

立法會
Legislative Council

LC Paper No. LS2/13-14

**Paper for the House Committee Meeting
on 11 October 2013**

**Legal Service Division Report on
Peak Tramway (Amendment) Bill 2013**

I. SUMMARY

1. The Bill

The Bill proposes to amend the Peak Tramway Ordinance (Cap. 265) to empower the Chief Executive in Council to grant the Peak Tramways Company Limited ("PTC") the right to run and operate the Peak Tramway for a period of 2 years commencing on 1 January 2014.

According to the Administration, the proposal, which is the first stage of a two-stage legislative amendment exercise, is an interim arrangement to allow time for the Government to resolve issues relating to the long-term arrangements for the operation of the Peak Tramway. A bill to implement the long-term arrangements will be introduced before the expiration of the said two-year period.

2. Public Consultation

The Transport Advisory Committee was consulted in July 2013. It supported the granting of the two-year period.

**3. Consultation with
LegCo Panel**

On 19 July 2013, the Panel on Transport was consulted on the Administration's proposal to grant an operating right to the PTC for a two-year interim period. Members were generally in support of the Administration's proposal.

4. Conclusion

No difficulties in the drafting and legal aspects of the Bill have been identified. Members may consider whether there is any issue which they wish to study in detail.

II. REPORT

The date of First Reading of the Bill is 9 October 2013. Members may refer to the LegCo Brief (File Ref: THB (T) L 2/5/7) issued by the Transport and Housing Bureau dated 11 September 2013 for further information.

Object of the Bill

2. The Bill seeks to amend the Peak Tramway Ordinance (Cap. 265) (the Ordinance) to empower the Chief Executive in Council (CE in Council) to grant to Peak Tramways Company Limited (PTC) the right to run and operate the Peak Tramway for a period of 2 years commencing on 1 January 2014.

Background

3. Pursuant to a request made by PTC to the Secretary of Transport under the Ordinance, in November 2003, the then CE in Council extended PTC's right to run and operate the peak tramway from 1 January 2004 to 31 December 2013 (i.e. for a period of 10 years).

4. According to the Administration, in late 2012, PTC approached the Government to make a request to further extend PTC's right to run the tramway for another 10 years, commencing on 1 January 2014. During the discussion between PTC and the Government for such an extension, it transpired that the provisions which are intended to be relied on by both PTC and the Administration for the extension might be one-off provisions applicable only to the last extension. As there is no provision which empowers the Government to grant any further extension, no further extension may be granted.

Provisions of the Bill

5. In the light of the above background, the Bill proposes to add a provision to empower the CE in Council to grant the right to run and operate the tramway to PTC for 2 years, commencing on 1 January 2014 (i.e. until 31 December 2015). Such right is subject to the Ordinance and terms as agreed between PTC and the Government.

6. According to the LegCo Brief, the proposal intends to provide an interim period of 2 years for the Government to resolve the issues which relate to the long-term arrangements for the operation of the Peak Tramway. The introduction of the Bill is the first stage of a two-stage legislative amendment exercise (two-stage approach). The Administration will prepare a bill to implement the long-term

arrangements and introduce the bill concerned to LegCo before the end of the interim period, i.e. before 31 December 2015.

Commencement

7. The Bill, if passed, would come into operation on the day of gazettal.

Public Consultation

8. According to the Administration, the Transport Advisory Committee was consulted on 30 July 2013 and it supported the granting of a two-year interim operating right to PTC.

Consultation with LegCo Panel

9. According to the Clerk to the Panel on Transport, the Panel was consulted on 19 July 2013 on the Administration's proposal to grant an operating right to the PTC for two years as an interim measure so that long term arrangements including legislative amendments required for the operation beyond December 2015 could be worked out. Members were generally in support of the Administration's proposal. Members, however, have expressed concern on the circumstances leading to the current scenario that the PTC's operating right would have to lapse automatically on 31 December 2013, and other matters relating to the operating right, profitability and the service quality of the peak tramway system. The Panel did not specifically recommend that a Bills Committee should be formed.

Conclusion

10. No difficulties have been identified in relation to the legal and drafting aspects of the Bill. Members may wish to consider if there is any issue which they would like to study in detail.

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