



## 民主黨就《兩鐵合併條例草案》擬提交的修正案簡介

### 1. 背景

民主黨將對《兩鐵合併條例草案》提出六個修正案。李永達議員及鄭家富議員將提出以下修正案：

- 規定合併後港鐵公司須於鐵路處所內提供接收電台服務裝置、月台幕門(或半身式自動閘門)，及將現時地鐵及九鐵的服務承諾以附表形式寫進法例。
- 修訂《地下鐵路條例》第 54 條及附表 2，刪除現時賦予地鐵於鐵路處所內無須興建及管理廁所的豁免權。(即豁免受《建築物條例》(第 123 章)的任何條文及《公共衛生及市政條例》的部份條文(第 132 章)的規限)。
- 加入日後港鐵公司須撥出部份從物業發展及物業管理的收益設立鐵路發展基金，以改善鐵路處所的設施及服務。
- 加入鐵路事故記分制度，規定港鐵公司須就列車服務出現不同程度的延誤而被扣分及由行政長官會同行政會議在超越許可分數時作出懲罰。
- 將提出規定日後新鐵路車站上蓋或鐵路延伸線的物業權必須公開競投。
- 相應修訂賦予局長制定規例，要求港鐵公司日後提供西北鐵路及西北鐵路巴士服務的車費資料。

### 2. 鐵路發展基金

鑒於過往鐵路公司在錄得大量盈餘的情況下未有回饋市民，鄭家富議員將提出新增鐵路發展基金條文(新加入第 32A、32B、32C、32D、32E、32F 及 32G 條)，規定日後鐵路公司須於每年的物業收益當中撥出款項，改善鐵路服務及設施。新加入條文當中包括基金組成、基金管理委員會、基金收入及撥款等條文。

### 3. 新建車站上蓋物業發展權

以往政府會在發展鐵路時，連同車站上蓋物業或鐵路延伸線的物業發展權批予地鐵或九鐵公司。但當中涉及的財務資料，包括地價等卻從未公開。令公眾質疑兩鐵是否以

遠低於市價獲得物業發展權，從中獲取巨額利潤。因此，民主黨將提出加入新的條文(第 4A 條)，規定根據第 4 條向港鐵公司批予的專營權，並不包括在任何新建造車站上蓋及鐵路的延長部份新建造車站的住宅或商業項目的發展權，以及該等物業的發展權必須予以公開競投。

#### **4. 電台接收裝置、月台幕門及服務承諾**

地鐵公司一直未肯承諾增設電台裝置(據地鐵提供的資料相關費用為港幣一億元)及為所有車站月台增置月台幕門。但地鐵卻一直有開徵幕門附加費。因此，民主黨將提出修訂草案第 8 條，在現時《地下鐵路條例》第 9 條中加入規定合併後港鐵公司須於鐵路處所內提供接收電台服務裝置、月台幕門(或半身式自動閘門)。同時將現時地鐵及九鐵的服務承諾以附表形式寫入法例(新增附表 7)，以便行政長官會同行政會議在日後港鐵公司未能符合承諾的服務表現水平時，按照《地下鐵路條例》第 14 條向港鐵公司作出懲罰。

#### **5. 提供廁所服務**

以往地鐵公司可根據《地下鐵路條例》第 54 條及附表 2 內載列的豁免權(豁免受《建築物條例》(第 123 章)的任何條文及《公共衛生及市政條例》的部份條文(第 132 章)的規限)，從而無須於鐵路處所內提供廁所。在考慮地鐵車站及鐵路處所的建築架構的情況下，民主黨建議修訂《地下鐵路條例》第 54 條及附表 2，保留日後港鐵公司在《建築物條例》下的大部份豁免權，但卻不包括當中《建築物(衛生設備標準、水管裝置、排水工程及廁所)規例》(第 123 章，附屬法例 I)，及刪除《公共衛生及市政條例》對地鐵涉及管理廁所的豁免(包括附表 2 中的第 1、2、3 及 4 條)，令地鐵須提供廁所服務。

#### **6. 鐵路事故記分制度**

過往政府缺乏懲罰兩鐵在出現鐵路事故時的懲處機制，因此建議加入條文，設立鐵路事故記分制度(新增 14A、14B、14C 及 14D 條文)，讓行政長官會同行政會議可按照相關扣分制度作出罰款。

#### **7. 提供西北鐵路的車費資料**

建議修訂條例草案第 16 條，在建議新增第 33(1A)(a)條中，賦予局長制定規例的權

力，規定港鐵公司須提供西北鐵路及西北鐵路巴士服務的車費資料。

RAIL MERGER BILL

Amendment to be moved by the Honorable Cheng Kar Foo and the Honorable Lee

Wing Tat

PART I

**Clause**

**Proposed Amendment**

New

By adding –

**“6A. Section added**

The following is added immediately after section 4 -

“4A Development Projects above new stations

(1) The franchise granted to the Corporation under section 4 does not include the right to develop residential or commercial projects above or annexed to any new stations and along any extension to the railway.

(2) The right to develop residential or commercial projects above or annexed to any new station and along any extension to the railway shall be granted through open tender.

(3) The Corporation shall co-operate with and provide reasonable assistance to the successful bidder in the open tender for the right to develop residential or commercial projects above or annexed to a new station or along an extension to the railway.”.”.

8

By adding –

“(aa) by adding -

“(1A) Without affecting the generality of the Corporation’s obligation to maintain a proper and efficient

service under subsection (1), the Corporation shall –

(a) provide adequate facilities, including platform screen doors and automatic platform gates, for the purpose of protecting the safety of persons on the railway or on railway premises;

(b) provide facilities to enable or facilitate the reception of sound broadcasting services by persons on the railway or on railway premises;

and

(c) comply with the performance levels specified in the third column of Schedule 7 as applicable to the performance criteria specified in the second column of that Schedule.

(1B) For the purpose of subsection (1A)(b), a “sound broadcasting service” means a service that includes broadcasting as defined in section 13A(1) of the Telecommunications Ordinance (Cap.106) in respect of which a license is granted under that Ordinance.

(1C) The Chief Executive in Council may by order amend Schedule 7.”

New Clause         By adding –

“SCHEDULE 7                     [ S.9(1A)]

PERFORMANCE REQUIREMENTS

First Column	Second Column	Third Column
	Performance Criteria	Performance

	Level
1. Train Service Delivery	99.5%
2. Passenger Journeys on Time	
(a) KCRC Railways	99%
(b) Mass Transit Railway	99.5%
3. Train Punctuality	
(a) KCRC Railways	99%
(b) Mass Transit Railway	99%
4. Add value machine reliability	
(a) Mass Transit Railway	96%
(b) KCRC Railways	98%
5. Ticket Issuing Machine Reliability	
(a) Mass Transit Railway	94%
(b) KCRC Railways	97%
6. Platform screen reliability	98%
7. Escalators Reliability	99%
8. Passengers Lift Reliability	99%
9. Train Reliability (train car-km Per train failure causing delays ≥ 5minutes)	500,000.”.

16 In the purposed section 33(1A)(a), by adding “, information on the fare level for the service” after “frequency of service”.

## PART II

### Clause

### Proposed amendment

5

Section 2(1) is amended -

In paragraph (e), by adding –

“ “Committee” (委員會) means the Railway

Development Fund Management Committee established  
under section 32B.

“Fund”(基金) means the Railway Development Fund  
established under section 32A.

New

By adding –

**“Division IVA Addition of new Part**

**15A. Part VIIA added**

The following is added immediately after Part VII –

“PART VIIA

Railway Development Fund

**32A. Railway Development Fund**

(1) There is hereby established a fund to be  
known as the Railway Development Fund.

(2) The Fund shall consist of –

(a) moneys paid into the Fund under  
section 32F;

(b) any other moneys paid by the  
Corporation into the Fund under  
the operating agreement;

(c) interest or other income derived  
from the moneys of the Fund.

(3) The Committee –

- (a) shall –
  - (i) administer the Fund; and
  - (ii) apply the moneys of the Fund; in accordance with this Part and section 32G.
- (b) may pay from the moneys of the Fund the cost of administering the Fund.

**32B. Railway Development Fund Management Committee**

(1) There is hereby established as a body corporate a body to be known as the Railway Development Fund Management Committee, which may in that name sue and be sued.

(2) The Committee shall provide itself with a common seal and the affixing of the seal shall be authenticated by the Chairman or a member referred to in subsection (3)(b), (c), (d) or (e) as may be authorized by the Chairman for the purpose.

- (3) The Committee shall consist of –
- (a) the Secretary for Financial Services and the Treasury who shall be the Chairman of the Committee (in this Part referred to as the "Chairman");



- (b) the Secretary for the Environment, Transport and Works;
- (c) the Commissioner for Transport;
- (d) the Non-executive Chairman of the Corporation; and
- (e) the Chief Executive Officer of the Corporation.

(4) At any meeting of the Committee-

- (a) there shall be a quorum of 4 members;
- (b) all questions arising for determination shall be decided by a majority of the votes of the members present and voting; and
- (c) in the event of an equality of votes, the Chairman shall have a casting vote.

(5) The moneys constituting the Fund shall be deposited in a separate interest bearing bank account opened and maintained by the Committee in any authorized institution registered or licensed under the Banking Ordinance (Cap 155).

(6) Subject to this section, the Committee

may determine its own procedure.

**32C. Advisers and consultants**

(1) The Committee may engage any such advisers or consultants as it considers necessary or expedient for any purpose connected with or arising from the administration of the Fund.

(2) Any fees due to a person engaged under subsection (1) may be paid out of the Fund.

**32D. Accounts**

(1) The Committee shall-

(a) keep proper accounts and records of its financial transactions; and

(b) as soon as practicable after the expiry of a financial year prepare a statement of accounts which shall-

(i) include an income and expenditure account and a balance sheet; and

(ii) be signed by the Chairman.

(2) A statement of accounts referred to in

subsection (1) shall be audited by an auditor appointed by the Committee.

(3) The auditor may prepare a report on the statement of accounts and, if he does so, shall certify the statement subject to such report.

(4) The Committee shall cause a copy of the audited statement of accounts, together with the report under subsection (3), if any, and a report by the Committee on the administration of the Fund during the period to which the statements relates, to be laid on the table of the Legislative Council not later than 31 January next following the end of the financial year or such later date as the Chief Executive in Council may allow in a particular case.

(5) In this section and this part, "financial year" (財政年度) shall be the period of 12 months beginning on 1 January, but its first financial year shall commence on the Merger Date and end on the following 31 December.

### **32E. Cessation of Committee**

(1) Upon the cessation of the rights and obligations of the Corporation where the franchise is revoked under section 18 or the franchise has expired and has not been extended under section 5 –

- (a) the Committee and the Fund shall cease to exist, except to the extent of giving effect to paragraph (b); and
- (b) the Committee shall pay the moneys constituting the Fund as at the date of such cessation into the accounts of the Corporation.

(2) Upon the Committee and the Fund ceasing to exist under subsection (1), the provisions of this Part relating to the Committee or the Fund shall cease to have effect.

(3) Subsection (1) or (2) shall not operate to affect anything done or any right, obligation or liability acquired, accrued or incurred before such cessation or the institution, continuance or enforcement of any legal proceeding, arbitration or remedy in respect of such right, obligation or liability.

### **32F. Payments into the Fund**

(1) In each financial year, the Corporation shall pay into the Fund 3 percent of the net profit derived from the Corporation's property

development, property investment and property management.

(2) In subsection (1), “property” includes residential and commercial property above or annexed to any station and along any part to the railway.

(3) A payment due under subsection (1) shall be made not later than 31 December next following the end of the year to which the payment relates or such later date as may be specified in the operating agreement.

### **32G. Payments from the Fund**

(1) The Fund shall be used for any of the following purposes –

- (a) providing or improving facilities and services on the railway and on railway premises; or
- (b) enhancing the safety of the railways and of persons on the railway and on railway premises.

(2) Where the Committee considers that it is necessary to apply the moneys of the Fund for any

of the purposes specified in subsection (1), the Committee shall determine an amount of the aforesaid money and serve a notice on informing the Corporation of its decision.

(3) The notice served under subsection (2) shall specify –

- (a) the purpose for which the moneys of the Fund are to be applied;
- (b) the amount to be applied for the purpose referred to in paragraph (a); and
- (c) the period within which the Corporation shall apply the amount of money for the purpose as specified in the notice.

(4) The Committee shall pay to the Corporation the amount of the money specified in the notice within a period of 2 months after the service of the notice served under subsection (2).

(5) The Corporation shall comply with the decision of the Committee contained in the notice..””.

PART III

<u>Clause</u>	<u>Proposed Amendment</u>
New	<p>By adding –</p> <p><b>“20A. Application of certain laws to Corporation</b></p> <p>Section 54(2) is amended, by adding “(other than the Building (Standards of Sanitary Fitments , Plumbing, Drainage Works and Latrines) Regulation) (Cap. 123, sub. legislation I)” after “any provision”.”.</p>
New	<p>By adding –</p> <p><b>“21D. Schedule amended</b></p> <p>Schedule 2 is amended by repealing sections 1, 2, 3 and 4.”</p>
<u>Clause</u>	<u>Proposed Amendment</u>
5	<p>Section 2(1) is amended –</p> <p>in paragraph (e), by adding –</p> <p>“scheduled occurrence” (表列事故) means an occurrence mentioned in Schedule 8.”.</p>
New	<p>By adding –</p> <p><b>“10A Section added</b></p> <p>The following are added immediately after section 14 -</p> <p><b>“14A. Railway Penalty Point System</b></p> <p>(1) The Corporation shall incur the number of the points in respect of each scheduled occurrence.</p>

(2) The appropriate number of points in respect of each scheduled occurrence is that set out opposite that occurrence in the Schedule 8.

(3) No points shall be incurred under this section unless the Corporation has been given an opportunity to make representations to the Chief Executive in Council.

(4) The Legislative Council may, by resolution, amend the Schedule 8.

**14B. Power to make regulations for the proposes of the Railway Penalty Point System**

(1) The Secretary may make regulations providing for such matters maybe necessary for the effective or expedient to carry out effectively the penalty point system specified in section 14A, including but not limited to regulations for the purposes of any or all of the following –

- (a) confirming powers upon the  
Commissioner to establish and maintain a register of points;
- (b) prescribing the matters that are to be recorded in a register of points;
- (c) providing for the circumstances under which the Corporation may be exempted



from incurring points in respect of  
scheduled occurrence; and

- (d) provide for such other matters which is to  
be or may be prescribed under sections  
14A, 14B 14C and 14D.

**14C. Calculation of points**

(1) In calculating the number of points incurred,  
where 2 or more of the occurrences in respect of  
which points have been incurred are constituted by  
the same, or substantially the same, act,-

- (a) only that occurrence attracting the highest  
number of points; or

(b) where those occurrences each attract the  
same number of points, only one of those  
occurrences, shall be taken into account.

**14D. Chief Executive in Council may impose  
financial penalties**

(1) Where the Corporation has incurred an  
accumulation of 15 points or more in respect of  
scheduled occurrences which occurred within a  
period of 3 months of each other, the Chief  
Executive in Council may serve a notice on the  
Corporation requiring the Corporation to pay to the  
Government the financial penalty specified in the

notice.

(2) A financial penalty imposed under subsection

(1) shall not exceed-

(a) \$50,000 for the first occasion on which a financial penalty is so imposed;

(b) \$100,000 for the second occasion on which a financial penalty is so imposed; and

(c) \$200,000 for any subsequent occasion on which a financial penalty is so imposed.”.”.

New

By adding –

“Schedule 8

[S 14A]

Scheduled Occurrence

Item	Description of nature of occurrence	Points
1	Delay or termination of train service for 10- 15 minutes	1
2	Delay or termination of train service for 21- 30 minutes	2
3	Delay or termination of train service for 31- 40 minutes	3
4	Delay or termination of train service for 41- 50 minutes	4
5	Delay or termination of train service for over 50 minutes	5.”.