

立法會
Legislative Council

LC Paper No. LS93/06-07

**Paper for the House Committee Meeting
on 15 June 2007**

**Legal Service Division Report on
Subsidiary Legislation Gazetted on 12 June 2007**

Date of tabling in LegCo : 13 June 2007

Amendment to be made by : 11 July 2007 (or the 1st meeting of next session if extended by resolution)

SUBSIDIARY LEGISLATION RELATING TO RAIL MERGER

Mass Transit Railway Ordinance (Cap. 556)
Mass Transit Railway (Amendment) Regulation 2007 (L.N. 110)

Kowloon-Canton Railway Corporation Ordinance (Cap. 372)
Kowloon-Canton Railway Corporation (Suspension) Regulation (L.N. 111)

Mass Transit Railway Ordinance (Cap. 556)
Mass Transit Railway (Transport Interchange) (Amendment) Regulation 2007 (L.N. 112)

Kowloon-Canton Railway Corporation By-laws (Cap. 372 sub. leg. B)
Kowloon-Canton Railway (Restricted Area) (No. 2) Notice 1997 (Amendment) Notice 2007 (L.N. 113)

The above four items of subsidiary legislation are among the eight items of subsidiary legislation necessary to be made to implement the rail merger relating to the Mass Transit Railway and the Kowloon-Canton Railway systems following the enactment of the Rail Merger Ordinance (11 of 2007). The

remaining four items of subsidiary legislation are bylaws to be made by the MTR Corporation Limited (MTRCL) and the Kowloon-Canton Railway Corporation (KCRC) under section 34 of the Mass Transit Railway Ordinance (Cap. 556) (MTRRO) and section 31 of the Kowloon-Canton Railway Corporation Ordinance (Cap. 372) respectively. Bylaws made under those provisions are subject to the approval of the Legislative Council.

2. At the House Committee meeting held on 25 May 2007, Members agreed to form a Subcommittee to study the draft subsidiary legislation relating to the rail merger (the Subcommittee). The Administration has informed members of the Subcommittee that it intends to move a motion to seek the Legislative Council's approval of the bylaws made by MTRCL and KCRC at the Council meeting on 11 July 2007.

Mass Transit Railway (Amendment) Regulation 2007 (L.N. 110)

3. The main purpose of L.N. 110 is to amend the Mass Transit Railway Regulations (Cap. 556 sub. leg. A) (the MTR Regulations) to add certain provisions relating to the operation of the North-west Railway and bus services within the North-west Transit Service Area by MTRCL upon the rail merger. These provisions, which are broadly the same as those provided in the existing Kowloon-Canton Railway Corporation Regulations (Cap. 372 sub. leg. A) (the KCRC Regulations), relate to the following matters:

- (a) designation by the Commissioner for Transport (the Commissioner) of bus stops for the bus services operated by MTRCL within the North-west Transit Service Area;
- (b) designation of rail stops by MTRCL for light rail vehicles operated on the North-west Railway;
- (c) prohibiting drivers of vehicles of the North-west Railway from stopping the vehicles, for the purpose of allowing passengers or intending passengers to alight from or board the vehicles, at any place other than a designated rail stop except in the case of emergency; and
- (d) the requirement for MTRCL to submit to the Commissioner on a yearly basis a programme of the operations of the North-west Railway and, if applicable, bus services within the North-west Transit Service Area.

4. Other amendments relate to the change of the reference from “地鐵公司” to “港鐵公司” and provide for the expiry of the provisions relating to the North-west Railway and the bus services provided by MTRCL within the North-west Transit Service Area when that part of MTRCL’s franchise relating to the railways of the Kowloon-Canton Railway Corporation (KCRC Railways) is revoked under section 18 of MTRO.

5. In response to members’ suggestions raised at the meeting of the Subcommittee on 9 June 2007, the Administration has revised the maximum penalty for the prohibited act referred to in paragraph 3(c) above (i.e. stopping a vehicle of the North-west Railway at a place other than a designated rail stop) by removing the penalty of 3 month’s imprisonment while maintaining the existing level of fine at level 1 (\$2,000).

Kowloon-Canton Railway Corporation (Suspension) Regulation (L.N. 111)

6. L.N. 111 suspends the operation of the KCRC Regulations during the period when the operation of KCRC Railways is taken over by MTRCL upon the rail merger (the Concession Period). By L.N. 110 reported above, provisions that relate to the operation of the North-west Railway and bus services within the North-west Transit Service Area under the KCRC Regulations are provided for under the MTR Regulations to enable MTRCL to operate the same during the Concession Period.

Mass Transit Railway (Transport Interchange) (Amendment) Regulation 2007 (L.N. 112)

7. The Chinese short title of MTRO and the Chinese name of MTRCL have been amended as “《香港鐵路條例》” and “香港鐵路有限公司” respectively under the Rail Merger Ordinance. The object of L.N. 112 is to make consequential changes to the Chinese title of the Mass Transit Railway (Transport Interchange) Regulation (Cap. 556 sub. leg. C) (the Transport Interchange Regulation) and to the Chinese text of the Transport Interchange Regulation as regards references to “the Corporation” and to the Chinese title of the Mass Transit Railway (Transport Interchange) Bylaw (Cap. 556 sub. leg. D).

Kowloon-Canton Railway (Restricted Area) (No. 2) Notice 1997 (Amendment) Notice 2007 (L.N. 113)

8. L.N. 113 amends the Kowloon-Canton Railway (Restricted Area) (No. 2) Notice 1997 (Cap. 372 sub. leg. I) (the 1997 Notice) by adding a provision to suspend the operation of the 1997 Notice (except the section giving effect to the suspension) during the Concession Period.

9. During the Concession period, a notice similar to the 1997 Notice will be published under the Mass Transit Railway By-laws (Cap. 556 sub. leg. B), as amended by the Mass Transit Railway (Amendment) By-law 2007 to be made by MTRCL. However, such notice is not subsidiary legislation but will be published in the Gazette as a general notice, because under section 62 of MTRO, apart from a commencement notice, a regulation under section 33 and a bylaw under section 34, any other instrument issued under MTRO is not subsidiary legislation.

Commencement

10. The subsidiary legislation reported above will come into operation on the day appointed for the commencement of the Rail Merger Ordinance.

Concluding Remark

11. No difficulties relating to the legal and drafting aspects of the subsidiary legislation reported above have been identified.

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