

For information

**Legislative Council Panel on Security
Subsidiary Legislation relating to Security Matters of
the Heung Yuen Wai Boundary Control Point**

PURPOSE

To cater for the commissioning of the Heung Yuen Wai Boundary Control Point (“HYWBCP”), we need to make technical subsidiary legislation relating to the operations of the control point. This paper aims to brief Members on the relevant legislative work.

BACKGROUND

2. Based on the latest works progress, the Development Bureau (“DEVB”) targets to substantially complete the building structures of the HYWBCP, a new vehicular boundary control point located in the northeastern New Territories, in end 2018. For effective operation of the HYWBCP upon commissioning, we need to, following the established practice for other vehicular boundary control points, make the following subsidiary legislation prior to its opening.

Subsidiary legislation for designation of closed areas

3. Section 36(1) of the Public Order Ordinance (Cap. 245) (“POO”) empowers the Chief Executive to declare by order any area or place to be a closed area, where he reasonably believes that it is necessary for the protection of national security or public safety, or the protection of public order or public health.

4. Currently, all vehicular boundary control points in Hong Kong are administered under a closed area approach to maintain their security and effective operation. If closed area management approach is

not implemented, control points would easily become a breeding ground for illegal activities. Besides, the effectiveness of a control point would be jeopardised 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. As such, we propose to make a new closed area order under section 36 of the POO to declare the core parts of the HYWBCP, including customs, immigration, and quarantine clearance areas and associated facilities, as closed areas (“the Order”). The proposed Order shall take effect on the day the HYWBCP comes into operation.

5. As the HYWBCP is designed to provide direct vehicular and passenger access, the relevant facilities (including private car pick-up and drop-off area, public carpark, public transport interchange (“PTI”), and a pedestrian subway connecting the PTI and a nearby Lin Ma Hang Road) will remain non-closed areas in order to provide the public with direct access to the control point.

Subsidiary legislation on granting general permission for entering the closed areas

6. Section 38A of the POO stipulates that the Commissioner of Police (“CP”) may, 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 time and subject to such exceptions, conditions or restrictions as specified in the notice. We have made reference to the practice of other vehicular boundary control points and consider that, in order to ensure the effective operation of the HYWBCP, the CP would make a notice under section 38A of the POO granting general permission for entering or leaving the closed areas to persons who arrive at or depart from Hong Kong via the HYWBCP.

7. Besides, the cross-boundary bridges of HYWBCP are located within the existing Frontier Closed Area designated under the Frontier Closed Area Order (Cap.245A). Therefore, CP has to amend the existing Frontier Closed Area (Permission to Enter) Notice (Cap.245H) to grant permission to the persons arriving at or departing from Hong Kong via

these cross-boundary bridges for entering or leaving the relevant area.

8. The abovementioned permissions aim at maintaining public order and public safety in the HYWBCP while providing facilitation for persons arriving at or departing from Hong Kong at the same time. The effective date of both Notices will align with that of the Order.

Subsidiary legislation for setting up Immigration Department (ImmD) detention quarters

9. At present, ImmD has set up detention quarters in control points, such as Hong Kong International Airport, Lok Ma Chau Spur Line and Shenzhen Bay Hong Kong Port Area, the same will be set up at new control points, including the Hong Kong-Zhuhai-Macao Bridge Hong Kong Port and the West Kowloon Station of Guangzhou-Shenzhen-Hong Kong Express Rail Link, upon commissioning. Similarly, ImmD needs to set up detention quarters at the HYWBCP for use by its staff in exercising routine immigration control and law enforcement duties. In accordance with the Immigration Ordinance (Cap. 115) and Immigration Service Ordinance (Cap. 331), the Secretary for Security will make subsidiary legislation to amend Schedule 3 of Immigration (Places of Detention) Order (Cap. 115B) and the Schedule of Immigration Service (Designated Places) Order (Cap. 331B) by adding the HYWBCP to the list of detention quarters in the relevant Schedules. The subsidiary legislation shall also take effect on the day the HYWBCP comes into operation.

Subsidiary legislation for adding the HYWBCP into Schedule 1 to the Cross-boundary Movement of Physical Currency and Bearer Negotiable Instruments Ordinance

10. Under the Cross-boundary Movement of Physical Currency and Bearer Negotiable Instruments Ordinance (Cap. 629), a traveller in possession of a large quantity of currency and bearer negotiable instruments (“CBNIs”) (i.e. the total value of which is more than HKD120,000) arriving in Hong Kong via a specified control point listed in

Schedule 1 to the Ordinance must make a written declaration of the CBNIs to the Customs and Excise Department, using the Red Channel under the Red and Green Channel System (“RGCS”). The HYWBCP will provide RGCS for arriving travellers to make written declarations of CBNIs in accordance with the Ordinance. The Commissioner of Customs and Excise will therefore make subsidiary legislation under section 33 of the Ordinance to add the HYWBCP as a specified control point into Schedule 1 to the Ordinance. The subsidiary legislation shall take effect on the day the HYWBCP comes into operation.

WAY FORWARD

11. The effective date of the above-mentioned subsidiary legislation should dovetail with the commissioning date of the HYWBCP. Considering the DEVB’s target to substantially complete the building structures of the HYWBCP in end 2018, we intend to submit the relevant subsidiary legislation to the Legislative Council (“LegCo”) for negative vetting upon the commencement of the 2018-19 legislative session. The specific details of the subsidiary legislation will be elaborated in the relevant LegCo Briefs.

12. Members are invited to take note of the above plan to introduce several pieces of subsidiary legislation to the LegCo to ensure the effective operation of the HYWBCP.

Security Bureau
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