

**For discussion
on 6 February 2012**

**Legislative Council Panel on Transport
Trade Licence**

PURPOSE

This paper seeks Members' views on the Administration's proposal to introduce a new form of trade licence ("new trade licence") for the re-export trade of left-hand drive ("LHD") vehicles, and to improve the control mechanism to prevent the abuse of trade licence.

BACKGROUND

2. LHD vehicle re-export is a sizeable business in Hong Kong: over 20 000 LHD vehicles, including private cars, coaches and goods vehicles, are re-exported through Hong Kong every year. The Mainland has been the major re-export destination, although re-exports to some other destinations are also active such as re-exports to Vietnam which are rising. Around 1 000 LHD vehicles are re-exported to the Mainland via Lok Ma Chau/Huanggang every month while re-exports to ports in Mainland and other countries are by sea.

3. Unlike local car dealers, re-exporters of LHD vehicles cannot apply for and use trade licences in their operations, unless such vehicles are issued with movement permits. Under the existing provisions in the Road Traffic (Registration and Licensing of Vehicles) Regulations (Cap. 374E) ("the Regulations"), a trade licence may only be used for driving-

- (a) an unregistered vehicle in the course of delivery to a motor dealer or exhibitor;
- (b) a vehicle for the purpose of presale demonstration to a potential customer; or

(c) a vehicle under mechanical test,

which is in the possession of the licensee in the course of his/her business as a manufacturer, repairer of or dealer in vehicles. Trade licences cannot be used for vehicles which do not comply with the Road Traffic (Construction and Maintenance of Vehicles) Regulations (Cap. 374A) for registration and licensing in Hong Kong.

4. Presently, the movement of LHD vehicles on transit on Hong Kong roads for the purposes of examination or modification, or delivery to the ports or boundary control point, requires the issuance of a movement permit, which stipulates and restricts the route and purpose for driving the vehicle from one site to another. Unlike trade licences which could be used on any vehicle in possession of the licensee for permitted purposes, movement permits apply to individual vehicles for the approved purposes on the specified routes only. This means that a LHD car dealer has to obtain a movement permit (Transport Department (TD) charges HKD560 for each permit) for each and every LHD vehicle he/she intends to re-export, if such vehicles have to be used on the roads of Hong Kong. This is claimed to have caused inconvenience and increased cost to the trade.

THE ADMINISTRATION'S PROPOSAL

5. To facilitate the re-export business of LHD vehicles, the Administration proposes to amend the Regulations to introduce a new trade licence, and also improvements to the regulatory mechanism applicable to the existing trade licence and the new trade licence. Details of the proposal, including a comparison between the current and new trade licences, are at the **Annex**.

TRADE'S REACTION TO THE PROPOSAL AND THE ADMINISTRATION'S RESPONSE

6. The trade, including parties dealing with LHD and right-hand drive (RHD) vehicles, has been consulted on the Administration's proposal. The trade generally welcomes the proposal to facilitate LHD vehicle re-export business and improve the regulatory mechanism of trade licence, but have made suggestions regarding the following areas.

Limitation on use of the new trade licence [items I(c)(i) & (iii) of Annex]

7. The LHD vehicle re-exporters have requested that LHD vehicles on transit in Hong Kong should be allowed to run on roads in Hong Kong for pre-sale demonstration and carry passengers, i.e. similar to the provisions for existing trade licence.

8. The request goes beyond the Administration's intention to facilitate the operation of the LHD vehicles re-export trade by providing a proper mechanism to allow LHD vehicles for re-export to run on the roads in Hong Kong for legitimate purposes relating to the re-export trade. Such extended use of the new trade licence could easily lead to abuse, allowing the use of LHD vehicles on roads in Hong Kong for non-re-export purposes without being registered and licensed, which is not acceptable from both the traffic management and road safety perspectives. The Administration therefore maintains the view that the new trade licence should only be used for LHD vehicles for re-export purposes.

Length of stay of LHD vehicle in Hong Kong [item I(c)(iv) of Annex]

9. The LHD vehicle re-exporters have requested that LHD vehicles on transit be allowed to stay in Hong Kong for up to 12 months (the Administration's proposal is 6 months). They noted the requirement that documentary proof must be produced on the spot upon request by any police officer or the Commissioner for Transport ("Commissioner"). They have explained that a licensee could not have full control of the time required to complete the business transactions and relevant formalities to re-export a vehicle and believe that a 12-month

period would meet their needs.

10. The Administration considers this request reasonable and is in line with our intention to facilitate the trade's operation. We therefore propose that the period of stay of a LHD vehicle for re-export be set at 12 months. If LHD vehicles for re-export stay in Hong Kong for more than 12 months, they can no longer use trade licences, and must apply for movement permits in order to be driven on roads in Hong Kong.

Limitation on use of all trade licences [item II(e) of Annex]

11. Regulation 47(4)(c) of the Regulations stipulates that a trade licence may be used for driving a vehicle "under mechanical test". The trade has pointed out that it is unclear whether it is permissible to drive the vehicle for the purpose of mechanical test, vehicle examination, repairing, or retrofitting of vehicle body or accessories before sale, which are normal activities of the trade.

12. The Administration agrees that there is a genuine need for the trade to use a trade licence for the above purposes. Therefore, the Administration proposes to introduce legislative amendments to stipulate that trade licence may be used for driving a vehicle for the purpose of mechanical test (not applicable to LHD vehicles for re-export), vehicle examination, repairing, or retrofitting of vehicle body or accessories before sale.

Register of journeys [items II(f) & (g) of Annex]

13. At present, regulation 48(1) of the Regulations stipulates that, every holder of a trade licence shall maintain a register of all journeys made by vehicles in use under the trade licence. On the proposed requirement of making available the registers of journeys for inspection without delay upon request by any police officer or the Commissioner, the trade, including RHD vehicle dealers, pointed out that different practices were adopted by different companies in maintaining such registers of journeys and they would need to change their existing operational arrangements in order to comply with the proposed requirement. For example, at present, an authorized driver would only bring along a duplicate of a register slip when using the trade licence,

while the original copies of the register slips are kept in a “book” in the company. Some companies may keep the register slips of several trade licences in one book.

14. The Administration considers that the varied practices are unsatisfactory and would create difficulty in enforcement by the Police. Therefore, the Administration proposes that the licensee should be required to keep a register for each trade licence, and should make the register available for inspection without delay upon request.

15. The Administration will continue to communicate with the trade on the use and control of register of journeys, having regard to the Administration’s intention to tighten the control mechanism on the use of trade licences and the needs of the trade.

WAY FORWARD

16. The Administration aims to introduce the proposed legislative amendments into the Legislative Council for approval by negative vetting within the current legislative session.

ADVICE SOUGHT

17. Members are invited to comment on the content of this paper and the details of the Administration’s proposal set out at the Annex.

Transport and Housing Bureau
January 2012

Proposal to Introduce a New Trade Licence for LHD Vehicles for re-export and Improve Regulatory Mechanism for All Trade Licences

I. Introduction of a New Trade Licence

- (a) introduce a new trade licence for use on LHD vehicles for re-export via Hong Kong;
- (b) make explicit provisions such that Closed Road Permit (CRP) (currently vehicle-specific) may be issued to holder of such new trade licence (non-vehicle specific) to allow LHD vehicles bearing such new trade licence to be driven across the boundary via boundary control point for re-export purposes;
- (c) subject the new trade licence to the following regulatory conditions:
 - (i) no presale demonstration of the vehicle concerned to potential customers shall be allowed;
 - (ii) no mechanical test of the vehicle concerned shall be allowed;
 - (iii) no passenger except the driver who shall be the holder of a trade licence or person bona fide in his/her employ and acting under his authority is allowed on the vehicle used under the new trade licence;
 - (iv) the person in charge of the vehicle shall, upon request by any police officer or the Commissioner, produce evidence on the spot to prove that the length of stay of the vehicle under use does not exceed 12 months from the date it was imported into Hong Kong;
- (d) specify a different colour scheme for the plates of the new trade licence (trade licence plates currently have red characters and numerals on a white background as provided by the law) which could be easily identified by police officers and on enforcement cameras, to facilitate identification and enforcement;

II. Improvement of Regulatory Mechanism for All Trade Licences

- (e) specify clearly that the permissible uses of the trade licence include driving the vehicle for the purpose of mechanical tests (not applicable to LHD vehicles for re-export), vehicle examination, repairing, or retrofitting of vehicle body or accessories before sale;
- (f) require that a register of journeys be kept for each trade licence and the register should be made available for inspection without delay on request by any police officer or the Commissioner; and
- (g) specify the content of the register of journeys to facilitate enforcement and ensure that the trade licence is only used by the licensee, or an authorized person acting under his/her authority.

————— A comparison between the current trade licence and the new trade licence is in the **Attachment**.

Attachment to Annex

**Comparisons between the Current Trade Licence and
the New Trade Licence**

	The Current Trade Licence	The New Trade Licence *
Vehicles eligible for using the trade licence	Right-hand drive (“RHD”) vehicles which are in the possession of the holder of trade licence in the course of his/her business.	Left-hand drive (“LHD”) vehicles for re-export via Hong Kong.
Construction requirements of the vehicles	Such vehicles must comply with the Road Traffic (Construction and Maintenance of Vehicles) Regulations (Cap. 374A) for registration and licensing in Hong Kong.	While not eligible for registration and licensing under Cap. 374A, LHD vehicles eligible for using this new trade licence must comply with Article 22 of the 1949 Convention, i.e. such LHD vehicles must be in good working order and in such mechanical condition as not to endanger the driver and other people; and requirements concerning braking, lighting, tyres, etc. have to be followed.
Eligibility of Applicants	Bona fide manufacturer, repairer or dealer in vehicles.	Bona fide manufacturer, repairer or dealer in vehicles.
Limitation of uses	A trade licence may be used for driving a RHD vehicle : (a) in the course of delivery to a motor dealer or exhibitor; (b) for the purposes of mechanical test, vehicle examination, repairing or retrofitting of vehicle body or accessories before sale; and	A trade licence may be used for driving a LHD vehicle on transit in Hong Kong : (a) in the course of delivery to a motor dealer or exhibitor; (b) for the purposes of vehicle examination, repairing or retrofitting of vehicle body or accessories before sale; and

* The new trade licence is introduced in addition to the current trade licence. The mechanism for issuing movement permits, mostly for engineering vehicles, will not be affected.

	The Current Trade Licence	The New Trade Licence *
	(c) for the purpose of presale demonstration to a potential customer.	(c) on transit to a port or boundary control point for re-export.
Documents for inspection	The holder of a trade licence shall produce the register of journeys made by vehicles in use under the trade licence for inspection on request by any police officer or the Commissioner. [#]	The following documents have to be made available for inspection readily without delay upon request by any police officer or the Commissioner: (a) the register of journeys; (b) evidence to prove that the period of stay of the vehicle under use does not exceed 12 months from the date it was imported into Hong Kong.
Format of trade licence plate	Letter “T” followed by the number allocated in respect thereof, in <u>RED</u> on a white background in a form specified by the Commissioner.	Letter “T” followed by the number allocated in respect thereof, in <u>BLUE</u> on a white background in a form specified by the Commissioner.
Number of passengers	Maximum of 2.	No other people is allowed in the vehicle except the driver who shall be the licensee or person bona fide in his/her employ and acting under his/her authority.

[#] A register of journeys shall be kept for each trade licence and the register shall be made available for inspection readily without delay when the proposed legislative amendments take effect, same as the requirement for the new trade licence.