

**For discussion
on 11 July 2011**

Legislative Council Panel on Transport

Issue of Certificate of Particulars of Motor Vehicles

Purpose

The Administration proposes to improve the issuing mechanism of Certificate of Particulars of Motor Vehicles (“the Certificate”). This paper seeks Members’ views on the proposal.

Background

2. All vehicles used on the roads of Hong Kong, except otherwise stated under the Road Traffic Ordinance (Cap.374), have to be registered and licensed. Regulation 4(1) of the Road Traffic (Registration and Licensing of Vehicles) Regulations (Cap.374E) (“the Regulations”) (relevant extract is at **Annex A**) provides that the Commissioner for Transport (“the Commissioner”) shall maintain a register of vehicles containing the 18 particulars of the vehicles concerned as specified in Schedule 1 to the Regulations (relevant extract is at **Annex B**).

3. Among the 18 items of particulars contained in the register, 15 are related to vehicles (“vehicle particulars”), while the remaining three are particulars pertaining to registered vehicle owners¹ (items (iv) to (vi) in Annex B). Under Regulation 4(2) of the Regulations, the Commissioner shall, on payment of a prescribed fee², supply to any person making application for any particulars in the register in respect of a vehicle a Certificate stating such particulars. The Commissioner has no discretion in withholding the release of such particulars, including the personal particulars of the relevant registered owner, provided that the prescribed fee is paid by the applicant. The Commissioner does not have power under the existing law to ask the applicant to provide reasons for obtaining the Certificate.

¹ A registered owner can be a natural person or body corporate.

² Currently set at \$45 under Schedule 2 to the Regulations.

Administrative improvement measures

4. In order to put across clearly the message to applicants that the information on the Certificate should only be used for traffic and transport related purpose, the Transport Department (TD), after consulting the Privacy Commissioner for Personal Data, introduced administrative measures in 2003 to:

- (i) include a note on the relevant application form to remind the applicant that the personal data of the registered owner should only be used for traffic and transport related matters;
- (ii) ask the applicant to state the purpose of applying for the Certificate, and to confirm his understanding that making of false statement constitutes an offence; and
- (iii) enable TD to release the personal information of the applicant concerned to the registered owner if requested by the latter.

5. These administrative measures have provided a certain degree of protection to the personal data of the registered owners. However, the system under the Regulations is still prone to abuse. The major problem is that even if an applicant fails to specify the purpose of application, the Commissioner is still obliged to issue him/her with the Certificate as long as the prescribed fee is received.

6. In 2010, TD issued about 50 400 Certificates. 56% of the applicants declared that the purpose for obtaining the Certificate was either for legal proceedings or for sales and purchase of vehicles. The remaining 44% (i.e. around 22 100 applicants) did not specify the purpose. Among these 22 100 applications, over 11 200 were made in the name of companies, of which almost 70% were property agents and about 25% were media or news agencies. We consider it necessary to introduce further measures to strengthen the protection of privacy of the personal data of registered owners.

The proposal

7. To enhance privacy protection and ensure that the personal data of registered owners contained in the register is properly used, we intend to

strengthen the existing administrative measures, and codify them in the laws to provide a proper statutory footing to facilitate enforcement. We propose to amend the Regulations as set out in paragraphs 8 to 12 below.

(a) Purpose of the register

8. We propose to specify in the Regulations that the purpose of the register is to allow any member of the public to ascertain the particulars of a registered vehicle in the manner provided in the Regulations as amended.

(b) Conditions under which personal particulars may be released

9. We propose that only vehicle particulars would be provided in the Certificate upon receipt of an application and the prescribed fee. The personal particulars of registered owners would only be released if the applicant:

- (i) is the registered owner of that vehicle, or
- (ii) can present a written consent of the registered vehicle owner concerned, or
- (iii) declares to the Commissioner that such information would only be used for certifying the identity of the registered vehicle owner in specified scenarios (the specified scenarios are set out in **Annex C**).

10. The list of proposed scenarios in Annex C is drawn up with reference to the initial comments from relevant stakeholders³.

(c) Sanction

11. We propose to introduce a sanction provision such that it shall be an offence for a Certificate applicant to use the personal particulars of the registered vehicle owner for purposes other than that declared (under paragraph 9(iii) above), and that upon conviction, the applicant would be liable to a fine at level 2⁴ and to 6 months' imprisonment.

³ The parties consulted include the Office of the Privacy Commissioner for Personal Data, the Law Society of Hong Kong, the Hong Kong Federation of Insurers and the Judiciary.

⁴ According to s113C of the Criminal Procedure Ordinance (Cap. 221), Level 2 fine is defined as a fine between \$2,001 and \$5,000 (inclusive).

(d) Application

12. We also suggest that the proposed arrangements should be applicable to all applicants, natural person as well as body corporate.

Way forward

13. We plan to launch a two-month public consultation on 12 July 2011 to collect views from the public and relevant stakeholders on the proposal, before we proceed with the legislative amendments. We shall issue a press release and upload the public consultation document onto the websites of the Transport and Housing Bureau and TD (the addresses are <<http://www.thb.gov.hk/>> and <<http://www.td.gov.hk/>> respectively) to facilitate the public in offering their views.

Advice sought

14. Members are invited to comment on the proposal set out in paragraphs 7 to 12 above.

**Transport and Housing Bureau
July 2011**

**Road Traffic (Registration and Licensing of Vehicles) Regulations
(Cap. 374E)**

Regulation 4 Register of vehicles

- (1) The Commissioner shall maintain a register of vehicles containing the particulars specified in Schedule 1.
- (2) The Commissioner shall, on payment of the fee prescribed in Schedule 2, supply to any person making application for any particulars in the register in respect of a vehicle a certificate stating such particulars.
- (3) The Commissioner may waive the fee payable in respect of any application under sub-regulation (2) where he is satisfied-
 - (a) that the applicant has good reason for requiring the particulars;
and
 - (b) it is in the public interest that the particulars be disclosed.

**Road Traffic (Registration and Licensing of Vehicles) Regulations
(Cap. 374E)**

Schedule 1

Particulars to be entered in the register-

- (i) Registration mark.
- (ii) Classification of vehicle.
- (iii) Date of first registration.
- (iv) Full name of registered owner.
- (v) Full residential address of the registered owner (or of the registered office of a corporate body).
- (vi) Identity document.
- (vii) Make.
- (viii) Year of manufacture.
- (ix) Engine number.
- (x) Chassis number.
- (xi) Cylinder capacity.
- (xii) Permitted gross vehicle weight (goods vehicles and special purpose vehicles only).
- (xiii) Type of body.
- (xiv) Colour.
- (xv) Seating capacity and standing passenger capacity.
- (xvi) Any other particulars required by the Commissioner.
- (xvii) Country of origin.
- (xviii) Licence fee.

**List of proposed scenarios
under which persons who are not registered owners
may obtain personal particulars of registered owners without the
consent of the registered owners concerned
through making declaration to the Commissioner**

(A) Insurance claims

Claiming insurance in respect of any casualty, loss or damage (including loss or damage to property) arising from traffic accident or incidents where criminal offence is committed or otherwise involving or caused by the use or presence of a particular vehicle.

(Examples for reference:

- (i) Traffic accidents causing death of or injury to person and damage to property.*
- (ii) Car theft cases in which the insurance company requires to identify the registered owners.)*

(B) Compensation

Seeking compensation for any casualty, loss or damage (including loss or damage to property) arising from traffic accident or otherwise involving or caused by the use or presence of a particular vehicle.

(Examples for reference:

- (i) Exploring the possibility of mutual settlement by registered owners/drivers of vehicles in a traffic accident.*
- (ii) Claiming compensation in case the vehicle in question is not covered by valid insurance policy.*
- (iii) Claiming compensation in case the scope of insurance coverage of a vehicle does not cover the particular incident.)*

(C) Rectification of improper presence of vehicle

Rectifying the act of unauthorized entry or improper presence of a particular vehicle, without demanding insurance or compensation.

(Examples for reference:

- (i) Landlords/tenants requesting the removal of vehicles found*

- parking or trespassing in private land/road.*
- (ii) *Carpark management requesting the removal of vehicles parking in improper position causing obstruction.)*

(D) Recovery of fees/fines/charges

Recovering overdue fees, fines or charges for services provided to a particular vehicle.

(Examples for reference:

- (i) *Carpark management companies requesting payment of outstanding fees and charges due to a vehicle parked and unattended in a carpark.*
- (ii) *Tunnel/Bridge companies, its management contractors or the toll collection companies requesting settlement of outstanding tolls of the vehicle that crossed without appropriate payment or valid electronic toll tags.)*

(E) Legal proceedings involving the vehicle

Instituting and conducting any civil and criminal proceedings (both intended and commenced) involving or caused by the use or presence of a particular vehicle.

(Example for reference:

Solicitors identifying the registered owners for carrying out an examination of debtors under the provision of Order 49B of the rules of the High Court.)ⁱ

(F) Safety Recalls

Facilitating the identification of the registered vehicle owners for safety recalls of the vehicles in question.

ⁱ Order 49B of the rules of the High Court provides that upon appearance of the judgment debtor for examination, he shall give evidence and he may be examined on oath by the judgment creditor and the Court; and the Court may receive such other evidence as it thinks fit. The judgment debtor shall, at his examination, make a full disclosure of all his assets, liabilities, income and expenditure and of the disposal of any assets or income and shall, subject to the directions of the Court, answer all questions put to him.