

立法會
Legislative Council

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**Paper for the House Committee Meeting
of the Legislative Council
on 2 March 2001**

**Legal Service Division Report on
Dutiable Commodities (Amendment) Bill 2001**

Object of the Bill

To amend the Dutiable Commodities Ordinance (Cap. 109) (the Ordinance) so as to provide a legal basis for the use of a specified electronic service to process applications for dutiable commodities permits.

LegCo Brief Reference

2. CIB 89/48/1 issued by the Commerce and Industry Bureau on 13 February 2001.

Date of First Reading

3. 28 February 2001.

Comments

4. Under the Ordinance, if any person wants to remove his dutiable commodities (such as tobacco, alcoholic liquor, hydrocarbon oil and methyl alcohol) from bonded warehouses, he has to apply to the Commissioner of Customs and Excise (the Commissioner) for a dutiable commodity permit (DCP) (i.e. a duty-paid permit, a removal permit or an export permit). Currently and unless otherwise provided, an applicant for relevant permit will have to go to the Permit Office of the Customs and Excise Department with supporting documents before a permit is issued.

5. This Bill amends the Ordinance to enable the Commissioner to process DCP applications electronically via the service of a specified electronic service provider (Clauses 5 and 6 of the Bill). The proposed new Regulation 22(3) provides that an application for a DCP shall be in electronic form. (The Draft Dutiable Commodities (Amendment) Regulation is enclosed as Annex B to the LegCo Brief). The proposed new Regulation 22(6) empowers the Commissioner to revert to paper mode if necessary. There will be a transitional period whereby DCP application may be made in either paper or electronic mode (proposed new Regulation 106).

6. According to the Brief, the Tradelink Electronic Commerce Ltd. (Tradelink) has an exclusive franchise to provide front-end services for the processing by electronic data interchange (EDI) of six official trade-related documents, i.e. restrained textile export licence, trade declaration, certificate of origin, production notification, DCP and cargo manifest. EDI services for the first four trade-related documents have already been launched and relevant Ordinances have been amended. This Amendment Bill is one of a series of legislative proposals on the use of EDI. As informed by the Administration, there will be another Bill to be introduced in April 2001 amending the Import and Export Ordinance (Cap. 60) to provide for the EDI of cargo manifest.

7. In this Bill, a new Part IA relating to the use of electronic records and procedures is added. Clause 8 provides for books and documents in non-legible form and clause 12 adds a new section 42A on the proof of contents of electronic record. Other clauses are miscellaneous amendments relating to the use of electronic records generally under the Ordinance.

8. This Bill, if enacted, will come into operation on a day to be appointed by the Secretary for Commerce and Industry by notice published in the Gazette.

Public Consultation

9. According to paragraph 30 of the LegCo Brief, the Government and Tradelink have been jointly consulting the industry on the electronic data interchange of dutiable commodities permits and have its support.

Consultation with the LegCo Panel

10. The Administration has briefed members of the Panel on Commerce and Industry on the main proposals on 8 January 2000 (Paper ref.: (CB(1)396/00-01(04)). One member expressed concern whether there would be monopoly by Tradelink and what the charges would be. The Chairman concluded that the Panel was in support of amending the relevant legislation and as for the specific contents of the Bill, they could be scrutinized in detail upon the introduction of the Bill to LegCo.

Conclusion

11. We are seeking clarifications from the Administration on certain legal and drafting aspects of the Bill. Members may decide whether to set up a Bills Committee to study the Bill in detail, in particular its implementation, or may defer the decision until a further report is submitted.

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