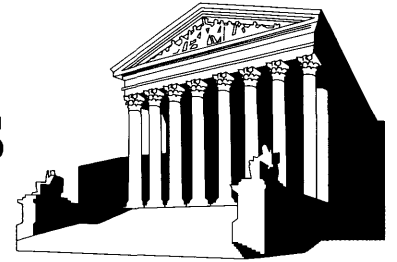


Updating the Legal Framework for Railways



Completion of the Airport Railway this month is only the latest of a series of important rail initiatives that are currently being undertaken in Hong Kong.

This month we look back and ahead at some of the legal changes that made it possible, and where they lead.

Rail Development

It is now five years since the first Rail Development Study, or RDS-1 was formulated in 1993. Based upon that study the Government formulated the Rail Development Strategy in 1994. RDS-1, had recommended a massive expansion of the local rail network. In short, it proposed West Rail, extension of the MTRC to Tseung Kwan O, and the extension of the KCRC from Ma On Shan to Tai Wai and Hung Hom to Tsim Sha Tsui. The projects have all moved forward. However, largely as a result of adjustments upward in forecast population levels, just three months ago an updated Railway Development Study, or RDS-2 was commissioned. RDS-2, costing some \$35 million, will focus on the regional rail network, the viability of a fourth rail harbour crossing, and general planning, implementation and operational considerations. It is being undertaken by Maunsell Consultants Asia Ltd in joint venture with MVA Asia Ltd. And should be ready by September 1999.

Railways Ordinance

Until the passage of the Railways Ordinance in mid-1997 the Government had no specific power to plan and build railways. Up to this point development had been ad hoc under various ordinances, notably the MTRC and KCRC Ordinances. However, even within those ordinances, there was no general power given to either of those bodies to build new railways. Part 2 of the Railways Ordinance now authorises the Secretary for Transport to propose schemes for new rail developments, publication of the schemes, how objections are taken, land is resumed and several related issues. Part 3 addresses rights to compensation and sets out a claims procedure. Significantly, a very short timeperiod has been inserted - 60 days only following gazettal of any scheme - in which objections must be raised. The Secretary

then has 9 months in which to put the objections to Exco for decision. The short timeperiod was likely passed in response to concerns over the lack of statutory limits in dealing with certain other projects under the ACP, for example Route 3. In the past, the long timeperiod for dealing with objections for land resumption has been a problem for the MTRC under the Mass Transit Railway (Land Resumption and Related Provisions) Ordinance. The passage of the Railways Ordinance overcomes that problem from the MTRC's point of view. Hence there is now one set of procedures for dealing with these issues for both the MTRC and KCRC and the Mass Transit Railway (Land Resumption and Related Provisions) Ordinance has been repealed. The new procedures under the Railways Ordinance also replace those that used to apply for resuming gravesites under the Public Health and Municipal Services Ordinance.

Kowloon-Canton Railway Corporation (Amendment) Ordinance

Once again West Rail highlighted some important gaps in railway regulation. Prior to the amendment of the Kowloon-Canton Railway Corporation (Amendment) Ordinance a few months ago the KCRC had neither the power to undertake new railway construction nor the power to borrow and issue stock. Under the KCRC's amended legislation these powers, in addition to certain other powers and rights, have now been given to the corporation.

West Rail

West Rail is an ambitious part of RDS-1. Planning for West Rail has been divided into two phases. Briefly Phase I is a domestic passenger service 30.5-km in length with elevated,

surface and underground profiles. Two interchanges are planned with the MTR and 4 interchanges with the KCRC light railway. Phase II involves both cross-boundary passenger and freight services. Portions of West Rail have already been gazetted including the Tai Lam tunnel section, and the urban and western sections. Once again when individual schemes are gazetted in this manner objections must be raised within 60 days or they are barred.

West Rail Contracts

West Rail will comprise a large number of contracts. These contracts are in addition to the more extensive trades' list that the KCRC maintains for commodities, works and services and consequent contracts it enters in these regards. The major contracts on West Rail divide into design build and special purchase; design build (civil); detailed design contracts and construction contracts. The construction contracts are either just beginning pre-qualification or will shortly commence pre-qualification. However, no awards are expected on the construction contracts until 1999.

East Rail

Although most attention lately has focused on West Rail B East

Rail too will add significantly to the rail network. Agreement has been given in principle by the Government to both the Ma On Shan link and Tsim Sha Tsui extension first proposed in RDS-1. Costing some \$9.1 billion exclusive of land acquisition and financing costs East Rail is still almost one-sixth the cost of West Rail. The Government has invited the KCRC to undertake the two projects as one package. It is anticipated that the project will draw heavily on contract administration procedures developed for West Rail. In conclusion, as we move toward completion of the Airport Railway and related infrastructure, "fast-track" legislation is now in place for the first time to match the fast-track railway development and construction. ■AAC

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