

LEGISLATIVE COUNCIL BRIEF

Road Traffic Ordinance
(Chapter 374)

ROAD TRAFFIC (AMENDMENT) (AUTONOMOUS VEHICLES) BILL 2022

INTRODUCTION

At the meeting of the Executive Council on 29 November 2022, the Council ADVISED and the Chief Executive ORDERED that the Road Traffic (Amendment) (Autonomous Vehicles) Bill 2022 (“the Bill”) at A **Annex A** should be introduced into the Legislative Council (“LegCo”).

JUSTIFICATIONS

2. Autonomous vehicles (“AV”) technology has the promising advantages of enhancing road safety, optimising the use of limited road space, and reducing car accidents arising from human errors. Different regions across the world have also been conducting road testings. The Hong Kong Smart City Blueprint published in December 2017 and the Smart Mobility Roadmap for Hong Kong in July 2019 promulgated, among others, the facilitation of AV trial in Hong Kong. In the Smart City Blueprint 2.0 published in December 2020, one of the Smart Mobility initiatives is to facilitate the technology advancement and industry development in vehicle-to-everything (“V2X”) and AVs with a vision to materialising AV trial and use on public roads in Hong Kong.

3. “AV” generally means a motor vehicle equipped with an autonomous vehicle system (“AV system”) which enables the operation or use of the motor vehicle without the control of, or monitoring by, a natural person. The AV system allows the AV to be operated either at conditional driving automation, high driving automation or full driving automation. However, the existing regulatory framework under the Road Traffic Ordinance (Cap. 374) (“RTO”) and its subsidiary legislation serves to regulate conventional motor vehicles, which presumes the presence of a driver (who is a natural person) on board the vehicles at all times.

4. Since 2017, the Transport Department (“TD”) has been facilitating AV trials by the industry via the issue of Movement Permits (“MPs”) in accordance with the Road Traffic (Registration and Licensing of Vehicles) Regulations (Cap. 374E). Under this approach, MPs are issued to authorise trials of individual AVs in Hong Kong, and customised conditions were individually imposed on a case-by-case basis.¹

5. With fast-changing development of AVs over the years, the use of MPs for trial of AVs has its limitations and need to be addressed in order to facilitate wider trial and use of AVs in Hong Kong.² It is imperative to put in place a new regulatory framework for AVs such that the further trial and wider use of AVs would not be bound by requirements which cater for the conventional vehicles. Specifically, the new regulatory framework has to be flexible enough to embrace the evolving AV technologies, while allowing wider and more flexible trial and use of AVs as a new mode of transport in a safe and orderly manner in Hong Kong.

The Proposal

6. Currently, the regulation of road traffic and the use of vehicles and roads are governed by the RTO and its subsidiary legislation. We **propose** amending the RTO and also empowering the Secretary for Transport and Logistics (“the Secretary”) to make new subsidiary legislation to establish a suitable regulatory regime to facilitate the trial and specified use of AVs (“AV Regulation”). The legislative proposal is detailed in the ensuing paragraphs.

¹ As at end November 2022, Movement Permits (“MPs”) were issued for 13 AVs to conduct trials at nine locations, covering university campus, cultural district, Science Park and industrial estate, etc.

² For instance, MPs are only issued for vehicles which are not licensed and not normally used on roads; for AVs which are designed to be regularly used on roads, in the long run, it is not appropriate to conduct trials of their use, or allow wider use on roads, through issuing for them MPs. Also, vehicles issued with MPs are not allowed to carry passengers (no matter whether or not the passenger-carrying service is for hire or reward). However, one of the major application of AVs in future is to carry passengers, and likely for hire or reward. MPs are therefore not the appropriate tool for the trial of passenger-carrying AVs. In addition, under specific circumstances, an AV and/or its operator may fail to meet certain existing legal requirements (e.g. vehicle standard and driving requirements), and thus the AV concerned is not allowed to run on roads in Hong Kong. Power to disapply certain legislative provisions to deal with these circumstances is essential to enabling the trials and wider use of AVs.

(a) Regulatory Framework to Enable Trial and Use of AVs

7. All AVs will still be registered and licensed under the existing registration and licensing regime, depending on the class of vehicles under Schedule 1 to the RTO to which they belong. Classification, registration and licensing rest with TD. To facilitate trial and specified use of AV, we **propose** to introduce an enabling framework, as follows –

- (a) Autonomous Vehicle Pilot Licence (“pilot licence”): This is issued for an AV scheme under which there may be multiple AVs. Any organisation or individual who intends to test or use AVs on Hong Kong roads must first apply for TD’s approval in the form of a “pilot scheme”. The applicant will submit details of the pilot scheme, for example, number of AVs, usage purpose, maintenance requirements, training requirements, etc. A person who is issued a pilot licence is regarded as a “pilot proprietor”; and
- (b) Autonomous Vehicle Certificate (“AV certificate”): An AV certificate will be issued for each AV in a pilot scheme. For an AV to be issued an AV certificate, it must go through vehicle examination and testing similar to conventional vehicles, in which the design, construction and performance of the AV under the pilot scheme would be scrutinised and inspected in accordance with the requirements specified in the RTO and its subsidiary legislation (including the AV Regulation) as well as a Code of Practice (“the Code”) ³ to be issued by the Commissioner for Transport (“C for T”).

8. With a pilot licence for the relevant AV scheme and an AV certificate, an AV may then be used on roads under the AV scheme. All conditions of the pilot licence and AV certificate must be complied with. For the pilot scheme involving multiple AVs, a pilot licence with multiple AV certificates could be issued.

³ The Code will set out the detailed technical and operational requirements for the trial and use of AVs, such as vehicle design and construction, network system security, vehicle maintenance, training, record-keeping, etc. TD will keep abreast of the latest development of AV technology and update the Code from time to time as necessary.

(b) AV Regulation

9. We **propose** empowering the Secretary to make the AV Regulation to provide for the issue of pilot licences and AV certificates and other relevant details. We will also provide for a review mechanism for certain decisions of C for T in relation to pilot licences and AV certificates, as well as provide for matters such as insurance coverage, record keeping of journey data, reporting of incidents or accidents, investigation, etc. in the AV Regulation. We will review and further amend the AV Regulation in future if necessary to cope with the rapidly developing AV technology.

(c) Power to Disapply Legislative Provisions

10. AV technology is rapidly evolving in recent years, and yet there is no universal standard / practice governing the use of AVs on roads at this stage. There is a lack of commonly adopted legislative practice overseas at this stage, and it is not practicable to codify all the detailed technical and operational requirements. We will, in light of experience gained and knowledge accumulated through the AV pilot schemes, devise a full-blown AV regime in the longer run.

11. TD has conducted a preliminary study of existing provisions under the RTO regime, and gathered that there might be certain legal requirements which may hinder the use of AVs. Under certain circumstances, an AV and/or its operator may be unable to comply with certain existing legal requirements, for instance –

- (a) Regulation 44(1) of the Road Traffic (Traffic Control) Regulations (Cap. 374G) prohibits a person in charge of a motor vehicle on a road from vacating the vehicle without having stopped the engine and set the brake. Therefore, the operator of an AV cannot get off the AV for a change from manual to autonomous operation without first switching off the engine and applying the brake;
- (b) Part III of the Road Traffic (Safety Equipment) Regulations (Cap. 374F) requires the installation of seat belts at the drivers' seats of different classes of vehicles and the wearing of seat belts by drivers. If the driver/backup operator of an AV is not present in the vehicle, the driver cannot meet the relevant seat belt wearing requirement; and

- (c) Section 2 of the Road Traffic (Public Light Buses: Limit on Number) Notice 2016 (Cap. 374X) sets out the limit on the number of “*public light buses*”. The total number of vehicles that can be registered as public light buses is limited to 4 350, and the number of public light buses at present has already reached the upper limit. Therefore, if the pilot scheme applicant plans to use an autonomous light bus to provide public passenger services in designated areas for hire and reward, the applicant will not be able to obtain a public light bus licence under the current registration and licensing regime.

12. We **propose** making legislative amendments to allow more flexibility in AV trial or specified use, so that they will not be hindered by the technical incompatibilities between the existing legal provisions and the development of technology and operation mode of AVs. Regarding road-traffic-related Ordinances⁴, we **propose** empowering C for T to make disapplication notices **administratively, on a case-by-case basis**, in relation to **individual** pilot schemes or AVs on a need basis. When exercising this power, due consideration of all relevant factors (including the safety of other road users, etc.) will be given by C for T, and consultation with the concerned Director of Bureau charged with responsibility for the relevant road-traffic-related provision is required. C for T will also make reference to the views of a vetting committee⁵ with due consideration given to the necessity and proportionality of exercising such power. To enhance transparency, we **propose** adopting suitable measures, including publishing the disapplication notices and their details on the TD’s website.

13. As for cases involving Ordinances that are not directly related to roads and traffic but disapplications may be required in relation to AVs under a pilot scheme (including **generally** and **case-by-case**) or for circumstances that require disapplication of road-traffic-related Ordinances **generally**, we **propose** empowering the Secretary to provide for disapplications **legislatively** in the AV Regulation. For matters not under the Secretary’s responsibility, the Secretary must consult the

⁴ Road-traffic-related ordinances include the RTO and its subsidiary legislation, the Road Tunnels (Government) Ordinance (Cap. 368), the Fixed Penalty (Traffic Contraventions) Ordinance (Cap. 237), etc.

⁵ We **propose** setting up a vetting committee, which is of an administrative nature, and will comprise members from relevant government departments, to advise the TD on the proposed disapplications in respect of each pilot scheme.

concerned Director of Bureau charged with responsibility for the relevant legislative provision before disapplying the provision.

14. We also **propose** empowering the Secretary to make special provisions in the AV Regulation relating to the registration or licensing, or limits of number of vehicles, in the case of AVs.

(d) Liabilities/offences and penalties

15. As mentioned in paragraph 7 above, the existing registration and licensing regime for motor vehicles also apply to AVs. On this premise, the liabilities of registered owners under various Ordinances⁶ are also generally applicable in the case of AVs, unless otherwise specified in the law or disappplied as mentioned above.

16. Despite the change in the modes of operation and driving, in principle there will still be legal liability on the driver in the context of AVs. Indeed, the definition of “*driver*” in section 2 of the RTO⁷ does not refer to a person inside a vehicle. Therefore, we consider that the definition in its current form could also apply to the operator who stays inside or nearby the AVs, or in a remote control room operating the AV. In this connection, such persons also assume the existing liabilities of a “*driver*” when operating the AVs. Moreover, in case the statutory definition of “*driver*” cannot fit into the operation of a particular AV project, we **propose** empowering the Secretary to provide for the interpretation of a reference to a “*driver*” (e.g. a backup operator, a pilot proprietor, the owner of the AV, etc.) in any Ordinance, through legislative means. Consultation with the concerned Director of Bureau charged with responsibility for the statutory provision is necessary before making the interpretation.

17. We also **propose**⁸ that the AV Regulation may create offences,

⁶ For instance, section 24 of the RTO specifies that a vehicle in registration must fall within the meaning of “*roadworthy*” as defined in section 2 of the RTO. The owner must ensure that the vehicle meets the legal requirements for a successful vehicle registration.

⁷ Section 2 of the RTO stipulates that “*driver, in relation to any vehicle (other than a rickshaw), vehicle of the North-west Railway, or tram, means any person who is in charge of or assisting in the control of it and, in relation to a rickshaw, means any person pulling a rickshaw.*”

⁸ Section 15 of the RTO stipulates that “*Any regulation made under section 6, 6A, 7, 8, 9, 10, 11, 12, 12A, 12I or 131 may provide that a contravention thereof*

punishable by a fine not exceeding level 4 (\$25,000) and imprisonment not exceeding two years. The same maximum level of penalty is also set in the Bill for the use of AV which is not conforming with a pilot licence or AV certificate. In view that a contravention of the concerned provision in the Bill and certain provisions of the AV Regulation may lead to serious consequence endangering the safety of other road users, it is necessary to pitch the penalties at a sufficient level for the relevant offences to yield strong deterrent effect.⁹

Implementation Plan

18. Subject to the passage of the Bill by LegCo, the Amendment Ordinance will come into operation on a day to be appointed by the Secretary by notice published in the Gazette. In setting the commencement date, we will take into account the timing for the AV Regulation to come into effect, and the completion of TD's associated preparatory work after the passage of the Bill. Our target is to effect the regulatory regime in 2023.

19. It is worthy to point out that the implementation of the regulatory framework is particularly important to facilitating the industry to conduct AV trial or specified use, including the autonomous transportation system that the Airport Authority Hong Kong is planning to build for use on the "Airportcity Link". This relatively large-scale project may then be tested and operated. The autonomous transportation system is targeted to be commissioned in 2024, when it will first connect the Airport Island and the Hong Kong Boundary Crossing Facilities Island; the plan is for it to be extended to Tung Chung town centre in 2027. Another example is the project under trial in Science Park; the project may benefit from the implementation of the regulatory regime, such that as the project develops, the AV may be adopted for use not only in Science Park, but for commuting to neighbouring areas (e.g. residential areas nearby).

OTHER OPTIONS

20. The proposals cannot be implemented without legislative amendments. There are no other options.

*shall be an offence, and may provide penalties for such offence **not exceeding a fine at level 4 and imprisonment for 9 months.***" (emphasis added)

⁹ The proposed maximum penalties are comparable to those of causing grievous bodily harm by dangerous driving on summary conviction.

THE BILL

21. The main provisions of the Bill are as follows –
- (a) **Clause 3** of the Bill amends the RTO to amend existing definitions related to a village vehicle, and add new definitions for the interpretation of new provisions related to AVs (including “autonomous mode”, “autonomous vehicle” and “AV system”);
 - (b) **Clause 4** of the Bill adds a new section 2A to the RTO to ensure that AVs may fall under a vehicle class in Schedule 1 to the RTO for registration and licensing purposes;
 - (c) **Clause 5** of the Bill adds a new Part 15 (new sections 132 to 151) to the RTO to provide for the pilot use of AVs -
 - (i) Division 1 of Part 15 (new sections 132 to 135) defines terms for the interpretation of that Part. Key definitions include “AV certificate”, “pilot AV”, “pilot licence”, “pilot proprietor”, “Pilot Regulation”, “pilot scheme”, “pilot use” and “use”;
 - (ii) Division 2 of Part 15 (new sections 136 and 137) restricts the use of AVs to a pilot use and provides for a due diligence defence for pilot proprietors or AV owners;
 - (iii) Division 3 of Part 15 (new sections 138 to 145) empowers the Secretary to make regulations. The regulations may—
 - (A) provide for the application, issue, etc. of pilot licences and AV certificates;
 - (B) provide for the disapplication of provisions of the RTO relating to registration or licensing or limits of number of vehicles, to allow flexibility in the context of AVs;
 - (C) provide for the interpretation of references to a “driver” in any Ordinances, to deal with circumstances under which AVs are operated;
 - (D) provide for disapplications of legislative provisions to pilot matters, with a view to facilitating the pilot use of AVs as necessary;
 - (E) prescribe the fees that may be charged for pilot licences, AV certificates and other matters; and

- (F) create offences punishable by a fine not exceeding level 4 and imprisonment not exceeding two years;
- (iv) Division 4 of Part 15 (new sections 146 to 149) empowers the C for T to administratively disapply legislative provisions relating to road traffic to pilot matters, with a view to facilitating the pilot use of AVs in particular cases;
- (v) Division 5 of Part 15 (new sections 150 and 151) provides for the issue of codes of practice by the C for T;
- (d) **Clause 6** of the Bill makes a minor technical amendment to Schedule 1 to the RTO; and
- (e) **Clause 7** of the Bill adds a new Schedule 14 to the RTO to define the meaning of “autonomous”, by reference to international and regional standards.

B The existing provisions being amended are at **Annex B**.

LEGISLATIVE TIMETABLE

22. The legislative timetable is as follows –

Publication in the Gazette	2 December 2022
First Reading and commencement of Second Reading debate	14 December 2022
Resumption of Second Reading debate, committee stage and Third Reading	To be notified

IMPLICATIONS OF THE PROPOSAL

23. The Bill is in conformity with the Basic Law, including provisions concerning human rights. The financial and civil service, economic and sustainability implications of the Bill are set out at **Annex**

C **C**. The proposal has no environmental, family, or gender implications. The Bill will not affect the current binding effect of the RTO and its subsidiary legislation.

PUBLIC CONSULTATION

24. The TD has set up the “Technical Advisory Committee on the Application of Autonomous Vehicle Technologies in Hong Kong” in November 2019 to explore with the industry, representatives of relevant research institutions and experts how best to draw up an appropriate regulatory framework for a wider trial and use of AVs in Hong Kong. Committee members supported our proposal, noting that they would be beneficial to the development of AVs in Hong Kong. On 21 May 2021 and 15 July 2022 respectively, we consulted the LegCo Panel on Transport on the legislative proposal, and members of the Panel generally supported the proposal. We consulted the Transport Advisory Committee (“TAC”) on 25 May 2021 and 25 October 2022 respectively. TAC members welcomed the proposal in general.

PUBLICITY

25. A press release will be issued on the day when the Bill is gazetted. A spokesperson will be available to answer media enquiries.

ENQUIRIES

26. Any enquiries to this brief can be addressed to Ms Vivien LI, Principal Assistant Secretary for Transport and Logistics 2 at 3509 8192.

Transport and Logistics Bureau
30 November 2022

**Road Traffic (Amendment) (Autonomous Vehicles) Bill
2022**

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Pilot Use of AVs

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A BILL

To

Amend the Road Traffic Ordinance to provide for a flexible regulatory regime for the pilot use of autonomous vehicles and to facilitate attaining the object of researching into, testing and evaluating autonomous vehicle technology and the wider use of autonomous vehicles in Hong Kong (including empowering the Secretary for Transport and Logistics to make relevant regulations); and to make related amendments.

Enacted by the Legislative Council.

1. Short title and commencement

- (1) This Ordinance may be cited as the Road Traffic (Amendment) (Autonomous Vehicles) Ordinance 2022.
- (2) This Ordinance comes into operation on a day to be appointed by the Secretary for Transport and Logistics by notice published in the Gazette.

2. Road Traffic Ordinance amended

The Road Traffic Ordinance (Cap. 374) is amended as set out in sections 3 to 7.

3. Section 2 amended (interpretation)

- (1) Section 2, definition of *driver operated village vehicle*, after “only”—
Add
 “, but does not include one that is an AV”.

- (2) Section 2, definition of *golf cart*, after “driver”—

Add

“, but does not include one that is an AV”.

- (3) Section 2, definition of *pedestrian controlled village vehicle*, after “passenger”—

Add

“, but does not include one that is an AV”.

- (4) Section 2—

Add in alphabetical order

“*autonomous mode* (自動模式), in relation to an AV, means the mode under which the AV is being operated by its AV system;

autonomous vehicle (自動駕駛車輛)—

- (a) means a motor vehicle that is autonomous within the meaning of Schedule 14; but
- (b) does not include one that is constructed or adapted for use primarily on a road, or any part of a road, that is intended for use by pedestrians (including those parts for pedestrian crossing);

AV (自動車) means an autonomous vehicle;

AV system (自動車系統) means a system (including hardware, software and computer programmes) that enables the operation of a motor vehicle without the monitoring by, or control of, a natural person;”.

4. Section 2A added

After section 2—

Add

“2A. AV falling within classes of vehicle specified in Schedule 1

If, but for this section, an AV would not fall within a class of vehicle specified in Schedule 1 solely because the AV is not constructed, adapted or intended for the carriage of a driver, then for the purposes of this Ordinance and any other Ordinances, the AV is taken to be a vehicle of that class.”.

5. Part 15 added

After Part 14—

Add

“Part 15

Pilot Use of AVs

Division 1—Interpretation

132. Interpretation of Part 15

In this Part—

AV certificate (自動車證書) means a certificate issued under a provision of the Pilot Regulation made pursuant to section 139(1)(a)(ii);

AV equipment (自動車裝備) means any equipment (including hardware, software and computer programmes) that relates to the operation of an AV (whether installed in or on the AV);

AV scheme (自動車計劃) means a scheme under which AVs are operated on roads;

backup operator (後備操作員), in relation to an AV, means an in-vehicle backup operator or remote backup operator;

disapplication notice (不適用條文公告) means a notice made under section 146(1)(a), (b) or (c);

in-vehicle backup operator (車上後備操作員), in relation to an AV, means a natural person in or on the AV who—

- (a) monitors the AV and its surrounding with a view to, if necessary, overriding the AV system of the AV by taking control (in whole or in part) of the AV; or
- (b) when the AV ceases to operate in autonomous mode, manually operates the AV;

non-pilot use (非先導使用), in relation to an AV, means a use of the AV that is not a pilot use;

passenger (乘客), in relation to an AV, means a person in or on the AV who has no role in monitoring or operating the AV other than summoning the AV or inputting a destination;

pilot AV (先導自動車) means an AV for which there is a valid AV certificate;

pilot licence (先導牌照) means a licence issued under a provision of the Pilot Regulation made pursuant to section 139(1)(a)(i);

pilot matter (先導事宜) means—

- (a) a pilot scheme or type of pilot scheme;
- (b) a pilot participant or type of pilot participant;
- (c) a pilot AV or type of pilot AV;
- (d) a trailer towed or to be towed by a pilot AV or type of such a trailer;
- (e) a passenger in or on a pilot AV or type of such a passenger;
- (f) an AV system of a pilot AV or type of such an AV system; or

(g) any AV equipment or type of AV equipment;

pilot object (先導目標) means the object of researching into, testing and evaluating—

- (a) technologies that relate to the design, construction or operation of AVs; and
- (b) the use of AVs on roads;

pilot participant (先導參與者) means—

- (a) a pilot proprietor; or
- (b) any other person participating in a pilot scheme, such as—
 - (i) the manufacturer of a pilot AV under the scheme or the manufacturer of the AV system of such a pilot AV; or
 - (ii) a backup operator of a pilot AV under the scheme;

pilot proprietor (先導營辦人)—

- (a) in relation to a pilot licence, means the person who is issued the licence; and
- (b) in relation to—
 - (i) a pilot scheme; or
 - (ii) a pilot AV under a pilot scheme or an AV certificate for such a pilot AV,

means the person who is issued the pilot licence to carry out the scheme;

Pilot Regulation (《先導規例》) means regulations made under section 138;

pilot scheme (先導計劃) means an AV scheme for which there is a valid pilot licence;

pilot use (先導使用)—see section 135;

remote backup operator (遙距後備操作員), in relation to an AV, means a natural person who—

- (a) is not in or on the AV; but
- (b) remotely monitors the AV and its surrounding with a view to, if necessary, overriding the AV system of the AV by taking control (in whole or in part) of the AV;

road (道路) includes a private road;

traffic provision (交通條文) means a provision of this Ordinance or any of the following Ordinances—

- (a) the Tramway Ordinance (Cap. 107);
- (b) the Public Bus Services Ordinance (Cap. 230);
- (c) the Fixed Penalty (Traffic Contraventions) Ordinance (Cap. 237);
- (d) the Fixed Penalty (Criminal Proceedings) Ordinance (Cap. 240);
- (e) the Road Tunnels (Government) Ordinance (Cap. 368);
- (f) the Road Traffic (Driving-offence Points) Ordinance (Cap. 375);
- (g) the Tai Lam Tunnel and Yuen Long Approach Road Ordinance (Cap. 474);
- (h) the Tsing Ma Control Area Ordinance (Cap. 498);
- (i) the Discovery Bay Tunnel Link Ordinance (Cap. 520);
- (j) the Mass Transit Railway Ordinance (Cap. 556);
- (k) the Tsing Sha Control Area Ordinance (Cap. 594);

use (使用), in relation to an AV—see section 134.

133. Amendment of Schedule 14

- (1) The Secretary may by notice published in the Gazette amend Schedule 14, only for the purpose of updating the meaning of autonomous by reference to international or regional standards.
- (2) A notice under subsection (1) may contain incidental, consequential, supplemental, transitional or savings provisions that are necessary or expedient in consequence of an amendment made by the notice.

134. Use of AVs

- (1) An AV is being used when it is in operation—
 - (a) whether by a backup operator or its AV system, or both; and
 - (b) whether in autonomous mode or not.
- (2) If there is a backup operator for an AV that is being used, the operator is taken to be using the AV.
- (3) If an AV is used, in addition to the person who actually permitted the use, for the purposes of section 136(1)(b), the use is also taken to have been permitted by the following person—
 - (a) for a pilot AV—
 - (i) the pilot proprietor; or
 - (ii) if the pilot proprietor is not the registered owner of the AV—both the pilot proprietor and the registered owner;
 - (b) for an AV that is not a pilot AV—its owner (whether a registered owner or not).
- (4) However—

- (a) a person in or on an AV is not taken to be using the AV if the person is a passenger in or on the AV and is not a backup operator of the AV;
- (b) a person is not taken to be using an AV only because the person is the owner of the place in which the AV is used; and
- (c) a person is not taken to have permitted the use of an AV only because the person is—
 - (i) a passenger in or on the AV; or
 - (ii) the owner of the place in which the AV is used.

135. What is pilot use

- (1) The use of an AV is a pilot use if—
 - (a) the AV is a pilot AV under a pilot scheme; and
 - (b) the use conforms with—
 - (i) the pilot licence of the scheme and the conditions of the licence; and
 - (ii) the AV certificate of the AV and the conditions of the certificate.
- (2) However, a pilot use does not include the towing of a trailer by a pilot AV unless—
 - (a) the registration mark of the trailer is specified in a condition of the AV certificate of the AV; and
 - (b) the towing conforms with—
 - (i) the pilot licence of the relevant pilot scheme and the conditions of the licence; and
 - (ii) the AV certificate and the conditions of the certificate.

Division 2—Use of AVs

136. Restriction on use of AVs

- (1) No person may—
 - (a) use an AV; or
 - (b) permit the use of an AV, on a road, unless the use is a pilot use.
- (2) Despite subsection (1), a person may use an AV on a road if—
 - (a) a movement permit is issued under regulation 53 of the Road Traffic (Registration and Licensing of Vehicles) Regulations (Cap. 374 sub. leg. E) for the AV; and
 - (b) the use conforms with the movement permit and the conditions of the permit.
- (3) If a person contravenes subsection (1)(a) or (b), the person commits an offence and is liable on conviction to a fine at level 4 and to imprisonment for 2 years.

137. Defence for pilot proprietors or owners of AVs

- (1) If a pilot proprietor of a pilot AV or the owner (whether a registered owner or not) of an AV (*defendant*)—
 - (a) is taken to have permitted a non-pilot use of the AV because of section 134(3)(a) or (b); and
 - (b) is charged with an offence under section 136(3) for contravening section 136(1)(b),
 it is a defence for the defendant to show that the defendant had a specified excuse for the contravention.
- (2) A defendant is taken to have shown that the defendant had a specified excuse for contravening section 136(1)(b) if—

- (a) sufficient evidence is adduced to raise an issue that the defendant had such an excuse; and
 - (b) the contrary is not proved by the prosecution beyond reasonable doubt.
- (3) For the purposes of this section, a defendant had a specified excuse for contravening section 136(1)(b) if—
- (a) the defendant exercised all due diligence to prevent the non-pilot use of the relevant AV; and
 - (b) the non-pilot use happened without the defendant's consent or connivance.

Division 3—Pilot Regulation

138. Secretary may make regulations

The Secretary may make regulations to—

- (a) regulate the carrying out of AV schemes on a pilot basis;
- (b) provide for matters that would facilitate attaining the pilot object; and
- (c) provide for any other matters related to paragraph (a) or (b).

139. Pilot licences and AV certificates

- (1) The Pilot Regulation may provide for—
- (a) the application, issue, renewal, replacement, variation, transfer, suspension or cancellation of—
 - (i) licences to carry out AV schemes; and
 - (ii) certificates for AVs under such AV schemes; and
 - (b) the conduct of pilot participants.

- (2) The Pilot Regulation may provide for the publication of notices to notify the public of information about pilot licences.
- (3) A notice mentioned in subsection (2) is not subsidiary legislation.

140. Registration, licensing, etc.—special provisions for AVs

- (1) The Pilot Regulation may—
- (a) exempt an AV from a specified provision;
 - (b) disapply a specified provision to or in relation to an AV; or
 - (c) provide for the application of a specified provision to or in relation to an AV with exceptions, modifications or adaptations.
- (2) Without limiting subsection (1), a provision of the Pilot Regulation made pursuant to that subsection may empower the Commissioner, in relation to a particular AV or a particular type of AV, to—
- (a) waive or modify any requirement under this Ordinance for registration or licensing; or
 - (b) refuse, suspend or cancel registration or licensing under specified circumstances.
- (3) In this section—
- specified provision* (指明條文) means a provision of this Ordinance relating to registration or licensing of vehicles or limits of the number of vehicles.

141. References to driver

- (1) Without affecting section 146(1), the Pilot Regulation may provide for how a reference to a driver in any

- provision of this Ordinance or of any other Ordinance is to be interpreted for an AV.
- (2) An interpretative provision may specify that a reference to a driver is taken to be a reference to any one or more of the following—
- (a) no person;
 - (b) a backup operator;
 - (c) a pilot proprietor;
 - (d) the owner of the relevant AV;
 - (e) any other person specified in the provision.
- (3) If the Secretary is not charged with responsibility for the relevant provision, the Secretary must consult the Director of Bureau charged with responsibility for the provision before making an interpretative provision in respect of the provision.
- (4) An interpretative provision may specify different persons for different circumstances, and may be made—
- (a) generally; or
 - (b) in relation to any particular case, including in relation to (whether in whole or in part) a particular pilot matter.
- (5) Unless the Secretary makes an interpretative provision that provides otherwise—
- (a) a reference to a driver in a provision of this Ordinance or any other Ordinance (*driver provision*) is, for an AV for which there is a backup operator, taken to be a reference to the backup operator; and

- (b) the backup operator of an AV is, when the AV is in operation, taken to be driving the AV for the purposes of the driver provision.
- (6) If the Secretary makes an interpretative provision—
- (a) a reference to a driver in the interpreted provision is to be interpreted in accordance with the interpretative provision; and
 - (b) a person who is the driver of an AV because of the interpretative provision is, when the AV is in operation, taken to be driving the AV for the purposes of the interpreted provision.

- (7) In this section—

interpretative provision (釋義條文) means a provision of the Pilot Regulation made pursuant to subsection (1);

interpreted provision (經詮釋條文) means a provision containing a reference to a driver that is interpreted by an interpretative provision;

reference to a driver (對司機的提述), in relation to a vehicle, includes a reference to the driver of the vehicle or a reference similar to a reference to the driver of the vehicle.

142. Disapplication provisions

- (1) Without affecting section 146(1), if the Secretary is satisfied that the requirements in subsection (2) are met, the Pilot Regulation may, with or without conditions—
- (a) exempt a pilot matter from a provision of this Ordinance or any other Ordinance;
 - (b) disapply a provision of this Ordinance or any other Ordinance to or in relation to a pilot matter; or
 - (c) provide for the application of a provision of this Ordinance or any other Ordinance to or in relation

- to a pilot matter with exceptions, modifications or adaptations (*modified application*).
- (2) The requirements are that—
- (a) the exemption, disapplication or modified application would not undermine the safety of the pilot matter and would not endanger any person or thing;
 - (b) if the provision concerns safety—there is an alternative measure that would, as regards achieving safety, be at least as effective as the requirements in the provision; and
 - (c) taking into account the scope and nature of the relevant pilot scheme or the nature or technical capabilities of the relevant AV, any of the following circumstances exists—
 - (i) compliance with, or application of, the provision would hinder the attainment of the pilot object or is not necessary;
 - (ii) without the exemption, disapplication or modified application, compliance with, or application of, the provision would be impractical.
- (3) If the Secretary is not charged with responsibility for the relevant provision, the Secretary must consult the Director of Bureau charged with responsibility for the provision before making a disapplication provision for the provision.
- (4) A disapplication provision may be made—
- (a) generally; or

- (b) in relation to any particular case, including in relation to (whether in whole or in part) a particular pilot matter.
- (5) If a person fails to comply with a condition in a disapplication provision, the relevant exemption, disapplication or modified application does not, while the non-compliance continues, operate in the person's favour.
- (6) If, because of subsection (5), the person commits an offence because of the non-compliance, the person may be proceeded against for that offence.
- (7) In this section—
- disapplication provision* (改變效力條文) means a provision of the Pilot Regulation made pursuant to subsection (1)(a), (b) or (c).

143. General provisions of Pilot Regulation

The Pilot Regulation may provide for the following matters—

- (a) the general control of the use of AVs;
- (b) the conduct of any persons (whether pilot participants or not) in relation to the use of AVs;
- (c) the construction and maintenance of AVs, AV systems and AV equipment;
- (d) the protection of third parties against risks of personal injury or property damage arising out of the use of AVs;
- (e) the prohibition of interference with AVs, AV systems and AV equipment;
- (f) the maintenance of records relating to AVs, AV systems and AV equipment;

- (g) the reporting and investigation of incidents or accidents that involve AVs, AV systems and AV equipment;
- (h) the review by a Transport Tribunal of decisions made under the Pilot Regulation.

144. Fees

- (1) The Pilot Regulation may—
 - (a) prescribe the fees that may be charged for—
 - (i) the application for and the issue, renewal and replacement of pilot licences and AV certificates; and
 - (ii) any matter arising under the Pilot Regulation; and
 - (b) authorize the Commissioner to waive, exempt, reduce or refund the whole or any part of such fees.
- (2) For the purposes of subsection (1)(a)—
 - (a) different fees may be prescribed for different types of pilot licences or different types of AV certificates; and
 - (b) different fees may be prescribed for different circumstances.
- (3) A fee—
 - (a) may be prescribed at levels which provide for the recovery of expenditure incurred or likely to be incurred by the Government in relation generally to the administration of matters relating to the pilot object; and

- (b) need not be limited by reference to the amount of administrative or other costs incurred or likely to be incurred for any particular matter.

145. Penalties for offences

The Pilot Regulation may provide that a contravention of any provision of the Regulation is an offence punishable by a fine at level 4 and imprisonment for 2 years.

Division 4—Disapplication Notices (Traffic Provisions)**146. Commissioner may make disapplication notices**

- (1) If the Commissioner is satisfied that the requirements in subsection (2) are met, the Commissioner may by notice, with or without conditions—
 - (a) exempt a pilot matter from a traffic provision;
 - (b) disapply a traffic provision to or in relation to a pilot matter; or
 - (c) provide for the application of a traffic provision to or in relation to a pilot matter with exceptions, modifications or adaptations (*modified application*).
- (2) The requirements are that—
 - (a) the exemption, disapplication or modified application would not undermine the safety of the pilot matter and would not endanger any person or thing;
 - (b) if the provision concerns safety—there is an alternative measure that would, as regards achieving

- safety, be at least as effective as the requirements in the provision; and
- (c) taking into account the scope and nature of the relevant pilot scheme or the nature or technical capabilities of the relevant AV, any of the following circumstances exists—
- (i) compliance with, or application of, the provision would hinder the attainment of the pilot object or is not necessary;
 - (ii) without the exemption, disapplication or modified application, compliance with, or application of, the provision would be impractical.
- (3) If the Secretary is charged with responsibility for the traffic provision, the Commissioner must consult the Secretary before making a disapplication notice for the provision.
- (4) If the Secretary is not charged with responsibility for the traffic provision, the Commissioner must, through the Secretary, consult the Director of Bureau charged with responsibility for the provision before making a disapplication notice for the provision.
- (5) A disapplication notice may be made in relation to any particular case, including in relation to (whether in whole or in part) a particular pilot scheme or a particular pilot matter under a pilot scheme.
- (6) To avoid doubt, the Commissioner's power under this section is in addition to and does not affect the Commissioner's power under any other traffic provision to disapply any provision or to grant any exemption.

147. Variation, suspension or revocation of disapplication notices

- (1) The Commissioner may vary, suspend or revoke a disapplication notice for any reason, including a reason specified in subsection (2).
- (2) The reasons are that—
 - (a) the safety of the pilot matter would be undermined or it would endanger any person or thing if the disapplication notice is not so varied, suspended or revoked; and
 - (b) a condition in the disapplication notice has not been complied with.
- (3) A variation or revocation of a disapplication notice under subsection (1) includes varying or revoking a condition in the notice or attaching any new condition to the notice.

148. Failure to comply with conditions in disapplication notices

- (1) If a person fails to comply with a condition in a disapplication notice, the relevant exemption, disapplication or modified application does not, while the non-compliance continues, operate in the person's favour.
- (2) If, because of subsection (1), the person commits an offence because of the non-compliance, the person may be proceeded against for that offence.

149. Publication of disapplication notices

- (1) A disapplication notice must be published on the website of the Transport Department.
- (2) If the Commissioner varies, suspends or revokes a disapplication notice (other than varying or revoking a condition in the notice)—

- (a) the Commissioner must publish a notice of the variation, suspension or revocation (*notification notice*) on the website of the Transport Department; and
 - (b) in the case of a variation—the notification notice must state the details of variation.
- (3) A disapplication notice and a notification notice are not subsidiary legislation.

Division 5—Codes of Practice

150. Commissioner may issue codes of practice

- (1) The Commissioner may issue a code of practice, direction, guideline or standard for providing practical guidance for any matters under this Part or the Pilot Regulation (collectively be referred to as *code of practice*).
- (2) A code of practice may refer to, apply or incorporate a document that has been formulated, published or specified by the Commissioner either—
 - (a) as in force at the time when the document is referred to, applied or incorporated; or
 - (b) as amended, formulated, published or specified from time to time.
- (3) If a code of practice is issued, the Commissioner must by notice published in the Gazette—
 - (a) identify the code of practice; and
 - (b) specify the date on which the code of practice is to take effect.

- (4) The Commissioner may from time to time revise or revoke the whole, or any part, of a code of practice issued under subsection (1).
- (5) If a code of practice is revised or revoked under subsection (4), the Commissioner must by notice published in the Gazette—
 - (a) identify the code of practice, or any part so revised or revoked; and
 - (b) specify the date on which the revision or revocation is to take effect.
- (6) A code of practice must be made available for public inspection on the website of the Transport Department.
- (7) Different codes of practice may be issued for different matters under this Part or the Pilot Regulation.
- (8) The following are not subsidiary legislation—
 - (a) an instrument by which a code of practice is issued;
 - (b) a notice mentioned in subsection (3) or (5).

151. Use of codes of practice in legal proceedings

- (1) A failure by a person to observe a provision of a code of practice does not of itself make the person liable to any civil or criminal proceedings.
- (2) Despite subsection (1), if in any legal proceedings the court is satisfied that a code of practice or any part of a code of practice is relevant to determining a matter that is in issue in the proceedings—
 - (a) the code of practice or part is admissible in evidence in the proceedings; and
 - (b) proof that the person contravened or did not contravene a relevant provision of the code of

practice may be relied on by a party to the proceedings as tending to establish or negate that matter.

(3) In this section—

code of practice (實務守則) means a code of practice, direction, guideline or standard issued under section 150(1);

court (法院) means—

- (a) a court as defined by section 3 of the Interpretation and General Clauses Ordinance (Cap. 1);
- (b) a magistrate; or
- (c) a Transport Tribunal;

legal proceedings (法律程序) includes the proceedings of a Transport Tribunal.”.

6. **Schedule 1 amended (classes of vehicle)**

Schedule 1, after “[ss.]—

Add

“2A,”.

7. **Schedule 14 added**

After Schedule 13—

Add

“Schedule 14

[ss. 2 & 133]

Meaning of Autonomous

1. Interpretation

In this Schedule—

GB Level (國標級) means a level of driving automation as defined in GB Taxonomy;

Note without legislative effect—

The levels of driving automation as defined in GB Taxonomy are as follows—

- (a) Level 0: emergency assistance;
- (b) Level 1: partial driver assistance;
- (c) Level 2: combined driver assistance;
- (d) Level 3: conditionally automated driving;
- (e) Level 4: highly automated driving;
- (f) Level 5: fully automated driving.

GB Taxonomy (《國標分級》) means China National Standards GB/T 40429-2021: Taxonomy of driving automation for vehicles, issued on 20 August 2021;

SAE Level (SAE 級) means a level of driving automation as defined in SAE Standard J3016;

Note without legislative effect—

The levels of driving automation as defined in SAE Standard J3016 are as follows—

- (a) Level 0: no driving automation;
- (b) Level 1: driver assistance;
- (c) Level 2: partial driving automation;
- (d) Level 3: conditional driving automation;
- (e) Level 4: high driving automation;
- (f) Level 5: full driving automation.

SAE Standard J3016 (《SAE J3016 標準》) means SAE International Standard J3016: Taxonomy and Definitions for Terms Related to On-Road Motor Vehicle Automated Driving Systems, issued on 16 January 2014 (as amended as at 30 April 2021).

2. Meaning of autonomous

For the purposes of paragraph (a) of the definition of *autonomous vehicle* in section 2, a motor vehicle is autonomous if the motor vehicle is equipped with an AV system that is capable of being operated at—

- (a) GB Level 3, 4 or 5; or
- (b) SAE Level 3, 4 or 5,

irrespective of whether any operation of the vehicle is being performed by the AV system.”.

Explanatory Memorandum

The design, construction and operation of autonomous vehicles (*AVs*) often differ from the technical standards of conventional motor vehicles. Under some circumstances, AVs or their operators do not fit into the existing regulatory regime for conventional motor vehicles.

2. The object of this Bill is to amend the Road Traffic Ordinance (Cap. 374) (*RTO*) to provide for a flexible regulatory regime for the pilot use of AVs (*AV pilot regime*) and to facilitate attaining the object of researching into, testing and evaluating AV technology and the wider use of AVs in Hong Kong. The AV pilot regime is briefly as follows—
 - (a) a licence (*pilot licence*) is required for carrying out an AV scheme (*pilot scheme*);
 - (b) a certificate (*AV certificate*) is required for each AV under a pilot scheme (*pilot AV*);
 - (c) the use of an AV is permitted only if the AV is a pilot AV and the use conforms with the relevant pilot licence and AV certificate.
3. Clause 1 sets out the short title and provides for commencement.
4. Clause 3 makes the following amendments—
 - (a) excluding an AV from the definition of *driver operated village vehicle*, *golf cart* and *pedestrian controlled village vehicle* (those vehicles being village vehicles within the meaning of the RTO) so that instead of the regulatory regime for village vehicles, a village vehicle that is an AV is to be regulated under the AV pilot regime;

- (b) adding new definitions for the interpretation of new provisions added by the Bill (key definitions include *autonomous mode*, *autonomous vehicle* and *AV system*).
5. For registration and licensing, vehicles are classified in accordance with Schedule 1 to the RTO. The meaning of many motor vehicles within the RTO includes the element of being constructed, adapted or intended for the carriage of a driver. However, some AVs (for example, fully automated AVs) may not be designed to carry a driver. Clause 4 adds a new section 2A to the RTO to ensure that such AVs still fall within an appropriate class in that Schedule.
6. Clause 5 adds a new Part 15 to the RTO (*Part 15*) to provide for the pilot use of AVs.
7. Division 1 of Part 15 (new sections 132 to 135) defines terms for the interpretation of that Part. Key definitions include *AV certificate*, *pilot AV*, *pilot licence*, *pilot proprietor*, *Pilot Regulation*, *pilot scheme*, *pilot use* and *use*.
8. Division 2 of Part 15 (new sections 136 and 137) provides for the use of AVs. The new section 136 restricts the use of AVs to a pilot use, a contravention of which constitutes an offence. The new section 137 provides for a due diligence defence for pilot proprietors or AV owners.
9. Division 3 of Part 15 (new sections 138 to 145) empowers the Secretary for Transport and Logistics to make regulations. The regulations may—
- (a) provide for the following matters—
- (i) the application, issue, etc. of pilot licences and AV certificates (see new section 139);
- (ii) the disapplication of provisions of the RTO relating to registration, licensing or limits of the number of vehicles (see new section 140) to allow flexibility in the context of AVs;

- (iii) the interpretation of references to a driver in any Ordinances (see new section 141) to deal with circumstances under which AVs are operated;
- (iv) the disapplication of legislative provisions to pilot matters (see new section 142) with a view to facilitating the pilot use of AVs as necessary;
- (v) other matters relating to AVs (see new section 143);
- (b) prescribe the fees that may be charged for pilot licences, AV certificates and other matters (see new section 144); and
- (c) create offences punishable by a fine at level 4 and imprisonment for 2 years (see new section 145).
10. Division 4 of Part 15 (new sections 146 to 149) empowers the Commissioner for Transport (*Commissioner*) to administratively disapply legislative provisions relating to road traffic to pilot matters, with a view to facilitating the pilot use of AVs in particular cases. To enhance transparency to the public, disapplication notices made by the Commissioner must be published (see new section 149).
11. Division 5 of Part 15 (new sections 150 and 151) provides for the issue of codes of practice by the Commissioner.
12. Clause 6 makes a minor technical amendment to Schedule 1 to the RTO.
13. Clause 7 adds a new Schedule 14 to the RTO to provide for the meaning of autonomous, by reference to international and regional standards, for the purposes of paragraph (a) of the new definition of *autonomous vehicle*.

2. Interpretation

In this Ordinance, unless the context otherwise requires—

approved breath analysing instrument (認可呼氣分析儀器) means an instrument of a type approved by the Commissioner of Police under section 39F for analysing the proportion of alcohol in a specimen of a person's breath; (*Added 39 of 1995 s. 2*)

approved operator (認可操作員) means a member of the police force authorized by the Commissioner of Police under section 39F; (*Added 39 of 1995 s. 2*)

approved pre-screening device (認可預檢設備) means a device—

- (a) of a type approved by the Commissioner of Police under section 39F; and
- (b) for indicating whether or not the proportion of alcohol in a person's breath reaches such a level that it would be reasonable to suspect that such proportion is likely to exceed the prescribed limit; (*Added 23 of 2008 s. 3*)

approved screening device (認可檢查設備) means a device of a type approved by the Commissioner of Police under section 39F for indicating whether the proportion of alcohol in a person's breath is likely to exceed the prescribed limit; (*Added 39 of 1995 s. 2*)

authorized police officer (獲授權警務人員), in relation to a preliminary drug test, means a police officer authorized under section 39T(3) to carry out that test; (*Added 24 of 2011 s. 3*)

bicycle (單車) means a vehicle with 2 wheels designed and constructed to be propelled by the use of pedals;

breath analysis (呼氣分析) means an analysis of a specimen of a person's breath under section 39C; (*Added 39 of 1995 s. 2*)

breath test centre (呼氣測試中心) means a place or vehicle designated by the Commissioner of Police as a breath test centre under section 39C(20); (*Added 50 of 1999 s. 2*)

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. (*Replaced 10 of 2017 s. 3*)

Commissioner (署長) means the Commissioner for Transport;

conductor (指導員) in relation to a bus includes any person, other than the driver, who is employed—

- (a) to be in charge of, or to guide, passengers on the bus; or
- (b) as an inspector of any service provided by the bus;

disabled person (傷殘人士) means a person who is the holder of a certificate signed by or on behalf of the Director of Health or the Hospital Authority within the meaning of the Hospital Authority Ordinance (Cap. 113) stating that such person is suffering from a permanent disease or physical disability that causes him considerable difficulty in walking; (*Added 34 of 1993 s. 2*)

display ticket (泊車票) means a ticket obtained from a pay and display machine for display on a motor vehicle to indicate payment for the use of the parking space in which the vehicle is parked and which shows—

- (a) the payment made for obtaining it;
- (b) the date on which payment is made and the time of expiry of the period to which the payment relates; and
- (c) the parking place in respect of which the machine is erected; (*Added 61 of 1991 s. 2*)

disqualified (取消駕駛資格) means disqualified under this Ordinance from holding or obtaining a driving licence and **disqualification** (駕駛資格取消) shall be construed accordingly;

domestic driving permit (當地駕駛許可證) and **domestic driving licence** (當地駕駛執照) in relation to a place outside Hong Kong mean a document issued under the law of that place authorizing the driver to drive motor vehicles or a specified class or description of motor vehicles in that place;

driver (司機、駕駛人), in relation to any vehicle (other than a rickshaw), vehicle of the North-west Railway, or tram, means any person who is in charge of or assisting in the control of it and, in relation to a rickshaw, means any person pulling a rickshaw; (*Amended 46 of 1987 s. 2*)

driver operated village vehicle (司機操作的鄉村車輛) means a motor vehicle having an overall length not exceeding 3.2 m and an overall width not exceeding 1.2 m constructed or adapted primarily for the carriage of goods on roads in rural areas or areas inaccessible or closed to other motor vehicles, in addition to the carriage of a driver only; (*Added 31 of 1986 s. 2*)

driving improvement course (駕駛改進課程) means a driving improvement course provided by a driving improvement school under section 102B(3)(a); (*Added 3 of 2002 s. 2*)

driving improvement school (駕駛改進學校) means a place designated by the Commissioner as a driving improvement school under section 102B(1) and in respect of which the designation is for the time being in force; (*Added 3 of 2002 s. 2*)

driving licence (駕駛執照) means a driving licence issued under this Ordinance;

drug (藥物) means—

- (a) a substance specified in Schedule 1A; or
- (b) any substance (other than alcohol or a substance referred to in paragraph (a)) which, when consumed or used by a person, deprives a person (temporarily or permanently) of any of his or her normal mental or physical faculties; (*Added 24 of 2011 s. 3*)

Drug Influence Recognition Observation (識認藥物影響觀測) means a test carried out by an authorized police officer on a person, to detect signs that indicate the effect on the human body of the consumption or use of drugs, so as to assist the police officer to form an opinion as to whether or not the person is under the influence of a drug; (*Added 24 of 2011 s. 3*)

educational institution (教育機構) means—

- (a) any institution, organization or place which provides, or where there is provided, for 10 or more persons during any one day, whether or not at the same time, kindergarten, primary, secondary or post secondary education or any other educational course which is either—
 - (i) registered as a school under the Education Ordinance (Cap. 279); or
 - (ii) exempted from registration as a school under the Education Ordinance (Cap. 279);
- (b) any post secondary college registered under the Post Secondary Colleges Ordinance (Cap. 320);
- (c) the University of Hong Kong referred to in the University of Hong Kong Ordinance (Cap. 1053);
- (d) The Chinese University of Hong Kong established under The Chinese University of Hong Kong Ordinance (Cap. 1109);

- (e) The Hong Kong Polytechnic University established under the Hong Kong Polytechnic University Ordinance (Cap. 1075); (*Amended 94 of 1994 s. 25*)
- (f) the Hong Kong Baptist University established by the Hong Kong Baptist University Ordinance (Cap. 1126); (*Added 50 of 1983 s. 34. Amended 93 of 1994 s. 41*)
- (g) the City University of Hong Kong established by the City University of Hong Kong Ordinance (Cap. 1132); (*Added 65 of 1983 s. 25. Amended 92 of 1994 s. 34*)
- (h) The Hong Kong Academy for Performing Arts established by The Hong Kong Academy for Performing Arts Ordinance (Cap. 1135); (*Added 38 of 1984 s. 28*)
- (i) The Hong Kong University of Science and Technology established by The Hong Kong University of Science and Technology Ordinance (Cap. 1141); (*Added 47 of 1987 s. 25*)
- (j) the Hong Kong Metropolitan University established by the Hong Kong Metropolitan University Ordinance (Cap. 1145); (*Replaced 50 of 1997 s. 29. Amended 22 of 2021 s. 2*)
- (k) Lingnan University established by the Lingnan University Ordinance (Cap. 1165); (*Replaced 54 of 1999 s. 32*)
- (l) The Education University of Hong Kong established by The Education University of Hong Kong Ordinance (Cap. 444); (*Added 16 of 1994 s. 27. Amended 6 of 2016 s. 2*)

fail (沒有), for the purposes of sections 39B, 39C, 39O and 39S, includes refuse; (*Added 39 of 1995 s. 2. Amended 24 of 2011 s. 3*)

franchised bus (專利巴士) has the meaning given to it by regulation 2(1) of the Road Traffic (Traffic Control) Regulations (Cap. 374 sub. leg. G); (*Added 6 of 2012 s. 3*)

golf cart (高爾夫球車) means a motor vehicle having an overall length not exceeding 3.2 m and an overall width not exceeding 1.2 m constructed or intended for use for the carriage of passengers on golf courses, in addition to the carriage of a driver; (*Added 80 of 1988 s. 3*)

goods (貨、貨物) includes burden of any description;

goods vehicle (貨車) means a motor vehicle, or trailer, which is constructed or adapted for use primarily for the carriage of goods, but does not include—

(a) a motor tricycle or a motor cycle with or without a sidecar attached thereto; or

(b) a village vehicle; (*Replaced 31 of 1986 s. 2*)

gross vehicle weight (車輛總重), in relation to a vehicle, means the sum of the weights transmitted to the road surface by all the wheels of the vehicle and includes, in the case of a trailer, any weight of the trailer imposed on the drawing vehicle, and the **permitted gross vehicle weight** (許可車輛總重) of a vehicle means the maximum gross vehicle weight assigned or determined in respect of the vehicle in accordance with regulations made under this Ordinance; (*Amended 66 of 1985 s. 2*)

heavy goods vehicle (重型貨車) means a goods vehicle having a permitted gross vehicle weight exceeding 24 tonnes but not exceeding 38 tonnes;

hire car permit (出租汽車許可證) means a permit issued in accordance with this Ordinance authorizing the use of a private car for the carriage of passengers for hire or reward;

hospital (醫院) means an institution which provides medical or surgical treatment for in-patients or out-patients; (*Added 39 of 1995 s. 2*)

Impairment Test (損害測試) means a combination of any or all of the tests specified by the Commissioner of Police under section 39T(1), carried out by an authorized police officer on a person, so as to assist the police officer to form an opinion as to whether or not the person's ability to drive properly is impaired by the consumption or use of drugs; (*Added 24 of 2011 s. 3*)

international driving permit (國際駕駛許可證) means an international driving permit issued under the authority of a country or place other than Hong Kong which is a party to an international agreement for the time being in force in respect of Hong Kong; (*Amended 3 of 2002 s. 15*)

invalid carriage (傷殘者車輛) means a motor vehicle especially designed and constructed for the sole use of a person suffering from physical defects or disabilities;

kindergarten education (幼稚園教育) has the meaning assigned to it by section 3 of the Education Ordinance (Cap. 279);

learner's driving licence (學習駕駛執照) means a learner's driving licence issued under regulation 12 or 12A of the Road Traffic (Driving Licences) Regulations (Cap. 374 sub. leg. B); (*Added 23 of 2008 s. 3*)

light bus (小型巴士) means a motor vehicle constructed or adapted for use solely for the carriage of a driver and not more than 19 passengers and their personal effects, but does not include an invalid carriage, motor cycle, motor tricycle, private car or taxi; (*Amended 89 of 1988 s. 2; 19 of 2004 s. 2; 10 of 2017 s. 3*)

light goods vehicle (輕型貨車) means a goods vehicle having a permitted gross vehicle weight not exceeding 5.5 tonnes;

medium goods vehicle (中型貨車) means a goods vehicle having a permitted gross vehicle weight exceeding 5.5 tonnes but not exceeding 24 tonnes;

motor cycle (電單車) means a two-wheeled motor vehicle with or without a sidecar;

motor tricycle (機動三輪車) means a three-wheeled motor vehicle other than—

- (a) a motor cycle with a sidecar; and
- (b) a village vehicle; (*Replaced 31 of 1986 s. 2*)

motor vehicle (汽車) means any mechanically propelled vehicle;

multi-cycle (多輪車) means a vehicle with—

- (a) 4 or more wheels designed and constructed to be propelled by the use of pedals and of which wheels at least 4 touch the road simultaneously when the vehicle is ridden; and
- (b) a seat (or seats) whose height is not less than 350 mm above the road at any time when the vehicle is ridden; (*Added 89 of 1994 s. 2*)

noise emission standards (噪音發出標準), in relation to the prohibition or control of the emission of noise in respect of motor vehicles intended to be registered under this Ordinance, means the noise emission standards prescribed in or by virtue of regulations made under section 27 of the Noise Control Ordinance (Cap. 400); (*Added 13 of 1996 s. 2*)

North-west Railway (西北鐵路) means the North-west Railway within the meaning of the Kowloon-Canton Railway Corporation Ordinance (Cap. 372); (*Added 56 of 1986 s. 26*)

operator (營辦商) means, in relation to a parking meter, any person who has entered into a management agreement with the Government to undertake such functions relating to parking meters as are specified by the Commissioner and on such terms and conditions as are imposed by the Commissioner; (*Added 91 of 1993 s. 2*)

overall length (全長度) and **overall width** (全寬度) in relation to a vehicle, shall have the meanings assigned to them respectively by regulations made under section 9; (*Added 31 of 1986 s. 2*)

owner (擁有人、車主), in relation to—

- (a) a private road, means the person who under common law has the right to restrict access by the public to that road; and
- (b) a vehicle, includes the person in whose name the vehicle is registered or a village vehicle permit is issued, and the person by whom a vehicle is kept and used and, in relation to a vehicle which is the subject of a hiring agreement or hire purchase agreement, means the person in possession of the vehicle under the agreement; (*Replaced 80 of 1988 s. 3*)

parking fee (泊車費), in relation to a particular parking space, means a fee payable under section 12(4) for the time being for the use of that space for parking; (*Added 61 of 1991 s. 2*)

parking meter (停車收費錶)—

- (a) means an apparatus constructed and designed to receive and indicate, or to indicate, payment for the use of a parking space; and
- (b) includes a space sensor installed, whether or not on the apparatus, in relation to the parking space; (*Replaced 25 of 2020 s. 3*)

parking place (泊車處) means a place designated by the Commissioner under this Ordinance as a parking place;

parking space (泊車位) means a space in a parking place indicated by lines or other marks for the accommodation of one vehicle; (*Added 61 of 1991 s. 2*)

passenger (乘客) in relation to a vehicle means any person carried in or on it other than any driver or conductor of it;

passenger service licence (客運營業證) means a licence to operate a passenger service issued under this Ordinance;

pay and display machine (憑票泊車機)—

- (a) means a machine or apparatus constructed and designed to issue a display ticket in relation to parking spaces in a parking place; and
- (b) includes a space sensor installed, whether or not on the machine or apparatus, in relation to the parking spaces; (*Replaced 25 of 2020 s. 3*)

pedestrian controlled village vehicle (由徒步者控制的鄉村車輛) means a motor vehicle controlled by a pedestrian, having an

overall length not exceeding 3.2 m and an overall width not exceeding 1.2 m, constructed or adapted primarily for the carriage of goods on roads in rural areas or areas inaccessible or closed to other motor vehicles, and not constructed or adapted for the carriage of a driver or any passenger; (*Added 31 of 1986 s. 2*)

personal effects (個人財物) means goods which are the property of the driver of a motor vehicle or any passenger carried therein;

personalized registration mark (自訂登記號碼) means a personalized registration mark assigned or allocated under regulations made under section 6; (*Added 25 of 2005 s. 2*)

post secondary education (專上教育) has the meaning assigned to it by section 3 of the Education Ordinance (Cap. 279);

preliminary drug test (初步藥物測試) means a Drug Influence Recognition Observation, an Impairment Test or a Rapid Oral Fluid Test; (*Added 24 of 2011 s. 3*)

prescribed limit (訂明限度) means—

- (a) 22 micrograms of alcohol in 100 millilitres of breath;
- (b) 50 milligrams of alcohol in 100 millilitres of blood; or
- (c) 67 milligrams of alcohol in 100 millilitres of urine,

or such other proportion as the Secretary may notify in the Gazette under section 39G; (*Added 39 of 1995 s. 2. Amended 50 of 1999 s. 2; L.N. 106 of 2002; L.N. 130 of 2007; 6 of 2012 s. 2*)

pre-service course (職前課程) means a course provided under section 102I(2)(a); (*Added 6 of 2012 s. 3*)

pre-service training school (職前訓練學校) means a place designated as a pre-service training school under section 102I(1) and in respect of which the designation is for the time being in force; (*Added 6 of 2012 s. 3*)

primary education (小學教育) has the meaning assigned to it by section 3 of the Education Ordinance (Cap. 279);

private bus (私家巴士) means a bus used or intended for use—

- (a) otherwise than for hire or reward; or
- (b) for the carriage of passengers who are exclusively—
 - (i) the students, teachers and employees of an educational institution; or
 - (ii) disabled persons and persons assisting them, whether or not for hire or reward;

private car (私家車) means a motor vehicle constructed or adapted for use solely for the carriage of a driver and not more than 7 passengers and their personal effects but does not include an invalid carriage, motor cycle, motor tricycle or taxi;

private light bus (私家小巴) 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; (*Replaced 50 of 1999 s. 6*)

private road (私家路) means every thoroughfare, street, lane, alley, court, square, car park, passage, path, way and place to which access by the public may be restricted under common law, irrespective of whether such access is so restricted, but does not include—

- (a) (*Repealed 23 of 2002 s. 91*)
- (b) any part of the carriageway of the North-west Railway designated by the Commissioner for the purposes of the definition of **road** (道路) in this section by notice in the Gazette; (*Added 80 of 1988 s. 3*)

probationary driving licence (暫准駕駛執照) means a probationary driving licence to drive a motor cycle, motor tricycle, private car or light goods vehicle issued under regulation 12G of the Road Traffic (Driving Licences) Regulations (Cap. 374 sub. leg. B); (*Added 23 of 2008 s. 3*)

public bus (公共巴士) means a bus, other than any private bus, which is used or intended for use for hire or reward;

public light bus (公共小巴) means a light bus, other than any private light bus, which is used or intended for use for hire or reward;

public service vehicle (公共服務車輛) means any motor vehicle registered as a public bus, public light bus or taxi, or as a private car in respect of which a hire car permit is in force;

Rapid Oral Fluid Test (快速口腔液測試) means a test carried out

- (a) on a person's oral fluid;
- (b) by an authorized police officer;
- (c) using any instrument approved under section 39T(2); and

(d) to detect the presence of any specified illicit drug in the person's oral fluid; (*Added 24 of 2011 s. 3*)

recovery vehicle (救援車輛) means a motor vehicle which is constructed or adapted for the purpose of removing from a road (by means of towing, carrying or otherwise) a vehicle which is not roadworthy, has been involved in an accident or has otherwise broken down on that road; (*Added 71 of 1991 s. 2*)

register (登記), when used as a verb, includes *re-register*;

register (登記冊), when used as a noun, means the register of vehicles maintained under this Ordinance;

registered (已登記、登記) means registered under this Ordinance;

registered owner (登記車主) means the person registered as owner of a vehicle under this Ordinance;

registration document (登記文件) means the book or document which relates to the registration of a motor vehicle in the register and which is required to be issued to the registered owner under this Ordinance;

registration mark (登記號碼) means—

- (a) a special registration mark;
- (b) a personalized registration mark; or
- (c) any other registration mark assigned or allocated, or deemed to be assigned or allocated, under regulations made under section 6; (*Replaced 25 of 2005 s. 2*)

repealed Ordinance (已廢除條例) means the repealed Road Traffic Ordinance (Cap. 220, 1979 Ed.);

road (路、道路) includes every highway, thoroughfare, street, lane, alley, court, square, car park, passage, path, way and place to which the public have access either continuously or intermittently, whether or not the same is the property of the Government, and includes the carriageway of the North-west Railway, but does not include any private road, or any part of the carriageway of the North-west Railway designated by the Commissioner for the purposes of this definition by notice in the Gazette; (*Amended 56 of 1986 s. 26; 46 of 1987 s. 2; 80 of 1988 s. 3; 29 of 1998 s. 105; L.N. 326 of 2000; 23 of 2002 s. 91*)

road hump (路丘) means a hump placed transversely across the carriageway of a road for the purpose of regulating the speed of vehicles being driven on that road; (*Added 80 of 1988 s. 3*)

road marking (道路標記) means a line, word, mark or device placed on, or set into, the surface of a road for conveying to

persons using the road any warning, information, requirement, restriction, prohibition or direction and includes a road hump, but does not include a road marking within the meaning of section 121; (*Amended 80 of 1988 s. 3*)

roadworthy (宜於道路上使用) in relation to any motor vehicle means that the vehicle is suitable and safe for use for any of the purposes for which it may lawfully be used, having regard to the class or any division of the class of motor vehicle within which—

- (a) application has been made to register the vehicle; or
- (b) the vehicle is registered, or is required to be registered, as the case may be;

school crossing patrol (學校交通安全隊員) means any person authorized to act as a school crossing patrol pursuant to regulations made under section 11;

school private light bus (學校私家小巴) means a light bus used or intended for use primarily for the carriage of persons who are the students of an educational institution, persons accompanying or in charge of such students, teachers or employees of the institution, to or from the institution, whether or not for hire or reward; (*Added 50 of 1999 s. 6*)

screening breath test (檢查呼氣測試) means a preliminary test under section 39B, but does not include a test of a specimen of breath by an approved pre-screening device; (*Added 39 of 1995 s. 2. Amended 23 of 2008 s. 3*)

secondary education (中學教育) has the meaning assigned to it by section 3 of the Education Ordinance (Cap. 279);

Secretary (局長) means the Secretary for Transport and Logistics; (*Added 6 of 2012 s. 3. Amended L.N. 144 of 2022*)

semi-trailer (半拖車) means any trailer designed, constructed or adapted to be coupled to a motor vehicle in such a way that part of it rests on the motor vehicle and that a substantial part of its weight and of the weight of its load is borne by the motor vehicle;

space sensor (車位感應器) means a device installed by the Commissioner in respect of a parking meter, or pay and display machine, for detecting whether a parking space, for which the meter or machine is erected, is occupied; (*Added 25 of 2020 s. 3*)

special purpose vehicle (特別用途車輛) means a motor vehicle designed, constructed or adapted primarily for a use other than the carriage on a road of goods, the driver or passengers;

special reasons (特別理由) means special reasons relating to the offence, and in exceptional circumstances special reasons relating to—

- (a) the offender; and
- (b) such other circumstance that the court or magistrate may consider to be relevant; (*Amended 23 of 2008 s. 3*)

special registration mark (特殊登記號碼) means a special registration mark assigned or allocated, or deemed to be assigned or allocated, under regulations made under section 6; (*Added 25 of 2005 s. 2*)

specially authorized vehicle examiner (特許驗車主任) means a person authorized under section 88(1)(b) to issue suspension of vehicle licence orders;

specified illicit drug (指明毒品) means a substance specified in Schedule 1A; (*Added 24 of 2011 s. 3*)

standing or plying for hire (停車候客) means, in respect of any vehicle, being on any road, whether in motion or stationary, and exhibiting any sign or signal, or having a person who is exhibiting any sign or signal or who in any other way indicates, that the vehicle or any portion of it is available for hire whether on a predetermined route or otherwise;

student (學生) means any person who is attending an educational institution for the purpose of pursuing a course of education;

taxi (的士) means a motor vehicle which is registered as a taxi under this Ordinance;

taximeter (的士計程錶) means any appliance for measuring the time or distance for which a taxi is used, or for measuring both time and distance, or for recording the fare by time or distance or by a combination of time and distance, which is for the time being approved for the purpose by the Commissioner;

teacher (教員) means any person employed at an educational institution for the purpose of instructing students;

temporary driving licence (臨時駕駛執照) means a temporary driving licence issued under regulation 13 of the Road Traffic (Driving Licences) Regulations (Cap. 374 sub. leg. B); (*Added 23 of 2008 s. 3*)

tier 1 (第1級), **tier 2** (第2級) and **tier 3** (第3級) have the meaning given by section 39A(1A); (*Added 19 of 2010 s. 2*)

traffic sign (交通標誌) means a sign, object or device for conveying to persons using a road any warning, information, direction, requirement, restriction or prohibition, but does not

include a sign within the meaning of section 121; (*Amended 80 of 1988 s. 3*)

traffic warden (交通督導員) means a person appointed as traffic warden or a senior traffic warden under section 58;

trailer (拖車) means a vehicle which is not mechanically propelled and is towed or intended for towing by a motor vehicle, including any semi-trailer or draw bar trailer;

tram (電車) includes all electrically powered vehicles and trailers constructed for use on a tramway;

Transport Tribunal (交通審裁處) means a Transport Tribunal appointed under section 17;

tricycle (三輪車) means a vehicle with 3 wheels propelled by the use of pedals;

vehicle (車輛) means any vehicle whether or not mechanically propelled which is constructed or adapted for use on roads but does not include a vehicle of the North-west Railway or a tram; (*Amended 46 of 1987 s. 2*)

vehicle design standards (車輛設計標準) has the same meaning as in section 2 of the Air Pollution Control Ordinance (Cap. 311); (*Added 3 of 1991 s. 2*)

vehicle emission standards (車輛廢氣排放標準) means the vehicle emission standards set out in a code of practice issued or revised under Part 8A; (*Added 3 of 1991 s. 2*)

vehicle examination centre (驗車中心) means a place designated as a vehicle examination centre under section 88(2);

vehicle examiner (驗車主任) means a person appointed as a vehicle examiner under section 88(1)(a);

vehicle identification number (車輛識別號碼) means a chassis number or any mark assigned to a vehicle by the manufacturer or a mark assigned by the Commissioner primarily for registration and identification purposes; it may consist of numerals or letters, or a combination thereof; (*Added 89 of 1994 s. 2*)

vehicle licence (車輛牌照) means a licence issued in respect of a vehicle in accordance with regulations made under section 6;

vehicle of the North-west Railway (西北鐵路車輛) means a light rail vehicle including a vehicle used for maintenance purposes operated along and by means of the rails of the North-west Railway; (*Added 46 of 1987 s. 2*)

village vehicle (鄉村車輛) means—

- (a) a driver operated village vehicle;

(b) a pedestrian controlled village vehicle; or

(c) a golf cart; (*Replaced 80 of 1988 s. 3*)

village vehicle permit (鄉村車輛許可證) means a permit issued in respect of a village vehicle in accordance with regulations made under section 12A. (*Added 31 of 1986 s. 2*)

(*Amended E.R. 2 of 2012; 25 of 2020 s. 3*)

Schedule 1

[ss. 6, 21, 22 & 52]

Classes of Vehicle

Private car

Taxi

Public light bus

Private light bus

Light goods vehicle

Medium goods vehicle

Public bus

Private bus

Heavy goods vehicle

Special purpose vehicle

Motor cycle

Motor tricycle

Invalid carriage

Trailer

Rickshaw

IMPLICATIONS OF THE PROPOSAL

Economic and Sustainability Implications

The proposed regulatory regime for AVs would help better monitor the safety, performance and quality of AVs that would potentially be launched on the market in the long term while providing the necessary flexibility for the industry to roll out wider AV trials or use in Hong Kong. The fees for the proposed pilot licence and AV certificate would represent an additional cost of operating an AV relative to conventional vehicles. Nonetheless, this proposal should be conducive to the long-term development of the AV industry and in turn contribute to Hong Kong's transformation into a smart city.

2. The adoption of AVs is a Smart Mobility initiative promulgated in the Hong Kong Smart City Blueprint. The proposal has no sustainability implications other than economic implications set out in paragraph 1 above.

Financial and Civil Service Implication

3. With the introduction of the new AV regulatory regime, fees for application to conduct a pilot scheme will be collected from applicants on a full-cost recovery basis¹, which will be credited to the General Revenue Account in accordance with the established practice. It is anticipated that the fees collected from registration and licensing of AVs, when compared to that collected from conventional vehicles will be minimal², especially in the first few years after the enactment of the Bill.

4. The fines collected under the AV regulation will be credited to the General Revenue Account in accordance with the established practice.

5. The new regulatory regime for AVs will generate additional workload for processing the application, including but not limited to vetting the applications for pilot licences and AV certificates, examining

¹ On the basis that the fees are charged on full-cost recovery basis, we estimate that the fees for applying for a pilot licence and AV certificate will be in the order of \$6,000 and \$4,000 respectively.

² In 2021, there was a net increase of about 13 400 registered vehicles compared to 2020. By comparison, we estimate that the number of AV certificates to be issued in the next few years will be around 1% (or less) of such increase of registration of conventional vehicles.

the construction of AVs, test running of AVs, monitoring the compliance of licensing conditions, updating the code of practice, trade liaison, etc. We will endeavour to absorb the additional workload through internal redeployment or duties reshuffling among existing manpower resources, and where necessary, seek extra manpower resources, with justifications in accordance with the established mechanism.