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Panel on Transport
Meeting on 23 February 2018

Updated background brief on private driving instructors' licences

Purpose

This paper provides updated background information on the existing mechanism for issuing private driving instructors' ("PDIs") licences. It also summarizes the major views and concerns expressed by Legislative Council ("LegCo") Members on the subject.

Background

2. The Government had decided to stop issuing PDI licences since 1972. In 1980, the Government decided to provide off-street driver training through the setting up of designated driving schools ("DSs") alongside on-street driving training by PDIs. To support the operation of designated DSs while adhering to the policy of not issuing any new PDI licences, the Transport Department ("TD") issued restricted driving instructors ("RDI") licences to the driver instructors employed by designated DSs. On the other hand, it maintains a sufficient supply of PDIs for on-street driver training. This is the background of the "two-pronged approach" of the current driver training policy.

3. A review on the driver training policy was conducted in 1999 which concluded that the "two-pronged approach" should be maintained. With the support of the majority of the trade, the Administration amended the Road Traffic (Driving Licences) Regulations (Cap. 374B) ("the Regulations") in 2000 and 2001 to provide legal basis for the regrouping of PDI licences from seven groups into three groups as follows:

- Group 1: Private Cars and Light Goods Vehicles;
- Group 2: Light Buses and Buses; and
- Group 3: Medium Goods Vehicles, Heavy Goods Vehicles and Articulated Vehicles

According to the Administration, the above grouping was drawn up after careful consideration of the driver training skills for each group of vehicles taking into account comments from the trade. There are common features for vehicles within each group – Group 1 vehicles are small vehicles; Group 2 vehicles are vehicles for the carriage of a substantial number of passengers; and Group 3 vehicles are vehicles for the carriage of goods.

4. The Administration agreed with the trade in 1999 that the number of valid PDI licences prevailing at the time for the three groups of PDIs (i.e. 1 050 for Group 1, 130 for Group 2 and 230 for Group 3) would be used as benchmarks. The trigger point for the Commissioner for Transport ("C for T") to consider issuing new PDI licences for a particular group is when the number of valid licences falls below the benchmark by 10%. In reviewing the need to issue new PDI licences, the following factors as set out in the Regulations should be taken into account:

- (a) prevailing traffic conditions;
- (b) policy adopted for driver training; and
- (c) demand for learner drivers to receive driving instructions from PDIs in respect of that group of motor vehicles.

5. Pursuant to section 21(A) of the Regulations, if new PDI licences are to be issued, C for T should invite the public to apply for them. If the total number of applications received exceeds the number of new PDI licences to be issued, TD will draw lot to determine the order in which the applications are to be dealt with. Eligible applicants will be invited to take the driving instructor's test conducted by TD according to their orders as determined by the lot. C for T has no power to issue direct new PDI licence or to give any priority to any individual or particular groups of individuals.

6. As regards the issuance of RDI licences, the mechanism is stipulated under section 22(1A) of the Regulations. The RDIs were issued with driving instructors' licences that were subject to a condition that they should only give driving instruction on behalf of a DS. Upon receipt of application from a DS for driving instructors' licences for RDIs, TD would assess the applications taking into account factors like supply and demand for driver training and wastage for RDIs and so on.

7. C for T reviews biennially the need to issue new PDI licences. Since 1999, reviews have been conducted in 2002, 2004, 2006, 2008, 2012, 2014 and 2016. A total of 173 new Group 1 PDI licences were issued in 2002 while no new PDI licence was considered necessary following the reviews in 2004 and 2006. In the 2008 review, C for T decided to issue a total of 460 new PDI licences. Also in the 2008 review, the Administration noted some suggestions

from members of the trade that the regime of issuing PDI licences should be revamped.

8. In view of the above, TD subsequently conducted review of the grouping of PDIs making reference to overseas experience. The Administration reported in March 2010 to the Panel on Transport ("the Panel") on the findings of the review and presented three preliminary options that the Administration intended to further consult the trade. The three preliminary options (A, B and C) are summarized in **Appendix I**. Views received by the Administration were found to be divergent and consultation with the industry continued.

9. At the Panel meeting held on 19 July 2013, members were briefed by the Administration on the outcome of the biennial review in 2012 on the need to issue new PDI licences and review on the issuing mechanism of PDI licences. Based on the outcome of the review, TD decided to issue 212, 32 and 43 new PDI licences for Group 1, Group 2 and Group 3 respectively.

10. The Panel was also consulted by the Administration regarding a total of nine options and deputations were invited to offer their views on the options on 19 July 2013. The options were variations of the move to maintain or change the benchmarks, to merge the three PDI groups, to give priorities to the RDIs or PDIs and to open up the market. The nine options are set out in **Appendix II**. As the views on whether and how the existing issuing mechanism should be changed remained diverse, the Administration undertook to continue to collect views from the driving instructor trade after the meeting and report back to the Panel in early 2014.

11. At the Panel meeting held on 25 March 2014, members were briefed by the Administration on the outcome of the consultation with the driving instructor trade regarding the review on the issuing mechanism of PDI licences and the way forward. The Administration considered it prudent that the current mechanism (i.e. Option 1) to issue new PDI licences which were in much demand should continue since there was no consensus among the stakeholders of the driving instructor trade after extensive consultations. Members also noted that C for T had decided to issue new PDI licences to the three groups based on the outcome of the biennial review in 2012 (as mentioned in paragraph 9 above) and that TD would invite applications in the third quarter of 2014.

12. In September 2015, the Administration submitted an information paper informing the Panel of the outcome of the biennial review in end 2014 on the need to issue new PDI licences. The results showed that the average number of PDIs in all the three groups was well above 90% of the benchmarks during the

review period which should not trigger the issue of new PDI licences. As such, C for T decided not to issue any new PDI licences in the light of the above review findings.

Major concerns raised by the Panel

13. Members of the Fourth and Fifth LegCos have been following the issue and expressed their concerns and views at the Panel meetings held on 22 May 2009, 30 March 2010, 19 July 2013 and 25 March 2014. Deputations from the trade were also invited to present their opinions at the March 2010 and July 2013 meetings of the Panel. Their views are summarized in the ensuing paragraphs.

Grouping of PDIs

14. Some members of PDI trade considered that the current issuing mechanism of PDI licences was inflexible and failed to recognize the experiences of existing PDIs. Whilst some representatives preferred the status quo option, some members of the trade suggested to merge the three existing PDI groups into one ("3 in 1 proposal"). Under the 3 in 1 proposal, all existing holders of PDI licences, irrespective of the groups they belonged to, would be allowed to give driving instructions to learner drivers of other groups, so long as they possessed the driving licences of the relevant vehicle classes.

15. At the meeting held on 30 March 2010, the Panel noted that the 3 in 1 proposal was similar to option B as proposed by the Administration. Some Panel members expressed support for this option which would enhance flexibility of PDI trade in tackling problems such as the decreasing demand for driving instructions which led to decrease in income. But some members reminded the Administration that adoption of the 3 in 1 proposal might entail a higher threshold for entry into PDI market because new entrants of PDI trade would then be required to possess driving licences of all vehicle classes under the existing three PDI groups. The Panel urged the Administration to have due regard to the impact of each of the three options on the structure of the trade and on the livelihood of PDIs and examine the options in close consultation with the trade.

Demand made by holders of the RDI licences

16. All along serving and former RDIs demanded removal of the restriction imposed on their RDI licences and the issue of PDI licences to them, on the ground that they had comparable driving training skills and teaching experience

as PDIs. At the meeting held on 19 July 2013, some Panel members pointed out that the restrictions imposed on the RDIs had facilitated monopoly of the designated DSs, which would not actively seek to enhance the remuneration package of the driving instructors. Some members raised similar views at the meeting held on 25 March 2014 and suggested the Administration to consider freezing the issuance of RDI licences.

17. In its written response to the request raised at the July 2013 meeting, the Administration advised that the Regulations set out clearly the issuing mechanism for both RDI and PDI licences and that designated DSs had not been provided with any special treatment in the driving instructors' licensing mechanism. At the March 2014 meeting, the Administration responded that the idea of freezing any issuance of new RDI licences should be carefully considered having regard to its impact on the service performance, operation and financial viability of designated DSs. Moreover, designated DSs were allowed to apply RDI licences under the existing law and that TD was required to consider such application in accordance with the Regulations.

Opening up of the driving training market

18. Some members proposed to open up the market by cancelling the "two-pronged approach" and allowing holders of RDIs to obtain or apply for PDI licences to recognize their experience and qualifications. There were views expressed at the March 2010 and July 2013 Panel meetings that limiting the number of PDI licences by legislation was unnecessary and that the quota of issuing PDI licences should be removed because it was not common to impose a ceiling for other professional jobs like lawyers and doctors and limiting the numbers of PDI licences would only serve to keep fees high to the detriment of learner drivers. A few members suggested that to be fair and open, all eligible people should be allowed to apply for PDI licences and they should be free to opt for staying in the business or not.

19. At the Panel meeting held on 30 March 2010, the Administration explained that while recognizing the call from learner drivers to issue more PDI licences to enhance competition in the driver training market to keep fees low, it was necessary to open up the market in a progressive manner with care, in recognition that supply of PDIs already exceeded demand of learner drivers to receive driving instructions from PDIs. Some members agreed that care should be exercised in determining whether to issue new PDI licences. They pointed out that the problem with the driver training market was that supply exceeded demand, in particular where Group 2 and Group 3 vehicles were concerned because the employment opportunities and income of the professional drivers concerned were on the decrease.

20. The Administration had indicated at the meeting held on 19 July 2013 that they had an open mind on the issue. It was explained that the road traffic in Hong Kong was extremely busy. Under the current "two-pronged approach" driver training policy, off-street driver training was provided through the establishment of DSs on one hand and a steady supply of PDIs, who could provide on-street driver training, was maintained on the other. In light of the views collected from the members and deputations on the nine options proposed, the Administration would further analyze the options concerned and work out the relevant implementation details. In doing so, the Administration would adopt a fair and transparent policy, recognize the experience of serving driving instructors and allow new entrants to the trade.

21. At the meeting held on 25 March 2014, some members considered the Administration's decision to maintain the current mechanism to issue new PDI licences acceptable but asked the Administration to continue its review on the issuing mechanism of PDI licences to allow flexibility of change in the future.

22. However, some members expressed disappointment with the Administration's decision of maintaining the status quo and not removing the "two-pronged approach" driver training policy as requested by RDIs. The member stressed that the current mechanism was unfair to experienced RDIs who were badly remunerated. Considering that it would be difficult to arrive at a majority view, he asked whether the Administration would consider consolidating the nine options to fewer options for further consultation. The Administration responded that the nine options put forth by TD for consultation were practicable enough to facilitate discussion. Another member opined that the problems could not be solved by adopting any of the nine options put forth by the Administration. Indeed, the Administration should review the legislation, having regard to the social needs, market situation and road safety.

23. Some members also urged the Administration to open up the market of PDIs such that the interested persons could apply for new PDI licences freely. A member requested the Administration to study the feasibility of revamping the "two-pronged approach" comprehensively given there were different voices on this matter. Another member expressed that the Administration should take the lead to propose changes in the public's interest and should not allow the trade to discuss and reach a consensus amongst themselves. In response, the Administration explained that the "two-pronged approach" was adopted in view of the traffic situation in Hong Kong and that the current mechanism by means of drawing lots provided a fair opportunity for any qualified person, either a member of the public, of RDIs or other groups of driving instructors, to apply for a new PDI licence.

The issuance of new licences in 2014

24. A motion urging the Administration to adopt a phased approach and flexibly handle matters relating to the issuance of new licences for this year (i.e. the new PDI licences to be issued in 2014 based on the outcome of the 2012 review mentioned in paragraph 11 above) was passed at the meeting held on 25 March 2014. In May 2014, the Administration provided a written response to the above motion, advising that according to legal advice, the announcement by C for T in July 2013 to issue a specified number of the PDI licences had created a legitimate expectation among members of the public including the trade that the said number of licences would be issued without further delay. As such, it was not advisable for C for T to issue new PDI licences the numbers of which differ from those specified in the above mentioned announcement in order to avoid any legal challenge. TD would invite applications for new PDI licences as planned and it was expected that the first batch of new PDI licences would be issued in the fourth quarter of 2014.

Reviewing and improving the existing driving training policy

25. The Administration was also requested to comprehensively review the existing driving training policy, including the grouping and the number of driving instructor licences, and conditions imposed on RDIs under above mentioned motion. In its written response, the Administration emphasized that any change to the current mechanism would require thorough discussion and consensus among all stakeholders as well as approval of the amendments in relevant legal provisions by LegCo. TD would continue to closely liaise with the relevant stakeholders to assist them in reaching a trade consensus.

Relevant question raised at Council meeting

26. At the Council meeting of 22 June 2011, Hon Ronny TONG Ka-wah raised a question relating to the policy for driver training.

27. The hyperlinks to the Council question and the Administration's response are in **Appendix III**.

Latest developments

28. The Administration plans to consult the Panel on the outcome of the latest biennial review on the need to issue new PDI licences at the Panel meeting to be held on 23 February 2018.

Council Business Division 4
Legislative Council Secretariat
20 February 2018

Appendix I

Consultations with the relevant driving instructor trade Administration's three preliminary options in 2010

Option A:	To maintain the status quo. The benchmark for each PDI group and the mechanism for issuing new PDI licences would remain unchanged. C for T would biennially review the need to issue new PDI licences for individual PDI groups.
Option B:	To lift the benchmark for individual groups but maintain a benchmark for the total number of PDI licences.
Option C:	To lift the benchmark for all PDI groups. Any interested person may apply to take the necessary tests to become a PDI of a particular group if they meet the specified qualifications and requirements.

**Consultations with the relevant driving instructor trade
Administration's nine proposed options in 2013**

<i>Administration's proposed options</i>	
Option 1:	Maintaining the status quo (i.e. both the existing issuing mechanism of new private driving instructors' ("PDIs") licences and the benchmarks of the three groups remain unchanged).
Option 2:	Maintaining the benchmarks; new PDI licences for issue to be equally shared among (i) PDIs of other groups; (ii) serving and former Restricted Driving Instructors ("RDIs"); and (iii) members of the public.
Option 2 (A):	Similar to Option 2 but grouping PDIs and RDIs into one group; new PDI licences to be equally shared by (i) driving instructors (including PDIs of other groups, serving and former RDIs); and (ii) members of the public.
Option 3:	Maintaining the benchmarks; new PDI licences to be equally shared among (i) PDIs of other groups and (ii) serving and former RDIs. If there are any PDI licences in any group left after applications by PDIs and RDIs, members of the public will be invited to apply.
Option 3 (A):	Similar to Option 3 but grouping PDIs and RDIs into one group.
Option 4:	Maintaining the benchmarks; new PDI licences to be issued to serving and former RDIs only.
Option 5:	Maintaining the benchmarks; new PDI licences to be issued under this review to be equally shared among (i) PDIs of other groups and (ii) serving and former RDIs. All new PDI licences to be issued in next biennial review would be allocated to members of the public and so forth.
Options 5(A):	Similar to Option 5, but grouping PDIs and RDIs into one group.
Option 6:	Maintaining the existing grouping of PDIs but removing the benchmarks of each group (i.e. no restriction on the number of PDI licences). Interested and qualified person can apply for PDI licence at any time.

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List of relevant papers

Meeting	Date of meeting	Paper
Panel on Transport	28.5.1999	Administration's paper on private driving instructor licence Minutes of the meeting
	26.11.1999	Administration's paper's paper on driving training Minutes of the meeting
	28.4.2000	Administration's paper on driver improvement scheme Minutes of meeting
	4.11.2005	Administration's information paper on private driving instructor's licences Background brief Minutes of meeting
	24.2.2006	Administration's paper on private driving instructor's licences Minutes of the meeting Administration's information Paper on private driving instructors' licences

Meeting	Date of meeting	Paper
	22.5.2009	Administration's paper on private driving instructor's licences Background brief Minutes of the meeting
	30.3.2010	Administration's paper on private driving instructors' licences Background brief Minutes of the meeting
Council Meeting	22.6.2011	Hon Ronny TONG Ka-wah raised a question on policy for driver training and Hong Kong School of Motoring
Panel on Transport	19.7.2013	Administration's paper on private driving instructors' licences Background brief Minutes of meeting Administration's supplementary information on private driving instructor's licences (follow-up paper)
	25.3.2014	Administration's paper on private driving instructors' licences Updated Background brief Minutes of the meeting Administration's response to the motion passed at the meeting on 25 March 2014

Meeting	Date of meeting	Paper
	6.11.2015	<u>Administration's information paper on private driving instructor's licences</u>
	-	<u>Letter dated 11 July 2017 from Dr Hon Elizabeth QUAT on the mechanism of issuing private driving instructors' licences</u> <u>Administration's response to the letter from Dr Hon Elizabeth QUAT on the mechanism of issuing private driving instructors' licences as set out in LC Paper No. CB(4)1411/16-17(01)</u>

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