

For discussion
27 May 2005

Legislative Council Panel on Transport

Arrangements for the Issue of Taxi Driving Licences

PURPOSE

This paper informs Members of the review currently being conducted by the Transport Department (TD) on the arrangements for the issue of taxi driving licences.

BACKGROUND

2. On 29 March 2005, a taxi driver with a full Hong Kong taxi driving licence was found to be a Mainland visitor holding an Exit-entry Permit for Travelling to and from Hong Kong and Macau (commonly known as the two-way permit). He was subsequently arrested by the Immigration Department, and was sentenced to three months' imprisonment for breaching his condition of stay.

CURRENT LEGISLATION

3. Under the Road Traffic (Driving Licences) Regulations (Cap 374B), any person wishing to apply for a taxi driving licence must fulfill the stipulated requirements, which include possessing a valid Hong Kong driving licence for private cars or light goods vehicles for 3 years, as well as passing a taxi written test. An applicant can obtain a private car or light goods vehicle driving licence through passing a driving test or through direct issue if he can meet the requirements at the Annex. In applying for a driving licence, an applicant is required to produce a valid identity document. According to the Road Traffic (Registration and Licensing of Vehicles) Regulations (Cap 374E), a valid identity document includes, inter alia, a Hong Kong identity card, a passport or other travel document such as a two-way permit. So long as the applicant fulfills the stipulated requirements, TD would be required to issue a taxi driving licence to the applicant. TD does *not* have the legal authority or discretion to include additional checks or requirements.

4. Separately, under section 41 of the Immigration Ordinance (Cap 115) and regulation 2 of the Immigration Regulations (Cap 115A), any person who lands in Hong Kong as a visitor will breach his condition of stay if he takes up any employment, whether paid or unpaid, or establishes or joins in any business without the prior permission of the Director of Immigration. Such a breach is a criminal offence, and the offender shall be liable on conviction to a maximum fine of \$50,000 and a maximum imprisonment term of 2 years.

5. Notwithstanding the above legal prohibition against employment by Mainland visitors, the case mentioned in paragraph 2 above indicates that it is possible that taxi driving licences are issued to Mainland visitors. For this reason, TD has conducted a detailed check on all the 225 860 Hong Kong taxi driving licence holders. It is found that as at 30 April 2005, only 4 taxi driving licence holders had produced identity documents other than the Hong Kong Identity Card when they applied for the taxi driving licences. Three of the cases involved the use of passports, while the fourth case involved a two-way permit. Although the number is not particularly alarming, we consider it necessary to review the present arrangements for the issue of taxi driving licences and to identify means to ensure that only those eligible to take up employment in Hong Kong would be able to obtain a taxi driving licence.

6. We have considered different means to achieve the above objective. One option is to stop issuing taxi driving licences to non-Hong Kong residents. However, as mentioned in paragraph 3 above, under the existing Regulations, the Commissioner for Transport (C for T) does *not* have the power to refuse granting a taxi driving licence so long as the applicant fulfills the relevant requirements. Considerations have also been given to whether C for T could first ascertain the eligibility of an applicant to take up employment before approving his application for a taxi driving licence. However, legal advice has confirmed that C for T is not legally empowered to do so.

THE REVIEW

7. Given the aforesaid constraints in the existing legislation, it appears that TD does not have much flexibility, and it is likely that legislative amendments will be required. TD is now examining the issue in detail. As there will be implications on the whole licensing regime and other legislation, we will need to consult relevant bureaux and departments,

including the Security Bureau, Immigration Department, and Department of Justice, on the legal, practical and other implications.

INTERIM MEASURES

8. Pending the completion of the review, TD has taken the following interim measures -

- (a) TD has written to all taxi associations and unions, reminding them that no visitor, including two-way permit holders, is allowed to take up any employment or operate a taxi for business without the prior permission of the Director of Immigration. Offenders will be prosecuted. They have also been reminded to check the Hong Kong identity card and taxi driving licence of the hirer before renting a taxi to him;
- (b) TD has also written to all authorized agents who make taxi driver identity plates, reminding them to inspect the Hong Kong identity card and the taxi driving licence of an applicant before processing his order for a taxi driver identity plate. The relevant provisions in the Immigration Ordinance and its regulations have also been brought to the attention of the agents; and
- (c) TD will issue a notice prepared by the Immigration Department to applicants for taxi driving licences who are non-Hong Kong residents to remind them of the need to obtain the Director of Immigration's prior permission before they can take up employment in Hong Kong.

NEXT STEPS

9. As mentioned in Para. 7 above, TD is reviewing the legislative provisions together with other bureaux/departments. We will report to this Panel when the review findings and recommendations are available.

Environment, Transport and Works Bureau
May 2005

**Requirements for Application for Direct Issue
of Driving Licences in Hong Kong**

According to regulation 11 of Cap. 374B, the Commissioner for Transport may issue a full driving licence to an applicant if he is satisfied that the applicant:

- (a) has been holding a valid driving licence issued by one of the 31 countries or places listed in Schedule 4 of Cap 374B (including the Mainland) for at least 3 years immediately preceding the application;
- (b) the overseas driving licence is of an equivalent driving entitlement that he is applying for;
- (c) the driving licence was obtained by passing the relevant driving test in the issuing country or place, and
- (d) satisfies one of the three requirements below-
 - ♦ his licence was originally issued to the applicant not less than 5 years immediately before his application, or
 - ♦ he obtained the driving licence during the period of residence of not less than 6 months in the country or place of issue, or
 - ♦ he is a holder of a passport/travel document issued by the country or place concerned.