

Subcommittee to Study the Draft Merger-related Subsidiary Legislation

PURPOSE

This paper informs Members of the changes made to the draft Mass Transit Railway (Amendment) Regulation 2007 having regard to the discussion at previous meetings of the Subcommittee.

DETAILS

2. The changes made are explained below:
 - (a) in response to Members' suggestion, the imprisonment penalty in the original draft of regulation 12 (boarding and alighting passengers) has been removed whilst maintaining the existing maximum level of fine at level 1 (i.e. \$2,000); and
 - (b) in response to comments of the Assistant Legal Adviser of the Legislative Council and as a result of further discussion with her, improvement and technical amendments were made to the original draft of regulations 11, 13 and 14.
3. Details of these amendments are marked up against the draft Mass Transit Railway (Amendment) Regulation 2007 which was submitted to the Subcommittee vide LC Paper CB(1)1780/06-07(01). A marked-up version is attached at **Annex** for Members' reference.
4. All these amendments have been incorporated into the Mass Transit Railway (Amendment) Regulation 2007 which was gazetted on 12 June 2007 and will be tabled to the Legislative Council on 13 June 2007.

Environment, Transport and Works Bureau
12 June 2007

**MASS TRANSIT RAILWAY (AMENDMENT)
REGULATION 2007**

(Made by the Secretary for the Environment, Transport and Works under section 33 of the Mass Transit Railway Ordinance (Cap. 556))

1. Commencement

This Regulation shall come into operation on the day appointed for the commencement of the Rail Merger Ordinance (of 2007).

Mass Transit Railway Regulations
(Cap 556, section 33)*

1A. Interpretation

In these regulations, unless the context otherwise requires –

- “designated bus stop” (指定巴士站) means a place designated as a bus stop under regulation 10;
- “designated rail stop” (指定輕鐵站) means a place designated as a rail stop under regulation 11;
- “TSA bus” (西北鐵路巴士) means a bus used for the purposes of the TSA bus service;
- “TSA bus service” (西北鐵路巴士服務) means the service provided through the operation of bus services within the North-west Transit Service Area by the Corporation;
- “vehicle of the North-west Railway” (西北鐵路車輛) means a light rail vehicle operated on the North-west Railway.

2. Accidents which are to be notified

- (1) An accident is notifiable under regulation 4 if it occurs on a part of the railway which has commenced operation for public use and-
 - (a) as a result thereof any person dies or suffers serious injury; or
 - (b) it involves a train-
 - (i) colliding with, or striking against, another train or any other object; or
 - (ii) leaving the rails, and doing so either on a line used for the carriage of passengers or goods or both passengers and goods, or in circumstances where the normal operation of such a line is affected.
 - (2) For the purposes of paragraph (1) a person suffers serious injury if he suffers amputation of a limb, a fracture or dislocation, internal injuries, loss of an eye, burns or any other injury of a kind which results in his being admitted to a hospital immediately following the accident for observation or treatment.
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10. Designation of bus stops

- (1) The Commissioner may designate a place on a road as a bus stop for a TSA bus and may revoke the designation either temporarily or permanently.
- (2) A designated bus stop may be restricted to the use by a TSA bus serving a particular route.
- (3) Subject to paragraph (2), the driver of a TSA bus on a route –
 - (a) may stop at a designated bus stop to pick up or set down a passenger;
 - (b) shall stop at a designated bus stop to set down a passenger if requested to do so and, if the bus is not at full capacity, to pick up an intending passenger when signalled by the intending passenger to do so.
- (4) The Commissioner may require the Corporation to erect and maintain a sign, of a type approved by the Commissioner, at a designated bus stop, or to remove any sign erected under this paragraph.
- (5) No person shall, without the permission of the Commissioner, erect or cause to be erected any sign on or near any road in such a manner that the sign might reasonably be believed to have been erected in accordance with paragraph (4).

(6) A person who contravenes paragraph (3)(b) commits an offence and is liable to a fine at level 1.

(7) A person who contravenes paragraph (5) commits an offence and is liable to a fine at level 1.

(8) In any proceedings under any enactment, in relation to a place on a road which is alleged to be a designated bus stop, a sign at the place which purports to indicate that the place is a designated bus stop shall be deemed to have been erected in accordance with paragraph (4) unless the contrary is proved.

11. Designation of rail stops

(1) The Corporation may, with the approval in writing of the Commissioner, designate any place on a road as a rail stop for vehicles of the North-west Railway by delineating and describing on a plan the location and dimension of that proposed stop, and depositing the plan with the Commissioner at least 14 days before the designation is to take effect.

(2) Notwithstanding paragraph (1), where the Corporation, with the approval in writing of the Commissioner, designates a rail stop under that paragraph and a plan is deposited with the Commissioner in accordance with that paragraph on or before the Merger Date, the designation takes effect on the Merger Date.

(3) The Corporation may, with the approval in writing of the Commissioner, revoke or suspend the designation of a rail stop under paragraph (1) or (2).

(4) The Commissioner may, by notice in writing served on the Corporation giving reasons, require the Corporation to revoke the designation of a rail stop under paragraph (1) or (2), or suspend it for such period as may be specified in the notice.

(5) The Commissioner shall state in a notice served under paragraph (4) that the revocation or suspension required by the notice is to take effect before such date as may be specified in the notice, which date shall not be less than 28 days after the date of the notice.

(6) The Commissioner shall notify the Corporation in writing of an approval under paragraph (1), (2) or (3) or, if the Commissioner refuses to give approval, of the refusal of the approval and the reasons for the refusal.

(7) Where under this regulation the Corporation, with the approval or upon the requirement of the Commissioner, revokes or suspends the designation of any place on a road as a rail stop, the Corporation shall exhibit an appropriate sign or notice of the revocation or suspension in a conspicuous position at that place and keep it exhibited until the platform on which the rail stop was situated is demolished, or the designation is resumed, as the case may be.

(8) If the Corporation –

(a) fails to comply with a notice served under paragraph (4) and does not appeal in accordance with regulation 13;

(b) fails to exhibit a sign or notice in accordance with paragraph (7);
or

(c) where it appeals in accordance with regulation 13, fails to comply with a notice served under paragraph (4) as confirmed or amended by the Secretary under regulation 13,

the Corporation commits an offence and is liable to a fine at level 1 and to a further fine of \$100 for each day on which the offence continues.

12. Boarding and alighting of passengers

(1) The driver of a vehicle of the North-west Railway shall not, for the purpose of allowing passengers or intending passengers to alight from or board the vehicle, stop the vehicle at any place other than a designated rail stop except in the case of emergency.

(2) A person who without reasonable excuse contravenes paragraph (1) commits an offence and is liable to a fine at level 1 ~~and to imprisonment for 3 months.~~

13. Appeal by Corporation

- (1) If the Corporation is aggrieved by any decision or requirement of, or the refusal of any approval by, the Commissioner under regulation 11, it may appeal in writing to the Secretary within 14 days of receiving notice in writing of the decision, requirement or refusal.
 - (2) The Secretary shall, within 3 months of receiving notice of an appeal under paragraph (1), consider the appeal and may confirm, amend or cancel the notice in respect of which the appeal is lodged.
 - (3) The Secretary shall notify the Corporation and the Commissioner in writing of his decision on an appeal with reasons.
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14. Forward planning programme

- (1) The Corporation shall, on or before 31 October each year, submit to the Commissioner a programme of the operations of ~~its rail~~ the North-west Railway and, if applicable, bus services within the North-west Transit Service Area (referred to in this regulation as “programme of operations”) for the 5-year period commencing on 1 January in the year following such submission.
- (2) A programme of operations submitted to the Commissioner in any year shall supersede the programme of operations last submitted (if any).
- (3) A programme of operations shall contain –
 - (a) a route development programme for the North-west Railway rail and bus services of the Corporation within the North-west Transit Service Area, showing the details of proposed changes to the routes operated, frequency of service, and type and number of vehicles allocated to those routes, month by month for the first 2 years of the route development programme and half-yearly after those first 2 years;
 - (b) an estimate of the types and numbers of light rail vehicles and buses required in daily service to meet the requirements of the route development programme referred to in subparagraph (a);
 - (c) estimates of the overall number of light rail vehicles and the overall number of buses required to run the daily service, with allowance being made for reasonable proportions of light rail vehicles and buses respectively being unavailable for use in the

operation of the daily service due to accidents, breakdowns, or for any other reason.

(4) The Corporation shall inform the Commissioner of any change proposed to be made to a programme of operations at least 1 month in advance of the change to be implemented.

(5) Where a deviation from a programme of operations is necessary in urgent or exceptional circumstances, the Corporation is not required to comply with paragraph (4) but shall, as soon as practicable after such a deviation, inform the Commissioner of the details of the deviation and the circumstances which have occasioned it.

(6) The Corporation shall, as soon as practicable, submit a written explanation to the Secretary for any failure to comply with paragraph (1), (4) or (5).

15. Expiry of certain provisions

The following provisions of these regulations are to expire when that part of the franchise relating to the KCRC Railways is revoked under section 18 of the Ordinance –

- (a) the definitions of “designated bus stop”, “designated rail stop”, “TSA bus”, “TSA bus service” and “vehicle of the North-west Railway” in regulation 1A;
- (b) “or goods or both passengers and goods,” in regulation 2(1)(b); and
- (c) regulations 10, 11, 12, 13 and 14.”.

Change of Chinese reference to “地鐵公司”

All references to “地鐵公司” whenever appear in the Chinese text of Regulations 4, 9 and Schedule shall be replaced by “港鐵公司”.