

Rapid Transit Systems (Amendment) Bill

Bill No. 5/2014.

Read the first time on 20th January 2014.

A BILL

i n t i t u l e d

An Act to amend the Rapid Transit Systems Act (Chapter 263A of the 2004 Revised Edition).

Be it enacted by the President with the advice and consent of the Parliament of Singapore, as follows:

Short title and commencement

1. This Act may be cited as the Rapid Transit Systems (Amendment) Act 2014 and shall come into operation on such date as the Minister may, by notification in the *Gazette*, appoint.

Amendment of section 2

2. Section 2 of the Rapid Transit Systems Act (referred to in this Act as the principal Act) is amended —

(a) by inserting, immediately after the definition of “railway area”, the following definition:

“ “railway commuter facility” means —

(a) a pedestrian facility (such as ramps, overhead bridges, footpaths, escalators, stairs and lifts) for or connected or facilitating access to the railway comprised in any rapid transit system;

(b) a bicycle parking facility or vehicle set down facility for intending passengers of the railway comprised in any rapid transit system; or

(c) any other similar structure or facility that integrates a rapid transit system with developments surrounding the rapid transit system by facilitating better access for passengers to residences, employment, markets, services and recreation;” and

(b) by inserting, immediately after the words “incidental to the carriage of passengers by train” in the definition of “railway premises”, the words “(but not any railway commuter facility)”.

Amendment of section 4

3. The principal Act is amended by renumbering section 4 as subsection (1) of that section, and by inserting immediately thereafter the following subsections:

“(2) In addition to subsection (1), the Authority may, at any reasonable time, enter upon any State land that is within or adjoining any railway area, and do all things as are reasonably necessary for the construction and maintenance of railway commuter facilities on, under or over that land.

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(3) For the avoidance of doubt, nothing in subsection (2) derogates from any power of the Authority to construct and maintain any street, road structure or road related facility under the Street Works Act (Cap. 320A).”.

Amendment of section 5

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4. Section 5 of the principal Act is amended by inserting, immediately after subsection (5), the following subsections:

“(5A) Any person authorised under this section to enter upon any land shall, if so required by the owner or occupier, produce evidence of his authority before so entering the land.

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(5B) Any person who refuses to give access to, or obstructs, hinders or delays, an agent or employee of the Authority at any time in the exercise of his authority shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$1,000.”.

Amendment of section 9

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5. Section 9(8) of the principal Act is amended by deleting the words “unlawfully obstructs” and substituting the words “refuses to give access to, or obstructs, hinders or delays,”.

Amendment of section 15

6. Section 15 of the principal Act is amended —

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(a) by deleting paragraph (d) of subsection (1); and

(b) by deleting sub-paragraph (ii) of subsection (2)(f) and substituting the following sub-paragraph:

“(ii) to maintain any railway commuter facility within the vicinity of a station that is part of the rapid transit system, and any other premises, facilities and

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structures used as, or for the purposes of, or otherwise reasonably necessary for or incidental to operating the rapid transit system;”.

5 **New section 18A**

7. The principal Act is amended by inserting, immediately after section 18, the following section:

“Appointment and removal of director, etc., of licensee

18A.—(1) No licensee shall —

10 (a) appoint or re-appoint an individual as its chief executive officer, its director or the chairman of its board of directors; or

(b) remove its chief executive officer or the chairman of its board of directors or any of its directors,

15 unless the licensee has obtained the approval of the Authority to do so.

(2) Where a licensee, in contravention of subsection (1), does any of the following without the approval of the Authority:

20 (a) appoint or re-appoint an individual as its chief executive officer, its director or the chairman of its board of directors;

(b) remove its chief executive officer or the chairman of its board of directors or any of its directors,

25 the Authority may issue a direction to the licensee to do either of the following, whichever being applicable, and the licensee must comply with that direction given to it:

(i) to remove that individual from his appointment as the chief executive officer or a director or the chairman of the board of directors of the licensee, as the case may be;

30 (ii) to reinstate the individual as the chief executive officer or a director or the chairman of the board of directors of the licensee, as the case may be.

(3) Where at any time the Authority is satisfied that it is necessary or desirable to act for the purpose of the proper administration of the licensee's business of operating a rapid transit system, the Authority may issue a direction to the licensee to appoint an individual as an additional director of the licensee, and the licensee must comply with that direction given to it.

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(4) Before giving any direction to any licensee under subsection (2) or (3), the Authority must give notice to the licensee informing the licensee of the proposed direction and setting out its effect, and specifying the time within which representations or objections to the proposed direction may be made by the licensee in connection with the proposed direction, unless the Authority, in respect of any particular direction, considers that it is not practicable or desirable that such notice be given.

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(5) The Authority must consider any representations or objections which are duly made by the licensee in connection with a proposed direction following a notice under subsection (4).

(6) This section shall have effect notwithstanding the provisions of any other written law and the provisions of the memorandum or articles of association, or other constitution, of the licensee, and nothing in section 152 of the Companies Act (Cap. 50) shall prevent the Authority from exercising any power under this section.

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(7) Nothing in subsections (2) to (6) shall be taken as depriving an individual who is removed under any of those provisions of compensation or damages payable to him in respect of the termination of his appointment as a chief executive officer, director or chairman of the board of directors.

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(8) In this section —

“chief executive officer”, in relation to a licensee, means any individual (however described by name) who —

(a) is in the direct employment of, or acting for or by arrangement with, the licensee; and

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(b) is principally responsible for the management and conduct of any type of business of the licensee in Singapore,

and includes any individual for the time being performing all or any of the functions or duties of the chief executive officer;

“director” has the same meaning as in section 4(1) of the Companies Act.”.

Amendment of section 19

8. Section 19 of the principal Act is amended —

(a) by deleting the words “or with the provisions of this Act” in subsection (1)(a) and substituting the words “or with any provision of this Act which is applicable to the licensee and for which no criminal penalty is prescribed for a contravention of the provision”;

(b) by inserting, immediately after paragraph (a) of subsection (1), the following paragraph:

“(aa) is convicted of any offence under this Act.”;

(c) by inserting, immediately after the words “section 18” in subsection (1)(d), the words “or 18A”;

(d) by deleting paragraph (iii) of subsection (1) and substituting the following paragraph:

“(iii) require the licensee to pay, within a specified period, a financial penalty of such amount as the Authority thinks fit, which in any case shall not exceed the maximum amount specified in subsection (1A).”;

(e) by inserting, immediately after subsection (1), the following subsection:

“(1A) For the purposes of requiring a licensee of any rapid transit system to pay a financial penalty under subsection (1)(iii), the maximum amount means the higher of the following amounts:

- (a) \$1 million; or
- (b) 10% of the licensee's annual fare revenue that is received —
 - (i) during the licensee's last-completed financial year as ascertained from the licensee's latest audited accounts; and
 - (ii) from the operation of the rapid transit system or, if more than one rapid transit system is the subject of the licensee's licence, of each rapid transit system.”; and
- (f) by inserting, immediately after subsection (2), the following subsection:

“(3) In this section, “annual fare revenue”, in relation to a licensee of a rapid transit system, means the total charges received by the licensee from passengers for travel services provided on any railway comprised in that rapid transit system, less any goods and services tax paid by, the value of any rebate supplied to, and any connection commission paid by, passengers in connection with those travel services.”.

Amendment of section 20

9. Section 20(1) of the principal Act is amended by inserting, immediately after the words “section 18” in paragraph (d), the words “or 18A”.

Saving provisions

10.—(1) Section 8(d), (e) and (f) shall not apply to or in relation to any regulatory default occurring before the date of commencement of those provisions; and the principal Act as in force immediately before that date shall continue to apply to and in relation to any regulatory default occurring before that date as if this Act had not been enacted.

(2) For a period of 2 years after the date of commencement of any provision of this Act, the Minister may, by regulations, prescribe such

additional provisions of a savings or transitional nature consequent on the enactment of that provision as he may consider necessary or expedient.

5 (3) In this section, “regulatory default” means any one or more of the following by a company which is licensed under the principal Act to operate any rapid transit system:

(a) any contravention or failure to comply with any matter referred to in section 19(1)(a), (c), (d) or (da) of the principal Act;

10 (b) any compulsory or voluntary liquidation or any assignment to, or composition with, its creditors referred to in section 19(1)(e) or (f) of the principal Act.

EXPLANATORY STATEMENT

This Bill seeks to amend the Rapid Transit Systems Act (Cap. 263A) to enhance the financial penalty that may be imposed for defaults by any licensed operator of a rapid transit system, and to confer additional powers on the Land Transport Authority of Singapore (LTA) in order that it can undertake work to develop railway commuter facilities on any State land that is within the railway area.

Clause 1 relates to the short title and commencement.

Clause 2 amends section 2 by inserting a new definition of “railway commuter facility”. This refers to bicycle parking facilities, pedestrian overhead bridges, footpaths, ramps, lifts and vehicle set down facilities for intending passengers and any other similar structures or facilities that integrate a rapid transit system with developments around it so as to maximise patronage of the system.

The definition of “railway premises” in section 2 is also amended to make it clear that it does not include any railway commuter facility.

Clause 3 amends section 4 to make it clear that the LTA may enter upon any State land falling within or adjoining the railway area to construct and maintain a railway commuter facility. The LTA continues to have separate powers under the Street Works Act (Cap. 320A) to construct and maintain on, under or over any State land lying within or adjoining a street reserve any pedestrian facilities like underpasses, overhead bridges, footpaths and any road related facilities maintained by the LTA.

Clause 4 amends section 5 to require every agent or employee of the LTA seeking to enter upon land that is other than State land but within or adjoining the railway area to show evidence of his authority to the owner or occupier before doing so. The clause also makes it an offence for a person to refuse to give access to, or obstruct, hinder or delay an agent or employee of the LTA in the exercise of such authority, the penalty for which is a fine not exceeding \$1,000.

Clause 5 amends section 9(8) to align the offence therein with the text for the new offence that is introduced by clause 4.

Clause 6 amends section 15(2)(f)(ii) (which relates to licence conditions) to align the expression in the text with the new definition of “railway commuter facility”. The clause also deletes section 15(1)(d) (which provided for a licence condition requiring the approval by the LTA for the appointment, re-appointment or removal of any person as the licensee’s chief executive officer, the chairman of the licensee’s board of directors or any of its directors) because it becomes redundant with the new section 18A.

Clause 7 inserts a new section 18A to enable the LTA to influence the composition of the boards of the respective licensees where this is necessary to ensure that the licensees are able to discharge their responsibilities in meeting the objectives of sustainability and regulatory compliance, where the circumstances do not warrant taking the extreme step of having a special administration order under Part IVA of the Act.

The new section 18A prohibits a licensee from appointing or re-appointing a person as its chief executive officer or director or as the chairman of its board of directors, or from removing its chief executive officer, the chairman of its board of directors or any of its directors, unless the licensee has obtained the approval of the LTA to do so. The new section 18A also empowers the LTA to issue a direction to a licensee to remove a person from or reinstate the person to such an appointment, if the person was so appointed or removed without the approval of the LTA.

Where the LTA is satisfied that it is necessary or desirable to act for the purpose of the proper administration of the licensee’s business of operating a rapid transit system, the LTA is also empowered by the new section 18A to direct the licensee to appoint an additional director to the board of directors of the licensee. This may include a situation where the LTA is of the view that the size of the board of directors needs to be bigger or that the board members are lacking in certain expertise.

Before giving any direction to any licensee to remove the chief executive officer, or a director or the chairman of the board of directors of a licensee or to appoint additional directors, the LTA must give notice to the affected licensee of the LTA’s proposed direction and give the licensee an opportunity to be heard.

The new section 18A overrides the provisions of any other written law like the Companies Act (Cap. 50) and the provisions of the memorandum or articles of association, or other constitution, of the licensee.

Clause 8 amends section 19 firstly, to raise the maximum financial penalty that the LTA may impose upon a licensee of a rapid transit system in the event of the licensee's regulatory default. Regulatory defaults include contravening any of the licensee's licence conditions or the LTA's codes of practice or directions. With the amendment, a licensee of a rapid transit system who is found by the LTA to be in such regulatory default may be required to pay, within a specified period, a financial penalty of such amount the LTA thinks fit. That financial penalty cannot exceed either \$1 million or 10% of the licensee's annual fare revenue from the operation of the rapid transit system, whichever amount is higher.

In calculating the annual fare revenue, the LTA has to calculate the fares received (less any goods and services tax paid by, the value of any rebate supplied to, and any connection commission paid by, passengers) during the licensee's last-completed financial year (as ascertained from the licensee's latest audited accounts). The fares must be those received from travel services provided through the rapid transit system that is the subject of the licensee's licence. The fares can be from travel services on more than one line. For example, in the case of the North-South and East-West Lines, they are treated as a single rapid transit system and are the subject of one licence. Where the licence is a combined one relating to 2 distinct rapid transit systems, such as the North-East Line and the Sengkang and Punggol LRTs, the fares from each system will form a separate base for computing the 10%.

However, a financial penalty still cannot be imposed on a licensee by the LTA if the licensee is likely to fail to provide and maintain an adequate, safe and satisfactory service. The amendments in clause 8 do not change this position in section 19(2).

Secondly, section 19(1)(d) is amended to make non-compliance with a direction to a licensee to remove or replace a chief executive officer, director or chairman of the board of directors of a licensee a regulatory default for which the LTA may impose sanctions, such as suspension of the licence or a financial penalty, under section 19.

The last amendment to section 19 is to make it clear that a financial penalty or other regulatory sanction vis-à-vis the licence cannot be imposed for any contravention which amounts to an offence. However, regulatory sanction is possible after a conviction by the courts for that offence.

Clause 9 amends section 20(1)(d) to confer on a licensee a right of appeal to the Minister if the licensee is aggrieved with a direction by the LTA under the new section 18A.

Clause 10 is a saving provision. In particular, it provides that the enhanced financial penalty may be applied only with respect to regulatory defaults occurring on or after the operative date of the amendments in clause 8 that raise the maximum financial penalty.

EXPENDITURE OF PUBLIC MONEY

This Bill will not involve the Government in any extra financial expenditure.
