

立法會 CB(4)1027/17-18(02)號文件
LC Paper No. CB(4)1027/17-18(02)

Bills Committee on Guangzhou-Shenzhen-Hong Kong
Express Rail Link (Co-location) Bill

Committee Stage

Amendments to be moved by the Honourable CHAN Tanya

<u>Clause</u>	<u>Amendment Proposed</u>
Preamble	<p>Before “NOW, THEREFORE,” —</p> <p>Add</p> <p>“This Ordinance is a special arrangement for the Hong Kong Section of the Express Rail Link and West Kowloon Station and shall not apply to the customs, immigration and quarantine arrangements of any other railway or any railway in the future.</p>
Preamble	<p>After “NOW, THEREFORE,” —</p> <p>Add</p> <p>“where the instruments in (1) and (2) above do not form part and parcel of the Basic Law or any laws of Hong Kong”.</p>
2	<p>By adding in alphabetical order to the proposed definitions—</p> <p>“<i>immigration control</i> (出入境管制) means arrangements made in connection with the movement of persons into or out of the Hong Kong or the Mainland and includes the investigation of offences relating to immigration, excise and customs, and inspection and quarantine;”;</p> <p>“<i>immigration officer</i> (入境事務職員) means any member of the Immigration Service;”;</p> <p>“<i>Mainland authorities</i> (內地派駐機構) means the immigration inspection authority, customs authority, and inspection and quarantine authority;”;</p> <p>“<i>Mainland officer</i> (內地人員) means an officer given responsibility by the Mainland authorities for the exercise of immigration control;”;</p> <p>“<i>Police Force Ordinance</i> (警隊條例) means the Police Force Ordinance (Cap. 232);”;</p> <p>“<i>Immigration Service Ordinance</i> (入境事務隊條例) means the Immigration Service Ordinance (Cap. 331);”.</p>

- 3 By adding—
Paragraph (1)(a)—
Repeal
“under Article 3 or 7 of the Co-operation Arrangement.”
Substitute
“where such matters are all matters apart from those related to immigration control as provided in the Co-operation Arrangement and any supplemental agreement to it.”
- Paragraph (1)(b)—
Repeal
“under Article 4 of the Co-operation Arrangement”
Substitute
“where such matters are matters related to the immigration control to enter and leave the Mainland as provided in the Co-operation Arrangement and any supplemental agreement to it.”
- New By adding after Clause 5—
“5A. Application of this Ordinance
For the avoidance of doubt, except for a train compartment of a passenger train in operation on the Hong Kong of the Express Railway Link set out in section 5 and the Mainland Port Area, this Ordinance does not apply to any area within Hong Kong.”.
- New Part By adding before Clause 6—
“Part 3 Provisions relating to the exercise of powers by Mainland officers in the Mainland Port Area”.
- 6 By adding—
Repeal
“Except for reserved matters, the”
Substitute
“The”.
- Repeal paragraphs (1)(a) and (1)(b)**
Substitute
“(a) the performance of duties and exercise of powers in relation to immigration control to enter and leave the Mainland by Mainland officers; and

(b) the Mainland will exercise jurisdiction (including jurisdiction of the courts) in accordance with sections 6a, 6b, 6c, and 6d over the Mainland Port Area in relation to this purpose and solely for the purpose set out in section 6(1)(a).”.

New

By adding after Clause 6—

“6a. Powers of arrest and detention by Mainland officers

(1) A Mainland officer may arrest and hold for questioning in Mainland Port Area a person who is being examined for the purposes of immigration control upon notifying an Immigration officer of or above the rank of assistant immigration officer.

(2) The arrested person may be detained for a period of not more than 24 hours within the Mainland Port Area and, if there are exceptional circumstances and an immigration officer or a police officer is notified of the extension, for a further such period.”;

“6b. Arrest of Permanent Residents by Mainland officers

Where—

(a) a Mainland officer has in the Mainland Port Area arrested or detained a person in accordance with section 6a(1); and

(b) the person is holds the status of a permanent resident of Hong Kong as established under section 2AA of the Immigration Ordinance (Cap. 115),

the Mainland officer must cooperate with an Immigration officer to make arrangements for the person to be taken into custody in accordance with Part III of the Immigration Service Ordinance.”;

“6c. Arrest of passengers bound for the Mainland by Mainland officers

(1) Save for section 6b, Where—

(a) a Mainland officer has in the Mainland Port Area arrested or detained a person in accordance with section 6a(1), and

(b) the person is a Express Rail Link passenger bound for the Mainland,

the Mainland officer must notify the person the cause for denying entry into the Mainland, and must notify an immigration officer above the rank of assistant immigration officer to make arrangements for the person to be taken into custody in accordance with Part III of the Immigration Service Ordinance.

(2) A person taken into custody in accordance to subsection (1) must be allowed to re-enter Hong Kong.”;

“6d. Arrest of passengers bound for Hong Kong by Mainland officers

Save for section 6b, Where—

(a) a Mainland officer has in the Mainland Port Area arrested or detained a person in accordance with section 6a(1), and

(b) the person is a Express Rail Link passenger bound for

Hong Kong,

the Mainland authorities may seek the approval of the Secretary of Security to prohibit the person from leaving the Mainland Port Area to enter Hong Kong. Upon approval by the Secretary of Security, the Mainland authorities may transport the arrested person back to the Mainland by any means deemed appropriate.”;

“6f. Carrying of firearms by Mainland officers

Any carriage of firearms by a Mainland officer in the Mainland Port Area must be licensed in accordance with Part IV of the Firearms and Ammunition Ordinance (Cap. 238), and the relevant offenses set out in Part III of the aforementioned Ordinance applies to all Mainland officers.”.

Part 3 By deleting “Part 3”, and substituting “Part 4”.

7 By adding after subsection (3)—

“(4) For the avoidance of doubt, provisions of the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, and international labour conventions as applied to Hong Kong, and the Hong Kong Bill of Rights Ordinance (Cap. 383) shall remain in force in the Mainland Port Area.”;

“(5) In case there is a dispute as to the exercise of jurisdiction over a matter in the Mainland Port Area or a train compartment of a passenger train in operation on Hong Kong of the Express Rail Link in section 5, the Hong Kong Special Administration Region and the Mainland, or the relevant parties, shall first attempt to resolve the matter amicably. In any event, the decision of the Court of Hong Kong on the matter shall be final.”.

New By adding after Clause (8)—

“9. Licence to use the Mainland Port Area and Train Compartments

(1) The Hong Kong Special Administrative Region shall by a supplementary agreement with the Mainland, specify the terms of use of the Mainland Port Area and the train compartment of a passenger train in operation on the Hong Kong Section of the Express Rail Link in sections 4 and section 5 in the form of a licence that must expire no later than at midnight on 30 June 2047, to enable Mainland officers to perform their functions in relation to immigration control in section 6 of this Ordinance and solely for this purpose.

(2) The supplementary agreement must be reviewed and approved by the Legislative Council before taking into effect.

(3) If any licence in subsection (1) is terminated earlier or renewed

after its expiry—

- (a) the Secretary for Security shall by notice in the Gazette publicize the date on which the licence (as so terminated earlier or renewed) is to expire (“the published date”); and
- (b) this Ordinance shall expire at midnight on the published date.

(4) The Hong Kong Special Administrative Region reserves the power to revoke any licence issued in subsection (1) any time with three months’ written notice.”;

“10. Arrangement under this Ordinance and Co-operation Arrangement

Any arrangement made under this Ordinance (other than those already set out in the Co-operation Arrangement) shall be implemented by a supplementary agreement between The Hong Kong Special Administrative Region and the Mainland to the Co-operation Arrangement in accordance with the provisions set out in this Ordinance.”;

“11. Future amendments to the Co-operation Arrangement

Changes to the Co-operation Arrangement including amendments and supplementary agreements must be approved by the Legislative Council before taking effect.”.