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(譯文)

香港
金鐘道88號
太古廣場第1期29樓
工商局
工商局局长
(經辦人：工商局首席助理局長(5)
陳鈞儀先生)

傳真函件
傳真號碼：2869 4420
總頁數：4

陳先生：

《2001年應課稅品(修訂)條例草案》

本人現正審閱上述條例草案，以便在法律及草擬方面向議員提供意見。謹請閣下澄清以下各點：

條例草案第2條 —— 釋義

2. “指明服務提供者”被界定為“指根據第3A(1)條指明的人”(a person specified under section 3A(1))。政府當局是否有意在將來委任一名自然人？新訂第22(7)(a)條提及“指明團體”(specified body)一詞。兩者所指的是否相同的“團體”？至於中文字眼，是否應該用“指明電子服務提供者”，而不單只是“指明服務提供者”？

3. 關於“recognized electronic service”的定義，中文是否應該用“認可電子服務”，而不單只是“認可服務”？

條例草案第3條 —— 新訂第3B(1)及(2)條

4. 在新訂第3B(1)及(2)條中，本人注意到中文本與英文本並不一致，而且與其他載有類似中文條文的條例亦有所不同。為方便參閱，現將第3B(1)條的有關版本載列如下 ——

(A) (英文本) ——

**“3B Presumption regarding information sent by
recognized electronic service**

(1) Where information received by the Commissioner was sent using a recognized electronic service, evidence that shows that the identity of the sender of the information was authenticated by the use of a security device is, in the absence of evidence to the contrary, proof that the person issued with the security device ——

- (a) furnished the information; or
- (b) made any statement or declaration contained in the information.”.

(B) (新訂第3B(1)條的中文本) ——

“3B 關於以認可服務發送資料的推定

(1) 如關長接收到的資料，是利用某認可服務發送的，則顯示該資料的發送人的身分已藉某保安裝置經核證的證據，在沒有相反證據的情況下，是獲發給該裝置的人已作出(a)或(b)段(視屬何情況而定)所述的作為的證明 ——

- (a) 提交該資料；
- (b) 作出該資料中載有的陳述、申報或聲明。”。

(C) (《進出口條例》(第60章)第2B(1)條的中文本) ——

“2B 資料的授權

(1) 凡由總監或署長接收的資料是由指明團體所提供的服務送出的，如有證據顯示該資料是經使用保安裝置而獲認證的，則在沒有相反證據的情況下，該證據即可作為證據證明獲指明團體發給該保安裝置的人曾 ——

- (a) 提交該資料；或
- (b) 作出載於該資料內的陳述或聲明。”。

5. 本人認為第60章現有的中文本較為簡短及易於理解，亦與英文本一致。當局是否有任何理由不採用現有的中文本？

條例草案第8條 —— 屬非可閱形式的簿冊及文件等

6. 在第11A(1)條中，是否應在“簿冊或文件”之前加上“牌照、許可證”，以便與新訂第11A(2)條一致？

7. 本人注意到，中文本已加入(“有關項目”)一詞，而英文本則並無該詞。可否使兩個版本用詞一致？

條例草案第9條 —— 進出口陳述書

8. 本條例現有的第22(1)及(2)條中訂明，運送人須於有關船隻、飛機或車輛抵達及離開後14天內，在關長辦事處向關長提交進出口陳述書。向關長提交進出口陳述書時，其上須有有關各方的簽署(現行條例第22(3)條)。是否應在新訂第22(7)條中明確地豁除上述規定，使之不會適用於以電子方式呈交的資料？

9. 根據《進出口(登記)規例》第11或12條，進出口艙單須於有關船隻、飛機或車輛抵達及離開後7天(而非條例草案所載的14天)內呈交。當局會否對該規例作出修訂，而本條例草案(如獲通過成為法例)及《進出口(修訂)規例》(如有的話)又會否在同日開始實施？

10. 在新訂第22(7)條中，英文本的“that are imported or exported”、“furnished to the Commissioner”及“under that subsection”未有在中文本反映出來。

11. 在新訂第22(8)及(10)條中，尤其是新訂第22(8)(a)及(10)(a)條，中文本與英文本並不一致。至於“如某人獲給予上述通知”(if such a notice is given)一句，是否應解作“如關長給予上述通知”？若是如此，則中文本“如某人獲給予上述通知”便未必能夠反映此涵義。

12. 在新訂第22(9)條中，英文本的“that arrives in or departs from Hong Kong”未有在中文本反映出來。

13. 在新訂第22(9)(b)條中，英文本的“under that subsection in relation to goods”未有在中文本反映出來，而在中文本出現的“該船舶或飛機”則不見於英文本。

條例草案第11條 —— 失實陳述、隱藏、移走貨品、污損牌照或許可證

14. 在第36(1)條的中文本中，為何須有兩對括號？在“資料”之後接着說“不論該陳述、申報或資料採用何種形式”是否會較簡單？或者是否應在第二對括號後面加上“提供”兩字，將之寫成“(不論該資料採用何種形式提供)”。

15. 現有的第36(3)條訂明，“任何人沒有合法權限，不得更改或污損任何牌照或許可證或在其上作出任何塗擦”。如許可證是以電子形式發出，如何能“污損或塗擦(deface or erase)”許可證？關長如何能確保以電子形式發出的許可證在經由指明合資格代理人傳送的过程中沒有被更改或擅自處理？再者，如何能確保該代理人所收到的資料並無向未獲授權的人披露？

條例草案第12條(新訂第42A條) —— 電子紀錄內容證明

16. 在新訂第42A(2)(a)(I)條中，英文本的“under subsection(1)(b)”未有在中文本反映出來。

《2001年應課稅品(修訂)規例》擬稿

17. 立法會參考資料摘要第10段載述，“我們建議強制規定應課稅品許可證的申請，須由將來的某一日起採用電子聯通服務辦理，這項建議與我們以往就四類政府文件推行電子聯通服務時所作的安排一致”。

18. 《進出口條例》(第60章)第6AB(2)(b)條訂明，“生產通知書須以紙張形式或藉使用指明團體所提供的服務而向署長呈交”。

19. 《非政府簽發產地來源證保障條例》(第324章)第3(3)條訂明，“任何產地來源證須以紙張形式或藉使用指明團體所提供的服務而簽發”。

20. 請澄清強制規定採用電子聯通服務的做法是否符合現行法例的規定。

21. 鑒於該規例擬稿尚未定稿，當局或會作出修訂，本部會在該規例刊憲後，才就法律及草擬方面提出有關問題。

22. 為方便參閱，現於附件中標明中文文本與英文文本的差異。謹請閣下於法案委員會舉行首次會議前(即2001年3月15日之前)以中、英文賜覆。

助理法律顧問

(何瑩珠)

連附件

副本致：律政司 (經辦人：高級助理法律草擬專員顏博志先生及
高級政府律師許行嘉小姐)

法律顧問

2001年3月8日
c206

本條例草案

旨在

修訂《應課稅品條例》。

由立法會制定。

1. 簡稱及生效日期

- (1) 本條例可引稱為《2001年應課稅品(修訂)條例》。
- (2) 本條例自工商局局長以憲報公告指定的日期起實施。

2. 釋義

《應課稅品條例》(第109章)第2(1)條現予修訂，加入——

“保安裝置”(security device)指為核證某人是利用某認可服務發送資料的發送人而發給該人的裝置；

“指明合資格代理人”(specified eligible agent)指根據第3A(2)條指明的人；

“指明服務提供者”(specified electronic service provider)指根據第3A(1)條指明的人；

“電子紀錄”(electronic record)具有《電子交易條例》(第553章)第2(1)條給予該詞的涵義；

“資料”(information)具有《電子交易條例》(第553章)第2(1)條給予“資訊”一詞的涵義；

“資訊系統”(information system)具有《電子交易條例》(第553章)第2(1)條給予該詞的涵義；

A BILL

To

Amend the Dutiable Commodities Ordinance.

Enacted by the Legislative Council.

1. Short title and commencement

- (1) This Ordinance may be cited as the Dutiable Commodities (Amendment) Ordinance 2001.
- (2) This Ordinance shall come into operation on a day to be appointed by the Secretary for Commerce and Industry by notice published in the Gazette.

2. Interpretation

Section 2(1) of the Dutiable Commodities Ordinance (Cap. 109) is amended by adding—

““electronic record” (電子紀錄) has the meaning given to that term in section 2(1) of the Electronic Transactions Ordinance (Cap. 553);

““information” (資料) has the meaning given to that term in section 2(1) of the Electronic Transactions Ordinance (Cap. 553);

““information system” (資訊系統) has the meaning given to that term in section 2(1) of the Electronic Transactions Ordinance (Cap. 553);

““recognized electronic service” (認可服務) means a service for the interchange of electronic records that is provided by a specified electronic service provider;

““security device” (保安裝置) means a device issued to a person to be used for authenticating that person as the sender of information using a recognized electronic service;

“認可服務”(recognized electronic service)指由某名指明服務提供者提供的電子紀錄交換服務；”。

3. 加入第 IA 部

現加入——

“第 IA 部

採用電子紀錄以及有關程序

3A. 指明服務提供者及指明合資格代理人

(1) 工商局局長可藉在憲報刊登的公告，指明任何人為本條例所指的認可服務的提供者。

(2) 工商局局長可藉在憲報刊登的公告，指明任何人符合資格接受委任，在以下事情上擔任任何人的代理人——

- (a) 根據本條例利用認可服務向關長發送資料；或
 - (b) 接收關長根據本條例利用該服務發送的資料。
- (3) 根據第(1)或(2)款刊登的公告不是附屬法例。

3B. 關於以認可服務發送資料的推定

(1) 如關長接收到的資料，是利用某認可服務發送的，則顯示該資料的發送人的身分已藉某保安裝置經核證的證據，在沒有相反證據的情況下，是獲發給該裝置的人已作出(a)或(b)段(視屬何情況而定)所述的作為的證明——

- (a) 提交該資料；
- (b) 作出該資料中載有的陳述、申報或聲明。

“specified electronic service provider”(指明服務提供者) means a person specified under section 3A(1);

“specified eligible agent”(指明合資格代理人) means a person specified under section 3A(2);”.

3. Part added

The following is added—

“PART IA

USE OF ELECTRONIC RECORDS AND PROCEDURES

3A. Specified electronic service providers and eligible agents

(1) The Secretary for Commerce and Industry may, by notice published in the Gazette, specify a person to be a provider of a recognized electronic service under this Ordinance.

(2) The Secretary for Commerce and Industry may, by notice published in the Gazette, specify a person who is eligible to accept appointment to act as an agent for any person—

- (a) in sending information to the Commissioner under this Ordinance using a recognized electronic service; or
- (b) in receiving information that has been sent by the Commissioner under this Ordinance using a recognized electronic service.

(3) A notice issued under subsection (1) or (2) is not subsidiary legislation.

3B. Presumption regarding information sent by recognized electronic service

(1) Where information received by the Commissioner was sent using a recognized electronic service, evidence that shows that the identity of the sender of the information was authenticated by the use of a security device is, in the absence of evidence to the contrary, proof that the person issued with the security device—

- (a) furnished the information; or
- (b) made any statement or declaration contained in the information.

(2) 如關長接收到的資料，是由按照第 3D 條獲授權的指明合資格代理人利用某認可服務發送的，則在該資料中點名為提交該資料或作出該資料中載有的陳述、申報或聲明的人的人，在沒有相反證據的情況下，須就本條例的目的視為作出 (a) 或 (b) 段 (視屬何情況而定) 所述的作為的人——

- (a) 提交該資料；
(b) 作出該資料中載有的陳述、申報或聲明。

3C. 保安裝置的妥善保管

(1) 獲發給保安裝置的人不得授權或容許其他人在與根據本條例利用認可服務向關長發送資料有關連的情況下，使用該保安裝置。

(2) 獲發給保安裝置的人須採取一切合理步驟和作出應盡的努力，以防止其他人在與根據本條例利用認可服務向關長發送資料有關連的情況下，使用該保安裝置。

(3) 任何人違反第 (1) 或 (2) 款，即屬犯罪，可處第 5 級罰款及監禁 6 個月。

3D. 指明合資格代理人的責任

(1) 任何指明合資格代理人不得代表其他人利用認可服務發送資料，但如他已獲該其他人以書面授權如此行事，則屬例外。

(2) 任何人違反第 (1) 款，即屬犯罪，可處第 3 級罰款。”。

4. 規例

第 6(1) 條現予修訂，加入——

“(ea) 由關長為須就本條例適用的貨品提供的資料的提供，指明形式或規定；”。

5. 牌照及許可證的批予

第 7(1)(b)(iii) 條現予修訂，廢除“以面交方式或掛號郵遞方式”。

(2) Where information received by the Commissioner was sent using a recognized electronic service by a specified eligible agent who has obtained an authorization in accordance with section 3D, a person named in the information as the person who furnished the information or who made a statement or declaration contained in the information is, in the absence of evidence to the contrary, regarded for the purposes of this Ordinance as the person who—

- (a) furnished the information; or
(b) made the statement or declaration contained in the information.

3C. Safe-keeping of security device

(1) A person who has been issued with a security device shall not authorize or allow any other person to use the device in connection with the sending of information to the Commissioner under this Ordinance using a recognized electronic service.

(2) A person who has been issued with a security device shall take all reasonable steps and exercise due diligence to prevent any other person from using the device in connection with the sending of information to the Commissioner under this Ordinance using a recognized electronic service.

(3) A person who contravenes subsection (1) or (2) commits an offence and is liable to a fine at level 5 and to imprisonment for 6 months.

3D. Duty of specified eligible agent

(1) A specified eligible agent shall not send on behalf of any person information using a recognized electronic service unless the agent has obtained from the person an authorization in writing to do so.

(2) A person who contravenes subsection (1) commits an offence and is liable to a fine at level 3.”.

4. Regulations

Section 6(1) is amended by adding—

“(ea) the Commissioner to specify any form or requirement for giving information required to be given in respect of any goods to which this Ordinance applies;”.

5. Grant of licences and permits

Section 7(1)(b)(iii) is amended by repealing “either personally or by registered post”.

6. 牌照及許可證的申請

第 8(b) 條現予修訂，廢除“親身或以書面方式”。

7. 請求書及許可證的登記冊

第 9 條現予修訂，廢除自“副本，”起至“沒有申”為止的所有字句而代以——
“文本，均須備存於獲授權發出有關的許可證的人員管轄下，如在通常備存該等請求書或文本的地方沒有某份申領許可證的請求書或某份許可證的文本，即為無人申”。

8. 屬非可閱形式的簿冊及文件等

(1) 第 11A(2) 條現予修訂——

(a) 廢除“簿冊或文件並非以可閱形式”而代以“牌照、許可證、簿冊或其他文件(“有關項目”)並非以可閱形式發出或”；

(b) 廢除所有“簿冊或文件”而代以“有關項目”。

(2) 第 11A 條現予修訂，加入——

“(3) 在不影響第(2)款的一般性的原則下，如香港海關人員根據第 11(1)(a) 條進入某處所或地方，則——

(a) 本條例賦予的要求交出某牌照、許可證、簿冊或其他文件(“有關項目”)的權力，須解釋為包括要求在該處所或地方內以可閱形式交出屬第(4)款指明的種類並關乎該有關項目的資料的權力；

(b) 本條例賦予的為查驗而檢查、移走和扣留某有關項目或查驗和複製該有關項目的權力，須解釋為包括——

(i) 要求以可取走形式並以可閱或能夠在電腦上檢索的形式，交出屬第(4)款指明的種類並關乎該有關項目的資料的權力；及

(ii) 取走以第(i)節指明的形式交出的資料的權力。

6. Applications for licences and permits

Section 8(b) is amended by repealing “either personally or in writing”.

7. Register of requisitions and permits

Section 9 is amended by repealing—

“entered in a book or books in the office of the officer authorized to issue the permit, and the absence of a requisition or copy therefrom”

and substituting—

“kept under the control of the officer authorized to issue the permit, and the absence of any requisition or copy from its usual place of keeping”.

8. Books and documents, etc. in non-legible form

(1) Section 11A(2) is amended—

(a) by repealing “book or document” where it first appears and substituting “licence, permit, book or other document was issued or”;

(b) by repealing “book or document” where it secondly and last appears and substituting “licence, permit, book or other document”.

(2) Section 11A is amended by adding—

“(3) Without affecting the generality of subsection (2), where any premises or place have been entered under section 11(1)(a), a power conferred by this Ordinance—

(a) to require the production of any licence, permit, book or other document shall be construed as including the power to require that any information of a kind specified in subsection (4) and relating to such licence, permit, book or other document be produced in the premises or place in a legible form;

(b) to inspect, remove and detain for the purposes of examination, or to examine and copy, any licence, permit, book or other document shall be construed as including the power—

(i) to require that any information of a kind specified in subsection (4) and relating to such licence, permit, book or other document be produced in a form in which it can be taken away and in which it is either legible or capable of being retrieved on a computer; and

(ii) to take away the material so produced.

- (4) 為第(3)款的目的而指明的資料是以下資料——
- 以電子紀錄形式，儲存於香港海關人員根據第11(1)(a)條進入的處所或地方內或可自該處所或地方取用的資料；
 - 載於在香港海關人員根據第11(1)(a)條進入的處所或地方發現的任何裝置內並能夠以電子紀錄形式檢索的資料。”。

9. 進出口陳述書

- 第22(1)條現予修訂，廢除“7”而代以“14”。
- 第22(2)條現予修訂，廢除“7”而代以“14”。
- 第22條現予修訂，加入——

“(7) 如有以下情況，則第(1)款中須就由某船舶、飛機或車輛運載的本條例適用的貨品提交陳述書的規定，須視作已獲遵從——

 - 某人已利用指明團體提供的服務，為《進出口(登記)規例》(第60章，附屬法例)第11或(如適當的話)12條的目的，呈交一份以該船舶、飛機或車輛輸入或輸出的貨物的艙單；
 - 該艙單載有在須根據第(1)款就該等貨品提交的陳述書內須載有的詳情；而
 - 該艙單是在第(1)款指明的就該等貨品提交陳述書的限期內呈交的。

(8) 儘管有第(7)款的規定，關長可藉給予第(1)款適用的某人書面通知，要求提交第(1)款所指的陳述書；如某人獲給予上述通知——

 - 第(1)款所指的陳述書須按照該款提交，但提交限期是該通知送達後的14天；
 - 第(5)款須就沒有遵從本款一事而適用，猶如第(5)款就沒有遵從第(1)款一事而適用一樣。

- (4) The information specified for the purposes of subsection (3) is information that is—
- stored in the form of an electronic record in or accessible from the premises or place entered under section 11(1)(a); or
 - contained in any device found in the premises or place entered under section 11(1)(a) and that is capable of being retrieved in the form of an electronic record.”.

9. Import and export statements

- Section 22(1) is amended by repealing “7” and substituting “14”.
- Section 22(2) is amended by repealing “7” and substituting “14”.
- Section 22 is amended by adding—

“(7) The requirement under subsection (1) to furnish a statement in relation to goods to which this Ordinance applies that are imported or exported in any ship, aircraft or vehicle shall be regarded as having been complied with if—

 - a manifest of the cargo imported or exported in the ship, aircraft or vehicle is lodged for the purposes of regulation 11 or 12 (as may be appropriate) of the Import and Export (Registration) Regulations (Cap. 60 sub. leg.) using services provided by a specified body;
 - the manifest contains such particulars in relation to the goods as is required to be contained in a statement furnished to the Commissioner under subsection (1); and
 - the manifest is lodged within the period specified in subsection (1) for the furnishing of a statement under that subsection in relation to the goods.

(8) Despite subsection (7), the Commissioner may, by notice in writing given to any person to whom subsection (1) applies, require that a statement as required under subsection (1) be furnished and, if such a notice is given—

 - a statement as required under subsection (1) shall be furnished to the Commissioner within 14 days after service of the notice but otherwise in accordance with that subsection;
 - subsection (5) shall apply in relation to a failure to comply with this subsection as it applies in relation to a failure to comply with subsection (1).

(9) 如有以下情況，則第(2)款中須就某船舶或飛機提交陳述書的規定，須視作已獲遵從——

- (a) 某人已利用指明團體提供的服務，為《進出口(登記)規例》(第60章，附屬法例)第11或(如適當的話)12條的目的，呈交一份以該船舶或飛機輸入或輸出的貨物的艙單；而
- (b) 該艙單是在第(2)款指明的就該船舶或飛機提交陳述書的限期內呈交的。

(10) 儘管有第(9)款的規定，關長可藉給予第(2)款適用的某人書面通知，要求提交第(2)款所指的陳述書；如某人獲給予上述通知——

- (a) 第(2)款所指的陳述書須按照該款提交，但提交限期是該通知送達後的14天；
- (b) 第(5)款須就沒有遵從本款一事而適用，猶如第(5)款就沒有遵從第(2)款一事而適用一樣。”。

10. 稅款的評定

第26(2)條現予修訂——

- (a) 在(c)段中，廢除句號而代以“；或”；
- (b) 加入——
- “(d) 以電子紀錄形式發送至該人。”。

11. 失實陳述、隱瞞、移走貨品、污損牌照或許可證

第36(1)條現予修訂，廢除“，或提供任何不正確的資料，不論其為以口頭或書面方式作出或提供者”而代以“(不論該陳述或申報採用何種形式)，或提供任何不正確的資料(不論該資料採用何種形式)”。

12. 加入條文

現加入——

(9) The requirement under subsection (2) to furnish a statement in relation to goods to which this Ordinance applies in the case of a ship or aircraft that arrives in or departs from Hong Kong shall be regarded as having been complied with if—

- (a) a manifest of the cargo imported or exported in the ship or aircraft is lodged for the purposes of regulation 11 or 12 (as may be appropriate) of the Import and Export (Registration) Regulations (Cap. 60 sub. leg.) using services provided by a specified body; and
- (b) the manifest is lodged within the period specified in subsection (2) for the furnishing of a statement under that subsection in relation to the goods.

(10) Despite subsection (9), the Commissioner may, by notice in writing given to any person to whom subsection (2) applies, require that a statement as required under subsection (2) be furnished and, if such a notice is given—

- (a) a statement as required under subsection (2) shall be furnished to the Commissioner within 14 days after service of the notice but otherwise in accordance with that subsection;
- (b) subsection (5) shall apply in relation to a failure to comply with this subsection as it applies in relation to a failure to comply with subsection (2).”.

10. Assessment of duty

Section 26(2) is amended—

- (a) in paragraph (c), by repealing the full stop and substituting “; or”;
- (b) by adding—
- “(d) if sent to him in the form of an electronic record.”.

11. Misrepresentation, concealment, removal of goods, and defacement of licence or permit

Section 36(1) is amended by repealing “whether or not such statement, declaration or information is made verbally or in writing” and substituting “however made or furnished”.

12. Section added

The following is added—

“42A. 電子紀錄內容證明

(1) 凡任何文件看來是——

(a) 由政府某個資訊系統以電子紀錄形式發送的資料的紀錄的文本，或由政府某個資訊系統接收的採用電子紀錄形式的資料的紀錄的文本，而該文本是從政府其中一個資訊系統生產的；及

(b) 由關長核證的，

則該文件在根據本條例進行的任何法律程序中在法庭或裁判官席前一經出示，即須接納為證據而無須再加證明。

(2) 如某文件根據第(1)款在法庭或裁判官席前出示並獲接納為證據，則——

(a) 該法庭或裁判官在相反證明成立之前須推定——

(i) 該文件是由關長核證的；

(ii) 該文件是以電子紀錄形式發送的有關資料的紀錄的真確文本；及

(iii) 該紀錄是於該文件所提述的時間妥為製備的；及

(b) 該文件是有關發行人利用認可服務發送的資料的內容的證據。

(3) 如某文件根據第(1)款在法庭或裁判官席前出示並獲接納為證據，則該法庭或裁判官如認為適當，可主動或在法律程序中的任何一方提出申請時，傳召核證該文件的人和就該文件的標的事項訊問該人。”

13. “文本”取代“副本”

第11A(2)、42、48A(9)(a)及49條現予修訂，廢除所有“副本”而代以“文本”。

摘要說明

本條例草案旨在修訂《應課稅品條例》(第109章) (“該條例”)，致使可使用香港海關關長 (“關長”) 就根據該條例發送或接收資料而認可的個別電子服務。本條例草案亦就該條例下一般地使用電子紀錄作出雜項修訂。

“42A. Proof of contents of electronic record

(1) A document—

(a) purporting to be a copy, produced from one of the Government's information systems, of the record of any information sent or received by a Government information system in the form of an electronic record; and

(b) purporting to be certified by the Commissioner, shall be admitted in any proceedings under this Ordinance before a court or magistrate on its production without further proof.

(2) Where a document is produced and admitted as evidence under subsection (1)—

(a) the court or magistrate before which it is produced shall, until the contrary is proved, presume that—

(i) it was certified under subsection (1)(b);

(ii) the document is a true copy of the record of information so sent; and

(iii) the record was duly made at the time referred to in the document; and

(b) the document is evidence of the contents of the information sent by the sender.

(3) Where a document is produced and admitted as evidence under subsection (1), the court or magistrate may, if it or he thinks fit, on its or his own motion or on the application of any party to the proceedings, summon the person who certified the document and examine him as to its subject-matter.”

13. “文本” substituted for “副本”

Sections 11A(2), 42, 48A(9)(a) and 49 are amended by repealing “副本” wherever it appears and substituting “文本”.

Explanatory Memorandum

The purpose of this Bill is to amend the Dutiable Commodities Ordinance (Cap. 109) (“the Ordinance”) to allow for the use of a particular electronic service that is recognized by the Commissioner of Customs and Excise (“the Commissioner”) in sending information, or receiving of information sent, under the Ordinance and to make other miscellaneous amendments relating to the use of electronic records generally under the Ordinance.