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**Legislative Council**

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**Paper for the House Committee on 30 November 2018**

**Report of the Subcommittee on Four Commencement Notices  
Relating to the Commissioning of the Hong Kong-Zhuhai-Macao Bridge  
Gazetted on 22 October 2018 and Cross-boundary Movement of  
Physical Currency and Bearer Negotiable Instruments Ordinance  
(Amendment of Schedule 1) (No. 3) Notice 2018**

**Purpose**

This paper reports on the deliberations of the Subcommittee on Four Commencement Notices Relating to the Commissioning of the Hong Kong-Zhuhai-Macao Bridge Gazetted on 22 October 2018 and Cross-boundary Movement of Physical Currency and Bearer Negotiable Instruments Ordinance (Amendment of Schedule 1) (No. 3) Notice 2018 ("the Subcommittee").

**Background**

2. The Hong Kong-Zhuhai-Macao Bridge ("HZMB") is the first cross-boundary land bridge connecting Guangdong, Hong Kong and Macao. The entire HZMB project includes the Main Bridge in the Mainland waters and the respective link roads and boundary crossing facilities in Hong Kong, Zhuhai and Macao. The HZMB Hong Kong Link Road ("HKLR"), which is a 12-kilometre dual three-lane carriageway, starts from the boundary between the Hong Kong Special Administrative Region and the Mainland and runs continuously to the HZMB Hong Kong Port ("HKP"), which is located to the east of the Hong Kong International Airport, thereby linking the Main Bridge and HZMB HKP.

3. The following four items of subsidiary legislation relating to the commissioning of HZMB HKP and subject to negative vetting were tabled at the Council meeting of 11 October 2017:

- (a) Immigration (Places of Detention) (Amendment) Order 2017;
- (b) Immigration Service (Designated Places) (Amendment) Order 2017;

- (c) Closed Area (Hong Kong-Zhuhai-Macao Bridge Hong Kong Port and Hong Kong Link Road) Order (Cap. 245L); and
- (d) Hong Kong-Zhuhai-Macao Bridge Hong Kong Port and Hong Kong Link Road Closed Area (Permission to Enter) Notice (Cap. 245M).

They declare certain areas located at or adjacent to HZMB HKP and HKLR as closed areas under the Public Order Ordinance (Cap. 245), grant permission for cross-boundary passengers and vehicle drivers to enter or leave the relevant closed areas and add the area within HZMB HKP that is specified as detention quarters for use by the Immigration Department ("ImmD").

4. Separately, the Cross-boundary Movement of Physical Currency and Bearer Negotiable Instruments Ordinance (Cap. 629), which came into operation on 16 July 2018, requires a person arriving at any specified control point listed in Schedule 1 to Cap. 629<sup>1</sup> from a place outside Hong Kong to make a written declaration of the currency and bearer negotiable instruments ("CBNIs") in his/her possession to the Customs and Excise Department ("C&ED"), using the Red Channel under the Red and Green Channel System, if the total value of such CBNIs is more than the amount specified in Schedule 4 to Cap. 629, i.e. HK\$120,000.

**The four commencement notices relating to the commissioning of HZMB (L.N. 198 and L.N. 200 to L.N. 202) and the Cross-boundary Movement of Physical Currency and Bearer Negotiable Instruments Ordinance (Amendment of Schedule 1) (No. 3) Notice 2018 (L.N. 199)**

5. On 22 October 2018, the Administration published in the Gazette four commencement notices to appoint 24 October 2018 as the day on which the four items of subsidiary legislation mentioned above in paragraph 3 come into operation. The Cross-boundary Movement of Physical Currency and Bearer

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<sup>1</sup> Prior to the making of the Cross-boundary Movement of Physical Currency and Bearer Negotiable Instruments Ordinance (Amendment of Schedule 1) (No. 3) Notice 2018, Schedule 1 to Cap. 629 included 14 specified control points, namely (1) Lo Wu Control Point, (2) Hung Hom Station, (3) Man Kam To Boundary Control Point, (4) Sha Tau Kok Boundary Control Point, (5) Hong Kong-Macau Ferry Terminal, (6) China Ferry Terminal, (7) Lok Ma Chau Boundary Control Point, (8) Hong Kong International Airport, (9) Tuen Mun Ferry Terminal, (10) Shenzhen Bay Port Hong Kong Port Area, (11) Lok Ma Chau Spur Line Control Point, (12) Kai Tak Cruise Terminal, (13) Ocean Terminal, and (14) West Kowloon Station of the Guangzhou-Shenzhen-Hong Kong Express Rail Link (other than the West Kowloon Station Mainland Port Area).

Negotiable Instruments Ordinance (Amendment of Schedule 1) (No. 3) Notice 2018 ("the Amendment Notice"), which was made by the Commissioner of Customs and Excise under section 33(1) of Cap. 629, was also published in the Gazette on 22 October 2018 to add HZMB HKP to Schedule 1 to Cap. 629 as a specified control point. These five items of subsidiary legislation were tabled before the Legislative Council on 24 October 2018 for negative vetting.

## **The Subcommittee**

6. At the House Committee meeting on 26 October 2018, Members formed a subcommittee to study the four commencement notices relating to the commissioning of HZMB and the Amendment Notice. The membership list of the Subcommittee is in the **Appendix**. Under the chairmanship of Mr Frankie YICK, the Subcommittee has held one meeting with the Administration.

7. The scrutiny period of the five items of subsidiary legislation has been extended from the Council meeting of 21 November 2018 to that of 12 December 2018 by a resolution of the Council passed at its meeting of 21 November 2018.

## **Deliberations of the Subcommittee**

### Enforcement against cross-boundary movement of large quantities of CBNIs

8. Noting that Cap. 629 has established a declaration and disclosure system to detect the cross-boundary movement of large quantities of CBNIs into or out of Hong Kong in order to implement Recommendation 32 of the Financial Action Task Force<sup>2</sup>, Mr LAM Cheuk-ting has enquired how C&ED enforces the declaration and disclosure requirements on persons arriving in Hong Kong via a specified control point (i.e. HZMB HKP in the present case) and what measures are adopted to detect non-compliance with the said requirements.

9. The Administration has advised that under Cap. 629, a person who arrives in Hong Kong via a specified control point listed in Schedule 1 to Cap. 629 and is

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<sup>2</sup> The Financial Action Task Force is an inter-governmental body which sets international standards on anti-money laundering and counter-financing of terrorism through 40 Recommendations for compliance by member jurisdictions. Specifically, Recommendation 32 requires the establishment by statute of a system, which may be based on declaration or disclosure, or a mixed system, to detect the physical cross-boundary transportation of CBNIs.

in possession of a large quantity of CBNIs (i.e. the total value of which is more than HK\$120,000) must use the Red Channel under the Red and Green Channel System to make a written declaration. A person who is about to leave Hong Kong must disclose, upon the request of a Customs officer, whether he/she is in possession of a large quantity of CBNIs and, if so, make a written declaration. Persons who fail to comply with the declaration and disclosure requirements under Cap. 629 are liable to a maximum penalty of a fine of HK\$500,000 and imprisonment for two years. Customs officers inspect travellers at the specified control points in line with C&ED's enforcement strategy to detect contraventions. To facilitate enforcement actions in this regard, C&ED also deploys detector dogs at control points and makes use of advanced equipment such as X-ray machines/scanners for screening belongings of travellers.

10. In response to Mr LAM Cheuk-ting's further enquiry as to whether and how persons arriving in Hong Kong are made aware of the declaration/disclosure requirements, the Administration has advised that to assist members of the public, visitors and relevant trades to understand and comply with the new statutory requirements, large-scale publicity has been conducted, such as broadcasting Announcements in the Public Interest on television and radio, as well as displaying posters and banners at control points. A grace period of three months had also been implemented since the commencement of Cap. 629. During the grace period, C&ED issued written warnings as far as possible to persons who did not comply with the declaration or disclosure requirements for the first time. After the expiry of the grace period, rigorous enforcement actions against contraventions of Cap. 629 have been taken without warnings issued.

#### Penalty

11. Noting that more than 20 written warnings had been issued during the three-month grace period, Mr Frankie YICK and Mr YIU Si-wing have enquired whether those persons issued with warning letters due to non-compliance with the declaration or disclosure requirements would have any criminal liability. Information has also been sought on the penalty for not meeting the declaration or disclosure requirements after the grace period.

12. The Administration has informed the Subcommittee that a person to whom a warning letter was issued during the grace period would not incur any criminal liability as such. Regarding the penalty after the grace period, section 13 of Cap. 629 provides for a procedure for discharging the liability of a passenger in violation of a declaration or disclosure requirement, upon the payment of HK\$2,000. This procedure is applicable only to first-time offenders, who have not been convicted of money laundering or terrorist financing offences and whose CBNIs are not reasonably suspected to be crime proceeds or terrorist

property. It is mainly intended to cater for *bona fide* passengers having inadvertently failed to observe the declaration or disclosure requirements. All other cases will be subject to criminal prosecution which may lead to fines and/or imprisonment. The maximum penalty is a fine of HK\$500,000 and two years of imprisonment.

#### Detention facilities at HZMB HKP

13. Mr YIU Si-wing has expressed concern about the adequacy of detention facilities at HZMB HKP. Enquiries have been raised on the circumstances under which ImmD's 10 detention rooms at HZMB HKP would be used and whether any mechanism is in place to cater for situations where the detention rooms at HZMB HKP are fully occupied. The Administration has advised that persons being refused permission to enter Hong Kong will be repatriated as soon as possible. A need to use the detention rooms may arise when, for example, there is a need to detain a person being refused entry for further investigation. The 10 detention rooms are sufficient for operation use of ImmD at HZMB HKP and in the event that the detention rooms are fully occupied, arrangements will be made for additional persons to be transferred to other control points with detention facilities.

#### **Recommendation/Follow-up actions**

14. The Subcommittee raises no objection to L.N. 198 to L.N. 202 and will not propose any amendment to these five items of subsidiary legislation.

#### **Advice Sought**

15. Members are invited to note the deliberations of the Subcommittee.

**Subcommittee on Four Commencement Notices  
Relating to the Commissioning of the Hong Kong-Zhuhai-Macao Bridge  
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Physical Currency and Bearer Negotiable Instruments Ordinance  
(Amendment of Schedule 1) (No. 3) Notice 2018**

**Membership list**

Chairman                      Hon Frankie YICK Chi-ming, SBS, JP

Members                      Hon YIU Si-wing, BBS  
                                    Hon CHAN Han-pan, BBS, JP  
                                    Hon LEUNG Che-cheung, SBS, MH, JP  
                                    Hon CHU Hoi-dick  
                                    Hon LAM Cheuk-ting  
                                    Hon Holden CHOW Ho-ding  
                                    Hon YUNG Hoi-yan

(Total : 8 members)

Clerk                              Miss Josephine SO

Legal Adviser                Mr Cliff IP

Date                                12 November 2018