

FIN CR 2/7/2201/03
LS/B/26/04-05
2869 9216
2877 5029

Secretary for Financial Services and the Treasury
(Attention: Miss Erica Ng, PAS)
Financial Services and the Treasury Bureau
4/F, Main and East Wings
Central Government Offices
Hong Kong

25 May 2005

BY FAX
Fax No. : 2530 5921
Total nos. of pages : (2)

Dear Miss Ng,

Revenue (Personalized Vehicle Registration Marks) Bill 2005

Thank you for your letter of 23 May 2005. I set out below my comments on the points raised in the letter following the discussion of these points at the Bills Committee meeting on 24 May 2005:

Clause 10 – new regulation 12G

It seems that one of the factors that the Commissioner for Transport will consider in reviewing his decision is that members of the public have made submissions on the relevant personalized vehicle registration mark (“PVRM”). Apart from this, are there any other factors that the Commissioner will consider? Should these factors be set out in the regulation?

Clause 10 – new regulations 12I, 12K and 12O

- (a) Apart from the condition that the vehicle registration mark concerned must be assigned to a vehicle within 12 months, are there any other conditions of sale of a vehicle registration mark?
- (b) To provide a clear legal basis for the power of the Commissioner for Transport to impose conditions on the sale of a PVRM by auction, should such power be provided expressly in the proposed regulation 12H? If so, please consider making a similar provision in the existing regulations governing the auction of other vehicle registration marks.

At the Bills Committee meeting on 24 May 2005, some members asked whether a PVRM holder may claim compensation against the Government if he suffers loss or damage as a result of the cancellation of the allocation of his PVRM. Please clarify the policy intent in relation to this issue. If it is accepted that an allocated PVRM is a property right, please consider the implications of Article 105 of the Basic Law, which protects the right of individuals and legal persons to compensation for lawful deprivation of their property.

At the meeting, some members also queried the power of the Commissioner for Transport to cancel the allocation of a PVRM at any time after its allocation as this would lead to uncertainty and inadequate protection to consumers. Reference was made to the arrangements applicable to trade marks registered under the Trade Marks Ordinance (Cap. 559) and it was suggested that similar arrangements should apply to the allocation of PVRMs. Under the Trade Marks Ordinance, a trade mark is registered for a specific period and a registered trade mark may not be revoked in the absence of fault or default on the part of the owner. To address members' concerns, will the Administration consider providing for a period of validity for an allocated PVRM? Please also consider whether other measures may be introduced to better protect the rights of PVRM holders and to give greater certainty to the PVRM Scheme?

I would appreciate it if you could let us have the Administration's reply in both languages by 9 June 2005 so that the above issues can be discussed at the next Bills Committee meeting.

Yours sincerely,

(Connie Fung)
Assistant Legal Adviser

c.c.: DoJ (Attn: Ms Phyllis KO – SALD(BD)) Fax No. 2845 2215
LA