

L.N. 164 of 2023

Road Traffic (Autonomous Vehicles) Regulation

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Road Traffic (Autonomous Vehicles) Regulation

(Made by the Secretary for Transport and Logistics under sections 138, 139, 140, 141, 142, 143, 144 and 145 of the Road Traffic Ordinance (Cap. 374))

Part 1

Preliminary

1. Commencement

This Regulation comes into operation on the day on which the Road Traffic (Amendment) (Autonomous Vehicles) Ordinance 2023 (11 of 2023) comes into operation.

2. Interpretation

(1) In this Regulation—

AV certificate (自動車證書) means a certificate issued under section 13(1) (and includes a certificate renewed under section 15(4));

AV technology (自動車技術) means a technology that relates to the design, construction or operation of AVs;

Cap. 272 insurance policy (法定第三保單) means a policy of insurance, or a security, in respect of third party risks as required by the Motor Vehicles Insurance (Third Party Risks) Ordinance (Cap. 272);

Cap. 374E (《登記領牌規例》) means the Road Traffic (Registration and Licensing of Vehicles) Regulations (Cap. 374 sub. leg. E);

code of practice (《實務守則》) means a code of practice, direction, guideline or standard issued under section

150(1) of the Ordinance (and includes a code of practice, direction, guideline or standard revised under section 150(4) of the Ordinance);

conventional motor vehicle (傳統汽車) means a motor vehicle that is not an AV;

disapplication provision (改變效力條文) has the meaning given by section 142(7) of the Ordinance;

e-contact means (電子聯絡方式), in relation to a person, means an electronic mail address or mobile phone number of the person;

electronic form (電子形式) means the form of an electronic record (as defined by section 2(1) of the Electronic Transactions Ordinance (Cap. 553));

identity document (身分證明文件) means—

- (a) an identity card issued under the Registration of Persons Ordinance (Cap. 177);
- (b) a passport furnished with a photograph of the holder, or some other travel document establishing to the satisfaction of an immigration officer or immigration assistant the identity and nationality of the holder for the purposes of the Immigration Ordinance (Cap. 115);
- (c) in the case of a body corporate, a certificate of incorporation relating to it; or
- (d) any other document of identity acceptable to the Commissioner for the purposes of this Regulation;

pilot condition (先導條件), in relation to a pilot AV under a pilot scheme, means a condition of the pilot licence of the scheme or a condition of the AV certificate of the AV;

pilot licence (先導牌照) means a licence issued under section 4(1) (and includes a licence renewed under section 6(4));

prescribed fee (訂明費用), in relation to a matter specified in column 2 of the Schedule, means the fee specified in column 3 of the Schedule opposite that matter;

specified form (指明表格, 指明格式) means a form specified under section 42;

vehicle licence (車輛牌照) has the meaning given by regulation 2(1) of Cap. 374E.

(2) In this Regulation, an expression specified below has the meaning given by section 132 of the Ordinance—

AV equipment (自動車裝備);

AV scheme (自動車計劃);

backup operator (後備操作員);

disapplication notice (改變效力公告);

passenger (乘客);

pilot AV (先導自動車);

pilot object (先導目標);

pilot participant (先導參與者);

pilot proprietor (先導營辦人);

pilot scheme (先導計劃);

road (道路);

use (使用).

(3) In this Regulation, a reference to a person or thing in an AV includes a person or thing on an AV.

(4) In this Regulation, in relation to a pilot licence issued for carrying out an AV scheme—

(a) a reference to an AV certificate under the licence is a reference to the AV certificate of a pilot AV under the scheme; and

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- (b) a reference to the pilot licence of an AV certificate is to be construed accordingly.
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Part 2

Pilot Licence and AV Certificate

Division 1—Pilot Licence

3. Application for pilot licence

- (1) If a person wishes to carry out an AV scheme, the person may apply to the Commissioner for a pilot licence.
- (2) An application for a pilot licence must—
 - (a) be made in the specified form in a way required by the form, and contain the information required by the form;
 - (b) state the name, address, e-contact means and identity document number of the applicant; and
 - (c) be accompanied by the prescribed fee for the application and all of the following—
 - (i) a proposal stating the objectives of the proposed AV scheme;
 - (ii) the number and types of AVs and trailers (if any) proposed to be used under the scheme;
 - (iii) details of the design and construction of the AVs and trailers (if any);
 - (iv) details of the AV system and AV technology involved;
 - (v) information on the geographical areas in which, the times during which and the way in which the scheme is proposed to be carried out;
 - (vi) a risk analysis of the carrying out of the scheme with mitigation measures;

- (vii) information for satisfying the Commissioner that the AVs and trailers (if any) are safe for operating in the proposed way.
- (3) For considering an application under subsection (1), the Commissioner may require the applicant to provide further information.

4. Issue of pilot licence

- (1) On application under section 3(1) and payment of the fee required by section 3(2)(c), the Commissioner may issue to the applicant, in electronic form, a licence in the specified form for carrying out an AV scheme.
- (2) The Commissioner must specify in a pilot licence the validity period of the licence, which must not be longer than 5 years beginning on a day specified by the Commissioner.
- (3) The Commissioner may—
- (a) attach to a pilot licence any condition that the Commissioner considers appropriate; and
 - (b) attach different conditions to different pilot licences or different types of pilot licence.
- (4) Without limiting subsection (3), the Commissioner may attach a condition that—
- (a) specifies the geographical areas in which, the times during which and the way in which the pilot scheme may be carried out;
 - (b) requires a backup operator, who meets the qualifications specified in the condition, for a pilot AV under the scheme;
 - (c) prohibits or controls the carriage of goods or passengers in a pilot AV under the scheme;

- (d) prohibits or controls the towing of a trailer by a pilot AV under the scheme;
- (e) prohibits or controls the use of a pilot AV under the scheme for hire or reward; or
- (f) specifies the persons who may be pilot participants of the scheme.

5. Refusal to issue pilot licence

- (1) The Commissioner must refuse to issue a pilot licence unless the Commissioner is satisfied that—
 - (a) it is in the public interest and safe to carry out the proposed AV scheme; and
 - (b) the applicant is a fit and proper person to carry out the scheme as determined in accordance with section 10, and is or is to be the owner of each AV proposed to be used under the scheme (*proposed AV*).
- (2) The Commissioner may refuse to issue a pilot licence—
 - (a) if any information provided by the applicant is incomplete or incorrect;
 - (b) if a requirement made under section 3(3) is not complied with;
 - (c) if a requirement made under section 22(2) in relation to a proposed AV is not complied with; or
 - (d) for any other reason that the Commissioner considers appropriate.
- (3) If the Commissioner decides to refuse to issue a pilot licence, the Commissioner must give the applicant a written notice stating the decision and the reason for the refusal.

6. Renewal of pilot licence

- (1) A pilot proprietor may apply to the Commissioner for the renewal of the proprietor's pilot licence.
- (2) An application for the renewal of a pilot licence must—
 - (a) be made not less than 4 months, or a shorter period that the Commissioner may allow, before the licence expires;
 - (b) be made in the specified form in a way required by the form, and contain the information required by the form;
 - (c) state the name, address, e-contact means and identity document number of the pilot proprietor; and
 - (d) be accompanied by the prescribed fee for the application.
- (3) For considering an application under subsection (1), the Commissioner may require the pilot proprietor to provide further information.
- (4) On application under subsection (1) and payment of the fee required by subsection (2)(d), the Commissioner may renew a pilot licence and issue to the pilot proprietor, in electronic form, a renewed licence in the specified form.
- (5) The Commissioner must specify in a renewed pilot licence the validity period of the licence, which must not be longer than 5 years beginning on a day specified by the Commissioner.
- (6) On renewing a pilot licence, the Commissioner may, as the Commissioner considers appropriate—
 - (a) attach to the renewed licence conditions that are the same as the conditions of the existing licence (*existing conditions*); or

- (b) vary any existing condition (including cancelling any existing condition and adding any new condition) and attach the varied conditions to the renewed licence.

7. Refusal to renew pilot licence

- (1) The Commissioner must refuse to renew a pilot licence unless the Commissioner is satisfied that—
 - (a) it is still in the public interest and safe to carry out the pilot scheme; and
 - (b) the pilot proprietor is still a fit and proper person to carry out the scheme as determined in accordance with section 10.
- (2) If the Commissioner decides to refuse to renew a pilot licence under subsection (1), the Commissioner must give the pilot proprietor a written notice stating the decision and the reason for the refusal.
- (3) The Commissioner may refuse to renew a pilot licence—
 - (a) if any information provided by the pilot proprietor is incomplete or incorrect;
 - (b) if a requirement made under section 6(3) is not complied with; or
 - (c) for any of the reasons specified in section 9.
- (4) If the Commissioner intends to refuse to renew a pilot licence under subsection (3), the Commissioner must, before doing so, give the pilot proprietor a written notice stating—
 - (a) the Commissioner's intention to refuse to renew the licence and the reason for the intended refusal; and

- (b) that the proprietor may make a written representation to the Commissioner in respect of the intended refusal within the time limit stated in the notice, which must not be less than 14 days after the date of giving the notice.
- (5) After considering a written representation (if any) in response to a notice given under subsection (4), or if no written representation is made within the time limit stated in the notice, the Commissioner may—
 - (a) renew the pilot licence; or
 - (b) refuse to renew the licence under subsection (3) by giving the pilot proprietor a written notice.

8. Suspension or cancellation of pilot licence

- (1) The Commissioner may suspend or cancel a pilot licence if the Commissioner is satisfied that—
 - (a) it is no longer in the public interest or safe to carry out the pilot scheme; or
 - (b) the pilot proprietor is no longer a fit and proper person to carry out the scheme as determined in accordance with section 10.
- (2) If the Commissioner decides to suspend or cancel a pilot licence under subsection (1), the Commissioner must give the pilot proprietor a written notice stating—
 - (a) the decision;
 - (b) the effective time of the suspension or cancellation; and
 - (c) the reason for the suspension or cancellation.
- (3) The Commissioner may suspend or cancel a pilot licence for any of the reasons specified in section 9.

- (4) If the Commissioner intends to suspend or cancel a pilot licence under subsection (3), the Commissioner must, before doing so, give the pilot proprietor a written notice stating—
- (a) the Commissioner's intention to suspend or cancel the licence, the intended effective time of the intended suspension or cancellation, and the reason for the intended suspension or cancellation; and
 - (b) that the proprietor may make a written representation to the Commissioner in respect of the intended suspension or cancellation within the time limit stated in the notice, which must not be less than 14 days after the date of giving the notice.
- (5) After considering a written representation (if any) in response to a notice given under subsection (4), or if no written representation is made within the time limit stated in the notice, the Commissioner may—
- (a) decide not to suspend or cancel the pilot licence; or
 - (b) suspend or cancel the licence under subsection (3) by giving the pilot proprietor a written notice stating the effective time of the suspension or cancellation.

9. Reasons for refusing to renew or suspending or cancelling pilot licence

The reasons for refusing to renew a pilot licence under section 7(3), or suspending or cancelling a pilot licence under section 8(3), are as follows—

- (a) the Commissioner reasonably believes that a provision in any of the following is contravened or not complied with in relation to the pilot scheme or a pilot AV under the scheme—

- (i) the Ordinance, this Regulation or any other subsidiary legislation under the Ordinance (as read together with any applicable disapplication notice or disapplication provision);
- (ii) a code of practice;
- (b) the Commissioner reasonably believes that any of the following is not complied with—
 - (i) a term or condition of the licence;
 - (ii) a term or condition of an AV certificate under the licence;
- (c) a requirement made under section 22(2) in relation to a pilot AV under the scheme is not complied with.

10. Determination of fit and proper

- (1) In determining whether a person is a fit and proper person for the purposes of section 5(1)(b), 7(1)(b) or 8(1)(b), the Commissioner must, in addition to any other matter that the Commissioner considers appropriate, have regard to all of the following matters—
 - (a) whether the person has been convicted of an offence under section 136(3) of the Ordinance or under this Regulation;
 - (b) whether the person—
 - (i) is capable of maintaining the necessary facilities, resources and workforce to carry out the proposed AV scheme or pilot scheme (as may be applicable) safely; and
 - (ii) is capable of obtaining technical assistance or other support from any other person (including a manufacturer of AVs or AV systems) when such assistance or support is required;

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- (c) whether the person is capable of complying with or ensuring compliance with all of the following—
- (i) the provisions in the Ordinance, this Regulation and any other subsidiary legislation under the Ordinance (as read together with any disapplication notice or proposed disapplication notice, or disapplication provision or proposed disapplication provision) that are relevant to the proposed AV scheme or pilot scheme (as may be applicable) or AVs under the scheme;
 - (ii) any code of practice that is relevant to the proposed AV scheme or pilot scheme (as may be applicable) or AVs under the scheme;
 - (iii) the proposed terms and conditions of the proposed pilot licence, or the terms and conditions of the pilot licence (as may be applicable).
- (2) For the purposes of subsection (1), if the person is a body of persons, the Commissioner must also have regard to the matters set out in paragraph (a), (b) or (c) of that subsection (as may be relevant) in respect of a related person of the body of persons.
- (3) In this section—
- related person*** (相關人士), in relation to a body of persons, means—
- (a) for a body corporate—
 - (i) a director of the body corporate;
 - (ii) a company secretary of the body corporate; or
 - (iii) a person concerned in the management of the body corporate;
 - (b) for a partnership—

- (i) a partner in the partnership;
 - (ii) a person concerned in the management of the partnership; or
 - (iii) an office holder in the partnership; or
- (c) for an unincorporated body other than a partnership—
- (i) a person concerned in the management of the body; or
 - (ii) an office holder in the body.

11. Publication of notice of pilot licence

- (1) The Commissioner must, on the website of the Transport Department, publish a notice about a pilot licence at least 7 days before the licence takes effect, stating—
- (a) the name of the pilot proprietor;
 - (b) the validity period of the licence;
 - (c) the number and types of AVs under the pilot scheme;
 - (d) the geographical areas in which, the times during which and the way in which the scheme is to be carried out;
 - (e) the terms and conditions of the licence; and
 - (f) any other information that the Commissioner considers appropriate.
- (2) If there is any significant update to the information contained in a notice published under subsection (1) (including a decision to renew the pilot licence, a refusal to renew the pilot licence, a suspension or cancellation of the pilot licence or a variation of the pilot licence), the Commissioner must publish a notice of the update on the website of the Transport Department.

Division 2—AV Certificate

12. Application for AV certificate

- (1) The applicant for a pilot licence may apply to the Commissioner for an AV certificate for an AV proposed to be used under the proposed AV scheme.
- (2) A pilot proprietor may apply to the Commissioner for an AV certificate for an AV proposed to be used under the proprietor's pilot scheme.
- (3) An application for an AV certificate must—
 - (a) be made in the specified form in a way required by the form, and contain the information required by the form;
 - (b) state the name, address, e-contact means and identity document number of the applicant; and
 - (c) be accompanied by the prescribed fee for the application and all of the following—
 - (i) details of the design and construction of the AV;
 - (ii) if the AV is proposed to be used for towing a trailer, details of the design and construction of the trailer;
 - (iii) details of the AV system and AV technology involved;
 - (iv) information on the geographical areas in which, the times during which and the way in which the AV and trailer (if any) are proposed to be used;
 - (v) a risk analysis of the proposed use with mitigation measures;

- (vi) a Cap. 272 insurance policy in the name of the applicant in respect of the AV that is valid on the date on which the AV certificate is to take effect;
- (vii) information for satisfying the Commissioner that the AV and trailer (if any) are roadworthy and safe for use on roads, and comply with—
 - (A) the provisions in the Ordinance, this Regulation and any other subsidiary legislation under the Ordinance (as read together with any proposed disapplication notice or applicable or proposed disapplication provision) that are relevant to the AV and trailer; and
 - (B) any code of practice that is relevant to the AV and trailer.
- (4) For considering an application under subsection (1) or (2), the Commissioner may require the applicant to provide further information.

13. Issue of AV certificate

- (1) On application under section 12(1) or (2) and payment of the fee required by section 12(3)(c), the Commissioner may issue to the applicant, in electronic form, a certificate in the specified form for an AV to be used under the applicant's pilot scheme.
- (2) For an application made under section 12(1), the Commissioner must not issue an AV certificate before issuing a pilot licence to the applicant.
- (3) The Commissioner must specify in an AV certificate the validity period of the certificate, which must not—

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- (a) be longer than 12 months beginning on a day specified by the Commissioner; or
 - (b) end after the expiry of the pilot licence of the certificate.
- (4) The Commissioner may—
- (a) attach to an AV certificate any condition that the Commissioner considers appropriate; and
 - (b) attach different conditions to different AV certificates or different types of AV certificate.
- (5) Without limiting subsection (4), the Commissioner may attach a condition that—
- (a) specifies the geographical areas in which, the times during which and the way in which the pilot AV may be used;
 - (b) requires a backup operator, who meets the qualifications specified in the condition, for the AV or names such a backup operator;
 - (c) prohibits or controls the carriage of goods or passengers in the AV;
 - (d) prohibits or controls the towing of a trailer by the AV; or
 - (e) prohibits or controls the use of the AV for hire or reward.
- (6) If an AV certificate permits the towing of a trailer, the Commissioner must, in the conditions of the certificate, require that only a trailer that exhibits a registration mark specified in a condition of the certificate may be towed by the pilot AV.

14. Refusal to issue AV certificate

- (1) The Commissioner must refuse to issue an AV certificate for an AV unless—
 - (a) the applicant is or is to be a pilot proprietor and is the owner of the AV;
 - (b) there is a Cap. 272 insurance policy in the name of the applicant in respect of the AV that is valid on the date on which the AV certificate is to take effect; and
 - (c) the Commissioner is satisfied that—
 - (i) the AV is roadworthy and safe for use on roads; and
 - (ii) issuing the certificate is consistent with the terms and conditions of the proprietor's pilot licence.
- (2) To avoid doubt, if the Commissioner refuses to issue a pilot licence, the Commissioner must refuse to issue an AV certificate for any AV proposed to be used under the proposed AV scheme.
- (3) The Commissioner may refuse to issue an AV certificate for an AV—
 - (a) if any information provided by the applicant is incomplete or incorrect;
 - (b) if a requirement made under section 12(4) is not complied with;
 - (c) if a requirement made under section 22(2) in relation to the AV is not complied with; or
 - (d) for any other reason that the Commissioner considers appropriate.

- (4) If the Commissioner decides to refuse to issue an AV certificate, the Commissioner must give the applicant a written notice stating the decision and the reason for the refusal.

15. **Renewal of AV certificate**

- (1) A pilot proprietor may apply to the Commissioner for the renewal of an AV certificate under the proprietor's pilot licence.
- (2) An application for the renewal of an AV certificate must—
 - (a) be made not less than 4 months, or a shorter period that the Commissioner may allow, before the certificate expires;
 - (b) be made in the specified form in a way required by the form, and contain the information required by the form;
 - (c) state the name, address, e-contact means and identity document number of the pilot proprietor; and
 - (d) be accompanied by the prescribed fee for the application.
- (3) For considering an application under subsection (1), the Commissioner may require the pilot proprietor to provide further information.
- (4) On application under subsection (1) and payment of the fee required by subsection (2)(d), the Commissioner may renew an AV certificate and issue to the pilot proprietor, in electronic form, a renewed certificate in the specified form.
- (5) The Commissioner must specify in a renewed AV certificate the validity period of the certificate, which must not—

- (a) be longer than 12 months beginning on a day specified by the Commissioner; or
 - (b) end after the expiry of the pilot licence of the certificate.
- (6) On renewing an AV certificate, the Commissioner may, as the Commissioner considers appropriate—
- (a) attach to the renewed certificate conditions that are the same as the conditions of the existing certificate (*existing conditions*); or
 - (b) vary any existing condition (including cancelling any existing condition and adding any new condition) and attach the varied conditions to the renewed certificate.

16. Refusal to renew AV certificate

- (1) The Commissioner must refuse to renew the AV certificate of an AV unless—
- (a) the pilot proprietor is still the owner of the AV;
 - (b) there is a Cap. 272 insurance policy in the name of the proprietor in respect of the AV that is valid on the date on which the renewed AV certificate is to take effect; and
 - (c) the Commissioner is satisfied that—
 - (i) the AV is still roadworthy and safe for use on roads; and
 - (ii) renewing the certificate is consistent with the terms and conditions of the pilot licence of the certificate.

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- (2) If the Commissioner decides to refuse to renew an AV certificate under subsection (1), the Commissioner must give the pilot proprietor a written notice stating the decision and the reason for the refusal.
 - (3) The Commissioner may refuse to renew an AV certificate—
 - (a) if any information provided by the pilot proprietor is incomplete or incorrect;
 - (b) if a requirement made under section 15(3) is not complied with; or
 - (c) for any of the reasons specified in section 18.
 - (4) If the Commissioner intends to refuse to renew an AV certificate under subsection (3), the Commissioner must, before doing so, give the pilot proprietor a written notice stating—
 - (a) the Commissioner's intention to refuse to renew the certificate and the reason for the intended refusal; and
 - (b) that the proprietor may make a written representation to the Commissioner in respect of the intended refusal within the time limit stated in the notice, which must not be less than 14 days after the date of giving the notice.
 - (5) After considering a written representation (if any) in response to a notice given under subsection (4), or if no written representation is made within the time limit stated in the notice, the Commissioner may—
 - (a) renew the AV certificate; or
 - (b) refuse to renew the certificate under subsection (3) by giving the pilot proprietor a written notice.

17. Suspension or cancellation of AV certificate

- (1) If the pilot licence of an AV scheme is suspended or cancelled, the AV certificate of each AV under the scheme is automatically suspended or cancelled (as the case may be) at the effective time of the suspension or cancellation of the licence.
- (2) In addition, the Commissioner may suspend or cancel the AV certificate of an AV if—
 - (a) the pilot proprietor is no longer the owner of the AV;
or
 - (b) the Commissioner is satisfied that—
 - (i) the AV is no longer roadworthy or safe for use on roads; or
 - (ii) the certificate is no longer consistent with the terms and conditions of the pilot licence of the certificate.
- (3) If the Commissioner decides to suspend or cancel an AV certificate under subsection (2), the Commissioner must give the pilot proprietor a written notice stating—
 - (a) the decision;
 - (b) the effective time of the suspension or cancellation; and
 - (c) the reason for the suspension or cancellation.
- (4) The Commissioner may suspend or cancel an AV certificate for any of the reasons specified in section 18.
- (5) If the Commissioner intends to suspend or cancel an AV certificate under subsection (4), the Commissioner must, before doing so, give the pilot proprietor a written notice stating—

- (a) the Commissioner's intention to suspend or cancel the certificate, the intended effective time of the intended suspension or cancellation, and the reason for the intended suspension or cancellation; and
 - (b) that the proprietor may make a written representation to the Commissioner in respect of the intended suspension or cancellation within the time limit stated in the notice, which must not be less than 14 days after the date of giving the notice.
- (6) After considering a written representation (if any) in response to a notice given under subsection (5), or if no written representation is made within the time limit stated in the notice, the Commissioner may—
- (a) decide not to suspend or cancel the AV certificate; or
 - (b) suspend or cancel the certificate under subsection (4) by giving the pilot proprietor a written notice stating the effective time of the suspension or cancellation.

18. Reasons for refusing to renew or suspending or cancelling AV certificate

The reasons for refusing to renew an AV certificate under section 16(3), or suspending or cancelling an AV certificate under section 17(4), are as follows—

- (a) the Commissioner reasonably believes that a provision in any of the following is contravened or not complied with in relation to the AV—
 - (i) the Ordinance, this Regulation or any other subsidiary legislation under the Ordinance (as read together with any applicable disapplication notice or disapplication provision);
 - (ii) a code of practice;

- (b) the Commissioner reasonably believes that a term or condition of the certificate is not complied with;
- (c) a requirement made under section 22(2) in relation to the AV is not complied with.

Division 3—Variation and Updating of Pilot Licence and AV Certificate

19. Variation of pilot licence or AV certificate on Commissioner's own initiative

- (1) The Commissioner may, on the Commissioner's own initiative, vary a pilot licence or an AV certificate.
- (2) Before exercising the power under subsection (1), the Commissioner must give the pilot proprietor a written notice stating—
 - (a) the Commissioner's intention to vary the licence or certificate, the intended variation, the intended effective time of the intended variation, and the reason for the intended variation;
 - (b) that the proprietor may make a written representation to the Commissioner in respect of the intended variation within the time limit stated in the notice, which must not be less than 14 days after the date of giving the notice; and
 - (c) that the proprietor may, before the intended effective time of the intended variation, notify the Commissioner that the proprietor waives the right to make a written representation in respect of the intended variation, in which case the intended variation takes effect at the intended effective time.

- (3) If the pilot proprietor notifies the Commissioner before the intended effective time stated in a notice given under subsection (2) that the proprietor waives the right to make a written representation in respect of the intended variation, the intended variation takes effect at the intended effective time.
- (4) If no notification under subsection (3) is received, the Commissioner may, after considering a written representation (if any) in response to a notice given under subsection (2), or if no written representation is made within the time limit stated in the notice—
 - (a) decide not to vary the pilot licence or AV certificate; or
 - (b) vary the licence or certificate as intended or in a modified way by giving the pilot proprietor a written notice stating—
 - (i) how the licence or certificate is to be varied; and
 - (ii) the effective time of the variation.
- (5) In deciding the effective time of the variation, the Commissioner must have regard to allowing the pilot proprietor reasonable time to comply with the varied pilot licence or AV certificate.
- (6) In this section, a reference to varying a pilot licence or an AV certificate includes varying or cancelling a condition of, or attaching a new condition to, the licence or certificate.

20. Variation of pilot licence or AV certificate on application

- (1) A pilot proprietor may apply to the Commissioner to vary the proprietor's pilot licence or an AV certificate under the licence.

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- (2) An application under subsection (1) must—
- (a) state that the pilot proprietor proposes to vary the pilot licence or AV certificate and the proposed variation; and
 - (b) provide information or documents to satisfy the Commissioner that the proposal would not undermine the safety of the pilot scheme or pilot AV or endanger any person or thing.
- (3) After considering the application, the Commissioner may—
- (a) refuse the application; or
 - (b) vary the pilot licence or AV certificate as proposed or in a modified way by giving the pilot proprietor a written notice stating—
 - (i) how the licence or certificate is to be varied; and
 - (ii) the effective time of the variation.
- (4) In deciding the effective time of the variation, the Commissioner must have regard to allowing the pilot proprietor reasonable time to comply with the varied pilot licence or AV certificate.
- (5) If the Commissioner decides to—
- (a) refuse the application; or
 - (b) vary the pilot licence or AV certificate in a modified way,
- the Commissioner must give the pilot proprietor a written notice stating the decision and the reason for the decision.
- (6) In this section, a reference to varying a pilot licence or an AV certificate includes varying or cancelling a condition of, or attaching a new condition to, the licence or certificate.

21. Notice of change of particulars and updating of pilot licence or AV certificate

- (1) A pilot proprietor must, within 72 hours after the change of any of the following particulars, give a written notice of the change to the Commissioner—
 - (a) the name, address, e-contact means or identity document number of the proprietor;
 - (b) any particulars in the proprietor's pilot licence or in an AV certificate under the licence.
- (2) A pilot proprietor who, without reasonable excuse, contravenes subsection (1) commits an offence and is liable on conviction to a fine at level 1.
- (3) If the Commissioner is satisfied that there is a change of any particulars in a pilot licence or an AV certificate (whether or not a notice under subsection (1) has been received), the Commissioner may issue to the pilot proprietor, in electronic form, an updated licence or certificate in the specified form.
- (4) On the issue of an updated pilot licence or AV certificate under subsection (3), the original licence or certificate ceases to be valid, and the updated licence or certificate is taken to be—
 - (a) a licence issued under section 4(1) or renewed under section 6(4); or
 - (b) a certificate issued under section 13(1) or renewed under section 15(4),as may be applicable.

Division 4—Demonstration, Testing and Inspection of AV etc.

22. Demonstration, testing and inspection of AV etc.

- (1) The Commissioner may exercise the power under subsection (2) for any of the following purposes—
 - (a) assessing the safety and operation of a specified AV or of its AV system or AV equipment;
 - (b) assessing whether it is appropriate to—
 - (i) issue, renew, vary, suspend or cancel a pilot licence or an AV certificate;
 - (ii) attach conditions to a pilot licence or an AV certificate; or
 - (iii) make a disapplication notice;
 - (c) assisting the Secretary to assess whether it is appropriate to make a disapplication provision;
 - (d) reviewing the adequacy or efficacy of—
 - (i) the terms and conditions of a pilot licence or an AV certificate; or
 - (ii) a disapplication notice;
 - (e) assisting the Secretary to review the adequacy or efficacy of a disapplication provision;
 - (f) ascertaining compliance with—
 - (i) the Ordinance, this Regulation or any other subsidiary legislation under the Ordinance (as read together with any applicable or proposed disapplication notice or disapplication provision);
 - (ii) a code of practice; or

- (iii) the proposed terms and conditions of a proposed pilot licence or AV certificate, or the terms and conditions of a pilot licence or an AV certificate (as may be applicable).
- (2) The Commissioner may by a written notice require the applicant for a pilot licence or a pilot proprietor to do any of the following at the time and place stated in the notice—
- (a) to demonstrate the operation of a specified AV (including its AV system or AV equipment) before the Commissioner or a person stated in the notice;
 - (b) to subject a specified AV or any AV system or AV equipment of a specified AV to testing by the Commissioner or a person stated in the notice;
 - (c) to produce a specified AV or any AV equipment of a specified AV for inspection by the Commissioner or a person stated in the notice.
- (3) In this section—
- specified AV*** (指明自動車)—
- (a) in relation to an applicant for a pilot licence, means an AV proposed to be used under the proposed AV scheme; and
 - (b) in relation to a pilot proprietor, means—
 - (i) a pilot AV under the proprietor's pilot scheme; or
 - (ii) an AV proposed to be used under the proprietor's pilot scheme.

Division 5—Registration and Licensing: Special Provisions for AV

23. Application of certain registration and licensing provisions

The following provisions apply to or in relation to an AV with modifications, or are disapplied to or in relation to an AV, as set out in this Division—

- (a) Part 4 and section 52 of the Ordinance;
- (b) Parts II and III of Cap. 374E.

24. Registration and licensing requirements for pilot AV

- (1) If the pilot conditions of a pilot AV are complied with, the AV is not subject to section 22(1) of the Ordinance, and section 52(1) of the Ordinance does not apply in relation to the AV, until the date on which the AV becomes registered and licensed.
- (2) If, after a pilot AV has been subject to any demonstration, testing or inspection as required under section 22(2), the Commissioner is satisfied that the AV is roadworthy, the Commissioner must give the pilot proprietor a written notice stating—
 - (a) the finding; and
 - (b) that the proprietor must, within 4 months after the date of giving the notice—
 - (i) apply to have the AV registered in accordance with regulation 5 of Cap. 374E; and
 - (ii) apply to have the AV licensed in accordance with regulation 21 of Cap. 374E.

- (3) The Commissioner may cancel the AV certificate of a pilot AV if the pilot proprietor does not, within 4 months after the date on which a notice under subsection (2) is given in respect of the AV—
 - (a) apply to have the AV registered in accordance with regulation 5 of Cap. 374E; and
 - (b) apply to have the AV licensed in accordance with regulation 21 of Cap. 374E.

25. Power to refuse registration or licensing of AV

- (1) If an AV has never as an AV been registered, the Commissioner must refuse to register the AV unless—
 - (a) the AV is to be registered under the name of a pilot proprietor; and
 - (b) the AV is a pilot AV under the proprietor's pilot scheme.
- (2) The Commissioner must refuse to license an AV (whether for the first time or for a further period) unless—
 - (a) the registered owner of the AV is a pilot proprietor; and
 - (b) the AV is a pilot AV under the proprietor's pilot scheme.
- (3) The Commissioner may refuse to license a pilot AV (whether for the first time or for a further period) if any pilot condition of the pilot AV is not complied with.

26. Transfer of ownership of AV

- (1) If the Commissioner receives a notice of transfer of ownership of a registered AV under regulation 17(2)(a) or (b) of Cap. 374E, regulation 17(3) and (3A), or regulation

17(5) and (5A) (as may be applicable), of Cap. 374E applies, irrespective of—

- (a) whether the new owner is a pilot proprietor; and
 - (b) whether the AV is a pilot AV.
- (2) If the change of ownership of a pilot AV is discovered by or comes to the notice of the Commissioner, the Commissioner must cancel the AV certificate of the AV.
- (3) Regulation 17(6) of Cap. 374E applies to an AV the ownership of which has been transferred as if “, after the expiration of 72 hours from such transfer,” in that regulation were deleted.
- (4) To avoid doubt, if the ownership of a pilot AV is transferred to a person who is a pilot proprietor and the AV is of a type that is permitted to be used under the new owner’s pilot scheme—
- (a) the Commissioner must cancel the AV certificate issued to the original owner; and
 - (b) if the AV is proposed to be used under the new owner’s pilot scheme, the new owner must apply for an AV certificate for the AV.

27. AV altered from registered conventional motor vehicle

- (1) If a registered conventional motor vehicle is altered into an AV, in addition to complying with regulation 18(1) of Cap. 374E, its registered owner must also immediately return to the Commissioner—
- (a) the registration document of the vehicle; and
 - (b) the vehicle licence of the vehicle.
- (2) If the alteration of a licensed conventional motor vehicle into an AV is discovered by or comes to the notice of the Commissioner, but—

- (a) the vehicle's registered owner is not a pilot proprietor;
or
 - (b) the vehicle's registered owner is a pilot proprietor but the vehicle is not of a type that is permitted to be used under the owner's pilot scheme,
the Commissioner may cancel the vehicle licence of the vehicle.
- (3) To avoid doubt, even if the vehicle's registered owner is a pilot proprietor and the vehicle is altered into an AV of a type that is permitted to be used under the registered owner's pilot scheme, if the vehicle is proposed to be used under the scheme, the owner must apply for an AV certificate for the AV.
- (4) A registered owner who, without reasonable excuse, contravenes subsection (1) commits an offence and is liable on conviction to a fine at level 1.

28. Waiver or modification of registration or licensing requirements

For a pilot AV that does not comply with a requirement under the Ordinance for registration or licensing, the Commissioner may waive or modify the requirement in order to have the AV registered or licensed if the Commissioner is satisfied that—

- (a) the waiver or modification would not undermine the safety of the AV or endanger any person or thing;
- (b) if the requirement concerns safety—there is in place an alternative measure that would, as regards achieving safety, be at least as effective as the requirement; and
- (c) taking into account the scope and nature of the relevant pilot scheme or the nature or technical capabilities of the AV, any of the following circumstances exists—

- (i) compliance with the requirement would hinder the attainment of the pilot object or is not necessary;
- (ii) without the waiver or modification, compliance with the requirement would be impractical.

Division 6—Review by Transport Tribunal

29. Right of review of Commissioner's decisions

- (1) An applicant aggrieved by the Commissioner's decision under section 5 to refuse to issue a pilot licence may, within 14 days after the date of receiving the notice of the decision, apply in writing for a review of the decision by a Transport Tribunal.
- (2) A pilot proprietor aggrieved by any of the following decisions of the Commissioner may, within 14 days after the date of receiving the notice of the decision, apply in writing for a review of the decision by a Transport Tribunal—
 - (a) in relation to the proprietor's pilot licence—
 - (i) a decision under section 4 to attach a condition to the licence;
 - (ii) a decision under section 6(6)(b) to attach a varied condition to the licence;
 - (iii) a decision under section 7 to refuse to renew the licence;
 - (iv) a decision under section 8 to suspend or cancel the licence;
 - (v) a decision under section 19(4)(b) to vary the licence;

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- (vi) a decision under section 20(3)(a) to refuse to vary the licence;
 - (vii) a decision under section 20(3)(b) to vary the licence in a modified way;
 - (b) a decision under section 14 to refuse to issue an AV certificate;
 - (c) in relation to an AV certificate under the proprietor's pilot licence—
 - (i) a decision under section 13 to attach a condition to the certificate;
 - (ii) a decision under section 15(6)(b) to attach a varied condition to the certificate;
 - (iii) a decision under section 16 to refuse to renew the certificate;
 - (iv) a decision under section 17 to suspend or cancel the certificate;
 - (v) a decision under section 19(4)(b) to vary the certificate;
 - (vi) a decision under section 20(3)(a) to refuse to vary the certificate;
 - (vii) a decision under section 20(3)(b) to vary the certificate in a modified way;
 - (viii) a decision under section 24(3) to cancel the certificate;
 - (d) in relation to a pilot AV under the proprietor's pilot scheme—
 - (i) a decision under section 25(3) to refuse to license the AV;

- (ii) a decision under section 32(1) to require a valid policy of insurance or security in respect of the AV.
- (3) The registered owner of a motor vehicle who is aggrieved by the Commissioner's decision under section 27(2) to cancel the vehicle licence of the vehicle may, within 14 days after the date of receiving the notice of the decision, apply in writing for a review of the decision by a Transport Tribunal.

30. Practice and procedure on review

- (1) On application for a review made under section 29(1), (2) or (3), the Commissioner must—
 - (a) fix a date, time and place for hearing the review; and
 - (b) give the applicant not less than 14 days' written notice stating—
 - (i) the date, time and place for hearing the review; and
 - (ii) that the application for a review is to be taken as withdrawn if—
 - (A) neither the applicant nor the applicant's authorized representative appears at the hearing; and
 - (B) neither the applicant nor the applicant's authorized representative makes a written representation.
- (2) A Transport Tribunal may postpone the hearing of a review if it considers appropriate.
- (3) If the hearing of a review is postponed, the Commissioner must give the applicant a written notice stating—

- (a) the date, time and place for the postponed hearing; and
 - (b) that the application for a review is to be taken as withdrawn if—
 - (i) neither the applicant nor the applicant's authorized representative appears at the postponed hearing; and
 - (ii) neither the applicant nor the applicant's authorized representative makes a written representation.
- (4) If—
- (a) neither an applicant nor the applicant's authorized representative appears at the time and place stated in a notice given under subsection (1) or (3); and
 - (b) neither the applicant nor the applicant's authorized representative makes a written representation,
- the application for a review is taken as withdrawn.
- (5) If an application for a review is taken as withdrawn under subsection (4), the Commissioner must by a written notice inform the applicant that the application is taken as withdrawn.

31. Determination of review

- (1) On a review, a Transport Tribunal must consider—
- (a) any evidence received by it, whether tendered on behalf of the applicant or otherwise, that it considers relevant to the review;
 - (b) any representation made by or on behalf of the applicant, whether orally or in writing; and

- (c) any representation made by or on behalf of the Commissioner, whether orally or in writing.
 - (2) The Transport Tribunal may confirm, reverse or vary a decision mentioned in section 29(1), (2) or (3).
 - (3) The Commissioner must by a written notice inform the applicant of the Transport Tribunal's decision under subsection (2).
 - (4) The Transport Tribunal's decision under subsection (2) is final.
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Part 3

Management of Risks

32. Policy of insurance or security for pilot AV

- (1) The Commissioner may, by a written notice given to a pilot proprietor, require that there must be in respect of each pilot AV under the proprietor's pilot scheme a valid policy of insurance or security that the Commissioner considers appropriate, regardless of any Cap. 272 insurance policy in respect of the AV.
- (2) If a requirement made under subsection (1) is not complied with, the relevant pilot AV must not be used on any road.
- (3) If subsection (2) is contravened in respect of a pilot AV, each of the following persons commits an offence and is liable on conviction to a fine at level 3 and to imprisonment for 12 months—
 - (a) the pilot proprietor of the AV;
 - (b) if the AV is, at the relevant time, used by a person other than the pilot proprietor—the person.
- (4) In any proceedings for an offence under subsection (3), the pilot proprietor of a pilot AV (*defendant*) has a defence if—
 - (a) sufficient evidence is adduced to raise an issue that—
 - (i) the defendant exercised all due diligence to prevent the AV from being used on any road; and
 - (ii) the use happened without the defendant's consent or connivance; and

- (b) the contrary is not proved by the prosecution beyond reasonable doubt.
- (5) In any proceedings for an offence under subsection (3), a person other than the pilot proprietor of a pilot AV (*defendant*) has a defence if—
 - (a) sufficient evidence is adduced to raise an issue that—
 - (i) the use of the AV was made in the course of the defendant's employment and under an instruction given by the pilot proprietor in the course of that employment; and
 - (ii) the defendant was not, at the relevant time, in a position to make or influence a decision regarding the instruction; and
 - (b) the contrary is not proved by the prosecution beyond reasonable doubt.
- (6) To avoid doubt, the application of this section in relation to a pilot AV does not preclude the application of any provision of any Ordinance in relation to the AV.

33. Maintenance of pilot AV

- (1) A pilot proprietor must ensure that—
 - (a) each pilot AV under the proprietor's pilot scheme and the AV equipment of the AV are in a state of good and serviceable condition; and
 - (b) the AV system of each such AV functions properly.
- (2) If subsection (1) is contravened, the pilot proprietor commits an offence and is liable on conviction to a fine at level 3 and to imprisonment for 12 months.
- (3) In any proceedings for an offence under subsection (2), the defendant has a defence if—

- (a) sufficient evidence is adduced to raise an issue that—
 - (i) the commission of the offence was due to a cause beyond the defendant's control; and
 - (ii) the defendant took all reasonable precautions and exercised all due diligence to avoid the commission of the offence; and
- (b) the contrary is not proved by the prosecution beyond reasonable doubt.

34. Journey data

- (1) A pilot proprietor must ensure that—
 - (a) a journey recorder installed in each pilot AV under the proprietor's pilot scheme captures journey data of the AV at all times when the AV is being used; and
 - (b) subject to subsection (2), each piece of journey data captured by the recorder is stored in electronic form in a format specified in the relevant pilot conditions, and remains complete and unaltered, at least until the end of the storage period of the piece of data.
- (2) If a piece of journey data captured is a video and is of a type specified in the relevant pilot conditions, it is to be stored for a duration specified in those conditions.
- (3) For carrying out any investigation, inspection or audit in relation to a pilot AV, the Commissioner may by a written notice—
 - (a) require the pilot proprietor to transmit to the Commissioner any journey data captured by the journey recorder of the AV—
 - (i) in a format specified in the relevant pilot conditions; and

- (ii) within the time limit stated in the notice; or
 - (b) if the Commissioner considers it is necessary to carry out real-time investigation, inspection or audit—require the pilot proprietor to arrange a real-time transmission of any journey data captured by the journey recorder of the AV to the Commissioner within the validity period of the AV certificate (whether the existing AV certificate or a renewed AV certificate that has yet to take effect) of the AV.
- (4) A notice under subsection (3) for making a requirement under subsection (3)(a)—
- (a) must be given to the pilot proprietor at least 14 days before the end of the storage period of the required piece of journey data; and
 - (b) may state a time limit for transmitting the required piece of journey data that is after the end of the storage period of the piece of data.
- (5) If—
- (a) a pilot proprietor contravenes subsection (1);
 - (b) a pilot proprietor fails to comply with a notice given under subsection (3); or
 - (c) a pilot proprietor—
 - (i) in purported compliance with a notice given under subsection (3), transmits any journey data that is false or misleading in a material particular; and
 - (ii) knows that, or is reckless as to whether or not, the data is false or misleading in a material particular,

the proprietor commits an offence and is liable on conviction to a fine at level 3 and to imprisonment for 12 months.

(6) In this section, a reference to a pilot AV or a pilot proprietor, where the context requires, includes respectively an AV that was a pilot AV or a person who was a pilot proprietor.

(7) In this section—

journey data (行車數據), in relation to a pilot AV, means all of the following data of the AV—

- (a) time data from a real-time digital clock, including date and time;
- (b) location in latitude and longitude;
- (c) speed;
- (d) status, including—
 - (i) whether the AV is under autonomous mode; or
 - (ii) whether the AV system of the AV is overridden by a backup operator;
- (e) history of overriding the AV system of the AV;
- (f) sensor data;
- (g) videos of persons in the AV and the following (if installed in the AV)—
 - (i) the steering wheel;
 - (ii) the control panel;
 - (iii) the emergency stop button;
- (h) videos of the front view outside the AV and the rear view outside the AV;
- (i) other data (if any) specified in the pilot conditions of the AV;

journey recorder (行車記錄儀), in relation to a pilot AV, means an electronic data recording device or system conforming with the specifications specified in the pilot conditions of the AV that—

- (a) is capable of capturing and storing the AV's journey data;
- (b) is equipped with an internal-facing camera that is capable of recording videos of persons in the AV and the following (if installed in the AV)—
 - (i) the steering wheel;
 - (ii) the control panel;
 - (iii) the emergency stop button; and
- (c) is equipped with—
 - (i) a camera facing the front of the AV that is capable of recording videos of the front view outside the AV; and
 - (ii) a camera facing the rear of the AV that is capable of recording videos of the rear view outside the AV;

storage period (儲存期), in relation to a piece of journey data, means a period of 3 years after the date on which the piece of data is captured.

35. Operation records

- (1) A pilot proprietor must ensure that operation records of the proprietor's pilot scheme are kept at least until the end of a period of 3 years after the expiry of the existing pilot licence (***keeping period***).

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- (2) For carrying out any investigation, inspection or audit in relation to the operation of a pilot scheme, the Commissioner may by a written notice require the pilot proprietor—
- (a) to deliver to the Commissioner any operation record—
 - (i) in a format that allows the record to be accurately read and displayed using a general purpose computer; and
 - (ii) within the time limit stated in the notice; or
 - (b) to make any operation record available for inspection and copying by the Commissioner (or a person authorized by the Commissioner)—
 - (i) in a format that allows the record to be accurately read and displayed using a general purpose computer; and
 - (ii) at a reasonable time and place stated in the notice.
- (3) A notice under subsection (2)—
- (a) must be given to the pilot proprietor at least 14 days before the end of the keeping period of the required operation record; and
 - (b) may state a time limit or time that is after the end of the keeping period of the required operation record.
- (4) If—
- (a) a pilot proprietor contravenes subsection (1);
 - (b) a pilot proprietor fails to comply with a notice given under subsection (2); or
 - (c) a pilot proprietor—

- (i) in purported compliance with a notice given under subsection (2), delivers or makes available any operation record that is false or misleading in a material particular; and
- (ii) knows that, or is reckless as to whether or not, the record is false or misleading in a material particular,

the proprietor commits an offence and is liable on conviction to a fine at level 3 and to imprisonment for 12 months.

- (5) In this section, a reference to a pilot AV, a pilot licence, a pilot proprietor or a pilot scheme, where the context requires, includes respectively an AV that was a pilot AV, a pilot licence that has expired or is cancelled, a person who was a pilot proprietor or a pilot scheme that has ceased operation.
- (6) In this section—
 - existing pilot licence*** (現有先導牌照), in relation to any operation record of a pilot scheme—
 - (a) means—
 - (i) if the record relates to a particular time—the pilot licence of the scheme that is valid at that time; or
 - (ii) if the record relates to a particular period—the pilot licence of the scheme that is valid on the last day of the period; but
 - (b) to avoid doubt, if the licence is renewed subsequently, does not include any subsequent renewed licence;

operation records (運作紀錄), in relation to a pilot scheme, means—

- (a) records of all of the following—

- (i) the operation, maintenance and repair of each pilot AV under the scheme, including the operation or maintenance manual of the AV and records of inventory of parts and software updating;
 - (ii) the training and attendance of each backup operator of each pilot AV under the scheme;
 - (iii) the trial plan and contingency plan, including any testing and emergency drill conducted;
 - (iv) any internal or external audit of the scheme; and
- (b) other records of the scheme (if any) specified in the conditions of the pilot licence of the scheme.

36. Reportable event

- (1) If a reportable event of a pilot AV happens, the pilot proprietor of the AV must, within 24 hours after the event happens, give the Commissioner a written notice stating the particulars of the event.
- (2) After receiving a notice given under subsection (1), the Commissioner may by a written notice require the pilot proprietor to deliver to the Commissioner, in a way and within the time limit stated in the Commissioner's notice, a report that includes all of the following information—
 - (a) investigation results of the reportable event;
 - (b) the remedial measures taken to avoid recurrence.
- (3) The Commissioner's notice under subsection (2) may be given to a pilot proprietor before or after the expiry or cancellation of the relevant pilot licence or AV certificate.
- (4) If—
 - (a) a pilot proprietor contravenes subsection (1);

- (b) a pilot proprietor fails to comply with a notice given under subsection (2); or
- (c) a pilot proprietor—
 - (i) in purported compliance with subsection (1) or a notice given under subsection (2), gives a written notice or delivers a report (as the case may be) that is false or misleading in a material particular; and
 - (ii) knows that, or is reckless as to whether or not, the notice or report is false or misleading in a material particular,

the proprietor commits an offence and is liable on conviction to a fine at level 4 and to imprisonment for 6 months.

- (5) In this section, a reference to a pilot AV or a pilot proprietor, where the context requires, includes respectively an AV that was a pilot AV or a person who was a pilot proprietor.
- (6) In this section—

reportable event (須報告事件), in relation to a pilot AV, means—

 - (a) an incident involving any defect in or malfunctioning of—
 - (i) the AV; or
 - (ii) any AV equipment or the AV system of the AV, that leads to the suspension of the operation of the AV for more than one hour;
 - (b) an accident that involves the death or bodily injury of any person, or damage to any property, caused by, or arising out of, the operation of the AV;

- (c) a collision of the AV with any object;
- (d) an incident—
 - (i) that undermines the safety of the AV or endangers any person or thing; or
 - (ii) that, if not remedied, would undermine the safety of the AV or endanger any person or thing; or

Examples—

Fire, malfunctioning of the braking system, trapping of any passenger for over 15 minutes and an incident leading to the calling of emergency services.

- (e) any other incident of a type specified in the pilot conditions of the AV.
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Part 4

Miscellaneous Provisions

37. Pilot AV identification

- (1) A pilot AV must not be used on any road unless—
 - (a) a proper printout of its valid AV certificate is displayed on the AV—
 - (i) in accordance with the requirements for displaying a vehicle licence under regulation 25(1) of Cap. 374E; and
 - (ii) as near as possible to the vehicle licence of the AV displayed in accordance with that regulation; and
 - (b) a label that indicates the AV is a pilot AV and that conforms with the specifications specified in the pilot conditions of the AV is affixed to the AV in the way specified in those conditions.
- (2) If subsection (1) is contravened, the pilot proprietor of the AV commits an offence and is liable on conviction to a fine at level 1 and to imprisonment for 3 months.

(3) In this section—

proper printout (合規印本), in relation to the AV certificate of a pilot AV, means a clearly legible printout (including a copy of a printout) of the certificate that conforms with the specifications specified in the pilot conditions of the AV.

38. Interference with AV

- (1) A person must not, without reasonable excuse or lawful authority—

- (a) hinder or obstruct the use of an AV; or
 - (b) interfere with any AV equipment or the AV system of an AV.
- (2) A person who contravenes subsection (1) commits an offence and is liable on conviction to a fine at level 3 and to imprisonment for 12 months.
- (3) In any proceedings for an offence under subsection (2), the defendant has a defence if—
- (a) sufficient evidence is adduced to raise an issue that the defendant did not know, and could not reasonably have known, that the act or omission that constitutes the contravention would cause the relevant hindrance, obstruction or interference; and
 - (b) the contrary is not proved by the prosecution beyond reasonable doubt.

39. Liability of officer of body corporate, partner and member of unincorporated body

- (1) If a body corporate commits an offence under this Regulation, and it is proved that the offence—
- (a) was committed with the consent or connivance of a person specified in subsection (2); or
 - (b) is attributable to any neglect on the part of the person,
- the person also commits the offence.
- (2) The person referred to in subsection (1) is—
- (a) a director, manager, secretary or other similar officer of the body corporate; or
 - (b) a person purporting to act in the capacity of a person referred to in paragraph (a).

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- (3) If a partner in a partnership commits an offence under this Regulation, and it is proved that the offence—
- (a) was committed with the consent or connivance of a person specified in subsection (4); or
 - (b) is attributable to any neglect on the part of the person,
- the person also commits the offence.
- (4) The person referred to in subsection (3) is—
- (a) a partner, or an office holder, in the partnership;
 - (b) a person concerned in the management of the partnership; or
 - (c) a person purporting to act in the capacity of a person referred to in paragraph (a) or (b).
- (5) If a member of an unincorporated body of persons (other than a partnership) commits an offence under this Regulation, and it is proved that the offence—
- (a) was committed with the consent or connivance of a person specified in subsection (6); or
 - (b) is attributable to any neglect on the part of the person,
- the person also commits the offence.
- (6) The person referred to in subsection (5) is—
- (a) a member, or a manager, secretary or other similar officer, of the unincorporated body;
 - (b) a person concerned in the management of the unincorporated body; or
 - (c) a person purporting to act in the capacity of a person referred to in paragraph (a) or (b).

40. Reasonable excuse or lawful authority

- (1) This section applies if a provision of this Regulation that creates an offence makes a reference to a reasonable excuse or lawful authority for a contravention to which the provision relates.
- (2) The reference to a reasonable excuse or lawful authority is to be construed as providing for a defence to a charge in respect of the contravention to which the provision relates.
- (3) A defendant is to be taken to have established that the defendant had a reasonable excuse or lawful authority for the contravention if—
 - (a) sufficient evidence is adduced to raise an issue that the defendant had such a reasonable excuse or lawful authority; and
 - (b) the contrary is not proved by the prosecution beyond reasonable doubt.

41. Waiver of prescribed fees

- (1) If the Commissioner considers it is in the public interest to do so, the Commissioner may waive, exempt, reduce or refund, in whole or in part, any prescribed fee under this Regulation.
- (2) The Commissioner may exercise the power under subsection (1) generally or in any particular case or particular type of cases.

42. Commissioner may specify form

- (1) The Commissioner may specify the form of any application or document for the purposes of this Regulation.

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- (2) In specifying the form of an application or a document, the Commissioner may specify more than one form of the application or document, whether as alternatives or for use in different circumstances.
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Schedule

[s. 2]

Prescribed Fees

Column 1 Item	Column 2 Matter	Column 3 Fee
1.	Application for a pilot licence	\$6,190
2.	Application for the renewal of a pilot licence	\$6,190
3.	Application for an AV certificate	\$4,130
4.	Application for the renewal of an AV certificate	\$4,130

LIU Chun-san
Acting Secretary for Transport and
Logistics

6 December 2023

Explanatory Note

The main objective of this Regulation is to regulate the schemes under which autonomous vehicles (*AVs*) are operated on roads on a pilot basis.

2. The pilot regime, as provided for in the new Part 15 of the Road Traffic Ordinance (Cap. 374) (added by the Road Traffic (Amendment) (Autonomous Vehicles) Ordinance 2023 (11 of 2023)), 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. Part 1 (sections 1 and 2) provides for commencement and definitions for the interpretation of the Regulation.
4. Part 2 contains the following 6 Divisions—
 - (a) Division 1—
 - (i) sections 3 to 9 provide for the application, issue, renewal, suspension and cancellation of pilot licences;
 - (ii) section 10 provides for the matters that the Commissioner for Transport (*Commissioner*) must have regard to in determining whether a person is a fit and proper person to carry out a pilot scheme; and

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- (iii) section 11 requires the Commissioner to publish notices to notify the public of information about pilot licences;
 - (b) Division 2 (sections 12 to 18) provides for the application, issue, renewal, suspension and cancellation of AV certificates;
 - (c) Division 3—
 - (i) sections 19 and 20 provide for the variation of pilot licences and AV certificates; and
 - (ii) section 21 requires pilot proprietors to notify the Commissioner of changes of particulars in pilot licences or AV certificates and provides for the updating of pilot licences and AV certificates;
 - (d) Division 4 (section 22) provides for the demonstration, testing and inspection of AVs etc., for enabling the Commissioner to assess pilot AVs or AVs proposed to be used under pilot schemes;
 - (e) Division 5 (sections 23 to 28) contains special provisions relating to the registration and licensing of pilot AVs, which adjust certain aspects of the existing registration and licensing regime for motor vehicles in relation to AVs;
 - (f) Division 6 (sections 29 to 31) provides for reviews of decisions of the Commissioner by a Transport Tribunal.
5. Part 3 contains the following provisions relating to the management of risks—

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- (a) section 32 provides that the Commissioner may require additional policies of insurance or security for pilot AVs, because the use of pilot AVs may involve risks other than risks arising from conventional motor vehicles;
 - (b) section 33 requires, for safety, pilot proprietors to ensure pilot AVs are in a state of good and serviceable condition and that the relevant AV systems function properly;
 - (c) section 34 requires journey data of pilot AVs to be captured and stored for specified periods, so that such data is available to the Commissioner for carrying out any investigation, inspection or audit in relation to pilot AVs;
 - (d) section 35 requires pilot proprietors to keep operation records to enable the Commissioner to carry out any investigation, inspection or audit in relation to pilot schemes;
 - (e) section 36 requires pilot proprietors to report certain events (such as defects in or malfunctioning of pilot AVs or accidents) because information on these events, including the investigation results and remedial measures, would facilitate the Commissioner's administration of the pilot regime.
6. Part 4 contains miscellaneous provisions as follows—
- (a) section 37 provides for the display of proper printouts of valid AV certificates and the affixing of labels to facilitate identification of AVs by law enforcement officers and the public;
 - (b) section 38 prohibits interference with AVs, AV equipment and AV systems to ensure safety;

- (c) section 39 provides for the liability of officers of bodies corporate, partners and members of unincorporated bodies for offences under the Regulation;
- (d) section 40 provides that a reference to a reasonable excuse or lawful authority is to be construed as providing for a defence to a charge, and provides for the burden of proof;
- (e) section 41 allows the Commissioner to waive, exempt, reduce or refund prescribed fees under the Regulation if it is in the public interest to do so;
- (f) section 42 provides for the specification of the form of any application or document for the purposes of the Regulation.