

**立法會**  
**Legislative Council**

LC Paper No. CB(1)2220/06-07  
(These minutes have been seen  
by the Administration)

Ref: CB1/HS/2/06

**Subcommittee to Study the Draft Subsidiary Legislation  
Relating to the Rail Merger**

**Minutes of meeting on  
Saturday, 9 June 2007, at 9:00 am  
in the Chamber of the Legislative Council Building**

- Members present** : Hon Miriam LAU Kin-ye, GBS, JP (Chairman)  
Hon TAM Yiu-chung, GBS, JP (Deputy Chairman)  
Ir Dr Hon Raymond HO Chung-tai, SBS, S.B.St.J., JP  
Hon Mrs Selina CHOW LIANG Shuk-ye, GBS, JP  
Hon LAU Kong-wah, JP  
Hon Andrew CHENG Kar-foo  
Hon Abraham SHEK Lai-him, JP  
Hon LI Fung-ying, BBS, JP  
Hon WONG Kwok-hing, MH  
Hon Jeffrey LAM Kin-fung, SBS, JP  
Dr Hon Fernando CHEUNG Chiu-hung  
Hon CHEUNG Hok-ming, SBS, JP  
Prof Hon Patrick LAU Sau-shing, SBS, JP  
Hon KWONG Chi-kin  
Hon TAM Heung-man
- Members absent** : Hon LEE Cheuk-yan  
Dr Hon LUI Ming-wah, SBS, JP  
Hon CHAN Kam-lam, SBS, JP  
Hon Tommy CHEUNG Yu-yan, JP  
Hon LI Kwok-ying, MH, JP  
Hon LEUNG Kwok-hung  
Hon Ronny TONG Ka-wah, SC

**Public Officers  
attending**

**: Agenda item I**

Mr Patrick HO  
Deputy Secretary for the Environment, Transport and  
Works

Miss Ida LEE  
Principal Assistant Secretary for the Environment,  
Transport and Works

Mr Brian CHOI  
Assistant Secretary for the Environment, Transport  
and Works

Mr Michael LAM Siu-chung  
Senior Assistant Law Draftsman  
Department of Justice

Miss Clara LEUNG  
Government Counsel  
Department of Justice

**Attendance by  
invitation**

**: Agenda item I**

MTR Corporation

Mr Leonard TURK  
Legal Director & Secretary

Mrs Miranda LEUNG  
General Manager – Corporate Relations

Ms Maggie SO  
External Affairs & Government Relations Manager

Mr LEUNG Kwok-yiu  
Operations Manager – Airport Railway

Mr Martin HANKS  
Manager - Merger Coordination

Ms Peggy LEUNG  
Associate, Slaughter & May  
(Legal Adviser of MTR Corporation)

Kowloon-Canton Railway Corporation

Mr Y T LI  
Senior Director, Transport

Ms Ida LEUNG  
Senior Public Affairs Manager

**Clerk in attendance** : Mr Andy LAU  
Chief Council Secretary (1)2

**Staff in attendance** : Ms Connie FUNG  
Assistant Legal Adviser 3

Ms Sarah YUEN  
Senior Council Secretary (1)6

Miss Winnie CHENG  
Legislative Assistant (1)5

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Action

- I Meeting with the Administration/the two railway corporations**
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|-----------------------------------|--|
| (LC Paper No. CB(1)1780/06-07(01) | - Information paper on "Merger-related Subsidiary Legislation" provided by the Administration. |
| LC Paper No. CB(1)1860/06-07(01)  | - Marked-up copy of the Mass Transit Railway (North-West Railway) Bylaws                       |
| LS85/06-07                        | - Legal Service Division's comments on the draft Mass Transit Railway (Amendment) Bylaw)       |

Members noted the following papers tabled at the meeting –

- (a) Letter from Assistant Legal Adviser 3 (ALA3) to the Administration dated 7 June 2007;
- (b) Marked-up copy of draft Kowloon-Canton Railway Corporation (Suspension) Regulation;
- (c) Marked-up copy of draft Kowloon-Canton Railway Corporation (Suspension of By-laws) By-law 2007;

Action

- (d) Marked-up copy of draft Kowloon-Canton Railway (Restricted Area) (No. 2) (Amendment) Notice 2007;
- (e) Marked-up copy of draft Mass Transit Railway (Transport Interchange) (Amendment) Regulation 2007; and
- (f) Marked-up copy of draft Mass Transit Railway (Transport Interchange) (Amendment) Bylaw 2007.

*(Post-meeting note: The above papers were issued to members vide LC Paper No. CB(1)1876/06-07(01) dated 11 June 2007.)*

2. The Subcommittee deliberated (index of proceedings attached at **Annex**).
3. In examining the draft Mass Transit Railway (Amendment) Regulation 2007, members generally considered that the imprisonment penalty in regulation 12 (boarding and alighting passengers) was too stringent. Members requested the Administration to review the matter.
4. Some members considered that after the rail merger, drivers of Mass Transit Railway (MTR), Kowloon-Canton Railway (KCR) and Light Rail trains should be subject to similar regulations and penalties where applicable.
5. Some members had expressed concern about the inconsistency between the Mass Transit Railway (Amendment) Bylaw (Annex A to LC Paper No. CB(1)1796/06-07) and the draft Mass Transit Railway (North-west Railway) Bylaw (NWR Bylaw) (Annex B to LC Paper No. CB(1)1796/06-07) in terms of offences and penalty levels. Some members also considered that where there were similar offences under the MTR By-laws and the Kowloon-Canton Railway Corporation (KCRC) By-laws (the relevant bylaws), the lower of the existing maximum levels of penalty for similar offences should be adopted.

Follow-up actions

Admin/  
MTRCL

6. To address members' concerns above, the Administration/MTR Corporation Limited (MTRCL) was requested to take the following actions –

General

- (a) MTRCL to review the maximum levels of penalty for various offences under the relevant bylaws;
- (b) The post-merger corporation to conduct a further review of the relevant bylaws and ensure that the nature of penalties for similar offences therein would be consistent, and to report back within 12 months after the merger; and

Action

Draft Mass Transit Railway (Amendment) Regulation 2007 (Annex C to LC Paper No. CB(1)1796/06-07)

- (c) The Administration to review the need for imposing imprisonment penalty on drivers under regulation 12 (boarding and alighting passengers).

7. After going through the Chinese version of the draft subsidiary legislation relating to the rail merger covered in LC Paper No. CB(1)1796/06-07, members considered that vetting of the English version of the draft subsidiary legislation could be left to the Assistant Legal Adviser.

ALA3

**II Any other business**

8. In recognition that the Administration's response to the follow-up actions arising from previous meetings would not be ready until the morning of Monday, 11 June 2007, members agreed to cancel the meeting originally scheduled for 11 June 2007, at 2:30 pm. As such, the next meeting of the Subcommittee would be held on Tuesday, 12 June 2007, at 10:45 am.

9. There being no other business, the meeting ended at 10:25 am.

Council Business Division 1  
Legislative Council Secretariat  
1 August 2007

**Proceedings of the meeting of  
the Subcommittee to Study the Draft Subsidiary Legislation  
Relating to the Rail Merger  
on Saturday, 9 June 2007, at 9:00 am  
in the Chamber of the Legislative Council Building**

<b>Time marker</b>	<b>Speaker</b>	<b>Subject(s)</b>	<b>Action required</b>
<i>Agenda Item I – Meeting with the Administration/the two railway corporations</i>			
000000 – 000458	Chairman	- Opening remarks  - Meeting arrangements	
000459 – 001210	Administration MTR Corporation Limited (MTRCL)	- Briefing by MTRCL on the draft Mass Transit Railway (Transport Interchange) (Amendment) Bylaw 2007 (the 2007 Bylaw) (Annex H to LC Paper No. CB(1)1796/06-07)	
001211 – 001611	Chairman Assistant Legal Adviser 3 (ALA3) MTRCL Mr Andrew CHENG	- Discussion on ALA3's comment on the 2007 Bylaw regarding the Chinese name of MTRCL as set out in paragraphs V(a) and (c) of the Annex to her letter to the Administration dated 7 June 2007	Administration and MTRCL to take necessary follow-up action
001612 – 001931	Chairman Administration	- Briefing by the Administration on the draft Mass Transit Railway (Amendment) Regulation 2007 (Annex C to LC Paper No. CB(1)1796/06-07) (new regulations 1A and 10 and the amendment to regulation 2(1)(b) of the Mass Transit Railway Regulations (Cap.556A))	
001932 – 002452	Chairman Mr Andrew CHENG Kowloon-Canton Railway Corporation (KCRC)	- Discussion on the new regulation 10 of Cap.556A - designation of bus stops	
002453 – 003013	Chairman Administration Mr Andrew CHENG	- Briefing by the Administration on i) the new regulation 11 of Cap.556A – Designation of rail stops ii) the new regulation 12 of Cap.556A – Boarding and alighting of passengers	
003014 – 003335	Chairman Mr TAM Yiu-chung MTRCL Administration KCRC	- Discussion on the circumstances that would constitute an offence under the new regulation 10(3)(b) of Cap.556A	

Time marker	Speaker	Subject(s)	Action required
003336 – 003616	Chairman Mr Andrew CHENG Administration	- Discussion on the penalties for the offence under the new regulation 10(3)(b) of Cap.556A	Administration to take necessary follow-up action
003617 – 005641	Chairman Mrs Selina CHOW Administration Mr Andrew CHENG KCRC Ms LI Fung-ying ALA3 Mr TAM Yiu-chung	- Discussion on the new regulation 12 of Cap.556A, and whether the penalties for the offence thereunder would be too heavy, particularly whether imprisonment was appropriate	Administration and MTRCL to take necessary follow-up action
005642– 005732	Administration	- Briefing by the Administration on the new regulation 13 of Cap.556A – Appeal by Corporation	
005733 – 005910	Chairman Ms LI Fung-ying Administration	- Enquiry and explanation of why the Secretary for the Environment, Transport and Works should be given a period of three months to consider an appeal lodged against any decision or requirement of, or the refusal of any approval by, the Commissioner for Transport under regulation 11 (new regulation 13(2) of Cap.556A)	
005911 – 010047	Administration	- Briefing by the Administration on the new regulation 14 of Cap.556A – Forward planning programme	
010048 – 010241	Mrs Selina CHOW Administration	- Enquiry and explanation of MTRCL's public obligation regarding the programme of operations under the new regulation 14 of Cap.556A	
010242 – 013739	Chairman Administration	- Briefing by the Administration on i) the new regulation 15 of Cap.556A – Expiry of certain provisions ii) change of Chinese reference to "地鐵公司" iii) the draft Kowloon-Canton Railway Corporation (Suspension) Regulation (Annex D to LC Paper No. CB(1)1796/06-07) iv) the draft Mass Transit Railway (Transport Interchange)(Amendment) Regulation 2007 (Annex G to LC Paper No. CB(1)1796/06-07)	

Time marker	Speaker	Subject(s)	Action required
013740 – 012024	Chairman Mr Andrew CHENG MTRCL Mrs Selina CHOW Mr TAM Yiu-chung	<ul style="list-style-type: none"> <li>- Comparison of the Mass Transit Railway (Amendment) Bylaw (Annex A to LC Paper No. CB(1)1796/06-07) and the draft Mass Transit Railway (North-west Railway) Bylaw (Annex B to LC Paper No. CB(1)1796/06-07), and discussion on the need to               <ul style="list-style-type: none"> <li>i) ensure consistency of the above two sets of bylaws and in general the two railway corporations' bylaws</li> <li>ii) ensure that where there were similar offences under the Mass Transit Railway By-laws and the Kowloon-Canton Railway Corporation By-laws, the lower of the existing maximum levels of penalty for similar offences would be adopted</li> </ul> </li> </ul>	Administration and MTRCL to take necessary follow-up action
<i>Agenda Item II – Any other business</i>			
012025 – 012636	Chairman Mr TAM Yiu-chung Mr WONG Kwok-hing Administration MTRCL	<ul style="list-style-type: none"> <li>- Discussion on how to deal with the English version of the draft subsidiary legislation covered in LC Paper No. CB(1)1796/06-07</li> <li>- Meeting arrangements</li> </ul>	