

LCQ18: Illegal carriage of passengers for hire or reward by motor vehicles

Following is a question by the Hon Frankie Yick and a written reply by the Acting Secretary for Transport and Housing, Dr Raymond So Wai-man, in the Legislative Council today (July 11):

Question:

Under section 93 of the Road Traffic Ordinance (Cap 374), the Commissioner for Transport (the Commissioner) may suspend the licence of a motor vehicle concerned in respect of the offences specified in Schedule 4 (including section 52 (in contravention of the restriction on the use of vehicles)). The period of suspension for the first offence is three months and that for subsequent offence in respect of the same motor vehicle is six months. Any person who uses a private car without a valid hire car permit to carry passengers for reward (commonly known as "white licence cars' service") is in breach of section 52. Some members of the public have pointed out that as white licence cars' service has become rampant in recent years, the authorities should amend the legislation to lengthen the period of suspension of the licences of white licence cars or even cancel their licences permanently to enhance the deterrent effect. In this connection, will the Government inform this Council:

(1) of the number of vehicles the licence of which was suspended under the aforesaid provision in each of the past three years and the periods of suspension concerned, together with a breakdown by vehicle class and the offence involved;

(2) of the respective numbers of cases in each of the past three years in which the registered owners of vehicles, under section 90 of Cap 374, (i) made representations in writing to the Commissioner and (ii) applied in writing to the Commissioner for a hearing before a Transport Tribunal (Tribunal) to show cause why the vehicle licences should not be suspended; among such cases, the respective numbers of cases ruled by the Tribunal that the owners concerned had shown the cause, with a breakdown by vehicle class and the offence involved; and

(3) given that in reply to a question raised by a Member of this Council in May this year in respect of the permanent cancellation of licences of white licence cars, the authorities indicated that the Transport Department was then reviewing the need to raise the penalty for the relevant offences and would consult the trade concerned, of the details and timetables of the review and the consultation exercise?

Reply:

President,

The Government has all along been concerned about the situation on illegal carriage of passengers for hire or reward by private cars and light goods vehicles (LGV). The Government has been taking stern enforcement actions against illegal carriage of passengers for reward and will not condone such activities. Sections 52(3) and 93 and Schedule 4 of the Road Traffic Ordinance (Cap 374) stipulate that an offender who uses a private car or LGV for the illegal carriage of passengers for reward, or who solicits or attempts to solicit any person to travel in such vehicles, is liable to a fine of \$5,000 and three months' imprisonment on the first conviction. The licence of the subject vehicle may also be suspended for three months. On the second or subsequent conviction, the offender is liable to a fine of \$10,000 and six months' imprisonment. For a subsequent offence in respect of the same motor vehicle, the licence of that vehicle may be suspended for six months. Besides, according to section 69 of Cap 374, if a person is convicted of any offence under Cap 374 in connection with the driving of a motor vehicle (including illegal carriage of passengers for reward), the court may disqualify him from driving for such period as it thinks fit.

In accordance with section 90(2)(c)(i) of Cap 374, the registered owner whose vehicle licence was suspended may make representations in writing to the Commissioner showing cause why the vehicle licence should not be suspended within 14 days after the receipt of the notice issued by the Commissioner; or by virtue of section 90(2)(c)(ii) of Cap 374, he may apply in writing to the Commissioner for a hearing before a Transport Tribunal to show cause why the vehicle licence should not be suspended. The Transport Tribunal is a statutory organisation independent of the Government, comprising non-official members appointed by the Government, including persons from the legal sector, District Council members and other professionals. Every case hearing of the Transport Tribunal is conducted by a chairman and two panel members.

My reply to the various parts of the Hon Frankie Yick's question is as follows.

(1) The breakdown of cases involving the suspension of motor vehicle licences by the Transport Department (TD) from 2015 to 2017 in accordance with the section 93 of Cap 374 is tabulated below. In all these cases, the drivers have breached section 52(3) of Cap 374 by driving or using a motor vehicle, or suffering or permitting a motor vehicle to be driven or used, for the carriage of passengers for hire or reward without obtaining a valid hire car permit. As all cases are first offences, the licences were suspended for three months.

Year	Number of vehicles with their licences suspended			
	Private car	LGV	Private light bus	Total
2015	1	16	1	18
2016	6	2	1	9
2017	7	2	0	9

(2) During the same period, the TD has not received any representations made in writing to the Commissioner in accordance with section 90(2)(c)(i) of Cap 374 showing cause why the vehicle licences concerned should not be suspended.

As for applications made under section 90(2)(ii) of Cap 374 to the Commissioner for a hearing before a Transport Tribunal to show cause why the vehicle licences should not be suspended, the drivers of all these cases have contravened section 52(3) of Cap 374. The number of cases by vehicle types is tabulated below.

Year	Number of cases applying for a hearing before a Tribunal			
	Private car	LGV	Private light bus	Total
2015	0	1	1	2
2016	3	0	0	3
2017	2	0	0	2

All the judgments handed down by the Transport Tribunal in respect of the cases in the last three years upheld the decision that the vehicle licences concerned should be suspended.

(3) The Government is currently reviewing the need to raise the penalties for offences related to illegal carriage of passengers for hire or reward by motor vehicles so as to enhance the deterrent effects. We aim to report specific proposals to the Panel on Transport of the Legislative Council and consult Members in the 2018-19 legislative year.