

LEGISLATIVE COUNCIL BILLS COMMITTEE ON TUNG CHUNG CABLE CAR BILL

Information for the Bills Committee

INTRODUCTION

This paper addresses questions raised by Members of the Legislative Council Bills Committee on the Tung Chung Cable Car Bill (the Bills Committee) at its meeting held on 28 April 2003.

BACKGROUND

2. At the fifth meeting of the Bills Committee held on 28 April 2003, Members requested the Administration to provide information on the following issues -

- (a) examples of other legislation which empower a private company to bring prosecutions of offence under the legislation (clause 23 of the Bill);
- (b) whether other legislation has provisions similar to clause 27; and
- (c) whether there is any other legislation which provides for an offence of obstructing the Company (clause 38).

Clause 23

3. Clause 23(3) of the Bill provides that the prosecutions for an offence under this section or under the bylaws made under section 22(1) may be brought by and in the name of the Company. The power for a private company to prosecute exists in the following legislative provisions: the Tai Lam Tunnel and Yuen Long Approach Road Ordinance (Cap. 474) and the Western Harbour Crossing Ordinance (Cap. 436). Similar provisions can also be found in the Mass Transit Railway Ordinance (Cap. 556), the Kowloon-Canton Railway

Corporation Ordinance (Cap. 372) and the Peak Tramway Ordinance (Cap. 265) under which, the power to prosecute is conferred on the MTR Corporation Limited, the Kowloon-Canton Railway Corporation and the Peak Tramways Company Limited respectively.

Clause 27

4. The order to be made under clause 27(5) is only intended to be a public notice in the event of a revocation of the franchise under clause 27(1). It is not intended to be subsidiary legislation. Accordingly, section 34 of the Interpretation and General Clauses Ordinance (Cap. 1) should not apply. Under the new proposed clause 27(7)(b), the order by the Chief Executive in Council vesting the franchise with another body corporate after the revocation of the franchise will not be exempted from section 34 of Cap. 1. This is consistent with other Built-Operate-Transfer legislation.

Clause 38

5. Clause 38 provides that it is an offence to willfully and without reasonable excuse obstruct or interfere with the lawful exercise by the Company of the rights under the Ordinance. This clause is modeled on a similar provision in the Electricity Networks (Statutory Easements) Ordinance (ENSEO) (Cap. 357). Under the ENSEO, it is an offence to willfully and without reasonable excuse obstruct the power companies in exercising their rights under the Ordinance. Any offence is liable to a fine of \$5,000 and imprisonment for 6 months.

CONCLUSION

6. Members are invited to note the information presented in this paper.

Tourism Commission

Economic Development and Labour Bureau

6 May 2003