

立法會
Legislative Council

LC Paper No. CB(4)167/18-19

Ref. : CB4/BC/4/17

Report of the Bills Committee on Ferry Services (Amendment) Bill 2018

Purpose

This paper reports on the deliberations of the Bills Committee on Ferry Services (Amendment) Bill 2018 ("the Bills Committee").

Background

2. Ferries provide essential links to the outlying islands and offer an alternative choice for passengers who travel to/from other areas and across the harbour. According to the Administration, there are currently 13 licensed ferry operators in Hong Kong, operating a total of 19 regular passenger ferry routes, two dangerous goods vehicular ferry routes and two special ferry routes to provide services among different areas and outlying islands. In addition, there are 67 "kaito" routes providing ferry services to remote areas, the operation of which also requires ferry service licences.

3. Ferry service licences are granted by the Commissioner for Transport ("the Commissioner") under section 28 of the Ferry Services Ordinance (Cap. 104) ("the Ordinance") to allow the licensees to operate ferry services. Currently, the maximum period of a licence, whether newly granted or extended, is three years on each occasion, whilst the aggregate licence period (including all extended period(s)) shall not exceed 10 years. The Administration considers that such requirement does not only create administrative burden on ferry operators, but is also not conducive to ferry operators' longer-term planning and investment for their ferry services.

4. On a number of occasions, the Panel on Transport of the Legislative Council ("LegCo") has proposed lengthening the period for which a licence to operate a ferry service may be granted or extended to help enhance the business environment for ferry services. In the Public Transport Strategy Study

("PTSS") Final Report¹ published in June 2017, the Administration acknowledges that capping the period for which a licence may be granted or extended on each occasion at three years is not conducive to the operators' longer-term planning and investment for their ferry services. For example, ferry operators using and managing ferry piers are allowed to sub-let certain premises at the piers for commercial activities during the licence period. Any non-fare box revenue thus generated is used to cross-subsidize ferry services to alleviate the pressure of fare increases. However, the rental arrangements between the ferry operators and the tenants are often restricted by the length of their licences. This has limited the operators' ability in maximizing the non-fare box revenue that could be generated to cross-subsidize the ferry services. In the PTSS Final Report, the Administration has undertaken to explore relaxing the three-year cap on licence period through legislative amendments.

The Bill

5. The Administration introduced the Ferry Services (Amendment) Bill 2018 ("the Bill") into LegCo on 27 June 2018 to amend section 29 of the Ordinance to lengthen the period for which a licence to operate a ferry service may be granted and extended, from three years to five years, with the existing cap of a 10-year aggregate licence period unchanged.

The Bills Committee

6. At the House Committee meeting on 29 June 2018, Members agreed to form a bills committee to scrutinize the Bill. The membership list of the Bills Committee is at the **Appendix**. Under the chairmanship of Hon Frankie YICK, the Bills Committee held a meeting on 18 July 2018 to deliberate on the details of the Bill with the Administration.

¹ The Government has rolled out PTSS since end 2014. In tandem with the further development of the heavy rail network, PTSS was a systematic review on the respective roles and positioning of public transport services other than heavy rail. It also looked into some important topical issues of the public transport sectors in detail. The objectives were to enhance the complementarity amongst the various public transport services to ensure that the public can enjoy efficient services with reasonable modal choices on one hand, and that the public transport operators can enjoy long-term sustainability on the other.

Deliberations of the Bills Committee

7. The Bills Committee supports the implementation of the Bill to facilitate ferry operators' longer-term planning and investment, which may in turn enhance the financial viability of ferry services and encourage continuous improvement to service quality. During discussion, members have raised concerns about the duration of a licence period, other measures to enhance the quality of ferry services and management of ferry pier facilities. The major deliberations of the Bills Committee are set out in the ensuing paragraphs.

Duration of a licence period

8. In line with the initiative to encourage ferry operators to make longer-term investments and facilitate ferry operators' utilization of ferry piers for maximizing the non-fare box revenue, some members have suggested that the Administration should consider further relaxing the cap on each licence period and/or the cap on the aggregate licence period. While a member suggests relaxing the cap on each licence period and the cap on the aggregate licence period to six and 12 years respectively, another member suggests relaxing the cap on the aggregate licence period from 10 years to 15 years so that the aggregate licence period can cover two five-year licence periods and the same operator will have the option to extend for five more years.

9. The Administration has advised that the proposal of lengthening the licence period from three to five years, as well as maintaining the aggregate licence period at 10 years, are generally supported by the trade. A licence period of an excessive length may make it difficult for an operator to project its financial situation accurately, which may in turn affect service sustainability. In particular, the business environment of the ferry trade is subject to certain changing factors, such as fluctuations in fuel cost in the global market, tight manpower situation and evolving green technologies. The Administration is of the view that maintaining the cap on the aggregate licence period of 10 years will help maintain a competitive environment among ferry operators where the Transport Department ("TD") will select the most suitable operator for individual ferry routes by inviting expressions of interest or open tenders at an interval of 10 years at the maximum under normal circumstances.

10. To ensure and further improve the quality of ferry services, a member considers that the Administration should put in place a mechanism to review the effectiveness of lengthening the licence period from three to five years with the existing cap of a 10-year aggregate licence period unchanged, and impose conditions in the tendering exercise of the licensed ferry routes upon the commencement of the Bill.

Other measures to enhance ferry services

11. The Bills Committee notes that the Administration has been providing Special Helping Measures ("SHM") to the six major outlying island ferry routes² since mid-2011. To monitor the proper spending of public funds and consider lowering ferry fares when operating costs of those ferry routes concerned are projected to be reduced, a mid-term review will be conducted during the licence period of those six major routes. Some members urge the Administration to expand the coverage of SHM to include other ferry routes, in particular those routes serving Ma Wan and Discovery Bay, with a view to maintaining the financial viability of the ferry services concerned and alleviating the burden of fare increases on passengers.

12. The Administration has advised that it is the Government's established policy that public transport services should be run by the private sector in accordance with commercial principles to enhance efficiency and cost-effectiveness. There is no direct subsidy from the Administration for the ferry services save for the six major outlying island ferry routes which are provided with SHM. SHM are provided to these routes because there is basically no alternative to the ferry services available as a means of public transport, and short of SHM, the ferry services cannot be maintained without periodic hefty fare increases. Although currently the mid-term review is only conducted on the six major outlying island ferry routes which are provided with SHM, the review will provide an opportunity for reviewing and enhancing the financial viability and quality of other outlying island ferry services other than the six major routes. The Administration plans to report the result of the review to the Panel on Transport in the first half of 2019.

13. A member is concerned about the sustainability of ferry services and urges the Administration to devise measures to ensure the provision of essential outlying island ferry services to the public. The Administration assures members that a longer licence period will not increase operators' risks in running ferry services, or affect the existing arrangement where operators can apply to TD for fare increases to maintain the financial viability of the services. The mid-term review of the six major outlying island ferry routes will be an opportune time to look into ways to enhance the financial viability and quality of other outlying island ferry services. In the event that a ferry operator wishes to quit the business, under the current mechanism, he is required to notify TD

² The six major outlying island ferry routes include Central – Cheung Chau; Inter-islands serving Peng Chau, Mui Wo, Chi Ma Wan and Cheung Chau; Central – Mui Wo; Central – Peng Chau; Central – Yung Shue Wan; and Central – Sok Kwu Wan.

six months before his exit to allow time for carrying out the relevant tendering exercise.

14. A member has suggested that the Administration should consider procuring vessels for running the outlying island ferry routes which are considered as not commercially viable. He considers that such arrangement will enable the Administration to provide emergency ferry services in case of traffic congestion on Tsing Ma Bridge. In response, the Administration has advised that it is the Government's established policy that public transport activities, including ferry services, should be run by the private sector in accordance with prudent commercial principles to enhance efficiency and cost-effectiveness. The Administration currently has no plan to further intervene in the ferry services market.

Management of ferry pier facilities

15. Some members have expressed concern about the management of pier facilities, and urge the Administration to require ferry operators to enhance the facilities at ferry piers, given that the licence period will be lengthened to five years. The Administration has advised that it is willing to consider reviewing such facilities, leveraging on the occasion that the licence period is to be lengthened. However, such enhancements will be subject to many factors, including operators' financial viability and the structural conditions of individual piers.

Legal and drafting aspects

16. In the course of deliberation, the Bills Committee notes the Administration's response to the enquiry made by the Legal Adviser to the Bills Committee on whether transitional provisions should be provided for in the Bill to deal with the situation where licence applications are submitted but not yet processed prior to the commencement of the enacted Ordinance.

17. In response to the Legal Adviser's enquiry, the Administration has advised that the Ordinance does not specify the licence period for which a ferry operator may apply, nor does it set out the procedures for licence applications, which have all along been dealt with administratively. Currently, the customary practice is for the ferry operators to consider whether to apply for a licence of a maximum duration that the Commissioner may grant or extend under the Ordinance. As it is the Administration's policy to maintain the practice described in the above, the Administration takes the view that no extra provision, whether transitional or otherwise, is required for the Bill. The Administration will actively inform the trade of the new arrangements upon the

passage of the Bill. Upon the commencement of the enacted Ordinance, ferry operators would be free to consider whether or not to apply for a licence of a maximum duration that the Commissioner may grant or extend under the enacted Ordinance. For applications submitted prior to the commencement of the enacted Ordinance, those applicants may consider whether to keep the original licence periods they applied for, or to revise their applications to apply for a licence of a longer period.

Resumption of Second Reading debate on the Bill

18. The Bills Committee will not propose any amendments to the Bill, and raises no objection to the resumption of the Second Reading debate on the Bill at the Council meeting of 14 November 2018.

Consultation with the House Committee

19. The Bills Committee reported its deliberations to the House Committee on 2 November 2018.

Council Business Division 4
Legislative Council Secretariat
8 November 2018

Bills Committee on Ferry Services (Amendment) Bill 2018

Membership list

Chairman Hon Frankie YICK Chi-ming, SBS, JP

Members Hon WU Chi-wai, MH
Hon YIU Si-wing, BBS
Hon CHAN Han-pan, BBS, JP
Hon Andrew WAN Siu-kin
Hon CHU Hoi-dick
Hon Jimmy NG Wing-ka, JP
Dr Hon Junius HO Kwan-yiu, JP
Dr Hon CHENG Chung-tai

(Total : 9 members)

Clerk Ms Shirley CHAN

Legal Adviser Miss Joyce CHAN