

立法會
Legislative Council

LC Paper No. LS4/18-19

**Paper for the House Committee Meeting
on 19 October 2018**

**Legal Service Division Report on
Subsidiary Legislation Gazetted on 12 October 2018**

Tabling in LegCo : Council meeting of 24 October 2018

Amendment to be made by : Council meeting of 21 November 2018 (or that of 12 December 2018 if extended by resolution)

Peak Tramway (Safety) (Amendment) Regulation 2018 (L.N. 171)

**Peak Tramway Ordinance (Amendment of Section 3(3))
Notice 2018** (L.N. 172)

L.N. 171 and L.N. 172 are made by the Chief Executive in Council and the Secretary for Commerce and Economic Development ("SCED") under sections 15 and 3(4) of the Peak Tramway Ordinance (Cap. 265) respectively following the grant of the second ten-year operating right of the peak tramway to the Peak Tramways Company Limited ("PTC") pursuant to section 2B(5) of Cap. 265.¹ The second ten-year operating right will commence on 1 January 2026.

L.N. 171

2. L.N. 171 amends the Peak Tramway (Safety) Regulations (Cap. 265A) to:

¹ The first ten-year operating right of the peak tramway commencing on 1 January 2016 was granted to the Peak Tramways Company Limited by the Chief Executive in Council under section 2B(1) of the Peak Tramway Ordinance (Cap. 265) on 1 December 2015.

- (a) introduce flexibility about the number of compartments for a tramcar by amending the definition of "tramcar"; and
- (b) increase the maximum number of passengers that a tramcar may carry from 120 to 210.

3. L.N. 171 comes into operation on a day to be appointed by SCED by notice published in the Gazette.

L.N. 172

4. Under section 3 of Cap. 265, during the period for which the operating right of the peak tramway is granted, the company has the rights, among others, to occupy the tramway area which, as defined in section 3(3) of Cap. 265, means the area delineated and coloured yellow on the plan numbered MH2528c signed on behalf of the Director of Lands and deposited in the Land Registry ("the Plan"), and to construct, etc. the tramway. Since the existing tramway area is unleased and unallocated Government land, the control on building works under the Buildings Ordinance (Cap. 123) is at present not applicable to such area.

5. L.N. 172 amends the definition of the Plan in section 3(3) of Cap. 265 by replacing "MH2528c" with "MH2528d". The legal effect of L.N. 172 is that:

- (a) a portion of the existing tramway area will cease to form part of the area under the new plan numbered MH2528d; and
- (b) when the area which has ceased to form part of the tramway area as stated in paragraph (a) above ("the excluded area") is granted to PTC by way of a land lease, the building and construction works to be carried out on such area will be subject to the regulation of the Building Authority under Cap. 123.

6. In response to the Legal Service Division's enquiries, the Administration stated that the plan numbered MH2528d would be arranged to be signed on behalf of the Director of Lands and deposited in the Land Registry on or before the commencement date of L.N. 172.

7. L.N. 172 comes into operation on 31 December 2018.

8. According to paragraphs 6 and 9 of the Legislative Council ("LegCo") Brief (File Ref: TC CR T3 22/22/9) issued by the Commerce and Economic Development Bureau on 10 October 2018, L.N. 171 and L.N. 172 are made to implement an upgrading plan proposed by PTC in support of its application for the second ten-year operating right to replace and enhance the existing peak tramway system, including increasing the tramcar capacity and expansion of the Lower Terminus at Garden Road which would cover the use of the existing tramway area and three pieces of additional Government land. According to paragraph 16 of the LegCo Brief, the additional Government land, together with the excluded area, will be granted to PTC by way of a land lease.

9. As stated in paragraph 23 of the LegCo Brief, on 12 April 2018, the Government and PTC have consulted the Traffic and Transport Committee of the Central and Western District Council which was generally supportive of the upgrading plan. PTC has also separately consulted various stakeholders on the implementation of the upgrading plan. All of them have expressed no objection to the proposed works involved.

10. As advised by the Clerk to the Panel on Economic Development, the Administration briefed the Panel on 25 June 2018 on the upgrading plan of PTC in support of its application for an extension of the operating right of the peak tramway, and the related legislative proposals. Members in general welcomed the upgrading plan and supported the related legislative proposals. Noting that peak tramway service would be suspended during the works period, members urged PTC and the Administration to minimize the service disruption and provide alternative public transport services during the suspension period.

Concluding observations

11. No difficulties have been identified in the legal and drafting aspects of the above items of subsidiary legislation.

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