

立法會

Legislative Council

LC Paper No. LS60/06-07

**Paper for the House Committee Meeting
on 20 April 2007**

Legal Service Division Report on Tsing Sha Control Area Bill

I. SUMMARY

- 1. Objects of the Bill** To provide for the determination of the boundaries of the road network between Sha Tin and Tsing Yi via Cheung Sha Wan to be known as the Tsing Sha Control Area (the Control Area), its management, operation and maintenance and the imposition of financial penalties on its operators.
- 2. Comments**
 - (a) The Bill empowers the Commissioner of Transport to determine or vary the boundaries of the Control Area, and to appoint authorized officers with powers to manage, control and regulate the Control Area;
 - (b) The Bill imposes financial penalties on the operators of the Control Area on failure to comply with the provisions of the Bill or the management agreement;
 - (c) The Chief Executive in Council and the Secretary for Environment, Transport and Works are empowered to make subsidiary legislation for tolls, management and control, etc. for the Control Area.
- 3. Public Consultation** The public has not been consulted on the provisions of the Bill.
- 4. Consultation with LegCo Panel** The Panel on Transport was briefed on the major provisions of the Bill at its meeting on 26 January 2007.
- 5. Conclusion** Members may wish to consider setting up a Bills Committee to study such matters as the prescription of tolls, the level of penalties under the Bill and the management of the Control Area.

II. REPORT

Objects of the Bill

To provide for—

- (a) the determination of the boundaries of the road network between Sha Tin and Tsing Yi via Cheung Sha Wan to be known as the Tsing Sha Control Area (the Control Area);
- (b) the management, operation and maintenance of the Control Area (including the regulation of vehicular and pedestrian traffic in the Control Area and the charging of tolls for the use of the toll area in the Control Area and other fees or charges);
- (c) the imposition of financial penalties on operators of the Control Area; and
- (d) other ancillary and related matters (including a related amendment to the Road Traffic (Public Service Vehicles) Regulations (Cap. 374 sub. leg. D).

LegCo Brief Reference

2. ETWB(T) CR1/981/00 issued by the Environment, Transport and Works Bureau on 28 March 2007.

Date of First Reading

3. 18 April 2007.

Comments

Background

4. Route 8 is a strategic road linking Sha Tin and North Lantau via Cheung Sha Wan and Tsing Yi. The section of Route 8 between Tsing Yi and Sha Tin will form the Control Area. The construction of the Control Area is underway and will be completed in stages. The section of the Control Area between Sha Tin and Cheung Sha Wan will be tolled but not the section between Cheung Sha Wan and Tsing Yi. The management, operation and maintenance of the Control Area will be outsourced to an operator through open tender under a management agreement. The western section of Route 8 is the Tsing Ma Control Area (TMCA), which is regulated

by Tsing Ma Control Area Ordinance (Cap. 498). The ownership of the whole Route 8, including both the TMCA and the Control Area, will remain with the Government.

5. According to the LegCo Brief, upon passage of the Bill, the Chief Executive in Council will make the Tsing Sha Control Area (Tolls, Fees and Charges) Regulation to prescribe and provide for the payment of tolls, fees and charges (including charges of escort, removal, impounding and storage of vehicles) in the Control Area. The Secretary for Environment, Transport and Works (SETW) will also make the Tsing Sha Control Area (General) Regulation to provide for the control and regulation of the Control Area including functions of the operator in the management, operation and maintenance of the Control Area, classification and design of traffic signs, regulation of vehicular and pedestrian traffic and passengers on vehicles, manner of loading vehicles and securing of loads on vehicles, etc.

The Bill

6. The Bill applies to the vehicles and persons in the service of the Government. It also provides for the application to the Control Area of the Road Traffic Ordinance (Cap. 374) and the Road Traffic (Driving-offence Points) Ordinance (Cap. 375).

7. The Commissioner of Transport (the Commissioner) shall determine, and may vary, the boundaries of the Control Area, the toll area, tunnels and tunnel areas without amending the proposed Ordinance. The Commissioner may appoint authorized officers with powers provided by the Bill to carry out enforcement actions to control and regulate vehicular and pedestrian traffic within the Control Area. Non-compliance with the orders, directions or instructions of or giving false information to authorized officers is an offence. The Bill makes provisions for the admissibility of evidence in any proceedings in any court.

8. The Secretary for the Environment, Transport and Works (SETW) is empowered to authorize closure of any road in the Control Area to carry out emergency works.

9. The Bill empowers the Commissioner or the operator to take steps to remove and to dispose of any vehicle or thing which is causing an obstruction to the traffic within the Control Area. The Bill also sets out the procedures for the disposal of abandoned vehicles.

10. If the operator fails to comply with the provisions of the Bill or is in breach of the management agreement, financial penalties will be imposed. The levels of penalty are set out in the Schedule to the Bill.

11. The Chief Executive in Council is empowered to make regulations including the prescription and provision for the payment of tolls, fees and charges. SETW is also empowered to make regulations providing for the control and

management of the Control Area. SETW is further empowered to give directions of a general nature to the operator if the public interest so requires.

12. The Bill also provides for amendments to Road Traffic (Public Service Vehicles) Regulations (Cap. 374 sub. leg. D) to enable taxi drivers to charge passengers the toll for using the toll area of the Control Area.

13. The Bill shall come into operation on a day to be appointed by SETW by notice published in the Gazette.

Public Consultation

14. The public has not been consulted on the provisions of the Bill.

Consultation with LegCo Panel

15. The Administration briefed the Panel on Transport at its meeting on 26 January 2007 on the major components of the Tsing Sha Control Area Bill. In order to ensure the smooth and timely commissioning of Route 8, the Panel urged the Administration to honour its undertakings made in response to the requests of District Councils and local bodies prior to the commissioning of the route. It also requested the Administration to keep the relevant trades informed of the operation of the Tsing Sha Control Area. Members did not object to the introduction of the Bill into the Legislative Council.

Conclusion

16. Members may wish to consider setting up a Bills Committee to study the prescribing of the tolls, the level of penalties imposed under the Bills, and the management of the Control Area.

17. The Legal Service Division is still scrutinizing the legal and drafting aspects of the Bill and will report further if necessary.

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