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**Report of the Bills Committee on Road Traffic (Amendment)
(Autonomous Vehicles) Bill 2022**

Purpose

This paper reports on the deliberations of the Bills Committee on Road Traffic (Amendment) (Autonomous Vehicles) Bill 2022 (“the Bills Committee”).

Background

2. The Road Traffic Ordinance (Cap. 374) provides, among others, for a regulatory regime for the use of motor vehicles on roads. While the existing regime may regulate the use of conventional motor vehicles, there may be certain requirements under the existing regime that could not be applied to the use of autonomous vehicles (“AVs”). AVs are essentially motor vehicles equipped with systems that enable such vehicles’ operation without the monitoring by, or control of, a natural person (“AV system”).

3. According to the Legislative Council (“LegCo”) Brief, since 2017, movement permits have been issued under regulation 53 of the Road Traffic (Registration and Licensing of Vehicles) Regulations (Cap. 374E) for AV trials in Hong Kong to facilitate AV trials by the industry. However, as such permits are issued on a case-by-case basis for vehicles which are not licensed and not normally used on roads, the Administration finds the above arrangement undesirable, and considers it necessary to amend Cap. 374 to introduce a new flexible regulatory regime to facilitate the trial and specified use of AVs in Hong Kong in the long run.

Provisions of the Bill

4. The major provisions of the Road Traffic (Amendment) (Autonomous Vehicles) Bill 2022 (“the Bill”) are summarized in the ensuing paragraphs. Clause 5 of the Bill seeks to add a new Part 15 (sections 132 to 151) to Cap. 374 to provide for a new regulatory framework for the pilot use of AVs.

Definition of “autonomous vehicle”

5. Clause 3 of the Bill seeks to provide for the definitions relating to the new regulatory framework. Subject to certain exclusions, an AV essentially means a motor vehicle that is “autonomous” within the meaning of the proposed new Schedule 14 to Cap. 374, i.e. equipped with an AV system that is capable of being operated at certain automation level(s) specified in the said proposed new schedule with reference to certain international or regional standards. Under the proposed new section 133 of Cap. 374, the Secretary for Transport and Logistics (“the Secretary”) may by notice published in the Gazette amend the proposed new Schedule 14 only for the purpose of updating the meaning of “autonomous” by reference to international or regional standards. Such notice would be subsidiary legislation subject to LegCo’s scrutiny through the procedure provided under section 34 of the Interpretation and General Clauses Ordinance (Cap. 1) (“negative vetting procedure”).

Pilot use of autonomous vehicles and the relevant restriction

6. The proposed new sections 134 to 137 of Cap. 374 mainly seek to provide for the restriction on the use of AVs. Under the proposed new section 136 of Cap. 374, unless certain conditions are satisfied, no person may use an AV or permit an AV to be used on a road unless it is a “pilot use” (“Restriction”). The description “use an AV” essentially means the AV is in operation by a backup operator¹ (who is a natural person), its AV system (or both), and whether the AV is in autonomous mode or not. Further, the use of an AV would be a “pilot use” if:

- (a) the following documents have been issued pursuant to the regulations made by the Secretary under the proposed new section 138 of Cap. 374 (defined as “Pilot Regulation”) mentioned in paragraph 8 below:

¹ In gist, a backup operator is a natural person who monitors the AV and its surrounding with a view to, if necessary, taking control of the AV.

- (i) a pilot licence for an AV scheme pursuant to which the AV may be operated on roads (known as a pilot scheme); and
 - (ii) an AV certificate in respect of the AV under the above AV scheme; and
- (b) the use of the AV conforms with the relevant pilot licence, AV certificate and the relevant conditions.

7. A person who breaches the Restriction would commit an offence and would be liable on conviction to a fine at level 4 (\$25,000) and imprisonment for two years (“Penalties”).

Empowering the Secretary for Transport and Logistics to make regulations

8. The proposed new section 138 of Cap. 374 seeks to empower the Secretary to make regulations to regulate the carrying out of AV schemes on a pilot basis and provide for matters that would facilitate attaining the pilot object (“Pilot Regulation”). Under the proposed new sections 139 to 145 of Cap. 374, matters that could be provided for in the Pilot Regulation include:

- (a) the application and issuance of, and the fees for, AV certificates and pilot licences;
- (b) the registration, licensing and general control of the use of AVs;
- (c) the interpretation of the term “driver” under any Ordinance for an AV; and
- (d) contravention of any provision of the Pilot Regulation would be an offence punishable by the same Penalties as referred to in paragraph 7.

9. The Pilot Regulation would be subsidiary legislation subject to LegCo’s scrutiny under the negative vetting procedure.

Empowering the Secretary and Commissioner for Transport (“the Commissioner”) to disapply certain statutory provisions

10. Under the proposed new section 142 of Cap. 374, the Secretary may, in the Pilot Regulation to be made under the proposed new section 138 of Cap. 374, exempt, disapply, or modify any provision of Cap. 374 or any other Ordinance in relation to AV pilot matters (such as the pilot use of AVs) if

certain requirements (such as those relating to the safety of any person or thing) are satisfied. Such exemption, disapplication and modification could be made generally or in relation to any particular case. The Pilot Regulation made in relation to such exemption, disapplication and modification would be subsidiary legislation subject to LegCo's scrutiny under the negative vetting procedure.

11. It is proposed under the proposed new section 146 of Cap. 374 that, subject to certain requirements (such as those relating to the safety of any person or thing) being satisfied, the Commissioner may by notice published on the Transport Department ("TD")'s website exempt, disapply or modify a provision of certain traffic-related Ordinances² ("traffic provision") in relation to any particular case relating to pilot matters ("disapplication notices"). Under the proposed new section 149(3) of Cap. 374, such disapplication notices would not be subsidiary legislation and thus not subject to LegCo's scrutiny under the negative vetting procedure.

Code of Practice to be made by the Commissioner

12. The proposed new section 150 of Cap. 374 seeks to provide for the Commissioner's power to issue, revise or revoke a code of practice, direction, guideline or standard for providing practical guidance for any matters under the proposed new Part 15 of Cap. 374 or the Pilot Regulation (collectively referred to as "Code of Practice").³ The Commissioner must, by notice published in the Gazette, identify the Code of Practice (or any part so revised or revoked) and specify the date on which the Code of Practice (or its revision or revocation, as the case may be) would take effect ("CP Notice"). Under the proposed new section 150(8) of Cap. 374, the instrument by which the Code of Practice is issued and the CP Notice would not be subsidiary legislation, i.e. they would not be subject to LegCo's scrutiny under the negative vetting procedure.

² Such Ordinances are Cap. 374, the Tramway Ordinance (Cap. 107), the Public Bus Services Ordinance (Cap. 230), the Fixed Penalty (Traffic Contraventions) Ordinance (Cap. 237), the Fixed Penalty (Criminal Proceedings) Ordinance (Cap. 240), the Road Tunnels (Government) Ordinance (Cap. 368), the Road Traffic (Driving-offence Points) Ordinance (Cap. 375), the Tai Lam Tunnel and Yuen Long Approach Road Ordinance (Cap. 474), the Tsing Ma Control Area Ordinance (Cap. 498), the Discovery Bay Tunnel Link Ordinance (Cap. 520), the Mass Transit Railway Ordinance (Cap. 556) and the Tsing Sha Control Area Ordinance (Cap. 594).

³ According to Footnote 3 of the LegCo Brief, the Code of Practice would 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.

The Bills Committee

13. At the House Committee meeting on 6 January 2023, Members agreed to form a Bills Committee to study the Bill.

14. Under the chairmanship of Hon Frankie YICK, the Bills Committee has held two meetings with the Administration and received written views from the public on the Bill. The membership list of the Bills Committee is in **Appendix 1**. A list of organizations which have given views to the Bills Committee is in **Appendix 2**. At the request of the Bills Committee, the Administration has provided a written response to the submissions (please see LC Paper No. CB(4)245/2023(01)).

Deliberations of the Bills Committee

15. In the course of scrutiny, members have expressed concern, among others, about the powers sought to be conferred on the Secretary or the Commissioner under the Bill to disapply legislative provisions by Pilot Regulation or by administrative means, the legal liabilities of the operator of an AV, the connectivity with Mainland cities in respect of autonomous driving technology, and the accuracy of the text of certain provisions. The deliberations of the Bills Committee are summarized below.

Establishment of a suitable regulatory regime to facilitate the trial and specified use of AVs

16. Members generally support amending the Road Traffic Ordinance (Cap. 374) to provide for a flexible regulatory regime for the research, trial and application of AVs in Hong Kong. The Bills Committee notes that the Administration has made reference to the relevant legislation in jurisdictions such as Australia, Canada, the United States and Singapore in formulating the regulatory regime proposed in the Bill. There is a concern that no reference has been made to the relevant Mainland regulations and standards, and this may hamper the actualization of AVs' connectivity between Hong Kong and Mainland cities.

17. The Administration has explained that notwithstanding the differences in the legal systems of Hong Kong and the Mainland, the Administration has been closely monitoring the relevant legislation, rules and standards in relation to the development of AVs on the Mainland and actively discussing with the Mainland authorities the movement of vehicles (including AVs) between the two places. In addition, the new Schedule 14 proposed to be added provides for the meaning of "autonomous", in which reference has been made to the relevant standards specified in China

National Standards GB/T 40429-2021: Taxonomy of driving automation for vehicles. The proposed new section 133 of the Bill also empowers the Secretary to amend Schedule 14 by notice published in the Gazette to ensure that the autonomous driving technology developed in Hong Kong can be aligned with the relevant standards on the Mainland. In fact, most of the AVs currently being tested and used in Hong Kong are developed on the Mainland, and some Mainland experts have been involved in the research on AVs in Hong Kong. At present, TD has made reference to the AV testing standards and related regulations adopted on the Mainland (e.g. the relevant standards of the Zhongguancun Intelligent Transportation Industry Alliance) when considering whether to issue movement permits for the purposes of AV trials. For applicants who have conducted AV trials on the Mainland, TD will recognize their relevant experience and exempt them from the requirement to conduct similar trials in Hong Kong, so as to expedite the approval of applications by the industry for AV trials. Upon the implementation of the new regulatory regime for AVs, TD will, as in the past, take the above factors into account when vetting and approving applications for AV pilot licences.

18. Expressing concern that the development progress of AVs in Hong Kong is lagging behind the Mainland cities like Shanghai and Shenzhen, some members consider that the Administration should draw on the experience of these cities in the development of autonomous driving technology and actively engage in more exchanges with the local governments and relevant organizations, especially in promoting the development of vehicle-to-everything (“V2X”) technology, so as to further facilitate autonomous driving and V2X connectivity in the Guangdong-Hong Kong-Macao Greater Bay Area.

19. Given that AV trials are currently conducted within designated sites or areas, some members consider that the trials are too restrictive and does not allow for a comprehensive testing of AVs in terms of different road conditions, weather conditions, interaction with other vehicles, etc. Some members suggest that the Government should set up designated areas (such as in the Northern Metropolis under planning) for the wider testing and application of autonomous driving technology in small areas on an early and pilot implementation basis, and finalize the relevant details in the planning of the areas concerned.

20. In response to members’ views, the Administration has pointed out that the Government has been promoting the development of autonomous driving technology through various measures and providing funding support for relevant research projects through the Innovation and Technology Fund and the Smart Transport Fund. The Government will continue to keep in view the latest development of the industry and maintain close

communication and cooperation with the Mainland, such as collaborating with Shenzhen SmartCity Technology Development Group to study and develop the design and testing of V2X technology supported by 5G network, with a view to achieving V2X connectivity with the Mainland. As for the suggestion of setting up designated areas for conducting AV trials, the Government will give active consideration to it.

21. Some members consider that to promote the application of autonomous driving technology in public transport, it is necessary to conduct field trials on the relevant public transport routes, but this should be done on the premise that the existing operation of public transport operators and the entire industry ecosystem should not be affected. In particular, as public light buses (“PLBs”) are facing operational difficulties, consideration can be given to using the idled PLB licences in the market if TD allows the trial of autonomous minibuses, and the trade should be fully consulted beforehand.

22. The Administration has advised that it understands the public transport sector’s concern about the AV licensing system and it will consult the trade on the relevant regulatory regime. In considering an application for a licence, the Commissioner will take full account of the resultant impacts on the public transport services, including their operating routes, operating hours and fares, the industry ecosystem and public interest, etc., as well as the views of an inter-departmental vetting committee before making the relevant decisions.

Empowering the Secretary to make the Pilot Regulation

23. The proposed section 138 of the Bill empowers the Secretary to, inter alia, regulate the carrying out of AV schemes on a pilot basis by making the Pilot Regulation. Under the proposed section 143, the Pilot Regulation may provide for, among others, the insurance relating to AVs, the maintenance of data of AVs and the handling of accidents. A member engaged in the insurance industry has pointed out that if an AV is to be tested or used on roads, the AV concerned must have a valid third party risks insurance policy to provide protection against personal injury or property damage that may arise out of the use of the AV. As the relevant data on the use of AVs on roads are still not available for reference, the consideration of risk factors of AVs will be very different from that of conventional vehicles. However, the Administration has not yet communicated with the industry on the issue of underwriting third party risks insurance policies, which is a cause of concern to the industry. Besides, members have enquired whether the data collected from relevant AV schemes can be used commercially in order to encourage more investors to participate in the research and development

of the technologies, as well as the reporting and handling of accidents that may arise from AV systems.

24. With reference to relevant overseas legislation, the Legal Adviser to the Bills Committee (“Legal Adviser”) has enquired with the Administration about why the insurance arrangements in respect of AV trials are not provided for in the Bill. The Administration has explained that the existing vehicle registration and licensing system will equally apply to AVs. On this premise, the existing legal liability of registered owners and licensees stipulated under various ordinances (including the requirement to purchase insurance for licensed vehicles) will also apply in the case of AVs. The proposed section 143(d) of the Bill also provides that the Pilot Regulation may provide for “the protection of third parties against risks of personal injury or property damage arising out of the use of AVs”. In addition, as the requirement for vehicle data recording is relatively technical, the Administration considers it more appropriate to set out the relevant provisions in the Pilot Regulation. In this connection, the proposed sections 143(f) and (g) of the Bill have provided for “the maintenance of records relating to AVs, AV systems and AV equipment” and “the reporting and investigation of incidents or accidents that involve AVs, AV systems and AV equipment” in the Pilot Regulation.

25. The Administration has also pointed out that before implementing the insurance-related matters in the Pilot Regulation, it will certainly communicate fully with the relevant trades to enable them to understand the relevant details of AV schemes so as to allay their concerns. For example, on Members’ suggestion, the Government has met with the Hong Kong Federation of Insurers and representatives of the automobile sector and the PLB trades in February 2023 to introduce in detail the contents of the Bill and the relevant insurance arrangements, and has further consulted the trades in this regard. As regards the data collected from AVs, TD will ensure that the data and records of AVs are properly maintained by the pilot participants in accordance with the requirements of the Pilot Regulation to be made in future. TD will continue to discuss with the Technical Advisory Committee on the Application of Autonomous Vehicle Technologies in Hong Kong on how to make wider use of the data of AVs to promote the development of the relevant technologies. As for the reporting and investigation of accidents involving AVs, the Pilot Regulation will clearly set out the relevant requirements and TD will give top priority to ensuring safety when vetting and approving applications for pilot licences. Generally speaking, in case of emergencies or major traffic incidents, TD’s Emergency Transport Co-ordination Centre will coordinate different government departments and public transport operators, and disseminate traffic and incident information to the public.

Identification of AVs on roads

26. In response to members' enquiry on how to enhance the safety of AVs when they are being used on roads, the Administration has advised that TD will require the display of a unique identification on an AV to enable other road users to clearly identify the vehicle concerned as an AV. In drawing up the identification requirements, TD will consult the Police to ensure that the identification can effectively assist the Police in law enforcement. Relevant conditions will also be set according to the unique situation of individual trial and use of the AVs to ensure the safety of other road users.

Determination of drivers' legal liability and enforcement issues

27. Members are gravely concerned that autonomous driving technology will reach the level of highly automated driving or even fully automated driving (Levels 4 and 5 of driving automation), such that the backup operator only takes control of the vehicle if necessary, or one operator takes control of multiple vehicles at the same time, or multiple operators take control of one or more vehicles on a shift or rotation basis. Members have enquired how the legal liabilities can be determined and how the relevant law enforcement agencies can effectively enforce the law in the event of an incident or accident involving an AV. Members have pointed out that if the legal liabilities are not clearly defined, it may discourage potential participants of AV pilot schemes and hinder the development of autonomous driving technology.

28. The Administration has explained that although the mode of operating and driving an AV is different from that of a conventional vehicle, the definition of "driver" in section 2 of the Road Traffic Ordinance (Cap. 374) still applies to the operator of an AV who is inside or near an AV, or at the remote control room. When operating an AV, these persons should also bear the same legal liability as the existing "driver" under the relevant ordinances. To prepare for the future scenario where an AV may not require a human operator at all, the proposed section 141(1) of the Bill provides that the Pilot Regulation may provide for how a reference to a driver in any provision of any ordinance is to be interpreted for an AV. The Administration has further pointed out that the proposed section 141(5) also clearly provides that unless otherwise provided in an interpretative provision made by the Secretary, a reference to a driver in a provision of any ordinance is, for an AV for which there is a backup operator, taken to be a reference to the backup operator. In addition, the Bill will also empower the Secretary and the Commissioner to exempt, disapply or modify the provisions of a legislation to cope with the unique circumstances of the future development of AV technology (see proposed sections 142 and 146 for details).

29. On law enforcement, the Administration plans to require, as a condition of the issuance of a pilot licence, that the pilot proprietor submit the information of the designated backup operator for each of the AV for vetting. It also plans to require, when making the Pilot Regulation, that each pilot AV be equipped with a journey recorder with detailed records of relevant journey data, operation records and video footages. The pilot proprietor will also be required to provide such records upon request by the Commissioner or his/her authorized persons. In the event of an incident, the law enforcement agencies may use these records to trace the cause of the incident and determine who should be held responsible. TD will follow up in detail with the Police on the actual operational arrangements.

Power to disapply legislative provisions

30. Members note that the proposed new section 142(1) in the Bill seeks to empower the Secretary to, by means of the Pilot Regulation, exempt a pilot matter from any legislative provision, disapply a legal requirement in relation to a pilot matter, or enable the application of a provision in relation to a pilot matter with modifications (collectively referred to as “disapplication provisions”); under the proposed new section 142(3), before making a disapplication provision for matters not within the Secretary’s purview, the Secretary must consult the Director of Bureau charged with responsibility for the provision concerned. In addition, the proposed new section 146(1) of the Bill empowers the Commissioner to make a disapplication notice, which would not be subsidiary legislation and would not be subject to the LegCo’s scrutiny under the negative vetting procedure, in relation to a particular case of a pilot matter to exempt the pilot matter from a traffic provision, disapply a traffic provision in relation to a pilot matter, or to apply a traffic provision in relation to the pilot matter with modifications (“disapplication notice”). Regarding the above powers sought to be conferred on the Secretary and the Commissioner respectively, members have enquired about the justifications for conferring the relevant powers and the reasons for proposing to empower the Commissioner to, by administrative means, make a disapplication notice which may disapply legislative provisions and would not be subject to the scrutiny of the LegCo.

31. The Administration has explained that AV technology is rapidly evolving, and yet there is no universal standard governing the use of AVs at this stage, and it is not practicable to codify all the detailed technical and operational requirements into statute law. It is therefore necessary to introduce into the Bill the power for the Secretary and the Commissioner under different circumstances to disapply legislative provisions in order to provide a flexible regulatory regime and to facilitate attaining the object of researching into, testing and evaluating AV technology.

32. In respect of the Commissioner's power to make a disapplication notice by administrative means, the proposed sections 146(2), (3) and (4) and section 149 contain clear parameters on the Commissioner's exercise of such power, including that the Commissioner needs to ensure that the disapplication of a traffic provision will not undermine the safety of the pilot matter. Moreover, the relevant Director of Bureau needs to be consulted before exercising the power, and any disapplication made must be published for transparency. In addition, under the proposed section 146(5), the Commissioner's power is limited to making disapplication notices in relation to particular cases and traffic provisions (see Footnote 2); any general disapplication required would have to be made by way of subsidiary legislation by the Secretary. The Administration foresees that most disapplications made by the Commissioner would be relevant to highly technical and case-specific matters. Having regard to the case-specific and technical nature of such disapplications, the merits that a flexible disapplication power could bring to expediting individual projects, as well as the checks and balances in place for making the disapplications, the Administration considers that such disapplication notices/disapplications do not need to take the form of subsidiary legislation.

33. In response to a question on how to assist the public in knowing that the Commissioner has made a disapplication notice and in understanding and complying with the amendments in such notice, the Administration has advised that the proposed section 149 of the Bill provides that a disapplication notice made by the Commissioner in relation to the relevant disapplication must be published on the website of TD. The Commissioner is also required to publish a notice of variation, suspension or revocation of a disapplication notice on the website of TD. As regards issues relating to the future testing and application of AVs, the Administration will consolidate the relevant information and progress of work, including the implementation of disapplications, and report to the LegCo Panel on Transport as appropriate.

Prevailing effect of the Pilot Regulation

34. Members note that the proposed new sections 141 and 142 empower the Secretary to, by way of the Pilot Regulation, make an interpretative provision in relation to a reference to a "driver", or make a disapplication provision (including any provision to disapply provision(s) of the principal legislation) in relation to a pilot matter. As the Pilot Regulation would be subsidiary legislation, the Legal Adviser has requested the Administration to clarify whether the Pilot Regulation has the effect of overriding the provision(s) of principal legislation; if so, whether the Administration will provide for in the Bill the prevailing effect of the relevant provisions.

35. The Administration has explained that the proposed section 141(1) of the Bill provides that the Pilot Regulation may provide for how a reference to a driver in any provision “is to be interpreted for an AV”. Such a specific interpreted provision is for an AV only. The proposed section 141(6)(a) further makes it clear that “if the Secretary makes an interpretative provision, a reference to a driver in the interpreted provision is to be interpreted in accordance with the interpretative provision”. In addition, a disapplication provision made under the proposed section 142 may only be made in relation to a pilot matter. On making a specific disapplication provision, the Secretary will describe clearly the relevant pilot matter, the exempted provision, the disappplied provision, or the provision that is applied with exceptions, modifications or adaptations and the relevant exceptions, modifications or adaptations so that pilot participants and the public will have a clear understanding. Given the above consideration and the “specific-over-general” legal principle, the Administration considers that there is no need to add the wording “prevailing effect”.

Penalties for wilfully interfering with AVs

36. In relation to the proposed new section 143(e) of the Bill which stipulates that the Pilot Regulation may provide for “the prohibition of interference with AVs, AV systems and AV equipment”, some members have asked the Administration whether it will consider imposing a heavier penalty on persons who wilfully interfere with AVs, AV systems and AV equipment than those prescribed under the proposed new section 145 of the Bill. In addition, as the Pilot Regulation will be subject to the scrutiny of the LegCo under negative vetting procedure, the LegCo may not be able to thoroughly examine the relevant details before the Pilot Regulation takes effect. Therefore, members have requested the Administration to consider allowing the Secretary to state in his speech during the resumption of the Second Reading debate on the Bill that the relevant subsidiary legislation will only be commenced subject to completion of the full negative vetting process by the LegCo.

37. The Administration has advised that the fine at level 4 and imprisonment for two years provided for in the proposed section 145 of the Bill will be the maximum penalties under the Pilot Regulation, which are comparable to those under section 36A of the Road Traffic Ordinance (Cap. 374) (i.e. “causing grievous bodily harm by dangerous driving”). As regards the penalties for willfully interfering with an AV, an AV system and an AV equipment, the Administration will carefully consider the penalties for different offences in drawing up the Pilot Regulation to ensure that they reflect the corresponding seriousness, and will also consider providing appropriate defences for relevant contravention. In terms of commencement arrangements of the Pilot Regulation, according to section

28(3)(a) of the Interpretation and General Clauses Ordinance (Cap. 1), subsidiary legislation commences on the day of its publication in the Gazette, but the subsidiary legislation may provide for commencement on another day. Taking into account the views of members, the Administration will consider stating in the speech during resumption of the Second Reading debate on the Bill that the commencement date of the provisions of the Pilot Regulation will be set after the scrutiny period of the negative vetting procedure.

Views on law drafting

38. In relation to the proposed new section 133 of the Bill, some members have queried whether the meaning of the term “參照” would be inconsistent with that of its English text (“by reference to”). The Administration has explained that according to 漢語大詞典, “參照” means “參考並對照”. According to the Cambridge Dictionary, “reference to something” means “comparison with something”. As making a comparison with a target essentially involves studying that target as a reference, it is considered that “參照” in the Chinese text and “by reference to” in the English text of the proposed section 133 carry the same meaning.

Committee stage amendments (“CSAs”)

39. The Administration has proposed the following amendments to the Bill and explained the reasons for the proposed amendments to members:

- (a) adding “or not” after “whether” in the definition of AV equipment in the proposed section 132 to cover the remote control of an AV by AV equipment;
- (b) in order to make the corresponding Chinese definition clearer and more consistent, in the proposed section 132, the heading of Division 4 of Part 15, sections 146, 147, 148 and 149, substituting “改變效力公告” for “不適用條文公告” as the corresponding Chinese definition of “disapplication notice”;
- (c) in order to express the Chinese meaning of “interpreted” more clearly when it is used as a verb, substituting “作釋義” for “詮釋” as the corresponding Chinese term for “interpreted” in the proposed sections 141(1), (6) and (7);
- (d) in the proposed section 141, “interpreted provision” means a provision containing a reference to a driver that is interpreted

by the Secretary. To prevent misunderstanding of other aspects of the provision being interpreted, substituting “subject provision” / “關涉條文” for “interpreted provision” in the proposed section 141(7), and substitute “該提述” for “該條文” in the Chinese text of the definition;

- (e) to make it clearer that the fine at level 4 and imprisonment for 2 years referred to in the proposed section 145 in the Bill are the maximum penalties under the Pilot Regulation, deleting everything after “fine” in that section and substitute “not exceeding level 4 and imprisonment not exceeding 2 years”; and
- (f) to make it clearer that a disapplication notice made by the Commissioner may only be made in relation to a particular case, deleting “may be made in relation to any particular case” and substitute “may only be made in relation to a particular case” in the proposed section 146(5).

The proposed amendments to the Bill proposed by the Secretary for Transport and Logistics and a marked-up copy showing the CSAs against the existing provisions of the Bill are in **Appendices 3 and 4** respectively.

40. The Bills Committee has no objection to the above amendments proposed by the Administration.

Resumption of Second Reading debate

41. The Bills Committee raises no objection to the resumption of the Second Reading debate on the Bill at the Council meeting of 24 May 2023 as proposed by the Administration.

Consultation with the House Committee

42. The Bills Committee reported its deliberation to the House Committee on 12 May 2023.

**Bills Committee on Road Traffic (Amendment)
(Autonomous Vehicles) Bill 2022**

Membership list

Chairman Mr Frankie YICK, SBS, JP

Members Mr CHAN Han-pan, BBS, JP
Ir Dr LO Wai-kwok, GBS, MH, JP
Mr Stanley LI, MH
Mr LAM Chun-sing
Mr Duncan CHIU
Mr Dennis LEUNG, MH
Mr Kenneth LEUNG, JP
Mr CHAN Pui-leung
Mr CHAN Hok-fung, MH, JP
Ir Gary ZHANG
Mr Benson LUK
Mr LAI Tung-kwok, GBS, IDSM, JP
Mr YIM Kong
Mr SHANG Hailong

(Total : 15 members)

Clerk Ms Sophie LAU

Legal Adviser Miss Evelyn LEE

**Bills Committee on Road Traffic (Amendment) (Autonomous Vehicles)
Bill 2022**

**List of deputations which have given written submission to the Bills
Committee**

Deputations

1. Taxi Dealers & Owners Association Limited
2. Liberal Party

Road Traffic (Amendment) (Autonomous Vehicles) Bill 2022

Committee Stage

Amendments to be moved by the Secretary for Transport and Logistics

<u>Clause</u>	<u>Amendment Proposed</u>
5	In the proposed section 132, in the definition of <i>AV equipment</i> , by adding “or not” after “whether”.
5	In the proposed section 132, in the definition of <i>disapplication notice</i> , by deleting “不適用條文” and substituting “改變效力”.
5	In the proposed section 141(1), in the Chinese text, by deleting “詮釋” and substituting “作釋義”.
5	In the proposed section 141(6)(a), by deleting “interpreted provision” and substituting “subject provision”.
5	In the proposed section 141(6)(a), in the Chinese text, by deleting “條文詮釋” and substituting “條文作釋義”.
5	In the proposed section 141(6)(b), by deleting “interpreted provision” and substituting “subject provision”.
5	In the proposed section 141(7), in the English text, in the definition of <i>reference to a driver</i> , by deleting the full stop and substituting a semicolon.
5	In the proposed section 141(7), by deleting the definition of <i>interpreted provision</i> .
5	In the proposed section 141(7), by adding in alphabetical order— <p style="margin-left: 40px;"><i>“subject provision</i> (關涉條文) means a provision containing a reference to a driver that is interpreted by an interpretative provision.”.</p>

- 5 In the proposed section 145, by deleting everything after “fine” and substituting “not exceeding level 4 and imprisonment not exceeding 2 years.”.
- 5 In the proposed Part 15, in the Chinese text, in Division 4, in the heading, by deleting “不適用條文” and substituting “改變效力”.
- 5 In the proposed section 146, in the Chinese text, in the heading, by deleting “不適用條文” and substituting “改變效力”.
- 5 In the proposed section 146(3) and (4), in the Chinese text, by deleting “不適用條文” and substituting “改變效力”.
- 5 In the proposed section 146(5), by deleting “may be made in relation to any particular case” and substituting “may only be made in relation to a particular case”.
- 5 In the proposed section 147, in the Chinese text, in the heading, by deleting “不適用條文” and substituting “改變效力”.
- 5 In the proposed section 147(1), (2)(a) and (b) and (3), in the Chinese text, by deleting “不適用條文” and substituting “改變效力”.
- 5 In the proposed section 148, in the Chinese text, in the heading, by deleting “不適用條文” and substituting “改變效力”.
- 5 In the proposed section 148(1), in the Chinese text, by deleting “不適用條文” and substituting “改變效力”.
- 5 In the proposed section 149, in the Chinese text, in the heading, by deleting “不適用條文” and substituting “改變效力”.
- 5 In the proposed section 149(1), (2) and (3), in the Chinese text, by deleting “不適用條文” and substituting “改變效力”.

**Mark-up of Committee Stage Amendments
against Existing Provisions of the Bill**

Amendments to provisions in Clause 5 of the Bill

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 or not 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 (不適用條文改變效力公告) 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 subject 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 provisions subject 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;

subject provision (關涉條文) means a provision containing a reference to a driver that is interpreted by an interpretative provision.

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~~ not exceeding level 4 and imprisonment not exceeding 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~~ only be made in relation to a 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.”