

**立法會**  
***Legislative Council***

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**Paper for the House Committee**

**Report of Subcommittee on Disability Discrimination Ordinance  
(Amendment of Schedule 5) Notice 2021**

**Purpose**

This paper reports on the deliberations of the Subcommittee on Disability Discrimination Ordinance (Amendment of Schedule 5) Notice 2021 ("the Subcommittee").

**Background**

2. The Government Public Transport Fare Concession Scheme for the Elderly and Eligible Persons with Disabilities ("the Fare Concession Scheme") has been implemented by phases since 2012 under the policy objective of building a caring and inclusive society in Hong Kong by enabling persons aged 65 or above as well as specified groups of persons with disabilities (i.e. persons who receive assistance under the Comprehensive Social Security Assistance 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; and persons who receive the Disability Allowance under the Social Security Allowance Scheme administered by DSW) aged below 65 to travel on designated public transport modes at a concessionary fare of \$2 per trip<sup>1</sup>. At present, there are around 1.49 million eligible beneficiaries, of whom around 1.32 million are persons aged 65 or above and around 170 000 are eligible persons with disabilities. Eligible beneficiaries have to make use of the Octopus Card to enjoy the concession.<sup>2</sup> The modes of public transport currently covered under

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<sup>1</sup> When the original fare for a journey is below \$2, beneficiaries only need to pay the original fare.

<sup>2</sup> The concessionary fare is not applicable to fares paid in cash. To enjoy the concessionary fare, persons aged 65 or above have to use Anonymous Elder Octopus or Personalized Octopus, whereas specified groups of persons with disabilities have to use Personalized Octopus with "Persons with Disabilities Status".

the Fare Concession Scheme are general Mass Transit Railway ("MTR") lines,<sup>3</sup> franchised buses,<sup>4</sup> ferries<sup>5</sup> and green minibuses<sup>6</sup>. The public transport operators concerned are reimbursed the fare revenue forgone (i.e. the difference between the applicable fares and the uniform flat rate of \$2 per trip paid by an eligible beneficiary) on an accountable basis.

3. Under the existing item 4 of Schedule 5 to the Disability Discrimination Ordinance (Cap. 487) ("the Ordinance"), the provision of fare concessions in respect of public transport services operated by: (a) the MTR Corporation Limited; (b) a company pursuant to a franchise granted under section 5 of the Public Bus Services Ordinance (Cap. 230); (c) a company or person pursuant to a franchise or licence granted under section 6 or 28 of the Ferry Services Ordinance (Cap. 104); and (d) a person pursuant to a passenger service licence issued under section 27 of the Road Traffic Ordinance (Cap. 374) in respect of a public light bus which is on a scheduled service (i.e. green minibus), to the above specified groups of persons with disabilities have been included as exceptions to Parts 4 (Discrimination and Harassment in other Fields) and 5 (Other Unlawful Acts) of the Ordinance. Under section 60 of the Ordinance, the fare concessions specified in item 4 of Schedule 5 as a specific exception shall not constitute a contravention under Part 4 or Part 5 of the Ordinance.

4. The Administration engaged a consultancy firm in 2018 to conduct a comprehensive review of the effectiveness and fiscal sustainability of the Fare Concession Scheme, and to examine it in detail having regard to the ageing demographic trend, operation of public transport, effectiveness of anti-abuse measures, public aspirations and the Government's overall fiscal affordability. Following the announcement by the Chief Executive in January 2020 of the proposal to lower the age eligibility of the Fare Concession Scheme from 65 to 60, the Labour and Welfare Bureau and the Transport Department ("TD") had immediately requested the consultant to accord priority to studying practical options to implement the proposal in the review. The Administration

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<sup>3</sup> All MTR domestic services, including Light Rail services, MTR Bus (Northwest New Territories) and MTR Feeder Bus, are covered under the Fare Concession Scheme. The Airport Express; East Rail Line services to and from the Lo Wu, Lok Ma Chau and Racecourse stations; and the first-class service of the East Rail Line are not covered.

<sup>4</sup> The franchised bus routes covered include those operated by Kowloon Motor Bus Company (1933) Limited, New World First Bus Services Limited, Citybus Limited and Long Win Bus Company Limited (except "A" and "NA" routes to and from the airport and racecourse routes); and those operated by New Lantao Bus Company (1973) Limited (except "A" routes to and from the airport and the routes on a pre-booking and group hire basis).

<sup>5</sup> The ferry routes covered include 20 ferry routes run by 12 ferry operators (excluding deluxe class services and the North Point-Joss House Bay route).

<sup>6</sup> All green minibus routes are covered under the Fare Concession Scheme.

announced on 12 January 2021 the completion of the final report by the consultant<sup>7</sup>, and the implementation of the enhancement and anti-abuse measures under the Fare Concession Scheme which included expanding the Scheme to cover red minibuses ("RMBs"), kaitos and the tramways ("the expanded Fare Concession Scheme") on the condition of their strict compliance with the monitoring conditions of TD prior to their admission; lowering the eligible age to benefit persons aged 60 to 64 on the strict condition that these new beneficiaries must apply for and use tailor-made Personalized Octopus Cards (now titled JoyYou Cards) with photo and name of the eligible beneficiary as a prerequisite for benefitting from the concessionary fare; and extending the mandatory requirement of using JoyYou Cards to all existing beneficiaries aged 65 and above in the following two years upon completion of the issue of JoyYou Cards to the new beneficiaries ("the committed enhancement measures"). The Administration announced on 30 June 2021 that the committed enhancement measures would be implemented from 27 February 2022.

### **The Disability Discrimination Ordinance (Amendment of Schedule 5) Notice 2021**

5. The Disability Discrimination Ordinance (Amendment of Schedule 5) Notice 2021 ("the Amendment Notice") is made by the Chief Executive in Council on 20 July 2021 under section 87(2) of the Ordinance to amend item 4 of Schedule 5 to the Ordinance to add as further exceptions the provision of public transport 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. RMBs); and (b) Hong Kong Tramways Limited. The effect is that these newly added fare concessions under the expanded Fare Concession Scheme<sup>8</sup> shall not constitute a contravention under Parts 4 and 5 of the Ordinance.

6. The Amendment Notice is subject to positive vetting by the Legislative Council ("LegCo"). Subject to the approval of LegCo, the Amendment Notice will come into operation on the day on which it is published in the Gazette. The Secretary for Labour and Welfare ("SLW") has originally given notice to move a motion at the Council meeting of 18 August 2021 to seek LegCo's approval of the Amendment Notice ("the proposed resolution").

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<sup>7</sup> See [LC Paper No. CB\(2\)651/20-21\(01\)](#).

<sup>8</sup> For kaitos, as their services are regulated through licences granted under section 28 of the Ferry Services Ordinance and covered by the existing item 4 of Schedule 5 to the Ordinance, there is no need to specify kaitos in Schedule 5.

## **The Subcommittee**

7. At the House Committee meeting held on 23 July 2021, Members agreed to form a subcommittee to study the Amendment Notice. SLW has withdrawn the notice for moving the proposed resolution so as to allow sufficient time for the Subcommittee to carry out its scrutiny work.

8. Hon Frankie YICK Chi-ming was elected Chairman of the Subcommittee. The membership list of the Subcommittee is in the **Appendix**. The Subcommittee has held two meetings with the Administration and has received two written submissions from Gillis Heller and the Liberal Party.

## **Deliberations of the Subcommittee**

9. While members generally support the Amendment Notice, they have expressed concerns on various issues during the course of scrutiny. The major deliberations of the Subcommittee are set out in the ensuing paragraphs.

### Coverage of the Fare Concession Scheme

10. Members have pointed out that residents' service, being a service provided by non-franchised buses, plays a significant supplementary role in the public transport system through relieving the heavy demand for regular public transport services primarily during the peak hours and filling gaps of passenger demand which cannot be met viably by the regular public transport services. According to the trade, persons aged 60 or above currently accounted for around 40% of the patronage of residents' services. Members in general are of the view that the Fare Concession Scheme should be expanded to cover those residents' services on which carriage is offered to any member of the public so as to reduce the fare burden on eligible beneficiaries of the Scheme.

11. The Administration has pointed out that the coverage of the Fare Concession Scheme is confined to public transport. At present, TD has approved more than 300 routes of residents' service in the territory. If operators of individual routes of residents' service are interested in joining the Fare Concession Scheme, they are required to prove that their service scope and operation mode fulfill the following three requirements for public transport: (a) the route is accessible to all members of the public, not limiting to property owners or residents; (b) there is no direct and parallel public transport alternatives for the route concerned; and (c) the operator of the route must fully comply with the requirements under the Fare Concession Scheme, including but without limitation to TD's monitoring requirements. The Administration would

consider whether more public transport modes could be admitted to the Fare Concession Scheme upon implementation of the committed enhancement measures on 27 February 2022.

12. Members have expressed concern that while the Administration has not rigidly excluded all residents' services from the Fare Concession Scheme, no concrete timetable has been set to cover this mode of public transport under the Scheme. They have pointed out that about 66 routes of residents' service could meet the above three requirements of public transport. To enable operators of these routes of residents' service to compete on a level playing field in the public transport system at the earliest possible time to avoid losing their patronage, the Administration should not wait until the full implementation of the committed enhancement measures on 27 February 2022 to start working on the implementation details.

13. After consideration of members' views and having met with the trade to exchange views on the matter, the Administration has undertaken to advance the start of the preparatory work for including eligible routes of residents' service under the Fare Concession Scheme to September 2021 on the premise that the preparatory work for the implementation of the committed enhancement measures would not be affected. Given that it would take about 12 months for the Administration to complete the necessary initial preparatory work, including the conduction of a survey on existing residents' services and examination as to whether individual routes meet the three requirements for public transport, it is anticipated that the eligible routes of residents' service would be included in the Fare Concession Scheme starting from September 2022 the earliest.

14. Mr YIU Si-wing has enquired whether the coverage of the Fare Concession Scheme could be further expanded to include cross-boundary non-franchised bus services, including the five groups (six routes) of cross-boundary coach services plying between the Huanggang Control Point and various parts of Hong Kong.

15. The Administration has explained that the Fare Concession Scheme aims to facilitate the building of a caring and inclusive society by encouraging the older persons and eligible persons with disabilities to participate more in community activities. The Administration's policy is that the coverage of the Scheme is confined to public transport services running within the boundary of Hong Kong. Against this policy premise, cross-boundary public transport services, including the Airport Express, the East Rail Line plying to or from Lo Wu or Lok Ma Chau stations and the franchised bus routes plying to or from Hong Kong International Airport, are not covered under the Fare Concession Scheme.

## Prevention of abuse

16. Members consider that the mandatory use of JoyYou Cards as a prerequisite for benefitting from the concessionary fare would facilitate monitoring and deter misuse by ineligible passengers. Given that Anonymous Elder Octopus could continuously be used for enjoying the concession under the Fare Concession Scheme until some time in 2024 when JoyYou Cards are issued to all current beneficiaries aged 65 or above, members have requested the Administration to step up ticket inspection and monitoring of public transport operators concerned in the interim to ensure that public money on the Scheme is well spent. There is a suggestion that the Administration should make it clear that the participating public transport operators have a responsibility to prevent abuse of the Fare Concession System and impose a penalty on them for failing to do so. Mr YIU Si-wing is particularly concerned that RMBs and most kaitos are operated in a flexible manner according to operational considerations, and their fares are not subject to control.

17. On the monitoring of the public transport operators in implementing the Fare Concession Scheme, the Administration has advised that a series of monitoring measures have been put in place, including requesting the public transport operators concerned to strengthen their internal control systems and regularly submit to the Administration the audit and assurance reports prepared by independent auditors in accordance with the established audit standards. TD conducts on-site inspections on internal controls adopted by the public transport operators concerned, and examines on a regular basis the patronage and differential fare settlement reports submitted by the public transport operators and Octopus Cards Limited to prevent the Fare Concession Scheme from being abused. In case abnormal data and suspected abuse cases are detected during the examination of the reports, TD will refer the case to the Police for follow-up action. It should be noted that RMB and kaito operators must comply with the above monitoring conditions and register their fare levels with TD for admission to the Fare Concession Scheme.

18. The Administration has further advised that publicity programmes have been launched in March 2021 to raise public awareness of not abusing the Fare Concession Scheme. Separately, it has requested the participating public transport operators to strengthen ticket inspection and passenger identity verification work, and to strictly enforce the penalty as set out in the relevant legislation and by-laws to prevent abuse. TD has arranged field surveys to monitor the situation. Public transport operators have also enhanced publicity and reminded passengers to honestly tender the fares payable. Non-eligible passengers who are found travelling at the concessionary fare are required to pay a surcharge and/or the shortfall. Depending on the circumstances, the public transport operators

concerned may initiate prosecutions or refer individual cases to the Police for follow-up action.

### **Recommendation**

19. The Subcommittee notes that SLW will give fresh notice to move a proposed resolution at the Council meeting of 29 September 2021 seeking LegCo's approval of the Amendment Notice. The Subcommittee will not propose any amendments to the proposed resolution.

### **Advice Sought**

20. Members are invited to note the deliberations of the Subcommittee.

Council Business Division 2  
Legislative Council Secretariat  
21 September 2021

**Subcommittee on Disability Discrimination Ordinance  
(Amendment of Schedule 5) Notice 2021**

**Membership list**

**Chairman** Hon Frankie YICK Chi-ming, SBS, JP

**Members** Hon YIU Si-wing, SBS  
Hon CHUNG Kwok-pan  
Hon SHIU Ka-fai, JP  
Hon Vincent CHENG Wing-shun, MH, JP

(Total : 5 members)

**Clerk** Ms Maisie LAM

**Legal adviser** Ms Vanessa CHENG