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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

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BY FAX
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Dear Miss Ng,

Revenue (Personalized Vehicle Registration Marks) Bill 2005

I am scrutinizing the above Bill with a view to advising Members and should be grateful if you would clarify the following:

Proceeds from the auction of personalized vehicle registration marks (“PVRMs”)

While the existing regulations 10(2) and 13(5) of the Road Traffic (Registration and Licensing of Vehicles) Regulations (Cap. 374 sub. leg. E) (“the Registration and Licensing of Vehicles Regulations”) respectively provide that the proceeds from the auction of special vehicle registration marks and certain ordinary vehicle registration marks shall be paid into the Lotteries Fund, no provision is proposed in the Bill on how the proceeds from the auction of PVRMs will be dealt with. If it is intended that the proceeds from such auction will be paid into the general revenue, should a provision to that effect be included in the Bill? You may wish to refer to a similar provision (section 32I(8)) in the Telecommunications Ordinance (Cap. 106).

Clause 10 – new regulation 12A of the Registration and Licensing of Vehicles Regulations

If it is intended that the notice to be published in the Gazette under the new regulation 12A(1) is to be a general notice instead of a legal notice subject to the scrutiny of the Legislative Council, will the Administration consider providing expressly in the regulation that the notice concerned is not subsidiary legislation?

Clause 10 – new regulation 12F

If a proposed PVRM is or is likely to be defamatory, will the Commissioner for Transport (“the Commissioner”) refuse the application? Should provisions be made to cover this?

Clause 10 – new regulation 12G

Is there any reason why the Commissioner’s power of review is to be confined to acceptance of an application for PVRM only? Should the same power apply where the Commissioner refuses an application as well?

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

- (a) If the Commissioner exercises his discretion under the new regulations 12I(6), 12K(5) and 12O(6) to cancel the allocation of a PVRM without giving notice to the PVRM holder, how would the PVRM holder know that the allocation has been cancelled? When does the certificate of allocation concerned cease to be valid? Is the PVRM holder required to return the certificate of allocation to the Commissioner and if so, when? Please consider the need to provide for these matters in the proposed regulations.
- (b) It appears that the new regulations 12I(6), 12K(5) and 12O(6), as drafted, would allow the Commissioner to notify the PVRM holder concerned of his decision to cancel the allocation of a PVRM if the Commissioner chooses to do so. If this happens, would the notification so given be regarded as a notice of cancellation referred to in the new regulation 12L?

Clause 10 – new regulation 12L

Before the Commissioner cancels the allocation of a PVRM, is there any reason for not giving the affected PVRM holder an opportunity to make representations as to why the allocation should not be cancelled?

Clause 10 – new regulation 12O

Is there any reason for not giving a right of appeal to a person aggrieved by the Commissioner’s decision to refuse his application for a PVRM under the new regulation 12F?

Giving of notices

- (a) It is noted that a number of regulations added by clause 10 of the Bill authorize or require a notice to be given. Examples of these regulations are new regulations 12D(1), 12F(3) and (4), 12G(3), 12L(2) and 12Q(1). However, except for the notice of cancellation referred to in regulation 12L(2) in respect of which the mode of giving the notice is expressly provided, no corresponding provision is provided in respect of other notices. In the absence of such a provision, please explain how these other notices should be given. Should provisions be included in the Bill to cover this? You may wish to refer to section 101 of the Road Traffic Ordinance (Cap. 374) which provides for service of notices required to be served under Part X of the Ordinance. Should a provision similar to section 101 of Cap. 374 be provided in the Bill?
- (b) Clause 41 of the Bill proposes to add regulation 12Q(1) of the Registration and Licensing of Vehicles Regulations, added by clause 10 of the Bill, to Schedule 1 to the Electronic Transactions (Exclusion) Order (Cap. 553 sub. leg. B) (“the Exclusion Order”). The effect of this is that a notice to surrender a PVRM cannot be given in form of an electronic record. Since only regulation 12Q(1) is added to the Exclusion Order, does the Administration intend that notices required to be given under other new regulations added by clause 10 of the Bill may be given by electronic means? If so, should this be stipulated clearly in the Bill? You may wish to refer to a similar provision (section 29(1)) in the Electronic Transactions Ordinance (Cap. 553).

I would appreciate it if you could let us have the Administration’s reply in both languages on or before the Bills Committee meeting scheduled to be held on 24 May 2005.

Yours sincerely,

(Connie Fung)
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