

**LEGISLATIVE COUNCIL BRIEF**

Road Tunnels (Government) Ordinance (Cap. 368)

**ROAD TUNNELS (GOVERNMENT) (AMENDMENT) BILL 1999**

**INTRODUCTION**

At the meeting of the Executive Council on 4 May 1999, the Council ADVISED and the Chief Executive ORDERED that the Road Tunnels (Government) (Amendment) Bill 1999, at Annex, should be introduced into the Legislative Council to provide for the continual operation and management of the Cross-Harbour Tunnel (CHT) after its franchise expires on 31 August 1999.

**BACKGROUND AND ARGUMENT**

**Previous Executive Council Discussion**

2. The CHT was awarded to the Cross-Harbour Tunnel Company Limited (the Company) as a build, operate and transfer (BOT) project with a franchise for 30 years from the beginning of construction. The franchise will expire on 31 August 1999, whereupon under section 52 of the Cross-Harbour Tunnel Ordinance the assets of the Company, including the CHT, will vest in Government.

3. On 20 October 1998, the Executive Council decided that a management, operation and maintenance (MOM) contract for the CHT for a duration of two years, with an option for Government to extend for a further year, should be granted through open tender for the operation and management of the CHT after its franchise expires on 31 August 1999.

4. To provide for the legislative framework for the operation and management of the CHT as a government tunnel, the Road Tunnels (Government) Ordinance and the Road Tunnels (Government) Regulations have to be suitably amended to cater for the operational requirements specific to the

CHT.

## **The Revenue Bill 1999**

5. It has been proposed in the 1999-2000 Budget that upon the reversion of the CHT to Government, the passage tax, currently charged under the Cross-Harbour Tunnel (Passage Tax) Ordinance, would be abolished and the tolls for private cars and motorcycles using the CHT would be increased from \$10 to \$20 and from \$4 to \$8 respectively. The tolls payable by other vehicles for using the tunnel would remain unchanged. The Revenue Bill 1999 has provided for the application of the Road Tunnels (Government) Ordinance to the CHT and set out the tolls for the use of the CHT by different types of vehicles with effect from 1 September 1999. Consequentially, the Revenue Bill also proposes to repeal the Cross-Harbour Tunnel Ordinance and its subsidiary legislation as well as the Cross-Harbour Tunnel (Passage Tax) Ordinance. The Revenue Bill 1999 was introduced into the Legislative Council on 21 April 1999. Consequential amendments to other legislation following from this repeal will be made by the Secretary for Transport by way of regulations in due course.

## **The Proposed Amendments**

6. Supplementing the amendments to the Road Tunnels (Government) Ordinance made by the Revenue Bill, the proposed Road Tunnels (Government) (Amendment) Bill seeks to put in place enabling provisions in the Road Tunnels (Government) Ordinance for the Chief Executive in Council to make regulations specifically catered for the operation and management of the CHT.

7. As regards the Road Tunnels (Government) Regulations (Cap. 368 sub. leg.), amendments are made to -

- (a) provide for regulations to apply to both the CHT and the Government tunnels under Road Tunnels (Government) Ordinance to achieve consistency in operational matters;
- (b) make provisions specifically for the CHT to accommodate its special operational requirements and arrangements e.g. provisions will be made specially to the CHT in relation to the conveyance of dangerous goods through the tunnel; and
- (c) bring the penalty for offences committed within the tunnel area of the CHT in line with that for similar offences in other Government tunnels.

## **THE BILL**

8. **Clause 2** adds a new section 20(1A) to allow the Chief Executive in Council to make regulations in respect of any particular tunnels and that any regulations made under this section may make different provisions for different tunnels.

### **Regulations Applicable to All Tunnels under the Road Tunnels (Government) Ordinance**

9. **Clause 7** repeals regulation 9(d) of the Road Tunnels (Government) Regulations and amends regulation 9 to restrict entry to the tunnel area on foot. It provides for the public to enter the tunnel area on foot to get to the bus stops and the administration building located in the tunnel area. This provision shall apply to the CHT and other Government tunnels for consistency.

### **Regulations Applicable to the CHT only**

10. **Clause 4** adds a new regulation 3(1A) to provide for the application of traffic signs specifically for the CHT.

11. **Clause 8** adds a regulation 11A to restrict and control the passage of vehicles carrying dangerous goods other than categories 1, 2 and 5. Under the current legislation, vehicles carrying dangerous goods in categories 1,2, and 5 are prohibited from using the CHT as well as other BOT and Government tunnels. The CHT and the other two cross-harbour tunnels further prohibit the passage of vehicles carrying dangerous goods other than in categories 1, 2 and 5 except with the prior approval of the company under certain prescribed conditions. The Director of Fire Services has advised that this restriction for the CHT should be retained after the transfer. He has suggested that the said restriction might be reviewed after the proposal for extending the licensing control under the Dangerous Goods Ordinance to cover vehicles carrying dangerous goods other than in categories 1, 2 and 5 had been implemented.

12. **Clause 10** adds new regulation 14(1A) to require vehicles exceeding 4.6 meters in height, with a wheel load exceeding 4.5 tonnes, or an axle load exceeding 11 tonnes, to apply for permits for their passage. The requirements are currently provided for under the CHT By-laws. It is necessary to retain these operational arrangements after the CHT becomes a Government tunnel.

13. **Clause 12** amends regulations 18(1), (2), (3) and (4) to set out the penalty for committing offences within the tunnel area of the CHT. The penalty level is brought in line with that of Government tunnels.

14. **Clause 14** amends the First Schedule of the Road Tunnels (Government) Regulations to incorporate traffic signs applying to the CHT alone.

15. **Clause 15** stipulates the level of removal and permit fees for vehicles using the CHT.

### **LEGISLATIVE TIMETABLE**

16. The Legislative timetable for the Bill will be as follows -

Publication in the Gazette	7 May 1999
First Reading and commencement of Second Reading debate	26 May 1999
Resumption of Second Reading debate	to be notified

### **BASIC LAW IMPLICATIONS**

17. The Department of Justice advises that the proposed legislation is consistent with the Basic Law.

### **HUMAN RIGHTS IMPLICATIONS**

18. The Department of Justice advises that the Bill has no human rights implications.

### **BINDING EFFECT OF THE LEGISLATION**

19. The proposed amendments will not affect the current binding effect of the Road Tunnels (Government) Ordinance.

### **FINANCIAL AND STAFFING IMPLICATIONS**

20. The proposed amendments do not have any financial or staffing implications.

## **PUBLIC CONSULTATION**

21. The potential contractors of the CHT have been notified of the legislative approach during the tender exercise.

## **PUBLICITY**

22. A press release will be issued when the Bill is gazetted on 7 May 1999. A spokesman will be available to answer media enquiries.

## **ENQUIRIES**

23. For any enquiries relating to this Brief, please contact -

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Principal Assistant Secretary (Transport)  
Tel: 2189 2183  
Fax: 2537 5246

7 May 1999  
Transport Bureau  
Government Secretariat

**ROAD TUNNELS (GOVERNMENT) (AMENDMENT) BILL  
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A BILL

To

Amend the Road Tunnels (Government) Ordinance and to make other related amendments to the Road Tunnels (Government) Regulations.

Enacted by the Legislative Council.

**1. Short title and commencement**

(1) This Ordinance may be cited as the Road Tunnels (Government) (Amendment) Ordinance 1999.

(2) This Ordinance shall come into operation on 1 September 1999.

**2. Regulations**

Section 20 of the Road Tunnels (Government) Ordinance (Cap. 368) is amended by adding -

"(1A) Any regulations made under this section -

- (a) may be made to apply in respect of all or any particular tunnel only; and
- (b) may make different provisions for different tunnels."

**Road Tunnels (Government) Regulations**

**3. Interpretation**

Regulation 2 of the Road Tunnels (Government) Regulations (Cap. 368 sub. leg.) is amended -

- (a) by renumbering it as regulation 2(1);
- (b) by adding -

"(2) Notwithstanding paragraph (1), a reference to goods vehicles in the Second Schedule in relation to the Cross-Harbour Tunnel shall be construed to include a reference to special purpose vehicles of the respective weights as specified therein."

**4. Prescribed signs and road markings**

Regulation 3 is amended -

(a) by adding -

"(1A) Without prejudice to paragraph (1), the Authority for the purposes of regulating and controlling traffic may cause or permit to be displayed at the Cross-Harbour Tunnel any traffic sign of the type shown in any of the Figure Nos. 15 to 23 inclusive prescribed in the First Schedule.";

(b) in paragraph (3), by adding "or (1A)" after "(1)(a)";

(c) in paragraph (6)(a), by repealing "and 14" and substituting ", 14 and 15 to 23 inclusive".

**5. Regulation added**

The following is added -

**"3A. Signal Lights**

When a driver of a vehicle enters or proceeds through the tunnel area of the Cross-Harbour Tunnel and a traffic signal light facing him in or above the lane in which he is travelling displays -

(a) green, he shall proceed along that lane;

- (b) red, he shall stop his vehicle as rapidly as is safe in the circumstances;
- (c) flashing amber, he shall proceed along that lane with caution and be prepared to stop when the circumstances so require."

**6. Traffic confined to left-hand lanes**

Regulation 8(c) is amended by adding "permission under regulation 11A(2) or" after "requiring".

**7. General restrictions**

Regulation 9 is amended -

- (a) by renumbering it as regulation 9(1);
- (b) by repealing paragraph (1)(d);
- (c) in paragraph (1)(e), by adding "in accordance with paragraph (2) or" after "save";
- (d) by adding -
  - "(2) No person shall enter or remain in any part of a tunnel area on foot unless he -
    - (a) is directed or signalled by an authorized officer to do so;
    - (b) does so in accordance with any Ordinance;
    - (c) is a public officer and needs to do so in the due execution of his duties;
    - (d) has been authorized to do so by the Authority;

- (e) is boarding or alighting from a franchised bus, or proceeding to or from a bus stop or waiting for a franchised bus at a bus stop."

**8. Regulation added**

The following is added in Part II -

**"11A. Vehicles conveying dangerous goods  
in the Cross-Harbour Tunnel**

(1) Subject to this regulation, the operator of the Cross- Harbour Tunnel may fix the hours during which all or any of the vehicles to which this regulation applies may enter the tunnel area of the Cross-Harbour Tunnel.

(2) No person shall drive a vehicle to which this regulation applies into the tunnel area of the Cross-Harbour Tunnel except with the permission of the operator, which permission, if granted, shall be subject to the following conditions -

- (a) if hours have been fixed under paragraph (1) in respect of the class of vehicle concerned, the permission shall relate only to those hours;
- (b) a declaration shall be made in writing to the operator by the person in charge of the vehicle, or by the person responsible for the conveyance of any goods therein or thereon, as to the nature of the vehicle and goods; and
- (c) the operator may provide authorized officers for the purpose of escorting the vehicle through the tunnel area of the Cross-Harbour Tunnel and may take any

other precautionary measure which he deems expedient in the circumstances.

- (3) This regulation applies to -
  - (a) a vehicle conveying any of the goods in Categories 3 to 10 in the Schedule to the Dangerous Goods (Application and Exemption) Regulations (Cap. 295 sub. leg.), other than Category 5;
  - (b) a vehicle conveying matches in bulk, radioactive substances, or biological specimens dangerous to human or animal life."

**9. Tolls**

Regulation 12(3) is amended by adding "or (1A)" after "14(1)".

**10. Vehicles requiring permits**

Regulation 14 is amended by adding -

"(1A) No person shall drive within the tunnel area of the Cross-Harbour Tunnel a vehicle -

- (a) the height of which (including load) exceeds 4.6m; or
- (b) with a wheel-load exceeding 4.5 tonnes or an axle load exceeding 11 tonnes,

other than in accordance with the conditions of a permit issued by the Authority for the passage of that vehicle."

**11. Exemptions**

Regulation 15 is amended -

- (a) in paragraph (1), by adding ",3A" after "3(6)";
- (b) in paragraph (2), by repealing "and 11" and substituting ",11 and 11A".

**12. Offences and penalties**

Regulation 18 is amended -

- (a) in paragraph (1) -
  - (i) by adding "3A," before "4(2)";
  - (ii) by repealing "12(2), 14(1) or 14(6)" and substituting "11A(2), 12(2), 14(1), (1A) or (6)";
- (b) in paragraph (2), by adding ",15, 16 and 22" after "inclusive";
- (c) in paragraph (3), by repealing "or 14" and substituting ",14 or 21";
- (d) in paragraph (4) -
  - (i) by repealing "on first conviction";
  - (ii) by repealing everything after "3 months" and substituting a full stop.

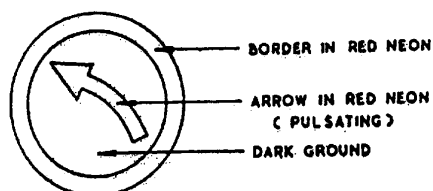
**13. Powers of an operator**

Regulation 19 is amended by repealing "3(1) and (2), 4, 5, 12(3), 13 and 14(1), (2) and (3)" and substituting "3(1), (1A) and (2), 3A, 4, 5, 11A, 12(3), 13 and 14(1), (1A), (2) and (3)".

14. Signs

The First Schedule is amended by adding -

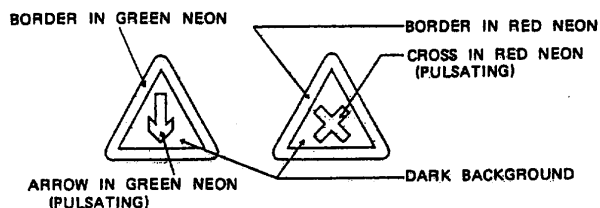
"FIGURE NO. 15



MOVE TO LEFT HAND LANE

WHEN THIS SIGN IS DISPLAYED ALL TRAFFIC SHOULD MOVE INTO OR REMAIN IN THE LEFT HAND LANE.

FIGURE NO. 16



SINGLE LANE WORKING

WHEN THIS SIGN IS DISPLAYED IT INDICATES THAT TWO-WAY TRAFFIC IS IN OPERATION IN TWO ADJACENT LANES AND ALL TRAFFIC SHOULD KEEP IN THE LEFT HAND LANE AND PROCEED IN THE DIRECTION OF THE ARROW OVER THE LANE.

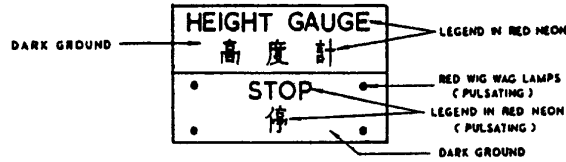
FIGURE NO. 17



USE DIPPED HEADLIGHTS

WHEN THIS SIGN IS DISPLAYED ALL TRAFFIC SHOULD PROCEED THROUGH THE TUNNEL ON DIPPED HEADLIGHTS.

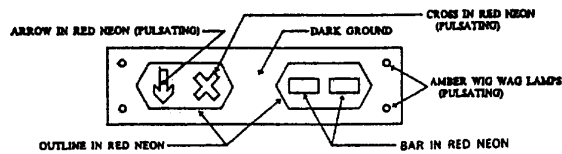
FIGURE NO. 18



HEIGHT GAUGE

WHEN THE STOP SIGN IS DISPLAYED ALL VEHICLES SHOULD STOP UNTIL INSTRUCTED TO PROCEED BY AN AUTHORIZED OFFICER.

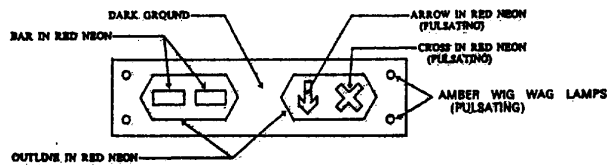
FIGURE NO. 19



SINGLE TUBE WORKING

WHEN THIS SIGN IS DISPLAYED IT INDICATES THAT ONLY THE LEFT HAND TUBE OF THE TUNNEL IS IN OPERATION AND THAT DRIVERS SHOULD PROCEED WITH CAUTION.

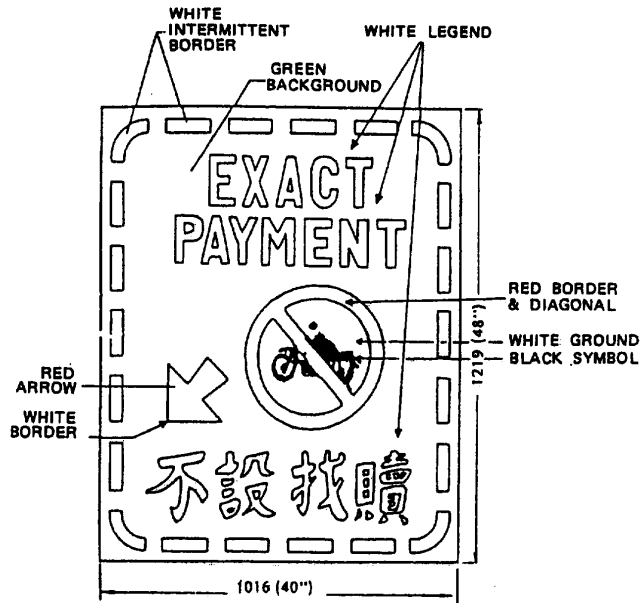
FIGURE NO. 20



SINGLE TUBE WORKING

WHEN THIS SIGN IS DISPLAYED IT INDICATES THAT ONLY THE RIGHT HAND TUBE OF THE TUNNEL IS IN OPERATION AND THAT DRIVERS SHOULD PROCEED WITH CAUTION.

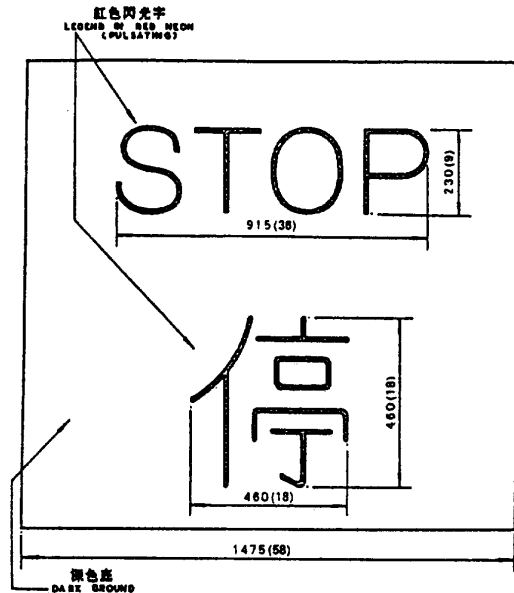
FIGURE NO. 21



PAYMENT OF EXACT TOLL

WHEN THIS SIGN IS DISPLAYED AT A TOLL BOOTH IT INDICATES THAT THE TOLL BOOTH IS FOR USE ONLY BY DRIVERS PAYING THE CORRECT TOLL AND REQUIRING NO CHANGE TO BE GIVEN AND THAT THE USE OF THE TOLL BOOTH BY MOTOR CYCLES IS PROHIBITED.

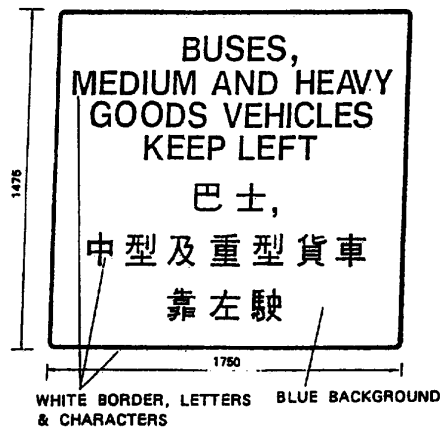
FIGURE NO. 22



DO NOT ENTER TUNNEL

WHEN THIS SIGN IS DISPLAYED AT THE TUNNEL ENTRANCE IT INDICATES THAT VEHICLES SHOULD STOP AND NOT PROCEED INTO THE TUNNEL UNTIL INSTRUCTED TO PROCEED BY AN AUTHORIZED OFFICER OR THE GREEN TRAFFIC SIGNAL LIGHT REFERRED TO IN REGULATION 3A IS DISPLAYED.

FIGURE NO. 23



KEEP LEFT SIGN FOR TUNNEL

THIS SIGN INDICATES THAT BUSES, MEDIUM AND HEAVY GOODS VEHICLES MUST KEEP TO THE NEAR-SIDE LANE."

**15. Tolls and Fees**

The Second Schedule is amended -

- (a) under the subheading "Removal Fee" -
  - (i) by adding a new column with the heading "Cross-Harbour Tunnel" between the "Airport Tunnel" and the "Lion Rock Tunnel";
  - (ii) in the column under the heading of "Cross- Harbour Tunnel" -
    - (A) in item 1, by adding "\$140";
    - (B) in item 2, by adding "\$175";
    - (C) in item 3, by adding "\$215";
- (b) under the subheading "Permit Fee" -
  - (i) by adding a new column with the heading "Cross-Harbour Tunnel" between the "Airport Tunnel" and the "Lion Rock Tunnel";
  - (ii) in the column under the heading of "Cross- Harbour Tunnel", in the entry for "All vehicles", by adding "\$82".

#### Explanatory Memorandum

The purpose of this Bill is to amend the Road Tunnels (Government) Ordinance (Cap. 368) to allow regulations made under that Ordinance to provide differently for different tunnels. Clause 2 makes a provision for this purpose.

2. Clauses 3 to 15 of the Bill amend the Road Tunnels (Government) Regulations (Cap. 368 sub. leg.) ("the Regulations") to make provisions for the further regulation of traffic at the tunnels.

3. Clause 3 provides for special purpose vehicles for the purpose of the Cross-Harbour Tunnel.
4. Clause 4 allows the Commissioner for Transport to display prescribed traffic signs at the Cross-Harbour Tunnel.
5. Clause 5 provides for signal lights.
6. Clause 7 prohibits any person from entering or remaining in a tunnel area on foot unless he does so for specified purposes.
7. Clauses 8 and 10 provide for the regulation of the use of the Cross-Harbour Tunnel by vehicles conveying dangerous goods and vehicles of certain height and load.
8. Clause 12 provides for offences and penalties.
9. Clause 14 adds a number of traffic signs for the purpose of the Cross-Harbour Tunnel.
10. Clause 15 provides for vehicle removal fees and permit fees in relation to the Cross-Harbour Tunnel.
11. Clauses 6, 9, 11 and 13 provide for the consequential amendments to the Regulations.