

立法會
Legislative Council

LC Paper No. LS102/20-21

**Paper for the House Committee Meeting
on 23 July 2021**

**Legal Service Division Report on
Proposed Resolution under section 87(2) of the
Disability Discrimination Ordinance (Cap. 487)**

The Secretary for Labour and Welfare has given notice to move a motion under section 87(2) of the Disability Discrimination Ordinance (Cap. 487) at the Legislative Council ("LegCo") meeting of 18 August 2021. The motion seeks LegCo's approval of the Disability Discrimination Ordinance (Amendment of Schedule 5) Notice 2021 ("Amendment Notice") made under section 87(2) of Cap. 487 by the Chief Executive in Council on 20 July 2021.

2. Under the existing item 4 of Schedule 5 to Cap. 487, the provision of fare concessions in respect of certain public transport services (including a public light bus which is on a scheduled service¹, i.e. green minibus) to specified groups of persons with disabilities ("PWDs") have been included as exceptions to Parts 4 (Discrimination and Harassment in other Fields) and 5 (Other Unlawful Acts) of Cap. 487. The specified groups of PWDs are:

- (a) persons who receive assistance under the Comprehensive Social Security Assistance Scheme ("Scheme") administered by the Director of Social Welfare ("DSW"); and are medically certified under the Scheme to be 100% disabled for the purposes of the Scheme; or
- (b) persons who receive the Disability Allowance under the Social Security Allowance Scheme administered by DSW.

3. The Amendment Notice amends item 4 of Schedule 5 to Cap. 487 to add as further exceptions the provision of fare concessions in respect of public transport services operated by (a) a holder of a passenger service licence issued in respect of a public light bus which is not on a scheduled service (i.e. red minibus); and (b) Hong Kong Tramways Limited. The effect is that these newly added fare concessions shall not constitute a contravention under Part 4 or 5 of Cap. 487 pursuant to section 60 of Cap. 487.

¹ Under section 2(1) of the Road Traffic (Public Service Vehicles) Regulations (Cap. 374D), scheduled service means a service of one or more vehicles authorized under a passenger service licence and limited by the conditions of such licence to specified routes.

4. Pursuant to paragraph 4 of the LegCo Brief (File Ref: LWB R 8/3939/99) issued by the Labour and Welfare Bureau on 21 July 2021, the Government announced in June 2021 that the enhancement of the Government Public Transport Fare Concession Scheme for the Elderly and Eligible Persons with Disabilities ("\$2 Scheme")² will be implemented from 27 February 2022, including lowering the eligible age to 60 subject to certain conditions and expanding the \$2 Scheme to cover red minibuses, kaitos and trams. The purpose of the Amendment Notice is to put beyond doubt that the provision of public transport fare concessions in respect of red minibus and tram³ under the expanded \$2 scheme does not constitute a contravention of Cap. 487. The last similar amendment to Schedule 5 to Cap. 487 was made in respect of provision of fare concession by green minibus operators under the Disability Discrimination Ordinance (Amendment of Schedule 5) Notice 2014.

5. According to paragraph 14 of the LegCo Brief, in the course of the comprehensive review of the \$2 Scheme, the consultant conducted a number of public engagement sessions for relevant stakeholders including public transport operators, concern groups of the elderly and PWDs and district personalities.

6. As advised by the Clerk to the Panel on Welfare Services, the Panel has not been consulted on the Amendment Notice. In the course of discussing the implementation progress of lowering the eligible age of the \$2 Scheme from 65 to 60 in April 2021, the Subcommittee on Issues Relating to the Silver Age Card was informed of the Administration's plan of the proposed amendment. Members raised no queries to the plan but have requested the Administration to enhance publicity and raise the penalty to deter abuse of the concessionary fare under the \$2 Scheme.

7. If the proposed resolution is passed, the Amendment Notice will come into operation on the day on which it is published in the Gazette.

8. No difficulties relating to the legal and drafting aspects of the Amendment Notice have been identified.

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22 July 2021

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² The \$2 Scheme enables elderly persons aged 65 or above as well as the Scheme recipients aged below 65 with 100% disabilities and Disability Allowance recipients of the same age group to travel on designated public transport modes at a concessionary fare of \$2 per trip.

³ For kaito, as their services are regulated through licences granted under section 28 of the Ferry Services Ordinance (Cap. 104) and covered by the existing item 4 of Schedule 5 to Cap. 487, there is no need to specify kaito in Schedule 5.