

Legislative Council Panel on Transport

Operation of Taxis and Light Goods Vehicles

Purpose

This paper informs Members of the operation and roles of taxis and light goods vehicles (“LGVs”), and the measures taken by the Administration in response to the claims by the taxi trade that individual LGVs may be engaged in illegal carriage of passengers for hire or reward.

Background

2. In March 2006, some members of the taxi trade voiced their concern to the Administration about the possible illegal carriage of passengers for hire or reward by some LGVs at the airport. They suggested that legislative amendments should be introduced to define “goods” or “personal effects” permitted for carriage by LGVs and to lower the ceiling on passenger seating capacity of LGVs. Individual members of the taxi trade also suggested that LGVs should be prohibited from entering the airport area.

3. In discussing the operation of LGVs and taxis at the meeting of the Legislative Council Panel on Transport (“the Panel”) in March 2006, the Panel asked the Administration to examine whether there were grey areas in the relevant legislation governing the carriage of passengers for hire or reward and whether administrative measures could be introduced in the airport area to tackle this problem. The Administration was also asked to provide information on the publicity targeted at this kind of offence.

Role and Operation of LGVs

4. Under the transport policy and relevant law, the role of goods vehicles is to provide service for the carriage of goods. Under the Road Traffic Ordinance (“RTO”) (Cap 374), it is legal for goods vehicles to carry goods for hire and reward and “goods” is defined as burden of any description. The fare charged for carriage of goods is not regulated.

However, it is an offence to use goods vehicles for carrying passengers for hire or reward. It is also illegal for a person to solicit or attempt to solicit any person for hire or reward to travel in a goods vehicle (or known as “touting”) under the RTO. Any person who commits any of these two offences is liable to a maximum penalty of a fine of \$5,000 and 3-month imprisonment for a first conviction, and \$10,000 and 6-month imprisonment for a subsequent conviction.

5. At present, there are three types of goods vehicles, viz. heavy goods vehicles, medium goods vehicles and LGVs. LGV is defined by law as a type of goods vehicle with a gross vehicle weight not exceeding 5.5 tonnes and a maximum passenger seating capacity of five. As at end-September 2006, there are about 76,000 registered LGVs in Hong Kong.

Role and Operation of Taxis

6. Taxis play the role of public passenger transport service provider. As an alternative to private cars, taxis provide a personal point-to-point passenger transport service. In addition to passengers, taxis can carry personal effects under the RTO, i.e., the property of the driver of a motor vehicle or any passenger carried on board, and personal hand baggage under the Road Traffic (Public Service Vehicles) Regulations (Cap 374D) (“the Regulations”) for reward. No taxi can otherwise carry goods for reward. Offenders are liable to a maximum penalty of a fine of \$5,000 and 3-month imprisonment for a first conviction, and \$10,000 and 6-month imprisonment for a subsequent conviction.

7. Taxi fares are governed by the Regulations and are specified in Schedule 5 to the Regulations. Similar to the case in goods vehicles, it is illegal for a person to attract or endeavour to attract any person in any manner in order to induce the latter to make use of the taxi (or known as “touting”) under the Regulations. Offenders are liable to a fine at level 3 (\$5,001 - \$10,000) and to imprisonment for 6 months. At present, there are about 18,000 taxis in Hong Kong.

Enforcement Actions Against Illegal Transport Activities

8. Noting illegal transport activities at Car Parks 1 and 4 of the airport such as touting and illegal carriage of passengers for hire or reward by individual vehicles (including LGVs, taxis and other types of vehicles), the Police have deployed uniformed and plainclothes officers to patrol and take different forms of enforcement actions at the airport on a regular basis.

9. The linchpin of investigating whether an LGV has illegally carried passengers for hire or reward under the RTO is whether the journey concerned involves the element of carrying passengers for hire or reward. The type of goods carried on board while the service is rendered is not the key of the matter. In the case where both goods and passengers are carried on an LGV, if the passengers need to travel to the destination, and individual passengers on the LGV can travel to the destination with their belongings by public transport modes, enforcement officers may have reasonable suspicion that someone has contravened the RTO by using an LGV to carry passengers for hire or reward and they may initiate investigation.

10. In an investigation, enforcement officers will collect various kinds of evidence, including statements from the driver and the passengers concerned, as well as other circumstantial evidence. They will determine whether prosecution should be instituted in the light of the evidence gathered for individual cases. The court will then judge each case on its own merits, taking into consideration the reliability of all the available evidence.

11. As a matter of fact, the Police have taken successful enforcement actions against illegal activities (e.g. touting and carriage of passengers for hire or reward) by different types of vehicles including taxis and LGVs. Prosecution was successfully instituted against 14 cases of taxi touting at the airport in 2005. As for LGVs, prosecution was successfully instituted against 15 cases of touting and three cases of illegal carriage of passengers for reward in 2005. As a result of stepped-up police patrol, the number of successful prosecutions against the relevant offences rose in 2006. As at mid November 2006, prosecution was successfully instituted against 39 cases of taxi touting, 15 cases of LGV touting, and six cases of illegal carriage of passengers for hire or reward by LGVs.

12. Among the cases involving carriage of passengers for reward by LGVs where prosecution was successfully instituted in 2005 and 2006, the number of passengers carried ranged from one to three. In these cases, no goods were found on the LGVs or one to six pieces of effects/baggage were carried on board. This shows that whether the relevant journey involves carriage of passengers for reward, rather than the number of passengers or effects carried on board, is the key point in instituting successful prosecutions.

Designating Loading and Unloading Area for LGVs at the Airport

13. At present, goods vehicles of the tenants of the Airport Passenger Terminal and their suppliers as well as other people can use the loading and unloading area beside the Passenger Terminal. But as mentioned above, some LGV and taxi operators are using Car Parks 1 and 4 at the airport for illegal transport activities. In order to strengthen the efforts in combatting illegal activities by LGVs and taxis within the airport area and to respond to the request from the taxi trade for separation of picking up/setting down for passengers and goods at the airport, government departments and the Airport Authority (“AA”) have been working together since April 2006 on the possibility of introducing new administrative measures at the airport to this effect. In this connection, a number of meetings with the LGV and taxi trades have been held. After taking into consideration their views and examining the operation of the two trades at the airport, we intend to implement the following arrangements –

- (a) A new loading and unloading area next to the Government Car Park at the airport will be provided for LGVs (the location map at Annex);
- (b) The new designated area will be divided into loading area and unloading area. LGVs should leave the respective area immediately after loading or unloading;

- (c) Roads within this area will be designated as 24-hour prohibited zones except the loading and unloading bays;
- (d) LGVs using the loading or unloading area will be charged on entering the area. \$40 will be charged for the first 30 minutes, \$60 for the next 30 minutes and \$80 for every subsequent 30 minutes. The fee level is the same as that for the existing goods loading and unloading area beside the Passenger Terminal;
- (e) Construction of the new loading and unloading area will take approximately five months to complete. Upon commissioning of the new loading and unloading area for LGVs, LGVs and taxis will both be barred from using Car Parks 1 and 4 at the airport. Those LGVs and taxis which need to park their vehicles can make use of the parking spaces at Car Park 5 at the airport; and
- (f) Upon commissioning of the new loading and unloading area for LGVs, the loading and unloading area next to the Passenger Terminal will be used exclusively by goods vehicles of the tenants of the Passenger Terminal and their suppliers. Other LGVs have to use the new loading and unloading area.

14. These new measures will not affect LGV drivers conducting legitimate freight business at the airport since they can continue to use the loading and unloading facilities provided by the airport at the same charge. On the other hand, these measures will help reduce the areas of illegal activities of taxis and LGVs (such as touting or carriage of passengers for hire or reward) at the airport by barring their usage of Carparks 1 and 4. As a corollary, this can help the Police to concentrate their resources for monitoring and taking more focused enforcement actions against them at the airport. In view of the above benefits, we will implement these measures as soon as possible.

Publicity and Education

15. In addition to enforcement actions and the designation of a new loading and unloading area for LGVs at the airport, we have launched publicity and education activities to help the industry and the public better understand the permitted services of LGVs. Since May 2006, the Transport Department has launched a series of publicity activities via radio broadcasts, publicity leaflets, posters, the Internet and letters to owners of LGVs and trade associations, to remind them that LGVs can only be used for the carriage of goods for reward. They are also reminded that it is an offence to use LGVs for touting and carrying passengers for reward, and that passengers may not have the necessary protection since the third party insurance covering the vehicle involved in the delivery of illegal transport service may become invalid in the circumstances. The Police have put across the same messages to the public and the trades through their television programme, *Police Magazine*. The government will continue and enhance its publicity efforts to remind the public that they should not regard LGVs as a mode of public passenger transport to meet their commuting needs.

Government Position on the Suggestion to Amend the Law

16. Despite successful prosecutions against carriage of passengers for reward by LGVs, we note that some members of the taxi trade maintain that the Administration should re-define the meaning of “goods” and specify what “goods” are permitted on an LGV or what “personal effects” are permitted on a particular mode of public transport. As mentioned in paragraph 9 above, the legality of the service provided by an LGV under the RTO depends on whether the journey concerned involves carrying passengers for hire or reward rather than the type of goods carried on board while the service is rendered. Hence, the key to tackling the problem of illegal carriage of passengers for hire or reward by LGVs does not lie in the re-defining of “goods”.

17. Moreover, rigidly specifying the goods or effects permitted on a goods vehicle is not practical in the light of the actual operation mode of the freight industry. The goods vehicles do carry a great variety of goods.

In the same vein, it is not practical to amend the legislation by specifying what kinds of effects are permitted on a mode of public transport. At present, all modes of public transport (including taxis, light buses, buses and railways) are permitted to carry different types and quantities of personal effects and personal hand baggage. The proposed legislative amendments will affect the law-abiding operators in the entire transport trade on one hand, and cause inconvenience to passengers of public transport on the other. After taking into consideration the above factors, we do not support the proposal to amend the relevant legislation as put forward by some members of the taxi trade.

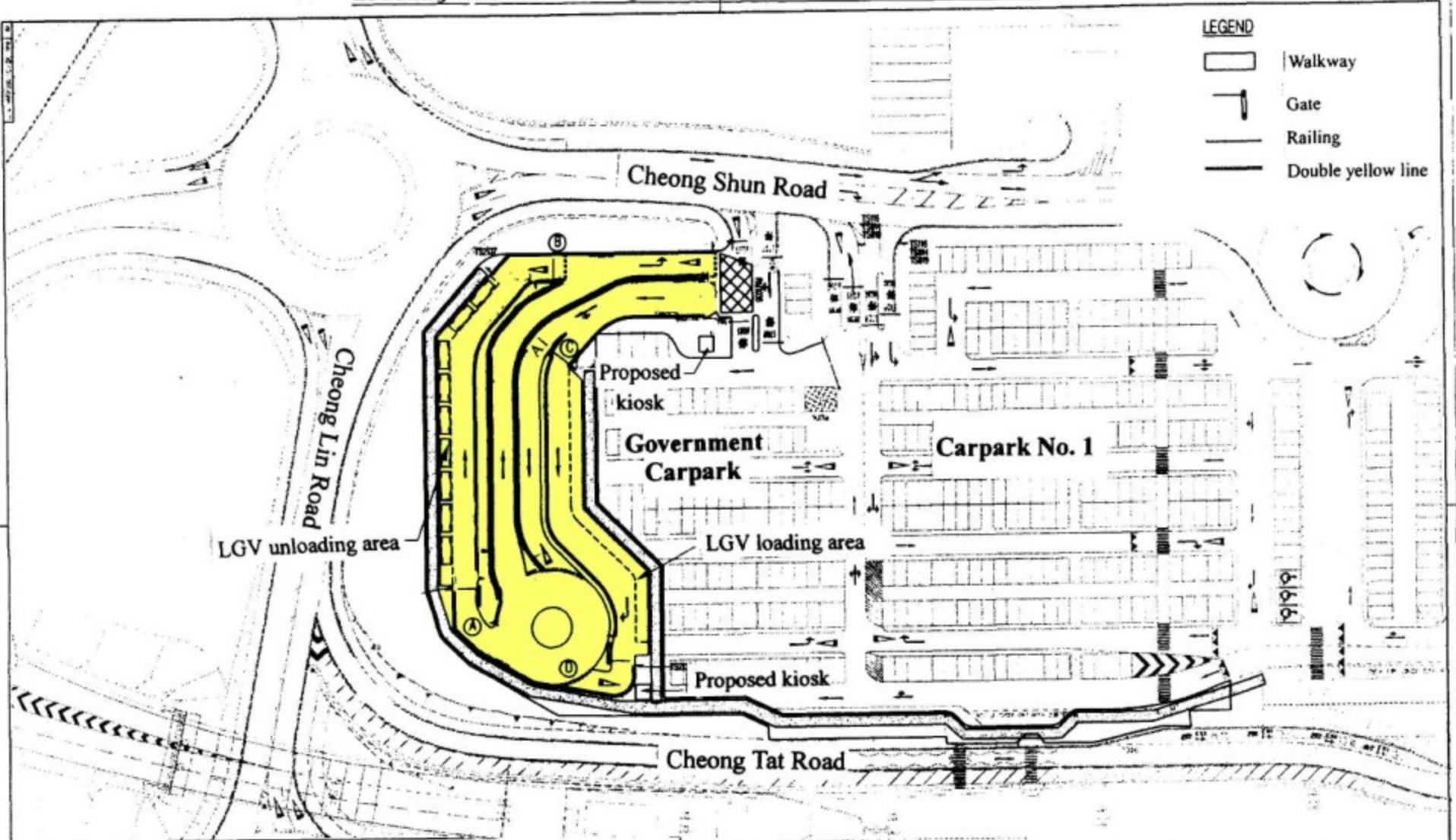
18. Some members of the taxi trade have also proposed lowering the ceiling on passenger seating capacity for an LGV from five to two. The current legislation specifies that the maximum passenger seating capacity for an LGV is five. Individual operators can install less than five seats to meet their operational needs. Since the operation mode varies among LGV operators, the number of workmen required for assisting the carriage also differs. As at the end of September 2006, there are 76,000 LGVs in Hong Kong and 41,000 (or 54%) of them are five-seaters. We are of the view that flexibility should be provided in the legislation to cater for the actual operational needs of the operators. To go to the extreme and rigidly limit the number of seats for an LGV to two solely for the purpose of tackling the problem caused by the offenders will undesirably affect the actual operation of the LGVs' law-abiding majority.

19. Since the regulation of illegal carriage of passengers for hire or reward by LGVs is already provided in the existing legislation, we believe that with the continued enforcement actions by the Police, the administrative measures to be implemented at the airport and the enhanced publicity, we can effectively combat illegal carriage of passengers for hire or reward by individual LGVs. The proposed legislative amendments will adversely affect members of the transport trades who are operating lawfully as well as members of the public. We therefore consider it inappropriate to amend the relevant legislation.





Way Forward

20. To combat illegal transport activities, the Administration will continue its efforts in enforcement and enhanced publicity, and implement the designation of a new loading and unloading area for the LGVs at the airport in collaboration with the AA as soon as possible.



Environment, Transport and Works Bureau
November 2006



LEGEND

-  Walkway
-  Gate
-  Railing
-  Double yellow line

- Key**
- Loading area and unloading area are two areas separated by gates.
 - LGVs entering the loading area from Gate C are required to leave via Gate D after loading and paying the fee.
 - LGVs entering the unloading area via Gate A from Road A1 are required to leave via Gate B after unloading and paying the fee.

| | | | |
|--|--|---|--|
| <p>Scale: 1:500</p> <p>North Arrow</p> <p>Project Name: LGV Loading and Unloading Area</p> <p>Scale: 1:500</p> <p>Scale: 1:500</p> <p>Scale: 1:500</p> |  <p>香港國際機場有限公司</p> <p>HONG KONG AIRPORT AUTHORITY</p> |  | <p>Hong Kong International Airport</p> <p>香港國際機場</p> <p>NO. 3000A 1984-85</p> <p>NO. 3000B 1984-85</p> <p>NO. 3000C 1984-85</p> <p>NO. 3000D 1984-85</p> |
|--|--|---|--|