

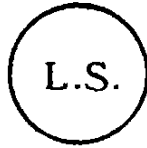
ROAD TUNNELS (GOVERNMENT) ORDINANCE 1981**ARRANGEMENT OF SECTION**

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HONG KONG

No. 48 OF 1981

Ordinance not
disallowed—see
G. N. 450/82



I assent.

JACK CATER,
Acting Governor.

9 July 1981.

An Ordinance to provide for the control and regulation of vehicular and pedestrian traffic in road tunnels managed by the Government.

LN 40/82

[15 Feb. 1982]

Enacted by the Governor of Hong Kong, with the advice and consent of the Legislative Council thereof.

Short title and commencement.

1. This Ordinance may be cited as the Road Tunnels (Government) Ordinance 1981 and shall come into operation on a day to be appointed by the Governor by notice in the *Gazette*.

Interpretation.

2. In this Ordinance, unless the context otherwise requires—

“Authority” means the Commissioner for Transport;

“authorized officer” means a public officer authorized by the Authority under section 10;

(Cap. 295.)

“dangerous goods” means dangerous goods as defined in section 2 of the Dangerous Goods Ordinance;

LN 76/82

“Director” means the Director of ~~Public Works~~ ^{Lands};

“driver” means, in relation to any vehicle, any person who is in charge of or assisting in the control of it;

(Cap. 220.)

“driving licence” means a driving licence issued under the Road Traffic Ordinance;

“owner” includes the person in whose name a vehicle is registered and the person by whom a vehicle is kept and used and, in relation to a vehicle which is the subject of a hiring agreement or hire purchase agreement, means the person in possession of the vehicle under the agreement;

“register” means registered under the Road Traffic Ordinance;

“registered” means registered as owner of a vehicle under the Road Traffic Ordinance;

“tunnel” includes the area adjacent thereto described on a plan deposited under section 7;

“vehicle” means any vehicle, whether or not mechanically propelled, which is constructed or adapted for use on roads but does not include a tram.

Application. Schedule.

3. (1) This Ordinance shall apply to the tunnels named in the Schedule.

(2) The Governor may amend the Schedule by notice in the *Gazette*.

A tunnel is a public place.

4. For the purposes of liability for a contravention of any Ordinance, a tunnel shall be a public place.

5. Unless the contrary intention appears from this Ordinance, the Road Traffic Ordinance shall apply to a tunnel as if a tunnel were a road within the meaning of that Ordinance.

Application of
Road Traffic
Ordinance.
(Cap. 220.)

6. (1) The Authority shall determine the boundaries of a tunnel and the Director shall delineate the boundaries on a plan.

Tunnel
boundaries and
plans.

(2) The Authority in consultation with the Director may vary the boundaries of a tunnel.

(3) Where the boundaries of a tunnel are varied under subsection (2), the Director shall prepare a plan delineating the boundaries.

7. (1) A plan prepared under section 6 shall be numbered, dated, signed and certified by the Director as being a plan of the tunnel to which such plan relates and shall be deposited by the Authority in the Land Office.

Certification
and deposit
of plans.

(2) The Authority shall cause notification of the deposit of a plan under subsection (1) to be published in the *Gazette*.

8. (1) In any proceedings before a court, a copy of a plan prepared under section 6, certified by the Director to be a copy of the plan, shall be conclusive proof of the area comprising that tunnel.

Proof of
plans.

(2) Any plan purporting to be certified by the Director under subsection (1) shall be admitted without further proof and shall be presumed, until the contrary is proved, to have been certified by him.

9. The Authority may in writing delegate any other public officer to exercise the powers and perform the duties conferred or imposed on him by this Ordinance.

Authority
may delegate
powers.

10. The Authority may in writing appoint any public officer to be an authorized officer for the purposes of this Ordinance.

Power of
Authority
to appoint
authorized
officers.

11. (1) An authorized officer may at any tunnel—

(a) for the purpose of regulating traffic;

(b) for the purpose of preventing or detecting the commission of an offence against this Ordinance or the Road Traffic Ordinance; or

(c) if he reasonably suspects that the driver of a vehicle—

(i) has committed an offence against this Ordinance or the Road Traffic Ordinance; or

(ii) has been involved in an accident at a tunnel,

exercise any of the powers specified in subsection (2).

Powers of
authorized
officers.

(Cap. 220.)

(2) For the purposes of subsection (1), an authorized officer may—

(a) order, direct or signal the driver of a vehicle—

(i) to stop the vehicle forthwith; or

(ii) to proceed to any place at the tunnel so ordered, directed or signalled and to stop thereat;

(b) require any person to give his name and address and to produce any document in his possession which is or contains evidence of his name and address;

(c) require the driver of a vehicle—

(i) to produce his driving licence for examination;

(ii) to give the name and address of the registered owner of the vehicle;

- (d) enter, examine and search a vehicle and any thing therein or thereon;
- (e) detain, if necessary by the use of reasonable force, a driver or a vehicle, or both, until they can be delivered into the custody of a police officer.

(3) Any person who fails to comply with an order, direction or signal given under subsection (2)(a), or any requirement made under subsection (2)(c), commits an offence.

Obligation to give information relating to the driving of vehicles. (Cap. 220.)

12. (1) Without prejudice to section 29 of the Road Traffic Ordinance, where the driver of a vehicle is suspected of having committed an offence against this Ordinance or the Road Traffic Ordinance at any tunnel, any person (including both the registered owner of the vehicle and the person suspected of being the driver of the vehicle at the time of the alleged offence) shall, on demand made within 3 months after the date of the alleged offence, give to an authorized officer in the manner prescribed in this section the name, address and driving licence number of the person driving the vehicle at the time of the alleged offence and his relationship (if any) to the driver.

(2) A demand under subsection (1) may be made orally or by means of a notice served personally or by post on the person on whom it is made.

(3) Where a demand under subsection (1) is made orally to any person he shall—

(a) if he was the driver of the vehicle at the time of the alleged offence—

(i) give immediately his name and address; and

(ii) give the number of his driving licence to a specified authorized officer within 21 days after the date of the demand; and

(b) if he was not the driver of the vehicle at the time of the alleged offence, give the information required under subsection (1) to a specified authorized officer either orally or in writing within 21 days after the date of the demand.

(4) A notice under subsection (2) shall require the person to whom it is addressed—

(a) to furnish, within 21 days after the date of the notice, to an authorized officer specified therein, a written statement, in such form as may be specified in the notice, giving the name, address and driving licence number of the person driving the vehicle at the time of the alleged offence and his relationship (if any) to the driver; and

(b) to sign the said statement.

(5) Subject to subsection (6), any person who contravenes subsection (1) commits an offence.

(6) In proceedings for an offence under subsection (5), it shall be a defence to show that the accused person did not know, and could not with reasonable diligence have ascertained, the name or address or driving licence number of the person driving the vehicle at the time of the alleged offence.

13. Any person who knowingly makes a false statement in supplying particulars required under section 11 or 12 or who omits any material particular required under either of such sections commits an offence. False particulars.

14. If, in a prosecution for an offence under this Ordinance, there is produced to the court a statement which— Proof of identity of driver.

- (a) purports to have been signed by the accused person;
- (b) was furnished in accordance with a notice served on him under section 12(2); and
- (c) states that the accused person was the driver of the vehicle at the time of the offence,

the court shall admit the statement as *prima facie* evidence that the accused person was the driver of the vehicle at the time of the offence.

15. If any vehicle or thing is causing an obstruction at any tunnel or is otherwise likely to render the use of the tunnel unsafe the Authority may at the risk and expense of the owner of such vehicle or thing take all reasonable steps to remove it or cause it to be removed to any place, including any road, that the Authority may think fit and where necessary in the opinion of the Authority, may provide for the safe custody thereof. Vehicles etc. causing obstruction.

16. (1) Where any vehicle has been permitted to remain stationary at any tunnel in such a position or in such condition or in such circumstances that there is reasonable cause to believe that the vehicle has been abandoned an authorized officer may cause a notice to be given, requiring the person in whose name the vehicle is registered to remove it or cause it to be removed. Disposal of abandoned vehicles.

(2) A notice under subsection (1) shall be addressed to the person in whose name the vehicle is registered and shall be given—

- (a) by sending it to him by registered post at the address shown on the register; or
- (b) by affixing it to the vehicle.

(3) The notice shall—

- (a) require the person in whose name the vehicle is registered to move or cause it to be moved to a place which is not on any road—
 - (i) if the notice is sent by registered post, within 7 days of its service on him; or
 - (ii) if the notice is affixed to the vehicle, within 7 days of the date on which it is so affixed; and

(b) state that—

(i) unless the vehicle is removed within the time so stated, the vehicle will be seized by the Authority and removed to a place specified in the notice; and

(ii) if the vehicle is not claimed within a period of 14 days from the date of seizure, it will become the property of the Crown.

(4) If the vehicle is not removed as required by a notice given under subsection (1) an authorized officer may seize it and may take all reasonable steps to remove it or cause it to be removed to the place specified in the notice.

(5) If a vehicle which is seized and removed under subsection (4) is not claimed within the period specified in the notice given under subsection (1), it shall become the property of the Crown and may be sold or otherwise disposed of as the Authority thinks fit.

(6) For the purposes of this section "vehicle" includes any load carried by a vehicle.

Obstruction
of authorized
officers.

17. Any person who obstructs an authorized officer in the exercise of the powers conferred on him by this Ordinance commits an offence.

Installation
of pipes or
cables in tunnel.

18. (1) Notwithstanding the provisions of any other Ordinance, no person shall place any pipe, conduit or cable in any tunnel without the prior consent in writing of the Authority.

(2) The Authority shall consult the Director before giving any consent under subsection (1).

(3) A consent given under subsection (1) shall be subject to the payment of such charges and to such conditions, as the Authority may impose.

Penalties for
offences.

19. Any person who commits an offence under section 11(3), 12(5), 13 or 17 is liable to a fine of \$5,000 and to imprisonment for 6 months.

Regulations.

- 20.** (1) The Governor in Council may by regulation provide for—
- (a) the classification, design, colour, erection, placing, operation, maintenance, alteration and removing of permanent, temporary and variable traffic signs and road markings at a tunnel;
 - (b) prohibiting, controlling and restricting vehicular and pedestrian movements by or in relation to traffic signs or road markings at a tunnel;
 - (c) prohibiting, controlling, restricting, directing or advising traffic both vehicular and pedestrian and passengers conveyed upon vehicular traffic at a tunnel;
 - (d) controlling and regulating the manner of driving and the use of vehicles and the equipment and apparatus pertaining thereto at a tunnel;
 - (e) controlling and regulating the use of a tunnel and in particular prohibiting either absolutely or during specified hours—
 - (i) the driving of any specified type or class of vehicle; and
 - (ii) the manner in which a motor vehicle of any type or class may be used;
 - (f) the imposing of maximum or minimum speed limits on the road at a tunnel for any vehicle or class of vehicles;
 - (g) the towing of or drawing of vehicles by motor vehicles at a tunnel;
 - (h) controlling the manner of loading vehicles and securing of loads on vehicles at a tunnel;
 - (i) the maximum weight to be transmitted to the road at a tunnel by a vehicle of any class or by any part or parts of such a vehicle in contact with the road;
 - (j) controlling the manner in which passengers may be carried in vehicles at a tunnel and the number of passengers which may be carried therein;
 - (k) the controlling and restricting of animals in a tunnel;
 - (l) the total or partial closure of a tunnel;
 - (m) the tolls payable for the use of a tunnel;
 - (n) the escort of vehicles through a tunnel;

- (o) the control, prohibition and restriction upon the painting or affixing of any poster, placard, bill, advertisement or other matter in a tunnel;
- (p) the exemption of vehicles or any class thereof from the operation of any regulation whether by permit or otherwise and in the case of the issue of a permit, the fees payable for such issue;
- (q) the fees payable for the removal of a vehicle or thing under section 15; and
- (r) generally carrying into effect the provisions of this Ordinance relating to the regulation of traffic.

(2) Any regulation made under this section may provide that a contravention thereof shall be an offence and may provide penalties for such offence not exceeding a fine of \$5,000 and imprisonment for 6 months.

21. The Lion Rock Tunnel Ordinance is repealed.

Repeal.
(Cap. 140.)

SCHEDULE

[s. 3.]

Aberdeen Tunnel.

Airport Tunnel.

Lion Rock Tunnel.

Passed by the Hong Kong Legislative Council this 8th day of July 1981.

LORNA LEUNG,

Clerk to the Legislative Council.

This printed impression has been carefully compared by me with the bill, and is found by me to be a true and correctly printed copy of the said bill.

LORNA LEUNG,

Clerk to the Legislative Council.