

LEGISLATIVE COUNCIL BRIEF

Kowloon-Canton Railway Corporation Ordinance
(Chapter 372)

**KOWLOON-CANTON RAILWAY CORPORATION
(AMENDMENT) BILL 2001**

INTRODUCTION

At the meeting of the Executive Council on 25 September 2001, the Council ADVISED, and the Chief Executive ORDERED that the Kowloon-Canton Railway Corporation (Amendment) Bill 2001 (the Bill), at **Annex A**, should be introduced into the Legislative Council.

BACKGROUND AND ARGUMENT

Chairman of KCRC

2. KCRC was established in 1982 under the Kowloon-Canton Railway Corporation Ordinance (Cap. 372) (KCRC Ordinance). Section 3(2A) of the KCRC Ordinance, at **Annex B**, provides that the Chairman of KCRC shall also be the chief executive of KCRC.

Challenges Confronting KCRC

3. KCRC currently operates two domestic passenger rail services (the East Rail and the Light Rail) which serve about 10% (or 1.1 million passenger trips) of the daily public transport ridership. Over the last 20 years, KCRC has transformed from a rural railway into a mass carrier serving the suburban areas. It has modernised its rolling stock and signalling system to enhance capacity and safety. It has also upgraded its station facilities to meet passenger demand.

4. KCRC has recently embarked upon its own railway construction programme. Progress with West Rail is on schedule for commissioning by the end of 2003. KCRC has completed awarding major construction contracts for the Ma On Shan to Tai Wai Rail Link and Tsim Sha Tsui Extension. Implementation of the Sheung Shui to Lok Ma Chau Spur Line has resumed. In implementing these railway projects, KCRC is building up its own project implementation team.

5. The transformation of KCRC from a Government Department into a full-fledged commercial operation in the last two decades has been impressive. KCRC has strengthened its management team and strived to project an image of a modern and well-managed commercial undertaking. It has passed the test of independent financial scrutiny by major international investment banks and credit rating agencies and successfully launched its debut 10-year Euro dollar bond issue in 1999.

6. On the other hand, KCRC will have to rise to the challenges of its network expansion. Its programme of committed capital works involves four railway projects (West Rail Phase I, Ma On Shan to Tai Wai Rail Link, Tsim Sha Tsui Extension, Sheung Shui to Lok Ma Chau Spur Line) with a total investment of over \$70 billion, all to be completed within the next few years. During the same period, KCRC will also have to plan for the implementation of its share of railway projects conceived in the Railway Development Strategy 2000 (RDS-2000). Three of the RDS-2000 projects (Kowloon Southern Link, Port Rail Line and Northern Link) will go to KCRC, with two others (Shatin-Central Link and Regional Express Line) to be awarded by competitive bidding. Thus KCRC will be planning for the implementation of between \$20 billion to \$60 billion worth of additional railway works from now to 2016.

7. The challenges on the service side are equally formidable. The patronage of the Kowloon-Canton Railway is projected to reach 2.4 - 3.2 million passenger trips per day in 2011. Expansion of commuter network will bring stronger customer pressure for more and better services. On top of all these, KCRC is expected to play a pivotal role in exploring and expanding medium and long-haul freight service into the hinterland in the wake of the opening of the Western Region and the accession of our country to the World Trade Organisation.

Strengthening the Corporate Governance Structure of KCRC

8. The smooth and timely implementation of the West Rail and East Rail extensions and the provision of an efficient and reliable rail service to a rapidly expanding patronage will be exacting tasks for the KCRC executives. In addition, the mammoth expansion programme of the KCR network envisaged in RDS-2000 demands from the KCRC Board vision, strategic planning and vigilance in public relations handling towards the general public, the lending institutions and the environmental lobby. We believe that it is difficult to achieve optimal results by concentrating these two sets of daunting responsibilities on one single KCRC officer. It is now time to consider

separating the functions and duties of the Chairman and the chief executive of KCRC to ensure that both strategic planning and day-to-day management receive the undivided attention they deserve.

9. We believe a part-time Chairman should be appointed to lead the KCRC Board. The Chairman should concentrate on the following tasks -

- (a) reviewing and guiding corporate strategy and business development plans;
- (b) overseeing financial planning, major capital expenditure, acquisition and divestiture;
- (c) setting performance objectives and monitoring the achievement of such objectives by the executives;
- (d) ensuring the adequacy and integrity of the accounting, financial reporting and risk management systems; and
- (e) identifying candidates for key executive positions, overseeing succession planning and determining executive remuneration.

10. The Chief Executive Officer (CEO) of KCRC, who will also be a member of the Board, should focus on -

- (a) implementing the business strategies determined by the Board;
- (b) delivery of operational and financial performance objectives set by the Board;
- (c) day-to-day management of the rail operation and rail construction; and
- (d) internal administration of the Corporation.

11. With the separation of the functions and duties of the Chairman and the CEO, the supervision of the wide range of tasks facing KCRC will be more effective. The Chairman, separate from the executives, will strengthen the independence of the Board and hence its ability to discharge its supervisory functions. The CEO can devote full attention to the day-to-day management of the railway operation and the implementation of committed railway projects.

This is in keeping with the universal trend in good corporate governance. It is also the model in most public corporations e.g. Airport Authority and Hospital Authority.

THE BILL

12. Clause 3 of the Bill provides for the repeal of Section 3(2A) which makes the Chairman also the chief executive of KCRC and for the creation of the office of the CEO who shall be a member of the Board.

13. Clauses 4, 5, 6(2) and 6(3) of the Bill transfer executive functions relating to the operation of the railway from the Chairman to the CEO. Clause 6(1) provides that the power of KCRC to appoint, suspend or dismiss the CEO shall be subject to the approval of the SAR Chief Executive.

LEGISLATIVE TIMETABLE

14. The legislative timetable will be -

Publication in the Gazette	28 September 2001
First Reading and Commencement of Second Reading Debate	31 October 2001
Resumption of Second Reading Debate, Committee Stage and Third Reading	To be notified

BASIC LAW IMPLICATIONS

15. The Department of Justice advises that the Bill is consistent with the Basic Law.

HUMAN RIGHTS IMPLICATIONS

16. The Department of Justice advises that the Bill has no human rights implications.

BINDING EFFECT OF THE LEGISLATION

17. The Bill does not alter the binding effect of the KCRC Ordinance.

FINANCIAL AND STAFFING IMPLICATIONS

18. There are no financial or staffing implications for the Government.

PUBLICITY

19. A press release will be issued on 27 September 2001. A spokesman will be available to answer media inquiries.

ENQUIRIES

20. For enquiries on this Brief, please contact Mr Roy TANG, Principal Assistant Secretary for Transport, at 2189 2183.

TRANSPORT BUREAU

27 September 2001

**An Extract of the
Kowloon-Canton Railway Corporation Ordinance (Cap. 372)**

Section 3 - Corporation established

(1) There shall be established a public authority, to be called the Kowloon-Canton Railway Corporation, which shall have such powers and duties as are conferred and imposed on it by, or by virtue of this Ordinance. (Amended 56 of 1986 s. 4)

(2) The Corporation shall consist of-

(a) a Chairman appointed by the Chief Executive;

(b) (Repealed 90 of 1990 s. 3)

(c) not less than 4 nor more than 8 other members appointed by the Chief Executive, and the members of the Corporation shall be the governing body thereof and shall comprise its managing board. (Amended 62 of 1999 s. 3)

(2A) The Chairman shall-

(a) be the chief executive of the Corporation; and

(b) perform, on behalf of the Corporation, such functions as may be assigned to him by this Ordinance or as the Corporation may assign to him. (Added 90 of 1990 s. 3)

(3) The First Schedule shall have effect as respects the Corporation and the members thereof.

(4) For the removal of doubt it is declared that, save in so far as is inconsistent with the provisions of this Ordinance, Part VII of the Interpretation and General Clauses Ordinance (Cap. 1) shall apply in relation to the Corporation and appointments thereto.