

立法會
Legislative Council

LC Paper No. CB(1)2223/06-07
(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
Tuesday, 26 June 2007, at 4:30 pm
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 LEE Cheuk-yan
Dr Hon LUI Ming-wah, SBS, JP
Hon Mrs Selina CHOW LIANG Shuk-ye, GBS, JP
Hon CHAN Kam-lam, SBS, JP
Hon LAU Kong-wah, JP
Hon Abraham SHEK Lai-him, JP
Hon LI Fung-ying, BBS, JP
Hon Tommy CHEUNG Yu-yan, JP
Hon WONG Kwok-hing, MH
Hon LEUNG Kwok-hung
Prof Hon Patrick LAU Sau-shing, SBS, JP
Hon KWONG Chi-kin
Hon TAM Heung-man
- Member attending** : Hon James TO Kun-sun
- Members absent** : Hon Andrew CHENG Kar-foo
Hon LI Kwok-ying, MH, JP
Hon Jeffrey LAM Kin-fung, SBS, JP
Dr Hon Fernando CHEUNG Chiu-hung
Hon CHEUNG Hok-ming, SBS, JP
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

Attendance by invitation : **Agenda item I**
MTR Corporation
Mr Wilfred LAU
Head of Operations

Ms Maggie SO
External Affairs & Government Relations Manager

Mr Martin HANKS
Manager - Merger Coordination

Ms Lisa CHUNG Mo-ching
Partner, Slaughter & May
(Legal Adviser of MTR Corporation)

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

Kowloon-Canton Railway Corporation
Mr Michael KWAN
Train Operations Manager

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

Mr Noel SUNG
Senior Council Secretary (1)4

Miss Winnie CHENG
Legislative Assistant (1)5

Action

I Meeting with the Administration/the two railway corporations

(LC Paper No. CB(1)1987/06-07(01) - Letter dated 21 June 2007 from Hon James TO Kun-sun raising further queries about the two by-laws to be made by MTR Corporation Limited

LC Paper No. CB(1)1987/06-07(02) - The Administration's response to questions raised by Hon James TO Kun-sun as set out in LC Papers Nos. CB(1)1956/06-07(02) and CB(1)1987/06-07(01)

LC Paper No. CB(1)1956/06-07(01) - Letter dated 20 June 2007 from the Administration attaching the proposed resolutions to be moved by the Secretary for the Environment, Transport and Works at the Council meeting on 11 July 2007

LC Paper No. CB(1)1956/06-07(02) - Hon James TO Kun-sun's letter raising a number of queries about the Mass Transit Railway Bylaw and the draft Mass Transit Railway (North-west Railway) Bylaw

LC Paper No. CB(1)1878/06-07(01) - Response to questions raised by members on draft bylaws provided by MTR Corporation Limited)

The Subcommittee deliberated (index of proceedings attached at **Annex**).

Action

2. MTR Corporation Limited (MTRCL) advised that the object of the current legislative exercise was to amend the existing bylaws where necessary for implementation of the rail merger. On members' concerns about the drafting of certain provisions in the relevant bylaws which might have become obsolete, MTRCL had undertaken to conduct a comprehensive review of the bylaws after the merger, and would report the outcome of the review to Legislative Council within 12 months after the merger. The Subcommittee accepted the proposal but called on MTRCL to take into account the following principles in carrying out the review –

- (a) to reconcile the various sets of bylaws to achieve consistency;
- (b) to review the need of retaining certain provisions in the bylaws having regard to the present-day circumstances, and the operational need and requirements in railway operations;
- (c) to review the appropriateness of the maximum penalty levels for various offences, having regard to the nature and seriousness of the offences and the maximum penalty levels for similar offences in other legislation; and
- (d) to improve the drafting of the bylaws to achieve consistency and enhance clarity.

3. Mr James TO however said that he did not agree with the view that it was not an opportune time to undertake a comprehensive review of the bylaws of the railway companies in the merger exercise. On the contrary, he considered that MTRCL should have reviewed the bylaws before proceeding with the merger so that new bylaws would be implemented upon implementation of the merger. He disagreed with the approach taken by MTRCL to make piecemeal amendments to the bylaws in the merger exercise and to conduct a comprehensive review only after the merger. Mr TO did not consider this the right approach for effecting a merger of public transport services.

4. Mr James TO further said that as there was insufficient time for him to propose exhaustive amendments to the bylaws, he would only propose amendments to those provisions he found most objectionable. He then introduced his proposed amendments as set out in his submissions, including the provisions concerning the use of abusive language, entry into railway premises in a state of intoxication, loitering and handling of lost property under the Mass Transit Railway (North-west Railway) Bylaw. He also requested MTRCL to consider amending certain by-law provisions, failing which, he would consider moving the amendments on his own. The details of the amendments were as follows –

Action

- (a) to delete the amendment proposed to by-law 41(1)(c) of the Mass Transit Railway (Amendment) Bylaw 2007 and to amend section 36(1)(b) of the Mass Transit Railway (North-west Railway) Bylaw made by MTRCL to the effect that the period of retention of lost property should be three months instead of one month;
- (b) to consider confining the scope of the new by-law 32A proposed in the Mass Transit Railway (Amendment) Bylaw to unauthorized display of materials for commercial purpose only;
- (c) to consider moving an amendment to by-law 9(2) proposed in the Mass Transit Railway (Amendment) Bylaw 2007 to read as "No person shall interfere with any doors or gates within the railway premises including any train doors and platform screen doors (except in case of accident or other emergency)"; and
- (d) to confine the scope of the provision to regulate the access to services and facilities provided on or in the vicinity of the railway premises under by-law 28C(3) proposed in the Mass Transit Railway (Amendment) Bylaw to services and facilities provided on the railway premises only.

5. To ensure that MTRCL would honour its undertaking to review comprehensively the bylaws, Mr James TO also proposed to add a sunset clause to the effect that after 15 months after the enactment of the Mass Transit Railway (North-west Railway) Bylaw, the Legislative Council might by resolution cause the Bylaw to cease to take effect.

6. The Subcommittee noted that the Secretary for the Environment, Transport and Works had given notice on 20 June 2007 of her intention to move four motions to seek the Council's approval of the four sets of bylaws made by the two railway corporations at the Council meeting on 11 July 2007. As the Subcommittee had completed scrutiny of the draft bylaws, it considered that there was no need for the House Committee to set up another subcommittee to study the four motions and the bylaws. The Chairman said that she would report to the House Committee accordingly.

Written Response

7. The Subcommittee requested MTRCL to provide written response to the proposed amendments to the by-laws put forward by Mr James TO, and to provide samples of the identity cards of authorized officers for enforcement of the by-laws.

(Post-meeting Note: The MTRCL's written response to the above matters was circulated to members vide LC Paper No. CB(1)2032/06-07 on 29 June 2007.)

Action

II Any other business

8. There being no other business, the meeting ended at 6:25 pm.

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 Tuesday, 26 June 2007, at 4:30 pm
in the Chamber of the Legislative Council Building**

Time Marker	Speaker	Subject(s)	Action required
<i>Agenda Item I – Meeting with the Administration/the two railway corporations</i>			
000000 – 000134	Chairman	Opening remarks	
000135 – 000450	Admin Mass Transit Railway Corporation Limited (MTRCL)	Briefing by the Administration	
000451 – 001149	Mr James TO MTRCL	Discussion on the formal authorization procedures for officers enforcing the by-laws	MTRCL was requested to provide samples of the identity cards of authorized officers for by-law enforcement duties.
001150 – 001244	MTRCL	MTRCL's explanation on the enforcement of relevant by-laws concerning the use of abusive language on the MTR premises	
001245 – 002113	Mr James TO Chairman MTRCL	Amendments to be moved by Mr James TO as set out in LC Paper No. CB(1)2004/06-07(01)	
002114 – 003153	Mr WONG Kwok-hing Chairman MTRCL Mr James TO ALA3	Discussion on the review to be conducted by the post-merger corporation on the bylaws Discussion on the drafting of the provision on the offence of using abusive language on railway premises under section 22(1)(a) of the Mass Transit Railway (North-west Railway) Bylaw made by MTRCL	
003154 – 003315	Mr Abraham SHEK	Mr Abraham SHEK's remark that MTRCL should be given time to review the relevant bylaws, taking into account the proposed amendments made by Mr James TO and the views and comments of other Subcommittee members and the public	
003316 – 003946	Mr WONG Kwok-hing Mr James TO	Discussion on the timing for dealing with the amendments put forward by Mr James TO	

Time Marker	Speaker	Subject(s)	Action required
003947 – 004231	Mr TAM Yiu-chung	Mr TAM Yiu-chung's remark that MTRCL should be given time to consider the proposed amendments and review the relevant bylaws. The overall review of the bylaws should be expedited, and should take less than a year to complete	
004232 – 004753	Mr Abraham SHEK Mr James TO	Discussion on the timing for dealing with the amendments put forward by Mr James TO	
004754 – 005345	MTRCL Mr James TO MTRCL Mr James TO	Discussion on the offence relating to passengers in unfit or improper condition	
005346 – 010713	MTRCL Mr James TO Mr WONG Kwok-hing MTRCL Mr James TO Chairman Mr WONG Kwok-hing MTRCL	Discussion on the rationale for adopting the shorter period of retention of lost property in aligning the existing different arrangements under the existing Mass Transit Railway By-laws (which stipulated a three-month period) and the Kowloon-Canton Railway Corporation By-laws (which stipulated a one-month period)	
010714 – 011354	Mr James TO Chairman Admin MTRCL	Discussion on the offence of loitering	
011355 – 012253	MTRCL Mr James TO MTRCL Chairman	Discussion on the content of the relevant notices posted in railway premises, and the need for improving the clarity of such notices to facilitate compliance by the general public	
012254 – 012226	Mr James TO MTRCL Chairman	<p>Discussion on the need to include an escape clause "except in case of accident or other emergency) in by-law 9(2) proposed in the Mass Transit Railway (Amendment) Bylaw 2007 so as to prevent passengers from inadvertently caught by the provision</p> <p>Discussion on whether MTRCL had the power to make a bylaw to regulate the access to services and facilities provided in the vicinity of the railway premises under by-law 28C(3) proposed in the Mass Transit Railway (Amendment) Bylaw 2007</p>	MTRCL was requested to provide by 30 June 2007, (a) a written response to Mr TO's proposed amendments to the by-laws; and (b) information regarding the legal basis for the corporation to establish queues for the purpose of regulating access to services and facilities provided in the vicinity of railway premises.

Time Marker	Speaker	Subject(s)	Action required
014009 – 014909	Mr James TO Mr LEUNG Kwok-hung MTRCL Mr James TO MTRCL	Discussion on the provision governing the unauthorized display of materials under the new by-law 32A proposed in the Mass Transit Railway (Amendment) Bylaw 2007	
014910 – 015035	Chairman Mr James TO	<p>The Chairman requested that MTRCL should provide a written response to Mr James TO's proposed amendments by 30 June 2007.</p> <p>Mr James TO said that he would study the MTRCL's response before considering proposing amendments to the Mass Transit Railway (Amendment) Bylaw 2007 and Mass Transit Railway (North-west Railway) Bylaw.</p>	
<i>Agenda Item II – Any other business</i>			
		There being no other business, the meeting ended at 6:25 pm.	

Council Business Division 1
Legislative Council Secretariat
1 August 2007