

LEGISLATIVE COUNCIL BRIEF

Public Bus Services Ordinance
(Chapter 230)

PUBLIC BUS SERVICES (AMENDMENT) REGULATION 2019

INTRODUCTION

The Secretary for Transport and Housing has made the Public Bus Services (Amendment) Regulation 2019 (“Amendment Regulation”) (at **Annex**) under section 35(1) of the Public Bus Services Ordinance (Cap. 230) (“PBSO”) to allow access to franchised buses for persons carrying compressed oxygen cylinders for self-medical use when travelling.

JUSTIFICATIONS

2. At present, patients having certain illnesses (such as Chronic Obstructive Pulmonary Diseases) require oxygen therapy ¹ and have to carry oxygen cylinders, which contain compressed oxygen, for self-medical use when travelling. Compressed oxygen is a kind of dangerous goods regulated under the Dangerous Goods Ordinance (“DGO”) (Cap. 295). Pursuant to regulation 74 of the Dangerous Goods (General) Regulations (“DGGR”) (Cap. 295B), a licence is not required for the storage or conveyance of compressed oxygen not exceeding two cylinders of five litres each.

¹ As advised by the Hospital Authority (“HA”), long-term oxygen therapy is a common form of oxygen therapy prescription and, according to overseas medical literature, patients requiring long-term oxygen therapy should ideally use supplemental oxygen for 24 hours a day, or at least 15 hours a day, unless otherwise advised by a medical practitioner. According to the Hong Kong Occupational Therapy Association, there are about 8 800 patients requiring oxygen therapy in the territory as of April 2019. While there is no breakdown of the number of patients by form of oxygen therapy (long-term or intermittent), the HA has advised that the prescription of long-term therapy is far more common than intermittent therapy in Hong Kong.

3. The Public Bus Services Regulations (Cap. 230A) (“PBSR”) have stipulated additional restrictions on carrying dangerous goods when boarding a franchised bus. Regulation 14A of the PBSR stipulates that no substance or article to which the DGO applies (i.e. including compressed oxygen), **regardless of the quantity involved**, shall be brought onto any bus. In other words, passengers carrying cylinders containing compressed oxygen are currently not allowed to travel on a franchised bus, even if the oxygen involved is for self-medical use and the quantity to be conveyed does not exceed the specified quantity for which a licence is not required under the DGO².

4. Under the “Transport for All” policy objective, the Government is committed to providing appropriate public transport services for members of the public with different needs, including persons who require oxygen therapy and therefore need to bring along compressed oxygen cylinders for self-medical use when travelling. In this connection, upon reviewing the relevant legislation, the Government has proposed that the PBSR be amended so as to allow access to franchised buses for persons carrying compressed oxygen cylinders for self-medical use when travelling, provided that the total number of compressed oxygen cylinders being carried on board **each** bus does not exceed **two**³. This amendment proposal was announced in the Public Transport Strategy Study Report released in June 2017.

THE AMENDMENT REGULATION

5. Section 3 of the Amendment Regulation amends regulation 14A of the PBSR so that, if certain conditions are met before paying any fare, an intending passenger may bring onto a franchised bus compressed oxygen cylinder(s) required for his/her own medical use. The conditions include –

² Regarding other public transport carriers (such as taxi, public light bus, ferry and tram), there is no similar strict control on passengers carrying oxygen cylinders under their respective statutory provisions, i.e., a driver/captain of the respective public transport vehicle/vessel has the discretion to allow the conveyance of compressed oxygen not exceeding two cylinders of five litres each in his/her vehicle/vessel. The MTR Corporation Limited has also put in place a mechanism whereby any passenger carrying a compressed oxygen cylinder for self-medical use could seek assistance from MTR staff, who would offer assistance to the passenger during the latter’s journey on the MTR.

³ The Amendment Regulation will allow either one passenger to carry two compressed oxygen cylinders not exceeding five litres each for self-medical use at any one time on board a franchised bus, or two passengers to each carry one compressed oxygen cylinder not exceeding five litres for self-medical use at any one time on board a franchised bus.

- (a) the passenger shows that the compressed oxygen is required for his/her own medical use by inhaling the oxygen through a nasal cannula or oxygen mask connected to the cylinder;
- (b) the passenger advises the driver or conductor of the number of compressed oxygen cylinders that he/she is carrying; and
- (c) after declaring the number of compressed oxygen cylinders that he/she is carrying, the passenger has not been advised by the driver or conductor that the total number of oxygen cylinders on board the bus will exceed two if he/she brings the oxygen cylinder(s) onto the bus.

LEGISLATIVE TIMETABLE

6. The legislative timetable will be as follows –

Publication in the Gazette	11 October 2019
Tabling at the Legislative Council (“LegCo”) for negative vetting	16 October 2019
Commencement of the Amendment Regulation	1 January 2020

IMPLICATIONS OF THE AMENDMENT REGULATION

7. The Amendment Regulation is in conformity with the Basic Law, including the provisions concerning human rights. The Amendment Regulation will not affect the current binding effect of the PBSO, and has no civil service, economic, environmental, family, financial, gender, productivity or sustainability implications.

PUBLIC CONSULTATION

8. The Government consulted the Transport Advisory Committee (“TAC”) and the LegCo Panel on Transport on the proposed legislative amendments on 29 April 2019 and 17 May 2019 respectively. Both the TAC and the Panel agreed to amending the legislation to allow access to franchised buses for persons carrying compressed oxygen cylinders for self-medical use when travelling.

PUBLICITY

9. A spokesperson will be available to answer media enquiries. Before the Amendment Regulation comes into operation, the Transport Department will work closely with the stakeholders on the publicity on the legislative amendments, including issuing relevant guidelines, so as to ensure smooth implementation.

ENQUIRIES

10. Any enquiry on this brief can be directed to Miss Crystal YIP, Principal Assistant Secretary for Transport and Housing (Tel.: 3509 8171).

Transport and Housing Bureau
9 October 2019

Public Bus Services (Amendment) Regulation 2019

(Made by the Secretary for Transport and Housing under section 35(1) of the Public Bus Services Ordinance (Cap. 230))

1. Commencement

This Regulation comes into operation on 1 January 2020.

2. Public Bus Services Regulations amended

The Public Bus Services Regulations (Cap. 230 sub. leg. A) are amended as set out in section 3.

3. Regulation 14A amended (dangerous goods)

(1) Regulation 14A—

Re-number the regulation as regulation 14A(1).

(2) Regulation 14A(1)—

Repeal

“No person shall bring onto any”

Substitute

“Subject to subregulation (2), a person must not bring onto a”.

(3) After regulation 14A(1)—

Add

“(2) A person may bring onto a bus compressed oxygen contained in an oxygen cylinder if the person, before paying any fare—

- (a) shows to the driver or conductor of the bus that the compressed oxygen is required for the person’s own medical use by inhaling the oxygen through a nasal cannula or oxygen mask connected to—

- (i) if the person is carrying 1 oxygen cylinder—the cylinder; or
- (ii) if the person is carrying more than one oxygen cylinder—any of the cylinders;

(b) declares to the driver or conductor the number of oxygen cylinders that the person is carrying; and

(c) after making a declaration under paragraph (b), has not been advised by the driver or conductor that the total number of oxygen cylinders on board the bus will exceed 2 if the person brings the declared number of oxygen cylinders onto the bus.

(3) For the purposes of this regulation, an oxygen cylinder carried by a person is regarded as containing compressed oxygen.

(4) In this regulation—

oxygen cylinder (氧氣瓶) means a container used for containing compressed oxygen.”.

Secretary for Transport and Housing

2019

Explanatory Note

This Regulation amends the Public Bus Services Regulations (Cap. 230 sub. leg. A) so that, if certain conditions are met, an intending passenger may bring onto a bus compressed oxygen contained in an oxygen cylinder that is required for the passenger's own medical use.