

Bills Committee on Shenzhen Bay Port Hong Kong Port Area Bill

Administration of the Hong Kong Port Area as a closed area

Purpose

Pursuant to the discussions at the Bills Committee meeting on 13 March 2007, this paper sets out the arrangements related to Hong Kong's administration of the Shenzhen Bay Port Hong Kong Port Area (HKPA) as a closed area.

Background

2. We will administer the HKPA as a closed area according to the laws of Hong Kong, as in the case of other land boundary control points in Hong Kong.

Relevant provisions in the Bill

3. Two clauses in the Bill are related to the administration of the HKPA as a closed area:

- (a) Paragraph 2(a) of the Preamble of the Bill states that the Standing Committee of the National People's Congress decided on 31 October 2006 that the Hong Kong Special Administrative Region (HKSAR) is to administer the HKPA as a closed area; and
- (b) Clause 4 of the Bill stipulates that for the purposes of the Public Order Ordinance (Cap. 245) and any other enactment that applies to a closed area (as defined in section 2(1) of that Ordinance), the HKPA is a closed area so defined.

Public Order Ordinance

4. The legislative provisions relating to the administration of a closed area as defined in section 2(1) of the Public Order Ordinance (POO) are mainly sections 36 to 39 of the POO. These provisions provide for the declaration of closed areas, permits to enter and leave closed areas, prohibition on entering or leaving closed areas without permits, general permission to enter or leave closed areas and power of arrest.

5. At present, all of the four land boundary control points (namely Lok Ma Chau, Man Kam To, Sha Tau Kok and Lo Wu) in Hong Kong lie within the Frontier Closed Area as specified in the Frontier Closed Area Order (Cap. 245, Subsidiary Legislation A). By virtue of the Frontier Closed Area (Permission to Enter) Notice (Cap. 245, Subsidiary Legislation H) made under section 38A of the POO, general permission is granted to allow specified categories of persons to enter or leave the Frontier Closed Area.

6. As to the Lok Ma Chau Boundary Control Point (with a mode of operation similar to that of the proposed HKPA), persons who are granted permission to enter or leave the Frontier Closed Area within the time and subject to the conditions specified in the Notice include:

- (a) the drivers of and through passengers on road vehicles to or from the Mainland of China, entering or leaving via the Lok Ma Chau Boundary Control Point; and
- (b) the drivers of taxis and public light buses on a scheduled service who enter or leave the Frontier Closed Area for the purpose of carrying persons entering or leaving the Lok Ma Chau Boundary Control Point, and the passengers on those vehicles who enter, or intend to leave, Hong Kong via that Control Point.

7. Apart from the aforementioned general permission, the Commissioner of Police may issue a permit under section 37 of the POO to allow any person to enter or leave a closed area. At the Lok Ma Chau Boundary Control Point, for example, individuals who are issued such permits include the staff working in that Control Point.

8. As reported in the paper entitled “Legislative and Other Preparatory Work” (CB(2)1250/06-07(02)) submitted to the Bills Committee on 6 March 2007, we plan to make certain subsidiary legislation for the HKPA, including granting general permission under the POO to allow persons of certain categories to enter or leave the HKPA which would be a closed area. The categories of persons covered by the general permission for the HKPA are similar to those covered by the general permission for the Lok Ma Chau Boundary Control Point mentioned in paragraph 6. As we plan to operate two franchised bus routes for the HKPA, the general permission will also cover the drivers and passengers of these franchised buses in addition to the categories of persons mentioned in paragraph 6. Furthermore, as with the current arrangement mentioned in paragraph 7 above, the Commissioner of Police may issue a permit under section 37 of the POO to individuals (including the staff working in the HKPA), allowing them to enter or leave the closed area.

Road Traffic (Traffic Control) Regulations and Road Traffic (Registration and Licensing of Vehicles) Regulations

9. Vehicles entering or leaving the closed roads in a closed area are regulated under road traffic legislation. Like the access roads to other land boundary control points, the access roads to the HKPA will be designated as closed roads under section 27 of the Road Traffic (Traffic Control) Regulations (Cap. 374, Subsidiary Legislation G). Apart from vehicles granted exemptions under the Regulations, only vehicles issued with closed road permits by the Commissioner for Transport under section 49 of the Road Traffic (Registration and Licensing of Vehicles) Regulations (Cap. 374, Subsidiary Legislation E) may enter the closed roads.

10. Furthermore, as reported in the paper entitled ‘Legislative and Other Preparatory Work’ (CB (2) 1250/06/07(02)), we will designate the Hong Kong section of the Shenzhen Bay Bridge and the related local road (i.e. the Deep Bay Link Portion) as a closed area under the POO on the same day the HKPA comes into being. The arrangements set out in paragraph 9 above will also be applicable in the area.

Security Measures

11. At present, the land boundary is patrolled by the Hong Kong Police Force round the clock. A fence has been erected and detection devices have been installed along the land boundary.

12. As for the HKPA, the area will also be patrolled by the Hong Kong Police Force round the clock. Except for the immigration channels and emergency exits, a fence will be erected and detection devices installed along the perimeter of the Hong Kong Clearance Area to guard against illegal immigration and other cross-border illegal activities.

Security Bureau

19 March 2007