

**Legislative Council Panel on Transport
Subcommittee on Matters Relating to Railways**

**Mass Transit Railway By-laws and
Mass Transit Railway (North-West Railway) Bylaw**

Purpose

This paper briefs the Subcommittee on the operation of the Mass Transit Railway By-laws (Cap. 556B) (“MTR By-laws”) and Mass Transit Railway (North-West Railway) Bylaw (Cap 556H) (“MTR (NWR) Bylaw”) since the rail merger. The Legislative Council discussed the review of the two sets of bylaws in 2009 and 2010. This paper also reports to the Subcommittee that, based on the discussion in the Legislative Council back then, the MTR Corporation Limited (“MTRCL”) proposes to re-activate the review to enhance the clarity and consistency of the two sets of bylaws and to better cater for needs arisen from existing railway operation.

Legal framework

2. With a dense population and limited road space, the Government’s transport policy is based on public transport with railway as its backbone, to provide travel convenience to the community. Currently, 90% of the commutes in Hong Kong are in public transport which makes up to 12 million passenger trips per day, among which over 5 million trips are in the MTR. Because of its dedicated rail corridor, as well as cooperation of passengers, the MTR manifests the effectiveness of a mass transit system as a highly used and smoothly operated railway system.

3. In addition, a comprehensive legal framework is essential to smooth railway operation. Upon the rail merger, the Government amended the original Mass Transit Railway Corporation Ordinance based on the scope of the MTRCL’s business following the rail merger, which became the existing Mass Transit Railway Ordinance (Cap. 556) (“Ordinance”). The Ordinance grants the franchise of railway service to the MTRCL and regulates the operation of the Corporation under the franchise, including the compliance with requirements to ensure railway safety.

4. To enable the MTRCL to provide proper and efficient railway service, Section 34 of the Ordinance stipulates that the MTRCL may make bylaws. The main purpose for making such bylaws is to impose reasonable regulation of passengers' behaviours to ensure that the MTRCL can provide safe, reliable and smooth railway service to passengers.

5. Upon the rail merger in 2007, the then prevailing two sets of bylaws applicable to the ex-MTR and ex-Kowloon-Canton Railway heavy rail networks respectively were amalgamated into the existing MTR By-laws. Meanwhile, since the Light Rail is an open network, it has a different operating environment and nature from the heavy rail network. Therefore, another set of bylaw, i.e. the MTR (NWR) Bylaw, which is adopted from the Kowloon-Canton Railway Corporation's North-West Railway By-laws, applies to the Light Rail network. The MTR (NWR) Bylaw also covers the feeder bus service provided in the North West New Territories. The two sets of bylaws came into effect on 2 December 2007.

6. To handle heavy and diverse railway operational needs, the two sets of bylaws empower the MTRCL to make detailed regulations, via notices, on daily operational issues, such as details of train operation and matters that passengers should pay attention to. Examples of these matters include size restriction on luggage, restricted areas in railway premises that are out of bound for passengers to ensure safety and areas where smoking is banned. This arrangement enables the MTRCL to swiftly respond to public views through administrative measures, taking into account actual operating environment and passengers' needs. For notices on matters that may arouse wide public concern, the MTRCL would consult the public for their views and monitoring.

7. This legal regulatory framework has been working effectively to cater for the operational needs of railway service.

8. As mentioned in paragraph 2 above, the MTR is a mass transit system that serves over 5 million passenger trips per day. The MTRCL has to ensure that interests of passenger as a whole are fully protected when it makes bylaws, or notices in accordance to the bylaws, with an utmost importance placed on ensuring safe, reliable and smooth railway operation. At the same time, the MTRCL will also strike a balance by catering for the reasonable needs of different passengers.

Operation of the bylaws since the rail merger

9. The two sets of bylaws have been operating effectively since the rail merger and the vast majority of passengers are cooperative and comply with the bylaws. The MTRCL would as far as possible advise the passengers to stop any behaviour that breach the bylaws and written warnings will be given where appropriate. Generally speaking, the MTRCL would only consider prosecution if the persons violate serious offences or are known to be repeated offenders. Take 2015 as an example: total patronage of the MTR heavy rail and Light Rail systems and feeder buses amounted to over 1.9 billion and there were only 2 643 prosecution cases in relation to the breach of bylaws (that is, only 1 prosecution case in around 700 000 passenger trips). Among the prosecutions, the most commonly breached bylaws in the heavy rail network included failure to pay fares (such as persons who travelled on the first class compartment of East Rail Line trains with invalid tickets or those who travelled with concessionary tickets while they were not qualified for such concessions) and bringing luggage that were prohibited (such as luggage that exceeded the size or weight limits). For Light Rail, the majority of the contraventions were about persons who failed to pay appropriate fares.

10. There are about 4 000 MTR staff members who can enforce the bylaws. To ensure that the bylaws would be applied consistently across the board, the MTRCL provides sufficient training and detailed guidelines to the staff members. These staff members are also required to attend refreshers and in-depth training on a regular basis, with a view to keeping them abreast of the ways to handle complicated cases and results of any recent legal proceedings in relation to breach of by-laws.

Review of the bylaws

11. The Legislative Council vetted the laws in relation to the rail merger in 2007 during which, based on the views of the Members, the MTRCL undertook to conduct a review of the two sets of bylaws, taking into account the experience of operating the railway system after the rail merger and views expressed by Members at the time. Upon completion of the review, the MTRCL submitted the results of the review and a set of proposed amendments, primarily for removing inconsistencies, duplications and obsolescence in the two sets of bylaws, to the Subcommittee on Matters Relating to Railways in January 2009. Details are set out in Legislative Council Paper No. CB(1)2089/09-10(01).

12. The Subcommittee discussed the matter at two meetings on January 2009 and June 2010 respectively. During the discussion, apart from the amendments to the bylaws proposed by the MTRCL (which covered areas such as the consistency of the two bylaws, penalty levels, and whether the bylaws had been obsolete in view of the then railway operation) and the training offered by the MTRCL for its staff members, Members also raised concerns about certain clauses in the two sets of bylaws, such as what constituted “abusive language” (see Section 28H(1)(a) of the MTR By-laws and Section 22(1)(a) of the MTR(NWR) Bylaw) and whether the clauses should apply to private conversation. Members also discussed how “improper dressing” (see Section 28G of the MTR By-laws) should be defined and how judgment should be made on the appropriateness of a passenger’s clothing. The MTRCL responded to Members’ concerns and made suitable amendments to clauses of the two sets of bylaws based on Members’ views back then. Meanwhile, the MTRCL clearly stated that it was imperative that any amendment to the bylaws should not prejudice the safe, reliable and smooth railway operation in order to fully protect passengers’ fundamental interests.

13. A consensus or clear direction on the amendments could not be arrived at the Subcommittee and there was no subsequent discussion on the proposed amendments in the Legislative Council since then. Nevertheless, the MTRCL has been closely monitoring the operation of the two sets of bylaws since the rail merger and noted that the bylaws, by and large, still sufficiently serve their purposes. Therefore, there is currently no need to amend the bylaws in view of the management of railway services.

14. Having said that, as mentioned by the MTRCL in 2009 and 2010 when conducting the review, certain clauses of the two sets of bylaws can be refined in terms of clarity and consistency, and certain obsolete clauses can be suitably amended or repealed. Therefore, the MTRCL now proposes that the review of the two sets of bylaws be reactivated, based on the amendments proposed by the MTRCL in 2010 and the views of the Legislative Council back then. The review is expected to complete in around one year’s time and the outcome will be submitted to the Subcommittee for consulting Members. The MTRCL is mindful that this review should continue to be carried out under the premise that the safe, reliable and smooth railway operation will not be compromised. This is to ensure that the amendments to the bylaws to be vetted by the Legislative Council will continue to fully protect the fundamental interests of the passengers as a whole, while keeping up with the times.

Advice sought

15. Members are invited to express their views on the direction of the review as mentioned in paragraph 14 above.

MTR Corporation Limited
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