

立法會
Legislative Council

LC Paper No. LS22/14-15

**Paper for the House Committee Meeting
on 19 December 2014**

**Legal Service Division Report on
Proposed Resolution under section 87(2) of
the Disability Discrimination Ordinance (Cap. 487)**

The Secretary for Labour and Welfare has given notice to move a motion at the Legislative Council meeting of 7 January 2015. The motion seeks the Legislative Council's approval of the Disability Discrimination Ordinance (Amendment of Schedule 5) Notice 2014 (the Amendment Notice) made by the Chief Executive in Council under section 87(2) of the Disability Discrimination Ordinance (Cap. 487) (the Ordinance) on 9 December 2014.

2. Under the existing item 4 of Schedule 5 to the Ordinance, the provision of fare concessions in respect of public transport services operated by: (i) the MTR Corporation Limited, (ii) a company pursuant to a franchise granted under section 5 of the Public Bus Services Ordinance (Cap. 230), and (iii) a company or person pursuant to a franchise or licence granted under section 6 or 28 of the Ferry Services Ordinance (Cap. 104), to persons specified under item 4 of Schedule 5 has been included as a further exception to Part 4 (Discrimination and Harassment in other Fields) and Part 5 (Other Unlawful Acts) of the Ordinance. The persons specified under item 4 of Schedule 5 are:-

- (a) persons who receive assistance under the Comprehensive Social Security Assistance Scheme administered by the Director of Social Welfare and are medically certified under the Scheme to be 100% disabled for the purposes of the Scheme; or
- (b) persons who receive an allowance described as Disability Allowance under the Social Security Allowance Scheme administered by the Director of Social Welfare.

3. The Amendment Notice amends item 4 of Schedule 5 to the Ordinance to add as a further exception the provision of fare concession by

green minibus operators. Under section 60 of the Ordinance, the fare concessions specified in item 4 of Schedule 5 as a specific exception shall not constitute a contravention under Part 4 or Part 5 of the Ordinance.

4. Two similar legislative amendment exercises concerning Schedule 5 of the Ordinance had respectively been carried out in 2009 and 2012. The first one was in respect of the fare concession by the MTR Corporation Limited under the Disability Discrimination Ordinance (Amendment of Schedule 5) Notice 2009 while the second one was made when the Government proposed to launch the implementation of the Public Transport Fare Concession Scheme for the Elderly and Eligible Persons with Disabilities (the Scheme) under the Disability Discrimination Ordinance (Amendment of Schedule 5) Notice 2012. Members may refer to the LegCo Brief prepared jointly by the Labour and Welfare Bureau and the Transport and Housing Bureau dated 10 December 2014 (File ref: LWB 8/3939/99) for further background information.

5. To put beyond doubt that the proposed fare concession in respect of green minibuses under the Scheme would not constitute a contravention of the Ordinance, the Administration, having consulted the Department of Justice and the Equal Opportunity Commission, proposes to amend Schedule 5 to the Ordinance.

6. According to the LegCo Brief, the Administration aims to launch the first batch of extension around end of March 2015 while the second batch is expected to be rolled out in two to three months' time after the launch of the first batch, depending on the readiness of the green minibus operators. Under the proposed extension of the Scheme, the fare concession would enable the beneficiaries to travel on the green minibuses which have participated in the Scheme at a concessionary fare of \$2 per trip on all days and at all times.

7. The Administration briefed the Panel on Welfare Services, the Rehabilitation Advisory Committee and the Elderly Commission on the proposed extension of the Scheme to green minibuses in January and March 2014 in the context of the Policy Address and the Budget exercises respectively. The Administration has also briefed the Panel on Welfare Services on the progress of the preparation work for the proposed extension at its meeting on 10 November 2014. According to the information provided by the Clerk to the Panel on Welfare Services, the Panel raised no objection to the proposed amendment. Some members have however expressed concern that some green minibus operators have not participated in the Scheme and urged the Administration to take measures to increase their participation.

8. If the proposed resolution is passed, the Amendment Notice will come into operation on the day of gazettal.

9. No difficulties relating to the legal and drafting aspects of the Amendment Notice have been identified.

Prepared by

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