

LEGISLATIVE COUNCIL BRIEF

Public Bus Services Ordinance
(Chapter 230)

Proposed Resolution to Exclude the Application of the Profit Control Scheme to the New Franchise for the Bus Network of the Kowloon Motor Bus Company (1933) Limited

INTRODUCTION

On 28 March 2017, the Chief Executive in Council granted a new franchise for the bus network of the Kowloon Motor Bus Company (1933) Limited (“KMB”) 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 13 of the LegCo Brief issued on the date of granting of the new franchise² and in line with the established practice, the Government proposes to move the resolution at Annex to exclude the application of the PCS to KMB’s new franchise.

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

¹ The new franchise will commence on 1 July 2017 and last for a period of ten years.

² The LegCo Brief is available on LegCo’s website (<http://library.legco.gov.hk:1080/record=b1195270>).

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 each new franchise, move a resolution in the LegCo to exclude the application of the PCS to the franchise. A total of 22 such resolutions had been passed in respect of franchises granted since then (including all six franchises currently in force)³.

The Resolution

4. As mentioned above, the PCS does not apply to any of the current bus franchises. Neither does KMB's new franchise consist of any arrangements concerning the PCS or permitted return. The Government considers that the disallowance of a permitted return could best protect passengers' interest. In fact, KMB's new franchise was 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 resolution to exclude the application of sections 27, 28, 29 and 31 of the Ordinance to KMB's new franchise.

LEGISLATIVE TIMETABLE

5. The legislative timetable is as follows –

Issuing notice by the Government to move the resolution	19 April 2017
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³ The Government will consider amending the Ordinance by repealing the provisions concerning the PCS as and when an opportune opportunity arises, such as when amendments are also required to other provisions of the Ordinance. In the meantime, the Government will continue the practice of moving a resolution to achieve the purpose of disapplication of the PCS to a new franchise.

Moving the resolution by the Secretary for Transport and Housing at the LegCo 17 May 2017

Publication in the Gazette (subject to passage of the resolution by the LegCo) 19 May 2017

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 franchise should help incentivise KMB to improve cost effectiveness and control expenditure more proactively.

PUBLIC CONSULTATION

7. When briefing the LegCo Panel on Transport and the Transport Advisory Committee on the progress of discussion on the new franchise with KMB on 20 January 2017 and 16 February 2017 respectively, we stated clearly that should KMB be granted a new franchise, the Government will move a resolution in the LegCo to disapply the PCS to the new franchise. The aforesaid panel/committee did not express any views on the matter.

PUBLICITY

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

ENQUIRIES

9. Any enquiry concerning this Brief can be directed to Miss Rachel Kwan, Assistant Commissioner for Transport (Bus and Railway), at 2829 5210.

Transport and Housing Bureau
April 2017

Public Bus Services Ordinance

Resolution of the Legislative Council

Resolution made and passed by the Legislative Council under section 5(3)(b) of the Public Bus Services Ordinance (Cap. 230) on 2017.

Resolved that the franchise granted on 28 March 2017 under section 5 of the Public Bus Services Ordinance (Cap. 230) to The Kowloon Motor Bus Company (1933) Limited (九龍巴士(一九三三)有限公司) and published in the Gazette as G.N. 1773 of 2017 is not subject to sections 27, 28, 29 and 31 of that Ordinance for the entire period of the franchise.

Clerk to the Legislative Council

2017

Explanatory Note

On 28 March 2017, The Kowloon Motor Bus Company (1933) Limited (九龍巴士(一九三三)有限公司) was granted a franchise under the Public Bus Services Ordinance (Cap. 230) by the Chief Executive in Council to operate a public bus service on certain specified routes. This Resolution excludes certain provisions relating to the profit control scheme under the Ordinance from applying to the franchise.