

LegCo Panel on Transport
Proposed Mass Transit Railway (Amendment) Bylaw 2001

PURPOSE

This paper sets out the background and objectives of the proposed Mass Transit Railway (Amendment) Bylaw 2001 (the Amendment Bylaw) which will be enacted by way of a motion moved by the Secretary for Transport for approval by the Legislative Council.

BACKGROUND

Bylaw Making Powers of the MTR Corporation

2. The MTR Corporation Limited (“the Corporation”) is authorised under section 34 of the Mass Transit Railway Ordinance (Cap. 556) to make bylaws under its common seal. Section 34(3) of Cap. 556 provides that the bylaws so made are subject to approval of the Legislative Council.

3. The Mass Transit Railway Bylaw is regularly reviewed to ensure that the Corporation is able to operate the Mass Transit Railway efficiently and the public can travel on the railway safely.

Objectives of the Proposed Amendment Bylaw

4. The proposed Amendment Bylaw serve to :-

- (a) expand the definition of “tickets” to cover Octopus watches and provide flexibility for future development of new ticket forms;
- (b) regulate access to railway premises for the purpose of attaching, installing, operating, maintaining or removing any apparatus or equipment;
- (c) improve the system for evidencing payment of fares; and
- (d) regulate certain conduct which may cause nuisance or danger to persons on the railway premises.

DETAILS OF THE PROPOSALS

Definition of “ticket”

5. The definition of “ticket” in bylaw 2 is revised to take into account new ticket forms such as Octopus watches and allows flexibility for future development of different ticket forms.

Trespass and Access Control

6. Bylaw 4 is expanded to include provisions for regulating entrance into the railway premises for the purpose of attaching, installing, maintaining, operating or removing any apparatus or equipment.

7. New bylaws 4A, 4B and 4C are added to provide for measures to regulate any proposal for or actual conduct of works on railway premises having regard to, inter alia, the health and safety of persons on the railway premises and the safe operation of the railway. These measures include :-

- (a) new bylaw 4A which requires submission of details of any proposed works for approval by the Corporation;
- (b) new bylaw 4B which regulates the implementation of any works approved by the Corporation during or after the implementation of such works; and
- (c) new bylaw 4C which empowers the Corporation to revoke any approval for works previously granted in case of breach of conditions or bylaws by any person carrying out approved works in the railway premises. Under these circumstances, the Corporation may require the removal or relocation of works for safety reasons or to remove or relocate such works and recover any cost and expenses incurred by the Corporation as a civil debt.

Fares and Tickets

8. Bylaw 14 is expanded to cover the special layout at the Airport Station, and require persons entering or leaving the paid area to have paid the proper fare consistent with or appropriate to the circumstances.

9. Under the amended bylaw 15, a person within the paid area, who is without a ticket containing data which is consistent with the circumstances of its intended journey or fails to produce or deliver to an official of the Corporation such a ticket, is deemed to be travelling without a ticket. This amended bylaw addresses the enforcement difficulty regarding the abuse by adult passengers, when being challenged for the wrongful use of concessionary tickets, produce an *unused* adult ticket as evidence of proper use.

10. Bylaw 17 is expanded to require any ticket handed in by any person to be a ticket containing coded information consistent with or appropriate to that person's journey or intended journey.

Regulation of Passenger Conduct

11. The existing bylaw 25 prohibits the causing of nuisance to passengers. This is expanded to include a prohibition against causing nuisance to staff of the Corporation carrying out their duties.

12. New bylaw 28J is added to prohibit the use of skateboard, scooter, bicycle or vehicle etc., and the use of any tool, equipment, device or machinery in the railway premises in a manner which may cause danger to others or adversely affect the safe and efficient operation of the railway.

13. New bylaw 28k prohibits the obstruction of MTR staff in carrying out their duties or passengers using the railway or on the railway premises.

Enforcement and Penalties

14. Bylaw 42(1)(b) is amended to clarify and specifically include production of Hong Kong Identity Cards and passports as proof of a person's identity and to set out expressly the rights of the Corporation's staff to require production of such proof.

15. The schedule of penalties is revised to reflect more accurately the degree of seriousness of relevant offences under bylaws 4 and 21. It also includes the penalties for breaches of the new bylaws 4A, 28J and 28K.

ADVICE SOUGHT

16. Views and comments of Members on the Amendment Bylaw is welcomed.

17. Subject to the views and comments of Members, the Corporation will finalize and make the Amendment Bylaw in the manner set out in the Mass Transit Railway Ordinance. Thereafter, the Secretary for Transport will move a motion in the Legislative Council for the approval of the Amendment Bylaw.

MASS TRANSIT RAILWAY (AMENDMENT) BYLAW 2001

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MASS TRANSIT RAILWAY (AMENDMENT) BYLAW 2001

(Made by the MTR Corporation Limited under section 34 of the Mass Transit Railway Ordinance (Cap. 556) subject to the approval of the Legislative Council)

Interpretation

By-law 2 of the Mass Transit Railway By-laws (Cap. 556 sub. leg.) is amended in the definition of "ticket", by repealing everything after "means" and substituting "a ticket, card, device, apparatus, pass or permit, in whatever form, issued by the Corporation or by any person duly authorized by the Corporation from time to time, for travel on the railway and for access to and exit from the paid area;".

Trespass

By-law 4 is amended -

- (a) in paragraph (1), by repealing "No person, unless otherwise authorized by the Corporation, shall" and substituting "No person shall, save with the written authority of the Corporation";
- (b) in paragraph (1)(a), by repealing "or" at the end;
- (c) in paragraph (1)(b), by repealing the full stop and substituting "; or";

(d) by adding -

"(c) enter into or upon any part of the railway premises in order to carry out any works to attach to, or install, maintain or operate on any part of the railway premises any apparatus or equipment; or to remove from any part of the railway premises any apparatus or equipment installed on or attached thereto:

Provided that nothing in this paragraph shall be construed as affecting or limiting right of the access or inspection of any public officer, appointed by the Secretary or the Commissioner, for the purposes of ensuring or verifying compliance by the Corporation of its obligations under the Ordinance or the operating agreement."

(e) by adding -

"(2) Any written authority relating to entry into or upon any part of the railway premises may be granted subject to such conditions as the Corporation may impose either generally or in any particular case."

By-laws added

The following are added -

"4A. Approval of works

(1) Any person seeking a grant of the written authority of the Corporation to enter into or upon any part of the railway premises for the purposes mentioned in by-law 4(1)(c) shall submit a proposal to the Corporation sufficiently far in advance (but in any event not less than 28 days in advance) of the proposed date of such entry as shall allow the Corporation to evaluate and assess the works in the proposed attachment, installation, maintenance, operation or removal fully for the purposes of considering whether or not to approve such entry, which proposal shall contain -

- (a) a description of and specifications for the works;
- (b) a description of and specifications for the apparatus or equipment concerned;
- (c) a plan showing the proposed location or locations of the works; and
- (d) such other information as the Corporation may reasonably require to enable it to decide whether to grant written authority relating to the entry.

(2) In considering whether to grant written authority relating to any entry pursuant to any proposal submitted to it under paragraph (1) the Corporation may have regard to, amongst other things, whether the

proposed works satisfy all such technical and safety standards as may be determined by the Corporation from time to time, and may approve, with or without conditions or amendments, or refuse to approve the proposal, in whole or in part, accordingly.

4B. Conduct of works

Any person who has been granted written authority by the Corporation to enter into or upon any part of the railway premises for the purposes mentioned in by-law 4(1)(c) in order to carry out any works as are therein referred to shall -

- (a) in carrying out any such works, comply with any conditions imposed and directions issued by the Corporation from time to time;
- (b) carry out such works expeditiously and in a workmanlike manner, and with minimum disturbance to any person working on or using the railway or the railway premises;
- (c) ensure that there is no risk to the health or safety of any person who may be affected by the carrying out of the works;
- (d) not without obtaining prior written approval of the Corporation make any change to such works or to the approved

specifications thereof or any part of the proposal in respect thereof as approved under by-law 4A(2); and

- (e) after completion of the works, make good at his own expense any damage caused to the railway premises or to any property thereon and restore the same to its original condition before the works were commenced unless otherwise authorized in writing by the Corporation.

4C. Breaches, etc.

- (1) Where any person -

- (a) is in breach of by-law 4A or 4B or of any direction issued pursuant to them by the Corporation; or

- (b) fails to comply with any condition imposed by the Corporation under them,

the Corporation may by written notice or oral notice in case of emergency to such person (without prejudice to its other statutory and contractual rights) revoke any authority or licence previously granted and require such person to cease any work or activity, and such person shall comply with any such notice at his own expense.

- (2) (a) Where any person fails to comply with by-law 4B(e), the Corporation may by written

notice or oral notice in case of emergency to such person (without prejudice to its other statutory and contractual rights) require such person to comply with by-law 4B(e) within a period of time specified in the notice or as otherwise directed by the Corporation.

- (b) If a person required by the Corporation to comply with by-law 4B(e) pursuant to subparagraph (a) does not so comply within the period of time specified in the notice or as otherwise directed by the Corporation, the Corporation may in such manner as it thinks fit make good any damage caused to the railway premises or to any property thereon and all costs and expenses occasioned by and incidental to such remedial works shall be recoverable from the person as a civil debt due to the Corporation.

(3) Where the Corporation reasonably considers that the safe operation of the railway necessitates or makes desirable the removal or relocation of any installation, property, apparatus or equipment of any person which is for the time being in or on or attached to, installed, maintained or operated on any part of the railway

premises, such person shall, upon being required by written notice or oral notice in case of emergency so to do by the Corporation, remove or relocate the same, as directed by the Corporation, at his own expense.

(4) If a person required by notice by the Corporation to remove or relocate any installation, property, apparatus or equipment pursuant to paragraph (3) does not remove or relocate the same within the period of time specified in the notice or as otherwise may be directed by the Corporation, the Corporation may in such manner as it thinks fit execute such removal or relocation and all costs and expenses occasioned by and incidental to such removal and relocation shall be recoverable from the person as a civil debt due to the Corporation.

4D. Conflict

For the avoidance of doubt, where there is any conflict or inconsistency between the provisions of these by-laws and any authorization validly issued by the Telecommunications Authority for the purposes of section 14(1A) of the Telecommunications Ordinance (Cap. 106), such valid authorization shall prevail to the extent of the inconsistency, except where there is an inconsistency between any provision of a technical requirement referred to in such valid authorization and any provision relating

to public safety of these by-laws, then these by-laws shall prevail over such valid authorization to the extent of the inconsistency."

By-law substituted

By-law 14 is repealed and the following substituted -

"14. Entry and exit without ticket prohibited

(1) No person shall, without lawful authority or reasonable excuse -

(a) enter, or attempt to enter, the paid area (other than at the station known as the Airport Station) without first obtaining and being in possession of a valid ticket; or

(b) leave, or attempt to leave, the paid area without having first paid the proper fare, such ticket and fare being in each case appropriate to the circumstances, and by using such ticket, on entry to or exit from the paid area, by inserting it into an automatic gate or by using it in an appropriate manner over the electronic sensor of an automatic gate as may be required by the conditions of issue of such ticket or otherwise producing it and delivering it up to an official.

(2) For the purposes of paragraph (1), a person shall not be regarded as having obtained a valid ticket

or as having first paid the proper fare if the ticket he produces or delivers up to an official does not, according to the Corporation records, contain coded data consistent with or appropriate to the circumstances."

**Travel where ticket is lost,
damaged or expired**

By-law 15(2) is repealed and the following substituted -

"(2) For the purposes of paragraph (1) -

(a) a ticket shall expire in such circumstances as are provided for in the conditions of issue; and

(b) a person shall be regarded as being without a ticket if -

(i) he is not in possession of a ticket which, according to the Corporation records, contains coded data consistent with the circumstances of his intended journey; or

(ii) he fails to produce or deliver up to an official a ticket which, according to the Corporation records, contains coded data consistent with the circumstances of his intended journey."

Handing in of tickets

By-law 17 is amended by adding -

"(2A) A person shall not be regarded as having complied with paragraph (2) if the ticket produced, according to the Corporation records, does not contain coded data consistent with the circumstances of his journey or intended journey."

Passengers not to cause a nuisance

By-law 25 is amended by repealing "other passengers" and substituting "any passenger or any official or to give justifiable grounds for complaint by any passenger or official".

By-laws added

The following are added in Part IV –

"28J. Use of skateboards, scooters, etc. prohibited

No person shall use in any part of the railway premises –

- (a) any skateboard, scooter, bicycle or vehicle except with the written permission of the Corporation; or
- (b) any tool, equipment, device or machinery in any manner that it is likely to cause danger to others or that may prejudice the safe and efficient operation of the railway.

28K. Obstruction

No person shall behave in such a manner as shall cause any obstruction to or interference with the reasonable use of the railway or any part of the railway premises by any passenger or official."

Removal of persons from railway premises

By-law 42(1)(b) is amended by adding "his Hong Kong identity card or his valid passport or other" after "official".

Penalties

The Schedule is amended –

- (a) by repealing -
"4 Trespass 5,000 fine"
and substituting –
"4 Trespass \$5,000 fine and 6 months imprisonment";
- (b) by adding –

| | | |
|-----|--|--|
| | "4A Trespass | \$5,000 fine and 6 months imprisonment"; |
| (c) | by repealing - "21 Non-compliance with notices, etc. and substituting - "21 Non-compliance with notices, etc. | \$2,000 fine" \$5,000 fine"; |
| (d) | by adding - "28J Use of skateboards, scooters, etc. | \$5,000 fine and 6 months imprisonment |
| | 28K Obstruction | \$5,000 fine". |

on Made under the Common Seal of the MTR Corporation Limited
2001.

The Common Seal of the)
Corporation was affixed hereto)
in the presence of)
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Legal Manager General)

Chairman

Explanatory Note

This Bylaw amends the Mass Transit Railway By-laws (Cap. 556 sub. leg.) as follows -

- (a) the definition of "ticket" in by-law 2 is revised and updated;
- (b) by-law 4 is expanded to include entrance into the railway premises for the specific purpose of attaching, installing, maintaining, operating or removing any apparatus or equipment;
- (c) Part II of the By-laws is expanded by the addition of new by-laws 4A, 4B and 4C to regulate any proposal for or actual conduct of works in the railway premises having regard, inter alia, to the health and safety of persons in the railway premises and the safe operation of the railway and these include -
 - (i) new by-law 4A which requires submission of detailed proposals of any proposed works for approval by the MTR Corporation Limited ("the Corporation");
 - (ii) new by-law 4B which regulates the conduct of any works approved by the Corporation during or after the conduct of such works;
 - (iii) new by-law 4C which empowers the Corporation under paragraph (1) to revoke any authority previously

granted in case of breach of conditions imposed by the Corporation or any direction issued pursuant to by-law 4A or 4B or any of those by-laws by any person carrying out approved works in the railway premises, and under paragraphs (2) and (3) to either require the removal or relocation of works for safety reasons or to remove or relocate such works and recover any costs and expenses occasioned by the Corporation as a civil debt;

- (d) new by-law 14 expands upon the existing by-law 14 to include the special setting at the Airport Station and requires persons entering or leaving the paid area to have paid the proper fare consistent with or appropriate to the circumstances;
- (e) a person within the paid area who is without a ticket containing coded data which is consistent with the circumstances of his intended journey or fails to produce or deliver up to an official such a ticket is deemed, under the amended by-law 15, to be without a ticket;

- (f) by-law 17 is expanded to require that any ticket handed in under paragraph (1) by any person is a ticket containing coded data consistent with the circumstances of his journey or intended journey;
- (g) by-law 25 is expanded to include a prohibition on causing nuisance to officials of the Corporation;
- (h) Part IV of the By-laws is expanded by the addition of new by-laws 28J and 28K to reflect the up-to-date requirements of the Corporation to facilitate control of conduct of passengers inside stations and these include -
 - (i) new by-law 28J which prohibits any skateboard, scooter, bicycle or vehicle and use of any tool, equipment, device or machinery in a manner which may cause danger to others or to the safe and efficient operation of the railway;
 - (ii) new by-law 28K which prohibits obstruction to passengers or officials in their use of the railway or railway premises;
- (i) by-law 42(1)(b) is amended to specifically include production of Hong Kong identity cards

and valid passports in proof of a person's identity and to set out expressly the right of officials to require production of such proof;

(j) the Schedule of penalties is revised with regard to the amount of fine and the period of imprisonment to reflect more adequately the degree of seriousness of the relevant offences under by-laws 4 and 21; it also includes the penalties for breaches of new by-laws 4A, 28J and 28K.