

**立法會**  
**Legislative Council**

LC Paper No. CB(2)1882/17-18  
(These minutes have been seen by  
the Administration)

Ref : CB2/SS/10/17

**Subcommittee on Subsidiary Legislation Relating to the Commissioning  
of the West Kowloon Station of the Guangzhou-Shenzhen-Hong Kong  
Express Rail Link and Gazetted on 1 June 2018**

**Minutes of meeting  
held on Wednesday, 20 June 2018, at 8:30 am  
in Conference Room 2 of the Legislative Council Complex**

**Members present** : Hon CHAN Hak-kan, BBS, JP (Chairman)  
Hon Frankie YICK Chi-ming, SBS, JP (Deputy Chairman)  
Hon Jeffrey LAM Kin-fung, GBS, JP  
Hon WONG Ting-kwong, GBS, JP  
Hon Paul TSE Wai-chun, JP  
Hon Steven HO Chun-yin, BBS  
Hon WU Chi-wai, MH  
Hon YIU Si-wing, BBS  
Hon MA Fung-kwok, SBS, JP  
Hon Charles Peter MOK, JP  
Hon CHAN Chi-chuen  
Hon CHAN Han-pan, JP  
Hon Alice MAK Mei-kuen, BBS, JP  
Hon KWOK Wai-keung, JP  
Hon Christopher CHEUNG Wah-fung, SBS, JP  
Dr Hon Elizabeth QUAT, BBS, JP  
Hon POON Siu-ping, BBS, MH  
Ir Dr Hon LO Wai-kwok, SBS, MH, JP  
Hon CHUNG Kwok-pan  
Hon Alvin YEUNG  
Hon CHU Hoi-dick  
Dr Hon Junius HO Kwan-yiu, JP  
Hon Holden CHOW Ho-ding  
Hon SHIU Ka-fai  
Hon YUNG Hoi-yan  
Hon CHAN Chun-ying

Hon Tanya CHAN  
Hon CHEUNG Kwok-kwan, JP  
Hon HUI Chi-fung  
Hon LAU Kwok-fan, MH  
Dr Hon CHENG Chung-tai  
Hon Jeremy TAM Man-ho  
Hon AU Nok-hin

**Member attending** : Dr Hon Fernando CHEUNG Chiu-hung

**Members absent** : Hon James TO Kun-sun  
Hon Kenneth LEUNG  
Hon Dennis KWOK Wing-hang  
Dr Hon Helena WONG Pik-wan  
Hon Jimmy NG Wing-ka, JP  
Hon HO Kai-ming  
Hon LUK Chung-hung

**Public Officers attending** : Item II

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

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

Mr Kevin LAI Ming-fai  
Principal Assistant Secretary for Security (Narcotics) 1

Mr Mickey WAI Chun-yin  
Assistant Secretary for Security (Narcotics) 3

Mr TAI Chi-yuen  
Assistant Director (Control)  
Immigration Department

Ms Louise HO Pui-shan  
Deputy Commissioner (Acting)  
Customs and Excise Department

Ms Catherine LAI Sau-ieng  
Assistant Commissioner (Intelligence and Investigation)  
(Acting)  
Customs and Excise Department

Ms Leonora IP Wan-yok  
Senior Assistant Law Draftsman  
Department of Justice

Mr Henry CHAN Ngai-him  
Senior Government Counsel  
Department of Justice

**Clerk in attendance** : Miss Betty MA  
Chief Council Secretary (2) 1

**Staff in attendance** : Miss Joyce CHAN  
Assistant Legal Adviser 1

Mr Raymond LAM  
Senior Council Secretary (2) 7

Ms Gloria TSANG  
Council Secretary (2) 1

Ms Kiwi NG  
Legislative Assistant (2) 1

Miss Lulu YEUNG  
Clerical Assistant (2) 1

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## **I. Election of Chairman and Deputy Chairman**

### Election of Chairman

Mr Jeffrey LAM, member who had the highest precedence in Council among members of the Subcommittee present, presided over the election of the Chairman. Mr LAM called for nominations for the chairmanship of the Subcommittee. Mr CHAN Hak-kan was nominated by Mr WONG Ting-kwong and the nomination was seconded by

Ir Dr LO Wai-kwok. Mr CHAN Hak-kan accepted the nomination. Mr LAM called for other nominations.

2. Mr CHAN Chi-chuen was nominated by Ms Tanya CHAN and the nomination was seconded by Mr AU Nok-hin. Mr CHAN Chi-chuen accepted the nomination.

3. As there was no other nomination, Mr Jeffrey LAM then proceeded to the election and announced that voting be conducted by secret ballot. After all the members present had cast their votes, Mr LAM invited Mr WONG Ting-kwong and Ms Tanya CHAN, who had nominated the two candidates respectively, to monitor the counting of votes.

4. After the votes were counted, Mr Jeffrey LAM announced that 20 members voted for Mr CHAN Hak-kan and 10 members voted for Mr CHAN Chi-chuen respectively. Mr LAM declared Mr CHAN Hak-kan elected as the Chairman of the Subcommittee. Mr CHAN Hak-kan then took the chair.

#### Election of Deputy Chairman

5. The Chairman called for nominations for the deputy chairmanship of the Subcommittee. Mr CHU Hoi-dick was nominated by Mr CHAN Chi-chuen and the nomination was seconded by Mr WU Chi-wai. Mr CHU Hoi-dick accepted the nomination. The Chairman called for other nominations.

6. Mr Frankie YICK was nominated by Mr CHAN Han-pan and the nomination was seconded by Ms Alice MAK. Mr Frankie YICK accepted the nomination.

7. As there was no other nomination, the Chairman announced a vote by secret ballot. After all members had cast their votes, the Chairman invited Mr CHAN Han-pan and Mr CHAN Chi-chuen who had nominated the two candidates to monitor the counting of votes.

8. After the votes were counted, the Chairman announced that 10 and 20 members voted for Mr CHU Hoi-dick and Mr Frankie YICK respectively. The Chairman declared Mr Frankie YICK elected as Deputy Chairman of the Subcommittee.

## **II. Meeting with the Administration**

9. The Subcommittee deliberated and examined the following items of subsidiary legislation relating to the commissioning of the West Kowloon Station of the Guangzhou-Shenzhen-Hong Kong Express Rail Link (index of proceedings attached at **Annex**):

- (a) Immigration (Places of Detention) (Amendment) Order 2018 (L.N. 109 of 2018);
- (b) Immigration Service (Designated Places) (Amendment) Order 2018 (L.N. 110 of 2018); and
- (c) Cross-boundary Movement of Physical Currency and Bearer Negotiable Instruments Ordinance (Amendment of Schedule 1) (No. 2) Notice 2018 (L.N. 111 of 2018).

10. The Subcommittee requested the Administration to provide written information on past examples where a piece of subsidiary legislation came into operation before expiry of the full negative vetting period under section 34 of the Interpretation and General Clauses Ordinance (Cap. 1).

## **III. Any other business**

11. The Chairman concluded that the Subcommittee had completed its scrutiny work. The Subcommittee noted that the Chairman would report on the deliberations of the Subcommittee at the House Committee meeting on 22 June 2018. The deadline for giving notice of amendments, if any, to the three items of subsidiary legislation relating to the commissioning of the West Kowloon Station of the Guangzhou-Shenzhen-Hong Kong Express Rail Link would be 26 June 2018.

12. There being no other business, the meeting ended at 9:53 am.

**Proceedings of meeting of the  
Subcommittee on Subsidiary Legislation Relating to the Commissioning of  
the West Kowloon Station of the Guangzhou-Shenzhen-Hong Kong  
Express Rail Link and Gazetted on 1 June 2018  
held on Wednesday, 20 June 2018, at 8:30 am  
in Conference Room 2 of the Legislative Council Complex**

<b>Time marker</b>	<b>Speaker</b>	<b>Subject(s) / Discussion</b>	<b>Action Required</b>
<i>Agenda item I - Election of Chairman</i>			
000000 - 001652	Mr Jeffrey LAM Mr WONG Ting-kwong Ir Dr LO Wai-kwok Mr CHAN Hak-kan Ms Tanya CHAN Mr AU Nok-hin Mr CHAN Chi-chuen	Election of Chairman	
001653 - 002623	Chairman Mr CHAN Chi-chuen Mr CHU Hoi-dick Mr WU Chi-wai Dr Junius HO Ms Alice MAK Mr CHAN Han-pan Mr Frankie YICK Ir Dr LO Wai-kwok	Election of Deputy Chairman	
<i>Agenda item II - Meeting with the Administration</i>			
002624 - 002757	Chairman	Opening remarks	
002758 - 003132	Admin Chairman	Briefing by the Administration on the following three items of subsidiary legislation ("the relevant subsidiary legislation") relating to the commissioning of the West Kowloon Station ("WKS") of the Guangzhou-Shenzhen-Hong Kong Express Rail Link ("XRL"):  (a) Immigration (Places of Detention) (Amendment) Order 2018 (L.N. 109 of 2018);  (b) Immigration Service (Designated Places) (Amendment) Order 2018 (L.N. 110 of 2018); and  (c) Cross-boundary Movement of Physical Currency and Bearer Negotiable Instruments Ordinance (Amendment of Schedule 1) (No. 2) Notice 2018 (L.N. 111 of 2018).	

Time marker	Speaker	Subject(s) / Discussion	Action Required
003133 - 003759	Chairman Ms Tanya CHAN ALA1	Two letters dated 6 June 2018 from Assistant Legal Adviser 8 to the Administration regarding the relevant subsidiary legislation (LC Paper Nos. CB(2)1620/17-18(01) and (02)).	
003800 - 004203	Admin	Administration's responses dated 11 and 12 June 2018 to the letters from Assistant Legal Adviser 8 (LC Paper Nos. CB(2)1620/17-18(03) and (04)).	
004204 - 004732	Chairman Ms Tanya CHAN Admin	<p>Ms Tanya CHAN's question regarding:</p> <ul style="list-style-type: none"> <li>(a) whether the meaning of the terms "WKS of XRL" and "WKS Mainland Port Area ("MPA")" should be expressly provided for in the relevant subsidiary legislation;</li> <li>(b) past examples where subsidiary legislation came into operation before expiry of the full negative vetting period under section 34 of the Interpretation and General Clauses Ordinance (Cap. 1); and</li> <li>(c) whether there were similar arrangements in other control points where the detention quarters set up by the Immigration Department ("ImmD") were not located within a closed area but within a cross-boundary restricted area instead.</li> </ul> <p>Administration's response that:</p> <ul style="list-style-type: none"> <li>(a) the terms "WKS of XRL" and "WKS MPA" could be clearly understood according to their ordinary meanings without the need to define them by reference to other legislation;</li> <li>(b) past examples where subsidiary legislation came into operation before expiry of the full negative vetting period under section 34 of Cap. 1 included the Public Health and Municipal Services Ordinance (Public Pleasure Grounds) (Amendment of Fourth Schedule) Order 2017, the Industrial Training (Clothing Industry) Ordinance (Amendment of Schedule 2) Order 2017 and the Pharmacy and Poisons (Amendment) Regulation 2018; and</li> </ul>	

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		<p>(c) in relation to the location of the detention quarters within the WKS of XRL, similar arrangements were also adopted in the Hong Kong-Macau Ferry Terminal and China Ferry Terminal declared pursuant to the Shipping and Port Control Ordinance (Cap. 313).</p>	
004733 - 005349	<p>Chairman Mr CHAN Chi-chuen Admin</p>	<p>Mr CHAN Chi-chuen's remark that the use of the phrase "other than the WKS MPA" in the relevant subsidiary legislation indicated that in other words, the Mainland authorities would be permitted to perform their duties at the WKS MPA in accordance with the laws of the Mainland, which would contravene the Basic Law. He therefore objected in principle to the relevant subsidiary legislation.</p> <p>Mr CHAN Chi-chuen's question regarding:</p> <p>(a) whether passenger trains of XRL fell within the meaning of a "cross-boundary conveyance" under the Cross-boundary Movement of Physical Currency and Bearer Negotiable Instruments Ordinance (Cap. 629); and</p> <p>(b) whether the powers to stop, board and search under section 16 of Cap. 629 would apply to the passenger trains of XRL.</p> <p>Administration's response that:</p> <p>(a) pursuant to 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, immigration control and customs clearance within the WKS MPA were matters to which the laws of the Mainland applied, and over which the Mainland exercised jurisdiction, i.e. "non-reserved matters" under the Guangzhou-Shenzhen-Hong Kong Express Rail Link (Co-location) Bill ("the Bill"). Thus, the declaration requirements which were applicable to travellers arriving at specified control points in Schedule 1 to Cap. 629 would be applicable</p>	

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		<p>only to the area within the WKS of XRL over which Hong Kong had jurisdiction, and would not be applicable within the WKS MPA which, in respect of non-reserved matters, was to be regarded as an area lying outside Hong Kong but lying within the Mainland for the purposes of the application of the laws of the Mainland and the delineation of jurisdiction (including jurisdiction of the courts); and</p> <p>(b) under the Bill as passed by the Legislative Council ("LegCo"), the train compartment of a passenger train in operation on the Hong Kong Section of XRL would be regarded as part of the WKS MPA.</p>	
005350 - 011315	<p>Chairman Ms Tanya CHAN Mr CHU Hoi-dick Admin</p>	<p>Ms Tanya CHAN's question regarding:</p> <p>(a) whether the Hong Kong Clearance Area within WKS would be managed as a "cross-boundary restricted area"; and</p> <p>(b) whether there was a need to amend any railway-related by-laws for such a management arrangement.</p> <p>Administration's response that:</p> <p>(a) the Hong Kong Clearance Area within WKS would be managed as a "cross-boundary restricted area"; and</p> <p>(b) the Hong Kong Clearance Area within WKS would be declared by Mass Transit Railway Corporation Limited as a cross-boundary restricted area by notice published in the Gazette in accordance with by-law 41B of the Mass Transit Railway By-laws (Cap. 556B); and amendment to railway-related by-laws would not be necessary.</p> <p>Ms Tanya CHAN's question regarding the precise location and size of the immigration detention quarters at WKS.</p> <p>Administration's response that the area within WKS that was set aside as detention quarters would be located at the B2 Arrival Level and would comprise around 10 detention rooms.</p>	

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		<p>Ms Tanya CHAN requested the Administration to provide written information on past examples where a piece of subsidiary legislation came into operation before expiry of the full negative vetting period under section 34 of Cap. 1.</p> <p>Administration's response that it would provide the requested information in writing.</p> <p>Administration's remark that since the Hong Kong Section of XRL was anticipated to be commissioned in September 2018, the relevant subsidiary legislation had to come into operation on the commencement date of the Ordinance enacted by LegCo through the passage, with or without amendment, of the Bill ("the Ordinance") in order to meet the operational needs upon commissioning of the WKS of XRL. The three items of subsidiary legislation were published in the Gazette on 1 June and laid on the table of LegCo on 6 June 2018. The relevant subsidiary legislation would only come into operation after the expiry of the 28-day negative vetting period, even if the period was not extended. There would be reasonable time for members to scrutinize the relevant subsidiary legislation.</p> <p>Mr CHU Hoi-dick's question regarding whether there was a need to expressly set out in the relevant subsidiary legislation that the term "WKS MPA" had the same meaning as in the Ordinance.</p> <p>Administration's response that the term "WKS MPA" had the same meaning as it had in the Ordinance, and its meaning could be clearly understood without the need to define them by reference to the Ordinance.</p>	<p><b>Admin</b></p>
<p>011316 - 011809</p>	<p>Chairman Mr CHAN Chi-chuen Admin</p>	<p>Mr CHAN Chi-chuen's question regarding whether an officer, who was authorized under sections 16 and 20 of Cap. 629 to stop, board and search, and to obtain particulars of persons on cross-boundary conveyance, would have power to take such enforcement action inside the train compartments of XRL.</p> <p>Administration's response that:</p> <p>(a) passenger trains in operation on the Hong Kong Section of XRL were within the</p>	

Time marker	Speaker	Subject(s) / Discussion	Action Required
		<p>meaning of cross-boundary conveyances for the purpose of Cap. 629. Meanwhile, under the Ordinance, the train compartment of a passenger train in operation was considered to be part of the WKS MPA which, except for reserved matters as defined under the Ordinance, was to be regarded as an area lying outside Hong Kong but lying within the Mainland for the purpose of the application of the laws of the Mainland and the delineation of jurisdiction (including the jurisdiction of the courts); and</p> <p>(b) when an authorized officer had to obtain particulars of passengers of a train in operation on the Hong Kong Section of XRL under section 20 of Cap. 629, such officer might seek the assistance of the operator of the passenger train concerned.</p>	
011810 - 012247	Chairman Admin Ms Tanya CHAN Mr CHU Hoi-dick	<p>Examination of provisions of L.N. 109 of 2018.</p> <p>Ms Tanya CHAN's and Mr CHU Hoi-dick's questions regarding whether law enforcement agencies other than ImmD could use the detention quarters at WKS.</p> <p>Administration's response that the area in the Hong Kong Clearance Area within WKS that was set aside as detention quarters would only be used by ImmD for its routine immigration control and law enforcement duties.</p>	
012248 - 012406	Chairman Admin	Examination of provisions of L.N. 110 of 2018.	
012407 - 012549	Chairman Admin	Examination of provisions of L.N. 111 of 2018.	
<i>Agenda item III - Any other business</i>			
012550 - 012725	Chairman Clerk	<p>Completion of scrutiny of the relevant subsidiary legislation.</p> <p>Date of reporting the work of the Subcommittee to the House Committee and deadline for giving notice of amendment to the relevant subsidiary legislation.</p>	

Council Business Division 2  
Legislative Council Secretariat  
23 July 2018