes have left-behind passengers at the termini. 10% of these routes have left-behind passengers who have to wait for more than one departure before boarding. Among the routes where the GMBs are already fully loaded at the termini, passengers of about 30% of these routes are unable to board at en-route stops. Moreover, nearly 10% of GMB routes have an average waiting time of over 10 minutes⁶ during the peakiest one hour.

7. The supply of most GMB routes during the peakiest one hour has almost reached saturation. Over 40% of GMB routes operate at an average headway of not more than 5 minutes during the peakiest one hour. Nearly 10% of the routes even operate at a headway of not more than 2 minutes. Their service frequency can hardly be further increased to cope with passenger demand.

8. In terms of the financial conditions of GMB operators, our analysis reveals that about 60% of GMB route packages were operating at a loss in the financial year 2014/15.

9. To cater for the unmet passenger demand during the peakiest one hour and to improve the operating environment of operators as mentioned in paragraphs 6 to 8 above, the outcome of the study suggests that there is a genuine need to increase the carrying capacity of GMBs.

10. We propose that the carrying capacity of GMBs should be increased through increasing the maximum seating capacity of GMBs, rather than increasing the total number of GMBs. Our key considerations are that, having regard to the difference in occupancy rates of GMBs between peak and non-peak periods, increasing the number of seats to improve the situation during peak periods should suffice from the perspective of meeting passenger

⁵ This refers to the hour with the highest service frequency within the daily peak periods (i.e. 7:00 – 10:00 am and 5:00 – 8:00 pm). If the highest service frequency is observed in different periods, the hour with the highest patronage will be used for calculation. For routes which operate outside the above peak periods (e.g. supplementary routes), the hour with the highest service frequency throughout the whole daily operating period will be used for calculation.

⁶ The findings in the Travel Characteristic Survey 2011 revealed that the passengers' maximum acceptable waiting time for PLBs was 10 minutes, which means that the left-behind passengers are likely to feel impatient and dissatisfied if they have to wait for more than 10 minutes during the peakiest one hour. Therefore 10-minute waiting time is adopted as a level for benchmarking.

demand. Moreover, increasing the number of GMBs will generate additional traffic flow, increase the burden on road traffic and aggravate our traffic congestion problem. Increasing the number of GMBs may also not be a good solution in view of the difficulties in recruiting drivers.

11. When deciding on the appropriate maximum seating capacity of GMBs, the main considerations are the supply and demand for GMBs and the need to maintain the delicate balance amongst various public transport services. The findings of the study suggest that the maximum seating capacity of GMBs should be increased from 16 to 19 seats. If the number of seats is increased to 19, the number of GMB routes with left-behind passengers at termini during the peakiest one hour is expected to drop significantly from about 70% at present to less than 40%. Also, the ratio of GMB routes with waiting time of over 10 minutes will reduce by nearly 80%. From the perspective of improving the operating environment of GMB operators, the loss-making GMB route packages are expected to drop by half from close to 60% at present to about 30%. It is noteworthy that while our study shows that increasing the seats number to 20 or above may continue to reduce the number of left-behind passengers and the waiting time, as well as continue to improve the operating environment of GMB operators, the corresponding magnitude of the incremental improvements will diminish noticeably beyond 19 seats⁷.

12. Another factor we should not overlook is that the well-developed public transport services in Hong Kong are facing different degrees of competition. The fact that the number of PLB seats has not been increased in almost three decades despite the trade's requests made from time to time during the period for adding seats reflects the sensitivity of the issue. As such, in considering the issue of PLB seat increase, we have carefully reviewed the impact of the proposal on other public transport trades. We are conscious of the need to maintain the delicate balance and roles amongst various public transport services so that they can continue to develop in a sustainable manner and provide diversified modal choices to benefit the community. In fact, other public transport trades such as the franchised buses and taxis have expressed concern about the proposal of PLB seat increase. They are worried that a substantial seat increase would affect the current delicate trade balance and confuse the existing roles of different service modes in the public transport system.

⁷ As compared with each seat increased from 16 to 19 seats, which could reduce the ratio of GMB routes with left-behind passengers by an average of 11 percentage points, each seat increased beyond 19 seats would only reduce such ratio by 2 to 3 percentage points.

13. When the LegCo Panel on Transport (Transport Panel) was consulted at the Panel meetings in June and December 2016, most of the LegCo Members present held the view that the maximum seating capacity of PLBs should best be increased to 20 seats on the grounds that there is already a PLB model⁸ in the market which can fit in 20 seats and that the general public would benefit from having one more additional seat. In their view, the Government should make the most out of that particular model in setting the new capacity limit for PLBs. In response, we explained to the Panel that when considering the exact number of seats to be added, our main considerations were the supply and demand for PLBs and the need to maintain the delicate balance amongst various public transport services. Our policy considerations would not be based on a particular type or model of vehicle, nor would we decide on the allowable seat increase for the reason that an individual PLB model was available in the market, considering that the market would be responsive to policy changes. Having regard to the considerations in paragraphs 11 and 12 above, we are of the view that increasing the maximum seating capacity of PLBs to 19 seats would be more appropriate.

14. We consider that all GMBs should be allowed to increase seats, rather than only for those GMB routes where service supply could not meet passenger demand. The reason is that the current policy allows GMB operators to freely deploy vehicles of their fleet to provide services for different routes under the same route package based on their operational conditions. Such flexible vehicle deployment arrangement is very common in GMB operation and has proved to be effective.

15. We propose that the same maximum seating capacity should also apply to RMBs. This is consistent with the Government's established policy to encourage the conversion of RMBs to GMBs. With the same seating capacity, RMB operators need not carry out additional vehicle replacement or make extra arrangement for increasing the seating capacity at the time of conversion to GMBs. In fact, our study shows that increasing the number of seats to 19 will

⁸ Currently, there are two PLB models being used in Hong Kong, i.e. the short wheelbase model and the long wheelbase model. There are around 3 650 short wheelbase PLBs, which account for most (around 84%) of the entire PLB fleet and can only accommodate a maximum of 16 passenger seats. There are around 700 long wheelbase PLBs, which are 6.99 metres long and account for around 16% of the total PLB fleet. They are able to accommodate 19 passenger seats. Among these long wheelbase PLBs, we understand that there is one long wheelbase PLB model currently used in Hong Kong which is technically able to install 20 passenger seats given the statutory requirements on seating and gangway arrangement. There are currently 85 vehicles of this model, accounting for around 2% of the total PLB fleet.

also significantly reduce the number of left-behind passengers and passenger waiting time for RMBs during the peakiest one hour: the number of RMB routes with left-behind passengers is expected to greatly reduce from over 70% to nearly 40%; the number of RMB routes with waiting time of over 10 minutes will also reduce by nearly 70%.

16. It should be emphasised that the current proposal is to increase the maximum seating capacity of PLBs (both GMBs and RMBs) to 19 seats, but not to mandate all PLBs to adopt the same seating capacity. Upon the implementation of the proposal, PLB operators may take into account the operational conditions and passenger demand in deciding on their own whether to increase the seating capacity of their vehicles and, if so, the exact number of seats to be added and the time of implementation. If a PLB operator wishes to replace his existing short wheelbase PLBs with those that can accommodate more seats, he can simply submit his application to the TD in accordance with the existing mechanism of vehicle replacement. As regards the long wheelbase models, they can technically accommodate 19 seats while meeting the statutory requirements on seating and gangway arrangement⁹. Operators who are now using these models can revise the seating layout of the vehicles to retrofit them to accommodate additional seats (subject to the new seat limit) and apply to the TD for vehicle examination after seat addition.

Private Light Buses

17. Under Cap. 374, the class of “light bus” includes both PLBs and private light buses¹⁰. The latter is subject to the same maximum seating capacity as PLBs. Findings of our study reveal that the supply of private light buses has increased over the past five years (i.e. from 2011 to 2015). School private light

⁹ The dimensions of passenger seats, clear spaces between passenger seats and size of gangways on PLBs are all regulated under the existing law. Also, the length, width, height and weight of a PLB are regulated by law, such that a PLB is subject to a ceiling of 7 metres in overall length, 2.3 metres in overall width, 3 metres in overall height and 5.5 tonnes in gross vehicle weight.

¹⁰ Under section 2 of Cap. 374, “private light bus” means -
(a) a school private light bus; or
(b) a light bus (other than a school private light bus) used or intended for use-
(i) otherwise than for hire or reward; or
(ii) exclusively for the carriage of persons who are disabled persons and persons assisting them, whether or not for hire or reward.

buses (commonly known as “nanny vans”), which account for the largest share of the private light bus market, have enjoyed the highest growth over the past five years at an annual average growth rate of 12%. The growth of private light bus fleet reflects the increasing demand for this type of transport service in recent years. Based on the above analysis, we also recommend that the statutory maximum seating capacity of private light buses should continue to align with that of PLBs and be increased to 19 seats. The Government adopted the same arrangement for private light buses when the seating capacity of PLBs was last increased in 1988. Detailed analysis is at Annex B.

B

Other Issues: Service Improvement

18. While considering an increase in the maximum seating capacity of PLBs, we continue to encourage the trade to improve PLB services. The TD has been encouraging the trade to install various supplementary facilities to facilitate the use of PLB services by the needy and the elderly. Taking the opportunity of replacement of vehicles by GMB operators to increase the seating capacity of vehicles, the TD is working with the trade to follow up on mandatory installation requirements on every newly registered GMB, including half-step at the middle door, handrails and/or call bells with indication lights, which are expected to be implemented in tandem with the amendment to the maximum seating capacity of PLBs.

19. Moreover, with further improvement of the accessibility of PLBs in mind, the TD and the operators have identified new low-floor wheelchair-accessible vehicle models¹¹ suitable for use in Hong Kong. We expect to introduce these new models in the second half of 2017 for trial runs on three hospital routes¹² to ascertain the feasibility of using these models to serve these (and other) routes. When the operators formally apply for vehicle type approval from the TD to import the models into Hong Kong, the Commissioner for Transport will consider exercising her discretionary power under regulation 4 of the Road Traffic (Construction and Maintenance of Vehicles) Regulations (Cap. 374A) to grant exemption to those low-floor wheelchair-accessible models that are of a length which exceeds the current 7 metres statutory length limit of PLBs to facilitate the trial runs of these models

¹¹ The length of the European models identified exceeds 7 metres while that of the Japanese model is within 7 metres.

¹² The three proposed trial routes include those GMB routes operating via Queen Mary Hospital, Prince of Wales Hospital and St. Teresa’s Hospital.

in Hong Kong. Separately, to help promote the policy objective of green transport, having regard to the advice of the Environment Bureau, the TD may consider discretionary exemption for specific models of more environmentally friendly PLBs from the vehicle length limit if the prescribable green-energy features could only come with PLBs longer than the statutory limit.

OTHER OPTIONS

20. We have explored the option of increasing the number of PLBs, instead of the seating capacity of PLBs, to meet passenger demand especially during peak periods. As explained in paragraph 10 above, increasing the number of PLBs is considered undesirable in view of the impact on traffic flow, traffic congestion problem and difficulties in recruiting drivers. Hence, increasing the maximum seating capacity of PLBs is considered a more appropriate option to address the service shortage situation in peak periods.

21. We have also looked into the option of increasing the maximum seating capacity to 20 seats having regard to the views of the LegCo Members. However, as explained in paragraph 13 above, the policy decision on the appropriate maximum seating capacity would not be based on a particular type or model of vehicle. As suggested in our study, setting the maximum number of seats for PLBs at 19 should be the best arrangement in meeting unmet demand for PLB services in peak periods while balancing the delicate trade balance in the public transport trade sector.

THE BILL

22. The main provisions are –

- (a) **Clause 1** sets out the short title;
- (b) **Clause 3** amends section 2 of Cap. 374 to reflect the seat increase for light buses in the definitions of “light bus” and “bus”;
- (c) **Clause 4** repeals section 113A of Cap. 374 which is an obsolete transitional provision arising from the last seat increase for light buses in 1988;

- (d) **Clause 5** adds a new section 113C to provide for a transitional arrangement for existing private buses or public buses with seating capacities of 17 to 19 registered before the commencement date of the Bill, so that they can retain their current classifications to avoid disruption of services;
- (e) **Clauses 6 and 8** reformulate the definitions of “light bus” and “bus” under the Motor Vehicles (First Registration Tax) Ordinance (Cap. 330) and the Road Tunnels (Government) Regulations (Cap. 368A) respectively to refer to section 2 of Cap. 374;
- (f) **Clauses 7 and 9** repeal obsolete transitional provisions arising from the last seat increase for light buses in 1988 under Cap. 330 and Cap. 368A; and
- (g) **Clauses 10 and 11** provide for consequential amendments under the Road Traffic (Construction and Maintenance of Vehicles) Regulations (Cap. 374A).

LEGISLATIVE TIMETABLE

23. The legislative timetable will be as follows –

Publication in the Gazette	7 April 2017
First Reading and commencement of Second Reading debate	26 April 2017
Resumption of Second Reading debate, committee stage and Third Reading	to be notified

IMPLICATIONS OF THE PROPOSAL

24. The proposal has economic and environmental implications and has no significant financial and civil service implications, as set out at Annex C. It has no productivity, competition, family and gender implications, and no sustainability implications other than those set out in the economic and environmental implications paragraphs in Annex C. The proposal is in conformity with the Basic Law, including the provisions concerning human

rights. It will not affect the current binding effect of the Cap. 374 and its subsidiary legislation.

PUBLIC CONSULTATION

25. We consulted the Members of LegCo Transport Panel in December 2016 on our proposal to increase the maximum seats for light buses to 19 seats. The LegCo Members welcomed the proposal to increase the seating capacity of PLBs. Nevertheless, an overwhelming majority suggested that the Government should consider increasing the maximum seating capacity of PLBs to 20 seats on the grounds of, as mentioned in paragraph 13 above, the benefits to passengers and an existing PLB model can technically accommodate 20 seats. Two motions were passed to request the Government to adopt the 20-seat option. Another two motions were passed to urge the Government to require all newly registered GMBs to be equipped with seat belt sensors and improve the remuneration arrangement of GMB drivers (including the salary arrangement, “insurance excess” arrangement and working hours) along with the increase of maximum seating capacity of PLBs. The Government’s response to the LegCo Transport Panel is summarised at Annex D.

26. TD has been closely liaising with the PLB trade to gauge their views on our seat addition proposal. At the trade conferences held in December 2016, the GMB trade considered our current proposal of 19 seats acceptable in view of the benefits expected to be brought about to the financial performance of their business. While the RMB trade, particularly the drivers, showed some concerns on the seat increase proposal¹³, they considered our proposal of 19 seats acceptable and welcomed the flexible arrangement for allowing the operators to decide whether and when to increase the seats based on operational conditions. Other public transport trades such as the franchised buses and taxis have expressed concern about the proposal of PLB seat increase. They are worried that a substantial seat increase would affect the current delicate trade balance and confuse the existing roles of different service modes in the public transport system.

¹³ Some of the RMB drivers were concerned that the increased maximum seating capacity would lead to a possible increase in vehicle rental and insurance costs. They were also concerned that it would take longer time to fully load a RMB when the new seats are added. That said, operators of RMBs are free to decide whether to increase the seating capacity of their RMB vehicles having regard to service demand.

PUBLICITY

27. A press release is to be issued on 28 March 2017. A spokesman will be available to handle enquiries.

ENQUIRIES

28. Any enquiries on this brief can be addressed to Miss Ann Chan, Principal Assistant Secretary for Transport and Housing (Transport), at 3509 8214.

Transport and Housing Bureau
28 March 2017

Road Traffic (Amendment) Bill 2017

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A BILL

To

Amend the Road Traffic Ordinance to increase the maximum passenger seating capacity of light buses from 16 to 19; to make consequential amendments; and to remove obsolete transitional provisions added by the Road Traffic (Amendment) (No. 3) Ordinance 1988.

Enacted by the Legislative Council.

Part 1

Preliminary

1. **Short title**
This Ordinance may be cited as the Road Traffic (Amendment) Ordinance 2017.
2. **Enactments amended**
The enactments specified in Parts 2 and 3 are amended as set out in those Parts.

Part 2

Amendments to Road Traffic Ordinance (Cap. 374)

3. **Section 2 amended (interpretation)**
 - (1) Section 2—
Repeal the definition of *bus*
Substitute
“*bus* (巴士) means a motor vehicle constructed or adapted for the carriage of a driver and more than 19 passengers and their personal effects;
Note—
See also section 113C.”
 - (2) Section 2, definition of *light bus*—
Repeal
“16”
Substitute
“19”.
4. **Section 113A repealed (transitional provision regarding public and private buses)**
Section 113A—
Repeal the section.
5. **Section 113C added**
After section 113B—
Add

“113C. Transitional provisions relating to Road Traffic (Amendment) Ordinance 2017

- (1) A motor vehicle that is—
- (a) constructed or adapted for the carriage of a driver and a maximum of 17, 18 or 19 passengers; and
 - (b) registered as a private bus or public bus under this Ordinance immediately before the commencement of the Road Traffic (Amendment) Ordinance 2017 (of 2017),

retains its registration as such, unless its owner applies for its re-registration as a vehicle within another class.

- (2) To avoid doubt, a motor vehicle that retains its registration as a private bus or public bus by virtue of subsection (1) continues to fall within the definition of *private bus* or *public bus* (as the case may be) in section 2.”

Part 3**Other Amendments****Division 1—Amendments to Motor Vehicles (First Registration Tax) Ordinance (Cap. 330)****6. Section 2 amended (interpretation)**

- (1) Section 2(1)—

Repeal the definition of *bus*

Substitute

“*bus* (巴士) has the same meaning as in the Road Traffic Ordinance (Cap. 374);”.

- (2) Section 2(1)—

Repeal the definition of *light bus*

Substitute

“*light bus* (小型巴士) has the same meaning as in the Road Traffic Ordinance (Cap. 374);”.

7. Section 8A repealed (transitional provision regarding public and private buses)

Section 8A—

Repeal the section.

Division 2—Amendments to Road Tunnels (Government) Regulations (Cap. 368 sub. leg. A)**8. Regulation 2 amended (interpretation)**

- (1) Regulation 2(1)—

Repeal the definition of *bus***Substitute**

“*bus* (巴士) has the same meaning as in the Road Traffic Ordinance (Cap. 374);”.

(2) Regulation 2(1)—

Repeal the definition of *light bus***Substitute**

“*light bus* (小型巴士) has the same meaning as in the Road Traffic Ordinance (Cap. 374);”.

9. Regulation 15A repealed (transitional provision regarding public and private buses)

Regulation 15A—

Repeal the regulation.

Division 3—Amendments to Road Traffic (Construction and Maintenance of Vehicles) Regulations (Cap. 374 sub. leg. A)

10. Third Schedule amended (maximum passenger seating capacity)

Third Schedule—

Repeal

“16”

Substitute

“19”.

11. Ninth Schedule amended (direction indicators)

Ninth Schedule, Part III, paragraph 7(a)—

Repeal

“16”

Substitute

“19”.

Explanatory Memorandum

The main purpose of this Bill is to increase the maximum passenger seating capacity of light buses from 16 to 19.

2. The Bill contains 3 Parts.

Part 1—Preliminary

3. Clause 1 sets out the short title.
4. If enacted, the Ordinance will come into operation on the day it is published in the Gazette.

Part 2—Amendments to Road Traffic Ordinance (Cap. 374)

5. Clause 3 amends section 2 of the Road Traffic Ordinance (Cap. 374) to revise the definitions of *bus* and *light bus* so as to increase the maximum passenger seating capacity of light buses from 16 to 19.
6. Clause 4 repeals the existing section 113A. In the last increase of maximum passenger seating capacity for light buses from 14 to 16, section 113A was added by the Road Traffic (Amendment) (No. 3) Ordinance 1988 (89 of 1988) as a transitional provision to deal with the then registered private or public buses with maximum passenger seating capacities of 15 or 16. Since those buses are no longer registered in Hong Kong, section 113A has become obsolete.
7. Clause 5 adds a new section 113C as a transitional provision to the effect that a motor vehicle with a maximum passenger seating capacity of 17, 18 or 19 and registered as a private bus or public bus immediately before the commencement of the Bill will retain its existing registration, unless its owner applies for its re-registration as a vehicle within another class.

Part 3—Other Amendments

8. Clauses 6, 8, 10 and 11 make consequential amendments to the Motor Vehicles (First Registration Tax) Ordinance (Cap. 330), the Road Tunnels (Government) Regulations (Cap. 368 sub. leg. A) and the Road Traffic (Construction and Maintenance of Vehicles) Regulations (Cap. 374 sub. leg. A).
9. Clauses 7 and 9 repeal the obsolete transitional provisions originally added by the Road Traffic (Amendment) (No. 3) Ordinance 1988 (89 of 1988) to the Motor Vehicles (First Registration Tax) Ordinance (Cap. 330) and the Road Tunnels (Government) Regulations (Cap. 368 sub. leg. A) for the reason explained in paragraph 6.

Private Light Buses

There are three types of private light bus services, namely (i) school private light buses (“SPLBs”)(commonly known as “nanny vans”); (ii) private light buses for carriage of people with disabilities; and (iii) other types of private light buses not for hire or reward. As at end 2015, there were about 3 100 private light buses in operation, of which SPLBs accounted for the largest share (around 60%) while private light buses for carriage of persons with disabilities and other types of private light buses each made up about 20%. The seating capacities of private light buses vary from 12 to 16 seats depending on the operators’ choices having regard to operational needs.

2. Our analysis shows that the supply of private light buses has increased over the past five years (i.e. from 2011 to 2015), at an average annual growth rate of about 9%. The numbers of three types of private light buses have all increased. Since there is no legal provision to limit the number of private light buses and the supply of private light buses has all along been market-driven, the growth of private light buses fleet reflects the increasing demand for this type of transport service in recent years.

3. SPLBs, which accounts for the largest share of the private light bus market, have enjoyed the highest growth over the past five years at an annual average growth rate of 12%. On the other hand, based on the Census and Statistics Department’s population forecast, our study suggests that kindergarten and primary school student population will keep increasing in short to medium term. As such, it is anticipated that the students’ demand for private light bus services will experience similar growth in the short to medium term.

4. Based on the analysis above, we recommend that the statutory maximum seating capacity of private light buses should continue to align with that of PLBs and be increased to 19 seats. Private light buses operators may, having regard to the operational conditions, decide on their own whether to increase the seating capacity of their vehicles and, if

so, the exact number of seats to be added and the time of implementation. Upon the implementation of the proposal, if a private light bus operator wishes to replace his vehicles to increase the seating capacity, he can simply submit an application to the TD in accordance with the existing mechanism of vehicle replacement to ensure the length, width, height and weight of the incoming vehicles comply with the statutory requirements. Operators do not need to make separate application.

Implications of the Proposal

Financial and civil service implications

To implement the proposed increase in maximum seating capacity of public and private light buses, the TD's Vehicles And Drivers Licensing Integrated Data System (VALID System) would need to be updated accordingly to incorporate the changes in the seating capacities of light buses and buses, as well as the transitional arrangement for existing public and private buses with seating capacities of 17 to 19. This system upgrade, which will cost about \$250,000, will be absorbed by the TD's existing resources.

2. Additional workload arising from the implementation of the seat increase proposal, such as handling applications from light bus operators for increasing the seating capacity of their vehicles under the new seat number limit¹, will be absorbed by the TD's existing resources and completed in phases.

Economic implications

3. The seat increase proposal would effectively increase the handling capacity of the PLB trade for meeting the excess demand during peak hours. This would help improve the financial performance of the trade, thereby relieving fare increase pressure. From passengers' perspective, they can enjoy better PLB services with shorter waiting time, especially during peak hours.

¹ As set out in paragraph 16 of the main text of the LegCo Brief, an operator needs not make additional application to TD for increasing the seating capacity of a newly procured minibus. He simply needs to apply to TD for a licence for the new vehicle in accordance with the existing mechanism. On the other hand, existing long wheelbase PLBs can be readily converted to accommodate 19 seats. Operators of these long wheelbase PLBs may retrofit instead of replacing their vehicles for accommodating 19 passenger seats. They can apply to TD in accordance with the existing mechanism on the requirements and administrative procedures of vehicle examination. As at 20 February 2017, there were about 700 long wheelbase PLBs (accounting for about 16% of the total PLB fleet).

Environmental implications

4. The seat increase proposal will increase the overall carrying capacity of public and private light buses without having to increase the number of vehicles. Hence the proposal will not bring any negative environmental impact, such as roadside emission. Indeed, when the operators advance their replacement schedules of some pre-Euro IV short wheelbase vehicles by new and environmentally friendly long wheelbase vehicles, it will help improve the roadside air quality.

**Summary of Government's Response to the Motions Passed
by the LegCo Panel on Transport in December 2016 on PLBs**

In response to the two motions passed to request the Government to adopt the 20-seat option, we reiterate that our recommended 19-seat option was based on supply and demand for GMBs and the need to maintain the delicate trade balance amongst various public transport services. We also noted that a decision on the number of seats should not be based on the capacity or configuration of a particular vehicle model (see paragraph 13 of the main text of the LegCo Brief).

2. As for the motion on installation of seat belt sensors, we explained that the existing PLB models available in the market did not have such sensors. The proposal to install the sensors would therefore require modification of the vehicle design and changes to the terms and conditions of vehicle maintenance. TD would follow up with vehicle suppliers and the trade to explore the feasibility of installing the sensors on PLBs, having regard to the implications for the daily operation and the financial position of the operators. Meanwhile, we note that of the 4 350 PLBs currently in the market, around 1 350 vehicles do not have seat belts since they were registered before 1 August 2004, the date after which all newly registered PLB vehicles must be installed with passenger seat belts under the law. We understand from the trade that once our proposal to add seats to PLB is written into the law, they would expedite the replacement of these vehicles with new ones that will have seat belts installed. With the introduction of more PLBs which are equipped with seat belts, it should be easier for passengers to get used to the habit of wearing seat belts.

3. Regarding the motion on remuneration of GMB drivers, we explained that the operators should have the flexibility to enter into any lawful salary arrangement for drivers as they see fit (including whether there was any revenue-sharing arrangement). We also explained that, prima facie, the practice of having “insurance excess”, similar to a security deposit, was not unlawful. However, TD would provide

assistance in referring cases concerning “insurance excess” to the Labour Department for follow-up if drivers come across cases that may contravene the Employment Ordinance. TD was also discussing with the trade to amend the “Guidelines on Working Hours of GMB Drivers” to set out rest and meal breaks during drivers’ working hours.