

立法會
Legislative Council

LC Paper No. LS60/16-17

**Paper for the House Committee Meeting
on 5 May 2017**

**Legal Service Division Report on
Proposed Resolution under section 5(3)(b) of the
Public Bus Services Ordinance (Cap. 230)**

The Secretary for Transport and Housing has given notice to move a motion under section 5(3)(b) of the Public Bus Services Ordinance (Cap. 230) at the Legislative Council ("LegCo") meeting of 17 May 2017. The motion seeks LegCo's approval to exclude the application of the profit control scheme ("PCS") set out in sections 27, 28, 29 and 31 of Cap. 230 to the new 10-year franchise granted to The Kowloon Motor Bus Company (1933) Limited ("KMB") on 28 March 2017¹.

2. Under section 5(3)(b) of Cap. 230, a franchise shall, except where LegCo by resolution excludes the application of all or any of the provisions of PCS, be subject to PCS. Pursuant to section 28 of Cap. 230, a company to which a franchise to operate a public bus service is granted ("grantee") can earn a permitted return² in an accounting year. Profit exceeding the permitted return in any accounting year will be added to the Development Fund ("the Fund") provided under section 27. When profit falls below the permitted return, the grantee shall deduct the deficiency from the Fund. Section 29 further provides for the deductions that must be made from the permitted return in each accounting year. Under section 31, the Chief Executive in Council shall review the operation of PCS in respect of the grantee every two years.

3. The effect of the proposed resolution, if passed, is that KMB would not be subject to PCS for the entire period of the franchise.

4. According to paragraph 3 of the LegCo Brief (File Ref: THB(T)CR 3/5591/94) issued by the Transport and Housing Bureau in April 2017, PCS has

¹ By G.N. 1773 of 2017 published in the Gazette on 7 April 2017, the new franchise is granted for the period from and including 0400 hours on 1 July 2017 until 0400 hours on 1 July 2027.

² Under section 26 of Cap. 230, "permitted return" means the return allowed to a grantee in an accounting year and which is computed in accordance with section 28(1).

been strongly criticized by LegCo and the community in that it reduces the incentive for the franchised bus companies to enhance cost effectiveness and to reduce expenditure. The then Executive Council decided that PCS would not be applicable to all new bus franchises granted after 1992.

5. As advised by the Clerk to the Panel on Transport, the Panel was briefed on 20 January 2017 on the outcome of the Administration's discussion with KMB on the granting of a new 10-year franchise for the bus network of KMB. Members were informed that, as a matter of formalities in accordance with the past practice, should KMB be granted a new franchise, the Administration would move a resolution in LegCo to disapply PCS to the new franchise. During the discussion, members expressed views on the fare concessions to be offered by KMB under the new franchise, as well as KMB's measures to enhance service quality. The Panel passed four motions urging KMB to, among others, introduce more fare concession initiatives, including monthly passes, and student fare concessions on every trip and on all routes.

6. The proposed resolution, if passed, would come into operation on the date of publication in the Gazette.

7. No difficulties have been identified in the legal or drafting aspects of the proposed resolution.

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