

LEGISLATIVE COUNCIL BRIEF

Road Traffic Ordinance
(Chapter 374)

Road Traffic (Driving Licences) (Amendment) Regulation 2020 Road Traffic Ordinance (Amendment of Section 102I(3)(b)) Order 2020

INTRODUCTION

The Secretary for Transport and Housing has, under section 8(1) and section 102I(4) of the Road Traffic Ordinance (Cap. 374) (“Ordinance”), made the Road Traffic (Driving Licences) (Amendment) Regulation 2020 (“Amendment Regulation”) (at **Annex A**) and the Road Traffic Ordinance (Amendment of Section 102I(3)(b)) Order 2020 (“Amendment Order”) (at **Annex B**) respectively. The main purposes are to :

- (a) shorten the period required to hold a licence to drive a private car (“PC”) or light goods vehicle (“LGV”) before a person may apply for a learner’s or full driving licence to drive a commercial vehicle¹; and
- (b) extend the mandatory pre-service course (“PSC”) requirement currently imposed on the application for PLB full driving licence to new applicants for a full driving licence to drive a taxi or public bus.

JUSTIFICATIONS

Address the shortage of commercial vehicle drivers

2. Representatives and practitioners of commercial vehicle trades, including taxis, PLBs, public buses as well as goods vehicles and container trucks have reflected to the Government the shortage issue of commercial vehicle drivers. They also observe an aging issue amongst such population. They have called for, among other measures, relaxation

¹ “Commercial vehicle” includes a taxi, public light bus (“PLB”), private light bus, public bus, private bus, medium goods vehicle (“MGV”), heavy goods vehicle (“HGV”) or special purpose vehicle (“SPV”) but excludes an articulated vehicle.

of the existing eligibility requirements for the application for a learner's and full driving licence to drive a commercial vehicle so as to facilitate the supply of new blood for those trades.

3. In response to the trades' appeal, we propose to shorten the licence-holding period required for an applicant of a driving licence to drive a commercial vehicle as follows :

- (a) for an applicant who *has completed the one-year probationary driving period for a PC or LGV*, he/she will be eligible to apply for a learner's or full driving licence to drive a commercial vehicle *immediately* upon obtaining a full driving licence for the corresponding vehicle type (i.e. PC or LGV), instead of having held the PC or LGV (as applicable) licence for at least two years as required under the law currently; or
- (b) for an applicant who *has not undergone such a probationary driving period for a PC or LGV*, he/she 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 for a PC or LGV *for at least one year*, instead of having held the PC or LGV (as applicable) licence for at least three years as required under the law currently.

4. The proposal will unlikely increase road safety risk. According to the accident statistics captured by the Transport Department ("TD") from 2014 to 2018, the traffic accident involvement rates are comparable between drivers holding a full driving licence for a PC or LGV for three or more years and those with a shorter licence-holding period. More importantly, it will remain mandatory for all applicants of commercial vehicle driving licences to pass the driving test for the relevant vehicle class.

Enhance the safety and service quality for taxis and public buses² and PLBs

5. The Government attaches importance to road safety. There is also widespread public expectation for enhanced public transport service quality. To this end, we propose to extend the PSC requirement currently imposed on applicants for a full PLB driving licence to applicants of taxi

² Administratively, TD categorises public bus driving licences into two types, namely "public bus" and "public bus-franchised". Unless otherwise stated, "public bus" mentioned in this Brief refers to "public bus" in the broad sense.

and public bus driving licences on a mandatory basis³. Similar to the existing arrangement for PLB full driving licence application, applicants of a full driving licence to drive a taxi or public bus may apply for PSC under the new arrangement if they have applied for or have passed the relevant driving test. The applicants will not be eligible for the relevant full driving licence unless they have completed PSC⁴ within one year preceding the date of application for the relevant full driving licence. Persons who already hold a full driving licence to drive a taxi or public bus may also apply, on a voluntary basis, for PSC to enhance their knowledge of road safety.

6. In tandem with the above changes, new customised PSC will be designed in a modular structure for taxis, PLBs and public buses. The new structure will comprise two parts: (i) the foundation module which will cover basic driver knowledge and skills common to all three types of commercial vehicles; and (ii) the mode-specific module which is specifically designed for each of the three types of commercial vehicles. Under the new PSC (which will also last for 16 hours), participants have to pass a written assessment at the end of each part. Participants who have completed PSC successfully for a class of vehicle will be exempted from attending the foundation module of other classes of vehicles.

7. Considering that franchised bus companies are already providing comprehensive in-house training for their newly recruited bus drivers before those drivers take up the driving duties, and that the training programmes provided by franchised bus companies are comparable with PSC recognised by the Commissioner for Transport (“C for T”), bus captains who have obtained a full driving licence for public bus - franchised after completing the comparable training programmes provided by franchised bus companies will be exempted from attending the foundation module of PSC for any class of vehicle.

8. C for T may designate any suitable place as a pre-service training school for drivers of public service vehicles (which include both taxi and public bus). In accordance with the Code of Practice that TD issues under the Ordinance to govern the operation of pre-service schools, proprietors of designated pre-service training schools have the obligation to provide PSC to holders or applicants of driving licence for a list of

³ In view of the relatively low traffic accident involvement rate of other passenger carrying vehicles such as private light bus and private bus, we propose to extend the PSC requirement to applicants of taxi and public bus driving licence only at this stage.

⁴ The date on which a person has completed a PSC is the date of completion of the course as specified in the course certificate issued to the person.

vehicles, which currently includes PLB and public bus but not taxi. The above-mentioned power of C for T and the obligation of the proprietor of the training schools as provided under the law will be amended accordingly to expand the permitted scope of PSC provided by pre-service training schools in order to cover taxi.

9. Separately, if a person who has been issued a full driving licence for PC or LGV is found to have committed an offence specified under the Road Traffic (Driving Licences) Regulations (Cap. 374B) (“Regulations”) or in respect of which ten or more points shall be incurred under section 4 of the Road Traffic (Driving-offence Points) Ordinance (Cap. 375) during his probationary driving period⁵, C for T shall cancel the person’s full driving licence for PC or LGV in accordance with the Regulations. It is further provided in the Regulations that as a result of such cancellation, C for T shall also cancel the person’s full driving licence to drive other classes of commercial vehicles issued, including taxi, private light bus, public and private bus, MGV, HGV and SPV, but not PLB⁶. For road safety consideration, we have taken the opportunity to rectify the situation by including PLB in the classes of commercial vehicles the driving licence of which C for T shall cancel if the person’s full driving licence for PC or LGV is cancelled under the Regulations.

THE AMENDMENT REGULATION AND ORDER

10. The Amendment Regulation seeks to :
- (a) amend regulations 8 and 12 of the Regulations to shorten the required licence-holding period to drive a PC or LGV for the issue of a learner’s and full driving licence to drive a commercial vehicle;
 - (b) amend regulations 8A and 11 to extend the mandatory PSC requirement to applicants of taxi and public bus driving licence;
 - (c) amend regulation 12L to empower C for T to cancel a full driving licence to drive a PLB if a person’s full driving

⁵ Such a scenario may arise when convictions are confirmed after a full driving licence has been issued.

⁶ In a legislative amendment exercise of the Regulations in 2011, the mandatory PSC was introduced to cover PLB drivers. While a new regulation was added to specify the conditions for issue of a full driving licence to drive a PLB, no corresponding amendments were made regarding C for T’s power to cancel a person’s full driving licence to drive a PLB.

licence to drive a PC or LGV is cancelled under regulation 12L(1); and

- (d) add a new sub-regulation (4A) after regulation 8A(4) to allow C for T to exempt any part of a PSC if the applicant's previous experience is adequate for the purpose of that part.

11. The Amendment Order seeks to amend section 102I(3)(b) of the Ordinance to expand the permitted scope of PSC provided by a pre-service training school, which currently includes PLB and public bus, to cover taxi.

LEGISLATIVE TIMETABLE

12. The legislative timetable will be as follows :

Publication in the Gazette	3 January 2020
Tabling at the Legislative Council ("LegCo") for negative vetting	8 January 2020
Commencement date	1 October 2020

IMPLICATIONS OF PROPOSAL

13. As to economic implications, the proposal of relaxing the licensing requirements for commercial vehicles is expected to help increase the supply of commercial vehicle drivers and improve the manpower balance in the relevant trade. The extension of the mandatory PSC will help enhance safety and service quality of commercial vehicles. The proposals have no significant sustainability implications, other than the said economic implications.

14. The Amendment Regulation and the Amendment Order are in conformity with the Basic Law, including the provisions concerning human rights. They will not affect the current binding effect of the Ordinance and the Regulations, and have no civil service, environmental, financial, productivity, competition, family or gender implications.

PUBLIC CONSULTATION

15. The Government consulted the LegCo Panel on Transport on the proposals in June 2017 in the context of the Public Transport Strategy Study, and the Panel had no objection. In 2017, the Government also consulted the Road Safety Council and relevant transport trades including

those of taxi, public bus, PLB and goods vehicle. They were generally supportive of the proposal.

PUBLICITY

16. A spokesperson will be available to answer media enquiries.

BACKGROUND

17. At present, a person is eligible for a full driving licence to drive a commercial vehicle if the person meets the following requirements under the Regulations :

- (a) the person is aged 21 or above;
- (b) the person holds a permanent identity card (“ID”) or an ID (other than a permanent ID) 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);
- (c) the person has held a valid full driving licence for PC or LGV for:
 - (i) at least two years immediately preceding the date of the application, if the full PC or LGV licence was issued after the completion of the probationary driving period to drive a PC or LGV; or
 - (ii) at least three years immediately preceding the date of the application, if the person has not undergone any probationary driving period⁷;
- (d) the person has not been convicted of any of the specified offences of dangerous, drug and drink driving under the Regulations during the five years immediately preceding the application; and

⁷ The four scenarios where applicants have not undergone any probationary driving period before they are issued the full driving licence for PC or LGV are: where (a) a full driving licence for PC or LGV had been issued before 9 February 2009 when the probationary driving licence scheme was extended to PCs and LGVs; (b) a full driving licence for PC or LGV is obtained through the direct issue mechanism; (c) a full driving licence to drive a PC or LGV is obtained by a consular officer or consular employee; and (d) a full driving licence to drive a PC or LGV is issued to a temporary driving licence holder after the person has passed the appropriate driving test.

- (e) the person has passed, within three years prior to the date of the application, a driving test in respect of the class of motor vehicle to which the application relates.

18. A person who wishes to receive driving training for any commercial vehicle (except taxi and SPV) must first obtain a learner's driving licence. The eligibility requirements are the same as those for a full driving licence as set out above, except for the requirement to pass the appropriate driving test.

19. Applicants of a full PLB driving licence have been required to complete a PSC provided by a pre-service training school designated by C for T since June 2015, in order to enhance the safety and service quality training requirements and instil a stronger sense of road safety and good driving behaviour in the drivers. PSC includes six modules, which cover driving and road safety, handling of traffic accidents and emergencies, quality customer service and handling of complaints, etc. Holders of full driving licences to drive a PLB, private light bus, public bus (including public bus-franchised) and private bus may also apply for PSC.

ENQUIRIES

20. Any enquiry on this brief can be directed to Miss Shirley Lau Principal Assistant Secretary for Transport and Housing (Transport) at 3509 8196.

**Transport and Housing Bureau
Transport Department
January 2020**

Road Traffic (Driving Licences) (Amendment) Regulation 2020

(Made by the Secretary for Transport and Housing under section 8(1) of the
Road Traffic Ordinance (Cap. 374))

1. Commencement

This Regulation comes into operation on 1 October 2020.

2. Road Traffic (Driving Licences) Regulations amended

The Road Traffic (Driving Licences) Regulations (Cap. 374 sub. leg. B) are amended as set out in sections 3 to 7.

3. Regulation 8 amended (previous experience and driving record)

(1) Regulation 8(1A), English text—

Repeal

“paragraph (1) are”

Substitute

“paragraph (1) are that”.

(2) Regulation 8(1A)—

Repeal subparagraph (b)

Substitute

“(b) subject to paragraph (1B)—

- (i) the licence was issued to the person before the relevant date;
- (ii) the licence was issued to the person pursuant to regulation 11(1AA)(a) or (1AB)(a) on or after the relevant date; or

- (iii) the licence was issued to the person pursuant to regulation 11(1AA)(c), (1AB)(c) or (d), (2), (3) or (3A) on or after the relevant date, and the person has held the licence for at least 1 year immediately preceding the application; and”.

4. Regulation 8A amended (pre-service course)

(1) Regulation 8A, heading, after “course”—

Add

“for taxis, public light buses and public buses”.

(2) Regulation 8A(1)—

Repeal

“public light bus”

Substitute

“taxi, public light bus or public bus”.

(3) Regulation 8A—

Repeal paragraph (2)

Substitute

“(2) Despite paragraph (1), this regulation does not apply to an applicant for a full driving licence to drive a taxi or public bus if—

- (a) the applicant falls within regulation 11(2CA)(a)(i) or (c)(i) and has applied before 1 October 2020 for the driving test relevant to the licence; or
- (b) the applicant falls within regulation 11(2CA)(a)(ii) or (c)(iii) and has applied before 1 October 2020 for the driving test that entitles the applicant to be issued with the licence under that regulation.”.

(4) Regulation 8A(3)—

Repeal

“public light bus”

Substitute

“taxi, public light bus or public bus”.

- (5) Regulation 8A(3)—

Repeal

“the year”

Substitute

“1 year”.

- (6) After regulation 8A(4)—

Add

“(4A) If the Commissioner considers that an applicant need not complete any part of a pre-service course because the applicant’s previous experience is adequate for the purpose of that part, the Commissioner may exempt the applicant from that part.”.

- (7) Regulation 8A(5)—

Repeal the definition of *commencement date*.

5. Regulation 11 amended (issue of full driving licences)

- (1) Regulation 11(1AA)(a), after the semicolon—

Add

“or”.

- (2) Regulation 11(1AA)—

Repeal subparagraph (b).

- (3) Regulation 11(1AB)—

Repeal subparagraph (b).

- (4) Regulation 11(1AB)(d)(ii)(C)—

Repeal

“(1AA)(b) or (c)”

Substitute

“(1AA)(c)”.

- (5) Regulation 11(1B)—

Repeal

“taxi, private light bus, public bus,”

Substitute

“private light bus,”.

- (6) Regulation 11(2A)—

Repeal

“taxi, private light bus, public bus,”

Substitute

“private light bus,”.

- (7) Regulation 11(2C)—

Repeal

“licence to drive a public light bus”

Substitute

“licence to drive a taxi, public light bus or public bus”.

- (8) Regulation 11(2C)—

Repeal subparagraph (b)

Substitute

“(b) the applicant satisfies the condition set out in paragraph (2CA)(a), (b) or (c).”.

- (9) After regulation 11(2C)—

Add

“(2CA) The condition is that—

- (a) if the application relates to a taxi, the applicant—
 - (i) has passed, within 3 years prior to the date of the application, a driving test in respect of taxis; or
 - (ii) 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 taxi;
- (b) if the application relates to a public light bus, the applicant—
 - (i) has passed, within 3 years prior to the date of the 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; or
- (c) if the application relates to a public bus, the applicant—
 - (i) has passed, within 3 years prior to the date of the application, a driving test in respect of public buses and private buses;
 - (ii) holds a valid full driving licence to drive a private 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 bus.”.

6. Regulation 12 amended (application for and issue of learners’ driving licences)

- (1) Regulation 12(5)—

Repeal

“his application for such licence, the applicant”

Substitute

“the application for such licence”.

- (2) Regulation 12(5)(a), English text—

Repeal

“is a holder”

Substitute

“the applicant is a holder”.

- (3) Regulation 12(5)—

Repeal subparagraph (b)**Substitute**

“(b) subject to paragraphs (7) and (8)—

- (i) the licence was issued to the applicant before the relevant date;
- (ii) the licence was issued to the applicant pursuant to regulation 11(1AA)(a) or (1AB)(a) on or after the relevant date; or
- (iii) the licence was issued to the applicant pursuant to regulation 11(1AA)(c), (1AB)(c) or (d), (2), (3) or (3A) on or after the relevant date, and the applicant

has held the licence for at least 1 year immediately preceding the application.”.

- (4) Regulation 12(6)—

Repeal

“his application”

Substitute

“the application”.

7. **Regulation 12L amended (cancellation of full driving licences issued to holders of probationary driving licences, etc.)**

- (1) Regulation 12L(1B)(b)—

Repeal

“11(1B)”

Substitute

“11(1B) or (2C)”.

- (2) Regulation 12L(1D)(b)(ii)—

Repeal

“11(2) or (2A)”

Substitute

“11(2), (2A) or (2C)”.



Secretary for Transport and Housing

19 December 2019

Explanatory Note

This Regulation amends the Road Traffic (Driving Licences) Regulations (Cap. 374 sub. leg. B) (*principal Regulations*) mainly to—

- (a) relax the eligibility requirement for applying for a learner's driving licence or a full driving licence to drive a taxi, public light bus, private light bus, public bus, private bus, medium goods vehicle, heavy goods vehicle or special purpose vehicle;
- (b) extend the mandatory pre-service course requirement to cover an applicant for a full driving licence to drive a taxi or public bus; and
- (c) empower the Commissioner for Transport to cancel a full driving licence to drive a taxi, public light bus or public bus in certain circumstances under regulation 12L of the principal Regulations.

Road Traffic Ordinance (Amendment of Section 102I(3)(b)) Order 2020

Substitute

“, franchised bus or taxi;”.

(Made by the Secretary for Transport and Housing under section 102I(4) of the Road Traffic Ordinance (Cap. 374))

1. Commencement

This Order comes into operation on 1 October 2020.

2. Road Traffic Ordinance amended

The Road Traffic Ordinance (Cap. 374) is amended as set out in section 3.

3. Section 102I amended (Commissioner may designate pre-service training schools)

(1) Section 102I(3)(b)(i)—

Repeal

“or franchised buses,”

Substitute

“, franchised buses or taxis,”.

(2) Section 102I(3)(b)(ii)—

Repeal

“or franchised buses,”

Substitute

“, franchised buses or taxis,”.

(3) Section 102I(3)(b)(iii)—

Repeal

“or franchised bus;”



Secretary for Transport and Housing

19 December 2019

Explanatory Note

This Order amends the Road Traffic Ordinance (Cap. 374) so that the proprietor of a pre-service training school under section 102I of the Ordinance must ensure that pre-service courses 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.