

Consultation on Arrangements for issuing Certificate of Particulars of Motor Vehicle

INTRODUCTION

This paper explains the Government's proposal to improve the arrangements for issuing Certificate of Particulars of Motor Vehicle ("the Certificate") by introducing legislative amendments to the Road Traffic (Registration and Licensing of Vehicles) Regulations (Cap. 374E) (the Regulations); and invites the public's views on the proposal.

OBJECTIVES

2. The proposed legislative amendments aim to:
 - (i) enhance privacy protection; and
 - (ii) ensure that the personal data of registered owners contained in the register is properly used.

BACKGROUND

3. All vehicles used on the roads of Hong Kong, except otherwise stated in the Road Traffic Ordinance (Cap.374), have to be registered and licensed. Regulation 4(1) of 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**).

4. 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

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

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

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.

PROPOSED CHANGES

5. To further 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 by codifying them in law and providing a proper legal basis to facilitate enforcement. We propose to amend the Regulations as set out in paragraphs 6 to 9 below.

(a) Purpose of the register

6. 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

7. 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**).

(c) Sanction

8. 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 7(iii) above), and that upon conviction, the applicant would be liable to a fine at level 2³ and to 6 months' imprisonment.

(d) Application

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

LEGISLATIVE TIMETABLE

10. We intend to introduce the proposed legislative amendments into the Legislative Council in the 2011-12 legislative session.

PUBLIC CONSULTATION

11. We would like to invite views from the public on our proposal. Any views on the proposal should be addressed in writing to the VALID and Licensing Division of Transport Department by the following means:

By Mail: Room 506-508,
5/F, Harcourt House,
39 Gloucester Road,
Wan Chai, Hong Kong.
By Fax: 3101 5561
By Email: vldenq@td.gov.hk

Please state on the envelope or in the submission that it concerns the "Consultation on Arrangements for issuing Certificate of Particulars of Motor Vehicle".

12. This consultation exercise will last for two months, starting from 12 July 2011 till 11 September 2011.

³ 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).

ENQUIRIES

13. Any enquiry on this consultation paper should be addressed to:

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Transport Executive I/VALID Project
VALID and Licensing Division, Transport Department
Room 506-508,
5/F, Harcourt House,
39 Gloucester Road,
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**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.