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Paper for the House Committee meeting on 16 June 2017

**Report of the
Bills Committee on Road Traffic (Amendment) Bill 2017**

Purpose

This paper reports on the deliberations of the Bills Committee on Road Traffic (Amendment) Bill 2017 ("the Bill").

Background

2. The role of public light buses¹ ("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 was over 1.8 million passengers, making 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")². The existing law provides that each PLB can carry up to 16 passengers. The maximum seating

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". "Public light bus" is defined under section 2 of Cap. 374 as "a light bus, other than any private light bus, which is used or intended for use for hire or reward".

² 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.

capacity of PLBs was last increased in 1988 by the Government from 14 to the current 16 seats.

3. According to a comprehensive survey on PLB services conducted by the Transport Department ("TD") in 2015, while the supply and demand for PLB services have remained generally stable over the past few years. However, it was noted that the passenger demand for GMB services during peak periods and non-peak periods differs quite significantly whereas the service supply of most GMB routes during the peakiest one hour has almost reached saturation. At the same time, the PLB trade has indicated from time to time that the operating environment is becoming more difficult and they face the problem of shortage of drivers. The Administration therefore conducts a study on the feasibility and desirability of increasing the maximum seating capacity of PLBs.

4. As a result of the study, the Administration proposes to increase the maximum seating capacity of PLBs from 16 to 19 seats. Besides, the Administration considers that the maximum seating capacity of the private light buses³ should continue to align with that of PLBs.

5. The Administration consulted the Members of the Legislative Council ("LegCo") Transport Panel ("TP") in December 2016 on its proposal to increase the maximum seating capacity of light buses to 19 seats. The TP members welcomed the proposal to increase the seating capacity of PLBs. Nevertheless, a number of them suggested that the Administration should consider increasing the maximum seating capacity of PLBs to 20 seats on the grounds of the benefits brought by one additional seat to passengers and that one of the existing PLB models could 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 Administration to require all newly registered GMBs to be equipped with seat belt sensors and improve the remuneration arrangement of GMB drivers while agreeing to the increase of maximum seating capacity of PLBs.

The Road Traffic (Amendment) Bill 2017

6. The Bill was published in the Gazette on 7 April 2017 and introduced into the LegCo on 26 April 2017. The Bill seeks to amend the Road Traffic Ordinance (Cap. 374) to increase the maximum passenger seating capacity of light buses from 16 to 19 seats; to make consequential amendments; and to

³ "Private light bus" is defined under section 2 of Cap. 374 as (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.

remove obsolete transitional provisions added by the Road Traffic (Amendment) (No. 3) Ordinance 1988. Please refer to **Appendix I** for the main provisions of the Bill.

The Bills Committee

7. At the House Committee meeting on 28 April 2017, Members agreed to form a Bills Committee to study the Bill. The membership list of the Bills Committee is in **Appendix II**. Under the chairmanship of Hon Frankie YICK Chi-ming, the Bills Committee held two meetings, in May and June 2017, to deliberate the details of the Bill with the Administration.

Deliberations of the Bills Committee

8. While most members of the Bills Committee support the Bill, a few of them wish to take the opportunity to enhance the quality of the PLB services alongside the legislative amendment exercise to increase the number of seats in PLBs to 19. The deliberations of the Bills Committee are summarized in the ensuing paragraphs.

Proposal to increase the maximum passenger seating capacity of light buses from 16 to 20 seats

9. With the support of Hon CHAN Han-pun and Dr Hon Junius HO Kwan-yiu, Hon LAU Kwok-fan has urged the Administration to consider increasing the maximum seating capacity of light buses from 16 to 20 seats ("the 20-seat proposal") instead of from 16 to 19 seats. Hon CHAN Han-pun and Hon LAU Kwok-fan have expressed concern on the need to cater for the unmet passenger demand for PLB services in remote rural areas in the New Territories ("NT") West and NT North where PLBs are the major means of public transport. Both Members have pointed out that the 20-seat proposal could enhance the carrying capacity of PLBs during the peak periods in the rural areas without having to increase the number of PLBs. Hon LAU Kwok-fan has indicated that he might propose a Committee stage amendment ("CSA") on the 20-seat proposal. Hon Andrew WAN Siu-kin has expressed a similar intent.

10. The Administration has responded that when deciding on the appropriate maximum seating capacity of PLBs, the main considerations are the supply and demand for PLBs and the need to maintain the delicate balance amongst various public transport services. The Administration has advised that 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%. Besides, the ratio of GMB routes with waiting time of over 10 minutes will reduce by nearly 80%. As regards 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%.

11. The Administration has emphasized that while the study shows that increasing the seating capacity 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 would diminish noticeably beyond 19 seats. Specifically, 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.

12. The Administration has also advised that given the keen competition in the well-developed public transport services in Hong Kong, the impact of any increase in the number of seats in PLBs on other public transport trades must be carefully considered. The Administration is 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 the community. In fact, other public transport trades, such as the franchised buses and taxis, have expressed concern that a substantial increase in the seating capacity of PLBs would affect the current delicate trade balance and confuse the existing roles of different service modes in the public transport system.

13. The Administration has further advised that the policy considerations for increasing the maximum seating capacity of PLBs would not be based on a particular type or model of vehicle. In any event, at present, of the 4 350 PLBs, less than 90 were vehicles able to accommodate 20 seats.

Enhancing passenger safety

14. Hon Michael TIEN Puk-sun has expressed concern over the rising trend in the number of traffic casualties involving PLBs in recent years. He suspects that PLB passengers not wearing seat belts might be one of the reasons accounting for the rising casualties. However, it would be difficult for PLB drivers to ensure that every passenger has worn the seat belt properly before the driver starts driving. In this regard, he proposes that while implementing the adjustment in the maximum seating capacity of PLBs, all newly registered

GMBs should be required to be equipped with seat belt sensors, which would make a sound signal when a passenger is not wearing the seat belt properly.

15. Hon TIEN believes that if this can be done, passenger safety will be much enhanced because at the moment, PLB passengers have not yet formed the habit of wearing seat belts even when they are fitted on the PLBs. He has urged the Administration to study this issue and propose a separate legislative amendment. He supports the 19-seat proposal set out in the Bill and its early passage.

16. The Administration has explained that on passage of the Bill, more new vehicles would come on stream. By law, such new vehicles must be equipped with seat belts. By then, more vehicles with seat belts installed would be available, conducive to promoting passengers to wear seat belts. The proposal to install seat belt sensors on all newly registered GMBs would require modification of the existing vehicle design and changes to vehicle maintenance. The proposal will require legislative amendments to the Road Traffic (Construction and Maintenance of Vehicles) Regulations (Cap. 374A sub. leg. A). The Administration has emphasized that it attaches great importance to safety of public transport and has agreed to liaise with vehicle suppliers and the trade to explore the feasibility of installing the sensors on PLBs.

Low-floor wheelchair-accessible PLB models

17. Having noted that the Administration has planned to introduce new low-floor wheelchair-accessible vehicle models for trial run on three hospital routes⁴, Dr Hon Fernando CHEUNG Chiu-hung has suggested that the trial run should be extended to other routes serving hospitals which are located on the hillside, such as Queen Elizabeth Hospital and the Duchess of Kent Children's Hospital at Sandy Bay. Dr CHEUNG also indicates his intent to propose a CSA on the installation of wheelchair-accessible seats.

18. The Administration has responded that the trial scheme is expected to commence in the second half of 2017. When the operators formally apply to the TD for vehicle examination and type approval for the new low-floor PLB models, the Commissioner for Transport will consider exercising her statutory discretionary power to allow vehicle length to exceed the current statutory length limit of 7 metres and weight limit of 5.5 tonnes, so as to facilitate the trial run in Hong Kong. From an operational perspective, to provide space for one wheelchair seat on PLBs, three ordinary passenger seats will have to be taken away in order to meet existing statutory requirements on seating and gangway arrangement of PLBs.

⁴ The three proposed trial routes include those GMB routes operating via Queen Mary Hospital, Prince of Wales Hospital and St. Teresa's Hospital.

Drafting aspect of the Bill

19. In respect of the intent of Hon LAU Kwok-fan and Dr Hon Fernando CHEUNG Chiu-hung to propose CSA(s) regarding the 20-seat proposal and the provision of low-floor wheelchair-accessible PLBs, the Legal Advisor to the Bills Committee ("the Legal Advisor") points out that as stipulated in Rule 57(4)(a) of the Rules of Procedure of LegCo, an amendment must be relevant to the subject matter of the bill and to the subject matter of the clause to which it relates.

20. The Legal Advisor explains that since the long title of the Bill has specifically set out the maximum passenger seating capacity of light buses to be proposed to increase to 19, the proposed change of seating capacity to 20 might be out of the scope of the Bill. The Legal Advisor also points out that the proposal to add seats which can accommodate wheelchairs might imply that the total number of seats of a PLB has to be reduced to allow more space for the accommodation of wheelchair(s). Despite the long title of the Bill does not specify the types of seats to be added, owing to the implication on the number of seats as stated above, the proposal to add wheelchair-accessible seats might be contrary to the purpose of the Bill as explained in the Explanatory Memorandum, and as such the CSA in this regard might be out of the scope of the Bill.

21. The Bills Committee notes that on the legal issues arising, the Administration's view is the same. The Administration also advises that if they were to take forward the suggestion to increase the maximum seating capacity of PLBs to 19 with at least one or more passenger seats to be wheelchair-accessible, PLB models with a vehicle length exceeding the current statutory limit of 7 metres must be used, while the gross weight of the vehicle may be increased as well. This would require additional legislative amendments to the Road Traffic (Construction and Maintenance of Vehicles) Regulations (Cap. 374 sub. leg. A), which is not the purpose of the Bill, and goes beyond the scope of the Bill.

22. Having taken note of the above legal advice, some members, including Hon CHAN Han-pun and Hon LAU Kwok-fan, are of the view that the drafting of the Bill was too restrictive in the sense that it in effect rules out any amendment to be proposed by LegCo Members during the course of scrutiny.

23. At the request of the Bills Committee, the Administration responds that it will be open-minded in future on the issues raised by Members in respect of the 20-seat proposal, the installation of seat belt sensors and the trial runs of low-floor wheelchair-accessible PLBs in Hong Kong. On passage of the Bill, the Administration will conduct a regular survey on PLB services scheduled for 2018. The opportunity would be taken to collect feedback from the trade and

the general public on the above three issues.

24. The Administration has expressed that when the statutory limit on the number of PLBs (4 350 at present) is due for review in 5 years' time, i.e. in the year 2022, the issue of the maximum seating capacity of PLBs will be looked into again naturally.

Ex-gratia payment for pre-Euro IV Diesel Commercial Vehicle ("DCVs")

25. The Bills Committee notes that the Environmental Protection Department has launched an incentive-cum-regulatory scheme with the aim of phasing out pre-Euro IV DCVs. It also notes that the application deadline for ex-gratia payment for Euro II DCVs would be 31 December 2017. Some members, including the Chairman and Hon YUNG Hoi-yan, point out that many PLB owners have planned to replace the pre-Euro IV DCVs and to benefit from the above mentioned scheme, if the Bill could be passed timely before end of 2017. The Administration has indicated that if passed and enacted, the Ordinance will come into operation on the day it is published in the Gazette.

Committee stage amendments

26. The Bills Committee notes that the Administration will not move any CSAs to the Bill. The Bills Committee will not propose any CSAs to the Bill too.

Resumption of Second Reading debate

27. The Bills Committee has no objection to the resumption of the Second Reading debate on the Bill at the Council meeting of 28 June 2017.

Advice sought

28. Members are invited to note the deliberations of the Bills Committee.

Main provisions of the Road Traffic (Amendment) Bill 2017

The Bill contains 3 Parts.

Part 1—Preliminary

2. Clause 1 sets out the short title.
3. 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)

4. 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.
5. 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.
6. 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

7. 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).
8. 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.

Bills Committee on Road Traffic (Amendment) Bill 2017

Membership List

Chairman Hon Frankie YICK Chi-ming, JP

Members Hon Michael TIEN Puk-sun, BBS, JP
Hon CHAN Han-pan, JP
Dr Hon Fernando CHEUNG Chiu-hung
Hon Andrew WAN Siu-kin (since 2 June 2017)
Dr Hon Junius HO Kwan-yiu, JP
Hon HO Kai-ming
Hon YUNG Hoi-yan
Hon LUK Chung-hung
Hon LAU Kwok-fan, MH
Hon Jeremy TAM Man-ho

(Total : 11 Members)

Clerk Ms Sophie LAU

Legal adviser Mr Alvin CHUI