

立法會
Legislative Council

LC Paper No. LS 64/01-02

**Paper for the House Committee Meeting
of the Legislative Council
on 22 March 2002**

**Legal Service Division Report on
Public Revenue Protection (Revenue) Order 2002 made under
section 2 of the Public Revenue Protection Ordinance (Cap. 120)**

The Public Revenue Protection (Revenue) Order 2002 (L.N. 28 of 2002) (“the Order”) was gazetted on 6 March 2002 and laid on the table of the Legislative Council on 13 March 2002. This is a temporary measure taken under the Public Revenue Protection Ordinance (Cap. 120) (“the Ordinance”) to give effect to one of the revenue proposals announced in the Budget Speech delivered by the Financial Secretary on 6 March 2002 when moving the Second Reading of the Appropriation Bill 2002. The Revenue Bill 2002 (“the Bill”) and other legislative proposals giving long-term effect to these revenue 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. If the Chief Executive approves of the introduction into the Legislative Council of a bill whereby, if the bill were to become law any duty etc. would be imposed, removed or altered, the Chief Executive may make an order giving full force and effect of law to all the provisions of the bill. Under section 5 of the Ordinance, the Order shall come into force immediately upon signing by the Chief Executive and 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 Bill is contained in the Schedule to the Order. The effect of the Order is to implement the proposal in paragraph 75 of the 2002-03 Budget Speech, namely, to increase the rate of duty on wine from 60% to 80%. The Order has come into force at 2:30 p.m. on 6 March 2002.

5. 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. The power of the Chief Executive in Council under section 2 of the Ordinance is to make an order giving full force and effect of law to all the provisions of the Bill. Consistent with this power, Members have the power to repeal the Order but do not have power to amend the provisions therein. A repeal of the Order has to be made by 10 April 2002, or by 17 April 2002 if the intervention period is extended by resolution of Legislative Council.

Prepared by

Wong Sze-man, Bernice
Assistant Legal Adviser
Legislative Council Secretariat
9 March 2002