

Mass Transit Railway Bill

**Committee Stage Amendments
by the Administration**

PURPOSE

This paper informs Members of Committee Stage Amendments (CSAs) which the Administration intends to move during the resumption of Second Reading.

DETAILS

2. The CSAs which the Administration intends to move during the resumption of Second Reading are set out in Annexes. They fall into three categories :-

- (a) CSAs which are proposed in response to the suggestions by Members of the Bills Committee at previous meetings of the Bills Committee. Members had already discussed the principles of these CSAs at the Bills Committee meeting on 20 January 2000. These CSAs are now in the Annex A;
- (b) technical CSAs proposed by the Law Draftsman and the LegCo Legal Adviser to improve the drafting of the Bill are in Annex B; and
- (c) CSAs which improve the Chinese texts to follow closely with the English version of the Bill are in Annex C.

ADVICE SOUGHT

3. Members are requested to note the proposed CSAs at the Annexes.

**Transport Bureau
24 January 2000**

MASS TRANSIT RAILWAY BILL

COMMITTEE STAGE

Amendments to be moved by [_____]

A. Points raised by Members

<u>Clause</u>	<u>Amendment Proposed</u>
2	By deleting the definition of “operating agreement” and substituting - “operating agreement” means any agreement entered into between the Corporation and the Secretary acting on behalf of the Government which is declared by its terms to be an operating agreement for the purposes of this Ordinance or to be an agreement amending or supplementing such an agreement, as having effect from time to time;”.
4(2)	By deleting everything after “in” and substituting “the operating agreement.”.
13(2)	By deleting everything after “general” and substituting “or specific nature.”.
15(2)	By deleting the full stop and substituting “; and the Secretary shall bring to the attention of the Chief Executive in Council any representations made by the Corporation during the consultation.”.

<u>Clause</u>	<u>Amendment Proposed</u>
18(5)(b)	By adding “of default” after “case”.
27(5)	By adding “, except to the Secretary,” after “disclose”.
New	<p>By adding—</p> <p>“62A. Service of notices</p> <p>(1) A notice to be given to the Secretary under this Ordinance may be delivered to the Secretary or sent to him by post.</p> <p>(2) The address of the Secretary for the purposes of the giving of any notice under this Ordinance is the address specified in the operating agreement as the address for the service of notices on the Secretary under that agreement.</p> <p>(3) A notice to be given to the Corporation under this Ordinance shall be marked for the attention of the Chairman of the Corporation and may be delivered to the Corporation or sent to it by post.</p> <p>(4) The address of the Corporation for the purposes of the giving of any notice under this Ordinance is the address specified in the operating agreement as the address for the service of notices on the Corporation under that agreement.</p> <p>(5) For the purposes of this section, a notice is delivered to the Secretary or the Corporation if it is delivered to the address of the Secretary or Corporation and left with a person apparently competent to receive communications intended for the Secretary or the Corporation.”.</p>

MASS TRANSIT RAILWAY BILL

COMMITTEE STAGE

Amendments to be moved by [_____]

**B. Technical or drafting points
raised by the Administration or ALA, LegCo**

<u>Clause</u>	<u>Amendment Proposed</u>
Long title	In paragraph (a), by adding “to the railway” after “extension”.
2	In the definition of “extension”, by deleting “to the railway” where it secondly appears.
4(1)	In paragraphs (a) and (b), by adding “to the railway” after “extension”.
15(5)(a)	By adding “which at the time of such suspension is property” after “any property”.
19(1)	By adding “which at the time of such revocation or expiry is property” after “any property”.
19(4)	(a) By deleting “to the Government” and substituting “to the Secretary”. (b) By repealing “shall not return the property to the Corporation” and substituting “is not entitled to return the property to the Corporation under subsection (3)”.

<u>Clause</u>	<u>Amendment Proposed</u>
20(4)	By deleting everything after “this section” where it secondly appears and substituting “in respect of property specified in such a notice shall be calculated as if the property had been disposed of under section 19(3) without that notice having been given.”.
20(5)	By deleting the comma after “section” where it first appears.
21(1)	(a) By deleting “to the Government” and substituting “to the Secretary”. (b) By deleting everything after “possession of” where it secondly appears and substituting “any other property which the Government, its nominee or a third party designated by the Government was entitled to take possession of, but did not take possession of, under that subsection on that occasion.”.
21(3)	By adding “referred to in subsection (1)” after “notice”.
21(6)	By deleting “, in respect of any property taken possession of under this section,” and substituting “in respect of the taking of possession of any property under this section”.
27(3)	By adding “to the railway” after “an extension”.
28(2)	By deleting “delivered” and substituting “given”.
30	(a) In paragraph (b), by deleting “a” and substituting “any”. (b) By deleting “the person” and substituting “the first-mentioned person”.

<u>Clause</u>	<u>Amendment Proposed</u>
34(1)(d)(v) (A)	By repealing “of” and substituting “or”.
35(3)	By deleting “to”.
48	By adding – “(3A) Nothing in subsection (1) or (2) shall be taken as prejudicing the effect under the laws of Hong Kong of the vesting in the Corporation by virtue of section 37 or this section of any foreign property, right or liability.”.
51(2)	By deleting “section 55” and substituting “section 46”.
53	By adding- “(4A) Any person who has made a decision to which this section applies shall, if so requested by the Corporation, and within a period that is reasonable in the circumstances, furnish the Corporation with reasons for his decision.”.
54(2)	By deleting “as he thinks fit”.
59(2)(b)	By deleting “ordinary”.
63(1)	By adding “, any subsidiary legislation made under that Ordinance and any other instrument issued under that Ordinance and published in the Gazette” after “(Cap. 270)”.
Schedule 2	By repealing item 5.
Schedule 6	In item 4, by deleting “ordinary”.

《地下鐵路條例草案》

委員會審議階段

由〔 _____ 〕動議的修正案

C. 只適用於條例草案中文版的事項

<u>條次</u>	<u>建議修正案</u>
13(5)	刪去第(5)款而代以 — “ (5) 第(4)款所提述的損失或損害，包括因地鐵公司遵從根據本條作出而違反審慎商業原則的指示而引致的損失或損害，以及可歸因於地鐵公司遵從該等指示的損失或損害。 ” 。
14	(a) 在標題中，刪去“財政罰則”而代以“罰款”。 (b) 在第(1)款中，刪去“財政罰則”而代以“罰款”。 (c) 在第(2)款中，刪去“罰則”而代以“罰款”。 (d) 在第(3)款中，刪去所有“罰則”而代以“罰款”。 (e) 在第(4)款中，刪去“罰則”而代以“罰款”。 (f) 在第(5)款中，刪去所有“罰則”而代以“罰款”。
15(7)	在第(7)款中，刪去在“原則下，”之後的所有字句而代以“就根據第(5)款接管的財產在保存時所處的狀況或該財產在歸還時所處的狀況方面而言，本條例或任何其他法律並無對政府施加任何義務。”。

- 21(2)
- (a) 刪去“有關接管根據第 19(1)條進行”而代以“行使第 19(1)條所賦予的權力”；
 - (b) 在(b)段中，刪去“該項接管進行”而代以“行使第 19(1)條所賦予的權力”。