

Chapter:	265	PEAK TRAMWAY ORDINANCE	Gazette Number	Version Date
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		Long title		30/06/1997
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To authorize the construction of the Peak Tramway.

(Amended 8 of 1912 s. 25)

[3 November 1883]

(Originally 6 of 1883 (Cap 304 1950 Ed.))

Section:	1	Short title		30/06/1997
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This Ordinance may be cited as the Peak Tramway Ordinance.

(Amended 8 of 1912 s. 25; 5 of 1924 s. 6)

Section:	2	Interpretation		30/06/1997
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In this Ordinance, unless the context otherwise requires-

"company" (公司) means the Peak Tramways Company Limited; (Amended 10 of 1926 s. 2)

"tramway" (纜車軌道、纜車) includes cars and trucks used upon the tramway; (Added 26 of 1989 s. 2)

"works" or "undertaking" (工程、工程設施或業務) means the works or undertaking of whatever nature which by this Ordinance are or is authorized to be executed. (Amended 20 of 1948 s. 4)

(Amended 26 of 1990 s. 2)

Section:	2A	Right to run and operate the tramway	62 of 1999	01/07/1997
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Remarks:

Adaptation amendments retroactively made - see 62 of 1999 s. 3

(1) Upon the payment to the Government by the company of a non-refundable premium of \$2790000 within 14 days after the commencement of the Peak Tramway (Amendment) Ordinance 1986 (57 of 1986), the company shall have the right to run and operate the tramway authorized by this Ordinance, along the route specified in section 3, for a period of 10 years commencing on 1 January 1984.

(2) The Secretary for Transport shall-

(a) if within 2 years after the commencement of the Peak Tramway (Amendment) Ordinance 1986 (57 of 1986) there is produced to him evidence of a commitment by the company to the carrying out of approved works for the modernization and improvement of the tramway and ancillary equipment; and

(b) if such commitment is of a kind and in a form satisfactory to him,

by notice in the Gazette grant to the company the right referred to in subsection (1) for a further period of 10 years commencing immediately after the expiration of the first such period.

(3) For the purposes of subsection (2) "approved works" (獲批准的工程) means works approved by the Secretary for Transport.

(4) The right conferred by subsections (1) and (2) shall be subject to this Ordinance.

(5) The company may, not less than 1 year before the expiry of any further period for which the right to run and operate the tramway is granted under subsection (2), by notice in writing to the Secretary for Transport request an extension of the period. (Added 27 of 1992 s. 2)

(6) The Chief Executive in Council may grant an extension pursuant to a request submitted under subsection (5) for a further period not exceeding 10 years on such terms as may be agreed between the company and the Government. (Added 27 of 1992 s. 2. Amended 62 of 1999 s. 3)

(Added 57 of 1986 s. 2)

Section:	3	Power to construct and work certain tramways		30/06/1997
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(1) The company may construct and maintain, subject to the provisions of this Ordinance and in accordance with the plan which has been deposited as hereinafter mentioned, the tramway hereinafter described, with all structures, equipment, works, and conveniences connected therewith or for the purposes thereof, and may work and use the same. (Amended 51 of 1911; 63 of 1911 Schedule; 8 of 1912 s. 25; 27 of 1992 s. 3)

(2) The tramway authorized by this Ordinance is a partly single and partly double line, commencing from the southwest boundary of Inland Lot 7977, thence passing in a southerly direction up the hillside, crossing over Kennedy Road by means of a bridge and under Macdonnell Road, Magazine Gap Road and May Road Bridges to the terminus at Victoria Gap terminating on the boundary of Rural Building Lots 768, 762 and 858, as shown on plan No. MH2528b dated 23 September 1985 deposited in the Land Registry, Victoria and signed on behalf of the Director of Lands and on behalf of the company:

Provided that such alteration as the company thinks fit may be made to the position of the rail-tracks of the tramway as shown on the said plan so long as they are within the limits of deviation shown on the said plan. (Replaced 57 of 1986 s. 3. Amended 8 of 1993 s. 2)

Section:	4	Power to alter levels of ground etc.	L.N. 130 of 2007	01/07/2007
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Remarks:

For the saving and transitional provisions relating to the amendments made by the Resolution of the Legislative Council (L.N. 130 of 2007), see paragraph (12) of that Resolution.

Subject to the approval of the Secretary for Transport and Housing, the company may alter the levels of the ground on which the tramway is laid, make and construct all necessary cuttings and embankments, bridges, viaducts, culverts, catch-water drains, and other works, and divert streams:

Provided that the earth excavated and thrown to waste is disposed of in such manner as to prevent its being washed down by rain into the harbour.

(Amended 50 of 1911; 51 of 1911; 62 of 1911 Schedule; 63 of 1911 Schedule; 8 of 1912 s. 25; 26 of 1989 s. 7; L.N. 106 of 2002; L.N. 130 of 2007)

Section:	5	Power to make additional structures, equipment, etc.	L.N. 130 of 2007	01/07/2007
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Remarks:

For the saving and transitional provisions relating to the amendments made by the Resolution of the Legislative Council (L.N. 130 of 2007), see paragraph (12) of that Resolution.

Subject to the approval of the Secretary for Transport and Housing, after timely and adequate notification by public advertisement or otherwise of the intention of the company to apply for such approval, the company may construct and maintain, subject to the provisions of this Ordinance and in accordance with plans to be previously deposited with the Secretary for Transport and Housing, all such structures, equipment, and other works in addition to those particularly specified in and authorized by this Ordinance as may be approved by the Secretary for Transport and Housing, and may work and use the same.

(Amended 50 of 1911 s. 4; 62 of 1911 Schedule; 8 of 1912 s. 25; 20 of 1948 s. 4; 26 of 1989 ss. 7 & 8; 27 of 1992 s. 4; L.N. 106 of 2002; L.N. 130 of 2007)

Section:	6	(Repealed 26 of 1989 s. 11)		30/06/1997
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Section:	7	Protection of sewers, etc.	L.N. 130 of 2007	01/07/2007
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Remarks:

For the saving and transitional provisions relating to the amendments made by the Resolution of the Legislative Council (L.N. 130 of 2007), see paragraph (12) of that Resolution.

(1) Where the tramway, or any work connected therewith, interferes with any sewer, drain, watercourse, or subway, or in any way affects sewerage or drainage, the company shall not commence such tramway or work until it has given to the Secretary for Transport and Housing 14 days' notice in writing of its intention to do so together with all necessary particulars relating thereto, nor until the Secretary for Transport and Housing has signified his approval of the same, unless he does not signify his approval, disapproval, or other directions within 14 days after service of the said notice and particulars. (Amended 50 of 1911; 51 of 1911 s. 4; 62 of 1911 Schedule; 63 of 1911 Schedule; 20 of 1948 s. 4; 57 of 1986 s. 4; 26 of 1989 ss. 3 & 8)

(2) The company shall comply with the directions of the Secretary for Transport and Housing in the execution of the said works and shall provide by new, altered, or substituted works, in such manner as he may require, for the proper protection of, and for preventing injury or impediment to, the sewers and works hereinbefore referred to by or by reason of the tramway, and shall save harmless the Secretary for Transport and Housing against the expense occasioned thereby. (Amended 50 of 1911; 51 of 1911; 62 of 1911 Schedule; 63 of 1911 Schedule; 8 of 1912 s. 25; 20 of 1948 s. 4; 26 of 1989 s. 8)

(3) All such works shall be done by or under the superintendence of the Secretary for Transport and Housing, at the cost and expense of the company. (Amended 51 of 1911 s. 4; 20 of 1948 s. 4)

(4) When any new, altered, or substituted work is completed, the same shall thereafter be as completely under the control of the Secretary for Transport and Housing, and be maintained by him, as any other sewers or works. (Amended 50 of 1911; 51 of 1911 s. 4; 62 of 1911 Schedule; 20 of 1948 s. 4)

(Amended 8 of 1912 s. 25; 26 of 1989 s. 8; L.N. 106 of 2002; L.N. 130 of 2007)

Section:	7A	Power to enter adjoining lands, etc.	L.N. 130 of 2007	01/07/2007
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Remarks:

For the saving and transitional provisions relating to the amendments made by the Resolution of the Legislative Council (L.N. 130 of 2007), see paragraph (12) of that Resolution.

(1) The Secretary for Transport and Housing may authorize the company, in case of any slip or other accident happening or being apprehended to the tramway or any works under its control, to enter upon any land adjoining the tramway, for the purpose of repairing or preventing the accident, and to do all works that may be necessary for that purpose. (Amended L.N. 106 of 2002; L.N. 130 of 2007)

(2) The company shall, at least 14 clear days before it enters upon the land pursuant to the Secretary for Transport and Housing's authorization under subsection (1)- (Amended L.N. 106 of 2002; L.N. 130 of 2007)

(a) deliver to the owner of the land a notice of the authorization and the right for compensation under subsection (5); and

(b) affix a copy of the notice upon a conspicuous part of the land to which the authorization relates.

(3) The company may in a case of urgency enter upon the land and do the works mentioned in subsection (1) without the authority of the Secretary for Transport and Housing, but it shall, within 24 hours after the entry, make a report to the Secretary for Transport and Housing specifying the nature of the happening and of the works necessary to be done, and the power of the company under this subsection ceases if the Secretary for Transport and Housing notifies the company that the exercise of the power is not necessary for the public safety. (Amended L.N. 106 of 2002; L.N. 130 of 2007)

(4) Where the company intends to enter upon the land under subsection (3), it shall, as soon as is practicable-

(a) deliver to the owner of the land a notice of its intention and the right for compensation under subsection (5); and

(b) affix a copy of the notice upon a conspicuous part of the land to be entered upon,

but where in circumstances in which it is impracticable to comply with the requirement of paragraph (a) before it enters upon the land, it shall, as soon as the entry has been made, deliver to the owner of the land a notice that the entry has been made and of the right for compensation under subsection (5).

(5) Any person who suffers an injury to a private right in respect of an interest in land adjoining the tramway and which directly arises from any work carried out under subsection (1) or (3) has a right against the company for compensation in respect of actual loss fairly and reasonably arising from that injury.

(6) After the expiry of 3 months from the date of the submission of his claim to the company under subsection (5), the claimant may, if the claim has not been agreed, submit his claim to the Lands Tribunal for determination and, for this purpose, the Lands Tribunal has jurisdiction to determine the claim under the Lands Tribunal Ordinance (Cap 17).

(7) No claim for compensation under subsection (5) shall be brought after the expiration of 3 years from the date on which the injury on which the claim is founded was suffered.

(8) For the avoidance of doubt it is hereby declared that this section applies to the Crown.

(Added 27 of 1992 s. 5)

Section:	8	Settlement of differences between company and Director	L.N. 130 of 2007	01/07/2007
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Remarks:

For the saving and transitional provisions relating to the amendments made by the Resolution of the Legislative Council (L.N. 130 of 2007), see paragraph (12) of that Resolution.

If any difference arises between the company and the Secretary for Transport and Housing with respect to any interference or control exercised or claimed to be exercised by the company or the Secretary for Transport and Housing, by virtue of this Ordinance, in relation to the tramway or any work, or in relation to any work or proceeding of the Secretary for Transport and Housing, or with respect to the propriety or the mode of execution of any work relating to the tramway, or on the question whether any work is such as ought to satisfy the Secretary for Transport and Housing, or with respect to any other subject or thing regulated by or comprised in this Ordinance, the matter in difference shall (unless otherwise specially provided for by this Ordinance) be settled by the Chief Executive in Council, on the application of either party.

(Amended 50 of 1911; 51 of 1911 s. 4; 62 of 1911 Schedule; 63 of 1911 Schedule; 8 of 1912 s. 25; 20 of 1948 s. 4; 26 of 1989 s. 8; 62 of 1999 s. 3; L.N. 106 of 2002; L.N. 130 of 2007)

Section:	9	Discontinuance of tramway by company	L.N. 130 of 2007	01/07/2007
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Remarks:

For the saving and transitional provisions relating to the amendments made by the Resolution of the Legislative Council (L.N. 130 of 2007), see paragraph (12) of that Resolution.

(1) If the company discontinues the working of the tramway or of any part thereof for the space of 6 months, (such discontinuance not being occasioned by circumstances beyond the control of the company, the want of sufficient funds not being considered a circumstance beyond its control), the Chief Executive in Council may, by order, declare that the powers of the company in respect of such tramway, or the part thereof so discontinued, shall, from the date of such order, be at an end, and thereupon the said powers of the company shall cease and determine, unless the tramway is purchased by the Government in the manner provided by this Ordinance. (Amended 50 of 1911; 51 of 1911 s. 4; 62 of 1911 Schedule; 63 of 1911 Schedule; 8 of 1912 s. 25; 62 of 1999 s. 3)

(2) Where any such order has been made, the Secretary for Transport and Housing may, at any time after the expiration of 2 months from the date of such order, under the authority of a certificate to that effect, remove the tramway or part of the tramway so discontinued, and the company shall pay the cost of such removal which shall be certified by the Secretary for Transport and Housing, and the certificate shall be final and conclusive. (Amended 50 of 1911; 51 of 1911 s. 4; 62 of 1911 Schedule; 63 of 1911 Schedule; 20 of 1948 s. 4; L.N. 130 of 2007)

(3) If the company fails to pay the amount so certified within 2 months after delivery of such certificate or a true copy thereof, the Secretary for Transport and Housing may, without previous notice to the company (but without prejudice to any other remedy which he may have for the recovery of the amount), sell and dispose of the materials so removed, either by public auction or private sale, and for such sum and to such person as he may think fit, and may, out of the proceeds of such sale, reimburse himself the amount of the cost certified as aforesaid and of the cost of sale, and the balance, if any, shall be paid to the company. (Amended 50 of 1911; 51 of 1911 s. 4; 62 of 1911 Schedule; 63 of 1911 Schedule; 8 of 1912 s. 25; 20 of 1948 s. 4; 26 of 1989 s. 8; L.N. 130 of 2007)

(Amended L.N. 106 of 2002)

Section:	10	Proceedings in case of insolvency of company	L.N. 130 of 2007	01/07/2007
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Remarks:

For the saving and transitional provisions relating to the amendments made by the Resolution of the Legislative Council (L.N. 130 of 2007), see paragraph (12) of that Resolution.

If it appears to the Chief Executive in Council that the company is insolvent, so that it is unable to maintain such tramway or work the same with advantage to the public, the Chief Executive in Council may inquire into the financial affairs of the company, and if it appears that the company is so insolvent as aforesaid, he may, by order, declare that the powers of the company shall, at the expiration of 6 months from the making of the order, be at an end, and the powers of the company shall cease and determine at the expiration of the said period, unless the tramway is purchased by the Government in the manner provided by this Ordinance; and thereupon the Secretary for Transport and Housing may remove the tramway in like manner and subject to the same provisions as to the payment of the cost of such removal, and to the same remedy for recovery of such cost, in every respect as in cases of removal under section 9.

(Amended 50 of 1911; 51 of 1911 s. 4; 62 of 1911 Schedule; 63 of 1911 Schedule; 8 of 1912 s. 25; 5 of 1924 s. 8; 20 of 1948 s. 4; 26 of 1989 s. 8; 62 of 1999 s. 3; L.N. 106 of 2002; L.N. 130 of 2007)

Section:	11	Purchase by Government of tramway	62 of 1999	01/07/1997
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Remarks:

Adaptation amendments retroactively made - see 62 of 1999 s. 3

(1) The Chief Executive in Council may, within 3 months after any order made by the Chief Executive in Council under section 9 or 10, by notice in writing require the company to sell, and thereupon the company shall sell, to the Government its undertaking on the terms of paying the then value (exclusive of any allowance for past or future profits of the undertaking or any compensation for compulsory sale or other consideration whatsoever) of the tramway, and all lands, buildings, works, materials, and plant, suitable to and used for the purposes of its undertaking, such value to be, in cases of difference, determined upon petition to the court in a summary way:

Provided that, if on any such land the company shall have erected any building, or any portion of a building, for purposes other than its undertaking, such land and the whole of such building shall be deemed to be included in the undertaking unless the Chief Executive in Council by notice in writing declares that such land and building shall be excluded from the sale. (Amended 50 of 1911; 51 of 1911; 62 of 1911 Schedule; 63 of 1911 Schedule; 8 of 1912 s. 25; 17 of 1935 s. 2; 20 of 1948 s. 4; 57 of 1986 s. 5)

(2) When any such sale has been made, all the rights, powers, and authorities of the company in respect of the undertaking sold, or, where any order has been made by the Chief Executive in Council under section 9 or 10, all the rights, powers, and authorities of the company previous to the making of such order in respect of the undertaking sold, shall be transferred to, vested in, and may be exercised by the Government. (Amended 5 of 1924 s. 8)

(Amended 8 of 1912 s. 25; 20 of 1948 s. 4; 62 of 1999 s. 3)

Section:	12	Motive power, etc.	L.N. 130 of 2007	01/07/2007
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Remarks:

For the saving and transitional provisions relating to the amendments made by the Resolution of the Legislative Council (L.N. 130 of 2007), see paragraph (12) of that Resolution.

The tramcars, motive power, machinery, and apparatus of any kind whatsoever, used on or for the tramway shall be subject to the approval of the Secretary for Transport and Housing, and no tramcar, motive power, machinery, or apparatus, which has been disapproved by the Secretary for Transport and Housing shall be used on or for the tramway.

(Replaced 10 of 1926 s. 3. Amended 20 of 1948 s. 4; 26 of 1989 ss. 7, 9 & 10; L.N. 106 of 2002; L.N. 130 of 2007)

Section:	13	Construction of tramcars		30/06/1997
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Every tramcar used on the tramway shall be so constructed as to provide for the safety of passengers and for their safe entrance to and exit from, and accommodation in such tramcar, and their protection from the machinery used for drawing or propelling such tramcar.

(Amended 8 of 1912 s. 25; 20 of 1948 s. 4; 26 of 1989 s. 9)

Section:	14	Design and construction		30/06/1997
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The design and construction of the tramway shall be in accordance with any Code of Practice issued from time to time under section 14A and shall have regard to the safety of all persons using, operating or being in the vicinity of the tramway.

(Replaced 26 of 1989 s. 4)

Section:	14A	Code of Practice in relation to design		30/06/1997
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The Director of Electrical and Mechanical Services may issue from time to time a Code of Practice dealing with the design and construction of the tramway and notify the issue thereof in the Gazette.

(Added 26 of 1989 s. 4)

Section:	14B	Appointment of inspectors	L.N. 130 of 2007	01/07/2007
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Remarks:

For the saving and transitional provisions relating to the amendments made by the Resolution of the Legislative Council (L.N. 130 of 2007), see paragraph (12) of that Resolution.

(1) The Secretary for Transport and Housing may in writing appoint any person to be an inspector for the purposes of this section and section 14C. (Amended L.N. 106 of 2002; L.N. 130 of 2007)

(2) An inspector who is not a public officer may be paid, as a fee for his services, such amount as the Financial Secretary thinks fit.

(3) The powers conferred by section 14C or by regulations made under section 15 shall be exercised by an inspector only-

- (a) for the purpose of testing and examining the tramway following the carrying out of work thereon; or
- (b) for the purpose of ensuring the safety of the tramway or any part thereof; or
- (c) where an inspector is directed to investigate an accident on any part of the tramway under such regulations, for the purpose of carrying out such investigation.

(4) Where an inspector exercises any power under this Ordinance, he shall produce evidence of his identity, and of his appointment, to any person who requests him to do so.

(5) An inspector may take with him such persons as he reasonably requires to assist him in the exercise of his powers under this Ordinance.

(Added 26 of 1989 s. 4)

Section:	14C	General powers of inspectors		30/06/1997
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(1) An inspector may at all reasonable times-

- (a) enter upon premises to which this subsection applies;
- (b) carry out on premises to which this subsection applies, or on any machinery, plant or equipment thereon, such tests and inspections as he considers necessary in the exercise of his powers under section 14B(3);
- (c) require any person to whom this subsection applies-
 - (i) to do anything which the inspector reasonably considers to be necessary for facilitating any test or inspection carried out under section 14B(3) or paragraph (b) of this subsection;
 - (ii) to provide the inspector with such information relating to the tramway or any machinery, plant or equipment connected with the tramway as the inspector may specify, and to answer any question or produce for inspection any document which is necessary for that purpose;
- (d) make copies of any document produced to him pursuant to paragraph (c)(ii).

(2) Subsection (1) applies to-

- (a) the tramway premises and the premises of any contractor or subcontractor who is carrying out or has carried out any work on the tramway; and
- (b) any employee of the company, any contractor or subcontractor mentioned in paragraph (a) and any employee of such a contractor or subcontractor.

- (3) Any person who-
- (a) without lawful excuse, fails to comply with a requirement made under subsection (1)(c);
 - (b) furnishes to an inspector acting under subsection (1)(c) information that is false or misleading in a material particular;
 - (c) obstructs an inspector in the exercise of his powers under subsection (1),
- commits an offence and is liable to a fine of \$5000 and to imprisonment for 6 months.

(4) Where a person is charged with contravening any of the provisions of subsection (3), it shall not be a defence to the charge that compliance with a requirement under subsection (1)(c) would tend to expose that person to any other proceedings for a criminal offence; but nothing done in compliance with a requirement under subsection (1)(c) shall be admissible in evidence in such other proceedings.

(Added 26 of 1989 s. 4)

Section:	14D	Secretary for Transport and Housing may order that defects be remedied*	L.N. 130 of 2007	01/07/2007
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Remarks:

For the saving and transitional provisions relating to the amendments made by the Resolution of the Legislative Council (L.N. 130 of 2007), see paragraph (12) of that Resolution.

(1) Where in the opinion of the Secretary for Transport and Housing- (Amended L.N. 106 of 2002; L.N. 130 of 2007)

- (a) the condition of any part of the tramway or of any machinery, plant or equipment of such part;
- (b) the manner in which the tramway or any part thereof is being operated,

is such as to cause, or to be likely to cause, a risk of injury to any person, the Secretary for Transport and Housing may direct the company to carry out such work, or to take such steps, as he may specify in the order to ensure that the condition of the tramway, or of the part or the machinery, plant or equipment in question, or the manner of operation will cease to constitute such a risk. (Amended L.N. 106 of 2002; L.N. 130 of 2007)

(2) A direction under subsection (1) shall be in writing and may specify the date before which the company shall commence to carry out the specified work or take the specified steps and the date by which the same shall be completed.

(3) If the company fails without reasonable excuse to comply with a direction under this section the company commits an offence and is liable to a fine of \$100000 and to a further fine of \$10000 for each day during which the failure to comply with the direction has continued.

(4) A copy of a document which purports to be a direction signed by the Secretary for Transport and Housing for the purposes of subsection (1)- (Amended L.N. 106 of 2002; L.N. 130 of 2007)

- (a) shall be admitted in evidence in proceedings for an offence under subsection (3) on its production without further proof; and
- (b) shall be sufficient evidence of the opinion of the Secretary for Transport and Housing. (Amended L.N. 106 of 2002; L.N. 130 of 2007)

(Added 26 of 1989 s. 4)

Note:

* (Amended L.N. 130 of 2007)

Section:	14E	Closure of tramway for safety reasons	L.N. 130 of 2007	01/07/2007
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Remarks:

For the saving and transitional provisions relating to the amendments made by the Resolution of the Legislative Council (L.N. 130 of 2007), see paragraph (12) of that Resolution.

(1) The company shall close or partially close the tramway to the use of the public, if so required by notice in writing by the Secretary for Transport and Housing whenever the Secretary for Transport and Housing is not satisfied that the tramway is in safe working order, and is of opinion that any further operation of the tramway would be, or would likely to be, dangerous.

(2) If the Secretary for Transport and Housing is not satisfied that the tramway is in safe working order, and is

of opinion that no immediate danger will arise from further operation of the tramway, he may, by notice in writing, require the company to put the tramway in safe working order to his satisfaction within a period specified in such notice.

(3) Upon expiration of the period specified under subsection (2), if the tramway has not been put in safe working order to his satisfaction, the Secretary for Transport and Housing may, by notice in writing, direct the company to close or partially close the tramway to the use of the public.

(4) Whenever the tramway is directed to be closed or partially closed under this section the tramway or such part thereof thereby affected shall not thereafter be operated for the use of the public without the written consent of the Secretary for Transport and Housing.

(Added 26 of 1989 s. 4. Amended L.N. 106 of 2002; L.N. 130 of 2007)

Section:	14F	Closure of tramway for repairs or alterations	L.N. 130 of 2007	01/07/2007
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Remarks:

For the saving and transitional provisions relating to the amendments made by the Resolution of the Legislative Council (L.N. 130 of 2007), see paragraph (12) of that Resolution.

(1) The company may close or partially close the tramway to the use of the public whenever necessary to enable any repairs or alterations to be effected to the tramway.

(2) The company shall forthwith notify the Secretary for Transport and Housing of any closure or partial closure under subsection (1). (Amended L.N. 106 of 2002; L.N. 130 of 2007)

(Added 26 of 1989 s. 4)

Section:	14G	Offence of interfering with tramway etc.		30/06/1997
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(1) A person commits an offence if he wilfully-

- (a) interferes with, removes, or alters any part of the tramway or of the works connected therewith; or
- (b) places or throws any stones, dirt, wood, refuse, or other materials on any part of the tramway; or
- (c) does or causes to be done anything in such manner as to obstruct any person using the tramway; or
- (d) does or omits to do anything in relation to the tramway that endangers or is likely to endanger the safety of any person travelling or being upon the tramway.

(2) Any person who commits an offence under subsection (1) is liable to a fine of \$5000 and to imprisonment for 6 months.

(Added 26 of 1989 s. 4)

Section:	14H	Offence of negligence by employee		30/06/1997
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(1) An employee of the company commits an offence if, in connection with his employment, he negligently does or omits to do anything in relation to the condition or operation of any part of the tramway that endangers or is likely to endanger the safety of any person travelling or being upon the tramway.

(2) An employee who commits an offence under subsection (1) is liable to a fine of \$5000 and to imprisonment for 6 months.

(3) For the purposes of subsection (1) negligence is the failure to exercise such care or skill as a reasonable employee in the situation would exercise.

(Added 26 of 1989 s. 4)

Section:	15	Regulations	L.N. 130 of 2007	01/07/2007
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Remarks:

For the saving and transitional provisions relating to the amendments made by the Resolution of the Legislative Council (L.N. 130 of 2007), see paragraph (12) of that Resolution.

(1) The Chief Executive in Council may make regulations for all or any of the following matters- (Amended 62 of 1999 s. 3)

- (a) controlling and regulating the maintenance and operation of the tramway and providing for safe systems of operation;
- (b) providing for the approval by the Secretary for Transport and Housing of the carrying out of work on the tramway; (Amended L.N. 106 of 2002; L.N. 130 of 2007)
- (c) regulating the carrying out of any work on the tramway;
- (d) providing for the inspection, examination and testing of the tramway and work being carried out thereon including-
 - (i) the control by the Secretary for Transport and Housing, of the employment by the company of any person or class of person, in connection with the carrying out of work on the tramway or, the maintenance and operation of the tramway and the imposition of duties on the company and on any such person or class of person for the purpose of such control; (Amended L.N. 106 of 2002; L.N. 130 of 2007)
 - (ii) the keeping by the company of records and logs;
 - (iii) the supply by the company, of information relating to the tramway;
 - (iv) the display by the company, of notices relating to the tramway; and
 - (v) the reporting of accidents and investigations thereof;
- (e) providing for the safety of persons using or being in the vicinity of, or employed in the operation and maintenance of, the tramway; and
- (f) providing for the better carrying into effect of this Ordinance.

(2) Regulations made under this section may provide that a contravention of any specified provisions shall be an offence and may prescribe a penalty therefor not exceeding a fine of \$50000 and imprisonment for 2 years, and in the case of a continuing offence, a further fine of \$1000 for each day on which the offence continues.

(Replaced 26 of 1989 s. 5)

Section:	15A	By-laws		30/06/1997
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- (1) The company may, with the approval of the Legislative Council, make by-laws-
 - (a) regulating the conduct of persons travelling or being in or upon the tramway; and
 - (b) for the prevention of annoyance to persons travelling or being in or upon the tramway.
- (2) The following provisions shall apply to by-laws made under subsection (1)-
 - (a) any by-law so made may provide that a contravention of specified provisions thereof shall be an offence and may prescribe penalties therefor not exceeding a fine of \$5000 and imprisonment for 6 months;
 - (b) prosecutions for offences under any by-law so made may be brought in the name of the company;
 - (c) the company shall cause to be printed copies of all by-laws so made which shall be kept at its principal office and be available for sale to any person at a reasonable cost.

(Added 26 of 1989 s. 5)

Section:	16	Power to sell undertaking	62 of 1999	01/07/1997
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Remarks:

Adaptation amendments retroactively made - see 62 of 1999 s. 3

(1) Subject to the approval of the Chief Executive in Council the company may sell or assign its undertaking, or any part thereof, to such person, by public auction or private contract, or partly by public auction and partly by private contract, and with, under, and subject to such terms and conditions in all respects, as the company may think fit, with power at any such sale to fix a reserve price for or buy in the same. (Amended 50 of 1911; 51 of 1911; 62 of 1911 Schedule; 63 of 1911 Schedule)

(2) When any such sale or assignment has been made, all the rights, powers, authorities, obligations, and liabilities of the company in respect to the undertaking, or part thereof, sold or assigned, shall be transferred to, vested in, and may be exercised by, and shall attach to, the person to whom the same has been sold or assigned, in like manner as if the undertaking, or part thereof, sold or assigned, was constructed by such person under the powers conferred by this Ordinance, and in reference to the same he shall be deemed to be the company. (Amended 50 of 1911; 51 of 1911; 62 of 1911 Schedule; 63 of 1911 Schedule)

(3) The company may, without the approval of the Chief Executive in Council, but subject to the provisions

contained in any contract or instrument it has entered into or executed, at any time sell or assign any land, machinery, property, chattel or effect which in its opinion is not required for the efficient maintenance and working of its undertaking. (Added 27 of 1992 s. 6)

(Amended 8 of 1912 s. 25; 20 of 1948 s. 4; 62 of 1999 s. 3)

Section:	17	Power to let undertaking	62 of 1999	01/07/1997
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Remarks:

Adaptation amendments retroactively made - see 62 of 1999 s. 3

(1) Subject to the approval of the Chief Executive in Council, the company may demise its undertaking, or any part thereof, to such person and for such term, and on such conditions, in all respects as the company may think fit, to take effect either in possession or at some future date, and either with or without a premium as a consideration for such demise. (Amended 50 of 1911; 62 of 1911 Schedule; 8 of 1912 s. 25; 20 of 1948 s. 4; 27 of 1992 s. 7)

(2) The company may, without the approval of the Chief Executive in Council, but subject to the provisions contained in any contract or instrument it has entered into or executed, at any time demise or let any land, machinery, property, chattel or effect which in its opinion is not required for the efficient maintenance and working of its undertaking. (Added 27 of 1992 s. 7)

(Amended 62 of 1999 s. 3)

Section:	18	Power to mortgage undertaking		30/06/1997
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It shall be lawful for the company to borrow money on mortgage of all or any part of its undertaking, and for that purpose to assign or demise by way of mortgage all or any portion of its lands, messuages, or tenements, erections, buildings, works, rolling stock, plant, machinery, chattels, and effects to any person, and to enter into all such covenants, provisos, declarations, and agreements, as the company may think fit.

(Amended 50 of 1911; 62 of 1911 Schedule; 8 of 1912 s. 25; 20 of 1948 s. 4)

Section:	19	Right of user by Government	62 of 1999	01/07/1997
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Remarks:

Adaptation amendments retroactively made - see 62 of 1999 s. 3

The Chief Executive in Council may, by order, direct that precedence over the company and all other persons in the user of the tramway be taken for defensive or military purposes or for the passage of troops and war material, on giving to the company, on each occasion of such user, 3 clear days' notice, and shall direct the payment to the company therefor of such fares as may be agreed on. If no agreement is come to, then the amount of such fares shall be determined upon petition to the court in a summary way.

(Amended 50 of 1911; 51 of 1911; 62 of 1911 Schedule; 63 of 1911 Schedule; 8 of 1912 s. 25; 20 of 1948 s. 4; 57 of 1986 s. 6; 62 of 1999 s. 3)

Section:	20	(Repealed 26 of 1989 s. 11)		30/06/1997
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Section:	21	(Repealed 57 of 1986 s. 7)		30/06/1997
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Section:	21A	(Repealed 57 of 1986 s. 7)		30/06/1997
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Section:	22	Fares		30/06/1997
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(1) Subject to subsection (2), the company may charge such fares for the use of the tramway as it may fix from time to time, which shall be paid to such persons, at such places, and in such manner as the company may, by notice

annexed to the list of fares exhibited under subsection (3), appoint.

(2) If any person applies for a monthly ticket for the use of the tramway, the company shall issue the monthly ticket and the charge for the monthly ticket shall not exceed 25 times the standard fare for a full distance single journey. (Replaced 26 of 1989 s. 6)

(3) A list, printed in the English and Chinese languages, of all the fares to be charged and the monthly ticket charge shall be exhibited in a conspicuous place at the offices of the company and inside each tramcar used upon the tramway.

(Replaced 57 of 1986 s. 8; 26 of 1989 s. 9)

Section:	23	Limitation of obligation to carry passengers		30/06/1997
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If the tramcars during any journey contain their authorized complement of passengers, the company shall not be bound to find accommodation for any other passenger, notwithstanding that he may have purchased a ticket entitling him to travel on the tramway.

(Amended 50 of 1911; 51 of 1911; 62 of 1911 Schedule; 63 of 1911 Schedule; 8 of 1912 s. 25; 20 of 1948 s. 4; 26 of 1989 s. 10)

Section:	24	(Repealed 26 of 1989 s. 11)		30/06/1997
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Section:	25	(Repealed 26 of 1989 s. 11)		30/06/1997
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Section:	26	(Repealed 26 of 1989 s. 11)		30/06/1997
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Section:	27	(Repealed 26 of 1989 s. 11)		30/06/1997
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Section:	28	(Repealed 26 of 1989 s. 11)		30/06/1997
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Section:	29	(Repealed 26 of 1989 s. 11)		30/06/1997
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Section:	30	Service of summons, etc.		30/06/1997
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Any summons, writ, or other proceeding required to be served on the company may be served by the same being left at, or sent by post directed to, the principal office of the company, or being given or sent by post directed to the secretary, or, in case there is no secretary, the solicitor of the company.

(Amended 50 of 1911; 51 of 1911; 62 of 1911 Schedule; 63 of 1911 Schedule; 8 of 1912 s. 25; 20 of 1948 s. 4)

Section:	31	Form and delivery of notice		30/06/1997
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With respect to notices, and to the delivery thereof by or to the company, the following provisions shall have effect-

- (a) every notice shall be in writing; and
- (b) a notice to be delivered by or to the company to or by any other company or person may be delivered by being left at the office of such other company or person, or at the then present or then last-known place of abode or residence of such person, or of his ostensible agent, or of other the agent who pays the rents, rates, and taxes payable in respect of the property of such person, or by being affixed on some conspicuous part of any lands affected or intended to be affected by such notice, or by being left at the office of the company, as the case may be, or by being sent by post in a registered letter

addressed, as the case may be, to the clerk or secretary of such other company at its principal office, or to such person at his then present or then last-known place of abode or residence or at his office or business premises, or by being so sent by post addressed to the ostensible agent or agents of such person, or other the agent or agents aforesaid, or to the clerk or secretary of the company at its principal office.

(Amended 50 of 1911 s. 4; 62 of 1911 Schedule; 8 of 1912 s. 25; 20 of 1948 s. 4)

Section:	32	Tender of amends		30/06/1997
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(1) If any party has committed any irregularity, trespass or other wrongful proceeding in the execution of this Ordinance or by virtue of any power or authority hereby given, and if, before action brought in respect thereof, such party makes tender of sufficient amends to the party injured, such last-mentioned party shall not recover in any such action.

(2) If no such tender has been made, it shall be lawful for the defendant, by leave of the court wherein such action is pending, at any time before answer filed, to pay into court such sum of money as he may think fit, and thereupon such proceedings shall be had as in other cases where defendants are allowed to pay money into court.

(Amended 51 of 1911; 63 of 1911 Schedule)

(Amended 8 of 1912 s. 25; 20 of 1948 s. 4)

Section:	33	Recovery of fares, etc.		30/06/1997
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Any fare, or penalty imposed by this Ordinance, the recovery of which is not otherwise provided for, may be recovered before a magistrate.

(Amended 50 of 1911; 51 of 1911; 62 of 1911 Schedule; 63 of 1911 Schedule; 8 of 1912 s. 25; 20 of 1948 s. 4; 57 of 1986 s. 10)

Section:	34	Responsibility of company for damage		30/06/1997
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The company shall be answerable for all accidents, damages, and injuries happening through its act or default, or through the act or default of any person in its employment, by reason or in consequence of any of its works or tramcars, and shall save harmless all other companies or bodies, collectively and individually, their officers and servants, from all damages and cost in respect of such accidents, damages, and injuries.

(Amended 8 of 1912 s. 25; 20 of 1948 s. 4; 26 of 1989 s. 10)

Section:	35	(Repealed 57 of 1986 s. 11)		30/06/1997
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Section:	36	Saving	62 of 1999	01/07/1997
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Remarks:

Adaptation amendments retroactively made - see 62 of 1999 s. 3

Nothing in this Ordinance shall affect or be deemed to affect the rights of the Central Authorities or the Government of the Hong Kong Special Administrative Region under the Basic Law and other laws, or the rights of any body politic or corporate or of any other persons except such as are mentioned in this Ordinance and those claiming by, from or under them.

(Replaced 4 of 1951 Schedule. Amended 62 of 1999 s. 3)