

LEGISLATIVE COUNCIL BRIEF

Public Order Ordinance (Chapter 245)

FRONTIER CLOSED AREA (PERMISSION TO ENTER) (AMENDMENT) NOTICE 2007

INTRODUCTION

A The Commissioner of Police (CP), on 2 May 2007, made the Frontier Closed Area (Permission to Enter) (Amendment) Notice 2007 (the Amendment Notice), at **Annex A**, under section 38A(1) of the Public Order Ordinance (Cap. 245). By the Amendment Notice, drivers of specified modes of public transport carrying persons to or from the public transport interchange (PTI) located next to the new Lok Ma Chau Spur Line Control Point (the Spur Line Control Point) and cross-boundary travellers who enter or leave Hong Kong via the Spur Line Control Point will be permitted to enter or leave the Frontier Closed Area (FCA).

JUSTIFICATIONS

2. The Spur Line Control Point and the PTI will commence operation in 2007. The PTI will be used by specified modes of public transport of franchised buses, public light buses and taxis. Both the Spur Line Control Point and the PTI are located inside the Frontier Closed Area (FCA), which is a closed area, declared pursuant to section 36 of the Public Order Ordinance (Cap. 245).

3. Section 37 of Cap. 245 provides that a permit may be issued by CP to any person allowing that person to enter or leave a closed area. Section 38A of Cap. 245 further provides that CP may in relation to a closed area, by notice published in the Gazette, grant permission to persons of any class or category specified in the notice to enter or leave a closed area during such times and

subject to such exceptions, conditions or restrictions as are specified in the notice. Such permission has been granted by the existing Frontier Closed Area (Permission to Enter) Notice (Cap. 245H) (the principal Notice), at **Annex B**, made under section 38A for drivers of cross-boundary vehicles and of vehicles operating to and from the existing control points as well as cross-boundary travellers who enter or leave Hong Kong via these control points to enter or leave the FCA.

B

4. To facilitate the efficient operation of the Spur Line Control Point and the PTI, we propose to amend the principal Notice to grant similar permission to the drivers of specified modes of public transport and cross-boundary travellers who enter or leave Hong Kong via the Spur Line Control Point.

THE AMENDMENT NOTICE

Interpretation (Clauses 2 and 3)

5. Clauses 2 and 3 define and consolidate the terms used in the principal Notice and the Amendment Notice.

Schedule to principal Notice amended (Clause 4)

6. Clause 4 adds new items 2D and 2E to the Schedule to the principal Notice. Item 2D permits drivers of taxis and franchised buses on a specified route in uniform carrying persons to or from the PTI as well as cross-boundary travellers taking these vehicles to enter or leave the FCA. Item 2E permits drivers of public light buses on a scheduled service carrying persons to or from the PTI or Ha Wan Tsuen (as specified in the passenger service licence in respect of the scheduled service) as well as cross-boundary travellers taking these vehicles to enter or leave the FCA.

7. Clause 4 also effects some minor and technical amendments to the existing provisions of the principal Notice for clearer presentation.

LEGISLATIVE TIMETABLE

8. The legislative timetable is as follows -

Publication in the Gazette

4 May 2007

Tabling in the Legislative Council

9 May 2007

IMPLICATIONS OF THE PROPOSAL

9. The Amendment Notice is in conformity with the Basic Law, including the provisions concerning human rights. It has no financial, civil service, economic or sustainability implications. It will not affect the current binding effect of Cap. 245.

PUBLIC CONSULTATION

10. The Legislative Council Panel on Transport was briefed on the legislative amendments at its meeting on 26 January 2007. Members raised no objection.

PUBLICITY

11. A Legislative Council brief has been issued. A spokesman will be available to answer enquiries.

ENQUIRIES

12. For any enquiries on the brief, please contact Miss Jane Lee, Assistant Secretary for Security, at telephone number 2810 3523.

Security Bureau
2 May 2007

FRONTIER CLOSED AREA (PERMISSION TO ENTER) (AMENDMENT) NOTICE 2007

(Made by the Commissioner of Police under section 38A(1) of the Public Order Ordinance (Cap. 245))

1. Commencement

This Notice shall come into operation on a day to be appointed by the Commissioner of Police by notice published in the Gazette.

2. Section added

The Frontier Closed Area (Permission to Enter) Notice (Cap. 245 sub. leg. H) is amended by adding –

“1A. Interpretation

In this Notice –

“cross-boundary passenger” (過境乘客) means a passenger travelling to or from the Mainland of China;

“franchised bus” (專利巴士) means a bus in respect of which a franchise is in force under the Public Bus Services Ordinance (Cap. 230);

“Frontier Closed Area” (邊境禁區) means the area specified in the Schedule to the Frontier Closed Area Order (Cap. 245 sub. leg. A);

“passenger service licence” (客運營業證) has the meaning assigned to it by section 2 of the Road Traffic Ordinance (Cap. 374);

“scheduled service” (專線服務) has the meaning assigned to it by regulation 2(1) of the Road Traffic (Public Service Vehicles) Regulations (Cap. 374 sub. leg. D);

“specified route” (指明路綫) has the meaning assigned to it by section 2 of the Public Bus Services Ordinance (Cap. 230).”.

3. Frontier Closed Area

Paragraph 3 is repealed.

4. Schedule amended

Part I of the Schedule is amended –

- (a) in item 1 –
 - (i) by repealing everything in the second column and substituting –
“Persons travelling to or from the Mainland of China who enter or leave the Frontier Closed Area by train.”;
 - (ii) in the fourth column, by repealing “Passengers” and substituting “The person”;
- (b) in item 2 –
 - (i) in the second column, in the English text, by repealing “through” and substituting “cross-boundary”;
 - (ii) in the second column, by adding “Hong Kong” before “via”;
 - (iii) in the fourth column, by repealing “and no person shall” and substituting “, and the driver or passenger shall not”;
- (c) in item 2A –
 - (i) in the second column, in the English text, by repealing “through” and substituting “cross-boundary”;
 - (ii) in the second column, by adding “Hong Kong” before “via”;
 - (iii) in the fourth column, by repealing “and no person shall” and substituting “, and the driver or passenger shall not”;
- (d) in item 2B –

- (i) in the second column, in the English text, by repealing “through” and substituting “cross-boundary”;
 - (ii) in the second column, by adding “Hong Kong” before “via”;
 - (iii) in the fourth column, by adding “on San Sham Road” after “that boundary”;
 - (iv) in the fourth column, by repealing “and no person shall” and substituting “, and the driver or passenger shall not”;
- (e) in item 2C –
- (i) in the second column, by adding “sole” before “purpose of carrying”;
 - (ii) in the second column, by repealing “and the passengers on those vehicles who enter, or intend to leave, Hong Kong via that Control Point” and substituting –
“and the persons –
 - (a) who enter that Area by those vehicles for the sole purpose of leaving Hong Kong via that Control Point; or
 - (b) who leave, or intend to leave, that Area by those vehicles after entering Hong Kong via that Control Point”;
 - (iii) by repealing everything in the third column and substituting –
“Beginning on 2300 hours on each day and ending with 0630 hours on the next day”;
 - (iv) by repealing everything in the fourth column and substituting –

“The driver –

- (a) shall drive his vehicle directly from the Frontier Closed Area boundary on San Sham Road (JK 9948 9163) to the Lok Ma Chau Boundary Control Point or from that Control Point to that boundary on San Sham Road; and
- (b) shall not leave the immediate vicinity of the vehicle.

The person shall not leave the immediate vicinity of the vehicle at any place other than that Control Point.”;

- (f) by adding –

<p>“2D. The drivers of taxis and the drivers of franchised buses on a specified route in uniform, who enter or leave the Frontier Closed Area for the sole purpose of carrying persons to or from the Lok Ma Chau Spur Line Public Transport Interchange, and the persons –</p> <p>(a) who enter that Area by those vehicles for the sole purpose of leaving Hong Kong via the Lok Ma Chau Spur Line Control Point;</p> <p>(b) who, after entering Hong Kong via that Control Point, enter, or intend to enter, that Interchange for the sole purpose of leaving that</p>	<p>Beginning on 0600 hours on each day and ending with 0030 hours on the next day</p>	<p>The driver –</p> <p>(a) shall drive his vehicle directly from the Frontier Closed Area boundary at the junction of Lok Ma Chau Road and Ha Wan Tsuen Road (JK 9936 9230) along Lung Hau Road to the Lok Ma Chau Spur Line Public Transport Interchange or from that Interchange to that junction; and</p> <p>(b) shall not leave the immediate vicinity of the vehicle.</p> <p>The person –</p> <p>(a) under paragraph (a) in the second column, shall not leave the immediate vicinity of that vehicle at any place other than that Interchange;</p> <p>(b) under paragraph (b) in the second column, shall leave that Interchange without undue delay; and</p> <p>(c) under paragraph (c) in the second column, shall not</p>
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(c) Area by those vehicles; or who, after entering Hong Kong via that Control Point, are travelling on those vehicles for the purpose of leaving that Area. leave the immediate vicinity of that vehicle.

2E. The drivers of public light buses on a scheduled service who enter or leave the Frontier Closed Area for the sole purpose of carrying persons to or from the Lok Ma Chau Spur Line Public Transport Interchange or Ha Wan Tsuen, and the persons –

(a) who enter that Area by those vehicles for the sole purpose of leaving Hong Kong via the Lok Beginning on 0600 hours on each day and ending with 0030 hours on the next day

The driver –

(a) shall, unless stopping to pick up or set down passengers as specified in the passenger service licence in respect of the scheduled service, drive his vehicle directly from the Frontier Closed Area boundary at the junction of Lok Ma Chau Road and Ha Wan Tsuen Road (JK 9936 9230) along Ha Wan Tsuen Road and Lung Hau Road to the Lok Ma Chau Spur Line Public Transport Interchange or from that

- Ma Chau
Spur Line
Control
Point;
- (b) who, after entering Hong Kong via that Control Point, enter, or intend to enter, that Interchange for the sole purpose of leaving that Area by those vehicles; or
- (c) who, after entering Hong Kong via that Control Point, are travelling on those vehicles for the purpose of leaving that Area.
- Interchange to that junction; and
- (b) shall not leave the immediate vicinity of the vehicle.
- The person –
- (a) under paragraph (a) in the second column, shall not leave the immediate vicinity of that vehicle at any place other than that Interchange;
- (b) under paragraph (b) in the second column, shall leave that Interchange without undue delay; and
- (c) under paragraph (c) in the second column, shall not leave the immediate vicinity of that vehicle.”.

Commissioner of Police

Explanatory Note

This Notice amends the Frontier Closed Area (Permission to Enter) Notice (Cap. 245 sub. leg. H) (“principal Notice”). The principal object is –

- (a) to amend the times during which the drivers of taxis and public light buses on a scheduled service who carry passengers to or from the Lok Ma Chau Boundary Control Point as well as the persons who travel by those vehicles are permitted to enter or leave the Frontier Closed Area;
- (b) to grant permission to enter or leave the Frontier Closed Area to the drivers of taxis, the drivers of franchised buses on a specified route in uniform, and the drivers of public light buses on a scheduled service who carry passengers to or from the Lok Ma Chau Spur Line Public Transport Interchange, as well as to the persons who travel by those vehicles, for the period beginning on 0600 hours on each day and ending with 0030 hours on the next day, subject to the conditions specified in the Notice; and
- (c) to effect some minor and technical amendments to the relevant provisions of the principal Notice.

[附屬法例]

Annex B

邊境禁區 (准許進入) 公告

FRONTIER CLOSED AREA (PERMISSION TO ENTER) NOTICE

(第 245 章第 38A(1) 條)

(Cap. 245, section 38A(1))

[1983 年 9 月 9 日]

[9 September 1983]

1. 引稱

本公告可引稱為《邊境禁區 (准許進入) 公告》。

1. Citation

This notice may be cited as the Frontier Closed Area (Permission to Enter) Notice.

2. 准許出入

在不損害任何其他條例的條文的原則下，為施行《公安條例》(第 245 章)，現准許附表第 2 欄所指明的各種類或類別人士在附表第 3 欄分別指明的時間內進入或離開邊境禁區，而附表第 I 部所指明的人士，則准許其在符合附表第 4 欄指明的條件下進入或離開邊境禁區。

2. Permission to enter or leave

Without prejudice to the provisions of any other Ordinance, persons within the classes or categories of persons specified in the second column of the Schedule are, for the purposes of the Public Order Ordinance (Cap. 245), permitted to enter or leave the Frontier Closed Area during the times specified in relation thereto respectively in the third column of the Schedule and, in the case of the persons specified in Part I of the Schedule, subject to the conditions specified in the fourth column of the Schedule.

3. 邊境禁區

在本公告中，“邊境禁區”(the Frontier Closed Area)指《邊境禁區令》(第 245 章，附屬法例 A)的附表所指明的地區。

(2003 年第 14 號第 24 條)

3. Frontier Closed Area

In this notice “the Frontier Closed Area”(邊境禁區)means the area specified in the Schedule to the Frontier Closed Area Order (Cap. 245 sub. leg. A).

附表		[第 2 條]	
第 I 部			
項	獲准進入或離開的人士	時間	條件
1.	前往或來自中國內地的乘搭直通鐵路列車乘客。	任何時間	乘客不得離開鐵路範圍，即為施行《九廣鐵路公司條例》(第 372 章)而界定的範圍。(2003 年第 108 號法律公告)

SCHEDULE				[para. 2]
PART I				
Item	Persons permitted to enter or leave	Times	Conditions	
1.	Through passengers on trains to or from the Mainland of China.	At any time	Passengers shall not leave railway premises as defined for the purposes of the Kowloon-Canton Railway Corporation Ordinance (Cap. 372). (L.N. 108 of 2003)	

[附屬法例]

[Subsidiary]

項	獲准進入或離開的人士	時間	條件
2.	前往或來自中國內地並經由文錦渡邊境管制站進入或離開的陸路車輛的司機及乘搭該等車輛的過境乘客。	任何時間	司機須駕駛車輛直接由沙嶺車輛檢查站 (KK 0391 9348) 沿文錦渡路駛至文錦渡邊境管制站，或直接由該邊境管制站沿文錦渡路駛至該車輛檢查站，而任何人均不得離開車輛的最接近範圍。 (1987 年第 266 號法律公告；2003 年第 108 號法律公告)
2A.	前往或來自中國內地並經由沙頭角邊境管制站進入或離開的陸路車輛的司機及乘搭該等車輛的過境乘客。	任何時間	司機須駕駛車輛直接由石涌凹車輛檢查站 (KK 1324 9502) 沿沙頭角公路駛至沙頭角邊境管制站，或直接由該邊境管制站沿沙頭角公路駛至該車輛檢查站，而任何人均不得離開車輛的最接近範圍。 (1987 年第 266 號法律公告；2003 年第 108 號法律公告)
2B.	前往或來自中國內地並經由落馬洲邊境管制站進入或離開的陸路車輛的司機及乘搭該等車輛的過境乘客。	任何時間	司機須駕駛車輛直接由位於新深路的邊境禁區界線 (JK 9948 9163) 駛至落馬洲邊境管制站，或直接由該邊境管制站駛至該界線，而任何人均不得離開車輛的最接近範圍。 (2003 年第 108 號法律公告)
2C.	為運載進入或離開落馬洲邊境管制站的人士而進入或離開邊境禁區的的士及專線服務的公共小巴的司機，以及乘搭該等車輛的經由該管制站進入香港或擬經由該管制站離開香港的乘客。	每日由凌晨零時正開始至 0630 時結束	司機須駕駛車輛直接由位於新深路的邊境禁區界線 (JK 9948 9163) 駛至落馬洲邊境管制站，或直接由該邊境管制站駛至該界線，而任何人均不得離開車輛的最接近範圍。 (2003 年第 108 號法律公告)

第 II 部

項	獲准進入或離開的人士	時間
3.	18 歲以下的禁區居民。	任何時間

Item	Persons permitted to enter or leave	Times	Conditions
2.	The drivers of and through passengers on road vehicles to or from the Mainland of China, entering or leaving via Man Kam To Boundary Control Point.	At any time	The driver shall drive his vehicle directly from the Sha Ling road block (KK 0391 9348) along the Man Kam To Road to the Man Kam To Boundary Control Point or from that Control Point along that road to that road block and no person shall leave the immediate vicinity of the vehicle. (L.N. 266 of 1987; L.N. 108 of 2003)
2A.	The drivers of and through passengers on road vehicles to or from the Mainland of China, entering or leaving via Sha Tau Kok Boundary Control Point.	At any time	The driver shall drive his vehicle directly from the Shek Chung Au road block (KK 1324 9502) along the Sha Tau Kok Road to the Sha Tau Kok Boundary Control Point or from that Control Point to that road block and no person shall leave the immediate vicinity of the vehicle. (L.N. 266 of 1987; L.N. 108 of 2003)
2B.	The drivers of and through passengers on road vehicles to or from the Mainland of China, entering or leaving via Lok Ma Chau Boundary Control Point.	At any time	The driver shall drive his vehicle directly from the Frontier Closed Area boundary on the San Sham Road (JK 9948 9163) to the Lok Ma Chau Boundary Control Point or from that Control Point to that boundary and no person shall leave the immediate vicinity of the vehicle. (L.N. 108 of 2003)
2C.	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 Lok Ma Chau Boundary Control Point, and the passengers on those vehicles who enter, or intend to leave, Hong Kong via that Control Point.	Beginning on 0000 hours and ending with 0630 hours each day	The driver shall drive his vehicle directly from the Frontier Closed Area boundary on the San Sham Road (JK 9948 9163) to the Lok Ma Chau Boundary Control Point or from that Control Point to that boundary and no person shall leave the immediate vicinity of the vehicle. (L.N. 108 of 2003)

PART II

Item	Persons permitted to enter or leave	Times
3.	Residents of the closed area under the age of 18 years.	At any time

[附屬法例]		
項	獲准進入或離開的人士	時間
4.	九龍汽車 (1933) 有限公司屬下在禁區內循批准路線駕駛公司巴士並穿著制服的僱員。	任何時間
5.	九廣鐵路公司屬下在禁區內鐵路列車上當值或正執行其他方面職責的僱員。	任何時間
6.	廣州鐵路局或粵港汽車聯營有限公司屬下駕駛往返中國內地的鐵路列車或公司陸路運輸工具的僱員。 (2003 年第 108 號法律公告)	任何時間

[Subsidiary]		
Item	Persons permitted to enter or leave	Times
4.	Employees of the Kowloon Motor Bus Company (1933) Limited in uniform and operating company buses on authorized routes within the closed area.	At any time
5.	Employees of the Kowloon-Canton Railway Corporation on duty on board trains or otherwise in the course of their duties within the closed area.	At any time
6.	Employees of the Guangzhou Railway Administration or the Motor Transport Company of Guangdong and Hong Kong Limited operating trains or company road transport to or from the Mainland of China. (L.N. 108 of 2003)	At any time