

立法會
Legislative Council

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

Background brief prepared by the Legislative Council Secretariat

Purpose

This paper provides background information on the Disability Discrimination Ordinance (Amendment of Schedule 5) Notice 2021 ("the Amendment Notice") and gives an account of the past discussions of Members on the Government Public Transport Fare Concession Scheme for the Elderly and Eligible Persons with Disabilities ("the Fare Concession Scheme").

Background

2. The Fare Concession Scheme has been implemented 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 trip¹. 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. Under the Fare Concession Scheme, the Administration reimburses specified public transport operators² the actual

¹ If the original fare for a journey is below \$2, beneficiaries only need to pay the original fare.

² The services of these specified public transport operators currently being covered by the Fare Concession Scheme include general lines of the Mass Transit Railway, general franchised bus services, regular franchised and licensed ferry routes and green minibus services.

applicable fares charged by them minus 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) 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. 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 requested the consultant to accord priority to studying practical options to implement the proposal in the review.

5. The Administration announced on 12 January 2021 the completion of the final report by the consultant³, and the implementation of the enhancement and anti-abuse measures under the Fare Concession Scheme which included expanding the Scheme to cover red minibuses, kaitos and tramways 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 Administration announced on 30 June 2021 that the enhancement and anti-abuse measures would be implemented from 27 February 2022.

³ See [LC Paper No. CB\(2\)651/20-21\(01\)](#).

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

6. 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. red minibus); and (b) Hong Kong Tramways Limited. The effect is that these newly added fare concessions under the expanded Fare Concession Scheme⁴ shall not constitute a contravention under Parts 4 and 5 of the Ordinance.

7. 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.

Deliberations of Members

8. Issues relating to the enhancement of anti-abuse measures under and extension of the coverage of the Fare Concession Scheme were discussed by the Panel on Welfare Services ("the Panel") and the Subcommittee on Issues Relating to the Silver Age Card formed under the Panel in 2021. An oral question on the coverage of the Fare Concession Scheme was raised at the Council meeting of 7 July 2021. The major deliberations and concerns of members are summarized in the ensuing paragraphs.

Enhancement of anti-abuse measures

9. Members noted that at present, persons aged 65 or above could use anonymous Elder Octopus or Personalized Octopus Cards to enjoy the concession. Noting that the number of anonymous Elder Octopus Cards issued far outnumbered the number of eligible beneficiaries under the Fare Concession Scheme, Members were concerned about whether the Administration would put in place other anti-abuse measures (e.g. stepping up ticket inspection and enforcement, raising the penalty level and enhancing publicity) in tandem with the lowering of the eligible age of the Scheme to 60. The Administration was requested under a motion passed by the Panel on 11 January 2021 to, inter alia,

⁴ 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.

adopt administrative measures and strengthen enforcement actions to eradicate the abuse of the Fare Concession Scheme.

10. According to the Administration, the mandatory use of JoyYou Cards would facilitate monitoring and inspection and deter misuse by ineligible passengers. The above apart, TD had requested the participating public transport operators to strengthen ticket inspection and passenger identity verification work, and to strictly enforce the penalty provisions as set out in the relevant legislation and by-laws to prevent abuse. TD had further arranged field surveys to monitor the situation. Public transport operators had also enhanced publicity and reminded passengers to honestly tender the fares payable. Non-eligible passengers who were found travelling at the concessionary fare were required to pay a surcharge and/or the shortfall. Depending on the circumstances, public transport operators might initiate prosecutions or refer individual cases to the Police for follow-up action. Separately, TD had launched publicity programmes in March 2021 to raise public awareness of not abusing the Fare Concession Scheme, and would continue to request the participating public transport operators to step up ticket inspection and passenger identity verification work.

Extending the coverage of the Fare Concession Scheme

11. Members in general welcomed the extension of the Fare Concession Scheme to cover red minibuses, kaitos and tramways. To maintain the competitive advantage of tramways and preserve its cultural value, there was a suggestion that the Administration should provide subsidies to the extent to allow free ride for eligible persons under the Fare Concession Scheme. The Administration advised that a uniform flat rate of \$2 per trip was adopted under the Fare Concession Scheme. It would observe the impact of the extended Fare Concession Scheme on the patronage of tramways after its implementation.

12. There were views that the certain monitoring conditions currently imposed on the operators of public transport modes should be relaxed so as to encourage more operators of red minibuses to join the Fare Concession Scheme. The Administration advised that since the fare levels of red minibuses were currently decided by the operators on their own, operators of red minibuses interested in joining the Fare Concession Scheme had to register with TD the origin and destination of the routes and fares, install an Octopus payment system on admitted routes to ensure adherence to pre-set registered fares for calculating reimbursement of differential fares, and submit to the Administration on a regular basis assurance and audit reports prepared by an independent auditor. Such monitoring conditions were in line with those imposed on the operators of other public transport modes included in the Fare Concession Scheme.

13. On some Members' suggestion of including residents' buses in the Fare Concession Scheme, the Administration advised that if operators of individual routes of residents' services were interested in joining the Scheme, they were required to prove that their service scope and operation mode actually met the requirements for "public transport", and they would comply with all the necessary conditions under the Fare Concession Scheme, including but not limited to the monitoring conditions imposed on the operators of other public transport modes included in the Scheme. Upon implementation of the enhancement measures as already committed, the Administration would consider other recommendations on the condition that the operators concerned could prove that their service scope and operation mode fully complied with all the necessary conditions under the Fare Concession Scheme.

Relevant papers

14. A list of the relevant papers on the LegCo website is in the **Appendix**.

Council Business Division 2
Legislative Council Secretariat
11 August 2021

**Relevant papers on issues relating to
the enhancement of anti-abuse measures under and
extension of the coverage of the Fare Concession Scheme**

Meeting	Date of meeting	Paper
Panel on Welfare Services	11 January 2021 (Item IV)	Agenda CB(2)631/20-21(01)
	13 January 2021*	CB(2)651/20-21(01)
Subcommittee on Issues Relating to the Silver Age Card	26 February 2021 (Item I)	Agenda Minutes
	16 July 2021 (Item III)	Agenda
Legislative Council	7 July 2021 (Question 4)	Records of Proceedings [#]

* Issue date

English version of the hansard is under preparation (as at 11 August 2021)

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