資料文件

2002年應課稅品（修訂）條例草案
草案委員會文件
關於二零零三年一月九日草案委員會會議的續議事項

目的

本文件載述政府就議員在二零零三年一月九日《2002年應課稅品（修訂）條例草案》委員會會議上所提問題而作出的回應。

發牌權力

2. 在上次草案委員會會議上，部分議員要求政府就提交該次會議的文件第5段所載“絕對酌情決定權”的說明，作更詳細的解釋。

3. 《應課稅品條例》（第109章）第7(1)(a)條給予海關關長“絕對酌情決定權”，除條例條文另有規定外，海關關長可批給和發出牌照。其實，讓政府有權酌情決定批給牌照或給予批准，在香港法例中十分普遍。一般來說，根據《釋義及通則條例》(第1章)第41(1)條，部門在考慮牌照的申請/續期時，可有所需的彈性及有酌情決定權考慮所有有關事宜。

4. 不過，我們已在草案委員會會議上指出過，在公法上並無絕對或不受約束的酌情決定權。行政法的一項基本原則是，就公共目的而由法定權力賦予的酌情決定權，行使時須受到源自普通法的法律限制。這項原則適用於第7(1)(a)條賦予海關關長的“絕對酌情決定權”。

5. 第4段所述的是一項由來已久的法律原則，適用於政府就公共目的而可行使的酌情決定權，不論這項酌情決定權在法規當中是否稱為“絕對酌情決定權”或“不受約束的酌情決定權”。這種酌情決定權的名稱無論是什麼，政府行使時必須行事合理、真誠，且具有合法依據及符合公眾利益的有關理

由。此外，值得注意的是，“絕對酌情決定權”亦見於不少關於發牌的現行法例。

6. 一如我們在上次會議的文件所述，*Wade 及 Forsyth* 所著*行政法第八版*第 356 至 361 頁已清楚解釋上述行政法原則。該書是這方面的權威參考書籍，相關節錄現載於**附件 A**(只有英文版本)，以供參考。

海關關長須就拒絕批給、續發或撤銷牌照給予理由

7. 議員在上次會議提出，我們應該考慮其他的草擬建議，以便更清晰地向開放式保稅倉系統的牌照申請人／持有人闡明海關關長會考慮的條件，並考慮規定海關關長須就拒絕批給牌照或續牌、或撤銷牌照給予理由。

8. 我們研究過議員的意見後，相信議員主要關注牌照申請人/持有人會否獲告知海關關長在作出發牌決定時所考慮的因素，以及其拒絕申請或撤銷牌照的理由。

9. 我們檢討過第 8A 條的草擬形式及上次會議文件中擬議委員會審議階段修正案的擬稿後，現準備建議修訂第 8A 條，加入一項條文，要求海關關長給予申請人或持牌人其根據第 7 條拒絕批給或續發、或撤銷保稅倉牌照的理由。

10. 海關關長所給予的理由會列出其根據建議的第 8A 條拒絕批給或續發、或撤銷牌照所須考慮的事宜。在適用的情況下，該等理由亦會列出海關關長所考慮的其他有關事宜。正如上文所解釋，由於海關關長的酌情決定權受制於行政法的法律規定，海關關長所給予的理由會成為對其決定感到受屈的人的上訴依據。加入給予理由的規定後，我們建議保留擬議的第 8A(1)、(3)及(4)條中對“任何其他有關事宜”的提述，以顧及在個別發牌個案的情況不斷轉變下，可能出現的任何新的有關考慮因素。這可為海關關長在考慮牌照申請時提供彈性，以便利業界。這亦可使香港海關有效地行使辦理牌照申請/續期的權力，因為每宗個案的情況不同，且情況經常有所改變，要巨細無遺地列出各種情況，並不可能。

11. 在句子結構方面與建議的第 8A 條(即“須考慮”某些條件及“任何其他有關事宜”)相若的條文，亦見於在《電子交

易條例》(第 553 章)第 21 條中與核證機關作出認可有關的條文、在《火器及彈藥條例》(第 238 章)第 12、12A、27、32、33 及 46C 條中與射擊場主任的發牌／授權／認可及管有／經營槍械及彈藥有關的條文，以及在《電訊條例》(第 106 章)第 7K、7L 及 36AA 條中與牌照持有人是否防止或限制競爭、處於優勢及應被指令與另一持牌人共用設施有關的條文。

12. 委員會審議階段修正案的修訂擬稿第 3 條，載有海關關長須給予理由的規定的草擬字眼，詳見**附件 B**。我們相信這項建議可消弭議員的關注。

建議第 8A 條的“海關關長指派的人員”

13. 我們經進一步考慮立法會助理法律顧問在草案委員會會議上所提意見，現準備提出一項委員會審議階段修正案，在建議的第 8A(3)及(4)條內刪去“有關人員”而代以“他為此指派的人員”。這會令有關條文更為清晰，並與建議的第 8A(1)條一致。

建議的規例第 22AA 條

14. 我們建議規定牌照續期申請，不得早於牌照有效期屆滿前兩個月提交，原因是太早提出的申請，可能會載有在實際續牌時經已過時的資料。為保障稅收，香港海關必須掌握符合現況的資料，以作出發牌決定、確定風險較高的範疇，並及時制訂適當的審計方案。

15. 香港海關的服務承諾，是於接獲續牌申請後 12 個工作天內作出批給。倘若持牌人在兩個月前提出續牌申請，他們在牌照到期前，如要提出上訴，仍有一個半月的時間進行有關上訴程序。建議的第 22AA 條已給予海關關長彈性，可考慮並非在指定時間內提出的申請。如具備充分理據，海關關長會積極考慮這類申請，以方便業界。

16. 本港法例中有不少例子，規定持牌人須在牌照有效期屆滿前的指明時間內申請為牌照續期。舉例來說，《旅行代理商規例》（第 218 章附屬法例）第 13 條規定，旅行代理商須在其旅行代理商牌照有效期屆滿前不多於兩個月但不少於一個月申請為牌照續期。

修訂條例生效日期

17. 一如政府在二零零二年二月二十八日致立法會助理法律顧問的信件第 2 及 3 段所解釋，我們擬為條例草案兩套不同條款訂定兩個不同生效日期，其中一套規管所有保稅倉（即條例草案中除第 10、11 及 12 條外的所有條文），另一套規管酒房(即第 10、11 及 12 條)。這是由於我們計劃先在除酒房外的所有保稅倉實施開放式保稅倉系統(第一期)，並於第一期施行六個月後在酒房實施開放式保稅倉系統(第二期)。前述後者的一套條文所廢除的規定，是在海關人員駐倉措施下管控酒房所需的。這些規定會保持有效，在第二階段實施前不會廢除。

18. 條例草案在二零零二年一月提交立法會，第一階段原定於二零零二年六月實施。到現時，海關已於過去一年向業界全面介紹法例修訂建議及開放式保稅倉系統的規定。貿易商現已做好充分準備，並表示希望盡早實施開放式保稅倉系統。因此，我們建議指定第一階段的生效日期為在二零零三年四月一日，代替在草案中有關在稍後指定生效日期的原建議。

19. 我們擬提出一項委員會審議階段修正案，規定修訂條例分階段在二零零三年四月一日及十月一日實施。委員會審議階段修正案擬稿第 1 條載有有關的修訂建議，詳見**附件 B**。

委員會審議階段修正案

20. 政府準備提出的整套委員會審議階段修正案的擬稿載於**附件 B**。

財經事務及庫務局／
香港海關

二零零三年一月

'*Wednesbury* principles' is a convenient legal 'shorthand' used by lawyers to refer to the classical review by Lord Greene MR in the *Wednesbury* case of the circumstances in which the courts will intervene to quash as being illegal the exercise of administrative discretion.

One of the grounds of review, he added, is 'unreasonableness in the *Wednesbury* sense'. In the same case Lord Bridge referred to the exercise of power 'unreasonably in what, in current legal jargon, is called the "*Wednesbury*" sense'. '*Wednesbury*' is now a common and convenient label indicating the special standard of unreasonableness which has become the criterion for judicial review of administrative discretion. It is explained in that context below, where the key passage from the judgment of Lord Greene MR is set out in full.[66]

In an important ex cathedra statement of the grounds for judicial review Lord Diplock preferred the term 'irrationality', explaining it as 'what can by now be succinctly referred to as *Wednesbury* unreasonableness'.[67] But it is questionable whether 'irrationality' is a better word.[68] Virtually all administrative decisions are rational in the sense that they are made for intelligible reasons, but the question then is whether they measure up to the legal standard of reasonableness. These are two different things, and for legal purposes they are best differentiated by the established terminology. For the sake of clarity as well as consistency it seems best to employ 'unreasonableness' as the key word, as the courts in fact often prefer to do.[69]

The expression 'arbitrary and capricious' is sometimes used as a synonym for 'unreasonable';[70] and in one case this has been transmuted into 'frivolous or vexatious' and 'capricious and vexatious'.[71] But the meaning of all such expressions is necessarily the same, since the true question must always be whether the statutory power has been abused.

No unfettered discretion in public law

The common theme of all the authorities so far mentioned is that the notion of absolute or unfettered discretion is rejected. Statutory power conferred for public

[66] Below, p. 365. Among much literature see [1987] PL 368 (J. Jowell and A. Lester); [1996] PL 59 (Lord Irvine of Lairg); Supperstone and Goudie, *Judicial Review*, 2nd edn., ch. 6 (P. Walker); Sir John Laws in Forsyth and Hare (eds.), *The Golden Metwand*, 185, exploring constitutional and ethical connotations.

[67] *Council of Civil Service Unions* v. *Minister for the Civil Service* [1985] AC 374 at 410. See Appendix 1 for context.

[68] For Lord Donaldson MR's dislike of it see *R.* v. *Devon CC ex p. G* [1989] AC 573 at 577 ('it is widely misunderstood by politicians, both local and national, and even more by their constituents, as casting doubt on the mental capacity of the decision-maker'); and see the criticism by Carnwath J in [1996] PL 244 at 253.

[69] e.g. in the *Nottinghamshire* case, above, and in *R.* v. *Home Secretary ex p. Brind* [1991] 1 AC 696.

[70] e.g. in *Weinberger* v. *Inglis* [1919] AC 606; *Roncarelli* v. *Duplessis* (above). This is the established formula in the United States: see below, n. 78.

[71] *R.* v. *Barnet and Camden Rent Tribunal ex p. Frey Investments Ltd.* [1972] 2 QB 342.

purposes is conferred as it were upon trust, not absolutely—that is to say, it can validly be used only in the right and proper way which Parliament when conferring it is presumed to have intended. Although the Crown's lawyers have argued in numerous cases that unrestricted permissive language confers unfettered discretion, the truth is that, in a system based on the rule of law, unfettered governmental discretion is a contradiction in terms.[72] The real question is whether the discretion is wide or narrow, and where the legal line is to be drawn. For this purpose everything depends upon the true intent and meaning of the empowering Act.

The powers of public authorities are therefore essentially different from those of private persons. A man making his will may, subject to any rights of his dependants, dispose of his property just as he may wish.[73] He may act out of malice or a spirit of revenge, but in law this does not affect his exercise of his power. In the same way a private person has an absolute power to allow whom he likes to use his land, to release a debtor, or, where the law permits, to evict a tenant, regardless of his motives.[74] This is unfettered discretion. But a public authority may do none of these things unless it acts reasonably and in good faith and upon lawful and relevant grounds of public interest. So a city council acted unlawfully when it refused unreasonably to let a local rugby football club use the city's sports ground,[75] though a private owner could of course have refused with impunity. Nor may a local authority arbitrarily release debtors,[76] and if it evicts tenants, even though in accordance with a contract, it must act reasonably and 'within the limits of fair dealing'.[77] The whole conception of unfettered discretion is inappropriate to a public authority, which possesses powers solely in order that it may use them for the public good.

There is nothing paradoxical in the imposition of such legal limits. It would indeed be paradoxical if they were not imposed. Nor is this principle an oddity of British or American law:[78] it is equally prominent in French law.[79] Nor is it a special restriction which fetters only local authorities: it applies no less to ministers of the

[72] A particularly clear decision to this effect is that of Sachs J in *Commissioners of Customs and Excise* v. *Cure and Deeley Ltd.* [1962] 1 QB 340, especially at 366–7.

[73] See *Re Brocklehurst* [1978] Ch. 14.

[74] As in *Chapman* v. *Honig* [1963] 2 QB 502 (tenant gave evidence against landlord, who then evicted him. Lord Denning MR dissented).

[75] *Wheeler* v. *Leicester CC* [1985] AC 1054, explained below, p. 392.

[76] *A.-G.* v. *Tynemouth Union* [1930] 1 Ch. 616.

[77] *Bristol District Council* v. *Clark* [1975] 1 WLR 1443; *Cannock Chase DC* v. *Kelly* [1978] 1 WLR 1, holding that a local authority is under a stricter obligation than a private landlord but need not explain its reasons: *Sevenoaks DC* v. *Emmett* (1979) 39 P & CR 404 (from which the quotation comes). See also *Webster* v. *Auckland Harbour Board* [1983] NZLR 646; *West Glamorgan CC* v. *Rafferty* [1987] 1 WLR 457 (unlawful eviction of gipsies).

[78] In the United States s. 10(3) of the federal Administrative Procedure Act of 1946, in this respect restating the previous law, requires the court to set aside decisions which are arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law. See Schwartz and Wade, *Legal Control of Government*, 262, 337.

[79] It is well stated in Vedel and Delvolvé, *Droit administratif*, 12th edn., ii. 328: 'En droit privé . . . un particulier peut agir par raison, par intérêt, par générosité, par caprice; le contrôle

Crown. Nor is it confined to the sphere of administration: it operates wherever discretion is given for some public purpose, for example where a judge has a discretion to order jury trial.[81] It is only where powers are given for the personal benefit of the person empowered that the discretion is absolute. Plainly this can have no application in public law.

For the same reasons there should in principle be no such thing as unreviewable administrative discretion, which should be just as much a contradiction in terms as unfettered discretion. The question which has to be asked is what is the scope of judicial review, and in a few special cases the scope for the review of discretionary decisions may be minimal.[82] It remains axiomatic that all discretion is capable of abuse, and that legal limits to every power are to be found somewhere.[83]

Before analysing this principle, which has many facets, it will be well to look now at a group of classic decisions which will show its general character, and which come from the period when the courts were breaking through the earlier boundaries and vigorously extending judicial review. These examples concern ministerial approval, the powers of the police and the revocation of licences. They are all illustrations of the rebellion by the judges against the idea of unfettered discretion.

Judicial rejection of unfettered discretion

In two strong and almost simultaneous decisions of 1968 the House of Lords and the Court of Appeal boldly applied the law as so often laid down. In one, the House of Lords asserted legal control over the allegedly absolute discretion of the Minister of Agriculture and held that he had acted unlawfully. In the other, related in the next section, the Court of Appeal decided that they had power to condemn discriminatory action by the police in enforcing the criminal law, a species of discretion which is particularly difficult to challenge.

du juge ne s'exercera qu'à l'encontre d'un but illicite ou immoral. Au contraire, il n'existe pas en droit administratif de principe d'autonomie de la volonté. La volonté de l'Administration n'est pas autonome; l'Administration ne doit se décider que pour des raisons de fait ou de droit ayant existence objective réelle et adéquates à l'acte fait.'

[80] e.g. *Commissioners of Customs and Excise* v. *Cure and Deeley Ltd.* [1962] 1 QB 340; *Padfield* v. *Minister of Agriculture, Fisheries and Food* (below); *Congreve* v. *Home Office*, below, p. 364; and see the *Tameside* case, below, p. 421.

[81] *Ward* v. *James* [1966] 1 QB 273. For rejection of 'absolute discretion' see at 292 (Lord Denning MR). Similar law governs the discretionary powers of professional bodies and trustees: see e.g. *R.* v. *Askew* (1768) 4 Burr. 2186 at 2189 (admission to College of Physicians); *Re Baden's Deed Trusts* [1971] AC 424 at 456.

[82] As in the case of some prerogative powers (above, p. 350).

[83] Most of the above section, as it stood in the 6th edition, was approved by the House of Lords in *R.* v. *Tower Hamlets LBC ex p. Chetnik Developments Ltd.* [1988] AC 858 at 872.

In *Padfield* v. *Minister of Agriculture, Fisheries and Food*[84] the House of Lords had to consider a dispute under the milk marketing scheme established under the Agricultural Marketing Act 1958. The Act provided for a committee of investigation which was to consider and report on certain kinds of complaint 'if the Minister in any case so directs'. The milk producers of the region close to London complained that the differential element in the price fixed for their milk by the Milk Marketing Board was too low, since it ought to reflect the increased cost of transport from other regions but had not been revised since the Second World War. But since that region was in a minority on the Board, and any increase would be at the expense of the other regions, the Board could not be persuaded to act. The minister had power, if the committee of investigation so recommended, to make an order overriding the Board. But he refused to direct the committee to act, saying that since the producers were represented on the board they should be content with 'the normal democratic machinery' of the marketing scheme. His officials also added, incautiously, that if the committee made a favourable report the minister might be expected to take action on it. The whole object of the minister's overriding power, however, was that he might correct the 'normal democratic machinery' where necessary; and the suggestion that he might be embarrassed by a favourable report was, as Lord Reid said, 'plainly a bad reason'. It was held that where there was a relevant and substantial complaint the minister had a duty as well as a power and that he could not use his discretion to frustrate the policy of the Act. Otherwise he would be rendering nugatory a safeguard provided by the Act and depriving the producers of a remedy which Parliament intended them to have. Mandamus was therefore granted to compel the minister to act as the law required.

Lord Reid expressly rejected 'the unreasonable proposition that it must be all or nothing—either no discretion at all or an unfettered discretion'. He said:

> Parliament must have conferred the discretion with the intention that it should be used to promote the policy and objects of the Act; the policy and objects of the Act must be determined by construing the Act as a whole and construction is always a matter of law for the court. In a matter of this kind it is not possible to draw a hard and fast line, but if the Minister, by reason of his having misconstrued the Act or for any other reason, so uses his discretion as to thwart or run counter to the policy and objects of the Act, then our law would be very defective if persons aggrieved were not entitled to the protection of the court.

Lord Upjohn said that the minister's stated reasons showed a complete misapprehension of his duties, and were all bad in law. The scarcely veiled allusion to fear of parliamentary trouble was, in particular, a political reason which was quite extraneous and inadmissible. One of the fundamental matters confounding the minister's attitude was his claim to 'unfettered' discretion:

[84] [1968] AC 997.

First, the adjective nowhere appears in section 19 and is an unauthorised gloss by the Minister. Secondly, even if the section did contain that adjective I doubt if it would make any difference in law to his powers, save to emphasise what he has already, namely that acting lawfully he has a power of decision which cannot be controlled by the courts; it is unfettered. But the use of that adjective, even in an Act of Parliament, can do nothing to unfetter the control which the judiciary have over the executive, namely that in exercising their powers the latter must act lawfully and that is a matter to be determined by looking at the Act and its scope and object in conferring a discretion upon the Minister rather than by the use of adjectives.

Having thus decisively rejected the notion of unfettered discretion, at the initial stage, the House of Lords went on to indicate that the minister might in the end decline to implement the committee's report, and that the assessment of the balance of public interest would be for him alone. Lord Reid said:

He may disagree with the view of the committee as to public interest, and, if he thinks that there are other public interests which outweigh the public interest that justice should be done to the complainers, he would be not only entitled but bound to refuse to take action. Whether he takes action or not, he may be criticised and held accountable to Parliament but the court cannot interfere.

In the end, perhaps predictably, the committee reported in favour of the complainants, but the minister refused to take action. No doubt even his ultimate discretion could be abused unlawfully if he could be shown to have acted on inadmissible grounds, e.g. from personal spite. But the distinction drawn by the House of Lords well shows how a statute which confers a variety of discretionary powers may confer wider or narrower discretion according to the context and the general scheme of the Act. Translated into terms of the traditional rule that powers must be exercised reasonably, this means that the standard of reasonableness varies with the situation. The pitfalls which must always be avoided are those of literal verbal interpretation and of rigid standards.

The importance of the House of Lords' decision was underlined by Lord Denning MR:[85]

The discretion of a statutory body is never unfettered. It is a discretion which is to be exercised according to law. That means at least this: the statutory body must be guided by relevant considerations and not by irrelevant. If its decision is influenced by extraneous considerations which it ought not to have taken into account, then the decision cannot stand. No matter that the statutory body may have acted in good faith; nevertheless the decision will be set aside. That is established by *Padfield* v. *Minister of Agriculture, Fisheries and Food* which is a landmark in modern administrative law.

Another potentially significant aspect of the case was that the House of Lords

[85] *Breen* v. *Amalgamated Engineering Union* [1971] 2 QB 175 at 190; see similarly *Secretary of State for Employment* v. *ASLEF* (No. 2) [1972] 2 QB 455 at 493; *Secretary of State for Education and Science* v. *Tameside Metropolitan Borough Council* [1977] AC 1014.

refused to accept that the court's control could be evaded by omitting to specify the grounds of decision.[86]

Two particularly striking examples of a minister's discretionary power being fettered by the policy of an Act of Parliament are the *Laker Airways* case and the *Criminal Injuries Compensation Board* case. These are explained below.[87]

The Privy Council has held that the discretion of the Malaysian head of state to revoke a proclamation of emergency is not entirely unfettered, and that failure to revoke it after he no longer considers it to be necessary would be an abuse of his discretion.[88]

Discretionary police powers

The discretion possessed by the police in enforcing the criminal law was considered by the Court of Appeal in a case in which the applicant complained, merely as a citizen, that the police had adopted a policy of not prosecuting London gaming clubs for illegal forms of gaming.[89] The Commissioner's confidential instructions, when revealed to the court, substantially bore out the complaint, being based on the uncertainty of the law and the expense and manpower required to keep the clubs under observation. But while the case was pending the law was clarified, fresh instructions were issued, and the Commissioner undertook to withdraw the former instructions. The court therefore found no occasion to intervene. But they made it clear that the Commissioner was not an entirely free agent as his counsel contended. He had a legal duty to the public to enforce the law and the court could intervene by mandamus if, for example, he made it a rule not to prosecute housebreakers. On the other hand the court would not question his discretion when reasonably exercised, e.g. in not prosecuting offenders who for some special reason were not blameworthy in the way contemplated by the Act creating the offence. The court criticised the police policy of suspending observation of gaming clubs, as being clearly contrary to Parliament's intentions; and had it not been changed, they would have been disposed to intervene. But the police have a wide discretion in their operational decisions and their choice of methods, for instance if they call off the pursuit of robbers in a disturbed area because of concern for the safety of their officers,[90] or if their resources of manpower and finance are inadequate for providing continuous protection to exporters of live animals from attacks and obstruction by mobs of protesters.[91]

[86] See below, p. 387.

[87] p. 388.

[88] *Teh Cheng Poh* v. *Public Prosecutor, Malaysia* [1980] AC 458, holding that the duty would be enforceable by mandamus to the responsible ministers.

[89] *R.* v. *Metropolitan Police Commissioner ex p. Blackburn* [1968] 2 QB 118. See also *Adams* v. *Metropolitan Police Cmr.* [1980] RTR 289.

[90] *R.* v. *Oxford ex p. Levey*, The Times, 1 November 1986.

[91] *R.* v. *Chief Constable of Sussex ex p. International Trader's Ferry Ltd.* [1999] 2 AC 418. For this case see below, p. 384.

附件 B

擬稿

《2002 年應課稅品(修訂)條例草案》

委員會審議階段

由財經事務及庫務局局長動議的修正案

DCABCSA/#71061 v5

《2002年應課稅品(修訂)條例草案》

委員會審議階段

由財經事務及庫務局局長動議的修正案

條次	建議修正案
1	刪去第(2)款而代以—
	"(2) 除第(3)款另有規定外，本條例自2003年4月1日起實施。
	(3) 第10、11及12條自2003年10月1日起實施。"。
3	在建議的第8A條中 —
	(a) 在第(3)及(4)款中，刪去"有關人員"而代以"他為此指派的人員"；
	(b) 加入 —
	"(4A) 關長或第(1)或(3)款所述的人員(視屬何情況而定)如根據第7條拒絕要求就任何處所批予牌照或將牌照續期的申請，或根據第7條撤銷就任何處所批予的牌照，須以書面向申請人或持牌人(視屬何情況而定)提供拒絕或撤銷(視屬何情況而定)的理由。"。
6	刪去(b)段。
20	(a) 在建議的第98A(1)條中 —

(i) 在(a)段中，刪去“他發出的每一份”而代以“每一份已發出的”；

(ii) 在(b)段中 —

(A) 刪去“他 —”而代以“每一份 —”；

(B) 在第(i)節中，刪去“他”；

(C) 刪去“每一份有”而代以“有”。

(b) 在建議的第 98A(2)條中，在建議的“有關文件”的定義中，刪去在“指”之後的所有字句而代以 —

“—

(a) 在保稅倉的業務過程中發出、擬備或收到(視屬何情況而定)的任何文件；及

(b) (i) 與貨品進出保稅倉有關的任何文件，包括交貨單、收貨單、發票、貸項通知書、借項通知書、提單或空運提單及航空托運單；或

(ii) 與在保稅倉的業務過程中支付及收取的款項有關的任何文件，包括分類帳、帳目報表、損益表、資產負債表及審計師報告；”。

(c) 刪去建議的第 98A(3)條。