

Paper on merger-related subsidiary legislation

Introduction

This paper brief members on the draft subsidiary legislation for the proposed rail merger. Members' views on the draft are welcome.

Background

2. Sections 33 and 34 of the Mass Transit Railway Ordinance ("MTR Ordinance"), Cap 556 set out the existing powers of the Secretary for Environment, Transport and Works ("SETW") and the MTR Corporation Limited ("MTRCL") to make regulations and bylaws respectively for specified purposes. Clauses 16 and 17 of the Rail Merger Bill ("the Bill") seek to expand these powers to enable the existing regulations and bylaws made under the MTR Ordinance to be modified or expanded as appropriate to cover the relevant matters concerning the railway and bus operations of the Kowloon-Canton Railway Corporation ("KCRC") if the rail merger is implemented. Clauses 26 and 27 of the Bill also seek to provide for the powers of SETW and the Kowloon-Canton Railway Corporation ("KCRC") respectively to suspend the existing regulations and bylaws made under the Kowloon-Canton Railway Ordinance ("KCRC Ordinance"), Cap 372 during the service concession period when KCRC will cease to operate its railway and bus services.

3. If the Bill is approved by the Legislative Council ("LegCo"), the existing regulations and bylaws made under the MTR Ordinance will need to be amended for implementation of the rail merger. The draft amendments seek to bring across the relevant parts of the existing regulations and bylaws made under the KCRC Ordinance for adoption under the MTR Ordinance, whereas all the existing regulations and bylaws made under the KCRC Ordinance will be suspended during the service concession period.

4. The amendments to the existing bylaws are subject to positive

vetting procedures by LegCo, whilst the amendments to the existing regulations are subject to negative vetting procedures by LegCo.

Details of Merger-Related Subsidiary Legislation

5. The merger-related subsidiary legislation includes:
 - (i) Amendments to the existing Mass Transit Railway Bylaws (“MTR Bylaws”), Cap 556B – the scope of the existing MTR Bylaws will be expanded to cover both the MTR and KCRC railways;
 - (ii) Adopting the existing North-west Railway Bylaws (“NWR Bylaws”), Cap 372E – the existing NWR Bylaws which cover the Light Rail and KCRC’s bus services in the North-west Transit Service Area (“TSA bus services”) will be brought across to become a new set of bylaws to be made under the MTR Ordinance;
 - (iii) Amendments to the existing Mass Transit Railway Regulations (“MTR Regulations”), Cap 556A – the scope of the existing MTR Regulations will be expanded to cover both the MTR and KCRC railways;
 - (iv) Suspension of the existing Kowloon-Canton Railway Corporation Regulations (“KCRC Regulations”), Cap 372A, the Kowloon-Canton Railway Corporation By-laws (“KCRC Bylaws”), Cap 372B and the NWR By-laws – these regulations and bylaws made under the KCRC Ordinance which cover the KCRC railway and bus services will be suspended during the service concession period;
 - (v) Amendments to the existing Kowloon-Canton Railway (Restricted Area) (No.2) Notice (“KCR Notice”), Cap 372I – the existing KCR Notice declares certain areas at KCR Hung Hom station associated with the intercity service. The purpose of the amendment is to suspend its operation during the service concession period; and
 - (vi) Consequential changes to the other existing regulations and bylaws made under the MTR Ordinance – these changes are a consequence of the proposed change in the

Chinese name of MTRCL from “地鐵有限公司” to “香港鐵路有限公司”.

Amendments to the MTR Bylaws

6. The content of the MTR Bylaws is broadly the same as that of the KCRC Bylaws. The main difference is that the KCRC Bylaws have a wider coverage to cater for the intercity passenger and freight services as well as certain unique features of KCRC’s operation such as the existence of first class compartments. It is necessary to bring across these additional provisions to the MTR Bylaws such that the same bylaws would continue to apply to the services concerned which would be operated by the post-merger corporation (“MergeCo”) after the rail merger.

7. The two railway corporations propose to align the maximum levels of penalty for contravention of similar provisions in the MTR Bylaws and KCRC Bylaws respectively after the rail merger. Their proposal is to adopt the higher of the existing maximum levels of penalty for similar offences under the MTR Bylaws and KCRC Bylaws respectively, subject to the restriction in section 35(3) of the MTR Ordinance that such penalties shall not exceed a fine at level 2 (i.e. \$5,000) and imprisonment for 6 months. The actual penalty applicable to each case will continue to be subject to the determination of the Magistrates’ Courts.

8. MTRCL also proposes to strengthen the existing MTR Bylaws by introducing preventive provisions for the purpose of ensuring public safety and station order.

9. The proposed amendments to the MTR Bylaws are at **Annex A**.

Adoption of NWR Bylaws under MTR Ordinance

10. As MergeCo would operate the Light Rail and TSA bus services after the rail merger, the existing NWR Bylaws would be adopted under the MTR Ordinance so that these bylaws would continue to apply to these services after the merger. There would be a few technical changes to

these bylaws to dovetail the corresponding changes to relevant provisions in the primary legislation.

11. The proposed bylaws to be adopted under the MTR Ordinance are at **Annex B**.

Amendments to the MTR Regulations

12. The content of the MTR Regulations is broadly the same as that of the KCR Regulations. The main difference is that the KCR Regulations contain additional provisions relating to the operation of the Light Rail and TSA bus services. It is necessary to bring across these additional provisions in the KCRC Regulations to the MTR Regulations such that the same regulations would continue apply to these services when they would be operated by MergeCo after the rail merger.

13. The proposed amendments to the MTR Regulations are at **Annex C**. All except one of these proposed regulations are based on the corresponding provisions in the KCRC Regulations, with the proposed changes highlighted in revision mode for easy reference. The proposed regulation 15 is a new provision which stipulates that the other provisions in the amended MTR Regulations on Light Rail and TSA bus services will cease to have effect when MergeCo ceases to have a franchise to operate the KCRC railways.

Suspension of the KCRC Regulations and KCRC Bylaws and amendment to the KCR Notice to suspend its operation

14. As foreshadowed in paragraph 3 above, these subsidiary legislation made under the KCRC Ordinance would be suspended during the service concession period. The proposed subsidiary legislation are at **Annex D, E and F** respectively.

Other consequential changes

15. As a consequence to the proposed change of Chinese name of MTRCL from “地鐵有限公司” to “香港鐵路有限公司” and the change of Chinese title of the MTR Ordinance from 《地下鐵路條例》 to 《香港鐵路

條例》after the rail merger, the Chinese name of the other subsidiary legislation made under the MTR Ordinance would need to be amended accordingly as follows:

Existing name	Proposed new name
地下鐵路規例	香港鐵路規例
地下鐵路附例	香港鐵路附例
地下鐵路(運輸交匯處)規例	香港鐵路(運輸交匯處)規例
地下鐵路(運輸交匯處)附例	香港鐵路(運輸交匯處)附例
地下鐵路(運輸交匯處)(圖則的存放)公告	香港鐵路(運輸交匯處)(圖則的存放)公告
地下鐵路(運輸交匯處)(圖則的存放)公告	香港鐵路(運輸交匯處)(圖則的存放)公告
地下鐵路(運輸交匯處)(禁區及限制區的指定)公告	香港鐵路(運輸交匯處)(禁區及限制區的指定)公告

16. There would also be consequential amendments to the reference to the Chinese name of MTRCL in these subsidiary legislation as necessary. The proposed amendments are at **Annex G and H** respectively.

Environment, Transport and Works Bureau
May 2007

Annex A

Mass Transit Railway (Amendment) Bylaw

(Proposed amendments are marked-up against the relevant provisions of the existing Mass Transit Railway Bylaw, Cap 556B)

Mass Transit Railway By-laws

2. Interpretation

"first class ticket" (頭等車票) means a ticket bearing on it the number "1" and issued at the prevailing first class full single or return fare for the journey being made or to be made or a smart card which has had the authorization code for first class travel recorded on it by an automatic processing device immediately prior to the ticket holder entering the first class compartment;

"goods" (貨物) includes livestock and any other animal;

"railway" (鐵路) means the ~~Mass Transit Railway~~ railway as defined in the Ordinance excluding the North-west Railway as defined in the Ordinance;

"railway premises" (鐵路處所) means the railway premises and any part thereof as defined in the Ordinance excluding the railway premises as defined in the North-west Railway By-law;

"restricted area" (限制區) means any area declared by the Corporation, by notices, signs or any other manner as will reasonably indicate the same as restricted area;

"the Ordinance" (條例) means the Mass Transit Railway Ordinance (Chapter 556);

3A. Authorized crossing places and conditions of crossing

The Corporation may by notice stipulate periods or times at which a crossing place for animals, persons, motor vehicles, motorcycles, bicycles or other conveyances may be used over the railway premises or any part thereof and the conditions upon which such crossing place may be used.

4A. No vehicles, animals etc. to be brought across the railway premises

No person shall pass or attempt to bring, pass, drive or conduct any motor vehicle, bicycle, motorcycle or other similar conveyance or any handcart, barrow or similar conveyance or any thing including animals across the railway premises or any part thereof at any time except by notice published by or on behalf of the Corporation under this by-law nor shall any such person omit to shut or refasten any gate, door, chain or barrier as soon as he and any conveyance animal or other thing has passed through the same.

4B. Unauthorized structures

No person shall cause permit or suffer any kind of building or structure to be constructed or erected upon or remain upon the railway premises without the written authority of the Corporation.

5. Damage to railway premises, trains, plant and equipment

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

- (a) any machine or equipment, or any part thereof, used or employed in or upon any part of the railway premises;
- (b) any locomotive, train, carriage, truck or any other conveyance or any equipment thereon used or employed on or in connection with the railway;
- (ba) any tracks, rails and supporting system including fastenings, fixtures, baseplates, plinths, sleepers and ballast; ~~or~~
- (bb) any gate, door, chain, wall, fence, barrier or other erection constructed or erected in or upon any part of the railway premises;
- (bc) any building and structure constructed or erected in or upon any part of the railway premises; or
- (c) any electrical plant, overhead wiring or other form of electrical installation or equipment of any nature whatsoever used or employed in or upon any part of the railway.

6. Sewage etc. not to be placed on railway premises

No person shall cause, permit or suffer-

- (a) the release of any toxic, infectious or noxious substance, material, matter or thing upon or into the railway premises or into any water kept in or upon the railway premises;
- (b) any sewage, drainage or other offensive matter to flow onto or enter or be placed on any part of the railway premises;
- (c) any kind of construction materials, construction plant or equipment to be deposited on or otherwise come upon and remain upon or pass across the railway premises except with the written authority of the Corporation; or
- (d) the water or contents of any reservoir, tank, ponds, duct or water or other container under the control of the Corporation to be used, abstracted or polluted in any way.

9. Wrongfully entering or leaving trains

(1) No person shall enter or leave or attempt to enter or leave any train after the doors have commenced to close.

(2) No person shall interfere with any doors or gates within the railway premises including any train doors and platform screen doors.

10. ~~Conditions of issue of tickets~~ Tickets

(1) All tickets issued by or on behalf of the Corporation are issued subject to these by-laws and to the conditions of issue.

(2) Any person to whom or on whose behalf a ticket is issued or who otherwise acquires a ticket shall be deemed to have knowledge of and to have agreed to these by-laws and to the conditions of issue.

(3) All tickets which were issued by or on behalf of the KCRC before the Merger

Date shall continue to have effect until their expiry or the date falling 12 months from the Merger Date, whichever is earlier, and shall from the Merger Date be deemed to be issued by or on behalf of the Corporation.

12A. Insufficient class accommodation

(1) The Corporation shall not be liable for any failure to carry a passenger in any particular class of a compartment or carriage of any train where there is insufficient accommodation of a class for which a ticket has been issued.

(2) Where there is insufficient first class accommodation on any train for which a ticket has been issued, a passenger holding a first class ticket may travel in standard class accommodation without the right to claim a refund of the appropriate difference in fare.

15. Travel where ticket is lost, damaged or expired

(1) If a person (other than a person who is under the age of 3 years) is within the paid area -

(a) without a ticket;

(aa) with a ticket which is invalid for travel in the carriage or compartment of the train in which the ticket holder is travelling, and in the case of a passenger travelling in a first class compartment, with a smart card which has not had the authorization code for first class travel encoded on it by an automatic processing device immediately prior to the ticket holder entering a first class compartment;

(b) with a ticket improperly damaged, altered or interfered with or whose coded data has been improperly altered, erased or damaged either wholly or in part;

(c) with a ticket that has expired; or

(d) with a concessionary ticket when he does not meet any of the conditions upon which the ticket is issued,

he shall be regarded as not having paid his fare and shall be liable both to pay a surcharge and to deliver up his ticket (if any) to an official.

(2) For the purposes of paragraph (1), a ticket shall expire in such circumstances as are provided for in the conditions of issue.

(2A) For the purpose of this by-law, passengers occupying seats or standing including those in corridors or gangways in a first class compartment shall be regarded as travelling in a first class compartment.

(3) Any person who has paid a surcharge or delivered up his ticket pursuant to the provisions of this by-law shall be entitled to apply in writing to the ~~Chairman or Managing Director~~ Chief Executive Officer of the Corporation (or ~~their~~ 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 Managing Director~~ Chief Executive Officer (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 on the delivered up ticket.

(4) Without prejudice to paragraph (1), any passenger holding a ticket who travels beyond a station for which his ticket is valid shall be liable to pay the excess fare

specified in the conditions of issue.

17. Handing in of tickets

(1) Unless otherwise stated in the conditions of issue, all tickets shall remain the property of the Corporation and no person shall, without reasonable excuse, fail or refuse at the end or sooner determination of his journey, or series of journeys in the case of a multiple journey or stored value ticket, to deliver up his ticket to the Corporation.

(2) A passenger within the paid area or within the railway premises after having immediately gained exit from the paid area must produce any ticket for checking, inspection or verification at any time upon demand by any official.

(3) Any person who contravenes paragraph (2) shall be regarded as not having paid his fare and shall be liable to pay a surcharge.

(4) No person other than a person specifically authorized by or on behalf of the Corporation to do so shall sell, attempt to sell, offer for sale or invite other persons to purchase any ticket issued by or on behalf of the Corporation.

23A. Fire hazard

(1) No person shall place or throw any lighted cigarette end, match, tobacco, liquid, substance or any other thing upon the railway premises in a manner which constitutes or is likely to constitute a fire hazard.

(2) Unless authorized by the Corporation, a person shall not-

(a) light a fire on; or

(b) bring any burning substance into or onto, or cause a burning substance to be brought into or onto, or

(c) throw or drop any burning substance on or from, or cause any burning substance to be thrown or dropped on or from, any part of the railway premises.

27. Prohibition on taking certain luggage, etc. and consumption of food or beverage

No person shall-

(a) bring into or upon the railway premises any luggage, article or other thing which cannot be carried or otherwise accommodated on the railway without risk of injury to any person or damage to any railway property or without causing a nuisance or inconvenience to other persons using the railway; or

(b) consume or attempt to consume any food or beverage (whether alcoholic or non-alcoholic) within a ~~train~~ or the paid area (except any train for the carriage of passengers to Hong Kong from any other part of China or vice versa by the Corporation or by third parties).

28A. Improper operation of equipment, etc.

(1) No person, ~~except an official~~ unless authorized by the Corporation, shall-

- (a) operate, move, or ~~work~~ interfere with-
 - (i) any mechanical, ~~or~~-electrical, electronic, telecommunication or other appliance owned by or under the control of the Corporation upon the railway premises; or
 - (ii) any switch, lever or other device operating or controlling any mechanical, ~~or~~-electrical, electronic, telecommunication or other appliance owned by or under the control of the Corporation upon the railway premises, the proper use of any automatic gate and telephones;
- (b) tamper with or wilfully impede or interfere with the operation of any mechanical, ~~or~~-electrical, electronic, telecommunication or other appliance owned by or under the control of the Corporation;
- (c) ascend or descend, or attempt to ascend or descend, by means of any escalator other than in such manner and order as is directed by the Corporation;
- (d) travel, or attempt to travel, upon any escalator or moving platform in a direction other than the direction in which it is moving;
- (e) sit upon any escalator or moving platform or any handrail or any part thereof;
- (f) open or attempt to open, any gate or doors leading to or from a platform or a paid area at a station upon the railway premises ~~without authority to do so~~; or
- (g) hold or possess keys, passes or entry cards to any door or gate inside the railway premises and shall immediately surrender the same to the Corporation as soon as the same come to their possession.

(2) In cases of accident or other emergency, a person may operate, move, or work any switch, lever or other device or mechanical, ~~or~~-electrical, electronic, telecommunication or other appliance upon or near which is displayed a notice that it is intended to be operated in cases of accident or emergency.

28C. Entrance or exit by improper means and queuing

(1) A person shall-

- (a) enter or attempt to enter any train through any door thereof to or from the platform at stations;
- (b) wait at the platform of a station for the arrival of a train or wait inside a train for the arrival at the platform of a station; or
- (c) gain access from the platform of a station to a train or gain access from a train to the platform of a station,

only at such time and location and in such manner as an official or other authorized persons shall reasonably provide and require.

(2) No person except a member of the staff or an official shall enter or leave or attempt to enter or leave any train whilst it is in motion or (except in case of accident or other emergency) between stations or otherwise than at the side of the train adjoining the platform appointed for passengers to enter or leave the train.

(3) The Corporation may establish queues on the railway premises for the purpose of regulating the access to services and facilities provided on or in the vicinity of the railway premises.

(4) Every person desirous of availing himself of any such service or facility described in paragraph (3) shall, upon notice or request by an official, take up position in the rear of one of such queues established pursuant to paragraph (3) and move forward in an orderly and regular manner, and obey the reasonable instructions of any official regulating such queues.

28E. Entry to restricted area

Unless authorized by the Corporation, no ~~No~~ person shall enter or remain in a restricted area unless authorized by the Corporation any area declared by the Corporation, by notices, signs or any other manner as will reasonably indicate the same as restricted area.

28J. Use of skateboards, scooters, etc. prohibited

No person shall, unless authorized by the Corporation, play with or ride on or otherwise use in any part of the railway premises-

- (a) any skateboard, roller skates, scooter, bicycle, vehicle or similar object (except wheelchairs); or
- (b) any toy, tool, equipment, device, machinery or any other object in any manner that is likely to cause danger to any other person or that may prejudice the safe and efficient operation of the railway.

28K. Obstruction

No person shall behave in such a manner as may cause any obstruction to or interference with the reasonable use of any train or any part of the railway premises by any person.

32A. Unauthorized display of materials

No person while upon the railway premises shall, except by permission of a member of the staff or an authorized person, display or exhibit any printed, written or pictorial matter or any article.

34. Dealing with vehicles left on railway premises

(1) The Corporation may in such manner as it thinks fit remove and detain any motor car or other vehicle in respect of which a contravention of by-law 33 is committed and may charge the owner or driver thereof all costs and expenses occasioned by and incidental to such removal and

detention without prejudice to any penalty incurred by the contravention of that by-law.

- (2) ~~As soon as practicable~~ If a vehicle after a vehicle has been detained

under paragraph (1) is not claimed and removed and all costs and expenses are not paid within 3 days after its detention, the Corporation shall where practicable except in the case of emergency serve on the registered owner (as defined in the Road Traffic Ordinance (Cap 374)) of the vehicle a notice informing him-

- (a) of the detention of the vehicle and the place of detention; and
- (b) that, unless the vehicle is removed from the place of detention on payment of any costs and charges within 14 days after the service of the notice on him, the vehicle shall become the property of the Corporation free from the rights of any person and may be disposed of by the Corporation by sale or otherwise.

(3) If a vehicle is not removed in accordance with the notice served under paragraph (2) or, if the service of such notice is impracticable, within 14 days of the date of its first detention, the vehicle shall become the property of the Corporation free from the rights of any person and may be disposed of by the Corporation by sale or otherwise as it thinks fit.

(4) If, within 6 months after the day on which a vehicle is sold pursuant to paragraph (3), any person satisfies the Corporation that at the time the vehicle became the property of the Corporation by virtue of that paragraph, he was the owner of the vehicle, the Corporation shall pay to such person the balance of the proceeds of sale after deducting any costs and charges of removal and detention and any reasonable charges incurred by the Corporation in respect of the sale of the vehicle.

(5) A notice under paragraph (2) may be served personally or by post.

(6) For the purpose of this by-law "vehicle" (車輛) includes the contents of a vehicle and any load carried by a vehicle.

PART VIIA **CARRIAGE OF LUGGAGE**

39A. Conditions of carriage of luggage

The Corporation shall only accept luggage for carriage on the railway subject to these by-laws and the conditions of carriage of luggage set out from time to time in notices published by the Corporation.

39B. Soliciting for handling of luggage

No person other than an official or a person licensed by the Corporation to do so shall solicit for engagement in or for the handling or moving or transport of any luggage or any item thereof for reward.

PART VIIB **CARRIAGE OF GOODS**

39C. Conditions of acceptance of goods

(1) The Corporation shall accept goods for carriage on the railway or storage subject to these by-laws and the conditions of carriage of goods set out from time to time in notices published by the Corporation.

(2) The Corporation reserves the right at its absolute discretion to refuse any goods for carriage on the railway, and to open or examine such goods and remove them to a safe place. The Corporation may, without being liable, remove or dispose of any goods which might in its opinion cause injury or nuisance to persons or damage to property.

39D. Soliciting for handling of goods

No person other than a person licensed by the Corporation to do so shall solicit for engagement in or for the handling or moving or transport of any goods or item thereof for reward.

41. Disposal of lost property

(1) All lost property which comes into the possession of the Corporation shall be dealt with as follows-

- (a) perishable, noxious or otherwise offensive goods or articles may be disposed of by the Corporation as soon as practicable after they have come into its possession by sale or otherwise as it sees fit;
- (b) identification and travel documents, certificates or any other document which the Corporation shall regard to be of an important or confidential nature may be disposed of by the Corporation within such time they have come into its possession and in such manner as it sees fit; and
- (c) all other goods or articles shall be retained by the Corporation for a period of 31 month after they have come into its possession and, if at the end of that period they remain unclaimed, they shall be deemed to become the property of the Corporation free of all other rights and encumbrances, and it may dispose of them by sale or otherwise as it sees fit.

(2) If within a period of 6 months of any sale or disposal by the Corporation under paragraph (1)(a) or (b) the former owner or the person formerly entitled to the beneficial ownership of the goods can establish his ownership to the satisfaction of the Corporation, he shall be paid, subject to his providing the Corporation with an indemnity in retention as the Corporation may reasonably require, the proceeds of sale, if any, less all expenses incurred by the Corporation of and incidental to the sale or disposal.

(3) Save as provided in paragraph (2), the Corporation shall incur no liability whatsoever to any person in respect of lost property as bailees or otherwise and no claim for damages or compensation shall be brought against it by any person in respect of the same.

PART VIII A

CROSS-BOUNDARY RESTRICTED AREAS

41A. Definition

In this Part, unless the context otherwise requires-
“authorized employee” (獲授權僱員) means an employee of the Corporation or other person authorized in writing by the Corporation for the purposes of any by-law in this Part;

“cross-boundary restricted area” (過境限制區) means for the purposes of this Part an area declared under by-law 41B to be a cross-boundary restricted area, such area being an area referred to in sections 34(1A)(b) and 35(6) of the Ordinance;

“permit” (許可證) means any permit issued under this Part or any permit that is regarded under by-law 41F(2) as a permit issued by the Corporation under this Part;

“permit holder” (許可證持有人) means-

(a) _____ in relation to a pool permit, the authorized employee to whom the permit is issued and includes any person using a pool permit by authority of such authorized employee; and

(b) _____ in relation to a standard permit, the person in whose name the permit is issued;

“pool permit” (共用許可證) means a permit issued to an authorized employee under by-law 41F(1);

“standard permit” (標準許可證) means a permit issued to a person under by-law 41F(1).

41B. Gazette notice relating to cross-boundary restricted areas

(1) The Corporation may, by notice published in the Gazette, declare any area within the railway premises including the paid area to be a cross-boundary restricted area.

(2) A declaration under paragraph (1) may declare any area to be a cross-boundary restricted area either absolutely or on specified days or during specified hours in any day.

41C. Demarcation of cross-boundary restricted areas

The Corporation shall cause the boundaries of or entrances to every cross-boundary restricted area to be demarcated by signs or in such other manner as will reasonably indicate the cross-boundary restricted area to members of the public who might enter that area.

41D. Plan showing cross-boundary restricted areas

(1) The Chief Executive Officer may prepare and certify a plan delineating the area and boundaries of any cross-boundary restricted area and shall from time to time prepare and certify a new plan in substitution therefor and may from time to time endorse on such plan or substituted plan any amendment thereto and shall certify such endorsement.

(2) The Chief Executive Officer shall certify any plan or amendments thereto under paragraph (1) by endorsing the certificate on the plan.

(3) Every plan certified under this by-law shall be kept in the head office of the Corporation and a copy shall be available for public inspection at the Station Manager’s office at the Hung Hom Station.

41E. Prohibition of persons without permit in cross-boundary restricted areas

Subject to the provisions of this Part no person shall enter or remain in a cross-boundary restricted area unless he has on his person a valid permit issued to him in respect of that area.

41F. Conditions of issue of type of permits

- (1) Subject to by-law 41G the Corporation may issue-
- (a) a pool permit to any authorized employee free of charge; and
 - (b) a standard permit to any other person on an application being made therefor in accordance with conditions specified from time to time by the Corporation and on payment of the prescribed fee set out in the First Schedule,

and the pool permit or standard permit, whichever is appropriate, shall be in such form and be issued subject to such conditions as may be specified by the Corporation from time to time.

- (2) Without prejudice to the generality of the power of the Corporation to cancel any permit under by-law 41H, all permits issued by the KCRC before the Merger Date shall (subject to any applicable time limits) on and after the Merger Date, continue to have effect and be regarded as permits issued by the Corporation under by-law 41F(1).

41G. Power to refuse issue of permits

The Corporation may refuse to issue a permit if it appears to it that the person requiring the permit or for whom it is required-

- (a) is, for any reason related to or connected with the security of the railway, not a fit person to have access to a cross-boundary restricted area; or
- (b) has no valid or sufficient reason for having access to a cross-boundary restricted area.

41H. Cancellation of permits

The Corporation-

- (a) shall cancel a permit if it appears to it that the permit holder-
 - (i) is, for any reason related to or connected with the security of the railway, not a fit person to have access to a cross-boundary restricted area; or
 - (ii) has no valid or sufficient reason for having access to a cross-boundary restricted area; and
- (b) may cancel a permit:-
 - (i) on the ground that any condition subject to which it was issued has been contravened;
 - (ii) on the ground that the permit holder or his employer has contravened any of these by-laws; or
 - (iii) in any case where it is satisfied that the permit has been lost, destroyed or defaced.

41I. Notification of cancellation of permits

When a permit is cancelled under by-law 41H the Corporation shall notify the permit holder and, if the Corporation thinks fit, the employer (if any) of the permit holder accordingly.

41J. Surrender of permit by employee

A permit holder, upon receipt of a notice under by-law 41I shall, save where the notice relates to a permit which has been lost or destroyed, forthwith surrender his permit to-

- (a) the Corporation; or
- (b) an authorized employee specified in the notice for the purpose; or
- (c) the employer of the permit holder if specified in the notice for the purpose.

41K. Surrender of permit by employer

An employer to whom a permit has been surrendered by virtue of a notice under by-law 41I shall forthwith surrender that permit to the Corporation or an authorized employee specified in the notice.

41L. Notification by employer

The employer of a permit holder shall, if the nature of the employment of the permit holder no longer requires that he has access to any cross-boundary restricted area specified in his permit, or if the permit holder ceases to be employed by him, without delay-

- (a) inform the Corporation accordingly;
- (b) take possession of the permit from the permit holder; and
- (c) surrender the permit to the Corporation.

41M. Cessation of employment of permit holder

A permit holder who ceases to be employed by the person who was his employer at the date of the issue of the permit shall, immediately upon the cessation of his employment, surrender his permit to that person.

41N. Exempted persons

Subject to by-law 41O, the provisions of by-law 41E shall not apply to-

- (a) any bona fide train crew member or bona fide train passenger who is in the course of passage through any immigration control or train boarding area or in an area set aside for the purposes of the Customs and Excise Service of the Government, which is within a cross-boundary restricted area-
 - (i) having disembarked from a train; or

- (ii) for the purpose of embarking upon a train of which he is a train crew member or train passenger; or
(b) any bona fide train passenger awaiting an outward train journey in any area reserved for passengers which is within a cross-boundary restricted area.

41O. Conditions for exemption

No person shall be exempt from the provisions of by-law 41E by virtue of by-law 41N unless –

- (a) being a train crew member, he is in possession of a valid railway personnel pass issued pursuant to an agreement between the Corporation and any third party which provides any service for the carriage of freight or passengers to Hong Kong from any other part of China and vice versa with the Corporation;
(b) being a departing passenger, he is in possession of a valid travel document and a valid ticket;
(c) being an arriving passenger, he is in possession of a valid travel document.

and the train from which he has disembarked or upon which he is embarking or awaiting, is a through train travelling from or to any part of China other than Hong Kong.

41P. Lost permits

If a permit has been lost the permit holder shall, without delay, report the loss and the circumstances thereof to:-

- (a) his employer (if any) or, where the permit holder has no employer or is himself an employer, to the Corporation or an authorized employee; and
(b) the officer in charge of the police station nearest the place where the permit holder ordinarily resides.

41Q. Employer to report lost permits

Where a report has been received by an employer as to the loss of a permit and the circumstances thereof he shall, without delay, report such loss and the circumstances thereof to the Corporation.

41R. Persons finding permits

Any person who finds a permit shall, without unreasonable delay, deliver it to the Corporation or any authorized employee or to the officer in charge of any police station.

41S. Replacement permits

Where a permit has been lost, destroyed or defaced, application may be made to the Corporation by the person to whom the permit has been issued or the employer of

that person for the issue of a replacement permit and the Corporation upon being satisfied as to such loss, destruction or defacement, may, upon payment of the prescribed fee set out in the First Schedule in the case of an applicant who is not an authorized employee, issue to the permit holder a replacement permit in substitution for the permit which has been lost, destroyed or defaced.

41T. Exemption for Government officers

By-law 41E shall not apply to a police officer, an immigration officer or immigration assistant within the meaning of section 2(1) of the Immigration Ordinance (Cap.115), an officer of the Fire Services Department, a member of the Chinese People's Liberation Army, a member of the Customs and Excise Service within the meaning of the Customs and Excise Service Ordinance (Cap.342), the Commissioner, the Deputy Commissioner or an officer of the Independent Commission Against Corruption who requires access to the railway premises or any part thereof for the performance of his duty in circumstances of such urgency that the performance of his duty might be frustrated or seriously impaired if such by-law was to apply to him.

41U. Power to exempt other classes of person

The Corporation may, by notice in writing and subject to such conditions as it may impose, exempt any person or class of person from all or any of the requirements for entry into a cross-boundary restricted area.

41V. Fees

The fees prescribed under these by-laws are set out in the First Schedule.

43. Offences and penalties

A person who contravenes a by-law set out in the first column of the Second Schedule commits an offence and is liable to the penalty set out in the third column of that Schedule opposite the reference to that by-law.

44A. Special and General Lien

(1) Without prejudice to the generality of any of these by-laws, the Corporation shall have a special lien on all motor vehicles, motorcycles, bicycles or any similar conveyance or on luggage, goods or articles howsoever brought by any person upon the railway premises including any train of the Corporation and shall also have a general lien against the owner of any such motor vehicles, motorcycles, bicycles, similar conveyances, luggage, goods or articles for any sum of money howsoever due on any account from such person or owner to the Corporation.

(2) If any lien is not satisfied within a reasonable time the Corporation may in its absolute discretion sell the motor vehicles, motorcycles, bicycles or similar conveyances or the luggage, goods and articles or any of them and apply the proceeds so arising in or towards the discharge of such lien including for the expenses of sale; and

the balance of any proceeds if unclaimed within a period of 4 weeks following the sale shall become the general revenue of the Corporation free from any claims in relation thereto.

45A. Proper law to be laws of Hong Kong

(1) Any dispute howsoever arising directly or indirectly under or in respect of these by-laws or any of them in regard to any matter, act, event, or thing of whatsoever nature arising or occurring hereunder shall be governed by and interpreted in accordance with the laws of Hong Kong wherever the matter or act or event or thing shall take place and whatever the nationality, domicile or usual place of residence of any person or party to such dispute and every action or claim arising directly or indirectly therefrom brought by or against the Corporation shall be and the same is hereby submitted to the exclusive jurisdiction of a competent court of jurisdiction in Hong Kong.

(2) It is hereby expressly agreed and declared by the persons or parties to whom these by-laws and any special conditions made hereunder refer that the Corporation is resident in Hong Kong and that the exercise of its central management and control is exercised in Hong Kong.

FIRST SCHEDULE

PERMIT FEES

[by-law- 41V]

	<u>Fee</u>
1. For a standard permit issued under by-law 41F(1)(b)	<u>\$30.00</u>
2. For a replaced standard permit issued under by-law 41S	<u>\$30.00</u>

SECOND SCHEDULE

PENALTIES

[by-law 43]

<u>By-law</u>	<u>Summary of offence</u>	<u>Maximum penalty</u>
<u>4A</u>	<u>Bringing vehicles, animals, etc. across the railway premises</u>	<u>\$5,000 fine and 6 months imprisonment</u>
<u>4B</u>	<u>Unauthorized structures</u>	<u>\$5,000 fine and 6 months imprisonment</u>
<u>8</u>	<u>Improper use of emergency equipment</u>	<u>\$5,000 fine and 6 months imprisonment</u>
<u>17(4)</u>	<u>Sale of tickets</u>	<u>\$5,000 fine and 6 months imprisonment</u>
<u>21(1)</u>	<u>Non-compliance with notices, etc.</u>	<u>\$2,000 fine</u>
<u>21(2)</u>	<u>Failure to obey directions as to</u>	<u>\$5,000 fine</u>

	<u>occupation of trains</u>	
22	Feet placed on seats	\$2,000 \$5,000 fine
<u>23A</u>	<u>Fire hazard</u>	\$5,000 fine and 6 months imprisonment
26	Playing musical instruments, etc.	\$2,000 \$5,000 fine
26A	Playing radios, cassettes, etc.	\$2,000 \$5,000 fine
27(a)	Bringing prohibited items of luggage, etc.	\$2,000 \$5,000 fine
28	Bringing animals	\$2,000 \$5,000 fine
<u>28C(1)</u> <u>and</u> <u>28C(2)</u> <u>28C(3)</u>	Entrance or exit by improper means and <u>queuing</u>	\$3,000 \$5,000 fine
<u>28H</u>	<u>Failure to queue</u> <u>Abusive language</u>	\$2,000 fine \$5,000 fine and 6 months imprisonment
28I	Flying materials endangering operations	\$3,000 \$5,000 fine and 3 6 months imprisonment
<u>28J</u>	<u>Use of skateboards, scooters, etc.</u>	\$5,000 fine
<u>28K</u>	<u>Obstruction</u>	\$5,000 fine
29	Soliciting, etc.	\$5,000 fine and 6 months imprisonment
31	Loitering	\$2,000 \$5,000 fine and 3 months imprisonment
<u>32A</u>	<u>Unauthorized display of materials</u>	\$5,000 fine and 6 months imprisonment
33	Motor vehicles left on railway premises	\$4,000 \$5,000 fine
35	Failure of vehicle driver to comply with signs	\$4,000 \$5,000 fine and 2 6 months imprisonment
37	Vehicles on certain parts of railway premises	\$5,000 fine and 6 months imprisonment
<u>39B</u>	<u>Soliciting for handling of luggage</u>	\$5,000 fine and 6 months imprisonment
<u>39D</u>	<u>Soliciting for handling of goods</u>	\$5,000 fine and 6 months imprisonment
<u>41E</u>	<u>Entry to cross-boundary restricted area</u>	\$5,000 fine and 6 months imprisonment
<u>41J</u>	<u>Failure of employee to surrender cancelled permit</u>	\$1,000 fine
<u>41K</u>	<u>Failure of employer to surrender cancelled permit</u>	\$1,000 fine
<u>41L</u>	<u>Failure of employer to notify and surrender permit</u>	\$1,000 fine
<u>41M</u>	<u>Failure of permit holder to surrender permit upon cessation of employment</u>	\$1,000 fine
<u>41P</u>	<u>Failure of permit holder to report loss of permit</u>	\$1,000 fine
<u>41Q</u>	<u>Failure of employer to report loss of permit</u>	\$1,000 fine
<u>41R</u>	<u>Failure to deliver lost permit upon discovery</u>	\$1,000 fine

Change of Chinese reference to “地鐵公司”

All references to “地鐵公司” in the Chinese text shall be replaced by “港鐵公司”.

Annex B

Draft Mass Transit Railway (North-west Railway) Bylaw

MASS TRANSIT RAILWAY (NORTH-WEST RAILWAY) BYLAWS

CONTENTS

Bylaw

PART I

PRELIMINARY

1. Citation
2. Interpretation

PART II

TICKETS AND FARES

3. Tickets
4. Fares
5. Tickets contain no warranty or acceptance of liability
6. Entry and travel prohibited without payment of fare
7. Production of tickets and surcharge
8. Damaging and using damaged tickets
9. Failures to pay fare, etc.
10. Travel without a ticket or with expired or inappropriate ticket
11. Passengers to examine tickets and change
12. Exchanges and refunds
13. Children traveling on buses and the railway
14. Refusal of access

PART III

TRESPASS AND DAMAGE TO BUSES AND THE RAILWAY

15. Trespass and removal of trespassers
16. Offensive matter, materials, etc.

PART IV

AUTHORITY OF THE CORPORATION STAFF

17. Powers of the Corporation's officials

PART V

CONDUCT OF PERSONS ON BUSES AND THE RAILWAY

18. Unlawful use of equipment on buses and the railway
19. Indemnities for damage caused to persons and property
20. Compliance with notices
21. Feet not to be placed on seats
22. Smoking prohibited
23. Spitting and litter prohibited
24. Nuisance
- 24A. Passengers in unfit or improper condition
25. Singing, dancing and musical instruments prohibited
26. Prohibited items

PART VI

HAWKERS, LOITERERS AND BILL POSTING

27. Unauthorized bill posting, advertising and touting
28. Hawking prohibited
29. Loitering prohibited

PART VII

VEHICLES ON THE RAILWAY PREMISES

30. Vehicles not to be left on railway premises
31. Dealing with vehicles left on railway premises
32. Drivers to comply with traffic signs
33. Dangerous driving
34. Vehicles prohibited on certain parts of railway premises

PART VIII

DANGEROUS GOODS

35. Dangerous goods

PART IX

LOST PROPERTY

36. Lost property
37. Disposal of lost property

PART X

LIMITATION OF LIABILITIES

38. Payment of sums sufficient to indemnify Corporation
39. Limitations and exemptions

PART XI

ENFORCEMENT AND PENALTIES

- 40. Removal of persons from railway
 - 41. Penalties
 - 42. Preservation of other causes of action
- Schedule Penalties

MASS TRANSIT RAILWAY (NORTH-WEST RAILWAY) BYLAWS
(Cap. 556, section 34)

PART I

PRELIMINARY

1. Citation

These by-laws may be cited as the Mass Transit Railway (North-west Railway) By-laws.

2. Interpretation

In these by-laws, unless the context otherwise requires-

"automatic processing device" (自動處理裝置) means a processing device used by the Corporation for the automatic collection of fares;

"bus" (巴士) means a bus as defined in the Road Traffic Ordinance (Cap 374) and operated by or on behalf of the Corporation within the Northwest Transit Service Area as defined in the Ordinance;

"Corporation" (公司) means the MTR Corporation Limited as defined in the Ordinance;

"fare" (車費) means the fare payable by any passenger for travel on any bus or the railway irrespective of whether a ticket is issued to him by or on behalf of the Corporation for travel on any bus or on the railway;

"invalid ticket" (失效車票) means a ticket-

- (a) for which the period of validity has expired; or
- (b) which is invalid for travel on any bus or on the railway in which the ticket holder is travelling; or
- (c) which the passenger is not entitled to use pursuant to the conditions of use contained or referred to in any other publications, notices, lists or tables relating to such ticket or travel; and
- (d) in case of a smart card includes a smart card which has not had the appropriate authorization code recorded on it by an automatic processing device immediately before the ticket holder travels or attempts to travel on any bus or boards or attempts to board any vehicle of the North-west Railway or travels or attempts to travel on any such vehicle;

"official" (人員) means any person duly authorized to act on behalf of the Corporation and includes any employee, servant or lawfully appointed agent of the Corporation;

"the Ordinance" (條例) means the Mass Transit Railway Ordinance (Cap 556);

"passenger" (乘客) means a person who has paid a fare or on whose behalf a fare has been paid and who is lawfully travelling on any bus or the railway during the hours of business of the Corporation irrespective of whether a ticket is issued to him or on his behalf or has been otherwise acquired by him for such purpose;

"personalized ticket" (個人車票) means a ticket which has been issued to the person or individual identified on the ticket;

"railway" (鐵路) means the North-west Railway as defined in the Ordinance;

"railway premises" (鐵路處所) means railway premises as defined in the Ordinance belonging to or appertaining to the North-west Railway but excludes any carriageway of the North-west Railway not designated by the Commissioner for Transport for the purpose of the definition of "road" under section 2 of the Road Traffic Ordinance (Cap 374);

"smart card" (聰明卡) means a card or chip issued by or on behalf of the Corporation for the purpose of communicating with automatic processing devices;

"surcharge" (附加費) means such amount as may be specified in notices, lists, tables or other publications issued by or on behalf of the Corporation from time to time and shall be-

- (a) an amount equal to fifty times the prevailing maximum adult single fare on any bus or railway at the time the surcharge is imposed; or
- (b) the maximum fine prescribed in these by-laws, whichever is the lower;

"ticket" (車票) means any form of ticket, smart card, pass or permit issued from time to time by or on behalf of the Corporation, for travel on any bus or on the railway;

"ticket office" (票務處) means any office operated by or on behalf of the Corporation which is duly authorized to issue tickets;

"vehicle" (車輛) means a vehicle as defined in the Road Traffic Ordinance (Cap 374);

"vehicle of the North-west Railway" (西北鐵路車輛) means any train or carriage or compartment thereof used on or in connection with the railway.

PART II

TICKETS AND FARES

3. Tickets

- (1) All tickets whether specifically referred to in these by-laws or not are issued subject to-
- (a) these by-laws; and
 - (b) any special conditions stated or referred to on such tickets or any special conditions otherwise contained or referred to in any notices, lists, tables or other publications issued by or on behalf of the Corporation.
- (2) A passenger shall be deemed to have knowledge of and to have agreed to these by-laws and any special conditions in relation to any ticket used by him or any special conditions otherwise contained or referred to in any notices, lists, tables or other publications issued by or on behalf of the Corporation and the liability of the Corporation (if any) shall be limited but not extended thereby.

4. Fares

The fares appearing from time to time in notices, lists, tables or other publications issued by or on behalf of the Corporation are the authorized fares for travel on any bus or on the railway.

5. Tickets contain no warranty or acceptance of liability

- (1) The Corporation does not warrant that a passenger will be conveyed on any particular bus or vehicle of the North-west Railway or that any bus or vehicle of the North-west Railway shall arrive or depart at a particular time or stop or that the issue of a ticket will be

completed before the departure of any bus or vehicle of the North-west Railway and the Corporation will not be liable to any person for any loss or damage whatsoever arising from any delay or detention caused by the alteration suspension interference with or withdrawal of the Corporation's bus or railway services (or a part thereof) for any reason whatsoever.

(2) The Corporation may in its absolute discretion do all or any of the following without being liable to any person for any loss or damage caused thereby-

- (a) suspend or discontinue the issue of tickets howsoever issued;
- (b) despatch any bus or vehicle of the North-west Railway from a stop before the arrival of any other bus or vehicle of the North-west Railway without affording passengers an opportunity of alighting and boarding the bus or vehicle of the North-west Railway;
- (c) suspend, discontinue or otherwise withdraw all or any bus or railway service from any stop at any time and for any period of time or suspend, discontinue or withdraw the running of any bus or vehicle of the North-west Railway at any time and for any period of time and alter the times of departure and arrival of any bus or vehicle of the North-west Railway and the routes thereof.

(3) The Corporation may in its absolute discretion consider applications for a refund where a ticket is unused as a consequence of the circumstances described in by-law 5(2).

6. Entry and travel prohibited without payment of fare

No person shall without the authority of an official, which authority shall not be unreasonably withheld, or except as provided in by-law 13(1) -

- (a) travel on any bus;
- (b) board or attempt to board any vehicle of the North-west Railway; or
- (c) travel or attempt to travel upon any vehicle of the North-west Railway,

unless having first paid the appropriate fare and, where a ticket is issued, obtaining the appropriate ticket and in the case of using a smart card as a ticket, using it in the appropriate manner in conjunction with an automatic processing device so that the appropriate fare is paid to the Corporation.

7. Production of tickets and surcharge

(1) All tickets shall remain the property of the Corporation and must be produced at any time on any bus or on the railway on demand being made therefor by any official of the Corporation.

(2) Any person who refuses or fails to pay the appropriate fare or refuses or fails to produce his ticket shall be liable to pay a surcharge.

(3) A person holding or using a free or concessionary ticket while on the railway or on any bus or vehicle of the North-west Railway shall produce on demand by an official sufficient evidence to prove his entitlement to hold and use the ticket.

(4) Any person who uses a free or concessionary ticket but fails to produce sufficient evidence to prove his entitlement to such use shall be liable to pay a surcharge as if no ticket were held.

(5) Any person who without the authority of an official, which authority shall not be unreasonably withheld, holds a free or concessionary ticket and fails to produce sufficient evidence to prove his entitlement to hold such ticket shall be required upon demand by an official to surrender such ticket to the official.

8. Damaging and using damaged tickets

- (1) No person shall improperly do anything to or with a ticket whereby-
 - (a) the coded or printed data thereon is erased wholly or in part or is otherwise altered or interfered with; or
 - (b) the ticket is otherwise damaged.
- (2) No person shall use or attempt to use for travel on any bus or the railway a ticket which has been improperly altered damaged or which has been otherwise interfered with and, in the case of using a smart card as a ticket which is unable to communicate with an automatic processing device for tickets.

9. Failures to pay fare, etc.

- (1) Save as provided under paragraphs (2), (3), (4), (5) and (6), no person prior to leaving any bus or the railway shall fail to or refuse to pay any fare or other sum payable to the Corporation in accordance with these by-laws.
- (2) When a person is liable to pay a surcharge, payment shall be made immediately on demand by an official and payment shall be made to the official demanding the surcharge.
- (3) When a person aged 16 years and over is unable in the opinion of an official to make immediate payment of a surcharge, the demand of the surcharge by the Corporation shall be made by way of service of a notice in writing and the person upon whom the notice is served shall sign the notice and shall make payment of the surcharge not later than 14 days from the date of service of the notice.
- (4) When a person under the age of 16 years is unable in the opinion of an official to make immediate payment of the surcharge, the demand of the surcharge by the Corporation shall be made by way of service of a notice in writing upon his parent, legal guardian or next of kin and the person who receives the notice shall make payment of the surcharge not later than 14 days from the date of the notice.
- (5) The decision as to whether a person is unable to make immediate payment of a surcharge shall be in the absolute discretion of an official dealing with tickets or passengers and shall be final and binding for all purposes without liability of whatever nature for any loss and damage whatsoever and howsoever arising from any such decision.
- (6) The Corporation shall be entitled at its own discretion to deduct the surcharge wholly or in part from any smart card held by any passenger liable in respect thereof.

10. Travel without a ticket or with expired or inappropriate ticket

- (1) If a person (other than a person who is under the age of 3 years) travels or attempts to travel on any bus or vehicle of the North-west Railway-
 - (a) without a ticket;
 - (b) with a ticket which has been altered without the authority of the Corporation or any of its officials or which has been damaged;
 - (c) with an invalid ticket; or
 - (d) with a personalized ticket which has been issued to another person,he shall be regarded as not having paid his fare and shall be liable to pay a surcharge to the Corporation.
- (2) For the purposes of by-law 10(1)-

- (a) a ticket shall expire and becomes invalid in the event that a passenger fails to complete the journey to which the ticket relates within 2 hours of being issued with a ticket;
- (aa) the period of validity and special conditions governing a season ticket or a stored value ticket shall be those printed upon the ticket or, if no period of validity or special conditions are printed upon the ticket such period of validity and special conditions as are set out in the publications, notices, lists or tables issued by or on behalf of the Corporation from time to time;
- (b) a person who is on any bus or vehicle of the North-west Railway and who subsequently leaves or attempts to leave the bus or vehicle of the North-west Railway or the railway premises shall, in the absence of proof to the contrary, be presumed to have travelled upon the railway;
- (c) all tickets issued by or on behalf of the Corporation shall be delivered up at the request of an official if they have become invalid whether or not any stored value remains in such ticket.

11. Passengers to examine tickets and change

(1) All persons shall examine their tickets and any change tendered before leaving any ticket office.

(2) Neither the Corporation nor any official of the Corporation shall be liable for any error or omission not drawn to their attention at the time of issue of a ticket.

(3) A person boarding any bus shall insert not less than the appropriate fare into a farebox in payment of the fare or shall produce for inspection a valid ticket or authority for travel.

(4) A person using an automatic vending machine shall insert not less than the appropriate fare in legal tender including a valid stored value ticket for the purchase of a ticket.

(5) No person shall be entitled to any refund of any amount inserted into an automatic vending machine or a farebox which is-

- (a) in excess of the appropriate fare; or
- (b) in excess of the balance required to make up the appropriate fare where the value remaining in a stored value ticket is inadequate.

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

(7) Any person who is requested to do so by any official of the Corporation shall immediately produce to that official acceptable proof of his entitlement to any concessionary or other special type of ticket or fare.

12. Exchanges and refunds

(1) A fare may be refunded or a ticket may be refunded or exchanged at the absolute discretion of the Corporation. Any such exchange or refund may be subject to the deduction of an administration charge prescribed and published by the Corporation from time to time.

(2) The form of any refund shall be at the absolute discretion of the Corporation.

(3) The Corporation shall not be obliged to issue a ticket in replacement of a lost or mislaid or unused ticket nor will it be obliged to make a refund in respect of the value of any such ticket or the amount of a fare or a surcharge levied as a consequence of failure to produce a ticket when required.

13. Children travelling on buses and the railway

(1) Except when otherwise specified in notices, lists, tables or other publications issued by or on behalf of the Corporation, up to two children under 3 years of age may accompany each adult passenger on any bus or on the railway free of charge provided that such child or children do not occupy a seat or seats that are required for other passengers.

(2) Each adult passenger accompanied by more than two children under 3 years of age shall pay the child fare as provided for in by-law 4 for any children exceeding two in number.

(3) Any child over 3 years of age but under 12 years of age when travelling on any bus or on the railway shall pay the child fare as provided for in by-law 4.

(4) In the absence of proof as to the age of any child referred to in these by-laws the decision as to age shall be in the absolute discretion of the officials of the Corporation dealing with tickets or passengers and shall be final and binding for all purposes without liability of whatever nature for any loss or damage whatsoever and howsoever arising from any such decision.

14. Refusal of access

The Corporation or any official may refuse to admit any person onto any bus or vehicle of the North-west Railway or to any part of the railway premises at any time whom it or he believes is likely to act in a riotous, disorderly or offensive manner or whom it or he reasonably suspects of committing or attempting to commit any offence contrary to any of these by-laws.

PART III

TRESPASS AND DAMAGE TO BUSES AND THE RAILWAY

15. Trespass and removal of trespassers

(1) No person shall enter into or upon the railway premises or any part thereof other than those parts clearly defined by means of notices, indicators and other directions for the use of persons using the railway, nor shall any person enter or leave such parts other than by use of the designated entrances or exits.

(2) Any person who, without lawful excuse or the authority of the Corporation or its officials is on any bus or vehicle of the North-west Railway or on any part of the railway premises or who otherwise being in breach of these by-laws refuses to leave the same on being requested so to do by any official of the Corporation may be immediately removed therefrom without prejudice to any penalty or surcharge which may be imposed in accordance with these by-laws.

16. Offensive matter, materials, etc.

- (1) No person shall cause, permit or suffer-
- (a) any sewage, drainage or any other offensive matters to flow onto or otherwise come onto or be upon the railway or any part thereof;

- (b) any waste product, waste material or food or refuse of any kind to be deposited on or otherwise come onto any bus or vehicle of the North-west Railway or any part of the railway;
 - (c) any kite, balloon, model or other thing to fly or otherwise pass over any part of the airspace above the railway or any part thereof;
 - (d) any kind of construction materials, construction plant or equipment to be deposited on or otherwise come upon and remain upon or pass across the railway premises except with the written authority of the Corporation.
- (2) No person shall cause permit or suffer any missile, article or other object whatsoever to be propelled at or thrown at or wilfully dropped upon any bus or vehicle of the North-west Railway or other part of the railway.

PART IV

AUTHORITY OF THE CORPORATION STAFF

17. Powers of the Corporation's officials

No official of the Corporation shall have any actual or apparent authority to waive, amend or otherwise alter any of these by-laws or conditions made hereunder or the by-laws or conditions of any other person or body, or to extend or vary all or any liability which may devolve on the Corporation under these by-laws or further or otherwise.

PART V

CONDUCT OF PERSONS ON BUSES AND THE RAILWAY

18. Unlawful use of equipment on buses and the railway

No person except an official of the Corporation shall-

- (a) actuate any emergency or safety device on any bus or vehicle of the North-west Railway or upon the railway except for the express purpose for which the same is provided and in accordance with the instructions printed thereon or on a notice displayed near thereto;
- (b) enter or leave (or attempt to enter or leave) any bus or vehicle of the North-west Railway whilst it is in motion or (except in case of accident or other emergency) between stops or otherwise than at the side of the bus or vehicle of the North-west Railway adjacent to the stop or the platform appointed for passengers to enter or leave the bus or vehicle of the North-west Railway;
- (c) enter or leave (or attempt to enter or leave) any bus or vehicle of the North-west Railway after the doors have commenced to close;
- (d) where notices are exhibited on a bus or a vehicle of the North-west Railway indicating that a door shall be used for entrance thereto and another door for exit therefrom (except in case of accident or other emergency) enter or attempt to enter by the door indicated for exit or leave or attempt to leave by the door indicated for entry;

- (e) operate, move, work or tamper with any mechanical or electrical appliance or any plant or equipment whatsoever which belongs to the Corporation or is constructed for the purposes of or in connection with the railway.

19. Indemnities for damage caused to persons and property

A person who by reason of bringing any animal, article or object on to any bus or vehicle of the North-west Railway or any part of the railway causes any injury, loss or damage whatsoever to the Corporation or its officials or any other person or causes any loss or damage whatsoever to the property of the Corporation, its officials or any other person shall indemnify the Corporation against all or any claims, demands, costs and expenses whatsoever arising therefrom in respect of any such injury, loss or damage howsoever caused:

Provided that this by-law shall not apply in circumstances where the damage or loss to the property or persons referred to herein arises entirely from the neglect or default of an official of the Corporation.

20. Compliance with notices

(1) Every person while on a bus or vehicle of the North-west Railway or on any part of the railway premises shall comply with all notices, indicators and all reasonable directions and requests of officials of the Corporation.

(2) No person shall stand on the upper deck or any staircase of a bus.

(3) Without prejudice to the generality of by-law 20(1) if any official of the Corporation determines that a bus or vehicle of the North-west Railway is full, no person shall enter or remain therein having just entered if directed by such official not to do so.

21. Feet not to be placed on seats

No person shall place his feet on any seat in any bus or on any vehicle of the North-west Railway or on any other part of the railway premises.

22. Smoking prohibited

No person shall smoke or carry a lighted pipe, cigar or cigarette in any bus or vehicle of the North-west Railway, or any other part of the railway premises where smoking is prohibited by notice.

23. Spitting and litter prohibited

No person shall-

- (a) spit in or on any bus or on any vehicle of the North-west Railway or any part of the railway premises; or
- (b) deposit or throw any litter on any bus or vehicle of the North-west Railway or on any part of the railway premises except into receptacles provided for that purpose.

24. Nuisance

- (1) No person shall at any time while upon the railway premises-

- (a) use any threatening, abusive, obscene or offensive language or behave in a riotous, disorderly, indecent or offensive manner; or
- (b) paint, write, draw or affix any word, representation or character upon or wilfully soil or defile the railway premises or break, cut, scratch, tear, deface or otherwise damage any part of the railway premises including any bus or vehicle of the North-west Railway or any of the fittings, furniture, decorations, or equipment thereof or any publication, notice, list, time-table, advertisement, number plate, number, figure or letter therein or thereupon or remove therefrom or detach any such article or object; or
- (c) damage any property upon the railway premises; or
- (d) molest or wilfully interfere with the comfort or convenience of any person; or
- (e) obstruct, impede or distract an official from performing his duties.

(2) Notwithstanding the provisions of by-law 41, any person who contravenes paragraph (1) shall be liable to the Corporation for the amount of the damage done to any property of the Corporation or of any other person.

24A. Passengers in unfit or improper condition

No person in a state of intoxication or who is in an unfit or improper condition shall enter or remain upon the railway premises or any part thereof.

25. Singing, dancing and musical instruments prohibited

No person unless authorized in writing by the Corporation or any of its officials while upon any bus or vehicle of the North-west Railway or any part of the railway premises shall sing, dance or perform on any musical or other instrument or use a radio, cassette recorder, compact disc player or similar device, television or any other such electrical or mechanical device which is likely to cause annoyance, inconvenience or disturbance to any other person.

26. Prohibited items

No person shall-

- (a) bring onto any bus or vehicle of the North-west Railway or any part of the railway premises any luggage, article, object or any other thing which by reason of its nature, in the opinion of an official, cannot be carried or otherwise accommodated on any bus or vehicle of the North-west Railway or any part of the railway premises without the likelihood of causing damage to the property of the Corporation or without the likelihood of causing a nuisance or inconvenience to other persons using any bus or the railway;
- (b) except as authorized by the Corporation consume any food or beverage (whether alcoholic or non-alcoholic) on any bus or vehicle of the North-west Railway or any part of the railway premises;
- (c) unless the Corporation in its sole discretion allows or permits, bring any animal or other livestock into or upon any part of the railway premises (provided that this restriction shall not apply to a guide dog accompanying a blind person); or
- (d) place or throw any lighted cigarette end, match, tobacco, liquid, substance or any other thing upon the railway premises in a manner which constitutes or is likely to constitute a fire hazard.

PART VI

HAWKERS, LOITERERS AND BILL POSTING

27. Unauthorized bill posting, advertising and touting

No person on any bus or on any vehicle of the North-west Railway or any part of the railway premises shall, except with the written authority of the Corporation-

- (a) post, stick, paint or write or cause to be posted, stuck, painted or written any bill, placard, advertisement or any other matter;
- (b) display or exhibit or cause to be displayed or exhibited any printed, written or pictorial matter or any article for the purpose of advertisement or publicity, or distribute any book, leaflet or other printed matter or any sample or other article; or
- (c) tout, ply for, or solicit alms, reward or custom or employment of any description.

28. Hawking prohibited

No person, unless authorized in writing by the Corporation, shall sell or expose or offer for sale any goods, wares or services in or on any bus or vehicle of the North-west Railway or any part of the railway premises and sections 86, 86A, 86C, and 86D of the Public Health and Municipal Services Ordinance (Cap 132) shall apply to an offence under this by-law as if such offence were a hawker offence within the meaning of section 86 of that Ordinance.

29. Loitering prohibited

No person other than passengers or other persons having the authority of the Corporation and on lawful business in or in connection with the railway shall loiter in or about any part of the railway premises.

PART VII

VEHICLES ON THE RAILWAY PREMISES

30. Vehicles not to be left on railway premises

Except with the written authority of the Corporation, no person shall park or leave or cause any vehicle to be parked or left on the railway premises or any part thereof.

31. Dealing with vehicles left on railway premises

(1) The Corporation may in such manner as it thinks fit remove and detain any vehicle in respect of which a contravention of by-law 30 is committed and may charge the owner or driver thereof all costs and expenses occasioned by and incidental to such removal and detention without prejudice to any penalty incurred by contravention of that by-law.

(2) If a vehicle detained under by-law 31(1) is not claimed and removed and all costs and expenses are not paid within 3 days after its detention, the Corporation shall where practicable except in the case of emergency serve on the registered owner of the vehicle (as defined in the Road Traffic Ordinance (Cap 374)) a notice informing him-

- (a) of the detention of the vehicle and the place of detention; and
- (b) that, unless the vehicle is removed from the place of detention on payment of any costs and charges within 14 days after the service of the notice on him, the vehicle shall become the property of the Corporation free from the rights of any person and may be disposed of by the Corporation by sale or otherwise.

(3) If a vehicle is not removed in accordance with the notice served under by-law 31(2) or, if the service of such notice is impracticable, within 14 days of the date of its first detention, the vehicle shall become the property of the Corporation free from the rights of any person and may be disposed of by the Corporation by sale or otherwise as it thinks fit.

(4) If, within 6 months after the day on which a vehicle is sold pursuant to by-law 31(3), any person satisfies the Corporation that at the time the vehicle became the property of the Corporation by virtue of that by-law, he was the owner of the vehicle, the Corporation shall pay to such person the balance of the proceeds of sale after deducting any costs and charges of removal and detention and any reasonable charges incurred by the Corporation in respect of the sale of the vehicle.

(5) A notice under by-law 31(2) may be served personally or by post.

(6) For the purpose of this by-law "vehicle" (車輛) includes the equipment carried by or on a vehicle.

32. Drivers to comply with traffic signs

Vehicle drivers while in or upon any part of the railway premises shall obey all traffic signs and signals and the reasonable instructions and directions of officials of the Corporation.

33. Dangerous driving

No person shall drive or operate any vehicle through, into or upon the railway premises or any part thereof in excess of the speed indicated by a notice, indicator, sign or signal or by an official or in a manner likely to involve danger to others.

34. Vehicles prohibited on certain parts of railway premises

No person shall drive or operate any vehicle upon or along the railway premises or any part thereof set apart for the exclusive use of pedestrians.

PART VIII

DANGEROUS GOODS

35. Dangerous goods

No person not being an official of the Corporation duly authorized in that behalf shall bring onto any bus or any vehicle of the North-west Railway or any part of the railway premises any substance or other thing which is subject to the provisions of the Dangerous Goods Ordinance (Cap 295).

PART IX

LOST PROPERTY

36. Lost property

Every person who finds any article or object in or upon any bus or vehicle of the North-west Railway or any part of the railway premises shall hand over the same to an official of the Corporation as soon as is practicable and no person other than an official of the Corporation shall remove from any bus or vehicle of the North-west Railway or any part of the railway premises any property lost or left behind therein, save for the purpose of handing over the same as soon as is practicable to an official of the Corporation and all articles or objects so found shall as between the finder and the Corporation be deemed to be in the possession of the Corporation.

37. Disposal of lost property

(1) All articles or objects found and which come into the possession of the Corporation shall be dealt with as follows-

- (a) perishable, noxious or otherwise offensive goods or articles may be disposed of by the Corporation by sale or otherwise as in its absolute discretion it sees fit as soon as practicable after the same comes into its possession;
- (b) all other articles or objects shall be retained by the Corporation for a period of 1 month after they have come into its possession and, if at the end of that period they remain unclaimed, they shall be deemed to become the absolute property of the Corporation free from any other rights and encumbrances, and the Corporation may dispose of them by sale or otherwise and at such price (if any) as the Corporation in its absolute discretion thinks fit.

(2) If within a period of 6 months from the date of any sale by the Corporation of any article or object the former owner thereof (which expression includes the person formerly entitled to the beneficial interest therein) establishes to the satisfaction of the Corporation prior lawful ownership of the article or object the former owner shall be paid the proceeds of sale less all expenses incurred by the Corporation in respect of and incidental to such sale provided that the former owner shall provide the Corporation with an indemnity in such form as may be required by the Corporation as a pre-condition to payment by the Corporation of any such sale proceeds.

(3) The Corporation shall not be liable to any person for any loss or damage whatsoever and howsoever arising from the loss of any article or object or the retention, sale or other disposal thereof or the restoration under by-law 37(2) of any article or object to a person other than the former lawful owner thereof.

PART X

LIMITATION OF LIABILITIES

38. Payment of sums sufficient to indemnify Corporation

Any passenger or person or the owner of any animal, vehicle, luggage, goods, articles or things howsoever mentioned or referred to in these by-laws shall pay to the Corporation the amount of all or any sum or sums required to indemnify the Corporation or any official of the Corporation from and against all or any claim made by or on behalf of any passenger or owner or other person including personal representatives of the same arising out of the carriage or custody by the Corporation or any official of the Corporation of any animal, vehicle, luggage, goods, articles or things and any cost, loss, damage or expense incurred in connection herewith and the Corporation shall hold any such sums paid in respect of any such claims against any cost, damage, loss or expense of any official of the Corporation in trust for the official concerned.

39. Limitations and exemptions

The Corporation in making these by-laws do so for themselves and for and on behalf of each and every official of the Corporation and the payment of a fare or the acceptance of a ticket by any passenger or person shall be conclusive evidence of his or their agreement that each and every limitation and exemption afforded to the Corporation by these by-laws or all or any of them shall extend to each such official.

PART XI

ENFORCEMENT AND PENALTIES

40. Removal of persons from railway

(1) Any person who is reasonably suspected of committing or attempting to commit any offence against any of these by-laws shall produce proof of his identity and give his name, telephone number and address to an official of the Corporation when required to do so.

(2) An official acting in execution of the powers conferred under by-law 40(1) shall produce the authorization issued by the Corporation in accordance with by-law 2 prior to executing those powers.

(3) No person shall wilfully provide false information when required to provide information under by-law 40(1).

(4) An official shall have the power to remove (if necessary by the use of reasonable force) from the railway premises any person whom he reasonably suspects of having committed or attempting to commit any breach of these by-laws; without prejudice to any penalty or surcharge which may be imposed in accordance with these by-laws and in the case where such breach is an offence as herein provided he shall have power to detain such person until he can be delivered into the custody of a police officer to be dealt with according to law.

41. Penalties

A person who contravenes a by-law set out in the first column of the Schedule commits an offence and is liable to the penalty set out in the second column of that Schedule opposite the reference to that by-law.

42. Preservation of other causes of action

(1) Unless the context otherwise requires nothing in these by-laws and no prosecution or step or action hereunder shall bar any further or other claim for damages or other remedy or relief which the Corporation or its agents or other persons may be entitled to prosecute or bring.

(2) Any sum levied by or payable to the Corporation or its agents (including, without limitation, any fare, or surcharge) whether by way of penalty, debt, damages, costs, loss, expense or otherwise shall be due to the Corporation or its lawful agents as a debt due on demand and shall be enforceable as a civil debt.

SCHEDULE

[by-law 41]

PENALTIES

By-law	Penalty
6	\$5,000 fine
7	\$5,000 fine
8	\$5,000 fine and 6 months imprisonment
9	\$5,000 fine
10(1)	\$5,000 fine
13(1)	\$2,000 fine
15	\$5,000 fine
16	\$5,000 fine and 6 months imprisonment
18(a)	\$5,000 fine and 6 months imprisonment
18(b), (c) and (d)	\$2,000 fine
18(e)	\$5,000 fine and 6 months imprisonment
20	\$1,000 fine
21	\$1,000 fine
22	\$5,000 fine
23	\$5,000 fine
24	\$5,000 fine and 6 months imprisonment
24A	\$5,000 fine
25	\$2,000 fine
26(a), (b) and (c)	\$3,000 fine
26(d)	\$5,000 fine and 6 months imprisonment
27	\$5,000 fine and 6 months imprisonment
28	\$5,000 fine and 6 months imprisonment
29	\$1,000 fine and 3 months imprisonment
30	\$5,000 fine
32	\$5,000 fine and 3 months imprisonment
33	\$5,000 fine and 6 months imprisonment
34	\$5,000 fine
35	\$5,000 fine and 6 months imprisonment
36	\$2,000 fine
40(1)	\$1,000 fine
40(4)	\$3,000 fine and 3 months imprisonment

Annex C

Draft Mass Transit Railway (Amendment)

Regulation 2007

(Proposed amendments are marked-up against the relevant provisions of the existing
Mass Transit Railway Regulations, Cap 556A)

**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)*

~~1. Citation~~

~~These regulations may be cited as the Mass Transit Railway Regulations.~~

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.
-

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 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 of the refusal of the approval.

(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 of his decision on an appeal.

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 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 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”.

Annex D

Draft Kowloon-Canton Railway Corporation (Suspension) Regulation

KOWLOON-CANTON RAILWAY CORPORATION (SUSPENSION) REGULATION

(Made by the Secretary for the Environment, Transport and Works under section 30 of the Kowloon-Canton Railway Corporation Ordinance (Cap. 372))

1. Commencement

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

2. Suspension of operation of Regulations

The operation of the Kowloon-Canton Railway Corporation Regulations (Cap. 372 sub. leg. A) is suspended during the Concession Period.

3. Transitional and saving provisions

Section 23 of the Interpretation and General Clauses Ordinance (Cap. 1) has the same effect in relation to the suspension under section 2 as it would have if the Kowloon-Canton Railway Corporation Regulations (Cap. 372 sub. leg. A) had been repealed.

Secretary for the Environment,
Transport and Works

Explanatory Note

The object of this Regulation is to suspend the operation of the Kowloon-Canton Railway Corporation Regulations (Cap. 372 sub. leg. A) (“the suspension”) during the period when the operation of railways by the Kowloon-Canton Railway Corporation is taken over by the MTR Corporation Limited. During the period, provisions similar to those in the Kowloon-Canton Railway Corporation Regulations (Cap. 372 sub. leg. A) are provided for under the Mass Transit Railway Regulations (Cap. 556 sub. leg. A).

2. Section 2 of this Regulation provides for the suspension.
3. Section 3 provides that section 23 of the Interpretation and General Clauses Ordinance (Cap. 1) applies in relation to the suspension.

Annex E

Draft Kowloon-Canton Railway Corporation (Suspension of Bylaws) Bylaw

Kowloon-Canton Railway Corporation (Suspension of By-laws) By-law 2007

(Made by the Kowloon-Canton Railway Corporation under section 31 of the Kowloon-Canton Railway Corporation Ordinance (Cap.372) subject to the approval of the Legislative Council)

1. Commencement

This By-law shall come into operation on the day appointed for the commencement of the Rail Merger Ordinance ([] of 2007) under section 2 of that Ordinance.

2. Suspension of operation of By-laws

The operation of the Kowloon-Canton Railway Corporation By-laws (Cap. 372 sub. leg. B) and the North-west Railway By-laws (Cap. 372 sub. leg. E) is suspended during the Concession Period.

3. Transitional and saving provisions

Section 23 of the Interpretation and General Clauses Ordinance (Cap. 1) has the same effect in relation to the suspension under by-law 2 as it would have if the Kowloon-Canton Railway Corporation By-laws (Cap. 372 sub. leg. B) and the North-west Railway By-laws (Cap. 372 sub. leg. E) had been repealed.

Kowloon-Canton Railway Corporation

Annex F

Draft Kowloon-Canton Railway (Restricted Area) (No.2)
(Amendment) Notice 2007

**KOWLOON-CANTON RAILWAY (RESTRICTED AREA) (NO. 2)
(AMENDMENT) NOTICE 2007**

(Made by the Kowloon-Canton Railway Corporation under By-law 77 of
Kowloon-Canton Railway Corporation By-laws (Cap. 372B) subject to the
approval of the Legislative Council)

1. Commencement

This Notice shall come into operation on the day appointed for the commencement of the Rail Merger Ordinance ([] of 2007) under section 2 of that Ordinance.

2. Section added

The Kowloon-Canton Railway (Restricted Area) (No. 2) Notice 1997 (Cap. 372 sub. leg. I) is amended by adding immediately after section 1-

“1A. Suspension of this notice during the Concession Period

- (1) The operation of this notice (except this section 1A) is suspended during the Concession Period.
- (2) Section 23 of the Interpretation and General Clauses Ordinance (Cap. 1) shall have the same effect in relation to the suspension of the operation of any provision by virtue of this section 1A as it would have if such provision had been repealed.”.

Annex G

Draft Mass Transit Railway (Transport Interchange)
(Amendment) Regulation 2007

MASS TRANSIT RAILWAY (TRANSPORT INTERCHANGE) (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).

2. Amendment of Chinese title

The title of the Mass Transit Railway (Transport Interchange) Regulation (Cap. 556 sub. leg. C) is amended, in the Chinese text, by repealing “地下鐵路” and substituting “香港鐵路”.

3. Interpretation

Section 1 is amended, in the Chinese text –

- (a) in the definition of “訂明交通標誌”, by repealing “地下鐵路” and substituting “香港鐵路”;
- (b) in the definition of “訂明道路標記”, by repealing “地下鐵路” and substituting “香港鐵路”;
- (c) in the definition of “訂明管制燈號”, by repealing “地下鐵路” and substituting “香港鐵路”;
- (d) in the definition of “許可證”, by repealing “地鐵公司” where it twice appears and substituting “港鐵公司”;
- (e) in the definition of “通行證”, by repealing “地鐵公司” where it twice appears and substituting “港鐵公司”;
- (f) in the definition of “獲授權人”, by repealing “地鐵公司” where it twice appears and substituting “港鐵公司”.

4. Substitution of “港鐵公司” for “地鐵公司”

(1) The following provisions are amended, in the Chinese text, by repealing “地鐵公司” wherever it appears and substituting “港鐵公司” –

- (a) section 2;
- (b) section 3;
- (c) section 4;
- (d) section 5;
- (e) section 6;
- (f) section 8;
- (g) section 9;
- (h) section 10;
- (i) section 11;
- (j) section 12;
- (k) section 13;
- (l) section 14;
- (m) section 15;
- (n) section 16;
- (o) section 17;
- (p) section 18.

(2) Section 18 is amended, in the Chinese text, in the heading, by repealing “地鐵公司” and substituting “港鐵公司”.

Secretary for the Environment,
Transport and Works

Explanatory Note

The Chinese short title of the Mass Transit Railway Ordinance (Cap. 556) (“the Ordinance”) and the Chinese name of the MTR Corporation Limited (“the Corporation”) have been amended as “《香港鐵路條例》” and “香港鐵路有限公司” respectively under the Rail Merger Ordinance (of 2007). The object of this Regulation is to make consequential changes to the Chinese title of the Mass Transit Railway (Transport Interchange) Regulation (Cap. 556 sub. leg. C) (“the principal Regulation”) and to the Chinese text of the principal Regulation as regards references to the Corporation and to the title of another piece of subsidiary legislation made under the Ordinance.

2. Section 2 amends the Chinese title of the principal Regulation.
3. Section 3 amends the Chinese texts of certain definitions used in the principal Regulation which contain references to the Corporation and to the Chinese title of another piece of subsidiary legislation made under the Ordinance.
4. Section 4 substitutes “港鐵公司” for “地鐵公司” wherever it appears in the principal Regulation.

Annex H

Draft Mass Transit Railway (Transport Interchange)
(Amendment) Bylaw 2007

**MASS TRANSIT RAILWAY (TRANSPORT INTERCHANGE)
(AMENDMENT) BYLAW [2007]**

(Made by the MTR Corporation Limited under section 34 of the Mass Transit Railway Ordinance (Cap. 556) subject to the approval of the Legislative Council)

1. Commencement

This Bylaw shall come into operation on the day appointed for the commencement of the Rail Merger Ordinance ([] of 2007) under section 2 of that Ordinance.

2. Amendment of Chinese title

The title of the Mass Transit Railway (Transport Interchange) Bylaw (Cap. 556 sub. leg. D) is amended, in the Chinese text, by repealing “地下” and substituting “香港”.

3. Interpretation

Bylaw 1 is amended—

(a) by renumbering it as bylaw 1(1);

(b) in paragraph (1), by adding—

“"Corporation" (地鐵公司) means the company –

(a) which, as at the appointed day, is incorporated under the Companies Ordinance (Cap. 32) and registered under that Ordinance by the name "MTR Corporation Limited" in English and "地鐵有限公司" in Chinese; and

(b) the Chinese name of which is changed to "香港鐵路有限公司" on the Merger Date under section 65(1) of the Ordinance;"

(c) by adding—

“(2) A reference in any signs, plates, markings or signals (including any prescribed road markings, prescribed traffic signs and road markings) or in any documents (including any notices and certificates) prescribed, erected, displayed, placed, made or given under this Bylaw to “地鐵有限公司” or “地鐵公司” is a reference to the company –

- (a) which, as at the appointed day, is incorporated under the Companies Ordinance (Cap. 32) and registered under that Ordinance by the name "MTR Corporation Limited" in English and "地鐵有限公司" in Chinese; and
- (b) the Chinese name of which is changed to "香港鐵路有限公司" on the Merger Date under section 65(1) of the Ordinance.”.

4. Part VIII

The heading of Part VIII is amended, in the Chinese text, by repealing “《地下鐵路附例》” and substituting “《香港鐵路附例》”.

5. Mass Transit Railway By-laws

Bylaw 28 and its heading are amended, in the Chinese text, by repealing “《地下鐵路附例》” wherever it appears and substituting “《香港鐵路附例》”.

6. Schedule 1 amended

Schedule 1 is amended, in the Chinese text-

- (a) by repealing “《地下鐵路條例》” wherever it appears and substituting “《香港鐵路條例》”;
- (b) by repealing “《地下鐵路（運輸交匯處）附例》” wherever it appears and substituting “《香港鐵路（運輸交匯處）附例》”.