

立法會
Legislative Council

LC Paper No. LS70/06-07

**Paper for the House Committee Meeting
on 11 May 2007**

**Legal Service Division Report on
Subsidiary Legislation Gazetted on 4 May 2007**

Date of tabling in LegCo : 9 May 2007

Amendment to be made by : 6 June 2007 (or 27 June 2007 if extended by resolution)

PART I THE SHENZHEN BAY PORT HONG KONG PORT AREA

Public Order Ordinance (Cap. 245)

Closed Area (Hong Kong Section of the Shenzhen Bay Bridge and Deep Bay Link Portion) Order (L.N. 69)

Shenzhen Bay Port Hong Kong Port Area (Permission to Enter) Notice (L.N. 75)

Road Traffic Ordinance (Cap. 374)

Road Traffic (Amendment: Extension of Permitted Area for New Territories Taxis to Shenzhen Bay Port Hong Kong Port Area) Regulation 2007 (L.N. 68)

Immigration Ordinance (Cap. 115)

Immigration (Places of Detention) (Amendment: Shenzhen Bay Port Hong Kong Port Area) Order 2007 (L.N. 72)

Immigration Service Ordinance (Cap. 331)

Immigration Service (Designated Places) (Amendment: Shenzhen Bay Port Hong Kong Port Area) Order 2007 (L.N. 73)

Background

The Shenzhen Bay Port (SBP) located at Shekou in Shenzhen will be the new vehicular boundary crossing between Hong Kong and the Mainland. It will be linked to the north-western part of the New Territories by the Shenzhen Bay Bridge (SBB). Persons entering or leaving Hong Kong will go through the new control point at SBP Hong Kong Port Area (HKPA). Cross-boundary vehicles will enter or leave the area consisting of the HKPA, the Hong Kong section of SBB and the Deep Bay Link portion of the local road in the vicinity (the relevant closed areas).

2. HKPA has been declared a closed area under section 4 of Shenzhen Bay Port Hong Kong Port Area Ordinance (4 of 2007) (HKPAO) for the purposes of the Public Order Ordinance (Cap. 245) (POO) and any other enactment that applies to a closed area. For the effective management of the new control point, the Hong Kong section of SBB and the Deep Bay Link portion of the local road in the vicinity are also required to be designated as a closed area under section 36(1) of POO. Hence, subsidiary legislation is required to effect the designation and to grant permission to vehicles and persons to go through the relevant closed areas for the purposes of cross-boundary traffic and to provide for other matters under the Immigration Ordinance (Cap. 115) (IO), Immigration Service Ordinance (Cap. 331) (ISO) and the Road Traffic Ordinance (Cap. 374) (RTO). At its meeting on 7 March 2007, the Bills Committee on Shenzhen Bay Port Hong Kong Port Area Bill was informed of the Administration's plan to make, before the commissioning of HKPA, the requisite subsidiary legislation.

Closed Area (Hong Kong Section of the Shenzhen Bay Bridge and Deep Bay Link Portion) Order

3. By L.N. 69 made by the Chief Executive under section 36(1) of the POO after consultation with the Executive Council, the area described in Part 1 of, and shown on the map set out in Part 2 of, the Schedule to the Order is declared to be a closed area. It is to come into operation on a date to be appointed by the Secretary for Security by notice published in the Gazette, which will be the date on which HKPA commences operation.

4. Members may refer to the LegCo Brief (File Ref.: SBCR 3/2098/06) on L.N. 69 issued by the Security Bureau and dated 4 May 2007 for background and further information.

Shenzhen Bay Port Hong Kong Port Area (Permission to Enter) Notice

5. Section 38A of POO provides that the Commissioner of Police (CP) may, in relation to a closed area, grant, by notice published in the Gazette, permission to persons of any class or category specified in the notice to enter or leave a closed area during such times and subject to such exceptions, conditions or restrictions as specified in such notice. CP has made L.N. 75 to grant permission to persons entering or leaving Hong Kong through the Clearance Area of HKPA and drivers of road vehicles, taxis, public light buses on a scheduled service and franchised buses on a specified route carrying those persons to enter or leave the relevant closed area subject to the conditions and restrictions specified in the Notice.

6. L.N. 75 is to come into operation on the day on which sections 3 and 5 of HKPAO come into operation, i.e. when HKPA commences operation. Members may refer to the LegCo Brief on L.N. 75 issued by the Security Bureau and dated 4 May 2007 for background and further information.

Road Traffic (Amendment: Extension of Permitted Area for New Territories Taxis to Shenzhen Bay Port Hong Kong Port Area) Regulation 2007

7. L.N. 68 is made by the Secretary for the Environment, Transport and Works under section 6 of the RTO. It amends paragraph 1 of Schedule 7 to the Road Traffic (Registration and Licensing of Vehicles) Regulations (Cap. 374 sub. leg. E) (the principal regulations) by adding a subparagraph (k) in respect of all roads in HKPA.

8. Schedule 7 to the principal regulations sets out the area limitations for the operation of New Territories and Lantau taxis. The amendment allows such taxis to be available for hire and to carry passengers in HKPA. L.N. 68 is to come into operation on the day on which sections 3 and 5 of the HKPAO come into operation.

Immigration (Places of Detention) (Amendment: Shenzhen Bay Port Hong Kong Port Area) Order 2007

9. L.N. 72 is made by the Secretary for Security under section 35(1) of IO. It amends Schedule 3 to the Immigration (Places of Detention) Order (Cap. 115 sub. leg. B) by adding as item 27 the area within the Clearance Area of HKPA that is set aside as detention quarters for use by the Immigration Department (ID), so that the area can be used as a place of detention under IO.

Immigration Service (Designated Places) (Amendment: Shenzhen Bay Port Hong Kong Port Area) Order 2007

10. L.N. 73 is made by the Secretary of Security under section 13A(9) of the ISO. It amends the Schedule to the Immigration Service (Designated Places) Order (Cap. 331 sub. leg. B) by adding as item 14 the area within the Clearance Area of HKPA that is set aside as detention quarters for use by ID, so that the area becomes a designated place within the meaning of section 2(1) of ISO.

11. Members may refer to the LegCo Brief (File Ref: SBCR 35/2091/74) on L.N. 72 and L.N. 73 issued by the Security Bureau in May 2007 for background information. Both Orders are to come into operation on the day on which sections 3 and 5 of the HKPAO come into operation.

PART II THE LOK MA CHAU SPUR LINE CONTROL POINT

Public Order Ordinance (Cap. 245)

Frontier Closed Area (Permission to Enter) (Amendment) Notice 2007 (L.N. 74)

Immigration Ordinance (Cap. 115)

Immigration (Places of Detention) (Amendment: Lok Ma Chau Spur Line Control Point) Order 2007 (L.N. 70)

Immigration Service Ordinance (Cap. 331)

Immigration Service (Designated Places) (Amendment: Lok Ma Chau Spur Line

Control Point) Order 2007 (L.N. 71)

Background

12. The Lok Mau Chau Spur Line Control Point (SLCP) will be a new boundary control point for both rail and road passengers. It is connected to the East Rail Sheung Shui Station of the Kowloon-Canton Railway Corporation (KCRC) through the Sheung Shui to Lok Ma Chau Spur Line and linked to the Huanggang Station of Shenzhen by a footbridge. Accordingly, subsidiary legislation is required to be made to provide for measures and facilities necessary for the effective operation of the SLCP. Neither the public nor any LegCo Panel has been consulted on the following pieces of subsidiary legislation.

Frontier Closed Area (Permission to Enter) (Amendment) Notice 2007

13. Both the SLCP and the public transport interchange (PTI) located next to it are situate inside the Frontier Closed Area (FCA), which is a closed area declared pursuant to Section 36 of POO. Permission to enter or leave a closed area during such times and subject to conditions or restrictions has been granted by CP pursuant to section 38A of POO under the existing Frontier Closed Area (Permission to Enter) Notice (Cap. 245 sub. leg. H) (the principal Notice) to drivers of cross-boundary vehicles and travellers who enter or leave Hong Kong through various control points to enter or leave FCA. To enable such drivers and travellers to enter or leave Hong Kong through the SLCP, the grant of similar permission is required.

14. L.N. 74 is made by CP to amend the principal Notice to grant permission to enter or leave FCA to drivers of taxis, franchised buses on a specified route in uniform and of public light buses on a scheduled service that carry passengers to or from the PTI, as well as to persons who travel by those vehicles, for the period beginning on 0600 hours each day and ending on 0030 hours the next day subject to the conditions specified in L.N. 74 (items 2D and 2E added to the Schedule to the principal Notice). It also amends the time periods during which the drivers of taxis and public light buses on a scheduled service that carry passengers to or from the Lok Ma Chau Boundary Control Point and such passengers are permitted to enter or leave by repealing “Beginning on 0000 hours and ending with 0630 hours each day” and substituting “Beginning on 2300 hours on each day and ending with 0630 hours on the next day” (column three in item 2C). Other technical and minor amendments are made to items 1, 2, 2A, 2B and 2C in the Schedule to the principal Notice.

15. Members may refer to the LegCo Brief (File Ref.: SBCR 3/10/1476/80) on L.N. 74 dated 2 May 2007 and issued by the Security Bureau for further and background information. The Notice is to come into operation on a date to be appointed by CP by notice published in the Gazette.

Immigration (Places of Detention) (Amendment: Lok Ma Chau Spur Line Control Point) Order 2007

16. L.N. 70 is made by the Secretary for Security under section 35(1) of IO.

It amends Schedule 3 to the Immigration (Places of Detention) Order (Cap. 115 sub. leg. B) by adding as item 26 the area within the SLCP that is set aside as detention quarters for use by ID, so that the area can be used as a place of detention under IO.

Immigration Service (Designated Places) (Amendment: Lok Ma Chau Spur Line Control Point) Order 2007

17. L.N. 71 is made by the Secretary of Security under section 13A(9) of ISO. It amends the Schedule to the Immigration Service (Designated Places) Order (Cap. 331 sub. leg. B) by adding as item 13 the area within SLCP that is set aside as detention quarters for use by ID, so that the area becomes a designated place within the meaning of section 2(1) of ISO.

18. Members may wish to refer to the LegCo Brief (File Ref: SBCR 35/2091/74) on L.N. 70 and L.N. 71 issued by the Security Bureau in May 2007 for background information. Both Orders are to come into operation on a day to be appointed by the Secretary for Security by notice published in the Gazette.

PART III DECLARATION OF HISTORICAL BUILDING

Antiquities and Monuments Ordinance (Cap. 53)

Antiquities and Monuments (Declaration of Historical Building) Notice 2007 (L.N. 76)

19. By this Notice made under section 3(1) of the Antiques and Monuments Ordinance (Cap. 53) (the Ordinance) by the Secretary for Home Affairs (the Secretary) after consultation with the Antiquities Advisory Board and with the approval of the Chief Executive, the building known as Chik Kwai Study Hall (the Building) at Sheung Tsun Lot No. 406 in D.D. 112, Sheung Tsuen, Pat Heung, Yuen Long, New Territories is declared to be a historical building for the purposes of the Ordinance. The Building is delineated and shown edged red on the plan marked Plan No. YLM6230 signed and deposited in the Land Registry by the Secretary in accordance with section 3(4) of the Ordinance.

20. This Notice is to come into operation on 29 June 2007. Neither the public nor any LegCo Panel has been consulted on the Notice.

Concluding observation

21. No difficulties have been identified in the legal or drafting aspects of the above subsidiary legislation reported.

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