

立法會
Legislative Council

LC Paper No. LS35/19-20

**Legal Service Division Report on
Subsidiary Legislation Gazetted on 3 January 2020**

Tabling in LegCo : Council meeting of 8 January 2020

Amendment to be made by : Council meeting of 15 January 2020 (or that of 26 February 2020 if extended by resolution)

Road Traffic (Driving Licences) (Amendment) Regulation 2020 (L.N. 1)

**Road Traffic Ordinance (Amendment of Section 102I(3)(b))
Order 2020** (L.N. 2)

L.N. 1

L.N. 1 is made by the Secretary for Transport and Housing ("STH") under section 8(1) of the Road Traffic Ordinance (Cap. 374) to amend the requirements for applying for and holding driving licences to drive certain commercial vehicles under the Road Traffic (Driving Licences) Regulations (Cap. 374B).

2. At present, under regulation 8(1A) of Cap. 374B, a person is eligible for a full driving licence to drive a commercial vehicle¹ if, among other requirements, the person has held a valid full driving licence for private car or light goods vehicle for:

- (a) at least two years immediately preceding the date of the application ("Two Years Requirement"), if the full driving licence for private car or light goods vehicle was issued after the completion of the probationary driving period to drive that vehicle; or

¹ Under regulation 8(1) of Cap. 374B, "commercial vehicle" includes a taxi, a public light bus or private light bus, a public bus or private bus, a medium goods vehicle, a heavy goods vehicle or a special purpose vehicle.

- (b) at least three years immediately preceding the date of the application ("Three Years Requirement"), if the person has not completed the probationary driving period.

Under regulation 12(5) of Cap. 374B, a person who wishes to obtain a learner's driving licence to drive a commercial vehicle (except taxi) must also satisfy, among others, the requirements set out above. Under regulation 8A of Cap. 374B, an applicant for the issue of a full driving licence to drive a public light bus is required to complete a pre-service course ("PSC") before making the application.

3. The amendments introduced by L.N. 1 are summarized below:

- (a) removing the Two Years Requirement with the effect that a person who has completed the probationary driving period will be eligible to apply for a learner's or full driving licence to drive a commercial vehicle immediately after the full driving licence for a private car or light goods vehicle is issued to that person;
- (b) reducing the period of three years in the Three Years Requirement to one year with the effect that a person who has not completed the probationary driving period will be eligible to apply for a learner's or full driving licence to drive a commercial vehicle after having held a full driving licence to drive a private car or light goods vehicle for at least one year;
- (c) extending the mandatory PSC requirement under regulation 8A of Cap. 374B to cover an applicant for a full driving licence to drive a taxi and public bus;
- (d) empowering the Commissioner for Transport ("CT") to exempt the applicant for a full driving licence to drive a taxi, public light bus or public bus from any part of a PSC if the applicant's previous experience is adequate for that part; and
- (e) empowering CT to cancel a person's full driving licence to drive a public light bus if a person's full driving licence to drive a private car or light goods vehicle is cancelled under regulation 12L(1) of Cap. 374B.

4. The amendments introduced by L.N. 1 will not affect the existing requirement under regulation 8(1A)(c) of Cap. 374B that all applicants of commercial vehicle driving licences have to pass the appropriate driving tests.

L.N. 2

5. Proprietors of pre-service training schools have the obligation under section 102I(3) of the Road Traffic Ordinance (Cap. 374) to provide PSC to holders or applicants of full driving licence for a list of vehicles, which presently include public light buses and public buses but not taxis.

6. L.N. 2 is made by STH under section 102I(4) of Cap. 374. It amends section 102I(3) of Cap. 374 to the effect that the proprietor of a pre-service training school must ensure that PSCs are also provided at the school to:

- (a) a person who has applied to take a driving test in respect of taxis;
- (b) a person who has passed a driving test in respect of taxis; and
- (c) a holder of a full driving licence to drive a taxi.

7. According to paragraph 2 of the Legislative Council ("LegCo") Brief (File Ref: THB(T) 1/12/39) issued by the Transport and Housing Bureau and the Transport Department in January 2020, the amendments in L.N. 1 and L.N. 2 are made to address the shortage of commercial vehicle drivers and enhance the safety and service quality for taxis and public buses.

8. According to paragraph 15 of the LegCo Brief, the Administration consulted the Road Safety Council and relevant transport trades including those of taxis, public buses, public light buses and goods vehicles in 2017. They were generally supportive of the proposal.

9. As advised by the Clerk to the Panel on Transport, the Panel was consulted on 16 June 2017 by the Administration in the context of the Public Transport Strategy Study on the proposal to amend Cap. 374 to relax the eligibility requirement for applying for driving licences to drive commercial vehicles. Under the new arrangement, applicants holding a valid driving licence for a private car or light goods vehicle for at least one year, instead of three years as presently required, would become eligible for applying for a commercial driving licence. Members did not raise any objection to the proposal which aims to mitigate the lack of drivers for commercial vehicles.

10. L.N. 1 and L.N. 2 come into operation on 1 October 2020.

11. The Legal Service Division is scrutinizing the legal and drafting aspects of L.N. 1 and L.N. 2 and will report further, if necessary.

Prepared by

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