

## **LEGISLATIVE COUNCIL BRIEF**

### **Boundary Facilities Improvement Tax Bill**

#### **INTRODUCTION**

At the meeting of the Executive Council on 3 June 2003, the Council ADVISED and the Chief Executive ORDERED that the Boundary Facilities Improvement Tax Bill 2003, at **Annex A**, should be introduced into the Legislative Council.

Annex A

#### **JUSTIFICATIONS**

##### **(A) Imposition of a BFIT**

2. At present, passengers departing Hong Kong by air and at marine ferry terminals (the China Ferry Terminal and Macau Ferry Terminal) have respectively to pay either a flat-rate tax at \$80 (which will be increased to \$120 as proposed in the 2003-04 Budget subject to the passage of the relevant legislative amendments) or a fixed fee at \$18 to the Government. It should be equitable to apply the tax to all persons departing Hong Kong by land and by sea. It should be appropriate to charge BFIT at \$18 per person for all persons departing Hong Kong via the land or sea departure points or harbour control points, which is the current rate charged for Passenger Embarkation Fee. It should also be appropriate to charge BFIT at \$100 per car for private cars departing via the land departure points, having regard to the convenience enjoyed by private cars and affordability.

3. As our economic links with the Mainland strengthen, the Government has mapped out various plans and projects to improve the boundary crossing facilities to facilitate the flows of people and trade between the two places. Examples of such improvement measures being carried out or planned include the expansion of facilities at Lok Ma Chau boundary crossing, improvement works at Lo Wu Terminal Building and Lo Wu Footbridge, construction of boundary-crossing facilities at Shenzhen Western Corridor under the “Co-location” Arrangement, construction of the essential public infrastructural works for the Lok Ma Chau Spur Line Project, etc. Investment in these projects totals some \$14 billion. A summary of these projects is set out in **Annex B**. The collection of a BFIT at a reasonable rate will help finance the improvement of boundary facilities and mitigate the fiscal deficit.

**(B) Exemptions/Concessions under BFIT**

4. It is proposed that the following persons should be exempted from the payment of BFIT:-

- (a) Boundary crossing full-time primary and secondary school students. We intend to exempt from payment of BFIT, upon application, all full-time primary or secondary school students who reside in either Hong Kong, Macau or Guangdong Province and need to enter and depart Hong Kong.
- (b) Children under the age of twelve years old. As with the Air Passenger Departure Tax, we intend to exempt all children below the age of twelve years from the payment of BFIT.
- (c) Drivers, crew members and other persons operating the land transport vehicles including goods vehicles, ferries or cruise ships or performing any functions under the Bill.
- (d) Transit passengers including passengers of cruise ships which are not destined for Hong Kong, as well as passengers who arrive Hong Kong because of adverse weather, emergency, etc.

5. Apart from the above, it is considered appropriate, in accordance with the relevant international obligations applicable to the HKSAR, to exempt visiting diplomats, consular members, members of specified International Organisations, consulates, as well as specified International Organisations from payment of BFIT. We also intend to provide exemption for personnel of the three CPG Offices departing Hong Kong in the course of performing official functions.

6. Private cars which are owned by the persons in paragraph 7 and the HKSARG will be exempted from BFIT.

7. To ease people's burden, we also propose that a monthly concessionary tax rate pitched at a level equivalent to the tax payable for 15 trips (\$270) be provided for frequent commuters. The concessionary rate represents roughly a maximum of 50% discount on the full tax payable in one month by commuters who travel across the boundary every day. People would be free to decide whether to go for the monthly tax concession or the per trip-based tax. It is proposed that the concessionary tax does not apply to cruise ships including casino vessels. The purpose of making departures by cruise ships is entertainment, the frequency of making such trips should not be high and hence the issue of affordability should not arise. The monthly concessionary tax applies only to passengers charged BFIT on a per person basis, and not to private cars.

### **(C) Collection Mechanism**

8. In 2002, there were 118 million passenger crossings and 12 million vehicle crossings at the five land boundary points (i.e. Lo Wu, Lok Ma Chau, Man Kam To, Sha Tau Kok and Hung Hom); and 21 million sea passenger crossings at the two sea control points (i.e. the Macau Ferry Terminal and China Ferry Terminal) and other harbour control points. In total, there were about 139 million passengers using land and sea control points in 2002. The figure is projected to increase to 251 million by 2016. The relevant figures are at **Annex C**.

9. Every day, there was an average of 322,000 and 57,000 people using the land and sea boundary facilities respectively in 2002. During the busy periods, the number of people passing through the busier land control points such as Lo Wu and Lok Ma Chau control points could be as high as 359,000 and 66,000 respectively. The passenger throughput at Lok Ma Chau for instance has experienced a five-fold increase between 1996 and 2002. As regards vehicle flows, there were 24,000 vehicles using the Lok Ma Chau boundary control point in an average day in 2002. The number could go up to 26,500 during busy periods. As mentioned above, we expect the uptrend to increase. It is extremely important that any collection mechanism should not cause obstruction to the very busy passenger and traffic flows at the various control points.

#### (a) Collection of Tax from Passengers

10. In devising the mode of collection of the tax from passengers, we have examined various options including on-site collection with immigration or customs officers stationed at the various boundary control points collecting BFIT from departing persons, or by way of machines which can accept Octopus cards and single tickets to be installed inside the departure halls of the various control points, as well as off-site collection by way of collecting the tax together with the transport fare.

11. We do not think on-site collection with either immigration/customs officers stationing at the immigration/customs clearance counters collecting the tax, or by way of machines and gates installed in immigration halls at the various land and sea control points is practicable. Being constrained by their structural size and physical layout, the immigration clearance halls in the boundary control points are small with limited waiting area. The above on-site collection methods would add to the pressure of the passenger flows. A slight hiccup will cause tremendous disruption, delaying the time for passengers to get through the control points and under the worst case scenario, causing overcrowding problem which could lead to dangerous consequences. The situation would be worst during peak seasons when the passenger and vehicle flows at the control points are extremely heavy. Given the fast increase in the number of passengers and vehicles crossing the boundary (daily passenger and vehicle departure trips at Lok Ma Chau

have grown by 436% and 76% respectively between 1996 and 2002), it would be very difficult to avoid bottlenecks at all times and all seasons. Besides, on-site collection would bring inconvenience to passengers especially visitors who may not have Octopus cards or cash in Hong Kong dollars with them when departing the territory, thus further aggravating the congestion problem. In any case, the average time needed for passengers and vehicles to get through the control points will increase, if on-site collection is to be adopted.

12. The mode which is most convenient to the travelling public is for operators to collect the tax on behalf of the Government when collecting transport fare. That means, if passengers are paying their operators for transport fares through Octopus cards, the tax should be deducted through Octopus together with the transport fares. If passengers are paying their operators for transport fares through purchasing pre-paid tickets, the tax should be collected when the pre-paid tickets are sold to passengers. This is the method used by ferry companies in collecting the Passenger Embarkation Fee and by airlines in collecting the Air Passenger Departure Tax at the moment.

13. We recognize that under off-site collection mode, more agents will be involved in the handling of the tax, additional burden will be placed on these agents, the chance of error and abuse may be higher; and that there may be more enforcement difficulties. However, as the primary concern is for smooth passenger flow at the control points, it is extremely important that any collection activities should be diverted away from the immigration halls and the control point areas where passenger/vehicle traffics are heavy to avoid crowd management problem. Under off-site collection, the passenger flows at the various land and sea departure points will not be delayed or obstructed, and it will be most convenient to the travelling public as they do not need to pay the transport fares and the tax separately. This convenience will be especially important to visitors as they may not have kept adequate Hong Kong dollar for paying BFIT when leaving the territory. We therefore propose to adopt off-site collection with transport operators collecting the tax when collecting the transport fares as the main method of collection. However, there will be circumstances when off-site collection is not practical, e.g. persons not taking any public transport to the control point,

In such cases, on-site collection mode will be adopted.

14. We recognize that with off-site collection the risks of tax evasion and under-collection would be higher than on-site collection. We will put in place appropriate monitoring and risk-management systems to minimise the risk of revenue leakage. We will also put in place appropriate support mechanisms to help operators enforce the tax.

(b) Collection of tax from private cars

15. On collection of the tax from private cars, we have also considered various options, including Autotoll, Octopus and the existing Automatic Vehicle Recognition System (AVRS) installed at the customs kiosks.

16. We recommend to adopt AVRS. AVRS is part of the Customs and Excise Department's initiative to reduce the customs clearance time for vehicles at land control points. It has newly been installed at customs clearance kiosks at all land departure points. It is basically a camera system which captures the licence plate and other necessary information when a cross-boundary vehicle undergoes clearance at customs kiosks. Customs officers stationed in the kiosks will visually double-check the accuracy of the information captured by the computer. The data will then be transferred to the Customs Land Boundary System to facilitate customs clearance. Our recommended option is to make use of the information captured by the AVRS for BFIT billing. Under this proposal, the Transport Department, which is the collection department responsible for collection of BFIT for land departures, will develop a software programme for preparing and issuing bills to owners whose private cars have crossed any land departure points.

17. From the cost-effectiveness point of view, both the capital and recurrent costs for AVRS are already funded, and only the marginal cost of developing the software system for billing and the recurrent cost of collection would be incurred. The AVRS option means a better utilization of the Government's resources. Once the billing system is set up, no additional capital and maintenance cost will be incurred for BFIT

under the AVRS option even when there are changes to the location of the boundary facilities, whereas, for the Autotoll and Octopus options, new or relocated equipment has to be installed at the new control points. The initial capital cost for the AVRS option is estimated to be 46% and 66% less than those for Autotoll and Octopus respectively, and the recurrent cost 4% and 49% less than those for Autotoll and Octopus respectively. In addition, it is estimated that about 40% of the existing cross-boundary private car owners are not Autotoll users. There will be practical difficulty to make it a compulsory requirement for all the private car owners to install transponder in their cars, bearing in mind that they have to pay a deposit of \$150 for the transponder and a monthly account maintenance fee of \$35-40 to Autotoll Limited.

18. From the view point of vehicle flow management, which is the overriding factor, the AVRS option will not cause any difference to the customs clearance procedure while enabling the BFIT to be collected. This system will not be disrupted by any driver who does not have with him pre-arranged Autotoll facility or a valid pre-paid Octopus card, or who has to search the whereabouts of the latter.

19. We have consulted the Department of Justice, which advises that personal data collected or held for the purpose of collection or assessment of any tax are exempted from Data Protection Principle 3 of the Personal Data (Privacy) Ordinance, Cap. 486 (“PDPO”) in that data for these purposes can be used in the absence of the data subject’s prescribed consent (s.58 of the PDPO). We have also consulted the Privacy Commissioner for Personal Data, who has no objection to our proposed use of AVRS so long as the Data Protection Principle 3 exemption applies. Against the above background, we recommend to adopt the AVRS and a billing system for collecting BFIT from private cars.

#### **(D) Liability on Operators and Passengers**

20. In order to enforce the tax effectively, we consider it necessary to impose on transport operators collecting the tax on behalf of the Government some statutory responsibilities, as well as penalties for non-

compliance. These responsibilities include collection of tax, maintenance of proper records, furnishing of returns to the Commissioner of Transport (the Commissioner) or Director of Marine (the Director), and payment of the tax to the Commissioner or the Director. A surcharge will be imposed on late payment.

21. Besides, any tax liable passenger who intends to depart Hong Kong via land and sea control points but does not pay BFIT and any person permitting tax liable passengers who have not paid BFIT to board their vehicles or passenger ships without exercising reasonable diligence will commit an offence.

22. The above major responsibility and offence provisions are largely in line with the arrangements under Air Passenger Departure Tax Ordinance.

### **(E) Administration Fees**

23. The BFIT Bill will contain a provision which empowers the Financial Secretary to authorize the payment of a fee for collection of the tax. The level of this fee (administrative fee) would not be set out in the BFIT Bill. We will embark on specific discussions with the operators, in consultation with the Financial Secretary, with a view to securing some common ground on the issue.

### **OTHER OPTIONS**

24. The imposition of any tax requires legislative backing. In the absence of enabling legislation, we cannot impose and collect a BFIT.

### **THE BILL**

25. The main purpose of the Bill is to provide legislative backing for the collection of BFIT. The main provisions are as follows:-

- (a) **Clause 3** subjects all persons departing from Hong Kong at a land or sea departure point as well as owners of private cars departing Hong Kong, except certain categories of exempted persons or private cars, to payment of a boundary facilities improvement tax (the tax) before their departure; **Schedule 1** provides that the tax per person should be \$18 and the tax per private car should be \$100;
- (b) **Clause 4** provides that transport operators shall collect the tax from their passengers on behalf of the Government unless otherwise specified. **Clause 5** requires transport operators to maintain proper records of the passengers and the tax collected;
- (c) **Clause 6** provides that operators shall furnish returns to the Government in a form and by such dates as the Government may specify;
- (d) **Clause 7** provides that transport operators shall pay the tax on a regular basis or within 14 days from the date of issue of a notice of demand. **Clause 8** provides that private car owners shall pay the tax specified in the notice of demand within 14 days from the date of issue of the notice;
- (e) **Clause 10** provides that a person aggrieved by an assessment of the tax due may appeal against it to the District Court after a review by the Director or Commissioner;
- (f) **Clause 11** provides that a surcharge of 5% may be imposed on any amount of the tax in default and another surcharge of 10% will be imposed on any outstanding tax and surcharge which remains unpaid for 6 months after the date of default;
- (g) **Clause 12** provides that the tax payable by a person or an operator is recoverable as a debt due to the Government;

- (h) **Clause 13** provides that if it appears to the Director or Commissioner that any tax is unlikely to be collected by a transport operator, the Director or Commissioner may appoint a person in lieu of that transport operator to collect the tax;
- (i) **Clause 14** provides that the Government may authorize a person to collect tax from a person;
- (j) **Clause 15** provides that a monthly ticket may be issued and **Schedule 1** specifies that \$270 is payable for issue or renewal of a monthly ticket;
- (k) **Clause 16** provides that students who reside in either Hong Kong, Macau or Guangdong Province and need to enter and depart Hong Kong in pursuance of full-time primary or secondary education may be exempted from payment of BFIT on application;
- (l) **Clause 17 and Schedule 5** provide that children under the age of twelve years old; drivers, crew members and other persons operating land transport vehicles, ferries or cruise ships or performing any functions under the Bill; transiting passengers for ships and passengers arriving Hong Kong by reason of adverse weather or emergency; as well as other persons/organizations such as visiting diplomats, consular members, members of specified International Organisations, consulates, specified International Organisations and personnel of the three CPG offices in HKSAR are exempted from the tax;
- (m) **Clause 19** provides that the tax may be refunded if a person or a vehicle does not depart from Hong Kong. A person is regarded to have departed from Hong Kong if he has entered the restricted area, or he has passed through departure immigration control if no such restricted area existed for that departure point;
- (n) **Clause 22** provides that it is an offence for persons liable to pay the tax who fail to pay the tax or make a false statement with intent to evade payment of the tax. It is also an offence for

operators and agents who fail to keep proper records; or fail to file returns as required or file incorrect returns. It is an offence for persons to permit tax liable passengers not having paid the tax to board the ship/vehicle. **Clause 29(3)** provides that it is an offence for persons who fail to supply information in relation to the enforcement of the tax as required by the Director or Commissioner. The penalty levels will range from a fine at level 3 to level 6 and from no imprisonment to 2 years. **Clause 22(3)** provides that in proceedings for offences concerning permitting boarding, it is a defence to show that the accused person did not know and could not reasonably have ascertained that the passenger was liable to pay the tax or had not paid the tax;

- (o) **Clause 23** provides that a police officer or a person authorized by the Director or Commissioner may arrest without warrant any individual reasonably suspected of committing an offence under this Bill, and a person authorized by the Director or Commissioner may require the suspected individual to furnish personal information;
- (p) **Clause 24** provides that transport operators may refuse to allow boarding of passengers who fail to produce evidence of having paid the tax or of exemption;
- (q) **Clause 25** provides that the Government may refuse to grant port clearance or issue or renew a vehicle licence or international circulation permit to ship or vehicle owners who owe any amount of the tax to the Government; and
- (r) **Clause 26** provides that in cases where agents are appointed for payment of tax to Government, the operators and agents shall be jointly and severally liable for the amount of the tax payable by the operators.

The existing provisions being amended are at **Annex D**.

## **LEGISLATIVE TIMETABLE**

26. The legislative timetable will be:-

Publication in the Gazette	6 June 2003
First Reading and commencement of Second Reading debate	11 June 2003
Resumption of Second Reading debate, committee stage and Third Reading	To be notified

## **IMPLICATIONS OF THE PROPOSAL**

### **Legal Implications**

27. The proposal is in conformity with the Basic Law, including the provisions concerning human rights. The proposal will not affect the binding effect of the existing provisions of the relevant Ordinances and their subsidiary legislation.

### **Financial and Civil Service Implications**

28. The proposal of imposing a BFIT on persons departing Hong Kong by land and by sea would generate about \$1 billion of additional revenue for the Government on a recurrent basis (this has already deducted the revenue from the existing Passenger Embarkation Fee which will be abolished upon introduction of the BFIT).

29. At present, the Passenger Embarkation Fee constitutes a major source of the revenue in the Marine Ferry Terminals Operating Accounts, which are published annually to evaluate the fee level and the financial performance of the two terminals. With the implementation of the BFIT, the preparation of the Operating Accounts will no longer serve any useful

purpose. We will accordingly replace them with a set of internal management accounts for financial monitoring purposes.

30. On the expenditure side, the proposal will give rise to both non-recurrent and recurrent financial and staffing implications for the Government. We estimate that the full staff costs of \$14 million will be incurred in the development stage up to mid-2004 to prepare for the design and implementation of the tax. Transport Department and Marine Department will also need one-off funding in the region of \$30 million for payment to transport operators and relevant tax collection agents to upgrade or set up computer systems and equipment, as well as recurrent funding of \$38-55 million per year for collection and enforcement of the tax, mainly covering payments to system providers, and transport operators and relevant agents for collecting the tax on behalf of the Government (in respect of both land and sea departures).

### **Economic Implications**

31. The tax, which is proposed to be pitched at a modest level, should not hinder the flow of people and businesses between Hong Kong and the Mainland. The exemption of drivers of cross-boundary goods vehicles, coaches or other type of commercial vehicles from the tax will free the respective transport trades from the financial cost. However, putting the tax collection task to the transport operators will pose them with a compliance burden, which is intended to be compensated by an appropriate fee. The availability of a monthly ticket will facilitate and possibly accord saving to frequent travellers, while the exemption of boundary-crossing full-time primary and secondary school students from the tax will help these students.

### **Sustainability Implications**

32. The proposal should not have major sustainability implications, but is expected to contribute positively to fiscal sustainability through alleviating the problem of fiscal deficit.

## **PUBLIC CONSULTATION**

### **Consultation with transport operators**

33. Under the proposed off-site collection arrangements, the assistance of some 149 transport operators is required to collect the tax on the Government's behalf. They include 126 operators of land transport (trains, shuttle buses, coaches, private buses and light buses and hire cars) and 23 operators of sea transport (ferries to the Mainland and Macau, cruise ships).

34. We have conducted several informal and formal rounds of discussions with the concerned transport operators over the collection arrangements commencing from July 2002.

35. For the sea departures, the ferry operators and the cruise ship operators do not foresee major difficulties with the proposed off-site collection. The ferry operators considered that the existing arrangements for recovery of the existing Passenger Embarkation Fee are appropriate and suggested that the arrangements under BFIT should follow those under the Passenger Embarkation Fee as far as possible. They have raised some concern over the difficulties and additional resources required in enforcing the exemptions and concessions. They have also made various suggestions regarding the enforcement of the tax and on the detailed procedures.

36. For the land departures, the Kowloon-Canton Railway Corporation (KCRC), the New Hong Kong Bus Company Limited which operates the Lok Ma Chau/Huanggang Shuttle Bus (Yellow Bus), Hong Kong Guangdong Boundary Crossing Bus Association (HKGBCBA), Public Omnibus Operators Association Limited (POOA), and the hire car operators have been consulted. During the first round of discussions with land transport operators, they raised concern over the proposed off-site collection arrangements, the difficulties in enforcing the exemptions and concessions, provision of accurate returns for assessment of the tax,

as well as on the related responsibilities and offences. The KCRC has commented that there are a fair amount of mismatches between their existing system design and Government's requirements, and that a lead time as long as one year will be required to modify its ticketing systems and introduce any new systems for the collection of BFIT. Some of the operators consulted have expressed the view that the responsibilities placed on drivers to check exemptions and concessions and to file manifests would be too onerous. Some were concerned that they might not be in a position to detect fraudulence by their employees. It has therefore been suggested that the operators should not be subject to any offences and that responsibilities on employees and operators should be separately provided for in the legislation. Some expressed concern about incurring bad debt by agents and all expressed that they would incur additional administrative expenses, if they were to collect the tax on behalf of the Government, and suggested that Government should pay them an administrative fee.

37. We have examined the concerned transport operators' views and discussed with them at subsequent consultative sessions the enforcement difficulties that they envisage encountering. We have explained to them that the off-site collection method and the proposed collection procedures are considered more appropriate, given the heavy passenger flows at the various land and sea departure points. Having regard to the enforcement difficulties envisaged by the operators, the Government would, upon implementation of the tax, step up publicity with a view to educating the public on the need to pay the operator a tax on departure by land and by sea. We propose to provide in the BFIT Bill statutory defence for offences so as not to punish the operators who have exercised reasonable diligence. We will draw up beforehand and in consultation with the operators concerned an operational manual so that operators have a better understanding of the Government's requirements on enforcement thus allaying their concern about their liabilities. The Government will also strengthen support at various high-risk boarding spots to help enforce the tax so as to minimise the enforcement difficulties on the part of the operators. On the procedures, we have made a number of adjustments to address the concerns of operators which were welcomed by them. We are considering the provision of an administrative fee for the operators to collect the tax on

Government's behalf. Any such fee shall be determined by the Financial Secretary.

38. After the last round of consultations held in March to April 2003, the majority of the concerned land transport operators expressed the view that the Government's proposed collection mechanism should be feasible. The POOA however raised strong objections and reiterated that their concerns about statutory responsibilities and offences were still valid, that they did not think off-site collection would work especially for leased out coaches and they would only support on-site collection by way of government officers stationed at the various control points collecting/enforcing the tax or by way of electronic means of payment without them handling the collection. We will continue to liaise with the transport operators with a view to securing their co-operation and refining the collection procedures.

## **PUBLICITY**

39. A press release will be issued and a spokesman will be available to answer media and public enquiries.

## **BACKGROUND**

40. The Government announced in the 2002-03 Budget that we intended to introduce a BFIT on passengers departing from Hong Kong by land and by sea in order to help finance the improvement of boundary facilities.

## **OTHERS**

41. In case of enquiries about this brief, please contact Miss Erica Ng, Principal Assistant Secretary for Financial Services and the Treasury, at 2810 2370.

Treasury Branch  
Financial Services and the Treasury Bureau  
June 2003

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A BILL

To

Impose a tax on persons departing from Hong Kong by sea or land, and on the owners of specified vehicles in respect of departures from Hong Kong of those vehicles; and to provide for related and consequential matters.

Enacted by the Legislative Council.

PART 1

PRELIMINARY

**1. Short title and commencement**

(1) This Ordinance may be cited as the Boundary Facilities Improvement Tax Ordinance.

(2) This Ordinance shall come into operation on a day to be appointed by the Secretary for Financial Services and the Treasury.

**2. Interpretation**

In this Ordinance, unless the context otherwise requires –

“authorized person” (獲授權人) means a person authorized under section 14;

“boundary crossing” (邊境關卡) means a boundary crossing located at a place specified in Schedule 2, where a person may be required to be examined under section 4(1) of the Immigration Ordinance (Cap. 115) by an immigration officer or immigration assistant before the person departs from Hong Kong through that boundary crossing;

“bus” (巴士), “goods vehicle” (貨車), “light bus” (小型巴士) and “motor vehicle” (汽車) have the meanings respectively assigned to them in section 2 of the Road Traffic Ordinance (Cap. 374);

“closed area” (禁區) means the area declared to be a closed area by the Frontier Closed Area Order (Cap. 245 sub. leg. A);

“Commissioner” (署長) means the Commissioner for Transport;

“Director” (處長) means the Director of Marine;

“function” (職能) includes power and duty;

“hire car” (出租汽車) means a private car in respect of which a hire car permit is in force;

“hire car permit” (出租汽車許可證) means a permit issued in accordance with the Road Traffic Ordinance (Cap. 374) authorizing the use of a private car for the carriage of passengers to a destination outside Hong Kong for hire or reward;

“holder” (持有人), in relation to an international circulation permit, means the person to whom the international circulation permit has been issued;

“international circulation permit” (國際通行許可證) means an international circulation permit issued under regulation 31 of the Road Traffic (Registration and Licensing of Vehicles) Regulations (Cap. 374 sub. leg. E);

“land transport vehicle” (陸上交通工具) means a land transport vehicle of a class specified in Schedule 3;

“monthly ticket” (月票) means a monthly ticket issued under section 15;

“operator” (營運人) –

- (a) in relation to a passenger ship, means any person for the time being having control over the management of the ship; and
- (b) in relation to a land transport vehicle, means –
  - (i) in the case where the land transport vehicle is a bus in respect of which a passenger service licence issued under section 27 of the Road Traffic Ordinance (Cap. 374) is in force, the holder of the passenger service licence;

- (ii) in the case where the land transport vehicle is a bus in respect of which a franchise is in force under the Public Bus Services Ordinance (Cap. 230), the company to which the franchise has been granted under section 5 of that Ordinance; and
- (iii) in all other cases, the owner of the land transport vehicle;

“owner” (擁有人), in relation to a motor vehicle, means –

- (a) in the case where there is a person in whose name the vehicle is registered under the Road Traffic Ordinance (Cap. 374), that person; and
- (b) in all other cases, a holder of an international circulation permit issued in respect of the vehicle;

“the paid area” (已付車費區域) has the meaning assigned to it in by-law 2 of the Kowloon-Canton Railway Corporation By-laws (Cap. 372 sub. leg. B);

“passenger” (乘客) means any person carried or to be carried –

- (a) in a passenger ship, other than a crew member of the ship and a person responsible for performing on board the ship any function of the operator of the ship under this Ordinance or carrying out any maintenance or repair work on board the ship; or
- (b) in a land transport vehicle, other than a person responsible for operating the vehicle or performing on board the vehicle any function of the operator of the vehicle under this Ordinance;

“passenger ship” (客船) means –

- (a) a ferry vessel within the meaning of –

- (i) regulation 2 of the Shipping and Port Control (Ferry Terminals) Regulations (Cap. 313 sub. leg. H); or
  - (ii) section 2 of the Merchant Shipping (Local Vessels)(Ferry Terminals) Regulation (Cap. 548 sub. leg. B); or
- (b) a ship (other than a ferry vessel referred to in paragraph (a)) in respect of which –
- (i) a Passenger Ship Safety Certificate or a Passenger Certificate issued under the Merchant Shipping (Safety) (Passenger Ship Construction and Survey) (Ships Built On or After 1 September 1984) Regulations (Cap. 369 sub. leg. AM); or
  - (ii) a certificate accepted by the Director under the Merchant Shipping (Safety) Ordinance (Cap. 369) as being the equivalent of either one of the certificates referred to in subparagraph (i),
- is in force;

“private car” (私家車) has the meaning assigned to it in section 2 of the Road Traffic Ordinance (Cap. 374), but the reference to private car in Schedule 4 do not include a hire car;

“specified vehicle” (指明交通工具) means a vehicle of a class specified in Schedule 4;

“tax” (稅、稅款) means the boundary facilities improvement tax imposed under section 3;

“tax coupon” (稅券) means a tax coupon issued under section 15;

“through-train railway station” (直通車火車站) means a railway station where a train may depart for a destination in mainland China;

“train” (鐵路列車) means a train operated on the Kowloon-Canton Railway under the Kowloon-Canton Railway Corporation Ordinance (Cap. 372).

## PART 2

### LIABILITY FOR AND PAYMENT OF TAX

#### 3. Imposition of tax

(1) Subject to sections 16, 17 and 18, a person who departs from Hong Kong –

- (a) by a passenger ship; or
- (b) at a through-train railway station or a boundary crossing other than by a specified vehicle,

is liable, before he so departs, to pay, in accordance with this Ordinance, a boundary facilities improvement tax of the amount specified in item 1 of Schedule 1.

(2) Subject to sections 17 and 18, an owner of a specified vehicle is liable to pay, in accordance with this Ordinance, a boundary facilities improvement tax of the amount specified in item 2 of Schedule 1, if the specified vehicle departs from Hong Kong by its being driven (whether or not by the owner) through a boundary crossing.

#### 4. Collection of tax

(1) The Director may by notice published in the Gazette specify –

- (a) the person to whom a person liable to pay the tax under section 3(1)(a) is to pay the tax; and
- (b) the manner in which it is to be paid.

(2) The Commissioner may by notice published in the Gazette specify –

- (a) the person to whom a person liable to pay the tax under section 3(1)(b) is to pay the tax; and

(b) the manner in which it is to be paid.

(3) A person liable to pay the tax under section 3(1)(a) shall pay the tax to the person specified in the notice published under subsection (1) in the manner specified in the notice.

(4) A person liable to pay the tax under section 3(1)(b) shall pay the tax to the person specified in the notice published under subsection (2) in the manner specified in the notice.

(5) Where a notice published under subsection (1) or (2) specifies that the tax shall be paid to the operator of a passenger ship or land transport vehicle, the operator shall collect the tax and pay it under section 7 to –

- (a) if it is paid by a passenger of a passenger ship, the Director;  
or
- (b) if it is paid by a passenger of a land transport vehicle, the Commissioner.

## **5. Records**

(1) An operator of a passenger ship or land transport vehicle departing from Hong Kong or for a boundary crossing shall maintain proper records of –

- (a) persons who have boarded the ship or vehicle, as the case may be;
- (b) the tax paid and the tax payable by passengers to the operator; and
- (c) such other information relating to the tax or the collection of the tax as the Director or Commissioner may reasonably require.

(2) The Director or Commissioner may, at any reasonable time, inspect and take copies of or seize the records maintained under subsection (1) by an operator of a passenger ship or land transport vehicle.

(3) Subsection (1) only applies to an operator of a passenger ship or land transport vehicle the passengers of which are required to pay the tax to the operator in accordance with a notice published under section 4.

## **6. Returns**

(1) An operator of a passenger ship required to maintain records under section 5(1) shall furnish a return to the Director, in such form and by such dates as the Director may specify, giving –

- (a) details of departures from Hong Kong of the ship;
- (b) details of persons carried in the ship;
- (c) the tax payable by passengers to the operator; and
- (d) such other information relating to the tax or the collection of the tax as the Director may reasonably require.

(2) An operator of a land transport vehicle required to maintain records under section 5(1) shall furnish a return to the Commissioner, in such form and by such dates as the Commissioner may specify, giving –

- (a) details of departures from Hong Kong of the vehicle and of journeys made by the vehicle to a boundary crossing;
- (b) details of persons carried in the vehicle;
- (c) the tax payable by passengers to the operator; and
- (d) such other information relating to the tax or the collection of the tax as the Commissioner may reasonably require.

(3) Nothing in this section derogates from or affects the obligation of the operator to furnish information under any other enactment on operations of the passenger ship or land transport vehicle to the Director, Commissioner or any other person.

## **7. Payment of tax by operators**

(1) The amount of the tax due by an operator of a passenger ship or land transport vehicle from time to time in respect of the tax payable by passengers to that operator shall be assessed –

- (a) in the case of an operator of a passenger ship, by the Director; and
- (b) in the case of an operator of a land transport vehicle, by the Commissioner.

(2) In assessing the amount of the tax under subsection (1), the Director or Commissioner is not bound by the information in any return furnished under section 6, but may use such further or other means of assessment as he thinks fit.

(3) Where a return is furnished to the Director or Commissioner under section 6(1) or (2), the operator of the passenger ship or land transport vehicle shall within the period and in the manner specified by the Director or Commissioner, as the case may be, pay to him the amount of the tax payable by the passengers of the passenger ship or land transport vehicle during the period to which the return relates.

(4) The Director or Commissioner may from time to time issue to the operator of the passenger ship or land transport vehicle a notice of demand specifying –

- (a) the amount of the tax assessed under subsection (1)(a) or (b); or
- (b) if the amount of the tax paid to the Director or Commissioner under subsection (3) in respect of the period to which the assessment relates is less than the amount of the tax assessed under subsection (1)(a) or (b) in respect of the same period, the amount of the tax that equals to the shortfall.

(5) The operator shall pay to the Director or Commissioner, as the case may be, the amount of the tax specified in the notice of demand within 14 days after the date of the notice issued by the Director or Commissioner.

#### **8. Payment of tax by owners of specified vehicles**

(1) Where an owner of a specified vehicle is liable to pay the tax under section 3(2), the Commissioner shall from time to time issue to the owner a notice of demand specifying the amount of the tax payable during the period specified in the notice.

(2) The owner shall pay to the Commissioner the amount of the tax specified in the notice of demand within 14 days after the date of the notice.

(3) Where the Commissioner is satisfied that a specified vehicle is likely to depart from Hong Kong and its owner would be liable to pay the tax in respect of the departure, the Commissioner may, before he issues a closed road permit valid for not more than 1 month in respect of the specified vehicle under regulation 49 of the Road Traffic (Registration and Licensing of Vehicles) Regulations (Cap. 374 sub. leg. E), demand that the owner pay the tax by the date specified by the Commissioner.

(4) Where the demand under subsection (3) is not complied with, the Commissioner may refuse to issue the closed road permit.

#### **9. Objection to notice of demand**

(1) A person who is aggrieved by a notice of demand issued by the Director or Commissioner under section 7(4) or 8(1) may, within 1 month after the date of the notice, serve on the Director or Commissioner a notice of objection.

(2) The notice of objection shall state the grounds of objection and shall be accompanied by documentary evidence relied upon by the person in support of the objection.

(3) Where a person has served a notice of objection under subsection (1), the Director or Commissioner shall within 6 months after the expiration of the 1 month period referred to in subsection (1) –

- (a) consider the objection and shall confirm, vary or rescind the notice of demand; and
- (b) serve on the person a notice of his decision in respect of the objection.

(4) A person who has served a notice of objection under this section may withdraw the objection, at any time before a notice of decision in respect of the objection is served on him under subsection (3), by serving a notice of withdrawal on the Director or Commissioner.

(5) The service of a notice of objection under this section does not affect the operation of section 7(5) or 8(2).

## **10. Appeal**

(1) A person on whom a notice of decision has been served under section 9 may, within 1 month after the date of the notice, appeal against the decision to the District Court.

(2) On an appeal under this section, the District Court may confirm, vary or rescind the decision and may make such consequential orders, including orders as to payment of costs, as it thinks fit.

(3) The District Court Rules Committee may make rules for the purposes of this section.

## **11. Additional sum payable for tax in default**

(1) Where any amount of the tax is not paid within the period referred to in section 7(3) or (5) or 8(2), it is to be regarded as being in default and the Director or Commissioner, as the case may be, may order that a sum not exceeding 5 per cent of the amount in default shall be added to that amount and recovered with it.

(2) Where any amount of the tax is in default for a period of not less than 6 months from the date when it was regarded to be in default, the Director or Commissioner, as the case may be, may order that a sum not exceeding 10 per cent of the total unpaid amount of –

- (a) the amount of the tax in default; and
- (b) any sum added to that amount under subsection (1),

shall be added to such total unpaid amount and recovered with it.

(3) The payment by the operator or owner of any amount in accordance with subsection (1) or (2) or section 7 or 8 does not prevent –

- (a) the Director or Commissioner, where it appears to him that a further amount of the tax remains payable by the operator or owner in respect of any period, from making an assessment of that amount and issuing a notice of demand under section 7(4) or 8(1) for the amount; or
- (b) the operator or owner from claiming a refund of any overpayment made by him to the Director or Commissioner and proved to the satisfaction of the Director or Commissioner, as the case may be.

## **12. Recovery of tax**

(1) The amount of the tax –

- (a) payable by a person under section 3(1); or
- (b) payable by an operator or owner under section 7 or 8, and any additional sum payable under section 11,

is recoverable from the person, operator or owner, as the case may be, as a civil debt due to the Government.

(2) Where the operator has appointed an agent under section 26 to perform his function under section 7, the amount of the tax or the additional sum referred to in subsection (1)(b) is recoverable from the operator or the agent or the operator and the agent jointly as a civil debt due to the Government.

(3) Proceedings for the recovery of the amount of the tax or the additional sum referred to in subsection (1)(b) may be brought in the District Court notwithstanding that the amount to be recovered is in excess of the sum mentioned in section 33 of the District Court Ordinance (Cap. 336).

(4) In any proceedings under subsection (3), the Government may claim in one action the amount of the tax payable in respect of any number of persons.

(5) A certificate purporting to be signed by the Director or Commissioner stating the number and categories of persons in respect of whom the tax is payable and the total amount of the tax assessed in respect of them is, until the contrary is proved, sufficient evidence, on its production by the Government, of the facts stated in the certificate and of the correctness of the assessment.

### **13. Appointment of person in lieu of operator to collect tax**

(1) Without prejudice to the liability of an operator for any amount under this Ordinance, the Director or Commissioner may, if it appears to him for any reason that any tax is unlikely to be collected by an operator, appoint a person in lieu of the operator to collect that tax.

(2) Where a person is appointed by the Director or Commissioner under subsection (1), references to an operator in sections 4 and 24 shall be construed as references to the person so appointed.

### **14. Collecting tax by authorized persons**

(1) The Director or Commissioner may authorize in writing, on such terms and conditions as he considers appropriate, a person to collect the tax from a person.

(2) Any tax collected by an authorized person shall be paid by him to –

(a) if he is authorized by the Director, the Director; and

- (b) if he is authorized by the Commissioner, the Commissioner,

in the manner determined by the Director or Commissioner, as the case may be.

(3) Where the Director or Commissioner authorizes a person under subsection (1), he may determine the manner in which the tax is to be collected by that person.

(4) Where the Director or Commissioner exercises his power under subsection (1), he shall as soon as possible cause to be published in the Gazette a notice giving particulars of the authorized person.

(5) An authorized person shall maintain proper records of the tax paid to him and such other information relating to the tax or the collection of the tax as the Director or Commissioner may reasonably require.

(6) The Director or Commissioner may, at any reasonable time, inspect and take copies of or seize the records maintained by the authorized person under subsection (5).

## **15. Tax coupon and monthly ticket**

(1) Without prejudice to the generality of section 14(1) or (3), the Director or Commissioner may issue, and an authorized person may with the approval of the Director or Commissioner issue, tax coupons and monthly tickets for sale for the purpose of collecting the tax from a person.

(2) A tax coupon and monthly ticket shall be in such form as the Director or Commissioner may specify.

(3) A monthly ticket shall only be valid for the month recorded in the ticket.

(4) The Director or Commissioner or an authorized person who has obtained the Director's or Commissioner's approval to issue tax coupons and monthly tickets may, on receipt of the appropriate amount specified in item 3 or 4 of Schedule 1, issue a tax coupon or monthly ticket to a person or renew a monthly ticket issued to a person.

(5) A tax coupon or monthly ticket may be issued subject to such conditions as the Director or Commissioner may think appropriate, including but not limited to conditions in accordance with which the tax coupon or monthly ticket shall be surrendered or presented for the purposes of subsection (8).

(6) An authorized person shall maintain proper records and accounts of the tax coupons and monthly tickets issued or renewed by him.

(7) The Director or Commissioner may, at any reasonable time, inspect or take copies of or seize the records and accounts maintained by the authorized person under subsection (6).

(8) Without prejudice to any other manner in which the tax may be paid pursuant to section 4 but subject to subsection (9), a person is regarded as having paid the tax for the purpose of sections 3(1) and 4 if he –

- (a) surrenders a tax coupon in accordance with the conditions subject to which it was issued;
- (b) presents the valid monthly ticket issued to him, in accordance with the conditions subject to which it was issued; or
- (c) pays the tax in any other manner determined by the Director or Commissioner under section 14(3) and shows evidence of such payment.

(9) Subsection (8)(b) does not apply to a person departing from Hong Kong by a ship referred to in paragraph (b) of the definition of “passenger ship” in section 2.

(10) Nothing in this section shall be construed as affecting the powers of the Director or Commissioner under section 13 or the functions of an operator under this Ordinance.

PART 3  
RELIEF AND REFUND

**16. Exemption for students**

(1) The Director or Commissioner may, upon application, exempt a person from liability to pay the tax under section 3(1), if he is satisfied that –

- (a) (i) the person's usual place of residence is in the Guangdong Province or in Macau; and
- (ii) the person is a full time student of or has been enrolled as a full time student of a primary or secondary school in Hong Kong; or
- (b) (i) the person's usual place of residence is in Hong Kong; and
- (ii) the person is a full time student of or has been enrolled as a full time student of a primary or secondary school in the Guangdong Province or in Macau.

(2) An exemption granted under subsection (1) does not have the effect of exempting a person from liability to pay the tax under section 3(1) in the case of a departure from Hong Kong by a ship referred to in paragraph (b) of the definition of “passenger ship” in section 2.

(3) An application under this section shall be –

- (a) made in such form and manner as the Director or Commissioner may determine; and
- (b) accompanied by such information or documents as the Director or Commissioner may reasonably require.

(4) The Director or Commissioner shall issue to a person exempt under subsection (1) a document evidencing the exemption.

(5) The Director or Commissioner may determine the form of a document of exemption issued under subsection (4).

(6) An exemption granted under this section is subject to such conditions as the Director or Commissioner may think appropriate.

(7) The Director or Commissioner may revoke an exemption granted under this section by notice in writing served on the person to whom the document of exemption was issued, if the Director or Commissioner is satisfied that the ground on which the exemption was granted has ceased to exist.

(8) The person on whom a notice is served under subsection (7) shall surrender the document of exemption issued to him to the Director or Commissioner within such period as may be specified in the notice.

### **17. Exemption for other persons**

(1) A person of a description or class specified in Schedule 5 is exempt from liability to pay the tax under section 3(1).

(2) A person of a description or class specified in Schedule 6 is exempt from liability to pay the tax under section 3(2).

(3) The Chief Executive in Council may, by notice published in the Gazette, exempt any person from liability to pay the tax, or such part or proportion of the tax as is specified in the notice.

(4) This Ordinance applies to and in relation to a person who is exempt from liability to pay a part or proportion of the tax under subsection (3) as it applies to and in relation to a person who is not exempt from liability under that subsection.

### **18. Waiver of tax**

The Chief Secretary for Administration may, where he is satisfied that payment of the tax by a person would entail or has entailed serious hardship or that it would in any particular circumstances be inequitable or contrary to the public interest to impose the tax –

- (a) release the person liable to pay the tax from his liability; or

- (b) direct that the tax or a part or proportion of the tax be refunded to the person.

### **19. Refund of tax**

(1) Subject to section 20, the tax paid by a person who does not depart from Hong Kong on the occasion in respect of which he has paid the tax (otherwise than under section 15(8)(b)) shall be refunded by the person to whom the first-mentioned person has paid the tax.

(2) The tax paid by an owner of a specified vehicle which does not depart from Hong Kong on the occasion in respect of which he has paid the tax shall be refunded by the Commissioner.

(3) Where a tax coupon –

- (a) is not used under section 15(8)(a);
- (b) is not damaged; and
- (c) is surrendered by any person to the Director, Commissioner or the authorized person by whom it is issued,

the Director, Commissioner or authorized person, as the case may be, shall refund to that person, either in whole or in part, the amount he has paid for the issue of the tax coupon.

(4) Where –

- (a) a direction to refund the tax to a person is made under section 18; or
- (b) the tax has been paid by a person of a description or class specified in sections 6, 7, 8, 9, 10 and 11 of Schedule 5,

the tax shall be refunded by the Director or Commissioner.

(5) An overpayment made by an operator of a passenger ship or land transport vehicle or an owner of a specified vehicle under section 7, 8 or 11 to the Director or Commissioner shall be refunded by the Director or Commissioner, as the case may be.

## **20. Supplementary provisions relating to refund of tax**

(1) For the purposes of section 19(1), a person is to be regarded as having departed from Hong Kong and accordingly no refund shall be made under that section if –

- (a) in the case of a person intending to depart from Hong Kong by a ferry vessel referred to in paragraph (a) of the definition of “passenger ship” in section 2, the person has entered the area declared to be a restricted area under paragraph 2 of the Hong Kong - Macau Ferry Terminal Restricted Area Boundaries Notice (Cap. 313 sub. leg. M) or paragraph 1 of the China Ferry Terminal Restricted Area Boundaries Notice (Cap. 313 sub. leg. W);
- (b) in the case of a person intending to depart from Hong Kong by a ship referred to in paragraph (b) of the definition of “passenger ship” in section 2, the person has been examined under section 4(1) of the Immigration Ordinance (Cap. 115) prior to his departure;
- (c) in the case of a person intending to depart from Hong Kong at a boundary crossing but subject to subsection (2), the person has entered the closed area within which that boundary crossing is located; and
- (d) in the case of a person intending to depart from Hong Kong at a through-train railway station, the person has entered the paid area of the railway station.

(2) Where a person intends to depart from Hong Kong by taking a train to a boundary crossing, subsection (1)(c) does not apply and in such a case, no refund shall be made under section 19(1) if the person has left the paid area of the railway station at that boundary crossing.

(3) Subsection (1)(a), (b) and (d) does not apply if the person does not depart from Hong Kong due to a suspension or cancellation of the passenger service provided by the operator concerned.

## **21. Conditions of refund**

(1) The Director or Commissioner may impose such conditions as he considers appropriate in respect of a refund (whether by himself or by an operator or an authorized person) under section 19 and the refund shall be subject to the conditions so imposed.

(2) A refund under section 19 shall be made in such manner as the Financial Secretary may, after consultation with the Director or Commissioner either generally or in any particular case, determine.

(3) No refund shall be made to any person of any payment for a monthly ticket issued under section 15(4), irrespective of whether or not the monthly ticket is used under section 15(8)(b).

## **PART 4**

### **ENFORCEMENT**

## **22. Offences**

- (1) A person liable to pay the tax who –
- (a) fails to pay the tax in accordance with section 3(1) or 4(3) or (4);
  - (b) makes a false statement or representation with intent to evade payment of the tax; or
  - (c) in any other way, evades or attempts to evade payment of the tax,

commits an offence and is liable to a fine at level 4.

(2) Where a notice published under section 4 specifies that the tax shall be paid before a person liable to pay the tax boards a passenger ship or land

transport vehicle, a person who authorizes or permits the first-mentioned person not having so paid the tax to board the passenger ship or land transport vehicle commits an offence and is liable to a fine at level 4 and to imprisonment for 6 months.

(3) In proceedings for an offence under subsection (2), it is a defence to show that the accused did not know, and could not reasonably have ascertained, that at the relevant time the person –

- (a) was liable to pay the tax; or
- (b) had not paid the tax.

(4) A person who obstructs a person in the performance of a function under this Ordinance commits an offence and is liable to a fine at level 4 and to imprisonment for 6 months.

(5) Where section 5(1) or 6(1) or (2) is contravened, the operator and his agent appointed to perform his functions under that section commit an offence and each of them is liable –

- (a) on conviction upon indictment to a fine at level 6 and, in the case of an individual, to imprisonment for 2 years; and
- (b) on summary conviction to a fine at level 5 and, in the case of an individual, to imprisonment for 1 year,

and is liable in addition to a further fine of \$3,000 for every day on which the offence continues.

(6) A person who –

- (a) in a return furnished under section 6 makes any statement or gives any information which the person knows to be incorrect in a material particular or recklessly makes any statement or gives any information which is incorrect in a material particular or knowingly omits any material particular from the return;
- (b) makes a false statement or representation with intent to obtain a refund of the tax under section 19;

(c) being a passenger liable to pay the tax before boarding a passenger ship or land transport vehicle, boards or attempts to board the passenger ship or land transport vehicle without having paid the tax, commits an offence and is liable to a fine at level 4.

### **23. Arrest**

(1) A police officer or a person authorized by the Director or Commissioner for the purposes of this section may arrest without warrant any individual reasonably suspected of committing an offence under this Ordinance.

(2) A person arrested under subsection (1) shall be taken forthwith to the nearest police station and thereafter section 52 of the Police Force Ordinance (Cap. 232) applies.

(3) A person authorized by the Director or Commissioner for the purposes of this section may stop and require any individual reasonably suspected of committing an offence under section 22 to give his name and address and to produce any document in his possession which is or contains evidence of that information.

(4) A person who fails to comply with a requirement made under subsection (3) commits an offence and is liable to a fine at level 4.

### **24. Evidence of payment of tax etc.**

(1) A person liable to pay the tax under section 3(1) or exempt under section 16 or 17(1) to pay the tax shall produce on demand –

- (a) by the Director or Commissioner;
- (b) by an authorized person; or
- (c) if the person is a passenger of a passenger ship or land transport vehicle, by the operator of the passenger ship or land transport vehicle or a person authorized by the operator for the purposes of this subsection,

evidence of having paid the tax or of his exemption.

(2) Where a person fails to produce evidence to the satisfaction of the operator or a person authorized by the operator in accordance with subsection (1), the operator or the person authorized by the operator for the purposes of that subsection may, if the person is required to pay the tax before boarding a passenger ship or land transport vehicle pursuant to a notice published under section 4, refuse to allow the person to board the passenger ship or land transport vehicle.

(3) Where a person exempt under section 16 or 17(1) fails to produce evidence in accordance with subsection (1) to the satisfaction of the Director, Commissioner, authorized person, operator or the person authorized by the operator for the purposes of that subsection, the person is liable to pay the tax under section 3(1) as if he were not so exempt, and the provisions of this Ordinance (including section 22) shall apply accordingly.

(4) In relation to a person exempt under section 16, it is not sufficient evidence of his exemption for the purposes of this section unless he produces the document of exemption issued to him under section 16(4).

## **25. Refusal to issue port clearance, vehicle licence etc.**

(1) Where –

- (a) any amount of the tax in respect of a passenger who departed from Hong Kong by a passenger ship is regarded to be in default under section 11; or
- (b) any additional sum in respect of that amount remains unpaid,

the Director may –

- (c) refuse to grant a port clearance for that passenger ship; or
- (d) prohibit that passenger ship from entering or leaving a terminal.

- (2) Where –
- (a) any amount of the tax payable by an operator of a land transport vehicle or by an owner of a specified vehicle is regarded as being in default under section 11; or
  - (b) any additional sum in respect of that amount remains unpaid,

the Commissioner may refuse to issue or renew a vehicle licence or international circulation permit in respect of –

- (c) that specified vehicle or any other motor vehicle the owner of which is the owner of that specified vehicle; or
- (d) that land transport vehicle or any other motor vehicle the owner of which is the owner of that land transport vehicle.

- (3) In this section –

“additional sum” (附加款項), in relation to an amount of the tax which is regarded as being in default under section 11, means –

- (a) a sum added to that amount of the tax under section 11(1);  
or
- (b) a sum added under section 11(2) to the total unpaid amount of that amount of the tax and the additional sum referred to in paragraph (a);

“port clearance” (出港證) means a port clearance referred to in section 15(1) of the Shipping and Port Control Ordinance (Cap. 313) or section 28(1) of the Merchant Shipping (Local Vessels) Ordinance (Cap. 548);

“terminal” (終點碼頭) means a terminal within the meaning of regulation 2 of the Shipping and Port Control (Ferry Terminals) Regulations (Cap. 313 sub. leg. H);

“vehicle licence” (車輛牌照) means a vehicle licence issued under regulation 21(8) of the Road Traffic (Registration and Licensing of Vehicles) Regulations (Cap. 374 sub. leg. E).

PART 5  
MISCELLANEOUS

**26. Appointment of agent**

(1) An operator may, and if the operator is a corporation which does not have a place of business in Hong Kong, shall, appoint an agent in Hong Kong to perform the functions of the operator under this Ordinance on his behalf.

(2) An operator shall not appoint an agent to perform any of the functions of the operator under section 5(1), 6(1) or (2) or 7 without the prior approval of the Director or Commissioner.

(3) Where an operator has appointed an agent to perform any of the functions of the operator under section 5(1), 6(1) or (2) or 7, he may only revoke the appointment by notice in writing to the agent and to the Director or Commissioner, as the case may be.

(4) An operator shall not appoint more than one agent to perform the functions of the operator under sections 5(1), 6(1) and (2) and 7.

(5) Where an agent is appointed under subsection (1) to perform the operator's functions under section 7, the operator and the agent shall be jointly and severally liable for the amount of the tax payable by the operator under section 7 and any additional sum payable by the operator under section 11, and for the purposes of those sections and section 12, a notice of demand issued under section 7(4) to either the operator or the agent shall be deemed to be a notice of demand issued to both.

(6) The Director and the Commissioner may appoint an agent to perform a function of the Director or Commissioner under this Ordinance on his behalf.

**27. Collection fee**

(1) The Financial Secretary may authorize the payment to an operator of a fee for collection of the tax.

(2) A fee referred to in subsection (1) shall be paid to the operator in such manner as the Financial Secretary may determine.

**28. Liability of an employer**

(1) Notwithstanding any term express or implied in any contract of employment, whether entered into before or after the commencement of this Ordinance, but subject to subsection (2), an employer is not liable to pay on behalf of an employee the tax payable by the employee or by any member of the employee's family under this Ordinance, nor to reimburse to the employee any such tax that has been paid, and no action lies against an employer in respect of the failure by the employer to so pay or reimburse any such tax.

(2) Subsection (1) does not apply where a contract of employment provides for payment of the tax expressly by reference to this Ordinance.

(3) In this section, the term “employer” (僱主) includes the Government.

**29. Power to require information**

(1) The Director or Commissioner may by notice in writing served on a person, whether or not the person is an operator of a passenger ship or land transport vehicle, require the person to supply such information as he may reasonably require for the performance of his functions under this Ordinance.

(2) The person shall supply the information within such time and in such manner as the Director or Commissioner may reasonably require.

(3) A person who fails to comply with subsection (2) commits an offence and is liable to a fine at level 3.

**30. Delegation of function**

(1) The Director or Commissioner may delegate any person to perform any of his functions under this Ordinance.

(2) Where the Director or Commissioner delegates a function under subsection (1), he may specify the manner in which that function is to be performed.

**31. Notice not subsidiary legislation**

A notice published under section 4, 14(4) or 17(3) is not subsidiary legislation.

**32. Amendment of Schedules**

(1) The Legislative Council may by resolution amend Schedule 1 or 4.

(2) The Commissioner may by notice published in the Gazette amend Schedule 2 or 3.

(3) The Chief Executive in Council may by order published in the Gazette amend Schedule 5 or 6.

**PART 6****CONSEQUENTIAL AMENDMENTS****33. Consequential amendments**

The enactments specified in Schedule 7 are amended as set out in that Schedule.

## SCHEDULE 1

[ss. 3, 15 &amp; 32]

## BOUNDARY FACILITIES IMPROVEMENT TAX

- |    |   |       |
|----|---|-------|
| 1. | For a person departing from Hong Kong, for each occasion            | \$18  |
| 2. | For a specified vehicle departing from Hong Kong, for each occasion | \$100 |
| 3. | For issue of a tax coupon   | \$18  |
| 4. | For issue or renewal of a monthly ticket                            | \$270 |

## SCHEDULE 2

[ss. 2 &amp; 32]

## BOUNDARY CROSSINGS

1. Lo Wu
2. Lok Ma Chau
3. Man Kam To
4. Sha Tau Kok

## SCHEDULE 3

[ss. 2 &amp; 32]

## LAND TRANSPORT VEHICLE

1. Train
2. Bus
3. Light bus

4. Goods vehicle
5. Hire car

#### SCHEDULE 4

[ss. 2 & 32]

#### SPECIFIED VEHICLE

1. Private car

#### SCHEDULE 5

[ss. 17, 19 & 32  
& Sch. 6]

#### PERSONS EXEMPT FROM LIABILITY TO PAY TAX UNDER SECTION 3(1)

1. Children under 12 years of age.
2. Persons departing from Hong Kong by a passenger ship who are crew members of the ship or are responsible for performing on board the ship any function of the operator of the ship under this Ordinance or carrying out any maintenance or repair work on board the ship.
3. Persons departing from Hong Kong by a land transport vehicle who are responsible for operating the vehicle or performing on board the vehicle any function of the operator of the vehicle under this Ordinance.
4. Persons who –
  - (a) arrive in Hong Kong on board a passenger ship not destined for Hong Kong; and
  - (b) subsequently depart from Hong Kong by the ship when the ship leaves Hong Kong.

## 5. Persons who –

- (a) arrive at the Hong Kong International Airport (“the airport”) by air only for the purpose of onward travel from Hong Kong by a passenger ship which regularly conveys passengers between the airport and any part of China other than Hong Kong and which is approved by the Airport Authority of Hong Kong to berth at the airport;
- (b) subsequently depart from Hong Kong by the ship for the purpose of their onward travel; and
- (c) before their onward travel remain at all times within the Restricted Area of the airport specified pursuant to section 37 of the Airport Authority Ordinance (Cap. 483).

## 6. Persons who –

- (a) arrive in Hong Kong on board a passenger ship solely by reason of distress, emergency or adverse weather; and
- (b) subsequently depart from Hong Kong as soon as practicable.

## 7. Persons departing from Hong Kong by a passenger ship or land transport vehicle being used at the time of departure –

- (a) for official or ceremonial purposes of the Government;
- (b) for military, diplomatic or ceremonial purposes of the government of any country; or
- (c) for official or diplomatic purposes of the United Nations or any specialized agency of the United Nations.

## 8. Persons who are entitled to be accorded exemption from the tax by operation of –

- (a) the International Organizations and Diplomatic Privileges Ordinance (Cap. 190);
- (b) the Consular Relations Ordinance (Cap. 557);
- (c) the International Organizations (Privileges and Immunities) Ordinance (Cap. 558);
- (d) the Regulations of the People's Republic of China Concerning Diplomatic Privileges and Immunities in Schedule 5 to the Promulgation of National Laws 1997 (L.N. 379 of 1997); or
- (e) the Regulations of the People's Republic of China Concerning Consular Privileges and Immunities in Schedule 3 to the Promulgation of National Laws (No. 2) 1997 (L.N. 386 of 1997).

9. Persons who –

- (a) are members of the Chinese People's Liberation Army or are civilians sponsored by the Ministry of Defence of the Central People's Government; and
- (b) are present in Hong Kong with or in connection with the Chinese People's Liberation Army,

and members of their families forming part of their households, if their journeys of departure have been sponsored by the appropriate authority or with the approval of the appropriate authority, as evidenced by a certificate issued by or on behalf of the Commander of the Hong Kong Garrison.

10. Personnel of the Liaison Office of the Central People's Government in the Hong Kong Special Administrative Region and members of their families forming part of their households, if their journeys of departure have been sponsored by it.

11. Personnel of the Office of the Commissioner of the Ministry of Foreign Affairs of the People's Republic of China in the Hong Kong Special Administrative Region and members of their families forming part of their households, if their journeys of departure have been sponsored by it.

## SCHEDULE 6

[ss. 17 & 32]

### PERSONS EXEMPT FROM LIABILITY TO PAY TAX UNDER SECTION 3(2)

1. The Government.
2. A person of a description or class specified in section 8 of Schedule 5.
3. Owners of specified vehicles being used at the time of their departure for an official purpose of –
  - (a) the Chinese People's Liberation Army;
  - (b) the Liaison Office of the Central People's Government in the Hong Kong Special Administrative Region; or
  - (c) the Office of the Commissioner of the Ministry of Foreign Affairs of the People's Republic of China in the Hong Kong Special Administrative Region.

## SCHEDULE 7

[s. 33]

## CONSEQUENTIAL AMENDMENTS

**Magistrates Ordinance****1. Offences to which defendant may plead guilty by letter**

The Third Schedule to the Magistrates Ordinance (Cap. 227) is amended by adding –

**“18. Boundary Facilities Improvement Tax**

Any offence against the Boundary Facilities Improvement Tax Ordinance ( of 2003).”.

**Shipping and Port Control (Ferry Terminals)  
Regulations****2. Returns by owners or masters**

Regulation 8(c) of the Shipping and Port Control (Ferry Terminals) Regulations (Cap. 313 sub. leg. H) is repealed.

**3. Embarkation fee**

Regulation 34 is repealed.

**4. Fees**

The Schedule is amended by repealing Part 3.

### **Merchant Shipping (Local Vessels)(Ferry Terminals) Regulation**

**5. Returns by owners, agents or coxswains**

Section 8(c) of the Merchant Shipping (Local Vessels)(Ferry Terminals) Regulation (Cap. 548 sub. leg. B) is repealed.

**6. Embarkation fee**

Section 29 is repealed.

### **Explanatory Memorandum**

The object of this Bill is to impose a tax on persons departing from Hong Kong by sea or land, and on owners of specified vehicles in respect of departures from Hong Kong of those vehicles.

2. Clause 1 states the short title of the Bill and provides for its commencement.

3. Clause 2 sets out the definitions necessary for the interpretation of the proposed Ordinance.

4. Clause 3 imposes the boundary facilities improvement tax (“tax”) in accordance with the scale set out in Schedule 1.

5. Clause 4 provides for the payment of the tax.

6. Clause 5 requires an operator of a passenger ship or land transport vehicle departing from Hong Kong or for a boundary crossing to maintain proper records of passenger departures and the tax paid to the operator.

7. Clause 6 provides for periodic returns of passenger departures and other information to be furnished by the operator to the Director of Marine (“Director”) or the Commissioner for Transport (“Commissioner”).

8. Clause 7 provides that where a return is furnished, the operator must pay the tax to the Director or Commissioner within specified period. The Director

or Commissioner may issue a notice of demand to the operator if the tax is not paid or the tax paid is less than the amount of the tax assessed.

9. Clause 8 provides for the payment of the tax by owners of specified vehicles.

10. Clause 9 provides for the procedures for objection to a notice of demand for the tax. Clause 10 provides for appeal against the decision of the Director or Commissioner on an objection to a notice of demand for the tax.

11. Clause 11 empowers the Director and the Commissioner to impose a surcharge on an operator of a passenger ship or land transport vehicle or an owner of a specified vehicle if the operator or the owner defaults in payment of the tax.

12. Clause 12 provides for recovery of the tax as a civil debt due to the Government.

13. Clause 13 empowers the Director and the Commissioner to appoint a person to collect the tax in place of an operator if the tax is unlikely to be collected by the operator.

14. Clause 14 empowers the Director and the Commissioner to authorize a person to collect the tax from a person.

15. Clause 15 provides for payment of the tax by way of tax coupons or monthly tickets.

16. Clauses 16 and 17 provide for exemptions. Clause 16 empowers the Director and the Commissioner to exempt a student from liability to pay the tax if certain conditions are met. Clause 17 provides for exemptions for other classes of persons.

17. Clause 18 empowers the Chief Secretary for Administration to waive payment of the tax by a person in case of hardship or where the public interest so requires.

18. Clauses 19 to 21 provide for refund of the tax.

19. Clause 22 creates a number of offences in connection with the failure to pay the tax, the evasion of the payment of the tax, the failure by an operator to maintain records or furnish returns, etc.
20. Clause 23 deals with the arrest of persons suspected of committing offences relating to the tax.
21. Clause 24 provides for the duty of a person to produce evidence of having paid the tax or of his exemption from liability to pay the tax. The clause also empowers an operator and a person authorized by the operator to refuse to allow a passenger to board the passenger ship or land transport vehicle if the passenger is liable to pay the tax before boarding.
22. Clause 25 empowers the Director to refuse to grant a port clearance and the Commissioner to refuse to issue or renew a vehicle licence or international circulation permit if any amount of the tax is in default.
23. Clause 26 empowers an operator to appoint an agent to perform the functions of the operator under the proposed Ordinance. An agent, if appointed, will be jointly and severally liable for the tax otherwise payable by the operator.
24. Clause 27 empowers the Financial Secretary to pay a fee to an operator for collection of the tax.
25. Clause 28 provides that an employer is not liable to pay on behalf of an employee the tax payable by the employee unless the contract of employment between them provides for payment of the tax expressly by reference to the proposed Ordinance.
26. Clause 29 provides for the power of the Director and the Commissioner to require a person to supply information for the purpose of performing their functions under the proposed Ordinance.
27. Clause 30 provides for delegation of functions by the Director or Commissioner.
28. Clause 31 provides that a notice published under the proposed section 4, 14(4) or 17(3) is not subsidiary legislation.
29. Clause 32 provides for amendment of the Schedules.

30. Clause 33 and Schedule 7 provide for the consequential amendments to other enactments.

**Existing and Future Plans of Improvement Works at Land Boundary Crossings**  
**(Capital Works)**

Project Item	Description	Date of Completion	Cost (\$M)
1. Expansion of kiosks and other facilities at Lok Ma Chau boundary crossing	Improvements: (a) The number of immigration counters increased from 28 to 50. (b) The passenger handling capacity increased from 4,200 to 7,000 passengers per hour. (c) The vehicular handling capacity raised from 19,000 to 32,000 vehicles per day. (d) Installation of fixed vehicle x-ray systems to enhance the efficiency for checking vehicles and goods by the Customs.	September 2003	1,199
2. Improvement works at Lo Wu Control Point	(a) <u>Change over from side-facing to front-facing arrival Immigration clearance counter</u>  Improvements: (i) The number of Immigration counters increased from 46 to 48. (ii) The holding capacity for passengers queuing up for clearance increased by providing each counter with 3 metres of additional queuing space.	Completed in March 2003	9



Project Item	Description	Date of Completion	Cost (\$M)
	<p>portion in the Lok Ma Chau Terminal, passenger bridge linking Lok Ma Chau and Huanggang and access road to Lok Ma Chau Terminal.</p> <p>Improvements: The new boundary crossing can alleviate congestion at existing control points including Lo Wu Control Point and meet the ever-growing demand. The planned capacity for Lok Ma Chau Spur Line is 150,000 passengers per day initially, and it can be further increased to handle 300,000 passengers.</p>		
5. Improvement to Lok Ma Chau (San Tin) Public Transport Interchange	Improvements: To provide air-conditioned passenger terminal for the Lok Ma Chau-Huanggang shuttle bus services	Phased completion as from early 2004 to mid-2005	55
6. Improvement to San Tin Interchange	To improve the capacity of San Tin Interchange	Stage 1 to be completed in 2005, Stage 2 to be completed in 2008	524
7. New Boundary Bridge between Lok Ma Chau and	The new boundary bridge can double the existing handling capacity and relieve the congestion arising from the increasin	End 2004	360

<b>Project Item</b>	<b>Description</b>	<b>Date of Completion</b>	<b>Cost (\$M)</b>
Huanggang	g cross-boundary traffic. Designated for use by freight traffic (passenger vehicles will use the existing bridge), the commissioning of the new bridge will help achieve segregation of freight traffic and passenger traffic, for better traffic management and more efficient clearance of passengers and cargoes.		
8. Others	The Government will invest over \$3 billion for other various boundary crossing facility projects including co-location of immigration and customs facilities at Shenzhen Western Corridor and installation of air-conditioning system at the Lo Wu Cross Boundary Footbridge.	Various projects to be completed from end 2004 onwards	3,000
<b>Total</b>			<b>13,886</b>

**Statistics on Annual Passenger Crossings  
at Land / Sea Control Points (1996 to 2002) and Projected Figures by 2016**

Year	Lo Wu	Hung Hom (Through- train)	Lok Ma Chau	Man Kam To	Sha Tau Kok	Sub-total for Land Crossings	Macau Ferry Terminal	China Ferry Terminal	Ocean Terminal *	Harbour Control	Sub-total for Sea Crossings	Total for Land & Sea Crossings
1996	T: 47,976,070	T: 1,808,551	T: 3,121,357	T: 967,087	T: 1,024,428	<b>T: 54,897,493</b>	T: 13,308,020	T: 7,404,172	T:	T: 662,159	<b>T: 21,374,351</b>	<b>T: 76,271,844</b>
	A: 24,218,340	A: 875,600	A: 1,536,571	A: 475,680	A: 511,358	<b>A: 27,617,549</b>	A: 6,689,517	A: 3,582,761	A:	A: 330,506	<b>A: 10,602,784</b>	<b>A: 38,220,333</b>
	D: 23,757,730	D: 932,951	D: 1,584,786	D: 491,407	D: 513,070	<b>D: 27,279,944</b>	D: 6,618,503	D: 3,821,411	D:	D: 331,653	<b>D: 10,771,567</b>	<b>D: 38,051,511</b>
1997	T: 56,296,232	T: 1,551,440	T: 5,043,603	T: 928,970	T: 1,097,129	<b>T: 64,917,374</b>	T: 11,104,974	T: 6,920,497	T:	T: 826,966	<b>T: 18,852,437</b>	<b>T: 83,769,811</b>
	A: 28,433,809	A: 741,683	A: 2,431,219	A: 450,601	A: 541,048	<b>A: 32,598,360</b>	A: 5,599,213	A: 3,325,113	A:	A: 416,043	<b>A: 9,340,369</b>	<b>A: 41,938,729</b>
	D: 27,862,423	D: 809,757	D: 2,612,384	D: 478,369	D: 556,081	<b>D: 32,319,014</b>	D: 5,505,761	D: 3,595,384	D:	D: 410,923	<b>D: 9,512,068</b>	<b>D: 41,831,082</b>
1998	T: 66,105,559	T: 1,445,725	T: 7,521,761	T: 834,724	T: 1,119,591	<b>T: 77,027,360</b>	T: 10,712,154	T: 6,204,336	T:	T: 1,050,561	<b>T: 17,967,051</b>	<b>T: 94,994,411</b>
	A: 33,363,983	A: 674,167	A: 3,604,206	A: 405,623	A: 554,799	<b>A: 38,602,778</b>	A: 5,412,468	A: 2,913,609	A:	A: 529,510	<b>A: 8,855,587</b>	<b>A: 47,458,365</b>
	D: 32,741,576	D: 771,558	D: 3,917,555	D: 429,101	D: 564,792	<b>D: 38,424,582</b>	D: 5,299,686	D: 3,290,727	D:	D: 521,051	<b>D: 9,111,464</b>	<b>D: 47,536,046</b>
1999	T: 77,193,998	T: 1,773,397	T: 9,181,205	T: 948,058	T: 1,175,787	<b>T: 90,272,445</b>	T: 9,940,268	T: 6,114,691	T: 449,186	T: 935,885	<b>T: 17,440,030</b>	<b>T: 107,712,475</b>
	A: 39,074,783	A: 839,042	A: 4,377,478	A: 451,290	A: 575,594	<b>A: 45,318,187</b>	A: 5,004,842	A: 2,840,136	A: 222,799	A: 474,892	<b>A: 8,542,669</b>	<b>A: 53,860,856</b>
	D: 38,119,215	D: 934,355	D: 4,803,727	D: 496,768	D: 600,193	<b>D: 44,954,258</b>	D: 4,935,426	D: 3,274,555	D: 226,387	D: 460,993	<b>D: 8,897,361</b>	<b>D: 53,851,619</b>
2000	T: 86,472,363	T: 2,019,115	T: 10,957,405	T: 1,017,145	T: 1,243,368	<b>T: 101,709,396</b>	T: 10,285,622	T: 6,854,612	T: 1,544,054	T: 554,382	<b>T: 19,238,670</b>	<b>T: 120,948,066</b>
	A: 43,840,290	A: 955,045	A: 5,173,376	A: 478,138	A: 600,912	<b>A: 51,047,761</b>	A: 5,192,256	A: 3,174,439	A: 769,318	A: 284,799	<b>A: 9,420,812</b>	<b>A: 60,468,573</b>
	D: 42,632,073	D: 1,064,070	D: 5,784,029	D: 539,007	D: 642,456	<b>D: 50,661,635</b>	D: 5,093,366	D: 3,680,173	D: 774,736	D: 269,583	<b>D: 9,817,858</b>	<b>D: 60,479,493</b>
2001	T: 89,505,440	T: 2,189,457	T: 12,556,427	T: 1,070,754	T: 1,315,356	<b>T: 106,637,434</b>	T: 9,713,640	T: 8,035,234	T: 1,600,368	T: 667,765	<b>T: 20,017,007</b>	<b>T: 126,654,441</b>
	A: 45,399,877	A: 1,040,895	A: 5,981,786	A: 511,243	A: 623,688	<b>A: 53,557,489</b>	A: 4,884,662	A: 3,755,240	A: 788,131	A: 351,047	<b>A: 9,779,080</b>	<b>A: 63,336,569</b>
	D: 44,105,563	D: 1,148,562	D: 6,574,641	D: 559,511	D: 691,668	<b>D: 53,079,945</b>	D: 4,828,978	D: 4,279,994	D: 812,237	D: 316,718	<b>D: 10,237,927</b>	<b>D: 63,317,872</b>
2002	T: 95,714,525	T: 2,362,896	T: 16,720,036	T: 1,140,825	T: 1,697,283	<b>T: 117,635,565</b>	T: 10,103,854	T: 8,728,219	T: 1,454,519	T: 675,500	<b>T: 20,962,092</b>	<b>T: 138,597,657</b>
	A: 48,520,465	A: 1,157,877	A: 8,222,853	A: 544,541	A: 787,581	<b>A: 59,233,317</b>	A: 5,000,947	A: 3,975,523	A: 714,216	A: 356,588	<b>A: 10,047,274</b>	<b>A: 69,280,591</b>
	D: 47,194,060	D: 1,205,019	D: 8,497,183	D: 596,284	D: 909,702	<b>D: 58,402,248</b>	D: 5,102,907	D: 4,752,696	D: 740,303	D: 318,912	<b>D: 10,914,818</b>	<b>D: 69,317,066</b>
# 2016						<b>T: 224,399,000</b>				<b>T: 26,971,000</b>	<b>T: 251,370,000</b>	

Remarks : T : Total Figures

A : Arrival Figures

D : Departure Figures

\* Ocean Terminal has been put into operation since September 1999.

# Projected Figures, including passenger crossings at new land and sea control points

Chapter:	227	Title:	MAGISTRATES ORDINANCE	Gazette Number:	23 of 2002
Schedule:	3	Heading:	<b>OFFENCES TO WHICH DEFENDANT MAY PLEAD GUILTY BY LETTER</b>	Version Date:	19/07/2002

[section 18E(1)]

1. Summary Offences

Any offence against section 4(11) or section 4A (Obstruction of public places) or section 13(1) (Making noise at night) of the Summary Offences Ordinance (Cap 228).

(Replaced 58 of 1967 s. 5)

2. Rabies

An offence against section 23 (Dogs to be kept under control) of the Rabies Ordinance (Cap 421) or section 20 (Dogs to be licensed) of the Rabies Regulation (Cap 421 sub. leg.).

(Replaced L.N. 8 of 1995)

3. Road Traffic

(1) Any offence against section 41(1), 42(2), 46, 48, 50, 51, 52(1) or 52(2) of the Road Traffic Ordinance (Cap 374).

(2) Any offence against the Road Traffic (Construction and Maintenance of Vehicles) Regulations (Cap 374 sub. leg.).

(3) Any offence against the Road Traffic (Driving Licences) Regulations (Cap 374 sub. leg.).

(4) Any offence against the Road Traffic (Parking) Regulations (Cap 374 sub. leg.).

(5) Any offence against the Road Traffic (Registration and Licensing of Vehicles) Regulations (Cap 374 sub. leg.), other than a contravention of regulation 29.

(6) An offence against the Road Traffic (Traffic Control) Regulations (Cap 374 sub. leg.), other than a contravention of regulation 53 or 54.

(7) Any offence against the Road Traffic (Public Service Vehicles) Regulations (Cap 374 sub. leg.).

(8) Any offence against the Road Traffic (Safety Equipment) Regulations (Cap 374 sub. leg.).

(9) Any offence against the Road Traffic (Village Vehicles) Regulations (Cap 374 sub. leg.). (Added L.N. 18 of 1987)

(Replaced L.N. 229 of 1984)

4. Public Health and Urban Services

Any offence against section 9 (Prevention of obstruction) of the Public Markets Regulation (Cap 132 sub. leg.).

(Amended 10 of 1986 s. 32; 78 of 1999 s. 7)

5. Tramway

(1) Any offence against rule 5 of the Tramway Working Rules (Cap 107 sub. leg.)\*.

(2) Any contravention of the Road Traffic (Road Crossing) Regulations (Cap 220 sub. leg.)+ that

is an offence under regulation 13 of the said Regulations by virtue of rule 6 of the Tramway Working Rules (Cap 107 sub. leg.)\*.

(Added L.N. 58 of 1965)

6. (Repealed L.N. 198 of 1999)

7. Government Tunnels

Any offence against the Road Tunnels (Government) Regulations (Cap 368 sub. leg.).

(Replaced L.N. 151 of 1989)

8. (Repealed 23 of 2002 s. 89)

9. Immigration

An offence against section 17C(3) of the Immigration Ordinance (Cap 115).

(Added L.N. 317 of 1980)

10. Registration of Persons

An offence against regulation 11(2A) of the Registration of Persons Regulations (Cap 177 sub. leg.).

(Added L.N. 317 of 1980)

11. Housing (Traffic)

An offence against by-law 8(1)(a), 8(1)(b), 25(1)(a) or 25(1)(b) of the Housing (Traffic) By-laws (Cap 283 sub. leg.).

(Added L.N. 80 of 1993)

12. Smoking (Public Health)

An offence against section 3(2) or 4(1) of the Smoking (Public Health) Ordinance (Cap 371).

(Added L.N. 229 of 1995)

13. Eastern Harbour Crossing

Any offence against the Eastern Harbour Crossing Road Tunnel By-laws (Cap 215 sub. leg.).

(Added L.N. 356 of 1997)

14. Tate's Cairn Tunnel

Any offence against the Tate's Cairn Tunnel By-laws (Cap 393 sub. leg.).

(Added L.N. 356 of 1997)

15. Western Harbour Crossing

Any offence against the Western Harbour Crossing Bylaw (Cap 436 sub. leg.).

(Added L.N. 356 of 1997)

16. Tsing Ma Control Area

(1) Any offence against the Tsing Ma Control Area (General) Regulation (Cap 498 sub. leg.).

(2) Any offence against the Tsing Ma Control Area (Tolls, Fees and Charges) Regulation (Cap 498 sub. leg.).

(Added L.N. 356 of 1997)

17. Tai Lam Tunnel and Yuen Long Approach Road

Any offence against the Tai Lam Tunnel and Yuen Long Approach Road Bylaw (Cap 474 sub. leg.).

(Added 29 of 1999 s. 2)

- \* Repealed-See L.N. 220 of 1986
- + Repealed-See L.N. 292 of 1983

Chapter:	313H	Title:	SHIPPING AND PORT CONTROL (FERRY TERMINALS) REGULATIONS	Gazette Number:	64 of 1999
Regulation:	8	Heading:	<b>Returns by owners or masters</b>	Version Date:	05/11/1999

The owner or master of a ferry vessel shall, at such times as the Director may require, make to the Director a return showing, in respect of such period as may be specified by the Director, such particulars as the Director may require-

- (a) of each voyage made by the ferry vessel;
- (b) of the cargo carried on each voyage of the ferry vessel;
- (c) of the number of passengers carried on each voyage of the ferry vessel, and the category of such passengers for the purposes of regulation 34;
- (d) of the number of persons embarking and disembarking at each port of call during each voyage of the ferry vessel; and
- (e) relating to the manning or operation of the ferry vessel.

Chapter:	313H	Title:	SHIPPING AND PORT CONTROL (FERRY TERMINALS) REGULATIONS	Gazette Number:	64 of 1999
Regulation:	34	Heading:	<b>Embarkation fee</b>	Version Date:	05/11/1999

The passenger embarkation fee prescribed shall be paid by the owner of a ferry vessel in respect of each passenger embarking on the ferry vessel at a terminal.

Chapter: 313H Title: SHIPPING AND PORT CONTROL Gazette Number: 64 of 1999  
 (FERRY TERMINALS) REGULATIONS  
 Schedule: Heading: SCHEDULE Version Date: 05/11/1999

[regulation 37]

FEES

PART 1-PASSES

		\$
(a)	A standard pass .....	105
(b)	A replacement pass .....	180
(c)	(Repealed L.N. 253 of 1994)	

(L.N. 254 of 1992; L.N. 340 of 1993; L.N. 253 of 1994)

PART 2-BERTHING

		\$
(a)	For a ferry vessel, per ton for each berthing in the case of-	
	(i) a dynamically supported craft .....	3
	(ii) a ferry vessel, other than a dynamically supported craft .....	1.50
(b)	For a vessel, not being a ferry vessel, per ton for each berthing .....	3

(L.N. 168 of 1988; L.N. 97 of 1990; 40 of 1991 s. 2; L.N. 380 of 1992)

PART 3-PASSENGER EMBARKATION

		\$
(a)	For each passenger paying an amount exceeding \$12 for a single journey .....	18
(b)	For each passenger travelling free of charge on a complimentary ticket ..	18
(c)	For each passenger not failing within (a) or (b) .....	6

(L.N. 168 of 1988; L.N. 314 of 1989; L.N. 97 of 1990; 40 of 1991 s. 3; L.N. 380 of 1992; L.N. 148 of 1998)

Chapter:	548B	Title:	MERCHANT SHIPPING (LOCAL VESSELS) (FERRY TERMINALS) REGULATION	Gazette Number:
Section:	8	Heading:	<b>Returns by owners, agents or coxswains</b>	Version Date:

Remarks:  
not yet in operation

The owner, his agent or the coxswain of a ferry vessel shall, at such times as the Director may require, submit to the Director a return showing, in respect of such period as may be specified by the Director, such particulars as the Director may require-

- (a) of each voyage made by the vessel;
- (b) of the cargo carried on each voyage of the vessel;
- (c) of the number of passengers carried on each voyage of the vessel, and the category of the passengers for the purposes of section 29;
- (d) of the number of persons embarking and disembarking at each port of call during each voyage of the vessel; and
- (e) relating to the manning or operation of the vessel.

Chapter:	548B	Title:	MERCHANT SHIPPING (LOCAL VESSELS) (FERRY TERMINALS) REGULATION	Gazette Number:
Section:	29	Heading:	<b>Embarkation fee</b>	Version Date:

Remarks:  
not yet in operation

The owner of a ferry vessel or his agent shall pay the prescribed fee for passenger embarkation in respect of each passenger embarking on the vessel at a terminal.