

L.N. 154 of 2021

**Road Traffic (Driving Licences) (Amendment)
Regulation 2021**

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Road Traffic (Driving Licences) (Amendment) Regulation 2021

(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 December 2021.

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 15.

3. Regulation 2 amended (interpretation)

Regulation 2—

Add in alphabetical order

“*authorized trainer* (經授權導師) means a person authorized under regulation 29A to be a trainer;

designated group (指定組別) means group 1, group 2 or group 3 within the meaning of regulation 20A;

private driving instructor identity plate (私人駕駛教師證) means a private driving instructor identity plate issued under regulation 27A(1);”.

4. Regulation 21A amended (application for private driving instructors' licences)

(1) Regulation 21A(1)—

Repeal

“any group of motor vehicles, he”

Substitute

“a group of motor vehicles (*target group*), the Commissioner”.

- (2) Regulation 21A(1)(a)—

Repeal

“that group; and”

Substitute

“the target group;”.

- (3) After regulation 21A(1)(a)—

Add

“(ab) determine for the target group the quota of licences to be issued to any or all of the classes of persons specified in paragraph (1A); and”.

- (4) Regulation 21A(1)(b)—

Repeal

“a notice published once”

Substitute

“notice published”.

- (5) Regulation 21A(1)(b)—

Repeal

“the issue of licences of that group”

Substitute

“licences of the target group”.

- (6) After regulation 21A(1)—

Add

“(1A) For the purposes of paragraph (1)(ab), the classes of persons are—

- (a) a person who holds a valid private driving instructor's licence in respect of a designated group;
 - (b) a person who holds a valid restricted driving instructor's licence in respect of a designated group for giving driving instruction on behalf of a driving school;
 - (c) a person who holds a valid restricted driving instructor's licence for giving driving instruction on behalf of a franchised bus company;
 - (d) a person who previously held a restricted driving instructor's licence, within 3 years immediately before the date of the relevant application made under paragraph (4), in respect of a designated group for giving driving instruction on behalf of a driving school; and
 - (e) a person who previously held a restricted driving instructor's licence, within 3 years immediately before the date of the relevant application made under paragraph (4), for giving driving instruction on behalf of a franchised bus company.”.
- (7) Regulation 21A(2)—

Repeal

“he is satisfied that the issue of private driving instructors’ licences in respect of any particular group of motor vehicles”

Substitute

“the Commissioner is satisfied that the issue of private driving instructors’ licences in respect of the target group”.

- (8) Regulation 21A(2)(c)—

Repeal

“that group of motor vehicles”

Substitute

“the target group”.

- (9) Regulation 21A(3)(a)—

Repeal

“any group of motor vehicles in respect of that invitation;
and”

Substitute

“the target group in respect of that invitation;”.

- (10) After regulation 21A(3)(a)—

Add

“(ab) any quota for specified persons for the target group
in respect of that invitation; and”.

- (11) Regulation 21A—

Repeal paragraph (5)

Substitute

“(5) A specified person may only deliver 1 application,
either as a member of the public or under any quota
for specified persons, in response to an invitation.

(6) The Commissioner may refuse to issue a private
driving instructor’s licence to a specified person who
delivers more than one application in response to an
invitation.

(7) If—

- (a) the total number of applications received in response to an invitation exceeds the number of licences proposed to be issued in respect of the invitation; or
- (b) the number of applications under any quota for specified persons received in response to an invitation exceeds the quota in respect of the invitation,

the Commissioner may determine by lot the order in which the applications are to be dealt with.

(8) In this regulation—

invitation (邀請) means an invitation by notice published under paragraph (1)(b);

quota for specified persons (指明人士配額) means a quota determined under paragraph (1)(ab);

restricted driving instructor's licence (受限制駕駛教師執照) means the driving instructor's licence of a restricted driving instructor;

specified person (指明人士) means a person of a class specified in paragraph (1A).”.

5. Regulation 22 amended (issue of driving instructors' licences)

(1) Regulation 22(1)—

Repeal

“paragraph (2)”

Substitute

“paragraphs (2), (2A), (2B), (2C) and (2D)”.

(2) Regulation 22—

Repeal paragraph (1A)

Substitute

“(1A) Without limiting paragraph (1), the Commissioner may impose a condition that the applicant may only give driving instruction on behalf of the driving school, or the organization, specified in the driving instructor’s licence.”.

(3) Regulation 22—

Repeal paragraph (2)

Substitute

“(2) A person must not be issued a driving instructor’s licence in respect of the group for which the person’s application for the licence is made—

(a) unless the person is the holder of a full driving licence to drive all classes of motor vehicles in the group, and has held the licence for at least 3 years immediately before the date of the application; and

(b) unless the person has passed the driving instructor’s test in relation to the driving instructor’s licence for which the application is made, or has been exempted by the Commissioner from attending all parts of the driving instructor’s test.”.

(4) After regulation 22(2)—

Add

“(2A) Also, a person must not be issued a driving instructor’s licence if the person has been convicted of an offence under section 36, 36A, 39, 39A, 39B, 39C, 39J, 39K, 39L, 39O(1) or 39S of the Ordinance during the 5 years immediately before the date of the application.

- (2B) In addition to paragraphs (2) and (2A), paragraphs (2C) and (2D) apply if the driving instructor's licence is not subject to the condition as may be imposed by the Commissioner under paragraph (1A) that the person may only give driving instruction on behalf of the organization specified in the licence.
- (2C) A person must not be issued a driving instructor's licence described in paragraph (2B)—
- (a) if the application is for a driving instructor's licence in respect of a designated group—unless the person is the holder of a full driving licence to drive all classes of motor vehicles in group 1 within the meaning of regulation 20A, and has held the licence for at least 6 years immediately before the date of the application; and
 - (b) unless the person has completed the driving instructor's induction course mentioned in regulation 24A, within the period specified under regulation 24A(2), for the group for which the person's application for the licence is made.
- (2D) Also, a person must not be issued a driving instructor's licence described in paragraph (2B) if the person has been convicted of an offence—
- (a) under section 37 of the Ordinance during the 5 years immediately before the date of the application; or
 - (b) under section 38 of the Ordinance during the 2 years immediately before the date of the application.”.

- (5) After regulation 22(4)—

Add

“(5) Without limiting paragraph (4), the Commissioner may impose a condition that the person may only give driving instruction on behalf of the driving school, or the organization, specified in the driving instructor’s licence.”.

6. Regulation 23 amended (renewal of driving instructors’ licences)

- (1) Regulation 23(1)—

Repeal

“paragraph (3)”

Substitute

“paragraphs (3), (3A), (3B) and (3C)”.

- (2) Regulation 23—

Repeal paragraph (3)

Substitute

“(3) For an application to renew a driving instructor’s licence in respect of a group, the Commissioner must not renew the licence unless the applicant is the holder of a full driving licence to drive all classes of motor vehicles in the group.”.

- (3) After regulation 23(3)—

Add

“(3A) Also, the Commissioner must not renew a driving instructor’s licence if the applicant has been convicted of an offence under section 36, 36A, 39, 39A, 39B, 39C, 39J, 39K, 39L, 39O(1) or 39S of the Ordinance since the driving instructor’s licence was issued to the applicant.

- (3B) In addition to paragraphs (3) and (3A), paragraph (3C) applies if the driving instructor’s licence is not subject to the condition as may be imposed by the Commissioner under regulation 22(1A) that the person may only give driving instruction on behalf of the organization specified in the licence.
- (3C) If the application to renew a driving instructor’s licence described in paragraph (3B) is made after a period of 3 years beginning on the date of the first issue of the licence, the Commissioner must not renew the licence unless the applicant has completed, within 3 years immediately before the date of the application, the driving instructor’s refresher course mentioned in regulation 24B.”.

7. Regulation 23A amended (renewal of certain driving instructors’ licences issued under regulation 22(4))

- (1) Regulation 23A(2)—

Repeal

“paragraph (4)”

Substitute

“paragraphs (4), (4A) and (4B)”.

- (2) After regulation 23A(4)—

Add

- “(4A) In addition to paragraph (4), paragraph (4B) applies if the driving instructor’s licence is not subject to the condition as may be imposed by the Commissioner under regulation 22(5) that the person may only give driving instruction on behalf of the organization specified in the licence.

- (4B) A driving instructor’s licence described in paragraph (4A) must not be renewed unless the applicant has completed, within 3 years immediately before the date of the application, the driving instructor’s refresher course mentioned in regulation 24B.”.

8. Regulations 24A and 24B added

After regulation 24—

Add

“24A. Driving instructors’ induction courses

- (1) A driving instructor’s induction course may only be provided by an authorized trainer.
- (2) The Commissioner must specify a period that commences immediately after a person’s passing of a driving instructor’s test within which a driving instructor’s induction course must be completed by the person.
- (3) To avoid doubt, the fact that a person has completed a driving instructor’s induction course for a group of motor vehicles does not exempt the person from the requirement under regulation 22(2C)(b) to complete a driving instructor’s induction course for another group of motor vehicles.
- (4) For the purposes of regulation 22(2C)(b), the date on which a person completes a driving instructor’s induction course is the date of completion of the course as specified in the course certificate issued to the person.

24B. Driving instructors’ refresher courses

- (1) A driving instructor’s refresher course may only be provided by an authorized trainer.
- (2) For the purposes of regulations 23(3C) and 23A(4B), the date on which a person completes a driving instructor’s refresher course is the date of completion of the course as specified in the course certificate issued to the person.”.

9. Regulation 27 amended (conduct of driving instructions, etc.)

- (1) Regulation 27(1)(a)—

Repeal

“and”.

- (2) After regulation 27(1)(a)—

Add

“(ab) if the person giving the driving instruction is a private driving instructor—a private driving instructor identity plate that complies with regulation 27A(4) and (5) is displayed (as required under regulation 27A(3)) in the motor vehicle in which the driving instruction is given; and”.

10. Regulation 27A added

After regulation 27—

Add

“27A. Private driving instructor identity plate

- (1) If the Commissioner issues or renews a private driving instructor’s licence, the Commissioner must also issue to the licence holder a private driving instructor identity plate after the licence holder has

- delivered to the Commissioner the information or materials in the form as the Commissioner may require for the purpose of issuing the identity plate.
- (2) A private driving instructor identity plate is valid as long as the private driving instructor's licence for which the identity plate is issued is valid.
 - (3) A private driving instructor identity plate must be displayed in a motor vehicle in which driving instruction is given—
 - (a) in such way that it is clearly visible to the person to whom the driving instruction is given and to any other persons in the motor vehicle;
 - (b) in the position as specified by the Commissioner by notice published in the Gazette; and
 - (c) in a plate holder—
 - (i) that is of the size, design and construction as specified by the Commissioner by notice published in the Gazette; and
 - (ii) that shows the registration mark of the motor vehicle.
 - (4) A private driving instructor identity plate must be of the size, design and construction, and be in the form, as specified by the Commissioner by notice published in the Gazette.
 - (5) A private driving instructor identity plate must show—
 - (a) the captions “PRIVATE DRIVING INSTRUCTOR IDENTITY PLATE” and “私人駕駛教師證”;

- (b) the full name of the private driving instructor as shown in the instructor's identity card in English and, if appropriate, in Chinese;
 - (c) a photograph of the instructor that is recent as at the issue date of the identity plate;
 - (d) the group of motor vehicles in respect of which the instructor is entitled to give driving instruction; and
 - (e) the issue date and expiry date of the identity plate.
- (6) A notice under paragraph (3) or (4) is not subsidiary legislation.”.

11. Regulation 28 amended (cancellation of driving instructors' licences)

- (1) Regulation 28(2)—

Repeal

everything after “surrender”

Substitute

“to the Commissioner the person's driving instructor's licence and (if the person holds a private driving instructor's licence) the person's private driving instructor identity plate.”.

- (2) Regulation 28(3)—

Repeal

“that has been”

Substitute

“and any private driving instructor identity plate that have been”.

12. Regulation 29A added

After regulation 29—

Add

“29A. Authorized trainers

The Commissioner may, in writing, authorize a person to be a trainer for the purposes of regulations 24A and 24B.”.

13. Regulation 30 amended (driving under instruction)

Regulation 30(3)(a)—

Repeal

“handbrake”

Substitute

“braking system”.

14. Regulation 46 amended (offences)

(1) Regulation 46(1), after “20(3),”—

Add

“27(1)(ab),”.

(2) Regulation 46(2), after “27”—

Add

“(other than paragraph (1)(ab))”.

15. Regulation 48 amended (transitional provisions)

At the end of regulation 48—

Add

- “(3) Regulation 22 as amended by the 2021 Amendment Regulation applies only in relation to an application made on or after 1 December 2021 for the issue of a driving instructor’s licence under that regulation.
- (4) Regulation 23 as amended by the 2021 Amendment Regulation applies only in relation to an application made on or after 1 December 2023 for the renewal of a driving instructor’s licence under that regulation.
- (5) Regulation 23A as amended by the 2021 Amendment Regulation applies only in relation to an application made on or after 1 December 2023 for the renewal of a driving instructor’s licence under that regulation.
- (6) In this regulation—

2021 Amendment Regulation (《2021年修訂規例》) means the Road Traffic (Driving Licences) (Amendment) Regulation 2021.”.

Frank CHAN Fan
Secretary for Transport and
Housing

10 August 2021

Explanatory Note

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

- (a) provide for a mechanism for quotas of private driving instructors' licences for certain classes of persons;
- (b) require a person applying for a driving instructor's licence (one that is not subject to the condition that the person may only give driving instruction on behalf of the organization specified in the licence) (*relevant driving instructor's licence*), among other conditions—
 - (i) not to have been convicted of a dangerous driving offence during the 5 years, or a careless driving offence during the 2 years, immediately before the date of the application;
 - (ii) to have completed a driving instructor's induction course; and
 - (iii) to be the holder of a full driving licence to drive private cars and light goods vehicles, and to have held the licence for at least 6 years immediately before the date of the application, before the person may be issued the licence;
- (c) require the completion by a person of a driving instructor's refresher course, among other conditions, before the relevant driving instructor's licence of the person may be renewed;

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- (d) provide for driving instructors' induction courses and driving instructors' refresher courses, and the authorization of trainers to provide the courses;
- (e) provide for the issue, and display and other requirements, regarding private driving instructor identity plates; and
- (f) make it an offence under regulation 46 of the principal Regulations to contravene the requirements regarding private driving instructor identity plates.