

LEGISLATIVE COUNCIL BRIEF

Public Bus Services Ordinance
(Chapter 230)

**New Franchises for the Bus Networks of Citybus Limited
(Franchise for Hong Kong Island and Cross-Harbour Bus Network)
and New Lantao Bus Company (1973) Limited**

**Proposed Resolutions to Exclude the Application of
the Profit Control Scheme to the New Franchises**

INTRODUCTION

On 22 September 2015, the Chief Executive in Council granted new franchises in respect of the bus networks of Citybus Limited (Franchise for Hong Kong Island and Cross-Harbour Bus Network) and New Lantao Bus Company (1973) Limited (hereafter “the new franchises”) under section 5 of the Public Bus Services Ordinance (Cap. 230) (“the Ordinance”)¹. Under section 5(3)(b) of the Ordinance, a franchise shall be subject to the Profit Control Scheme (“PCS”) except where the Legislative Council (“LegCo”) by resolution excludes the application of all or any of such provisions in Part V of the Ordinance to the franchise. As stated in paragraph 18 of the LegCo Brief on the granting of the new franchises issued on 22 September 2015² and in line with the established practice, the Government proposes to move the two resolutions at Annex (“the Resolutions”) to exclude the application of the PCS to the new franchises.

¹ The two new franchises will commence on 1 June 2016 and 1 March 2017 respectively. Both of them will last for ten years.

² The LegCo brief (File Ref : THB(T)CR 6/5541/00) has been uploaded to LegCo’s website at [http://library.legco.gov.hk:1080/search/X?SEARCH=m:\(6%2F5541%2F00\)](http://library.legco.gov.hk:1080/search/X?SEARCH=m:(6%2F5541%2F00)).

JUSTIFICATIONS

Profit Control Scheme

2. Under the PCS, a franchised bus company can earn a permitted return in an accounting year, whereas bus fares are to be set at a level which allows cost recovery plus a certain level of profit not exceeding the permitted return. Profit exceeding the permitted return in any accounting year will be retained in a development fund. When profit falls below the permitted return in any accounting year, the franchised bus company may recover the shortfall by drawing money from the development fund.

3. Prior to our return to China in 1997, the then LegCo and the community strongly criticised that the PCS would guarantee the franchised bus companies a profit level irrespective of their performance, thereby reducing the operators' incentive to enhance cost effectiveness and reduce expenditure. This in effect encouraged the franchised bus companies to over-expand and inflate their asset values. In view of this, the then Executive Council decided that the PCS would not be applicable to new bus franchises granted after 1992. Since then, the Government would, after granting of each new franchise, move a resolution in LegCo to exclude the application of the PCS to the franchise. A total of 20 such resolutions had been passed in respect of franchises granted since then (including all six franchises currently in force). Meanwhile, the Government would take into account a basket of factors³ (which include public acceptability and affordability) in assessing franchised bus fare adjustment applications instead.

The Resolutions

4. As mentioned above, the PCS does not apply to any of the current bus franchises. Neither do the new franchises consist of any arrangements concerning the PCS or permitted return. The Government

³ The basket of factors includes –

- (a) changes in operating costs and revenue since the last fare adjustment;
- (b) forecasts of future costs, revenue and return;
- (c) the need to provide the bus operator with a reasonable rate of return;
- (d) public acceptability and affordability;
- (e) quality and quantity of service provided; and
- (f) outcome of a fare adjustment formula. The formula is :

$$(0.5 \times \text{Change in Nominal Wage Index for the Transportation Section}) + (0.5 \times \text{Change in Composite Consumer Price Index}) - (0.5 \times \text{Productivity Gain}).$$

considers that the disallowance of a permitted return could best protect passengers' interest. In fact, the new franchises were granted by the Government on the clear understanding that there would be no permitted return. To implement this arrangement, the Government proposes to move the Resolutions to exclude the application of sections 27, 28, 29 and 31 of the Ordinance to the new franchises.

LEGISLATIVE TIMETABLE

5. The legislative timetable is as follows –

Issuing notice by the Government to move the Resolutions	18 November 2015
Moving the Resolutions by the Secretary for Transport and Housing at LegCo	9 December 2015
Publication in the Gazette (subject to the passage of the Resolutions by LegCo)	11 December 2015

IMPLICATIONS OF THE PROPOSAL

6. The proposal is in conformity with the Basic Law, including the provisions concerning human rights. It does not affect the current binding effect of the Ordinance. It has no civil service, environmental, family, financial, gender, productivity and sustainability implications. On economic implications, the disapplication of the PCS to the new franchises should help incentivise the two franchised bus companies to improve cost effectiveness and control expenditure more proactively.

PUBLIC CONSULTATION

7. The Government had invited views from the public and members of the Traffic and Transport Committees of all District Councils on the requirements of the new franchises between June and September 2014. We reported the progress of the franchise negotiations to the LegCo Panel on Transport between June 2014 and July 2015 and consulted the Transport Advisory Committee. A LegCo Brief on the

granting and the conditions of the new franchises was issued on 22 September 2015. In it, the Government has clearly set out its plan to move in LegCo the resolutions to disapply the PCS to the new franchises. We have not received any comments on this issue.

PUBLICITY

8. A spokesman will be available to respond to media enquiries.

ENQUIRIES

9. Any enquiry concerning this Brief can be directed to Mr Chan Ying-kit, Assistant Commissioner for Transport (Bus and Railway), at 2829 5210.

**Transport and Housing Bureau
November 2015**

Public Bus Services Ordinance

Resolution

(Under section 5(3)(b) of the Public Bus Services Ordinance (Cap. 230))

Resolved that the franchise granted on 22 September 2015 under section 5 of the Public Bus Services Ordinance (Cap. 230) to Citybus Limited (城巴有限公司) and published in the Gazette as G.N. 7692 of 2015 is not subject to sections 27, 28, 29 and 31 of that Ordinance for the entire period of the franchise.

Public Bus Services Ordinance

Resolution

(Under section 5(3)(b) of the Public Bus Services Ordinance (Cap. 230))

Resolved that the franchise granted on 22 September 2015 under section 5 of the Public Bus Services Ordinance (Cap. 230) to New Lantao Bus Company (1973) Limited (新大嶼山巴士(1973)有限公司) and published in the Gazette as G.N. 7693 of 2015 is not subject to sections 27, 28, 29 and 31 of that Ordinance for the entire period of the franchise.