

Introduction of franchised taxi service proposed

The Government will gazette next Friday (April 26) the Franchised Taxi Services Bill. The Bill seeks to establish a new regulatory regime to confer on the Chief Executive in Council (CE-in-Council) the powers to grant and administer the franchises for franchised taxi service, and to impose franchise terms.

The Government proposes to introduce franchised taxis, the policy objective of which is to meet the new demand in the community for personalised and point-to-point public transport services of higher quality and with online hailing features.

A spokesman for the Transport and Housing Bureau today (April 17) said, "The Government will introduce 600 franchised taxis under a trial scheme and grant three franchises by open tender, with each allowing the operation of 200 vehicles to provide franchised taxi service. The franchise will last for five years, which will be non-transferable and non-renewable."

The feature of franchised taxis is its operation through a franchise model. The Government will be able to clearly prescribe the service levels and set service standards in respect of vehicle types, compartment facilities, online hailing arrangement, safety requirements, training for drivers, customer service and complaint handling, etc., through the franchise terms. The Government can monitor the service provided by the operators through the franchises. If an operator (and its drivers) fails to meet the service levels or standards prescribed under the franchise, the Government will be able to impose penalties on the operator or even revoke the franchise.

"Franchised taxis and ordinary taxis will have different market positioning in the public transport system, with the former being an enhanced complement to the latter. Ordinary taxis will continue to constitute the vast majority of taxi services and their fare level is more affordable to the general public. Franchised taxis will be positioned as an additional choice other than ordinary taxis to meet the new demand in the community for personalised and point-to-point public transport services of higher quality and higher fares as well as with online hailing features," the spokesman said.

The Government consulted the Legislative Council Panel on Transport on the proposal to introduce franchised taxis in November 2015, June 2016 and April 2017. Meanwhile, the Government has been communicating with taxi associations and unions as well as other stakeholders through various channels to canvass views from different parties. The community at large also supports the Government to introduce franchised taxis.

The Bill confers the CE-in-Council the powers to grant and administer

the franchises, and establishes a regulatory regime to introduce franchised taxi service. It will clearly stipulate that the total number of franchised taxis that can be used for providing franchised taxi service must not exceed 600, and will specify the fare structure of franchised taxis. The Bill also contains related and consequential amendments to other enactments.

The Bill will be introduced into Legislative Council for the first reading and second reading on May 8.

LCQ7: Default in payment of wages by main contractor of Ying Tung Estate

Following is a question by the Dr Hon Fernando Cheung and a written reply by the Secretary for Transport and Housing, Mr Frank Chan Fan, in the Legislative Council today (April 17):

Question:

It has been reported that earlier, a number of construction workers engaged in the construction of Ying Tung Estate in Tung Chung lodged complaints, alleging that Hsin Chong Construction Company Limited (HCCCL) had failed to pay their wages for the months from October last year to January this year, involving a total amount of around \$1.5 million. They said that as the Hong Kong Housing Authority (HA) had learnt about the wage default in August last year but still allowed HCCCL to continue with the works, it should be culpable for the problem of wage default. HA has indicated that as the proceedings on winding-up of HCCCL has commenced and provisional liquidators have been appointed, HA may contravene the legislation related to winding-up if it pays the outstanding wages on behalf of HCCCL. In this connection, will the Government inform this Council:

(1) whether HA, being the owner of Ying Tung Estate, will pay the outstanding wages on behalf of HCCCL, its contractor; if HA will, of the details; if not, the reasons for that;

(2) of the reasons why HA did not pay the outstanding wages on behalf of HCCCL during the period from its learning about the wage default last year to the time before the proceedings on winding-up of HCCCL commenced;

(3) whether the contract for the construction of Ying Tung Estate signed between HA and HCCCL has stipulated that the former may pay outstanding wages on behalf of the latter; if so, of the details; if not, the reasons for that;

(4) of the measures HA has put in place to protect the rights and interests of the workers concerned upon learning about the aforesaid wage default;

(5) of the details of HA's mechanism for handling contractors defaulting on payment of workers' wages; whether HA will review such mechanism in the light of this incident; and

(6) whether it has reviewed the effectiveness of the existing (i) eligibility criteria laid down by HA for contractors bidding for works projects, (ii) criteria adopted by HA for assessing works tender submissions, and (iii) mechanisms established by HA for monitoring contractors' performance and terminating their contracts, in preventing the occurrence of incidents of contractors defaulting on payment of workers' wages; whether it will conduct a review on such matters in the light of the aforesaid incident?

Reply:

President,

My consolidated reply to the question raised by Hon Fernando Cheung Chiu-hung is set out follows:

The Hong Kong Housing Authority (HA) has always required its works contractors to effect timely wage payments to their workers, and closely monitored the situation of wage payments to workers during the contractual construction period. If HA is aware of any late or outstanding wage payment, it will follow up with the contractors, and refer such cases as necessary to the Labour Department for their further investigation and enforcement under the Employment Ordinance.

HA will continue to monitor various aspects of the contractors' performance through the Performance Assessment Scoring System (PASS), including the Wage Monitoring System (WMS). The relevant assessment scores will affect the contractors' eligibility for tendering and chance of contract awarding. HA will also take direct regulatory actions against contractors with unsatisfactory performance. HA has been reviewing the implementation of WMS and PASS, and would, during this process, invite representatives of the construction industry to attend working meetings and collect their views.

Works of Ying Tung Estate Development Project in Tung Chung was completed in November 2017 and has since entered the Maintenance Period (MP). During the MP, the main contractor, Hsin Chong Construction Company Limited (HCCCL) has the responsibility to complete all outstanding works and defects rectification works. In 2017 and 2018, there were several cases of late wage payment by HCCCL. Whenever HA was aware of any such cases, HA would, according to the established mechanism, conduct investigation immediately and take proactive follow-up actions, including issuing multiple letter to remind, warn and urge HCCCL to take actions to settle the relevant problems, and conducting meetings with the project management team of HCCCL. With HA's intervention, HCCCL has already settled all late wage payment in or before September 2018.

Since the proceedings on petition for winding-up of HCCCL was commenced

in August 2018, the relevant matters have to be dealt with in accordance with the statutory procedures and instructions of the provisional liquidators. Although the relevant construction contract has provisions allowing HA to pay, under specified conditions, the wages in arrears out of any money due to HCCCL under the contract, payment of the wages in arrears may be considered void under the Companies (Winding Up and Miscellaneous Provisions) Ordinance in the present circumstance where the winding up petition has been presented against HCCCL. HA has proactively contacted the provisional liquidators to explore and discuss the possibility of implementing the provisions on payment of wages in arrears so as to offer help to the unpaid employees. HA has also made a number of appeals to the workers through the workers' union to provide HA with the details of the decision of the Labour Tribunal and proofs of their employment under the Ying Tung Estate Development Project in Tung Chung, including (but not limited to) their employment contracts, on-site working records, etc. in order to facilitate HA's follow-up with the provisional liquidators.

Furthermore, the Labour Department (LD) has been offering appropriate assistance to the affected workers. The workers involved had filed their claims against HCCCL at LD and requested for recovery from HCCCL. LD has arranged conciliation meetings between the two parties and requested HCCCL to take prompt actions to pay the wages in arrears. As HCCCL did not turn up at the relevant conciliation meetings, LD had transferred the cases to the Labour Tribunal as per the workers' requests. Since HCCCL still could not settle the outstanding wages, including the payment in lieu of notice for termination of employment, etc. after the judgement of the Labour Tribunal being issued, LD had assisted the workers involved to apply for ex-gratia payments from the Protection of Wages on Insolvency Fund (the Fund) for wages in arrears and related statutory entitlements under the Protection of Wages on Insolvency Ordinance. HA will also assist the affected works by contacting the Social Welfare Department, such that they could be provided with suitable follow-up in accordance with their welfare needs.

LCQ12: Offering index funds as investment choices for Mandatory Provident Fund scheme members

Following is a question by the Hon Ho Kai-ming and a written reply by the Secretary for Financial Services and the Treasury, Mr James Lau, in the Legislative Council today (April 17):

Question:

There are views that as equity funds which track the performance of the

reference indices (index funds) are passively managed funds, they generally charge lower management fees. As such, Mandatory Provident Fund (MPF) trustees should offer more index funds as investment choices for MPF scheme members. In this connection, will the Government inform this Council:

- (1) whether it knows the number of index funds available under each registered MPF scheme in each of the past three years, and the most recent fund expense ratio as well as the annualised rates of return (i.e. one year, three years, five years and 10 years) of each index fund; and
- (2) whether it will take measures to push MPF trustees to offer more index funds as investment choices for MPF scheme members, in the hope that fund management fees may be reduced through market competition; if so, of the details?

Reply:

President,

(1) Based on the information provided by the Mandatory Provident Fund Schemes Authority (MPFA), the number of passively managed funds offered by MPF schemes over the past three years is shown in Table 1 of the Annex.

As at the end of February 2019, the fund expense ratio (FER) and the annualised return of these passively managed funds are shown in Table 2 of the Annex.

(2) The MPFA has been encouraging the market to offer more passively managed funds and requiring trustees to consider including index funds when applying for approval to set up new constituent funds. MPF trustees have governance responsibilities to review the suitability of existing MPF products for MPF scheme members regularly. The MPFA will continue to explore with trustees the offering of more passively managed funds as investment options to scheme members.

Although the fees of index funds are generally lower, equity index funds mainly invest in stock markets, which are generally subject to a higher degree of risk. Therefore, scheme members should not regard equity index funds as the only tool for investment. The MPFA often encourages scheme members to review their MPF investment portfolios on a regular basis, taking into account the risks of different Constituent Funds and select value-for-money MPF products in order to achieve better savings outcomes.

The MPFA has been requiring MPF trustees to regularly review the fee levels of their MPF products. Since the introduction of the FER in July 2007 and up to March 2019, the average FER of MPF funds has dropped from 2.06 per cent to 1.52 per cent. During this period, the Default Investment Strategy legislation was enacted in May 2016 and 138 MPF funds had reduced their fees.

LCQ17: New railway projects and Tung Chung traffic

Following is a question by the Hon Holden Chow and a written reply by the Secretary for Transport and Housing, Mr Frank Chan Fan, in the Legislative Council today (April 17):

Question:

The Government recommended in the Railway Development Strategy 2014 that seven new railway projects, namely the Northern Link and Kwu Tung Station, Tuen Mun South Extension, East Kowloon Line, Tung Chung West Extension, Hung Shui Kiu Station, South Island Line (West) and North Island Line, be implemented in or before 2026. In this connection, will the Government inform this Council:

- (1) of the following updated information on the aforesaid new railway projects: (i) alignment, (ii) station locations, (iii) public consultation progress and (iv) works schedule;
- (2) of the time generally needed for the various major items of work during the period between the Government inviting the MTR Corporation Limited (MTRCL) to submit proposals for the aforesaid railway projects and the commissioning of the railways concerned;
- (3) as the Government indicated in reply to my question on November 28 last year that MTRCL had submitted to the Government a proposal for the Tung Chung Line Extension (including Tung Chung West Extension and Tung Chung East Station) railway project, and that the relevant bureaux and government departments were reviewing the content of the proposal, of the progress of the review; and
- (4) of the new measures that the Government will implement, prior to the commissioning of the Tung Chung West Extension, to alleviate the increasingly serious traffic congestion problem in Tung Chung?

Reply:

President,

My reply to Hon Holden Chow's question is as follows:

(1) to (3) Having regard to the indicative implementation window recommended in the Railway Development Strategy 2014 (RDS-2014), the Transport and Housing Bureau (THB) had invited the MTR Corporation Limited (MTRCL) to submit proposals for the implementation of the Tuen Mun South Extension, Northern Link (and Kwu Tung Station), East Kowloon Line, Tung Chung West

Extension (and Tung Chung East Station) and North Island Line. The MTRCL submitted proposals for these five railway projects to the Government in the end of December 2016, the end of March 2017, the end of July 2017, the end of January 2018 and the end of July 2018 respectively. The THB, the Highways Department and relevant bureaux/departments have evaluated the proposals and requested the MTRCL to provide additional information and supplement details. In carrying out the evaluation, the Government's main focus is to ensure that the proposals are practically feasible and can bring maximum benefits to the community. Due to the tight housing supply and the potential housing supply that may be brought about by railway development, the Government is also reviewing the proposals submitted by the MTRCL in this light.

Railway projects involve huge capital investment, and the Government has to plan in a prudent manner. The new railway projects proposed in the RDS-2014 have different degrees of complexities, for example, the Tung Chung West Extension (and Tung Chung East Station) project requires coordination with the reclamation works under the Tung Chung New Town Extension project, and potentially requires modification to the track and signaling system of the existing Tung Chung Line and Airport Express. The Government also advocates to minimise the impacts of the project on the neighbouring domestic premises, environment and land, etc. As clearly stated in the RDS-2014, the taking forward of individual proposed railway projects set out in the strategy (including the Tung Chung West Extension (and Tung Chung East Station)) will be subject to the outcome of detailed engineering, environmental and financial studies relating to each project, as well as updated demand assessment and availability of resources. Moreover, for railway projects which are mainly intended to complement new development areas and new housing developments, the implementation timetable for the development areas and new housing developments in question will be an important planning parameter for the railway projects. Therefore, the indicative implementation windows recommended in the RDS-2014 may be adjusted having regard to any change in circumstances.

The implementation of individual railway projects encompasses a chain of activities before construction starts. These include preparation of a project proposal covering the detailed technical and financial estimates, scrutiny of the project proposal within the Government, consultation with the public and stakeholders and resolution of the comments received, pre-feasibility study, site investigation, project design and further public consultation, gazettal of railway scheme and handling of objections, Environmental Impact Assessment, seeking authorisation of railway schemes, as well as preparation and signing of related agreements with the company responsible for the construction. When the project proceeds to the construction stage, there may be a need for land resumption and liaison with local stakeholders to settle claims. In view of the uniqueness of each railway project, we cannot generalize the time required for the completion of advance works.

In line with established procedures, prior to the finalisation of any new railway scheme, the Government will consult the public, including the Legislative Council and the relevant District Councils, on the details of the scheme.

(4) The Transport Department (TD) has been closely monitoring the operation and quality of public transport services across the territory. It will also conduct timely review with public transport service operators on the relevant service adjustment measures in response to passenger demand with a view to meeting districts' demand on public transport services. Moreover, the TD regularly reviews the utilisation of franchised bus service in different districts and works with the franchised bus companies to examine proposals for improving franchised bus service in districts under the annual Route Planning Programme (RPP) submitted by the companies. These include proposals on introduction of new routes, as well as proposals on adjustment of service frequency, hours and routeing. The Traffic and Transport Committees (TTCs) of the respective District Councils (DCs) will also be consulted on the proposals.

The TD is consulting the TTCs of the 18 DCs on the 2019-20 RPP, including the consultation with Islands DC TTC on March 18 this year. There were seven proposals on enhancing the franchised bus service in Tung Chung, including the proposed increase of service frequency of Citybus Route No. E11S (Tung Chung (Chung Mun Road) to Tin Hau), Route No. E21A (Ho Man Tin (Oi Man Estate) – Tung Chung (Yat Tung Estate Public Transport Terminus)) and Route No. E22S (Tung Chung (Chung Mun Road) – Tseung Kwan O (Po Lam)) in response to the population growth in Tung Chung Area 27.

As regards railway services, according to information provided by the MTRCL, at present, the Tung Chung Line train services are operating at a headway of about four minutes (Hong Kong to Tsing Yi) and six to eight minutes (Hong Kong to Tung Chung) on average during the morning peak hours. As advised by the MTRCL, the train services are operating smoothly and can meet passenger needs. At Tung Chung Station, the terminus of Tung Chung Line, passengers are usually able to board the first arriving train. As there is usually a large number of passengers at both Tsing Yi Station and Nam Cheong Station heading to Hong Kong Station, the MTRCL has deployed two additional special departures from Tsing Yi Station directly to Hong Kong Station during the morning peak hours since early 2018 to alleviate the crowdedness of Tung Chung Line trains. The MTRCL will continue to pay close attention to the services and passenger demand of Tung Chung Line, and will make appropriate adjustments where necessary.

Thank you, President.

LCQ15: Implementation of electronic identity system

Following is a question by the Hon Charles Mok and a written reply by the Secretary for Innovation and Technology, Mr Nicholas W Yang, in the

Legislative Council today (April 17):

Question:

The Government will launch the electronic identity (eID) system in 2020. Gradually, as many as 100 public services will make use of the biometric authentication technologies (including facial recognition, fingerprint identification, iris recognition and voiceprint recognition) of the eID system to authenticate the identity of service users. On the other hand, the Government awarded service contracts for the implementation of as well as support and maintenance for the eID system to three contractors in February this year. The offices of two of the contractors are located in Shenzhen. In this connection, will the Government inform this Council:

(1) of the respective weightings for the price and technical aspects in the score for the tendering exercise for the eID system; as the system involves the handling of a huge quantity of personal data of members of the public, whether the Government attached more importance to the bidders' information security technology capabilities and track records when determining their technical scores;

(2) of the following information on the service contracts for the eID system:

(i) the specific division of duties among the three contractors, and the timetable for the various items of work during the contract period which lasts for eight and a half years,

(ii) whether it has been stipulated that all development, testing and maintenance work must be carried out within the territory of Hong Kong; if not, whether it knows the place(s) where the relevant work will be carried out, and

(iii) whether it has required the contractors to engage, at various stages of the system, independent consultants to conduct information security audits on the programme codes of the system to ensure that the system does not contain any backdoors or security loopholes;

(3) whether it knows if the three contractors will subcontract the relevant work; if they will, (i) whether the subcontractors are companies registered in Hong Kong and what track records in related businesses they have, and (ii) the measures in place to ensure that the personal data of members of the public will not be transmitted to places outside Hong Kong;

(4) of the following information on the facial recognition data, other biometric authentication data and other personal data handled or collected by the eID system respectively (a) during the development and (b) after the coming into service of the system:

(i) the respective locations of the servers at which the various sets of data are stored (i.e. government data centres, offices of the contractors or other premises, and whether those places are situated within the territory of Hong Kong),

(ii) the data encryption standards to be adopted,

(iii) the information security precautions in place to prevent data from being intercepted or altered in the course of transmission,

(iv) the authority of and restrictions on the access to personal data by government officers and staff of the contractors, and
(v) the security mechanism for preventing unauthorised access to personal data (including prescribing the authority of and restrictions on the access to personal data by the development and maintenance staff);

(5) whether the various sets of data mentioned in (4) will be used for other purposes; if so,

(i) of the government departments or public organisations which will use the data and what such uses are,

(ii) of the personnel who will have the authority to access the relevant data,

(iii) of the means of obtaining the data (such as being permitted to login the eID system or provided with a copy of the data), and

(iv) of the measures in place to ensure that government departments or public organisations will take sufficient information security precautions to prevent data from being intercepted or altered in the course of transmission; and

(6) whether, in developing the eID system, the Office of the Government Chief Information Officer has (i) consulted the Privacy Commissioner for Personal Data, and (ii) engaged an independent third party to assess the information security risks and privacy implications; if so, of the details, and whether the relevant view(s) and assessment report(s) will be made public?

Reply:

President,

Our reply to the six parts of the question is as follows:

(1) Information security as well as the protection of personal data and privacy were essential requirements under the tender documents for the electronic identity (eID) system, which included security requirements in data storage, network communication, user management and application systems and the security measures to safeguard personal data in accordance with the provisions of the Personal Data (Privacy) Ordinance. In addition, to align with the pro-innovation government procurement policy, a weighting of 60 per cent for technical assessment was adopted in the marking scheme of the tender for the eID system, of which about seven per cent was related to information security.

(2) The contractors of the eID system are required to complete system development in the first 18 months of the contract period, followed by a 7-year system maintenance period. The division of work among the three contractors are as follows:

(i) Ping An Technology (Shenzhen) Co., Ltd. is responsible for the design, implementation and support of the eID core system, as well as the facial recognition and image processing system;

(ii) ICO Ltd. is responsible for the design, implementation and support of the system which verifies the identity of eID users by using the data of the Immigration Department; and

(iii) Shenzhen Emperor Technology Co., Ltd. is responsible for the design, manufacture, supply, management and support of the self-service registration kiosks and the registration tablets.

As specified in the tender documents, the contractors are required to arrange key staff (project managers, systems architects, systems analysts, cloud computing specialists, etc.) to work in the office premises designated by the Office of the Government Chief Information Officer (OGCIO). This is in line with the general work arrangement for major projects to facilitate close communication between the OGCIO staff and the contractors, problems being resolved in a timely manner and monitoring the work of the contractors such as confirmation of the detailed system design, and progress of system development, integration and testing. The tender documents do not strictly require all system development work to be carried out in Hong Kong. We understand that the contractor mentioned in (2)(i) above will carry out programming related tasks in its facilities in Shenzhen. The OGCIO will examine in details the programmes submitted by all contractors to ensure compliance with the contract requirements and the government information technology (IT) security policy and guidelines before performing system integration and testing.

The OGCIO will engage independent third parties at different stages of the implementation like system design, system development and testing, system operation, etc. to conduct privacy impact assessments, privacy compliance audits and information security risk assessments and audits, which include source code review and penetration tests, to protect personal privacy and ensure system security.

(3) As specified in the tender documents, the contractors were required to name the sub-contractor(s) in their proposals if there would be sub-contracting. The contractor mentioned in (2)(i) above indicated in its proposal that part of its work would be sub-contracted to two sub-contractors. Both of them are companies within the same group of companies as the contractor, and possess the skills and experience in image processing and development of large-scale projects. One sub-contractor is a company registered locally and the other is a Shenzhen-based company. The other two contractors do not have any sub-contractor.

The OGCIO will implement the relevant security measures to protect users' personal data and ensure system security, in accordance with the government IT security policy and guidelines and the Personal Data (Privacy) Ordinance. Such measures include:

(i) personal data in the eID system will be encrypted and stored on the government cloud platform in the government data centre. The data will not be transmitted outside Hong Kong;

(ii) the contractors and sub-contractors will only use test data not containing any personal data during development and maintenance of the eID system, which will only be carried out in the development and testing environments. Therefore they will not have access to any personal data of residents; and

(iii) privacy impact assessments, privacy compliance audits, and information security risk assessments and audits will be conducted by independent third parties.

(4) eID itself will not store any personal data. Personal data provided during eID user registration will only be used by OGCI0 staff for account management and identity verification for the eID system. The data will be encrypted using prevailing internationally recognised standards (Advanced Encryption Standard) and will be stored in government data centre facilities only. In conformance with industry encryption standards, Transport Layer Security will also be adopted to encrypt data to ensure security and integrity of the data transmitted over the Internet.

The contractors and sub-contractors will not have access to any personal data of residents during development and maintenance of the eID system.

The development and operation of the eID system will adopt the information security management system (ISO/IEC 27001) and measures set out by the International Organization for Standardization (ISO) and International Electrotechnical Commission (IEC), which include the establishment and stringent enforcement of data access rights for all personnel to prevent any unauthorised access to personal data.

(5) Any organisation adopting eID is required to comply with the information security and related technical requirements set out in the terms of use of eID, and can do so only by making use of the application programming interfaces provided by the OGCI0 and after verification of server certificates. No other personnel or other means can connect to the eID system. Data will also be encrypted during transmission to ensure security.

Personal data collected during eID user registration will only be used by the eID system for account management and identity verification. Any government department or public organisation that needs to use personal data of an eID user (such as for form pre-filling) must obtain his prior consent in accordance with the Personal Data (Privacy) Ordinance.

(6) In October 2018, the OGCI0 consulted the Office of the Privacy Commissioner for Personal Data on the design and operation of the eID system, and will seek its professional advice on various issues during the system development stage. The OGCI0 has also engaged independent third parties to conduct privacy impact assessment and information security risk assessment and audit shortly. The OGCI0 will ensure that the eID system complies with the provisions of the Personal Data (Privacy) Ordinance as well as the government IT security policy and guidelines. The relevant advice and information of the assessment reports can be provided to the Legislative

Council provided that such disclosure will not pose security risks to the system.