

LEGISLATIVE COUNCIL BRIEF

Public Order Ordinance
(Chapter 245)

CLOSED AREA (HONG KONG SECTION OF THE SHENZHEN BAY BRIDGE AND DEEP BAY LINK PORTION) ORDER

INTRODUCTION

At the meeting of the Executive Council on 24 April 2007, the Council ADVISED and the Chief Executive ORDERED that the Closed Area (Hong Kong Section of the Shenzhen Bay Bridge and Deep Bay Link Portion) Order, at **Annex**, should be made under section 36 of the Public Order Ordinance (POO). The Order seeks to designate the Hong Kong section of the Shenzhen Bay Bridge (the Bridge) leading to the Shenzhen Bay Port Hong Kong Port Area (HKPA) and the related local road in the vicinity (the Deep Bay Link portion) as a closed area.

JUSTIFICATIONS

2. The HKPA will be set up in the Shenzhen Bay Port and covers the Shenzhen section of the Bridge. The HKPA is declared by the Shenzhen Bay Port HKPA Ordinance (the HKPA Ordinance) and will come into operation when Shenzhen Bay Port commences operation. The HKPA includes the Hong Kong Clearance Area where the new Hong Kong control point (i.e. the Shenzhen Bay Control Point (SBCP)) will be located, and the Shenzhen section of the Bridge. Under section 4 of the HKPA Ordinance, the HKPA will be a closed area as defined in section 2(1) of the POO.

3. The Hong Kong section of the Bridge is outside the HKPA but it is part of the Bridge linking the HKPA with the Hong Kong proper. For the effective management of the new control point, including the maintenance of public order and public safety, the Hong Kong section of the Bridge and the Deep Bay Link portion, like the Shenzhen section of the Bridge, should be designated as a closed area.

4. The Bridge is not designed for pedestrian use, and people in vehicles entering the Deep Bay Link portion from the Hong Kong side would not be able to turn back until they reach the SBCP at the HKPA since there is no turning point along the Deep Bay Link portion and Hong Kong section of the Bridge. Unless strict entry control is enforced from the entry point of the Hong Kong section of the Bridge, people in vehicles entering the Bridge by mistake may cause unnecessary disruption to the likely heavy traffic at the SBCP. This could affect the smooth passage of bona fide passengers via the SBCP, possibly resulting in chaos and conflicts among users of the area, and in serious cases leading to public disorder at the SBCP.

5. Moreover, according to the experience of the Police, control points are common black spots for certain illegal activities, e.g. pick-pocketing, illegal immigration and smuggling. If the proposed closed area arrangement is not in place, the HKPA could become an easy target for criminals to carry out illegal activities. Given the large number of passengers likely to be utilizing the SBCP (the daily two-way passenger flow is estimated to be 30 800 during the initial period of commissioning) and the vast areas covered by the HKPA (415 654 m²), this would pose a problem for law enforcement. It would also jeopardize the effectiveness of the boundary crossing if a disproportionate amount of law enforcement resources would have to be deployed to deal with law and order problems generated by non-bona fide users of the crossing. Hence, as a corollary of the HKPA closed area, the Hong Kong section of the Bridge and the Deep Bay Link portion need to be designated as a closed area as well so as to restrict access and hence allow more effective control over the SBCP and ensure the security of the area.

6. Currently, all land boundary control points in Hong Kong are situated within the Frontier Closed Area (FCA), a closed area designated under the POO. One of the recommendations arising from the review of the coverage of the FCA announced in September 2006 is to retain the land boundary control points within the FCA, in order to maintain the security and effective operation of the control points. This consideration is equally applicable to the HKPA and the Hong Kong section of the Bridge directly leading therefrom.

7. The proposed closed area covers, horizontally, the outermost left and right edge lines of the Hong Kong section of the Bridge and the Deep Bay Link portion, as delineated on the map attached to the Order at **Annex**. Vertically, the upper vertical boundary of the area is set at an elevation of +165 mPD (metres above Hong Kong Principal Datum) for the Hong Kong section of the Bridge and an elevation of +60 mPD for the Deep Bay Link portion. The lower vertical boundary of the area is set at the bottom parallel edge lines of the bridge box girders for the Hong Kong section of the Bridge and is set at 4 m below the road surface for the Deep

Bay Link portion. The proposed closed area comprises new facilities purposely built for the boundary-crossing with no inhabitant. Since the site has not been put to any use, the setting up of the closed area would have no adverse effect in this regard.

8. The proposed restriction would take effect on a day to be appointed by the Secretary for Security, which will be the day on which the HKPA commences operation (also the day on which the closed area for the HKPA comes into operation). Given the nature of the control point, the closure would have to be on a 24-hour basis.

9. After the setting up of the closed area, the Commissioner of Police would issue, under section 37(2) of the POO, permits to persons to allow them to enter or leave the closed area, if they have a need to enter the closed area. Also, the Commissioner has, under section 38A of the POO, granted general permission to persons entering or leaving Hong Kong via the new control point at the HKPA and drivers of road vehicles and specified modes of public transport (namely, urban and New Territories taxis, franchised buses on a specified route and public light buses running scheduled services) carrying those persons to enter or leave the closed area declared under the Order, as well as the closed area at the HKPA, subject to specified conditions.

OTHER OPTIONS

10. There are no other options given the need to ensure the integrity of the HKPA as a closed area, and the public order and public safety needs.

THE ORDER

11. The Order seeks to set up a closed area, under section 36 of the POO, of such coverage and for the duration as set out in paragraphs 7 and 8 above.

LEGISLATIVE TIMETABLE

12. The legislative timetable will be –

Publication in the Gazette	4 May 2007
Tabling at the Legislative Council	9 May 2007
Commencement	A day to be appointed by the Secretary for Security by notice published in the

Gazette, which will be the day on which the HKPA commences operation

IMPLICATIONS

Basic Law and Human Rights Implications

13. The setting up of a closed area by invoking section 36 of the POO restricts the right to liberty of movement, since a person without the requisite permission is prohibited from entering or leaving the area on a 24-hour basis upon the commencement of the Order. However, for the justifications set out in paragraphs 2 to 9 above, we are satisfied that what is currently proposed is no more than what is necessary and proportionate to accomplish the purpose of protection of public order and public safety.

14. In view of the above, the Department of Justice has confirmed that the proposal is in conformity with the Basic Law, including the provisions concerning human rights.

Financial and Civil Service Implications

15. There will be no additional financial and civil service implications other than those associated with the HKPA Ordinance.

Economic Implications

16. The proposed closed area is part and parcel of the package of measures required for the smooth operation of the HKPA. The proposal should benefit the economy by avoiding unnecessary traffic disruption at the SBCP resulting from people in vehicles entering the Bridge by mistake. It could also help maintain public order and public safety at the SBCP, which is crucial for the efficient and effective management of the new control point.

Other Implications

17. The proposal has no sustainability implications.

18. The Order will not affect the current binding effect of the POO.

PUBLIC CONSULTATION

19. The Administration briefed the Bills Committee of the Legislative Council on the HKPA Bill on the HKPA-related subsidiary legislation, including the Order, that were planned to be made before the HKPA commences operation, on 7 March 2007.

PUBLICITY

20. A press release will be issued on 4 May 2007. We will also make available a spokesman to answer media enquiries.

ENQUIRIES

21. Any enquiries on this brief can be addressed to Miss Rosalind Cheung, Assistant Secretary for Security, at 2810 2686.

Security Bureau
4 May 2007

CLOSED AREA (HONG KONG SECTION OF THE SHENZHEN BAY BRIDGE AND DEEP BAY LINK PORTION) ORDER

(Made by the Chief Executive under section 36(1) of the Public Order Ordinance (Cap. 245) after consultation with the Executive Council)

1. Commencement

This Order shall come into operation on a day to be appointed by the Secretary for Security by notice published in the Gazette.

2. Declaration of closed area

The area enclosed by the boundaries set out in Part 1 of the Schedule (“the Area”) is declared to be a closed area.

SCHEDULE

[s. 2]

CLOSED AREA

PART 1

BOUNDARIES OF CLOSED AREA

1. Horizontal boundaries

The horizontal boundaries of the Area are the outermost left and right edge lines of –

- (a) the Hong Kong section of the Shenzhen Bay Bridge which is described as such and shown stippled black on the map set out in Part 2; and
- (b) the Deep Bay Link Portion which is described as such and shown coloured grey on the map set out in Part 2.

2. Vertical boundaries

- (1) The upper vertical boundary of the Area is –

- (a) in relation to the Hong Kong section of the Shenzhen Bay Bridge referred to in section 1(a), set at an elevation of +165 mPD (metres above Hong Kong Principal Datum); and
 - (b) in relation to the Deep Bay Link Portion referred to in section 1(b), set at an elevation of +60 mPD (metres above Hong Kong Principal Datum).
- (2) The lower vertical boundary of the Area is –
 - (a) in relation to the Hong Kong section of the Shenzhen Bay Bridge referred to in section 1(a), the bottom parallel edge lines of the bridge box girders; and
 - (b) in relation to the Deep Bay Link Portion referred to in section 1(b), set at 4 m below the road surface.

PART 2

MAP OF CLOSED AREA

Chief Executive

2007

Explanatory Note

The purpose of this Order is to declare the Hong Kong section of the Shenzhen Bay Bridge and the Deep Bay Link Portion as a closed area under the Public Order Ordinance (Cap. 245).