

立法會
Legislative Council

LC Paper No. LS18/15-16

**Paper for the House Committee Meeting
on 18 December 2015**

**Legal Service Division Report on
Eastern Harbour Crossing Legislation (Amendment) Bill 2015**

I. SUMMARY

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| 1. The Bill | The Bill seeks to — <ul style="list-style-type: none">(a) amend the Road Tunnels (Government) Ordinance (Cap. 368) and its subsidiary legislation to extend their application to the Eastern Harbour Crossing (EHC);(b) incorporate the existing tolls chargeable in respect of EHC into the Road Tunnels (Government) Regulations (Cap. 368A);(c) repeal the Eastern Harbour Crossing Ordinance (Cap. 215) and its subsidiary legislation; and(d) provide for savings and transitional arrangements, and consequential amendments. |
| 2. Public Consultation | It is not stated in the relevant Legislative Council Brief that the public has been consulted. |
| 3. Consultation with LegCo Panel | The Administration consulted the Panel on Transport on 6 November 2015 on the legislative proposal. Panel members had no objection to the proposed legislative amendments. A motion was passed at the meeting in relation to the toll level of EHC after the takeover and the allocation of surplus generated from EHC. |
| 4. Conclusion | The Legal Service Division is scrutinizing the legal and drafting aspects of the Bill. In the light of the views expressed at the above Panel meeting, Members may consider whether to form a Bills Committee to study the Bill in detail. |

II. REPORT

The date of First Reading of the Bill is 16 December 2015. Members may refer to the Legislative Council (LegCo) Brief (File Ref.: THB(T) 4/4651/85) issued by the Transport and Housing Bureau dated 9 December 2015 for further details.

Object of the Bill

2. The Bill seeks to —

- (a) amend the Road Tunnels (Government) Ordinance (Cap. 368) and its subsidiary legislation to extend their application to the Eastern Harbour Crossing (EHC);
- (b) incorporate the existing tolls chargeable in respect of EHC into the Road Tunnels (Government) Regulations (Cap. 368A);
- (c) repeal the Eastern Harbour Crossing Ordinance (Cap. 215) and its subsidiary legislation; and
- (d) provide for savings and transitional arrangements, and consequential amendments.

Background

3. At present, the operation and regulation of EHC is subject to Cap. 215. Under section 4 of Cap. 215, the franchise granted to the New Hong Kong Tunnel Company Limited (the Company) to construct and operate EHC is valid for a period of 30 years from the start of the construction. Under section 70 of Cap. 215, the assets of the Company will vest in the Government upon expiry of the franchise. According to paragraph 2 of the LegCo Brief, the 30-year franchise of EHC will expire on 7 August 2016. The Administration considers it necessary to provide for legal backing for EHC to operate and be managed as a Government tunnel.

Provisions of the Bill

Amendments to Cap. 368 and Cap. 368A and repeal of Cap. 215 and its subsidiary legislation

4. Cap. 368 provides for the control and regulation of vehicular and pedestrian traffic in Government tunnels and the management of such tunnels.

The Schedule to Cap. 368 sets out the tunnels to which Cap. 368 are applicable. Cap. 368A provides for, among other things, traffic control (such as traffic signs and issuance of permits), tolls and fees in respect of Government tunnels.

5. The Bill seeks to add EHC to the Schedule (which would be renumbered as Schedule 1) to Cap. 368 so that, if the Bill is passed, Cap. 368 would apply to EHC from 7 August 2016 onwards. Further, Cap. 215 and its subsidiary legislation are proposed to be repealed consequentially.

6. The Bill also seeks to amend Cap. 368A to provide for, among other things, the following —

- (a) the requirements relating to the operation of EHC, including the traffic signs and road markings for use at EHC and the types of vehicles which require a permit to use EHC;
- (b) the tolls, removal fees and permit fees chargeable on vehicles using EHC. In particular, the existing tolls for EHC are proposed to be incorporated into Schedule 2 to Cap. 368A. The proposed removal and permit fees in respect of EHC would align with those of other Government tunnels.

Savings, transitional and consequential provisions

7. The Bill provides for savings and transitional arrangements in the new Schedule 2 to Cap. 368. These provisions would operate to the effect that if an offence provided under the Eastern Harbour Crossing Road Tunnel By-laws (Cap. 215E) is committed before Cap. 215E is repealed, certain provisions of other Ordinances would continue to apply to such offence as if Cap. 215E had not been repealed. The proposed transitional arrangements would operate to the effect that certain traffic signs specified in Cap. 215E that are erected for the use of EHC before 7 August 2016 would continue to be applicable on and after that date.

8. Division 2 of Part 4 of the Bill provides for consequential amendments to various Ordinances following the repeal of Cap. 215 and its subsidiary legislation.

Commencement

9. The Bill, if passed, would come into operation on 7 August 2016.

Public consultation

10. It is not stated in the LegCo Brief that the public has been consulted.

Consultation with LegCo Panel

11. As advised by the Clerk to the Panel on Transport, on 6 November 2015, the Administration briefed members of the Panel on the takeover arrangements of EHC upon expiry of the EHC franchise on 7 August 2016. The Panel noted that EHC will be subsumed under the legal framework of Cap. 368 and other relevant subsidiary legislation will also be amended consequentially. Members had no objection to the proposed legislative amendments. Further, a motion was passed at the meeting requesting the Government to reduce the toll level of EHC after the takeover; and to allocate any surplus generated from EHC and the Cross Harbour Tunnel for buying back the Western Harbour Crossing or introducing concessions with a view to rationalizing the uneven distribution of traffic flow among the three road harbour crossings.

Conclusion

12. The Legal Service Division is scrutinizing the legal and drafting aspects of the Bill. In the light of the views expressed at the above Panel meeting, Members may consider whether to form a Bills Committee to study the Bill in detail.

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