

立法會
Legislative Council

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Paper for the House Committee meeting on 8 December 2000

Report of the Bills Committee on Dutiable Commodities (Amendment) Bill 2000

Purpose

This paper reports on the deliberations of the Bills Committee on Dutiable Commodities (Amendment) Bill 2000 (the Bill).

Background

2. For the purpose of strengthening the enforcement and prosecution actions of Customs and Excise Department (C&ED) against the supply, sale and use of illicit fuel, the Dutiable Commodities (Amendment) Bill 1999 (the 1999 Bill) was introduced into the Legislative Council in the last term. Amongst other proposals, the 1999 Bill proposed to add a presumption provision in the Dutiable Commodities Ordinance (Cap. 109) to the effect that any light diesel oil found in the fuel tank of a motor vehicle with a sulphur content in excess of the limit prescribed under the Air Pollution Control (Motor Vehicle Fuel) Regulations is presumed to be dutiable.

3. The then Bills Committee, formed to examine the 1999 Bill, expressed concern about the inadvertent impact of the presumption provision on professional drivers who work on shifts and adopt the fuel in the fuel tanks of their vehicles from previous shifts without any knowledge about its source. Members considered it important that before the presumption was to take effect, a proper record-keeping system should be established to help drivers demonstrate the extent of their knowledge about the source of fuel in their vehicles. Since it was then close to the end of the legislative term, the Administration had practical difficulties in completing a thorough consultation with the transport trade in time for the proposed presumption provision to be enacted before the dissolution of the Council. The then Bills Committee therefore agreed with the Administration that the proposed presumption provision be deleted from the 1999 Bill and that it be re-introduced in the 2000-01 legislative session, after consultation with the transport trade. The 1999 Bill, as amended, was passed by the Council on 26 June 2000.

The Bill

4. The object of the Bill is to add a presumption provision in the Dutiable Commodities Ordinance to the effect that, subject to specific exceptions, light diesel oil with a sulphur content in excess of the statutory stipulated amount is presumed to be dutiable.

The Bills Committee

5. Members agreed at the House Committee meeting on 10 November 2000 to form a Bills Committee to study the Bill. Hon James TO Kun-sun was elected Chairman of the Bills Committee. The Bills Committee has held one meeting with the Administration. A membership list of the Bills Committee is at **Appendix I**.

Deliberations of the Bills Committee

6. Members of the Bills Committee fully support the need for enhanced measures to combat the use of illicit fuel. The use of illicit fuel has not only affected public revenue but has also caused air pollution as detreated oil and dutiable light diesel oil may have a sulphur content as high as 0.5% by weight. This amount is 10-time of the maximum sulphur content of 0.05 % by weight in duty-paid light diesel oil as prescribed under the Air Pollution Control (Motor Vehicle Fuel) Regulations and 100-time of the sulphur content in the most environmental fuel available in the local market since November 2000. Given that sulphur content is a reliable indicator of the legitimacy or otherwise of the source of fuel and the payment or otherwise of fuel duty, members agree that the presumption provision is an effective and necessary tool for C&ED to take enforcement actions against the use of illicit fuel. The Bills Committee also notes that the Hong Kong Bar Association has no objection to the presumption provision.

7. The Bills Committee also takes note of the actions taken by the Administration to address the concern raised by members of the former Council on the impact of the presumption on professional drivers. C&ED has consulted a total of 86 organizations and individuals representing different sectors of the transport trade in six consultation sessions since July 2000. All the bodies consulted express no objection to the presumption provision. C&ED has also agreed with the trade on a set of guidelines on keeping proper fuelling records at legitimate oil filling stations. The guidelines have been included in a newly printed booklet for diesel vehicle drivers which list out the points to note to avoid being implicated in use of illicit fuel. Professional drivers are advised to keep the last three oil filling receipts for establishing the source of fuel in the fuel tanks of their vehicles. Provided that they can produce the oil filling receipts to prove their purchase of fuel from legitimate sources, they will not be held liable even if light diesel oil with a sulphur content in excess of the stipulated weight is found in the fuel tank of their vehicles. This will allay the concern that professional

drivers who work on shifts and adopt the fuel in the fuel tanks of their vehicles from previous shifts might not have any knowledge of its source. The Administration has assured members that C&ED will take prosecution only if the use of illicit fuel has clearly been established in the absence of evidence to the contrary. In this respect, members welcome the recent setting up of a round-the-clock hot line to handle complaints against staff of C&ED about enforcement matters.

8. For the purpose of ensuring that professional drivers, in particular those who have not joined any trade associations, are aware of the presumption provision and the need to keep proper fuelling records before the presumption operates, members request and the Administration agrees to defer the commencement of the Bill until 1 February 2001. In the interim, the Administration will step up its publicity work including putting up an Announcement in the Public Interest programme in television and radio, making available the guidelines on keeping of fuelling records at oil filling stations and licensing offices and vehicle examination centres of the Transport Department, distributing the guidelines to all the associations of the transport trade and taxis, public light buses and goods vehicles at popular waiting areas. The Administration will move a Committee Stage amendment to clause 1 of the Bill to specify its commencement date.

9. Noting that the presumption provision will not apply to the 35,000 cross-border vehicles and that a specified volume of fuel in cross-border goods vehicles is exempt from duty under the present legislation, some members of the Bills Committee have expressed concern on the standards of fuel used by these vehicles and their impact on the environment. According to the Administration, the Environment and Food Bureau has pledged in the 2000 policy objectives to formulate a proposal in 2001 to reduce the amount of fuel not meeting the local standards carried by cross-border vehicles. Members call on the Administration to discuss with the transport trade on the issue.

Recommendation

10. Subject to the moving of the Committee Stage amendment by the Administration, the Bills Committee supports the resumption of the Second Reading debate on the Bill on 20 December 2000.

Committee Stage amendment

11. A copy of the Committee Stage amendment to be moved by the Administration is at **Appendix II**.

Advice sought

12. Members are invited to support the recommendation of the Bills Committee at paragraph 10 above.

Council Business Division 1
Legislative Council Secretariat
6 December 2000

Bills Committee on Dutiable Commodities (Amendment) Bill 2000

Membership list

Chairman Hon James TO Kun-sun

Members Hon Kenneth TING Woo-shou, JP
Hon James TIEN Pei-chun, JP
Hon Eric LI Ka-cheung, JP
Hon HUI Cheung-ching
Hon CHAN Kwok-keung
Hon CHAN Kam-lam
Hon SIN Chung-kai
Hon Andrew WONG Wang-fat, JP
Hon Mrs Miriam LAU Kin-yee, JP
Hon Emily LAU Wai-hing, JP
Hon CHOY So-yuk
Hon Andrew CHENG Kar-foo

(Total : 13 Members)

Clerk Miss Odelia LEUNG Hing-yee

Legal Adviser Miss Anita HO

Date 23 November 2000