

立法會
Legislative Council

LC Paper No. LS83/04-05

**Paper for the House Committee Meeting
on 17 June 2005**

**Legal Service Division Report on
Subsidiary Legislation Gazetted on 10 June 2005**

Date of tabling in LegCo : 15 June 2005

**Amendment (in relation to
L.N. 92 and L.N. 93) to be made by** : 2nd meeting of LegCo in the next session (or the 1st meeting held not earlier than 21 days thereafter if extended by resolution)

PART I LEGAL NOTICES TABLED AT LEGISLATIVE COUNCIL

**Prisons Ordinance (Cap. 234)
Prisons (Amendment) Order 2005 (L.N. 92)**

This Order sets apart the Lai Chi Kok Correctional Institution as a prison and updates the address of the Lai Chi Kok Reception Centre.

2. This Order has not been referred to the LegCo Panel on Security.

**Tate's Cairn Tunnel Ordinance (Cap. 393)
Tate's Cairn Tunnel Ordinance (Replacement of Schedule) Notice 2005 (L.N. 93)**

3. Under section 36 of the Tate's Cairn Tunnel Ordinance (Cap. 393) ("TCTO"), the tolls which may be collected shall be those specified in the Schedule to TCTO. The tolls specified in the Schedule may be varied by agreement between the Chief Executive-in-Council and the Tate's Cairn Tunnel Company Limited, or in default of agreement, by submission of the question of the variation of tolls to arbitration. The Commissioner for Transport shall by notice in the Gazette, as soon as is practicable after such agreement or arbitration award, amend the Schedule to the Ordinance.

4. The above mechanism for toll variation is same as that provided under section 55 of Eastern Harbour Crossing Ordinance (Cap. 215).

5. This Notice substitutes the Schedule to TCTO with a new Schedule to reflect the increase of tolls (other than motorcycles and motor tricycles) payable under TCTO.

6. A comparison of the existing and new tolls is as follows-

Tate's Cairn Tunnel Tolls

Category	Vehicle	Toll (\$) (as from 1 August 2005)	Existing Toll (\$)
1.	Motorcycles, motor tricycles	10	10
2.	Private cars, electrically powered passenger vehicles, taxis	12	10
3.	Public and private light buses	18	17
4.	Light goods vehicles and special purpose vehicles of a permitted gross vehicle weight not exceeding 5.5 tonnes	18	17
5.	Medium goods vehicles and special purpose vehicles of a permitted gross vehicle weight of or exceeding 5.5 tonnes but not exceeding 24 tonnes	23	20
6.	Heavy goods vehicles and special purpose vehicles of a permitted gross vehicle weight of or exceeding 24 tonnes but not exceeding 38 tonnes	23	20
7.	Public and private single-decker buses	24	20
8.	Public and private double-decker buses	26	20
9.	Each additional axle in excess of 2	15	13

7. The Environment, Transport and Works Bureau has provided background information about this Notice in a LegCo Brief (ref: ETWB(T)CR 1/4651/94) in June 2005.

8. The Panel on Transport discussed the application for toll increase by Tate's Cairn Tunnel Company Limited on 2 February 2005.

9. At the meeting, on 2 February 2005, the Panel expressed grave concerns about the proposed toll increase. Members were worried that the proposed toll increase would aggravate the traffic congestion at Lion Rock Tunnel and induce other public transport operators to increase their fares. They called on the Administration to request the tunnel company to defer the toll increase. Views were also expressed that the Administration should expeditiously make a decision on its position regarding

the application for toll adjustments by the tunnel company and hold discussions with the company in accordance with section 36 of TCTO and it should refer the matter for arbitration as soon as possible if an agreement could not be reached.

10. On 2 February 2005, the Panel passed the following motion:

"In view of the gradually improving financial position of the Tate's Cairn Tunnel Company Limited, this Panel considers it inappropriate to increase the tunnel tolls at this stage."

11. Subsequent to the publication of the toll increase in the Gazette, the Panel has held a special meeting on 15 June 2005 to discuss the toll increases of Tate's Cairn Tunnel and Tai Lam Tunnel and Yuen Long Approach Road Tunnel.

12. The Panel was concerned about the tunnel toll increases and their impact on traffic and the general public. The toll increases would inevitably induce other public transport operators to increase their fares. The Panel urged the tunnel companies to consider deferring the toll increases or offering concessionary tolls to motorists. The Panel also called on the Administration to review the decision of allowing the tunnel companies to increase their tolls. Whilst recognizing the inherent problems associated with the "Build-Operate-Transfer" ("BOT") tunnels whereby tunnel operators would only aim at maximizing their profit, the Panel called on the Administration to review the effectiveness and appropriateness of using BOT approach in taking forward infrastructure projects. The Administration should also implement measures to reduce tunnel tolls and boost utilization of scarce tunnel resources with a view to addressing the transport needs of the travelling public and the logistics industry.

13. On 15 June 2005, the Panel passed a motion which urged the Government to withdraw the notices published in the Gazette in relation to its approval for the toll increases of Tate's Cairn Tunnel Company Limited (L.N. 93) and Route 3 (Country Park Section) Company Limited (L.N. 95).

14. L.N. 93 shall come into operation on 1 August 2005.

PART II LEGAL NOTICES NOT REQUIRED TO BE TABLED

United Nations Sanctions Ordinance (Cap. 537)

United Nations Sanctions (Liberia) Regulation 2005 (L.N. 94)

15. This Regulation is made under section 3 of the United Nations Sanctions Ordinance (Cap. 537) by the Chief Executive on the instruction of the Ministry of Foreign Affairs of the People's Republic of China and after consultation with the Executive Council. It gives effect to a decision of the Security Council of the United

Nations in Resolution 1579 of 21 December 2004 and provides for the implementation of the following sanctions imposed by the Security Council in Resolution 1521 of 22 December 2003 and Resolution 1532 of 12 March 2004–

- (a) prohibitions against the sale or supply of arms and related material (“prohibited goods”) to Liberia;
- (b) prohibitions against the provision to Liberia of technical assistance or training related to provision, manufacture, maintenance or use of the prohibited goods;
- (c) prohibitions against making available funds or other financial assets or economic resource, directly or indirectly, to or for the benefit of certain designated persons and entities;
- (d) prohibitions against the direct or indirect import of rough diamonds from Liberia;
- (e) prohibitions against the import of round logs and timber products origination in Liberia; and
- (f) prohibitions against the entry into or transit through Hong Kong of certain specified persons.

16. Although the Regulation is not subject to scrutiny of the Legislative Council under section 34 of the Interpretation and General Clauses Ordinance (Cap. 1), it does come within the terms of reference of the Subcommittee to examine the implementation in Hong Kong of resolutions of the United Nations Security Council in relations to sanctions (“the Subcommittee”). It is recommended that the Regulation be referred to the Subcommittee for further study. Neither the public nor any Panel of the Legislative Council has been consulted on the Regulation.

17. Pursuant to the request made by the Subcommittee on 15 May 2005, the Administration has provided an information note on the background about this Regulation on 15 June 2005.

Tai Lam Tunnel and Yuen Long Approach Road Ordinance (Cap. 474)
Tai Lam Tunnel and Yuen Long Approach Road Ordinance (Replacement of Schedule 1) Notice 2005 (L.N. 95)

18. Under the Tai Lam Tunnel and Yuen Long Approach Road Ordinance (Cap. 474), the franchisee (Route 3 (CPS) Company Limited) may give effect to toll increases on certain specified dates (1 January 2003, 2010 and 2017). If, however, the franchisee’s actual net revenue for any year that is not a year ending immediately before the specified dates is less than its minimum estimated net revenue for that year

(as specified in Schedule 4 to Cap. 474), the franchisee may apply to the Government to give effect to the next anticipated toll increase (section 40(1)).

19. Schedule 1 to Cap. 474 specifies the Tai Lam Tunnel and Yuen Long Approach Road Tolls. Under section 45(1), where a toll is increased, the Commissioner for Transport shall by notice published in the Gazette amend Schedule 1. Section 45(3) expressly provides that section 34 of the Interpretation and General Clauses Ordinance (Cap. 1) shall not apply in respect of such notice, hence the notice is not tabled before the Legislative Council.

20. The Notice substitutes Schedule 1 to Cap. 474 with a new Schedule to reflect the increase of tolls payable under Cap. 474. The amounts of increase are in accordance with the maximum amounts permitted under Schedule 2.

21. A comparison of the existing and new tolls is as follows-

Tai Lam Tunnel and Yuen Long Approach Road Tolls

Category	Vehicle	Toll (\$) (as from 19 June 2005)	Existing Toll (\$)
1.	Motorcycles, motor tricycles	25	20
2.	Private cars, electrically powered passenger vehicles, taxis	30	25
3.	Public and private light buses	75	60
4.	(a) Light goods vehicles and special purpose vehicles of a permitted gross vehicle weight not exceeding 5.5 tonnes	75	60
	(b) In a vehicle specified in paragraph (a), each additional axle in excess of 2	35	30
5.	(a) Medium goods vehicles and special purpose vehicles of a permitted gross vehicle weight exceeding 5.5 tonnes but not exceeding 24 tonnes	85	70
	(b) In a vehicle specified in paragraph (a), each additional axle in excess of 2	35	30
6.	(a) Heavy goods vehicles and special purpose vehicles of a permitted gross vehicle weight exceeding 24 tonnes	105	90
	(b) In a vehicle specified in paragraph (a), each additional axle in excess of 2	35	30
7.	Public and private single-decked buses	75	60
8.	Public and private double-decked buses	90	75

22. The Environment, Transport and Works Bureau has provided background information about this Notice in an information paper to the Panel on Transport in June 2005. The matter was also discussed at the special meeting of the Panel on Transport on 15 June 2005 (please see para. 11).

23. The Notice shall come into operation on 19 June 2005.

Prepared by

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