

立法會 CB(4)1027/17-18(03)文件  
LC Paper No. CB(4)1027/17-18(03)

《廣深港高鐵(一地兩檢)條例草案》

委員會審議階段

由胡志偉議員動議的修正案

條次	建議修正案
弁言	刪去該條
2	<p>刪去該條而代以——</p> <p>釋義</p> <p>在本條例中——</p> <p>已有的法院命令 (pre-existing Court order) 指符合以下說明的 法院命令——</p> <p>(a) 該命令在生效日期前作出；及</p> <p>(b) 在緊接生效日期前，該命令仍然存續或暫停具有效力；</p> <p>已有的義務 (pre-existing obligation) 指符合以下說明的義務——</p> <p>(a) 該義務在生效日期前招致；及 (b) 在緊接生效日期前，該義務仍然存續或暫停具有效力；</p> <p>已有的權利 (pre-existing right) 指符合以下說明的權利——</p> <p>(a) 該權利在生效日期前獲取或產生；及</p> <p>(b) 在緊接生效日期前，該權利仍然存續或暫停具有效力；</p> <p>內地 (Mainland) 指香港、澳門及台灣以外的中國其他部分；</p> <p>內地口岸區 (Mainland Port Area)——</p> <p>(a) 指指定範圍；及</p> <p>(b) 包括根據第 5 條視為在西九龍站內地口岸區範圍之 內的車廂；</p> <p>公共主管當局 (public authority) 包括藉或根據成文法則設立 的審裁處、管理局、各類委員會或相類團體，但不包括 法院或規管團體；</p> <p>公職人員 (public officer) 指任何在政府擔任受薪職位的人 ( 不論該職位屬長設或臨時性質 )，包括按照《基本法》任命 的政府主要官員；</p> <p>日後的文件 (future document) 指在生效日期當日或之後製備 的文件；</p> <p>生效日期 (commencement date) 指本條例開始實施的日期；</p> <p>石崗列車停放處 (Shek Kong Stabling Sidings) 指在附表 3 中的平面圖上所劃定並填上橙色的範圍 ( 該平面圖須與其 上的備註，一併</p>

	<p>理解)；</p> <p>地理涵蓋範圍 (geographical scope) 定義如下：凡某權利可於香港或香港任何部分的地理範圍 (有關地理範圍) 內行使，或就有關地理範圍而行使，則就該權利而言，有關地理範圍即屬地理涵蓋範圍；凡某義務可於有關地理範圍內履行，或就有關地理範圍而履行，則就該義務而言，有關地理範圍即屬地理涵蓋範圍；</p> <p>西九龍站 (West Kowloon Station) 指指定範圍所位處的鐵路站；</p> <p>法定權限 (statutory authority)——</p> <p>(a) 指藉行使或履行下述權力或責任而發出、給予、作出或施加的牌照、執照、許可證、批准、證明、註冊、登記、授權或任何其他權限 (不論如何描述)、豁免 (不論如何描述)、禁止、禁制、命令、令狀、手令、指示、要求或規定——</p> <p>(i) 由成文法則賦予以下人士的權力或委予以下人士的責任——</p> <p>(A) 行政長官 (包括行政長官會同行政會議)、公職人員、公共機構或公共主管當局；或</p> <p>(B) 獲行政長官 (包括行政長官會同行政會議)、公職人員、公共機構或公共主管當局根據成文法則授權或委任的人；或</p> <p>(ii) 由成文法則賦予某規管團體或其人員作以下事情的權力，或委予某規管團體或其人員作以下事情的責任——</p> <p>(A) 認許 (不論如何稱述) 任何人為某專業、行業或業務的成員；或</p> <p>(B) 准許任何人從事 (不論如何稱述) 某專業、行業或業務的工作；但</p> <p>(b) 不包括法院命令；</p> <p>法院 (Court) 指——</p> <p>(a) 終審法院；</p> <p>(b) 上訴法庭；</p> <p>(c) 原訟法庭；</p> <p>(d) 競爭事務審裁處；</p> <p>(e) 區域法院；</p> <p>(f) 裁判法院；</p> <p>(g) 土地審裁處；</p> <p>(h) 勞資審裁處；</p> <p>(i) 小額錢債審裁處；</p> <p>(j) 淫褻物品審裁處；或</p> <p>(k) 死因裁判法庭；</p> <p>法院命令 (Court order) 包括法院所作出的判決、命令、指示或其他決定；</p> <p>非保留事項 (non-reserved matter)——見第 3 條；</p> <p>保留事項 (reserved matter)——見第 3 條；</p> <p>指定範圍 (designated area) 指根據第 4 條宣布為西九龍站內地口岸區的範圍；</p> <p>高鐵香港段 (Hong Kong Section of the Express Rail Link) 指根據廣</p>
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	<p>深港高速鐵路香港段方案建成的鐵路，該方案是在 2008 年 11 月 28 日及 2008 年 12 月 5 日於憲報刊登的 2008 年第 8022 號政府公告所提述者，並經——</p> <p>(a) 在 2009 年 4 月 30 日及 2009 年 5 月 8 日於憲報刊登的 2009 年第 2598 號政府公告中提述的修訂及更正 項目所修訂及更正；</p> <p>(b) 在 2009 年 10 月 30 日及 2009 年 11 月 6 日於憲報刊登的 2009 年第 6682 號政府公告中提述的修改項目 所修改；及</p> <p>(c) 在 2014 年 9 月 26 日及 2014 年 10 月 3 日於憲報刊登的 2014 年第 5488 號政府公告中提述的修訂項目 所修訂；</p> <p>規管團體 (regulatory body) 指規管某專業、行業或業務的質素或服務水平的人；</p> <p>義務 (obligation) 包括法律責任；</p> <p>權利 (right) 包括權力及特權。</p>
3	<p>刪去該條而代以 ——</p> <p>釋義：保留事項及非保留事項</p> <p>(1) 就本條例而言——</p> <p>(a) 除清關、出入境及檢疫手續相關事項，香港法律適用並由香港實施管轄的事項，即屬保留事項；及</p> <p>(b) 清關、出入境及檢疫手續相關內地法律適用並由內地實施管轄的事項，即屬非保留事項。</p>
附表 1	刪去該條

## Guangzhou-Shenzhen-Hong Kong Express Rail Link (Co-location) Bill

## Committee Stage

Amendment to be moved by the Honourable Wu Chi-wai

<u>Clause</u>	<u>Proposed Amendment</u>
Preamble	Delete Preamble
2	<p>Delete section 2</p> <p>Substitute</p> <p>“Interpretation In this Ordinance— commencement date (生效日期) means the day on which this Ordinance comes into operation; Court (法院) means— (a) the Court of Final Appeal; (b) the Court of Appeal; (c) the Court of First Instance; (d) the Competition Tribunal; (e) the District Court; (f) a Magistrates’ Court; (g) the Lands Tribunal; (h) the Labour Tribunal; (i) the Small Claims Tribunal; (j) the Obscene Articles Tribunal; or (k) the Coroner’s Court; Court order (法院命令) includes a judgment, order, direction or other decision made by a Court; designated area (指定範圍) means the area declared as the West Kowloon Station Mainland Port Area under section 4; future document (日後的文件) means a document that is made on or after the commencement date; geographical scope (地理涵蓋範圍), in relation to a right or obligation, means the geographical area of Hong Kong, or of any part of Hong Kong, within which, or in respect of which, the right or obligation may be exercised or</p>

<p>discharged;</p> <p>Hong Kong Section of the Express Rail Link (高鐵香港段) means the railway constructed under the scheme for the Hong Kong Section of the Guangzhou-Shenzhen-Hong Kong Express Rail Link, which was referred to in G.N. 8022 of 2008 published in the Gazette on 28 November 2008 and 5 December 2008—</p> <p>(a) as amended and corrected by the amendments and corrections referred to in G.N. 2598 of 2009 published in the Gazette on 30 April 2009 and 8 May 2009;</p> <p>(b) as modified by the modifications referred to in G.N. 6682 of 2009 published in the Gazette on 30 October 2009 and 6 November 2009; and</p> <p>(c) as amended by the amendments referred to in G.N. 5488 of 2014 published in the Gazette on 26 September 2014 and 3 October 2014;</p> <p>Mainland (內地) means the part of China other than Hong Kong, Macau and Taiwan;</p> <p>Mainland Port Area (內地口岸區)—</p> <p>(a) means the designated area; and</p> <p>(b) includes a train compartment to be regarded as part of the West Kowloon Station Mainland Port Area under section 5;</p> <p>non-reserved matter (非保留事項)—see section 3;</p> <p>obligation (義務) includes a liability;</p> <p>pre-existing Court order (已有的法院命令) means a Court order—</p> <p>(a) that was made before the commencement date; and</p> <p>(b) that subsists, or the effect of which has been suspended, immediately before the commencement date;</p> <p>pre-existing obligation (已有的義務) means an obligation—</p> <p>(a) that was incurred before the commencement date; and</p> <p>(b) that subsists, or the effect of which has been suspended, immediately before the commencement date;</p>
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	<p>pre-existing right (已有的權利) means a right—</p> <p>(a) that was acquired or accrued before the commencement date; and</p> <p>(b) that subsists, or the effect of which has been suspended, immediately before the commencement date;</p> <p>public authority (公共主管當局) includes any tribunal, board, commission, committee or similar body that is established by or under an enactment, other than a Court or a regulatory body;</p> <p>public officer (公職人員) means a person holding an office of emolument under the Government (whether the office is permanent or temporary), including a principal official of the Government appointed in accordance with the Basic Law;</p> <p>regulatory body (規管團體) means a person that regulates standards of competence or service within a profession, trade or business;</p> <p>reserved matter (保留事項)—see section 3;</p> <p>right (權利) includes a power and a privilege;</p> <p>Shek Kong Stabling Sidings (石崗列車停放處) means the area delineated and coloured orange on the plan in Schedule 3 (as read with the Notes on the plan);</p> <p>statutory authority (法定權限)—</p> <p>(a) means a licence, permit, approval, certification, registration, enrolment, authorization or any other authority (however described), exemption (however described), prohibition, order, warrant, direction or requirement issued, given, made or imposed by the exercise or performance of—</p> <p>(i) a power conferred, or a duty imposed, by an enactment on—</p> <p>(A) the Chief Executive (including the Chief Executive in Council), a public officer, public body or public authority; or</p> <p>(B) a person authorized or appointed by the Chief Executive (including the Chief Executive in Council), a public officer,</p>
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	<p>public body or public authority under an enactment; or</p> <p>(ii) a power conferred, or a duty imposed, by an enactment on a regulatory body, or an officer of it, for the body or officer to—</p> <p>(A) admit (however described) any person to a profession, trade or business; or</p> <p>(B) permit any person to engage in (however described) a profession, trade or business;</p> <p>but</p> <p>(b) excludes a Court order;</p> <p>West Kowloon Station (西九龍站) means the railway station within which the designated area is situated.”</p>
3	<p>Delete section 3</p> <p>Substitute</p> <p>“Interpretation: reserved matter and non-reserved matter</p> <p>(1) For the purposes of this Ordinance—</p> <p>(a) a reserved matter is a matter to which the laws of Hong Kong apply, apart from laws related to customs clearance, immigration, and inspection and quarantine procedures, and over which Hong Kong exercises jurisdiction; and</p> <p>(b) a non-reserved matter is a matter to which the laws and procedures related to customs clearance, immigration, and inspection and quarantine of the Mainland apply, and over which the Mainland exercises jurisdiction.”</p>
Schedule 1	Delete Schedule 1