

**立法會**  
**Legislative Council**

LC Paper No. CB(4)136/18-19(03)

Ref : CB4/SS/1/18

**Subcommittee on Peak Tramway (Safety) (Amendment) Regulation 2018  
and  
Peak Tramway Ordinance (Amendment of Section 3(3)) Notice 2018**

**Background brief**

**Purpose**

This paper provides background information on the legislative amendments made under the Peak Tramway Ordinance (Cap. 265) (L.N. 171 and L.N. 172) 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. It also summarizes the major views and concerns expressed by members of the Panel on Economic Development ("the Panel") on related issues.

**Background**

2. The peak tramway has been in operation since 1888 and is a popular tourism and recreational facility for locals and tourists alike. Currently, it is run and operated by PTC. Its 1.4-km tram track and four intermediate stations are constructed on government land, while the termini at both ends of the track on Garden Road and at the Peak are situated on sites owned by PTC.

3. Following the enactment of the Peak Tramway (Amendment) Ordinance 2015 in November 2015, the Chief Executive in Council ("CE-in-C") may grant an operating right of the peak tramway to a suitable operator from time to time in any manner that CE-in-C thinks fit. Each operating right should not exceed 10 years. The operating right is subject to terms agreed between the Government and the operator. Under sections 2B(5) and (6) of Cap. 265, CE-in-C must grant the operating right to the holder for a further period of not exceeding 10 years if the operator can satisfy CE-in-C that it is committed to

and is capable of implementing an upgrading plan conducive to maintaining the peak tramway as an important tourism and recreational facility. This means the total period of an operating right could be up to 20 years, through a "ten-plus-ten-year" arrangement.

4. The Government announced on 10 October 2018<sup>1</sup> that CE-in-C has approved the grant of the second 10-year operating right of the peak tramway to PTC commencing 1 January 2026. In granting the second ten-year operating right, the Government is satisfied with PTC's commitment and capability of implementing an upgrading plan which will be conducive to maintaining the peak tramway as an important tourism and recreational facility. Under the upgrading plan, PTC will increase the tramcar capacity by over 75% from 120 passengers to 210 passengers; construct a covered, temperature-controlled queuing and waiting area for about 1 300 passengers at the lower terminus of the peak tramway; and renovate the upper terminus platform areas. The implementation of the upgrading plan will address the long-standing queuing problem at the terminus and bring about enhanced service provision to tourists and locals.

5. CE-in-C has also approved granting PTC the use of three additional pieces of government land with an area of about 426 square metres adjacent to the existing tramway area for implementing the part of the upgrading plan aiming to increase the holding capacity of the lower terminus and improve the waiting environment for passengers.

6. Under the second 10-year operating right, PTC will continue to pay to the Government annually a sum of consideration equivalent to 12% of its total annual revenue received in the year for the occupation and use of the additional government land on top of the existing government land on which the track of the peak tramway and the four intermediate stations lie. PTC will also set a service pledge on service frequency of the peak tramway.

7. Technical amendments to the Peak Tramway (Safety) Regulations (Cap. 265A) and Cap. 265 will be introduced into the Legislative Council to implement the upgrading plan.

---

<sup>1</sup> Source: Press release issued by the Government on 10 October 2018

## **The legislative amendments**

### L.N. 171

8. L.N. 171 amends Cap. 265A to:
  - (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.
9. L.N. 171 comes into operation on a day to be appointed by the Secretary for Commerce and Economic Development by notice published in the Gazette.

### L.N. 172

10. 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.

11. 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 (a) above 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.
12. L.N. 172 comes into operation on 31 December 2018.

## **Major views and concerns expressed by members**

13. At its meeting on 25 June 2018, the Panel was consulted on PTC's upgrading plan in support of its application for the second 10-year operating right of the peak tramway commencing 1 January 2026, and the related legislative amendment proposals. The Panel noted that PTC would commit some \$650 million on its own to finance the upgrading plan, under which the tramcar capacity would be increased by over 75%, and the two termini would be redeveloped to expand the holding capacity and improve the waiting environment. Members in general welcomed the upgrading plan of PTC which could address the queuing problem at the Lower Terminus at Garden Road and provide a better service for passengers.

14. Concern was raised over the grant of additional government land for implementing the upgrading plan, in particular whether a premium would be charged for the additional land granted. The Administration advised that under the existing charging mechanism imposed on the current operating right of the peak tramway, PTC had to pay the Government a consideration calculated at 12% of the total annual revenue of peak tramway operation in the year for the occupation and use of government land for the operation of the peak tramway. Given that the additional land requested by PTC was essential to cater for its operational needs in relation to using larger tramcars and platforms, no additional consideration would be charged on PTC in this regard. If PTC generated extra income as a result of the additional land granted by the Government, such income would also be counted towards PTC's total annual revenue of which the Government would receive 12%.

15. Noting that the land lease of the terminus site of the Peak, expiring in 2031, would be extended on basically the existing terms by four years to end-2035, so that the expiry of the lease could tally with the end date of the second 10-year operating period, concern was raised as to whether the terms of the extension of land lease were in the public interest. The Administration advised that such matter would be determined nearer the time of expiry of the land lease based on the prevailing land policy so as to better reflect the then market value.

16. Noting that the peak tramway service would be suspended for two short periods lasting for a total of seven months during the construction period, the Panel urged the Administration and PTC to ensure provision of adequate alternative public transport services during the two suspension periods. Suitable arrangements should also be made to minimize the service disruption as far as possible.

### **Latest development**

17. At the House Committee meeting on 19 October 2018, Members agreed to form a Subcommittee to study L.N. 171 and L.N. 172.

### **Relevant papers**

18. A list of relevant papers which are available on the LegCo Website (<http://www.legco.gov.hk>) is in the **Appendix**.

Council Business Division 4  
Legislative Council Secretariat  
30 October 2018

## Appendix

### List of relevant papers

<b>Date</b>	<b>Event</b>	<b>Paper</b>
25 June 2018 (Item V)	Meeting of Panel on Economic Development	<a href="#">Administration's paper</a> <a href="#">Background brief</a> <a href="#">Minutes</a>
24 October 2018	Peak Tramway (Safety) (Amendment) Regulation 2018 and Peak Tramway Ordinance (Amendment of Section 3(3)) Notice 2018 were tabled at Legislative Council Meeting	<a href="#">Legislative Council Brief</a> <a href="#">Legal Service Division Report</a>