

立法會
Legislative Council

LC Paper No. LS75/17-18

**Paper for the House Committee Meeting
on 29 June 2018**

**Legal Service Division Report on
Ferry Services (Amendment) Bill 2018**

I. SUMMARY

- 1. The Bill** The Bill seeks to amend 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 three years to five years.
- 2. Public Consultation** The Administration consulted the ferry trade in January 2018 on the proposal to relax the cap on the ferry service licence period. While ferry operators generally supported the proposal, some suggested further lengthening of the maximum duration of the licences. Other major views of the trade include concerns over possible impact of the proposal on fare arrangements. The Transport Advisory Committee was consulted on 27 March 2018 and it supported the proposal.
- 3. Consultation with LegCo Panel** The Clerk to the Panel on Transport has advised that the Panel was consulted on the proposal at its meeting on 16 March 2018. Members generally supported the proposal, but raised a number of concerns relating to ferry services.
- 4. Conclusion** Subject to Members' views on the matters mentioned in paragraphs 6 and 7 of Part II of the Report relating to the arrangement for licence applications submitted before the commencement of the enacted Ordinance but not yet granted as of its commencement date, no difficulties relating to the legal and drafting aspects of the Bill have been identified. Members may wish to consider whether a Bills Committee should be formed to study the Bill in detail.

II. REPORT

The date of First Reading of the Bill is 27 June 2018. Members may refer to the Legislative Council ("LegCo") Brief (File ref.: THB(T) CR19/3231/00) issued by the Transport and Housing Bureau in June 2018 for further details.

Object of the Bill

2. The Bill seeks to amend 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 three years to five years.

Background

3. Under section 28 of Cap. 104, ferry service licences may be granted by the Commissioner for Transport ("Commissioner") to allow licensees to operate ferry services¹. Section 29 of Cap. 104 currently provides that the maximum duration of a ferry service licence, whether newly granted or extended, is three years, and the aggregate licence period (including all extended period(s)) must not exceed 10 years.

Provisions of the Bill

4. The Bill seeks to amend section 29 of Cap. 104 to provide that the period for which a licence to operate a ferry service may be granted or extended would be five years instead of three years. The proposal under the Bill would not affect the existing cap of a 10-year aggregate licence period under section 29(2) of Cap. 104 such that the cap would continue to apply to a ferry service licence.

5. According to paragraph 7 of the LegCo Brief, 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.

6. The Legal Service Division has enquired with the Administration on whether transitional provisions need to be made in the Bill to deal with the situation

¹ According to paragraph 3 of the LegCo Brief, there are currently 13 licensed ferry operators in Hong Kong operating 19 regular passenger ferry routes, two dangerous goods vehicular ferry routes and two special ferry routes, which provide services in various areas and outlying islands. In addition, there are 66 "kaito" routes providing ferry services to remote areas, which are also operated by licensed ferry operators.

where licence applications are submitted prior to the commencement of the Ordinance but not yet granted as of its commencement date. The Administration's reply is summarized below:

- (a) the policy intent is that the enacted Ordinance would apply to all licence applications, including those received before the commencement of the Ordinance but not yet granted as of its commencement date ("the relevant licence applications"). However, for an application submitted before the commencement date (i.e. the maximum period of grant applied for would be three years), an applicant would not be granted a licence for a maximum period of five years, unless the operator revises and re-submits its application for that purpose after the commencement of the Ordinance; and
- (b) the licence period for which a ferry operator may apply is not specified in Cap. 104, nor does it set out the procedures for licence applications. The relevant procedures have all along been dealt with administratively. Pursuant to this administrative arrangement, operators may revise the relevant licence applications to apply for a licence of a longer licence period when the Ordinance comes into operation. As such, the Administration considers that no transitional arrangement is required.

7. While it may be desirable to set out in the Bill the arrangement that may apply to the relevant licence applications for the sake of clarity, we consider that the Administration's proposal to deal with the matter under the current administrative arrangement would not present legal difficulty.

Commencement

8. The Bill, if passed, would come into operation on the day on which it is published in the Gazette as an Ordinance.

Public Consultation

9. According to paragraphs 10 and 11 of the LegCo Brief, the Administration consulted the ferry trade on the proposal in January 2018. While ferry operators generally supported the proposal, some suggested further relaxation of the cap on each licence or even the cap on the aggregate licence period. Other major views of the trade include concerns over possible impact on fare arrangements upon relaxation of the cap on the licence period. According to paragraph 15 of the LegCo Brief, the Transport Advisory Committee was consulted on 27 March 2018 and it supported the proposal.

Consultation with LegCo Panel

10. The Clerk to the Panel on Transport has advised that the Panel was consulted at its meeting on 16 March 2018 and members generally supported the proposed relaxation on the cap on the licence period for newly granted or extended licences from three years to five years, with the aggregate licence period remained to be capped at 10 years. Some members urged the Administration to further relax the cap on each licence from the proposed five years to 10 years to encourage ferry operators to make longer-term investment and operational planning. Some members considered that the existing ferry operators' service quality and pier facilities should be improved. Members also expressed concern about the frequencies of licensed ferry services and suggested that the Administration should consider exploring the provision of more in-harbour ferry routes.

Conclusion

11. Subject to Members' views on the matters mentioned in paragraphs 6 and 7 above, no difficulties relating to the legal and drafting aspects of the Bill have been identified. Members may wish to consider whether a Bills Committee should be formed to study the Bill in detail.

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