

立法會
Legislative Council

LC Paper No. LS 72/00-01

**Paper for the House Committee Meeting
of the Legislative Council
on 16 March 2001**

**Legal Service Division Report on
Public Revenue Protection (Revenue) Order 2001 made under
section 2 of the Public Revenue Protection Ordinance (Cap. 120)**

The Public Revenue Protection (Revenue) Order 2001 (L.N. 61 of 2001) (“the Order”) was gazetted on 7 March 2001 and laid on the table of the Legislative Council on 14 March 2001. This is a temporary measure taken under the Public Revenue Protection Ordinance (Cap. 120) (“the Ordinance”) to give effect to certain revenue proposals announced in the Budget Speech delivered by the Financial Secretary on 7 March 2001 when moving the Second Reading of the Appropriation Bill 2001. The Revenue Bill 2001 (“the Bill”) giving long-term effect to these proposals will be introduced into the Legislative Council following the ordinary legislative procedures.

2. Under section 2 of the Ordinance, so long as the Order remains in force, it shall have the full force and effect of law. Section 5(2) provides that the Order shall expire and cease to be in force :

- “(a) upon the notification in the Gazette of the rejection by the Legislative Council of the bill or resolution in respect of which the order was made; or
- (b) upon the notification in the Gazette of the withdrawal of the bill or resolution or order; or
- (c) upon the bill or resolution, with or without modification, becoming law in the ordinary manner; or
- (d) upon the expiration of 4 months from the day on which the order came into force,

whichever event first happens.”

3. Under section 6 of the Ordinance, any excess of duty, tax, fee, rate or other item of revenue paid under the Order over that payable immediately after the expiry of the Order shall be repaid to the person who paid the same.

4. The Order contains the Bill in the Schedule. We have prepared a table at the Annex setting out the legal effect of the Bill and the corresponding parts of the Budget Speech to which the proposals are referred.

5. The Order has come into force at 2:30 p.m. on 7 March 2001. However, by virtue of clauses 4 and 7 of the Bill in the Schedule to the Order :

- (a) the increase of fees for renewal of a full driving licence or driving instructor's licence does not have effect if the licence expires on or before 6 July 2001 and the Commissioner for Transport ("the Commissioner") receives on or before that date an application for the renewal of the licence;
- (b) the increase of licence fees does not have effect with respect to the licensing for a further period if the vehicle licence expires on or before 6 July 2001 and the Commissioner receives on or before that date an application to license the vehicle for that further period.

6. Clause 5 of the Bill seeks to define the meaning of "appropriate annual licence fee" in the Road Traffic (Registration and Licensing of Vehicles) Regulations (Cap. 374 sub. leg.) for the calculation of the additional fee for each day of the unlicensed period where an application to license a motor vehicle is received by the Commissioner after the expiry of the previous licence. In the new Regulation 21(13)(b), where the Commissioner receives after 6 July 2001 an application to license a motor vehicle, it is proposed that different appropriate annual licence fees be prescribed for an unlicensed period before and after 2:30 p.m. on 7 March 2001. We have asked the Administration to explain the mechanism by which they would apportion the appropriate annual licence fee if 7 March 2001 falls within the unlicensed period.

7. Section 34(2) of the Interpretation and General Clauses Ordinance (Cap. 1) provides that Members may amend subsidiary legislation in any manner whatsoever consistent with the power to make such subsidiary legislation. Consistent with the power of the Chief Executive in Council under section 2 of the Public Revenue Protection Ordinance to make an order giving full force and effect of law to all the provisions of the Bill so long as such order remains in force, Members have the power to repeal the Order but may not amend the provisions therein. A repeal of the Order has to be made by 4 April 2001, or by 25 April 2001 if the intervention period is extended by resolution of Legislative Council.

Encl

Prepared by

Wong Sze-man, Bernice
Assistant Legal Adviser
Legislative Council Secretariat
9 March 2001

Revenue Bill 2001

Clauses of the Bill in Schedule to the Order	Paragraphs in the 2001-2002 Budget Speech	Legal Effect
Clause 2 (a)	Paragraphs 110 to 112	The Dutiable Commodities Ordinance (Cap. 109) would be amended to increase from 30% to 40% the duty rate on liquors, other than wine, with an alcoholic strength of not more than 30% by volume.
Clause 2(b)	Paragraphs 108 and 109	The Dutiable Commodities Ordinance (Cap. 109) would be amended to increase duty on tobacco by 5%.
Clause 3	Paragraphs 113 to 115	The Road Traffic (Driving Licences) Regulations (Cap. 374 sub. leg.) would be amended to increase the fees for the issue or renewal of full driving licence, driving instructor's licence, learner's driving licence, temporary driving licence, duplicate licence, international driving permit and duplicate international driving licence by 10%.*

* Note the effect of the saving clause explained in paragraph 5 of the Report

Clauses of the Bill in Schedule to the Order	Paragraphs in the 2001-2002 Budget Speech	Legal Effect
Clauses 5 and 6	Paragraphs 113 to 115	The Road Traffic (Registration and Licensing of Vehicles) Regulations (Cap. 374 sub. leg.) would be amended to increase the licence fees for private cars, motor cycles and motor tricycles by 10%,* and to clarify the meaning of "appropriate annual licence fee" for calculation of the additional fee for the unlicensed period where the application is received after the expiry of a vehicle licence.

* Note the effect of the saving clause explained in paragraph 5 of the Report