

LEGISLATIVE COUNCIL BRIEF

Ferry Services Ordinance
(Chapter 104)

FERRY SERVICES (AMENDMENT) BILL 2018

INTRODUCTION

At the meeting of the Executive Council on 12 June 2018, the Council **ADVISED** and the Chief Executive **ORDERED** that the Ferry Services (Amendment) Bill 2018 (“the Bill”), at Annex A, should be introduced into the Legislative Council (“LegCo”), to lengthen the period for which a licence to operate a ferry service may be granted and extended, from three years to five years.

JUSTIFICATIONS

Current situation

2. It is the Government’s established policy that public transport services, ferry services included, 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 Government for ferry services, save for the six major outlying island ferry routes serving islands with basically no alternative means of public transport¹. For

¹ Routes operated by the New World First Ferry Services Limited :

- (1) “Central – Cheung Chau”;
- (2) “Inter-islands” between Peng Chau, Mui Wo, Chi Ma Wan and Cheung Chau ; and
- (3) “Central – Mui Wo”.

Routes operated by the Hong Kong & Kowloon Ferry Holdings Limited’s three subsidiaries :

- (4) “Central – Peng Chau”;
- (5) “Central – Yung Shue Wan”; and
- (6) “Central – Sok Kwu Wan”.

While Mui Wo is also linked by an external road network, its cross-district land-based public transport services are very limited.

these six routes, the Government has been providing Special Helping Measures (“SHM”) since 2011 to maintain the financial viability of the ferry services and alleviate the burden of fare increase on passengers².

3. Apart from providing essential external links for outlying islands, ferries serve as an alternative to road-based transport modes for passengers who travel across the territory and Victoria Harbour. There are currently 13 licensed ferry operators³ in Hong Kong, operating a total of 19 regular passenger ferry routes (including the six major outlying island ferry routes mentioned in paragraph 2 above), two dangerous goods vehicular ferry routes and two special ferry routes⁴ to provide services among different areas and outlying islands. A list of these licensed ferry services is at Annex B. In addition, there are 66 “kaito” routes providing more flexible ferry services, mainly to remote areas; the operation of such services also requires ferry service licences.

4. Ferry service licences (“licences”) are granted by the Commissioner for Transport (“the Commissioner”) under section 28 of the Ferry Services Ordinance (“the Ordinance”) (Cap. 104) to allow the licensees to operate ferry services. As currently required under section 29⁵ of the Ordinance, the maximum duration of a licence, whether newly granted or extended, is three years on each occasion, whilst the aggregate licence period (i.e. including all extended period(s)) shall not exceed 10 years. This requirement does not only create administrative burden on ferry operators (increasing the number of application for licence extension under a 10-year period), but also hampers, to a certain extent, ferry operators’ ability to make longer-term planning and investment for their ferry services.

² To monitor the proper spending of public funds and consider lowering ferry fares when operating costs are projected to be reduced, a mid-term review will be conducted during the three-year licence period of those six major routes offered SHM.

³ Excluding The “Star” Ferry Company, Limited which is operating two ferry routes under franchise.

⁴ Special services refer to a vehicular ferry service between North Point/Kwun Tong and Mui Wo provided for various types of vehicles under emergencies as notified by the Commissioner, and a passenger ferry service between North Point and Joss House Bay during the Tin Hau Festival.

⁵ Section 29 of the Ordinance provides as follows:

- (1) A licence may be granted for any period not exceeding three years.
- (2) The Commissioner may, at the request of the licensee, during any period while the licence is in force, extend the period of the licence for a further period or periods not exceeding three years at any one time, so that the period for which the licence was granted together with all extensions thereof shall not in any case exceed in the aggregate a period of 10 years.

5. On a number of occasions, the LegCo Panel on Transport proposed lengthening the period for which a licence to operate a ferry service may be granted and extended, to help enhance the business environment for ferry services. As recommended in the Public Transport Strategy Study (“PTSS”) Final Report which was published in June 2017, the Government 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. In terms of financial planning, for example, ferry operators using and managing ferry piers⁶ 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-subsidise 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 maximising the non-fare box revenue that could be generated to cross-subsidise the ferry services. In the PTSS Final Report, we have undertaken to explore relaxing the three-year cap on licence period (granted or extended) through legislative amendments.

The proposal

6. Having regard to factors such as local ferries’ roles and positioning in public transport, their operational characteristics, the business environment of the trade, public expectations on ferry services and fares, as well as statutory requirements, the Government proposes amending 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. In practical terms, if the proposal comes into effect, and assuming that an operator is granted a five-year licence on the first occasion, he may then apply for licence extension for five years at the maximum. Under this scenario, the operator only needs to apply for licence extension once within the whole ten-year period, fewer than the three extension applications as currently required (i.e. grant of a

⁶ Ferry operators using ferry piers for providing ferry services are responsible for managing the piers, and may sub-let premises at the piers for commercial activities to generate non-fare box revenue, with the aim of cross-subsidising ferry services to alleviate the pressure of fare increase. As at December 2017, a total of 14 franchised or licensed ferry operators used 26 ferry piers and were cross-subsidised by non-fare box revenue. The 66 “kaito” ferry services using public piers/landing steps do not benefit from such cross-subsidising as there is no space available for sub-letting at such public piers/landing steps.

three-year new licence, followed by two licence extensions each at the maximum period of three years and then one licence extension of one year).

7. The objective of the proposal is to facilitate ferry operators' longer-term planning and investment, and in turn enhance the financial viability of ferry services and encourage continuous improvement to service quality. For instance, procurement of new ferries or major retrofitting works for the ferry fleet will involve substantial investment and take months to complete. Ferry operators will thus have to give prudent and long-term consideration to the financial arrangement and return concerned. If granted a longer licence period, ferry operators may consider more positively about retrofitting their ferry fleet for better ferry services or introducing greener technologies for higher energy efficiency. Hopefully, ferry operators will also have more room to look for commercial opportunities and generate non-fare box revenue. Specifically, in terms of subletting certain premises at the piers for commercial activities during the licence period, under the proposal, ferry operators will be able to offer a longer sub-let period and hopefully attract a more versatile mix of tenants, in particular those which require a longer payback period (e.g. food and beverage outlets). Even for operators who are not managing ferry piers, a longer possible licence period would give them certainty in operational planning and vessel replacement.

8. Moreover, we expect that the proposal will encourage ferry operators to strengthen their staff training and reduce uncertainties in employment and promotion prospects, thereby facilitating better manpower deployment in the long run for better ferry services to address passenger needs. Relaxing the cap on each licence period will also help ferry operators control their operational cost. An example is that ferry operators may enter into maintenance contracts of a longer contract period for their ferry fleet in exchange for more affordable contract sums and more favourable terms and conditions.

9. Depending on the circumstances of individual cases, an operator may apply for a licence for a period of less than five years, while the Commissioner may, if she thinks fit, grant a licence for a period of less than five years under the Ordinance.

Consultation with the trade

10. The Transport Department (“TD”) consulted the ferry trade in January 2018 on the proposal. Ferry operators in general supported the proposal. Some operators suggested further relaxation of the cap on each licence or even the cap on the aggregate licence period. We recommend maintaining the existing requirement of capping the aggregate licence period at 10 years. 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, tight manpower situation and evolving green technologies. In addition, maintaining the cap on the aggregate licence period of 10 years will strike the balance, allowing the Government to maintain a competitive environment among ferry operators where the 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.

11. Other major views of the trade include concerns over possible impact on fare arrangements upon relaxation of the cap on licence period. This is based on the misunderstanding that fare adjustment is only allowed when a new licence is granted or an existing licence is extended. As per the established procedures, licensed ferry operators may apply to the TD for fare increases where necessary, and the TD will process such applications accordingly. In other words, fare adjustment and application for licence extension are two different processes and are not relevant to each other.

THE BILL

12. The main provision of the Bill is **Clause 3**, which amends section 29 of the Ordinance to lengthen the period for which a licence to operate a ferry service may be granted and the period for which such a licence may be extended from three years to five years.

LEGISLATIVE TIMETABLE

13. The legislative timetable will be as follows –

Publication in the Gazette

15 June 2018

First Reading and commencement of
Second Reading debate 27 June 2018

Resumption of Second Reading debate,
committee stage and Third Reading To be notified

IMPLICATIONS OF THE PROPOSAL

14. The Bill is in conformity with the Basic Law, including provisions concerning human rights. It has no financial, civil service, productivity, environmental or gender implications. The Bill will not affect the current binding effect of the Ordinance and its subsidiary legislation. The economic, family and sustainability implications of the proposal are insignificant.

PUBLIC CONSULTATION

15. On 16 March 2018, we briefed the LegCo Panel on Transport on the Government's proposal. Members showed support to the proposal. Separately, Members took the opportunity to urge the Government to consider taking up the procurement of vessels during the overall review of the long term operation model of the outlying island ferry services. Some Members also suggested that management and facilities of some particular piers should be enhanced. The Transport Advisory Committee was consulted on 27 March 2018, and it supported the Government's proposal.

16. Some LegCo Members enquired if the proposal would entail any change to the Commissioner's regulatory power in ensuring proper and efficient ferry services, in particular whether the frequency of mid-term review (currently once in the three-year licence period) for the six major outlying island ferry routes which are provided with SHM should be increased. While the proposal will benefit all licensed ferry services which include but are not limited to the six major outlying island ferry routes, we explained that a longer licence period would not affect TD's monitoring over the ferry service level and quality. In fact, TD's monitoring of ferry service is an on-going process. According to the Ordinance, a licensee shall, at all times during the licence period, maintain to the satisfaction of the Commissioner a proper and efficient ferry service. TD has been monitoring the ferry services through site

surveys, examination of regular returns by the company and collection of public feedback. Insofar as the mid-term review is concerned, it is only applicable to the six major outlying island ferry routes which are provided with SHM, and is conducted with a view to monitoring the proper spending of public funds and considering lowering ferry fares when operating costs of those ferry routes concerned are projected to be reduced. During the review on the long-term operation mode for the six major outlying island ferry routes, we will consider whether and how the frequency of mid-term review should be increased (say, conducting two reviews during a five-year licence period) to ensure proper use of public money, if the review concludes that the SHM is the most desirable operation mode.

17. As stated in paragraph 10 above, the TD consulted the ferry trade in January 2018 and the trade generally supported the Government's proposal.

PUBLICITY

18. A press release will be issued on 15 June 2018. A spokesman will be available to answer media enquiries.

ENQUIRIES

19. Any enquiries can be directed to the following officer of the Transport Department –

Ms Stella Lee
Assistant Commissioner for Transport/Management &
Paratransit
(Tel. No.: 2829 5208)

**Transport and Housing Bureau
June 2018**

A BILL

To

Amend the Ferry Services Ordinance to lengthen the periods for which a licence to operate a ferry service may be granted and extended.

Enacted by the Legislative Council.

1. Short title

This Ordinance may be cited as the Ferry Services (Amendment) Ordinance 2018.

2. Ferry Services Ordinance amended

The Ferry Services Ordinance (Cap. 104) is amended as set out in section 3.

3. Section 29 amended (period of grant)

Section 29(1) and (2)—

Repeal

“3 years”

Substitute

“5 years”.

Explanatory Memorandum

The object of this Bill is to amend section 29 of the Ferry Services Ordinance (Cap. 104) to lengthen the period for which a licence to operate a ferry service may be granted, and the period for which such a licence may be extended, from 3 years to 5 years.

Licensed Ferry Routes

Passenger Ferry Services

1. Central – Cheung Chau
2. Central – Mui Wo
3. Inter-islands
(Peng Chau – Mui Wo – Chi Ma Wan – Cheung Chau)
4. Central – Peng Chau
5. Central – Yung Shue Wan
6. Central – Sok Kwu Wan
7. Aberdeen – Cheung Chau
8. Aberdeen – Yung Shue Wan (via Pak Kok Tsuen)
9. Aberdeen – Sok Kwu Wan (via Mo Tat)
10. Tuen Mun – Tung Chung – Sha Lo Wan – Tai O
11. Discovery Bay – Mui Wo
12. Central – Discovery Bay
13. Central – Ma Wan
14. Ma Wan – Tsuen Wan
15. North Point – Hung Hom
16. North Point – Kowloon City
17. North Point – Kwun Tong (via Kai Tak)
18. Sai Wan Ho – Kwun Tong
19. Sai Wan Ho – Sam Ka Tsuen

Dangerous Goods Vehicular Ferry Services

20. North Point – Kwun Tong
21. North Point/Kwun Tong – Mui Wo/Kau Shat Wan