

立法會
Legislative Council

LC Paper No. LS25/07-08

**Paper for the House Committee Meeting
On 4 January 2008**

**Legal Service Division Report on
Subsidiary Legislation Gazetted on 21 December 2007**

Date of tabling in LegCo : 9 January 2008

Amendment to be made by : 30 January 2008 (or 27 February 2008 if extended by resolution)

Tsing Sha Control Area Ordinance (16 of 2007)

Tsing Sha Control Area (Tolls, Fees and Charges) Regulation (L.N. 237)

Route 8 is a strategic road linking Sha Tin and North Lantau. The section between Sha Tin and Cheung Sha Wan is scheduled to open in March 2008. For effective and efficient traffic control and incident management, the section of Route 8 between Tsing Yi and Sha Tin will form one single control area known as the Tsing Sha Control Area (TSCA). The management, operation and maintenance of TSCA will be outsourced to an operator through open tender while ownership of the TSCA will remain with the Government.

2. TSCA is to be governed by the Tsing Sha Control Area Ordinance (No. 16 of 2007) (TSCAO), which was enacted on 27 June 2007 and has not yet come into operation. Section 26(1) of the TSCAO provides that the Chief Executive in Council may, by regulation, prescribe and provide for the payment of tolls for the use of the TSCA as well as other fees and charges.

3. This Regulation is made by the Chief Executive in Council under section 26(1) of TSCAO to:

- (a) prescribe and provide for the payment of tolls, surcharge, fees and charges relating to the TSCA including—
 - (i) the tolls for the use of the toll area in the TSCA (toll);
 - (ii) the surcharge for the failure to pay a toll or any part of a toll;
 - (iii) the fee for escorting a vehicle in the TSCA;

- (iv) the administration fee for change given in respect of a toll paid in excess;
 - (v) the fee for issuing a permit under section 20(2) of the Tsing Sha Control Area (General) Regulation (L.N. 222 of 2007); and
 - (vi) the charges for the removal, impounding and storage of vehicles under section 22 or 23 of the TSCAO.
- (b) provide for entitlement to changes given for overpayment of tolls.

4. Members may wish to refer to the LegCo Brief on this Regulation (File Ref: THB(T) CR 1/981/00) issued by the Transport and Housing Bureau on 19 December 2007 for background and further information. The Administration has set out the key factors which it has taken into consideration in drawing up the toll levels for the TSCA, namely, the user-pays principle, the strategic location and tolls of alternative routes, the public acceptability and affordability, the estimated daily traffic flow in TSCA and the diversion effect to ease the traffic of the alternative routes. A summary of the tolls for various classes of vehicles is set out in paragraph 7 and a summary of the fees and charges for TSCA is set out in paragraph 14.

5. According to the LegCo Brief, the Transport Advisory Committee generally agreed to the principles and considerations adopted by the Administration in setting the proposed tolls, fees and charges at its meeting on 6 July 2007.

6. The Panel on Transport was consulted on 9 July 2007 on the proposed tolls and other charges for TSCA. On the proposed toll levels for TSCA, some members expressed the views that the Administration should take all relevant factors into consideration, including the impacts of the proposed toll levels on public transport fares as well as the effectiveness of the proposed toll levels in achieving traffic diversion among alternative routes.

7. This Regulation shall come into operation on a day to be appointed by the Secretary for Transport and Housing by notice published in the Gazette.

8. The Legal Service Division is seeking clarification from the Administration on a drafting point and will submit a further report, if necessary.

9. No difficulties have been identified in the legal or drafting aspects of this Regulation.

Prepared by

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28 December 2007