

# 立法會 *Legislative Council*

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## Paper for the House Committee meeting on 14 November 2008

### Subcommittee on Road Traffic (Public Service Vehicles) (Amendment) Regulation 2008

#### Purpose

This paper reports on the deliberations of the Subcommittee on Road Traffic (Public Service Vehicles) (Amendment) Regulation 2008 (the Subcommittee).

#### Lantau and urban taxi fare adjustments

2. The Executive Council approved the fare adjustments for Lantau and urban taxis at the meeting on 23 September 2008. The existing and the approved fare adjustments as set out in the Legislative Council Brief are as follows-

Journey	Lantau Taxi Fare		Urban Taxi Fare	
	Existing	Approved Fare Adjustment	Existing	Approved Fare Adjustment
Flagfall charge for the first 2km or any part thereof	\$12	\$13	\$16	\$18
Incremental charge for every subsequent 200m or part thereof and for every waiting period of 1 minute or part thereof	\$1.2	Below \$130 (20km <sup>Note 1</sup> )	\$1.4	Below 70.5 (9km <sup>Note 2</sup> )
		\$1.3		\$1.5
		\$130 onwards		\$70.5 onwards
		\$1.2		\$1
Average rate of fare increase	---	+7.67%	--	+5.46% <sup>Note 3</sup>

Note 1 The total fare for a journey of 20km will be \$130 under the approved fare adjustment, if no charge for "waiting time" is incurred.

Note 2 The total fare for a journey of 9km will be \$70.5 under the approved fare adjustment, if no charge for "waiting time" is incurred.

Note 3 The rate of fare increase is 7.8% taking into account the \$1 increase in flagfall charge in February 2008.

## **The Road Traffic (Public Service Vehicles) (Amendment) Regulation 2008 (L.N. 219 of 2008)**

3. The Road Traffic (Public Service Vehicles) (Amendment) Regulation 2008 (the Amendment Regulation) is made by the Chief Executive in Council under section 7(1C) of the Road Traffic Ordinance (Cap. 374). The Amendment Regulation amends the Road Traffic (Public Service Vehicles) Regulations (Cap. 374 sub. leg. D) (the principal Regulations) to –

- (a) provide for the commencement of the Amendment Regulation with effect from 30 November 2008;
- (b) add a definition of "chargeable amount" to the interpretation section to the principal Regulations;
- (c) introduce amendments to the existing provision providing for transitional arrangements (regulation 62 of the principal Regulations) and specifies the fare that should be charged if the taximeter of a taxi has not yet been adjusted to record the fare chargeable under the amended scale of fares and-
  - (i) the conversion table stipulated by the Commissioner for Transport is not displayed in a prominent place in the taxi; or
  - (ii) the total amount of fare chargeable under the amended scale of fares in Schedule 5 to the principal Regulations is not set out in manuscript on the receipt issued to the passenger; and
- (d) amend Schedule 5 to the principal Regulations to put into effect the approved fare adjustments in the table in paragraph 2 above.

### **The Subcommittee**

4. The House Committee agreed at its meeting on 10 October 2008 to form a subcommittee to study the Amendment Regulation. The membership list of the Subcommittee is in **Appendix I**. Under the chairmanship of Hon Miriam LAU, the Subcommittee held four meetings to discuss with the Administration. The Subcommittee also received views from representatives of the Lantau and urban taxi trade. A list of deputations/individual which have submitted views to the Subcommittee is in **Appendix II**.

5. To allow sufficient time for members to scrutinize the Amendment Regulation, the Council passed a resolution on 29 October 2008 to extend the scrutiny period of the Amendment Regulation to 26 November 2008.

## **Deliberations of the Subcommittee**

### Fare adjustments and the new taxi fare structure

6. The Subcommittee has noted that the Amendment Regulation will give effect to changes in Lantau and urban taxi fares in line with the new policy on taxi fare structure that taxi fare structure should be "front-loaded and thereafter on a varying descending scale of incremental charges" (the new fare structure policy). As a result, fares for the hiring of Lantau and urban taxis for long-haul trips will decrease and fares for short-haul trips will increase.

7. The Administration has advised that this new fare structure policy is recommended by the Transport Advisory Committee (TAC) in the Report on the Review of Taxi Operation issued on 5 June 2008. According to the Administration, the new fare structure is developed and in general agreed upon by the majority of the taxi trade through a lengthy and in-depth deliberation process. By lowering fares for long-haul trips and hence minimizing the scope for discount offers, the new fare structure could help restore a level-playing field for taxi operators whose business have been affected by discount gangs which offer discounts for long-haul trips. The new fare structure could align the taxi fare structure with the fare structures of other public transport modes such as railways, franchised buses and green minibuses to increase the competitiveness of taxis.

8. While the Lantau taxi trade in general agrees with the fare adjustments under the Amendment Regulation, the Subcommittee has noted with concern the existence of divergent views from different operators of the urban taxi trade on the new fare structure and fare adjustments. Members have noted that the majority of the deputations which have submitted views to the Subcommittee are in support of the fare adjustments under the Amendment Regulation. These deputations call on the Subcommittee to support the Amendment Regulation with a view to enabling the implementation of the fare adjustments on 30 November 2008. They consider that the approved fare adjustments could, on the one hand, help the taxi trade to cope with cost escalation and, on the other hand, enhance the competitiveness of the taxi service in the long-haul transport sector. Nevertheless, the Taxi Driver & Operators Association Ltd expresses strong objection to the fare adjustment and the new fare structure. This Association maintains that as the economic situation has undergone drastic changes since the determination of the fare adjustments months ago, the fare adjustments will largely reduce the income of taxi drivers. It therefore requests that the existing fare level for urban taxis be maintained. On the other hand, the Hong Kong Taxi Association urges the Subcommittee to give due consideration to the lack of consensus among the urban taxi trade on the new fare structure and suggests the implementation of the increase in flagfall charge from \$16 to \$18 initially, pending further discussion among different stakeholders of the trade to reach a consensus on the fare structure.

9. The Subcommittee has doubts about the effectiveness of the new fare structure in reducing the room for discount gang activities and in restoring order in the taxi market. Notwithstanding the lowered fares for long-haul trips under the new fare

structure, discount gangs may continue to offer discounts from the metered fares for long-haul trips. The Subcommittee has noted the Administration's advice that while no single measure could completely eliminate discount gang activities, the new fare structure has been arrived at after lengthy deliberations during the review of taxi operation and is considered practicable and agreeable by TAC and the majority of the taxi trade. The new fare structure is expected to enhance the competitiveness of long haul taxi services, thereby helping to stamp out discount gang activities through restoring order in the market.

10. The Subcommittee has noted that Hon Andrew CHENG may propose amendments to the Amendment Regulation to put in place further fare reduction for long-haul trips, with an aim to curtail discount gang activities effectively.

#### Operating environment of the taxi trade

11. The Subcommittee has noted that prior to the \$1 increase in flagfall fare in February 2008, the urban taxi fares were last increased in June 1998. For Lantau taxi fares, the last increase was made in March 1998. Over the years, there have been substantial increases in operating costs of the taxi trade, exerting considerable pressure on their operating environment. Hon Miriam LAU, Hon Andrew CHENG and Hon IP Wai-ming have questioned whether the upward fare adjustment for short-haul trips under the new fare structure would increase the operating revenue of a rentee-driver, having regard to the likely reduction in the number of short-haul passengers and the increase in taxi rentals as a result of the adjustment. In view of the escalating costs for operation and the rapid economic downturn resulting from the financial tsunami, these members are concerned that the fare adjustments may have adverse impact on the operating environment of the taxi trade as a whole, thereby affecting the income and livelihood of taxi drivers. Hon Cyd HO is of the view that while the new fare structure involving reduction in fares for long-haul trips would have little impact on taxi owners, rentee-drivers may find it difficult to afford the taxi rentals, which may possibly increase with the fare adjustments, if their operating revenue is reduced under the new fare structure.

12. The Administration has advised that a rationalized taxi fare structure is expected to benefit the taxi trade as a whole, as about 80% of taxi trips are short-haul, for which the taxi fare will be increased. The new fare structure may not necessarily result in corresponding increase in taxi rentals which will be determined by demand and supply in the taxi rental market. The Administration has assured members that it will continue to monitor changes in the operating conditions of the taxi trade and maintain communication with the taxi trade regarding their concerns and feasible measures to improve their operating environment. To address members' concerns about the impacts of the proposed taxi fare adjustment on the livelihood of taxi drivers, the Administration has provided further details on the average monthly operating costs of rentee-drivers and taxi owners over the past ten years.

13. The Subcommittee has also noted that some of the taxi trade deputations state that their trade members have agreed not to increase taxi rentals for six months after the fare adjustments have taken effect while some other representatives of the

rentor-owners point out that taxi rentals are determined by demand and supply and the market condition would not allow them to increase taxi rentals if there is no increase in the income of rentee-drivers after the fare adjustments. They will monitor changes in the operating revenue of taxi drivers during the initial months of implementation of the fare adjustments, before deciding whether to increase the taxi rentals.

#### Measures to restore order in the taxi market

14. The Subcommittee is keen to ensure that there would be effective measures to restore order in the taxi market to protect the interest of law-abiding taxi operators and passengers. Hon CHEUNG Hok-ming is concerned that the extent of fare reduction for long-haul trips may not be adequate to eliminate the room for the operation of discount gangs. Hon WONG Kwok-hing, Hon Cyd HO and Hon LI Fung-ying are concerned that in the absence of legislative sanction against drivers accepting requests for discount from passengers, enforcement actions against discount gangs would not be effective. Hon Andrew CHENG and Hon Ronny TONG also question the effectiveness of the new fare structure in curtailing discount gang activities, as there are no effective measures to ensure payment of taxi fares according to the meters.

15. The Administration has advised that legislative safeguards are already in place to protect both taxi drivers and passengers. The current legislation prohibits drivers from overcharging. It also stipulates that passengers should pay the legal fare chargeable under the principal Regulations and are prohibited from using obscene or offensive language or conducting themselves in a disorderly manner. The Administration emphasizes that public transport passengers should pay the stipulated fares and taxi passengers should also pay according to the meters. While there are views in support of legislating against fare bargaining by passengers, the Administration has advised that care has to be taken in examining such an idea given the far-reaching implications and the considerations involved. These considerations include whether criminal penalty should be imposed and the proportionality of such penalty to the offence, whether there would be practical difficulties in collecting evidence and whether this would unduly restrict drivers from charging a lower fare when a wrong routing is used.

16. Regarding the enforcement actions taken against taxi discount gangs, the Police has conducted a total of 1314 enforcement operations under regulation 40 of the principal Regulations from 2007 to September 2008, and prosecution was taken in 225 cases. In taking such enforcement actions, over 800 police officers were deployed to mount around 600 operations specifically on taxi discount gangs. During these operations, ten cases were detected for allegedly conducting discount activities, and the drivers in six cases were convicted.

17. The Subcommittee has expressed concern that the existing legislation and enforcement do not provide sufficient deterrence against fare bargaining. Hon LI Fung-ying urges the Administration to start preparation for the next steps to deal with the situation if the new fare structure is found not effective in restoring market order. Noting the strong request of the Motor Transport Workers General Union for

legislation against fare bargaining by passengers, Hon WONG Kwok-hing and Hon IP Wai-ming urge the Administration to introduce such legislation without delay. Hon Ronny TONG and Hon Andrew CHENG also express disappointment that the Administration fails to take immediate actions to put in place legislative provisions to ensure payment of metered fares.

18. The Administration has explained that discount gangs have emerged because of changes in market conditions. It would be most effective to tackle the problem through the market mechanism by suitably adjusting the fare structure and level to bring them in line with market conditions. According to the Administration, such approach is supported by both TAC and members of the taxi trade. The Administration appeals to members' support of the proposed fare adjustments to alleviate the pressure of escalating operating costs on the taxi trade and also to tackle the problem of discount gang activities.

19. Hon Ronny TONG, Hon Andrew CHENG and Hon WONG Kwok-hing are not convinced of the reasons for the deferral of the legislative amendments to prohibit fare bargaining. They criticize the Administration for not responding to the Subcommittee's request. Hon Ronny TONG urges the Administration to give an undertaking for introducing the legislative prohibition in six months' time. Hon Andrew CHENG considers that such legislative prohibition should be put in place as soon as possible. He suggests that reference should be made to the practices and legislation in overseas cities. Hon Miriam LAU shares members' views. She requests the Administration to study the overseas experience regarding the regulation of charging taxi fares according to meters and discuss with the taxi trade, and report to the Panel on Transport in six months' time. Hon WONG Kwok-hing and Hon IP Wai-ming also call on the Administration to work out legislative proposals immediately.

20. The Administration has responded that it will study the overseas experience regarding the regulation of charging taxi fares according to meters. The Administration will also engage the taxi trade through the Transport Department's taxi conferences to understand more their views and concerns. It will report to the Panel on Transport findings of the study on overseas experience and the engagement with the taxi trade in six months' time.

21. The Subcommittee is disappointed that the Administration has not agreed to work out the legislative proposals within six months, or to provide a concrete timetable for the legislative proposals. The Subcommittee has considered Hon Ronny TONG's proposal of repealing the Amendment Regulation. However, there is no consensus view among members regarding the proposal. Hon Cyd HO has suggested moving amendments to the Amendment Regulation to provide for an expiry date for the fare adjustments, i.e. to impose a "sunset section" to the Amendment Regulation. The "sunset section" would allow the fare adjustments to be implemented from 30 November 2008, while setting a time limit for the Administration to come back with concrete legislative proposals. Some members have reservations about moving the amendments proposed by Hon Cyd HO.

22. The Subcommittee Chairman asks members to inform the Secretariat before 17 November 2008 whether they wish to propose amendments to the Amendment Regulation, so that she could consider whether she would seek the agreement of the House Committee for her to move a motion to adjourn the Council on 26 November 2008 under Rule 16(4) of the Rules of Procedure to enable Members to debate on the Amendment Regulation.

**Advice sought**

23. The House Committee is invited to note the deliberations of the Subcommittee.

Council Business Division 1  
Legislative Council Secretariat  
13 November 2008

**Subcommittee on Road Traffic (Public Service Vehicles)  
(Amendment) Regulation 2008**

**Membership list**

**Chairman** Hon Miriam LAU Kin-yee, GBS, JP

**Members** Hon Andrew CHENG Kar-foo  
Hon LI Fung-ying, BBS, JP  
Hon WONG Kwok-hing, MH  
Hon CHEUNG Hok-ming, SBS, JP  
Hon Ronny TONG Ka-wah, SC  
Hon Cyd HO Sau-lan  
Hon IP Wai-ming, MH

(Total: 8 Members)

**Clerk** Ms Rosalind MA

**Legal Adviser** Miss Winnie LO

**Date** 21 October 2008

**Subcommittee on Road Traffic  
(Public Service Vehicles) (Amendment) Regulation 2008**

**List of deputations/individual which have submitted views to the Subcommittee**

1. Abbo Taxi Owners' Association Limited
2. Chuen Lee Radio Taxis Association Ltd.
3. Chung Shing Taxi Limited
4. CTOD Association Company Limited
5. Hong Kong & Kowloon Radio Car Owners Association Ltd.
6. Hong Kong Taxi Association
7. Lantau Taxi Association
8. Motor Transport Workers General Union
9. Mr CHENG Cho-kwong, Shatin District Councillor and Vice Chairman of the District Facilities Management Committee, Shatin District Council
10. Rights of Taxi (Si Hai) Telecommunication Centre Limited
11. Rights of Taxi Owners and Drivers Association Limited
12. Tai Wo Motors Ltd
13. Taxi & PLB Concern Group
14. Taxi Dealers & Owners Association Limited
15. Taxi Drivers & Operators Association Ltd.
16. The Hong Kong Taxi & Public Light Bus Association Limited
17. Urban Taxi Drivers Association Joint Committee Co., Ltd.
18. Wai Yik HK, Kln & NT Taxi Owners Association Ltd.

19. Wing Tai Car Owners & Drivers Association Ltd.
20. 市區の士十八聯席

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