

**立法會**  
*Legislative Council*

LC Paper No. LS71/18-19

**Paper for the House Committee Meeting  
on 10 May 2019**

**Legal Service Division Report on  
Franchised Taxi Services Bill**

**I. SUMMARY**

- 1. The Bill**                                    The Bill seeks to introduce the services of franchised taxis through empowering the granting of franchises and establishing a regulatory system; and to provide for incidental and related matters.
- 2. Public Consultation**            According to the Legislative Council Brief, the Administration has all along been communicating with taxi associations, unions as well as other stakeholders through various channels and also taken note of the views and opinions of the community. Overall speaking, the public welcome the introduction of franchised taxis as a new alternative and expect the new service to be launched as soon as possible. Some members of the taxi trade are worried about the impact of the franchised taxis on existing taxi trade.
- 3. Consultation with LegCo Panel**            As advised by the Clerk to the Panel on Transport, the Panel was consulted on the proposal of introducing franchised taxis on 21 April 2017. Members expressed diverse views at the meeting.
- 4. Conclusion**                                The Legal Service Division is scrutinizing the legal and drafting aspects of the Bill. Since the Bill seeks to introduce a new regulatory regime for the provision of taxi service, Members may 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 8 May 2019. Members may refer to the Legislative Council ("LegCo") Brief (File Ref.: THB(T)CR 1/1136/2015) issued by the Transport and Housing Bureau on 17 April 2019 for further details.

### **Object of the Bill**

2. The Bill seeks to introduce the services of franchised taxis through empowering the granting of franchises and establishing a regulatory system; and to provide for incidental and related matters.

### **Background**

3. According to the LegCo Brief, in recent years, ordinary taxi services and the conduct of some taxi drivers have been subject to increasing criticisms in the community. There are widespread views that the Government should strengthen the regulation of taxi services and consider issuing more taxi licences to enhance competition. However, the existing taxi licences are all permanent in nature without any renewal requirement or any conditions directly related to service quality. Hence, the Government cannot rely on the taxi licences to impose any penalty against taxi owners and/or drivers for unsatisfactory taxi service.

4. One of the key recommendations of the Public Transport Strategy Study, which was completed in June 2017, is to introduce franchised taxis in Hong Kong. The Administration considers it necessary to establish a new regulatory regime to introduce a new form of taxi service, i.e. franchised taxis, to meet the community's demand for personalized and point-to-point public transport services of higher quality.

### **Provisions of the Bill**

5. The Bill contains six Parts. The major provisions of the Bill are set out in the ensuing paragraphs.

#### Franchises (Part 2)

6. Part 2 of the Bill seeks to introduce the services of franchised taxis by empowering the Chief Executive ("CE") in Council to grant a franchise for franchised taxi service to a registered company following a public tender or in another way that CE in Council considers appropriate. Clause 4(3) of the Bill seeks to set out certain matters which must be specified by CE in Council on granting a franchise. These include the validity period, maximum number of franchised taxis that may be registered under the franchise, maximum number of franchised taxis that may be used by the franchisee for providing a franchised taxi service at any one time, and the franchise fee to be paid by a franchisee.

7. Clause 6 seeks to provide that the validity period of a franchise must not exceed five years. It also seeks to empower CE in Council, upon satisfaction of certain conditions being met, to extend the validity period of a franchise on one occasion only for a period not exceeding one year.

8. Under clauses 7 and 8, it is proposed that a franchisee is required to pay the franchise fee specified by CE in Council and to provide a guarantee<sup>1</sup> for the franchise to the Commissioner for Transport ("Commissioner") after the franchise is granted.

9. Clause 9 seeks to prohibit a franchisee from assigning or otherwise disposing of its franchise or any part of its franchise without the approval of CE in Council.

#### Restrictions on use of franchised taxis (Part 1)

10. Clause 3 of the Bill seeks to impose restrictions on the use of franchised taxis. It seeks to provide that it would be an offence punishable by a fine at level 6 (i.e. \$100,000) if:

- (a) a franchisee uses, or causes or permits the use of, a franchised taxi to provide a service for the carriage of passengers (whether for reward or not) when its franchise is not in force; or
- (b) a person, without the written approval of the Commissioner, uses, or causes or permits the use of, a franchised taxi to carry out other activities (whether for reward or not) not connected with the provision of a franchised taxi service.

#### Regulation of franchised taxi services (Part 3)

11. Part 3 of the Bill mainly contains proposed provisions relating to the regulation of franchised taxi services. Clause 10 seeks to provide that a franchisee must maintain a proper and efficient franchised taxi service to the satisfaction of the Commissioner during the franchise period.

12. Clause 11 seeks to provide for a Schedule which sets out the scale of fares for franchised taxi services. It is noted that the proposed Schedule only contains the structure of franchised taxi fares without the actual amounts,<sup>2</sup> and CE in

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<sup>1</sup> According to paragraph 17 of the LegCo Brief, the guarantee is proposed to be \$5 million, but the precise amount will be set when the Government formally invites tender for operating franchised taxis.

<sup>2</sup> According to paragraph 12 of the LegCo Brief, the Administration has proposed that the fare level of franchised taxis should be set at around 50% above the ordinary taxi fare. The Administration will engage a consultancy later to reaffirm the definite fare level. The definite fare level will then be specified in the Schedule to the enacted Ordinance (if the Bill is passed) by way of order made by the Chief Executive in Council.

Council would be empowered to amend the Schedule by order which would be subject to scrutiny of LegCo pursuant to the negative vetting procedure.

13. Clause 12 seeks to impose a statutory cap (i.e. 600) on the total number of franchised taxis that may be used by all franchisees, at any one time, to provide franchised taxi services under valid franchises. CE in Council would be empowered to amend this cap by order which would be subject to scrutiny of LegCo pursuant to the negative vetting procedure.

14. Clause 13 seeks to empower CE in Council, the Secretary for Transport and Housing ("Secretary") and the Commissioner to give a franchisee a written direction or requirement in respect of a matter that relates to its franchise or the franchised taxi service provided by it.

15. Clauses 14 to 17 seek to empower the Commissioner to:

- (a) inspect any franchised taxi of a franchisee at any reasonable time and to require the franchisee to carry out maintenance or other work for a specified franchised taxi;
- (b) require a franchisee to keep, and to provide the Commissioner with, documents that relate to the franchised taxi service provided by it;
- (c) impose a financial penalty on a franchisee for its failure to comply with the enacted Ordinance (if the Bill is passed), the franchise, or any direction or requirement given under the enacted Ordinance. The financial penalty must not exceed \$10,000 for the first occasion of a non-compliance of a certain nature, \$20,000 for the second occasion of a non-compliance of the same nature, and \$50,000 for the third or subsequent occasion of a non-compliance of the same nature; and
- (d) recover any unpaid financial penalty by enforcement of the guarantee provided by the franchisee or, to the extent the guarantee may be insufficient or the franchisee has no available guarantee, as a civil debt.

#### Suspension or revocation of franchises (Part 4)

16. Part 4 of the Bill seeks to provide that if CE in Council considers that a franchisee, without reasonable cause, has failed, or is likely to fail, to maintain a proper and efficient franchised taxi service, after inviting the franchisee to make a representation, CE in Council may suspend a franchise (covering all or any number of the franchised taxis of the franchisee) for a period not exceeding six months or revoke the franchise of a franchisee. A franchisee whose franchise is suspended or revoked would not be entitled to compensation (clause 21).

### Miscellaneous (Part 5)

17. Clause 22 seeks to provide that a franchisee may appeal to CE in Council against a decision, direction or requirement made or given by the Secretary or the Commissioner under the enacted Ordinance. It is proposed that the decision of CE in Council on the appeal is final.

18. Clause 23 seeks to empower CE in Council to make a regulation for certain matters relating to franchised taxi services (including the general duties of franchisees, drivers and passengers of franchised taxis). Such regulation may provide that the contravention of a specified provision of the regulation would be an offence punishable by a fine not exceeding level 3 (i.e. \$10,000) and imprisonment not exceeding six months.

### Related and consequential amendments (Part 6)

19. Part 6 of the Bill proposes related and consequential amendments to 32 pieces of legislation to the effect that, among others, certain provisions relating to ordinary taxi services would also be applicable to franchised taxi services. Other major proposed related and consequential amendments include:

- (a) adding "franchised taxi" to the list of classes of vehicle in Schedule 1 to the Road Traffic Ordinance (Cap. 374) to the effect that a motor vehicle must be registered as a franchised taxi under Cap. 374 before it could be used for the franchised taxi service (clause 57); and
- (b) amending Regulations 8 and 8A of the Road Traffic (Driving Licences) Regulations (Cap. 374B) to the effect that a person would only be eligible for a full driving licence for a franchised taxi if the person is the holder of a valid full driving licence for a taxi; and has attended and completed a pre-service course in accordance with the code of practice issued by the Commissioner under section 102L(a) of Cap. 374 within the year preceding the date of application (clauses 78 and 79).

### Commencement

20. The Bill, if passed, would come into operation on a day to be appointed by the Secretary by notice published in the Gazette.

### **Public Consultation**

21. According to paragraph 29 of the LegCo Brief, the Administration has all along been communicating with taxi associations, unions as well as other stakeholders through various channels. The Administration has also taken note of the views and opinions of the community. According to the Administration, overall

speaking, the public welcome the introduction of franchised taxis as a new alternative and expect the new service to be launched as soon as possible. Some members of the taxi trade are worried about the impact of the franchised taxis on existing taxi trade. Some people are concerned that franchised taxis, introduced through a franchise model, might be monopolized by large-scale companies.

### **Consultation with LegCo Panel**

22. As advised by the Clerk to the Panel on Transport ("Panel"), the Panel was consulted on the proposal of introducing franchised taxis on 21 April 2017. Members expressed diverse views at the meeting. In gist, some members urged the Government to provide more personalized and point-to-point transport services, promote market competition and introduce franchised taxis with time-limited licences. On the other hand, a few members requested the Government to shelve the franchised taxi scheme and form a working group with the taxi trade and various parties/groups of LegCo to formulate a comprehensive proposal to enhance taxi service. There was also a suggestion that conversion of existing taxi licences should be allowed for operating franchised taxis. On implementation details, there were views that an employer-employee relationship should be maintained for operating the franchised taxis and a service quality monitoring mechanism should be introduced and where necessary, be able to revoke a franchise if its taxi drivers repeatedly delivered poor service.

### **Conclusion**

23. The Legal Service Division is scrutinizing the legal and drafting aspects of the Bill. Since the Bill seeks to introduce a new regulatory regime for the provision of taxi service, Members may consider whether a Bills Committee should be formed to study the Bill in detail.

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