

**For discussion on
17 May 2019**

Legislative Council Panel on Transport

**Allowing Access to Franchised Buses
for Persons Carrying Compressed Oxygen Cylinders
for Self-medical Use When Travelling**

Purpose

This paper briefs Members on the Government's proposal to amend the Public Bus Services Regulations ("PBSR")(Cap. 230A) to allow access to franchised buses for persons carrying compressed oxygen cylinders for self-medical use when travelling, as well as our continuing efforts in promoting such access to all public transport means.

Background

2. At present, patients having certain illnesses (such as Chronic Obstructive Pulmonary Diseases) require oxygen therapy¹ and therefore have to carry oxygen cylinders, which contain compressed oxygen, for self-medical use when travelling. Compressed oxygen is a dangerous goods regulated under the Dangerous Goods Ordinance ("DGO")(Cap. 295). Pursuant to Regulation 74 of the Dangerous Goods (General) Regulations ("DGGR")(Cap. 295B), a licence is not required for the storage or conveyance of compressed oxygen not exceeding two cylinders of five litres each.

3. The PBSR have stipulated additional restrictions on carrying dangerous goods when boarding a franchised bus. Regulation 14A of the PBSR

¹ As advised by the Hospital Authority ("HA"), long term oxygen therapy is a common form of oxygen therapy prescriptions and according to overseas medical literature, patients require long term oxygen therapy should ideally use supplemental oxygen for 24 hours a day, or at least 15 hours a day, unless otherwise advised by medical practitioner. According to the Hong Kong Occupational Therapy Association ("HKOTA"), there are about 8 800 patients who require oxygen therapy in our community as of April 2019. While there is no breakdown of the number of patients requiring long term or intermittent oxygen therapies, the HA advises that the prescription of the long term therapy is far more common than the intermittent one in Hong Kong.

stipulates that no substance or article to which the DGO applies (i.e. including compressed oxygen), **regardless of the quantity involved**, shall be brought onto any bus. In other words, passengers carrying cylinders containing compressed oxygen, even for the purpose of self-medical use when travelling, are currently not allowed to travel on a franchised bus, notwithstanding the conveyance of which not exceeding specific amount requiring no licence under the DGO.

4. The Government is committed to providing appropriate public transport services for members of the public with different needs, including persons who require oxygen therapy and therefore need to bring along compressed oxygen cylinders for self-medical use when travelling, under the “Transport for All” policy objective. Having reviewed the relevant legislation, the Government proposes to amend the PBSR so as to allow access to franchised buses for persons carrying compressed oxygen cylinders for self-medical use when travelling. This initiative was announced in the Public Transport Strategy Study Report released in June 2017.

Legislative Proposal and Mode of Franchised Bus Operation

5. The Government has been liaising with the Fire Services Department, the Hospital Authority (“HA”), the Hong Kong Occupational Therapy Association (“HKOTA”), and franchised bus operators to formulate a proposal that can allow the carriage of compressed oxygen cylinders for self-medical use but without compromising the safety of general passengers. All parties are agreed that allowing access to franchised buses for persons carrying compressed oxygen cylinders for self-medical use when travelling should not affect the safety and normal service of franchised buses, provided that the quantitative restriction under Regulation 74 of the DGGR mentioned above is observed. More specifically, we propose amending the PBSR as follows –

- (a) a total of **two** compressed oxygen cylinders which do not exceed five litres each (according to DGGR’s restriction) would be allowed on **each** bus under the PBSR²;
- (b) a passenger carrying one or two compressed oxygen cylinders for self-medical use should advise the bus captain of the total number of

² In other words, we will allow either one passenger carries two compressed oxygen cylinders not exceeding five litres each for self-medical use at any one time on board a franchised bus, or two passengers each carries one compressed oxygen cylinder not exceeding five litres each for self-medical use at any one time on board a franchised bus.

compressed oxygen cylinder(s) that he/she is carrying when boarding the franchised bus and before payment of bus fare;

- (c) the passenger should be inhaling the oxygen through a nasal cannula or oxygen mask connected to the cylinder when boarding the franchised bus, which is for the purpose of showing that the oxygen cylinder is required for his/her self-medical use when travelling; and
- (d) in case the total number of compressed oxygen cylinders on board exceed two when the passenger brings his/her cylinder(s) onto the franchised bus, the bus captain should refuse the passenger to board the bus.

6. We propose no particular changes to the penalty level for a passenger breaching the requirements for bringing dangerous goods onto a franchised bus, i.e. liable to a fine of \$3,000 and imprisonment for six months.

7. The Transport Department (“TD”) will work closely with the franchised bus operators, the HA and the HKOTA on the publicity before the legislative amendments are put into effect so that bus captains and passengers, particularly those requiring oxygen therapy in the community, are aware of the relevant arrangements to ensure smooth implementation. In particular, the TD will issue a guideline for franchised bus operators so that the franchised bus captains will be fully aware of the updated legislative requirements in paragraph 5 (a) to (d) above, and the points that they should note when dealing with passengers who need to bring compressed oxygen cylinders for self-medical use when travelling (e.g. in the case of paragraph 5(d) above when the specific franchised bus is already carrying two oxygen cylinders, the bus captain would advise the passenger to wait for and board the next bus instead). Franchised bus operators will also put in place relevant arrangements to facilitate the work of their bus captains, e.g. assist them to count the number of oxygen cylinders on board.

Other Public Transportation Means

8. Regarding other public transport carriers (such as taxi, public light bus, ferry and tram), there is no similar strict control on passengers carrying oxygen cylinders under their respective statutory provisions, i.e., a driver/captain of the respective public transport vehicle/vessel has the discretion to allow the conveyance of compressed oxygen not exceeding two cylinders of five litres each in his/her vehicle/vessel. For railway, under the Mass Transit Railway By-laws (Cap. 556B),

only persons duly authorised by the MTR Corporation Limited (“MTRCL”) may bring substance subject to the DGO onto railway premises. The MTRCL has already put in place mechanism that any passenger carrying compressed oxygen cylinder for self-medical use could seek assistance from the MTR staff who would help him/her for the MTR journey.

9. The TD has liaised with other public transport service operators to facilitate the use of public transport services by patients who are receiving oxygen therapy in the community, and will arrange publicity in this regard when promoting the legislative amendments to the PBSR upon enactment.

Way Forward

10. Subject to the comments of the Panel, we aim to submit the legislative amendments to the Legislative Council for negative vetting within 2019.

Advice Sought

11. Members are invited to note the content of this paper and offer views on the proposal.

Transport and Housing Bureau
Transport Department
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