

LEGISLATIVE COUNCIL BRIEF

Public Order Ordinance (Chapter 245)

SHENZHEN BAY PORT HONG KONG PORT AREA (PERMISSION TO ENTER) NOTICE

INTRODUCTION

The Commissioner of Police (CP), on 2 May 2007, made the Shenzhen Bay Port Hong Kong Port Area (Permission to Enter) Notice (the Notice), at **Annex**, under section 38A(1) of the Public Order Ordinance (Cap. 245). By the Notice, persons entering or leaving Hong Kong via the new control point at the Shenzhen Bay Port Hong Kong Port Area (HKPA) and drivers of cross-boundary road vehicles and specified modes of public transport carrying those persons will be permitted to enter or leave the closed area consisting of the HKPA, the Hong Kong section of the Shenzhen Bay Bridge (SBB) and the related local road in the vicinity (i.e. the Deep Bay Link portion) (the concerned Closed Area).

JUSTIFICATIONS

2. The Shenzhen Bay Port (SBP) and SBB will be the fourth vehicular boundary crossing between Hong Kong and Shenzhen. The SBP, located at Shekou in Shenzhen, will be linked to the north-western part of the New Territories of Hong Kong through the SBB. Both the Hong Kong and Shenzhen sides are working towards commissioning the SBP within this year.

3. The Shenzhen Bay Port Hong Kong Port Area Ordinance (the Ordinance) was enacted by the Legislative Council on 25 April 2007 and published in the Gazette on 27 April 2007. A HKPA will be set up, and Hong Kong will exercise jurisdiction over the HKPA according to the laws of Hong Kong. The HKPA comprises the Hong Kong Clearance

Area where the new Hong Kong control point will be located, and the Shenzhen section of the SBB. Section 4 of the Ordinance provides that for the purposes of Cap. 245 and any other enactment that applies to a closed area (as defined in section 2(1) of Cap. 245), the HKPA is a closed area so defined.

4. The Hong Kong section of the SBB and Deep Bay Link portion is designated as a closed area under the Closed Area (Hong Kong Section of the Shenzhen Bay Bridge and Deep Bay Link Portion) Order. The relevant Legislative Council brief is also issued today. The Order is made pursuant to section 36 of Cap. 245.

5. Section 37 of Cap. 245 provides that a permit may be issued by CP to any person allowing that person to enter or leave the closed area. Section 38A of Cap. 245 further provides that CP may in relation to any closed area in respect of which he is empowered to issue a permit under section 37, by notice published in the Gazette, grant permission to persons of any class or category specified in the notice to enter or leave the closed area during such times and subject to such exceptions, conditions or restrictions as are specified in the notice.

6. To facilitate the efficient operation of the HKPA, we propose to grant general permission to persons entering or leaving Hong Kong via the new control point at the HKPA and drivers of cross-boundary road vehicles and specified modes of public transport carrying those persons to enter or leave the concerned Closed Area. This arrangement is similar to the operation of other land control points which are located within the Frontier Closed Area.

THE NOTICE

7. Clause 1 of the Notice provides that it shall come into operation on the day on which sections 3 and 5 of the Ordinance comes into operation, i.e. when the HKPA commences operation. The closed area covering the Hong Kong section of the SBB and the Deep Bay Link portion will also come into operation on the same day. Clause 2 of the Notice defines the terms used in the Notice.

8. Clause 3 of the Notice provides that persons of categories specified in the Schedule to the Notice are permitted to enter or leave the concerned Closed Area on a round-the-clock basis subject to the conditions detailed therein.

9. Item 1 of the Schedule to the Notice provides that the drivers of and cross-boundary passengers on road vehicles entering or leaving Hong Kong via the control point at the HKPA will be allowed to enter or leave the concerned Closed Area. Items 2 and 3 of the Schedule provide that drivers of public light buses on a scheduled service, franchised buses on a specified route in uniform and taxis will be permitted to enter or leave the concerned Closed Area for the sole purpose of carrying persons to and from the Public Transport Interchange at the HKPA. Persons on those vehicles for the sole purpose of leaving Hong Kong via the control point at the HKPA will also be permitted to enter or leave the concerned Closed Area. Items 4 and 5 of the Schedule provide that persons who have entered Hong Kong via the control point at the HKPA will be permitted to enter the concerned Closed Area and take specified public transport for the purpose of leaving the concerned Closed Area.

LEGISLATIVE TIMETABLE

10. The legislative timetable is as follows:

Publication in the Gazette	4 May 2007
Tabling into the Legislative Council	9 May 2007

IMPLICATIONS OF THE PROPOSAL

11. The Notice is in conformity with the Basic Law, including the provisions concerning human rights. It has no financial, civil service, economic or sustainability implications. It will not affect the current binding effect of Cap. 245.

PUBLIC CONSULTATION

12. The Government briefed the Bills Committee of the Legislative Council on the Shenzhen Bay Port Hong Kong Port Area Bill of the HKPA-related subsidiary legislation, including the general permission to enter or leave the concerned Closed Area, that are planned to be made before the HKPA commences operation, on 7 March 2007.

PUBLICITY

13. A press release will be issued on 4 May 2007. We will also make available a spokesman to answer media enquiries.

ENQUIRIES

14. For any enquiries, please contact Mr Alan K M Chu, Principal Assistant Secretary for Security, at telephone number 2810 2506.

Security Bureau
4 May 2007

SHENZHEN BAY PORT HONG KONG PORT AREA (PERMISSION TO ENTER) NOTICE

(Made by the Commissioner of Police under section 38A of the Public Order Ordinance (Cap. 245))

1. Commencement

This Notice shall come into operation on the day on which sections 3 and 5 of the Shenzhen Bay Port Hong Kong Port Area Ordinance (4 of 2007) come into operation.

2. Interpretation

In this Notice –

“Clearance Area” (查驗區) means the Clearance Area of the Shenzhen Bay Port Hong Kong Port Area, being the area set out in Part 1 of Schedule 1 to the Shenzhen Bay Port Hong Kong Port Area Ordinance (4 of 2007);

“Closed Area” (禁區) means –

- (a) the Shenzhen Bay Port Hong Kong Port Area; and
- (b) the area enclosed by the boundaries set out in Part 1 of the Schedule to the Closed Area (Hong Kong Section of the Shenzhen Bay Bridge and Deep Bay Link Portion) Order;

“cross-boundary passenger” (過境乘客) means a passenger travelling to or from the Mainland of China;

“franchised bus” (專利巴士) means a bus in respect of which a franchise is in force under the Public Bus Services Ordinance (Cap. 230);

“Passenger Terminal Building” (旅檢大樓) means the Passenger Terminal Building within the Clearance Area;

“Public Transport Interchange” (公共運輸交匯處) means the Public Transport Interchange within the Clearance Area;

“scheduled service” (專綫服務) has the meaning assigned to it by regulation 2(1) of the Road Traffic (Public Service Vehicles) Regulations (Cap. 374 sub. leg. D);

“specified route” (指明路綫) has the meaning assigned to it by section 2 of the Public Bus Services Ordinance (Cap. 230).

3. Permission to enter or leave

Without prejudice to the provisions of any other Ordinance, persons of the categories of persons specified in column 2 of the Schedule are permitted to enter or leave the Closed Area –

- (a) at any time; and
- (b) subject to the conditions specified in relation to such persons in column 3 of the Schedule.

SCHEDULE

[s. 3]

Item	Persons permitted to enter or leave	Conditions
1.	The drivers of and cross-boundary passengers on road vehicles to or from the Mainland of China, entering or leaving Hong Kong via the Clearance Area.	<p>(a) The driver shall drive his vehicle directly from the Ha Tsuen Interchange to the Clearance Area or from the Clearance Area to the Ha Tsuen Interchange.</p> <p>(b) The driver or passenger shall not leave the immediate vicinity of the vehicle.</p>
2.	The drivers of taxis and the drivers of public light buses on a scheduled service, who enter or	<p>(a) The driver –</p> <p>(i) shall drive his vehicle directly from the Ha Tsuen Interchange to the Public</p>

- leave the Closed Area for the sole purpose of carrying persons to or from the Public Transport Interchange, and persons who enter the Closed Area by those vehicles for the sole purpose of leaving Hong Kong via the Clearance Area.
- Transport Interchange or from the Public Transport Interchange to the Ha Tsuen Interchange; and
- (ii) shall not leave the immediate vicinity of the vehicle.
- (b) A person who has entered the Closed Area by any of those vehicles shall not leave the immediate vicinity of the vehicle at any place other than the Public Transport Interchange.
3. The drivers of franchised buses on a specified route in uniform, who enter or leave the Closed Area for the sole purpose of carrying persons to or from the Public Transport Interchange, and persons who enter the Closed Area by those buses for the sole purpose of leaving Hong Kong via the Clearance Area.
- (a) The driver –
- (i) shall drive his bus directly from the Ha Tsuen Interchange to the Public Transport Interchange or from the Public Transport Interchange to the Ha Tsuen Interchange; and
- (ii) shall not leave the immediate vicinity of the bus.
- (b) A person who has entered the Closed Area by any such bus shall not leave the immediate vicinity of the bus at any place other than the Public Transport

Interchange.

4. Persons who, after entering Hong Kong via the Passenger Terminal Building, enter, or intend to enter, the Public Transport Interchange for the sole purpose of leaving the Closed Area.

The person shall leave the Public Transport Interchange without undue delay.

5. Persons who, after entering Hong Kong via the Passenger Terminal Building, are travelling on taxis, public light buses on a scheduled service or franchised buses on a specified route for the purpose of leaving the Closed Area.

The person shall not leave the immediate vicinity of the vehicle.

Commissioner of Police

Explanatory Note

The object of this Notice is to grant general permission to persons entering or leaving Hong Kong via the Clearance Area of the Shenzhen Bay Port Hong Kong Port Area and drivers of road vehicles and certain public transportation vehicles carrying those persons, to enter or leave the closed area consisting of the Shenzhen Bay Port Hong Kong Port Area, the Hong Kong section of the Shenzhen Bay Bridge and the Deep Bay Link Portion.