

立法會
Legislative Council

LC Paper No. LS82/04-05

**Paper for the House Committee Meeting
on 17 June 2005**

**Legal Service Division Report on
Proposed resolution under section 22 of the
Tung Chung Cable Car Ordinance (Cap. 577)**

The Secretary for the Economic Development and Labour (“the Secretary”) has given notice to move a motion at the Legislative Council meeting of 29 June 2005. The motion seeks the Legislative Council to approve the Tung Chung Cable Car Bylaw (“the Bylaw”) made by the Mass Transit Railway Corporation Limited (the Corporation) under section 22 of the Tung Chung Cable Car Ordinance (Cap. 577).

2. The purpose of the Bylaw is to provide for matters relating to the control, operation and management of the Cable Car System and the traffic management in the Cable Car System Area. These matters include –

- (a) safety measures for persons on the Cable Car System and in the Cable Car System Area, for example –
 - (i) a person inside the Cable Car System Area shall comply with reasonable directions of an official, and
 - (ii) a child under the age of 12 shall not board a cable car unless he is accompanied by a person who has attained the age of 15;
- (b) regulation of the conduct of persons in the Cable Car System Area, for example –
 - (i) prohibiting any damage to the Cable Car System and to the equipment in the Cable Car System Area,
 - (ii) prohibiting bringing prohibited luggage, dangerous goods, animals, and consumption of food or beverage,
 - (iii) prohibiting trespassing, smoking, spitting, littering, interference with flora or fauna, hawking, soliciting alms, bill posting, and
 - (iv) prohibiting unauthorised parking;
- (c) ticketing arrangements; and
- (d) offences, enforcement and penalty up to a maximum fine of \$5,000.

3. Most of the provisions are modeled on the Mass Transit Railway By-Laws (Cap. 556 sub. leg. B) and the Ocean Park Bylaw (Cap. 388 sub. leg. B). Provisions that are specific to this Bylaw are mostly matters relating to the Cable Car System, for example -

- (a) that the maximum capacity of a cable car is 17; and
- (b) that a person accompanying a child under 3 years of age on the Cable Car System shall hold or secure the child in a safe manner while the child is on a platform or boarding or alighting from a cable car.

4. On the Ocean Park Bylaw, members may recall that the House Committee on 14 February 2003 formed a Subcommittee to study that Bylaw. Members were concerned with some of the provisions that regulate people's conduct such as "prohibiting a person from putting his feet on or lying down on a seat or bench" and "prohibiting a person from delivering public lecture or conducting a public prayer" in the Ocean Park. These provisions do not appear in the Tung Chung Cable Car Bylaw.

5. On 2 June 2005, the Panel on Economic Services was consulted on the Bylaw. Members had made enquiries on matters, such as –

- (a) trespassing;
- (b) which parts of the Cable Car System area would be posted with a warning notice;
- (c) whether the immediate vicinity of the pylons of the Cable Car System would be fenced; and
- (d) whether proper safety measures would be in place to take care of standing passengers in particular the elderly.

6. We have raised some queries on the drafting aspects with the Corporation. The Corporation has agreed to make some technical amendments and the amended pages are attached in the Annex for members' reference.

7. According to the draft speech of the Secretary, the Cable Car System is expected to open in 2006. Subject to Members' approval of the proposed resolution, the Bylaw will take effect upon gazettal.

Encl.

Prepared by

HO Ying-chu, Anita
Assistant Legal Adviser
Legislative Council Secretariat
16 June 2005
LS/R/9/04-05

By Fax (2877 5029) & By Post

Our Ref: S&L/TC/122/2005

Ms. Anita Ho
Assistant Legal Adviser
Legislative Council
8 Jackson Road
Central, Hong Kong

15 June 2005

Dear Ms. Ho,

Tung Chung Cable Car Bylaw

Further to our recent telephone conversations concerning the captioned matter, I write to confirm our agreement to the following amendments to the English and Chinese versions of the Bylaw:-

English version

1. Add "in such a place" before "as will reasonably be readily seen and read before he enters that part." in section 4(2);
2. Change "(or their appointed nominee)" to "(or his appointed nominee)" in section 16(3);
3. Change "on" to "in" in the last sentence of section 16(3);

Chinese version

4. Add "在吊車系統上或吊車系統區內的" before "財物" in section 33(a)(i);
5. Delete "在該情況下" appearing after "企圖" in sections 13(1) and 14; and
6. Change "(或他們的委任代名人)" to "(或他的委任代名人)" in section 16(3).

I attach the amended extracts showing the aforesaid amendments for your reference.

Yours sincerely,

Teresa Cheung
Legal Manager General

Encl.

3. Trespass

No person shall, unless authorized by an official –

- (a) enter into the Cable Car System area, other than those parts clearly defined by means of notices, indicators and other directions for the use of persons using, or intending to use, the Cable Car System; or
- (b) enter or leave such parts other than by proper use of such gates, barriers or turnstiles (if any) provided for such entry or exit.

4. Trespass on certain area

(1) If a warning notice is posted in respect of any part of the Cable Car System area, no person shall, unless authorized by an official or except under any circumstances specified in the warning notice, enter or remain in that part.

(2) In subsection (1), “warning notice” (警告告示) means a notice in English and Chinese forbidding any member of the public from entering the relevant part of the Cable Car System area, which is posted in such a place as will reasonably be readily seen and read before he enters that part.

5. Damage to Cable Car System, cable cars, plant and equipment

No person shall improperly use, meddle, damage or otherwise interfere with –

- (a) any machine or equipment used or employed on or in connection with the Cable Car System or in the Cable Car System area, or any part of such machine or equipment;
- (b) any cable car or any equipment on a cable car used or employed on or in connection with the Cable Car System;
- (c) any cables, ropes, towers, pylons or supporting system used or employed on or in connection with the Cable Car System;

(3) Any person who has paid a surcharge or delivered up his ticket pursuant to the provisions of this section shall be entitled to apply in writing to the Chairman or Chief Executive Officer of the Company (or his appointed nominee) for a review of the circumstances in which he became liable to a surcharge or to deliver up his ticket and the said Chairman or Chief Executive Officer of the Company (or his appointed nominee) upon the conclusion of such review may at his absolute discretion reject such application or may authorize repayment of the whole or any part of the surcharge or the remaining value in the delivered up ticket.

17. Tickets and change, etc.

(1) A person purchasing a ticket shall examine his ticket and any change tendered before leaving any ticket office and the Company shall not be liable for any error or omission not drawn to its attention at the time of the issue of the ticket.

(2) A person using an automatic vending machine shall insert not less than the appropriate fare in Hong Kong legal tender or pay by any other mode of payment as specified by notice on the machine for the purchase of a ticket and a person is entitled to a refund of the amount in excess of the appropriate fare inserted into an automatic vending machine.

(3) No person shall, without reasonable excuse, insert or attempt to insert into any automatic vending machine or coin change machine any coin, object or thing other than Hong Kong legal tender in the denominations identified by notice on the machine as suitable for use in that machine.

(4) The amount (including a nil amount) from time to time encoded on a ticket shall be conclusive evidence of the amount paid in respect of such ticket and of the value (if any) remaining in such ticket.

(5) Any person using, attempting to use or who has used a concessionary ticket shall, if requested by an official to do so, produce to that official acceptable proof of his entitlement to a concessionary ticket.

11. 車費

吊車公司不時公布並在吊車系統上或吊車系統區內張貼的告示、一覽表或列表所載的車費，即為在吊車系統上乘搭吊車的車費。

12. 車票不包含保證或對法律責任的承擔

吊車公司不保證任何人可由吊車系統運載或任何吊車可在某一特定時間或某些特定時間離開或到達，亦不保證任何車票可在某一吊車離開前完成發出。如吊車系統的所有或任何服務因任何理由而更改、暫停或撤銷，吊車公司無須為因此而造成的損失或損害對任何人負有法律責任。

13. 遵從車票發出條件

(1) 任何人除非得到人員的特准，否則不得在並非按照車票發出條件的情況下進入或離開或企圖進入或離開已付車費區域，或在該情況下乘搭或企圖乘搭吊車系統上的吊車。

(2) 任何人須在車票發出條件指明的期間內離開已付車費區域。任何人如無合理辯解而在該期間屆滿後仍留在該區域內，即須繳付附加費。

14. 無票進入和乘搭吊車

任何人如無合法授權或合理辯解，不得在沒有先行繳付車費及取得適合其擬乘搭車程的有效車票，並按該車票發出條件的規定使用該車票的情況下——

- (a) 進入或離開或企圖進入或離開已付車費區域；或
- (b) 於吊車系統上乘搭吊車，或企圖於吊車系統上乘搭吊車。

15. 沒有繳付車費等

任何人除非得到人員的特准，否則不得在未付或拒付按照本附例及車票發出條件須繳付的任何車費、附加費或其他款項的情況下離開已付車費區域。

16. 車票遺失、損壞或過期而乘搭吊車

- (1) 任何人(未滿 3 歲者除外)如處身於已付車費區域而 —
 - (a) 並無持有車票；
 - (b) 正使用或企圖使用或已使用被不恰當地損壞、更改或干擾的車票，或密碼資料已完全或部分被不恰當地更改、抹除或損壞的車票；
 - (c) 正使用或企圖使用或已使用已過期的車票；或
 - (d) 正使用或企圖使用或已使用特惠車票，但該人並不符合發出該車票的任何條件，

該人即被視為沒有繳付車費，並即有法律責任繳付適當的車費和附加費，以及將其車票(如有的話)交給人員。

- (2) 就第(1)款而言，車票在車票發出條件所指明的情況下過期。

(3) 任何人如依據本條繳付附加費或交出其車票，有權以書面向吊車公司的主席或行政總裁(或他的委任代名人)申請覆核他變為有法律責任繳付附加費或交出車票的情況。吊車公司的主席或行政總裁(或他的委任代名人)在覆核完結後，可行使其絕對酌情決定權拒絕該申請或授權退還全部或部分附加費或所交出車票的餘值。

17. 車票及找贖款項等

(1) 任何人購買車票，須在離開票務處之前查看車票及任何找贖款項，吊車公司並不對在該車票發出時並沒有促請吊車公司注意的錯誤或遺漏負有法律責任。

31. 彈奏樂器等

任何人除非得到人員的特准，否則不得在吊車系統上或吊車系統區內唱歌、跳舞或演奏或彈奏任何樂器。

32. 使用收音機、卡式機等

任何人除非得到人員的特准，否則不得在或企圖在吊車系統上或吊車系統區內使用收音機、卡式機、雷射碟機、錄音機、便攜式無線電視機或任何其他類似的產生聲音的器件，但如與耳筒或耳機一併使用，而該耳筒或耳機已作充分隔音，避免聲音外洩，則屬例外。

33. 攜帶禁止的行李等和飲食

任何人不得 —

- (a) 將下述行李、物品或東西帶上吊車系統或帶進吊車系統區內 —
 - (i) 不能夠在不對在吊車系統上或吊車系統區內的財物造成損壞的危險或對其他在吊車系統上或吊車系統區內的人造成滋擾或不便的情況下在吊車系統上或吊車系統區內運載或以其他方式裝載的任何行李、物品或其他東西；或
 - (ii) 經人員指示該人不可帶上吊車系統或帶進吊車系統區的任何行李、物品或其他東西；或
- (b) 在或企圖在吊車系統上或已付車費區域內進食任何食物或飲用任何飲品(不論是酒精類或非酒精類飲品)。

**34. 吊車系統上或吊車系統區內的
動物、禽畜或寵物**

任何人除非得到人員的特准，否則不得將任何動物、禽畜或寵物帶上吊車系統或帶進吊車系統區內。