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Paper for the House Committee on 24 September 2021

**Report of the Subcommittee on Road Traffic (Driving Licences)
(Amendment) Regulation 2021**

Purpose

This paper reports on the deliberations of the Subcommittee on Road Traffic (Driving Licences) (Amendment) Regulation 2021 ("the Subcommittee").

Background

2. The Administration adopts a "two-pronged approach" in respect of driver training in Hong Kong by promoting off-street driver training through the establishment of driving schools while maintaining a proper supply of private driving instructors ("PDIs") for on-street driver training, with a view to providing a choice for learner drivers.

3. In response to the suggestions raised by members of the Panel on Transport at the meeting on 23 February 2018, the Transport Department ("TD") conducted a comprehensive review on PDI licences from 2018 to 2019 ("the Review"). Following the Review, the Administration considered that the "two-pronged approach" of driver training policy should be retained, and recommended, among others, improving the issuing mechanism for new PDI licences and enhancing the quality of PDIs and restricted driving instructors ("RDIs")¹ of driving schools. Legislative amendments to the Road Traffic (Driving Licences) Regulations (Cap. 374B) are required to take forward the above recommendations.

¹ RDIs are only permitted to provide driver training services at driving schools or organizations by which they are employed, and their driving instructor licences will cease to be valid once they leave their jobs.

Road Traffic (Driving Licences) (Amendment) Regulation 2021

4. The Secretary for Transport and Housing has, under section 8(1) of the Road Traffic Ordinance (Cap. 374) ("the Ordinance"), made the Road Traffic (Driving Licences) (Amendment) Regulation 2021 ("the Amendment Regulation"), which mainly introduces a refined PDI licence issuing mechanism and enhances the quality of PDIs and RDIs of driving schools.

Refinements to the existing issuing mechanism for new PDI licences

5. Currently, PDI licences are issued for three groups of motor vehicles, namely 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). Under the existing issuing mechanism, any new PDI licences are for open application and there is no quota reserved for any particular class of persons. The Commissioner for Transport has no power to issue new PDI licence directly or give priority to any individuals or particular groups of individuals, and may only consider issuing new PDI licences for a particular group of motor vehicles when the number of respective valid licences falls below the benchmark² by 10%.

6. In order to utilize the driving competence and training experience of PDIs in Group 2 and Group 3 as well as RDIs while encouraging new blood to join the trade, the Administration, by virtue of the Amendment Regulation, refines the existing issuing mechanism by:

- (a) allocating a specified quota of new PDI licences for Group 1 motor vehicles to eligible members of the public by open application so as to attract new blood to join the PDI industry;
- (b) allocating the remaining specified quota of new PDI licences for Group 1 motor vehicles for application by holders of valid PDI licences for Group 2 and Group 3 motor vehicles, as well as serving and ex-RDIs³ (of driving schools and franchised bus companies) in recognition of their driving competence and training experience; and
- (c) adopting the new mechanism for issuing new PDI licences for Group 2 or Group 3 motor vehicles in the future, i.e. a specified

² The benchmark for PDI licences is used to regulate the supply of PDIs in the market. Following the Review, TD has raised the benchmark for Group 1 PDI licences from the previous level of 1 050 to 1 170, and maintained the benchmarks for PDI licences of Group 2 and Group 3 at 130 and 230 respectively.

³ Ex-RDI refers to a person who once held an RDI licence for Group 1, 2 or 3 motor vehicles within three years immediately preceding the application date of the new licence.

quota of new PDI licences for Group 2 or Group 3 motor vehicles will be allocated to eligible holders of PDI licences for Group 1 motor vehicles, as well as serving and ex-RDIs of driving schools and franchised bus companies.

Enhancements to the quality of PDIs and RDIs of driving schools

7. To enhance the quality of PDIs and RDIs of driving schools,⁴ the Administration imposes under the Amendment Regulation the following additional conditions on persons applying for or renewing driving instructors' licences:

- (a) raising the minimum period of holding a full driving licence for Group 1 motor vehicles from three years to six years immediately before the date of application for a licence of PDI or RDI of driving schools;
- (b) requiring that, in addition to the existing requirements of having no conviction records on certain traffic offences, the applicants must not have been convicted of any dangerous driving offence under section 37 of the Ordinance during the five years, or any careless driving offence under section 38 of the Ordinance during the two years, immediately before the date of application for a licence of PDI or RDI of driving schools;
- (c) requiring all new licence holders of PDI and RDI of driving schools to complete a mandatory induction course before they can be issued the licences;
- (d) requiring the existing licence holders of PDI and RDI of driving schools to complete a mandatory refresher course once every three years as a prerequisite for the renewal of their licences; and
- (e) making it an offence (punishable by a fine of \$2,000) for a PDI who contravenes the requirements in relation to the display of identity plates inside the vehicles which should be clearly visible to the public.

8. The Amendment Regulation will come into operation on 1 December 2021.

⁴ As RDIs of driving schools are similar to PDIs in the way that they also provide driver training to members of the public, the Administration considers that they both should be subject to the new stricter requirements.

The Subcommittee

9. At the House Committee meeting held on 20 August 2021, Members agreed to form a subcommittee to study the Amendment Regulation. Under the chairmanship of Hon Frankie YICK Chi-ming, the Subcommittee held a meeting with the Administration on 30 August 2021. The membership list of the Subcommittee is in **Appendix I**. A list of organizations/individuals who have provided written views to the Subcommittee is in **Appendix II**.

10. To allow time for the Subcommittee to complete its work, the Subcommittee Chairman moved a motion at the Council meeting of 8 September 2021 to extend the scrutiny period of the Amendment Regulation to the Council meeting of 6 October 2021. The motion was passed.

Deliberations of the Subcommittee

Refined issuing mechanism for new PDI licences

11. Some members have queried the rationale behind the new mechanism for reserving a specified quota of new PDI licences for Group 1 motor vehicles for application by PDI licence holders of Group 2 and Group 3 motor vehicles, as well as serving and ex-RDIs of driving schools and franchised bus companies. There is a concern as to whether such quota mechanism will reduce the supply of experienced and competent PDIs in Group 2 and Group 3, particularly RDIs of driving schools and franchised bus companies.

12. The Administration has explained that the new issuing mechanism aims to enhance the overall quality of driver training service, and encourage new blood to join the trade while utilizing the driving competence and training experience of the other PDI Groups as well as that of RDIs. The Amendment Regulation provides for the refined mechanism under which when new PDI licences for Group 1, 2 or 3 motor vehicles are issued, the Commissioner for Transport may determine a quota of the new licences to be allocated to the existing PDIs in the other two groups, as well as serving and ex-RDIs of driving schools and franchised bus companies. If driving schools and franchised bus companies experience a shortage of RDIs, they can request TD to arrange RDI tests for the applications of RDI licences, and TD will assess the need taking into account relevant considerations.

Application for and renewal of licences of PDI and RDI of driving schools

13. While noting the new additional requirements under the Amendment Regulation regarding applicants' conviction records on traffic offences, members have queried whether a person who only meets the minimum requirement of having held a licence for Group 1 motor vehicles for six years but has not been

driving for a long time should be allowed to apply for a licence of PDI or RDI of driving schools.

14. The Administration has stressed that the applications for licences of PDI and RDI of driving schools are both subject to stringent tests and requirements. Applicants are required to pass a written test and a road test, both specifically set for driving instructors. To further ensure the quality of PDIs and RDIs of driving schools, the Administration requires, under the Amendment Regulation, that all new licence holders of PDI and RDI of driving schools must complete a mandatory induction course, which will be provided by TD free of charge, before they can be issued the licences.

15. Some members have enquired about the rationale for requiring the existing licence holders of PDI and RDI of driving schools, who usually possess a certain number of years of training experience, to complete a mandatory refresher course once every three years as a prerequisite for the renewal of their licences. On the other hand, some members have been concerned about the quality of training provided by those driving instructors who have not been driving or providing training services for a long time. To ensure the quality of driving instructors and better recognize their competence, some members are of the view that the Administration should consider in future review, for instance, imposing specific requirements on driving instructors applying for licence renewal, in relation to the training hours delivered and/or the number of candidates taught by them within the specified time, and have suggested introducing a tier system to classify driving instructors based on their training experience.

16. The Administration has explained that the eight-hour mandatory refresher course will be provided by TD free of charge and the purpose is to keep the attendees abreast of the latest development of the profession. While understanding that the trade associations are concerned about the introduction of the mandatory refresher course, the Administration considers such measures essential for ensuring the quality of driving instructors. The Administration has further advised that upon completion of the course, attendees are required to take a written test in the form of multiple-choice questions, and may retake the test twice in case they fail. Those who still fail are required to retake the course. The Administration has assured members that it will continue to liaise closely with the trade in taking forward the new measures.

Provision of driving test services

17. To ensure road safety and reduce traffic congestion caused by on-street driver training, members have urged the Administration to review the locations of existing driving test centres and explore more suitable driving training and test venues at the early stage of planning new development areas. The Administration has advised that in determining the number of new PDI licences

to be issued, TD is required by law to take into account the prevailing traffic conditions and the demand from learner drivers for PDIs' driving instructions. Currently, there are 17 driving test centres in Hong Kong, and driving tests on public roads are only arranged at certain specified non-peak hours. TD will continue to closely liaise with other relevant bureaux and departments in identifying suitable sites in, for instance, new development areas for conducting driving tests, and to collaborate with the Hong Kong Police Force ("the Police") in taking appropriate measures to minimize the impact of on-street driver training on road traffic.

18. Members have expressed grave concern about the long waiting time for taking driving tests by candidates, particularly during the coronavirus disease 2019 epidemic, where driving tests have been suspended intermittently. There is a suggestion that TD should set a performance pledge on the waiting time. In response to an enquiry about the corresponding measures to shorten the waiting time for driving tests, the Administration has advised that TD has made extra efforts to expedite the arrangement for driving tests, such as providing additional test sessions on weekdays and Saturdays, upgrading the online booking system and enhancing the early test appointment booking service for repeaters. Besides, TD has in the past four years recruited 14 more driving examiners, bringing the total number of driving examiners from 68 to 82. The latest waiting situation for driving tests has been improving progressively. The Administration has assured members that TD will allocate resources to meet the demand for driving tests as appropriate having regard to the handling capacity of each driving test centre.

Other issues of concern

19. Members have also been concerned about an apparent monopoly of the driving school market and the practice of awarding contract to the bidder offering the highest rental in tendering exercises for operating driving schools on Government short-term tenancy ("STT") sites. Members have enquired about the measures that can be taken by the Administration to promote more competition in the driver training market and more choices to learner drivers among PDIs and driving schools, in order to better balance the interests of all stakeholders.

20. The Administration has advised that the present market of driver training is open and there is no cap on the number of driving schools. Currently, there are four driving schools, with three operating on Government STT sites and one on private premises. Any service providers are free to make application to TD if they have identified suitable sites for operating driving schools. In fact, TD's statistics show that around 70% of candidates taking TD's driving tests received their training from PDIs (i.e. 30% at driving schools). To establish a more competitive tendering process, TD introduced in 2020 a new marking scheme for tendering exercises for operating driving schools on Government STT sites. Under the new tendering mechanism, consideration is suitably given to the

technical aspect of the bidders' proposals, including those relating to the improvement of the management and the operational quality of driving schools, in addition to the rent proposal.

21. In response to members' enquiries about the Administration's efforts to tackle illegal driving training activities and the deterrent effect of the relevant penalties, the Administration has stressed that TD has all along paid much attention to illegal driving training activities, such as giving driving instruction without a valid driving instructor's licence, and learning to drive at unspecified time period or without a learner driver's plate. TD has been working closely with the Police to regularly conduct joint enforcement operations to combat such illegal activities, and the Police have issued 415 traffic summons and 33 fixed penalty tickets since 2018. TD will step up its efforts in this regard, and consider reviewing the relevant penalties to enhance the deterrent effect as and when necessary.

Recommendation

22. Members of the Subcommittee raise no objection to the Amendment Regulation, and will not propose any amendment.

Advice sought

23. Members are invited to note the deliberations of the Subcommittee.

**Subcommittee on Road Traffic (Driving Licences)
(Amendment) Regulation 2021**

Membership list

Chairman Hon Frankie YICK Chi-ming, SBS, JP

Members Hon Paul TSE Wai-chun, JP
Hon CHAN Han-pan, BBS, JP
Hon Elizabeth QUAT, BBS, JP
Dr Hon CHIANG Lai-wan, SBS, JP
Hon Wilson OR Chong-shing, MH
Hon CHEUNG Kwok-kwan, JP
Hon LUK Chung-hung, JP

(Total: 8 members)

Clerk Ms Wendy JAN

Legal adviser Ms Doreen WAN

**Subcommittee on Road Traffic (Driving Licences)
(Amendment) Regulation 2021**

List of deputations and individuals which/who have provided written submissions

1. Miss Cecilia Yuen
2. Man Joe
3. Unique Wan
4. Man Suen
5. 細輝
6. Lam Loklok
7. Dick Ngai
8. 簡明恩
9. 李小朋
10. 王健根
11. 馮貽星
12. Chau Ng
13. 譚志榮
14. Ricky Kwan
15. Siu Kei Leung
16. Justin Mak
17. 陳師傅

18. Ray TSOI
19. 公共及私家商用車教師公會
20. lee sam
21. 譚海倫
22. 香港教車協會
23. 曾振平
24. 鏗鏘駕駛學校、好運駕駛學校、德安駕駛學校
25. Anthony Ng