

**立法會**  
**Legislative Council**

LC Paper No. CB(4)726/19-20  
(These minutes have been seen  
by the Administration)

Ref : CB4/BC/2/17

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

**Minutes of the eighteenth meeting  
held on Monday, 7 May 2018, at 9:00 am  
in Conference Room 1 of the Legislative Council Complex**

**Members present** : Hon Mrs Regina IP LAU Suk-ye, GBS, JP (Chairman)  
Hon CHEUNG Kwok-kwan, JP (Deputy Chairman)  
Hon LEUNG Yiu-chung  
Hon Abraham SHEK Lai-him, GBS, JP  
Hon Tommy CHEUNG Yu-yan, GBS, JP  
Hon Jeffrey LAM Kin-fung, GBS, JP  
Hon WONG Ting-kwong, GBS, JP  
Hon Starry LEE Wai-king, SBS, JP  
Hon CHAN Hak-kan, BBS, JP  
Hon CHAN Kin-por, GBS, JP  
Dr Hon Priscilla LEUNG Mei-fun, SBS, JP  
Hon WONG Kwok-kin, SBS, JP  
Hon Paul TSE Wai-chun, JP  
Hon Claudia MO  
Hon Michael TIEN Puk-sun, BBS, JP  
Hon Steven HO Chun-yin, BBS  
Hon WU Chi-wai, MH  
Hon MA Fung-kwok, SBS, JP  
Hon Charles Peter MOK, JP  
Hon CHAN Chi-chuen  
Hon CHAN Han-pan, JP  
Hon LEUNG Che-cheung, SBS, MH, JP  
Hon Kenneth LEUNG  
Hon Alice MAK Mei-kuen, BBS, JP  
Dr Hon KWOK Ka-ki  
Hon KWOK Wai-keung, JP  
Hon Christopher CHEUNG Wah-fung, SBS, JP

Dr Hon Fernando CHEUNG Chiu-hung  
Dr Hon Helena WONG Pik-wan  
Hon IP Kin-yuen  
Dr Hon Elizabeth QUAT, BBS, JP  
Ir Dr Hon LO Wai-kwok, SBS, MH, JP  
Hon Andrew WAN Siu-kin  
Hon CHU Hoi-dick  
Hon Jimmy NG Wing-ka, JP  
Hon HO Kai-ming  
Hon LAM Cheuk-ting  
Hon Holden CHOW Ho-ding  
Hon SHIU Ka-fai  
Hon SHIU Ka-chun  
Hon Wilson OR Chong-shing, MH  
Hon YUNG Hoi-yan  
Dr Hon Pierre CHAN  
Hon CHAN Chun-ying  
Hon Tanya CHAN  
Hon HUI Chi-fung  
Hon LUK Chung-hung  
Hon LAU Kwok-fan, MH  
Hon Kenneth LAU Ip-keung, BBS, MH, JP  
Dr Hon CHENG Chung-tai  
Hon KWONG Chun-yu  
Hon Jeremy TAM Man-ho  
Hon Gary FAN Kwok-wai  
Hon AU Nok-hin  
Hon Vincent CHENG Wing-shun, MH  
Hon Tony TSE Wai-chuen, BBS

**Member attending** : Hon Martin LIAO Cheung-kong, SBS, JP

**Members absent** : Hon James TO Kun-sun  
Prof Hon Joseph LEE Kok-long, SBS, JP  
Hon Frankie YICK Chi-ming, SBS, JP  
Hon YIU Si-wing, BBS  
Hon Dennis KWOK Wing-hang  
Dr Hon CHIANG Lai-wan, JP  
Hon Alvin YEUNG  
Dr Hon Junius HO Kwan-yiu, JP

**Public officers attending** : Item I

Transport and Housing Bureau

Mr Frank CHAN Fan, JP  
Secretary for Transport and Housing

Ms Rebecca PUN Ting-ting, JP  
Deputy Secretary for Transport and Housing  
(Transport) 1

Mr Andy LAM Siu-hong  
Principal Assistant Secretary for Transport and Housing  
(Transport) 3

Mr Ronald CHENG Long-fung  
Assistant Secretary for Transport and Housing  
(Transport) 3C

Department of Justice

Mr Wesley WONG Wai-chung, SC, JP  
Solicitor General

Mr Dominic LAI Kai-sang  
Deputy Law Officer (Civil Law)(Advisory)

Mr Llewellyn MUI Kei-fat  
Deputy Solicitor General (Constitutional Affairs) (Acting)

Mr Lawrence PENG Si-yun  
Senior Assistant Law Draftsman

Mr Henry CHAN Ngai-him  
Senior Government Counsel

Security Bureau

Mr Sonny AU Chi-kwong, PDSM, PMSM, JP  
Under Secretary for Security

Ms Maggie WONG Siu-chu, JP  
Deputy Secretary for Security 3

Mr Parson LAM Chun-wah  
Principal Assistant Secretary for Security D

**Clerk in attendance** : Ms Sophie LAU  
Chief Council Secretary (4)2

**Staff in attendance** : Mr Timothy TSO  
Senior Assistant Legal Adviser 1

Miss Joyce CHAN  
Assistant Legal Adviser 1

Miss Joyce CHING  
Senior Council Secretary (4)2

Ms Jacqueline LAW  
Council Secretary (4)2

Miss Mandy LAM  
Legislative Assistant (4)2

**I. Meeting with the Administration**

[LC Paper Nos. CB(3)312/17-18, CB(4)597/17-18(01), CB(4)631/17-18(01), CB(4)670/17-18(01), CB(4)720/17-18(01), File Ref.: THB(T)CR 9/1/16/581/99, LC Paper Nos. LS31/17-18, CB(4)587/17-18(01) and CB(4)1027/17-18(01)-(08)]

The Bills Committee deliberated (Index of proceedings attached at **Annex**).

2. The Chairman suspended the meeting from 10:40 am to 10:47 am for order to resume. At 12:24 pm, the Chairman suspended the meeting again for around 17 minutes to discuss with members on the procedural matters. The meeting was then resumed at 12:41 pm.

**II. Any other business**

Date of next meeting

3. Members noted that the next meeting would be held on 7 May 2018 at 2:30 pm.

4. There being no other business, the meeting ended at 12:54 pm.

Council Business Division 4  
Legislative Council Secretariat  
17 June 2020

**Proceedings of the eighteenth meeting of the  
Bills Committee on Guangzhou-Shenzhen-Hong Kong Express Rail Link (Co-location)  
Bill  
held on Monday, 7 May 2018, at 9:00 am  
in Conference Room 1 of the Legislative Council Complex**

Time Marker	Speaker(s)	Subject(s)	Action required
<b>Meeting with the Administration</b>			
000935-001621	Chairman Ms Tanya CHAN Dr Fernando CHEUNG Administration	Opening remarks.  Discussion on meeting arrangements, the Administration's replies to members' concerns raised at previous meetings and members' speaking time.  The Chairman advised that she would invite the Administration to make consolidated response to the first round of questions raised by members.	
001622-002041	Chairman Ms Tanya CHAN	Ms CHAN's question on clause 7(3) of the Guangzhou-Shenzhen-Hong Kong Express Rail Link (Co-location) Bill ("the Bill"), especially the rationale for not including provisions similar to section 1(b) of Schedule 4 to the Shenzhen Bay Port Hong Kong Port Area Ordinance (Cap. 591) in Schedule 5 to the Bill.	
002042-002303	Chairman Mr CHAN Chi-chuen	Mr CHAN asked whether a staff member of the Hong Kong operator of the Guangzhou-Shenzhen-Hong Kong Express Rail Link ("XRL") or its service provider could choose not to work in the West Kowloon Station Mainland Port Area ("MPA") without being dismissed, given that one of the Administration's arguments was that the Bill would not contravene Article 18 of the Basic Law ("BL 18") because Hong Kong residents could choose to enter or not to enter the MPA.	
002304-002631	Chairman Dr Fernando CHEUNG	Dr CHEUNG followed up on his enquiry raised at the last meeting as to whether workers' strikes within the MPA involving staff members of the Hong Kong operator of the XRL would constitute an employment-related matter, which was a reserved matter under Article 7(3) of the Co-operation Arrangement between the Mainland and the Hong Kong Special Administrative Region on the Establishment of the Port at the West Kowloon Station of the Guangzhou-Shenzhen-Hong Kong Express Rail Link for Implementing Co-location Arrangement ("Co-	

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		operation Arrangement").	
002632-003113	Chairman Mr CHU Hoi-dick	Mr CHU followed up on his enquiry raised at the last meeting about the meaning of the phrase "They enjoyed the protection, exemptions and immunities which they would have enjoyed if they had been subject to the laws of the HKSAR" as stated in Article 12 of the Co-operation Arrangement.	
003114-003304	Chairman Ms Tanya CHAN Dr KWOK Ka-ki	Discussion on procedural matters.	
003305-003715	Chairman Ms Tanya CHAN	<p>Ms CHAN's questions about:</p> <ul style="list-style-type: none"> <li>(a) the justifications for not providing definitions for the terms "investigation", "legal proceedings" and "remedy" which appeared in clause 7(1)(b) of the Bill;</li> <li>(b) in respect of any right acquired or accrued in connection with the MPA prior to the commencement date, whether the MPA would be regarded as an area lying within Hong Kong for the purpose of determining the geographical scope of the pre-existing right, regardless of whether the right or obligation was in relation to a reserved matter or non-reserved matter;</li> <li>(c) why the savings provision in the Bill did not seem to cover all the relevant matters set out in Part 3 of Cap. 591, which contained provisions that also dealt with pre-existing rights and obligations;</li> <li>(d) whether clause 7(3)(a) and (c) of the Bill would have the effect of demarcating a "new boundary" for the Hong Kong Special Administrative Region ("HKSAR") for the purpose of application of laws in respect of the rights and obligations arising from the orders specified in the proposed Schedules 4 and 5 to the Bill; and</li> <li>(e) whether future amendments to the proposed Schedules 4 and 5 would be carried into effect by way of negative vetting or positive vetting.</li> </ul>	

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003716-003939	Chairman Dr KWOK Ka-ki	Dr KWOK's concern about the quarantine arrangements in the MPA, and the safety of public officers and staff members of the Hong Kong operator of the XRL trespassing on the MPA.	
003940-004055	Chairman Mr WU Chi-wai	Mr WU's enquiry about ways of resolving international law disputes involving the discharge of obligations between the HKSAR and another contracting party; the Administration pointed out in its reply dated 6 May 2018 (LC Paper No. CB(4)1038/17-18(05)) that such disputes generally would not be referred to the HKSAR courts for determination.	
004056-004311	Chairman Mr AU Nok-hin	Mr AU's enquiry regarding the jurisdictions of the courts of the HKSAR and that of the Mainland in adjudicating disputes involving the question of whether a future right or obligation arising from a private contract was in relation to a reserved or non-reserved matter.	
004312-004827	Chairman Ms Tanya CHAN	<p>Ms CHAN's questions regarding the following issues:</p> <ul style="list-style-type: none"> <li>(a) the jurisdiction of the courts of the HKSAR in adjudicating disputes in relation to clause 7(3)(b) and (d) of the Bill;</li> <li>(b) whether a provision similar to section 11 of Cap. 591 would be added to the Bill; and</li> <li>(c) noting that Part 4 of Cap. 591 provided for interpretation of future documents, as well as future rights, obligations and court orders in addition to future documents, the reasons why clause 8 only dealt with the interpretation of future documents, and that the Bill did not seek to make provisions for future rights, obligations and court orders.</li> </ul>	
004828-010753	Chairman Administration	<p>The Administration's consolidated response to the above questions as follows:</p> <ul style="list-style-type: none"> <li>(a) in cases where relevant HKSAR personnel assisted in handling emergency situations, such as terrorist attacks in the MPA, at the request of the Mainland Authorities Stationed at the MPA, they would be entitled to the same protection, exemptions and immunities that they would have been entitled to under the</li> </ul>	



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		<p>laws of the HKSAR and pursuant to the laws of the Mainland, in accordance with Article 12 of the Co-operation Arrangement. Such included those protection, exemptions and immunities stipulated under the Fire Services Ordinance (Cap. 95), Civil Service Regulation No. 477 and the Law of the People's Republic of China on State Compensation;</p> <p>(b) clause 6 of and Schedule 1 to the Bill dealt with the application of laws and the delineation of jurisdiction (including jurisdiction of the courts) over the MPA; clause 8 dealt with the interpretation of future documents of private nature which contained a reference to Hong Kong or part of Hong Kong to describe the geographical scope for the rights or obligations relating to non-reserved matters;</p> <p>(c) Hong Kong courts would adjudicate on the issue of overlapping jurisdictions arising from private contracts as mentioned by Mr AU Nok-hin in accordance with established legal principles;</p> <p>(d) given the proposed Schedules 4 and 5 formed part of the Bill and would form part of the enacted ordinance, legislative amendments to the Schedules would have to be done by way of an amendment bill;</p> <p>(e) international law disputes involving the discharge of duties and obligations between contracting parties would not, generally speaking, be referred to their domestic courts for determination; details of the Administration's response were set out in LC Paper No. CB(4)1038/17-18(05);</p> <p>(f) the staff members of the Hong Kong operator of the XRL who carried out duties and functions in the MPA should comply with the laws of the Mainland inside the MPA and be subject to regulation by the Mainland Authorities stationed at the MPA. This would not be different from the situation where employees of a Hong Kong entity were deployed to work overseas and in those</p>	

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		<p>circumstances, they should abide by the applicable laws of the respective jurisdiction. The Administration considered that the discussion on whether the Bill would contravene BL 18 was a separate matter;</p> <p>(g) if there were disputes on whether Hong Kong courts would have jurisdiction to adjudicate on whether a matter was a reserved matter or a non-reserved matter, the courts would determine the question of jurisdiction based on the evidence of the case;</p> <p>(h) rationale for the proposed arrangement in clause 7(3)(a) and (c) of the Bill; details of the Administration's reply were set out in part (12) of LC Paper No. CB(4)631/17-18(01);</p> <p>(i) the standards of inspection and quarantine procedures adopted in the Mainland were set in accordance with those prescribed by the World Health Organization. The Administration was confident that together with the stringent quarantine measures implemented by the relevant government departments, there would be adequate protection against the import/export of communicable diseases; and</p> <p>(j) a number of working groups were formed to discuss matters concerning the issuance of permit and clearance arrangement for the HKSAR designated personnel's entry into the MPA, liaison and coordination mechanism for daily port operation, property management and maintenance and the like, with a view to ensuring safe and smooth operation of the West Kowloon Station.</p>	
010754-011733	Chairman Senior Assistant Legal Adviser 1 ("SALA1") Administration	<p>SALA1's response to the Administration's reply.</p> <p>The Administration's response to SALA1's questions raised at the meeting on 5 May 2018, details of which were set out in LC Paper No. CB(4)1078/17-18(02).</p>	
011734-011944	Chairman Mr Paul TSE	Mr TSE's enquiry on the drafting approach of clause 7(1)(b) and (c) of the Bill, and whether Article 7(5) of the Co-operation Arrangement would apply to the contractual or other legal relationships of a civil	

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		nature between different groups of bodies or individuals mentioned therein.	
011945-012050	Chairman Mr HUI Chi-fung	Mr HUI's enquiry on the application of the arrangements on the reciprocal notification mechanism between the Mainland and the HKSAR relating to situations including the imposition of criminal compulsory measures or the institution of criminal prosecution, as well as the unnatural deaths of Hong Kong residents in the MPA.	
012051-012157	Chairman Ms Claudia MO	Ms MO's enquiry regarding the drafting of clause 6(1) of the Bill.	
012158-012325	Chairman Mr CHAN Chi-chuen	Mr CHAN further enquired whether a staff member of the Hong Kong operator of the XRL could choose not to work in the MPA without being dismissed, given that one of the Administration's arguments that the Bill would not contravene BL 18 because Hong Kong residents could choose to enter or not to enter the MPA.	
012326-012439	Chairman Dr KWOK Ka-ki	Dr KWOK followed up on the enquiry regarding the mechanism or arrangement to handle the situation where a designated personnel was found to have trespassed on the MPA; and the immigration arrangement and protection for the staff members of the service providers of the Hong Kong operator of the XRL who had to enter the MPA to perform repair and maintenance duties.	
012440-012602	Chairman Mr Jeremy TAM	Mr TAM's enquiry on whether the terms "維修養護" and "環境管制" had appeared in the Co-operation Arrangement; and matters relating to the translation of these terms.	
012603-013039	Chairman Ms Tanya CHAN	<p>Ms CHAN's enquiry regarding the following issues:</p> <p>(a) noting that Part 4 of Cap. 591 provided for interpretation of future documents, as well as future rights, obligations and court orders, the reasons why clause 8 only provided for interpretation of future documents, and that the Bill did not seek to make provisions for future rights, obligations and court orders;</p> <p>(b) with reference to clause 8(3) of the Bill, whether private parties could expressly specify the delineation of jurisdiction in future</p>	

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		<p>documents in relation to non-reserved matters, notwithstanding the effect of clause 6(1), which provided for the application of the laws and delineation of jurisdiction;</p> <p>(c) details of the Guangzhou-Shenzhen-Hong Kong Express Rail Link Operating Co-operation Agreement mentioned in Article 7(6) of the Co-operation Arrangement which was reproduced in Schedule 1 to the Bill; and</p> <p>(d) implementation of a future enactment in relation to reserved matters in the MPA after the commencement date of the Bill, if passed.</p>	
013040-013944	Chairman Administration	<p>The Administration's reply to questions raised by Mr HUI Chi-fung, Dr KWOK Ka-ki and Mr CHAN Chi-chuen.</p> <p>The Chairman's response to some members' views on the meeting arrangement.</p>	
013945-014452	Chairman Ms Starry LEE	Discussion on procedural matters.	
014453-015142	Chairman	Suspension of meeting for around seven minutes.	
015143-020230	Chairman Administration	The Administration reiterated its reply to question raised by Mr CHAN Chi-chuen, and responded to questions raised by Ms Tanya CHAN, Ms Claudia MO and Mr Jeremy TAM.	
020231-021617	-	Break	
021618-022014	Chairman	At the request of some members, the Chairman directed the Clerk to ring the quorum bell to summon members to the meeting.	
022015-023015	Chairman Ms Tanya CHAN Mr WU Chi-wai	<p>Consideration of amendments to the Bill proposed by members.</p> <p>Ms CHAN's query that the clause-by-clause examination of the Schedules to and the Explanatory Memorandum of the Bill had not been completed, and the Chairman's response.</p> <p>Ms CHAN's enquiry regarding the coordinates and the area of the Shek Kong Stabling Sidings as set out in</p>	

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		<p>Schedule 3 to the Bill.</p> <p>Discussion on procedural matters relating to the clause-by-clause examination of the Bill.</p>	
023016-023110	<p>Chairman Ms Tanya CHAN SALA1</p>	<p>At the invitation of the Chairman, SALA1 advised that legal and drafting issues arising from the English and Chinese texts of the Bill had been raised during the course of scrutiny for members' consideration.</p>	
023111-023826	<p>Chairman Ms Tanya CHAN Mr WU Chi-wai Mr Andrew WAN</p>	<p>Discussion on procedural matters relating to the clause-by-clause examination of the Bill.</p>	
023827-024009	<p>Chairman Mr WU Chi-wai</p>	<p>Mr WU briefed members on his proposed amendments to the Bill (LC Paper No. CB(4)1027/17-18(03)).</p> <p>Further discussion on procedural matters relating to the clause-by-clause examination of the Bill.</p>	
024010-025935	<p>Chairman Ms Claudia MO Dr Fernando CHEUNG Mr Martin LIAO</p>	<p>Discussion on procedural matters relating to the clause-by-clause examination of the Bill.</p>	
025936-030612	<p>Chairman Mr Andrew WAN</p>	<p>Mr WAN explained the amendments to the Bill proposed by him (LC Paper No. CB(4)1027/17-18(05)). He also expressed dissatisfaction over the procedures adopted for the clause-by-clause examination of the Bill and the Administration's reply to members' concerns raised at the meetings.</p>	
030613-032232	<p>Chairman Mr IP Kin-yuen Mr HUI Chi-fung Dr Fernando CHEUNG Mr Kenneth LEUNG Mr Charles Peter MOK Ms Claudia MO Ms Alice MAK Mr LAM Cheuk-ting Dr Helena WONG Ms Tanya CHAN Mr Gary FAN</p>	<p>Discussion on procedural matters.</p>	

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032233-032818	Chairman Dr Helena WONG	Dr WONG sought clarifications from the legal advisers to the Bills Committee whether the Schedules to the Bill formed part of the Bill.	
032819-034526	Chairman	Suspension of meeting for around 17 minutes.	
034527-034815	Chairman SALA1	SALA1 explained the procedures relating to the clause-by-clause examination of the Bill with reference to paragraphs 2.14 and 2.15 of the Handbook for Chairmen of Bills Committees.	
034816-035655	Chairman Dr Helena WONG Mr HUI Chi-fung Mr Gary FAN Dr Fernando CHEUNG Mr IP Kin-yuen Mr CHAN Kin-por Ms Claudia MO Ms Starry LEE	Discussion on procedural matters.	
035656-035752	Chairman Administration	The Administration confirmed that it had responded to Mr HUI Chi-fung's question in the earlier part of this meeting.  Date of and arrangements for the next meeting.	
<b>Any other business</b>			
035753-035803	Chairman	Closing remarks.	