

(m) 與隧道區的管制、經營及管理有關而有需要或適宜作出規定的任何其他事宜。

(2) 根據第(1)款所訂立的任何附例，凡規定可為某項目的而發出許可證，該附例亦可訂明就該許可證而須繳付的費用。

(3) 根據第(1)款所訂立的所有附例，均須經立法局批准。

(4) 任何根據第(1)款訂立的附例，可訂定違反該等附例所指明的條文，即屬犯罪，並可就之而訂定不超過 \$2,000 罰款的罰則。

(5) 公司須安排將根據本條訂立的所有附例的印本，存放在公司的註冊辦事處，並以合理收費售予每一名申請購買該印本的人。

(6) 立法局可藉決議修訂第(4)款所指明的款額。

第 VIII 部

收取隧道費

36. 公司就隧道的使用而收取經批准的隧道費

(1) 在符合本條例的規定下，公司可就汽車通過隧道而索取及收取隧道費。

(2) 根據第(1)款可收取的隧道費，須為附表所指明者。

(3) 附表所指明的隧道費——

(a) 可由總督會同行政局與公司協定而予以更改；或

(b) 在並無協定時，由總督會同行政局或公司根據《仲裁條例》(第 341 章)將更改隧道費的問題提交仲裁。

(4) 對於根據第(3)款提交的仲裁，仲裁人須以有需要確保公司在根據本條例履行其義務或行使其權利時，獲得合理但非過多的報酬為準則，並顧及以下各點——

(a) 自本條例制定或自上一次根據本條釐定隧道費(視屬何情況而定)以來，香港經濟情況的任何重要變動；

(b) 公司根據第 53 條所作出的任何上訴遭駁回；

(m) any other matter relating to the control, operation and management of the tunnel area which it is necessary or expedient to provide for.

(2) Where a by-law made under subsection (1) provides for the issue of a permit for any purpose, the by-law may prescribe a fee to be paid in respect of such permit.

(3) All by-laws made under subsection (1) shall be subject to the approval of the Legislative Council.

(4) Any by-laws made under subsection (1) may provide that a contravention of specified provisions thereof shall be an offence and may provide penalties therefor not exceeding a fine of \$2,000.

(5) The Company shall cause printed copies of all by-laws made under this section to be kept at the registered office of the Company and to be available for sale at a reasonable charge to every person applying therefor.

(6) The Legislative Council may by resolution amend the amount specified in subsection (4).

PART VIII

COLLECTION OF TOLLS

36. Company to charge approved tolls for use of tunnel

(1) Subject to this Ordinance, the Company may demand and collect tolls in respect of the passage of motor vehicles through the tunnel.

(2) The tolls that may be collected under subsection (1) shall be those specified in the Schedule.

(3) The tolls specified in the Schedule may be varied—

(a) by agreement between the Governor in Council and the Company; or

(b) in default of agreement by submission of the question of the variation of tolls to arbitration under the Arbitration Ordinance (Cap. 341) by either the Governor in Council or the Company.

(4) On a submission to arbitration under subsection (3), the arbitrators shall be guided by the need to ensure that the carrying out by the Company of its obligations, or the exercise of its rights, under this Ordinance is reasonably but not excessively remunerative to the Company, having regard to—

(a) any material change in the economic conditions of Hong Kong since the enactment of this Ordinance or, as the case may be, since tolls were last determined under this section;

(b) the dismissal of any appeal by the Company made under section 53;

- (c) 影響公司行使其根據專營權而有的權利的任何其他情況，有任何重要變動；
- (d) 引進或更改就使用隧道而徵收的任何稅項或徵費的效果；
- (e) 工程項目協議；及
- (f) 任何其他有關事宜。

(5) 為施行第 (4) 款而決定公司在履行其義務或行使其權利時是否獲得合理但非過多的報酬，如在另一項保證協議下的某一保證人並沒有遵從該協議的條款，則仲裁人須將公司所處的財務狀況當作為猶如另一項保證協議已被遵從時公司所處於的財務狀況，並且除本款的規定外，該款的任何規定均不得視為致使此未有遵從協議條款事為仲裁人可考慮的一項有關事宜。

(6) 凡根據第 (3) 款——

- (a) 總督會同行政局及公司協定更改隧道費；或
- (b) 依據提交仲裁的仲裁裁決，決定應更改隧道費，

則附表所指明的隧道費須遵從該協定或仲裁裁決（視屬何情況而定）作出更改。

(7) 運輸署署長須在第 (6) 款所提述的協定或仲裁裁決作出後，在切實可行範圍內盡快藉憲報公告修訂附表。

37. 汽車類別

附表所提及的汽車類別，須按照《道路交通條例》(第 374 章) 第 2 條所提及的汽車定義及種類解釋。

38. 隧道費通告的展示及出售

(1) 公司須安排在隧道兩端的顯眼位置展示通告，說明就每類汽車而須繳付的隧道費；該通告的展示須達到運輸署署長滿意的程度。

(2) 公司須安排將公司現行收取的隧道費的收費表印本，存放在公司的註冊辦事處，並以合理收費出售予每一名申請購買該收費表的人。

- (c) any material change in any other circumstances affecting the exercise by the Company of its rights under the franchise;
- (d) the effect of the introduction of, or alteration in, any tax or levy imposed on the use of the tunnel;
- (e) the project agreement; and
- (f) any other relevant matter.

(5) In determining for the purposes of subsection (4) whether the carrying out by the Company of its obligations, or the exercise of its rights has been reasonably but not excessively remunerative to the Company, the arbitrators shall, if there has been any failure by a guarantor under the further guarantee agreement to comply with the terms of that agreement, deem the Company to be in the financial position it would have been in had the further guarantee agreement been honoured, and subject to this subsection nothing in that subsection shall be deemed to render such failure a relevant matter which the arbitrators may take into consideration.

(6) Where under subsection (3)—

- (a) the Governor in Council and the Company agree to a variation of the tolls; or
- (b) in an award pursuant to a submission to arbitration it is determined that the tolls should be varied,

the tolls specified in the Schedule shall be varied in compliance with such agreement or award, as the case may be.

(7) The Commissioner shall, by notice in the Gazette, as soon as is practicable after such agreement or award as is referred to in subsection (6), amend the Schedule.

37. Description of motor vehicle

The description of motor vehicles mentioned in the Schedule shall be interpreted in accordance with the definitions and classes of motor vehicles mentioned in section 2 of the Road Traffic Ordinance (Cap. 374).

38. Display of notices of tolls and sale thereof

(1) The Company shall, to the satisfaction of the Commissioner, cause to be displayed at both ends of the tunnel, in conspicuous places, notices stating the toll payable in respect of each category of motor vehicle.

(2) The Company shall cause printed copies of the list of the tolls currently chargeable by the Company to be kept at the registered office of the Company and to be sold at a reasonable charge to every person applying therefor.