

IMPORT AND EXPORT (ELECTRONIC TRANSACTIONS) BILL 2001

COMMITTEE STAGE

Amendments to be moved by the Secretary for Commerce, Industry and
Technology

| <u>Clause</u> | <u>Amendment Proposed</u> |
|-----------------------------|---|
| 1(2) | By deleting “Commerce and Industry” and substituting “Commerce, Industry and Technology”. |
| Schedule 1, section 4(2) | By deleting proposed section 8(2A) and substituting – “(2A) The requirement under subsection (2)(b)(ii) is deemed to have been complied with if at the time of delivering the import licence under subsection (2)(b)(i) the manifest has been lodged with the Commissioner, or with an officer appointed by the Commissioner, under regulation 11 of the Import and Export (Registration) Regulations (Cap. 60 sub. leg.) and was so lodged using services provided by a specified body.”. |
| Schedule 1, section 5(2) | By deleting proposed section 9(2A) and substituting – “(2A) The requirement under subsection (2)(b)(iii) is deemed to have been complied with if at the time of delivering the declaration under subsection (2)(b)(ii) the manifest has been lodged |

with the Commissioner, or with an officer appointed by the Commissioner, under regulation 11 of the Import and Export (Registration) Regulations (Cap. 60 sub. leg.) and was so lodged using services provided by a specified body.”.

Schedule 1,
section 6(2)

By deleting proposed section 11(2A) and substituting –

“(2A) The requirements under subsection (2)(a)(ii) and (b)(ii) are deemed to have been complied with if, at the time of informing the Director of the export licence number under subsection (2)(a)(i) or delivering the export licence under subsection (2)(b)(i), the manifest has been lodged with the Commissioner, or with an officer appointed by the Commissioner, under regulation 12 of the Import and Export (Registration) Regulations (Cap. 60 sub. leg.) and was so lodged using services provided by a specified body.”.

Schedule 1

By adding –

“6A. **Section added**

The following is added –

“11A. **Director to have access to manifests lodged with Commissioner**

The Director shall have access to any information contained in a manifest of cargo that has been lodged under this Ordinance with the Commissioner or with an officer appointed by the Commissioner.”.

Schedule 1,
section 7(2)

By deleting proposed section 15(1B) and substituting –

“(1B) For the purpose of any requirement under subsection (1)(a) to furnish a member of the Customs and Excise Service with a manifest, the manifest may –

- (a) be given to the member of the Customs and Excise Service in paper form;
- (b) be given or sent to the member of the Customs and Excise Service in the form of an electronic record, but only if the manner and format in which the information is given or sent comply with any requirements specified under section 11(2) of the Electronic Transactions Ordinance (Cap. 553) in relation to this Ordinance; or
- (c) be sent to the member of the Customs and Excise Service using services provided by a specified body.

(1C) In this section, "manifest" (艙單) means a record prepared as a manifest and containing such of the particulars prescribed under section 17 as the member of the Customs and Excise Service considers sufficient for his purposes.”.

Schedule 1,
section 8

By deleting the section.

Schedule 1,
section 9

By deleting the section.

Schedule 1,
section 12

By deleting the section and substituting –

“12. Sections added

The following are added immediately before
section 33 –

**“32A. Provision of information where
use of services provided by
specified body is not
practicable**

(1) This section applies to any
information that under a provision of this
Ordinance (a “relevant provision”) is required
to be given to another person by using
services provided by a specified body.

(2) Where the Commissioner
considers that –

- (a) it is not practicable for
any information to which
this section applies to be
given in the manner
specified in subsection
(1), he may determine
that the information shall
be given in paper form
and shall not be given by
using services provided

- by a specified body; or
- (b) it is not practicable for any information to which this section applies to be given solely in the manner specified in subsection (1), he may determine that the information shall be given either in paper form or by using services provided by a specified body,

and where a determination has been made under this subsection, the relevant provision shall have effect subject to that determination.

(3) Notice of a determination made under subsection (2) shall be published in the Gazette within 14 days of the determination having been made.

(4) A determination made under subsection (2) may require that the information to be given in paper form be certified as correct or that the document containing the information be certified as a true copy, as may be appropriate, by the person giving the information or by some other person.

(5) A determination made under subsection (2) may make different provision in relation to different classes of persons or

information.

32B. Provision of manifest information relating to cargo carried in a road vehicle

(1) This section applies to any information that is contained in the manifest of cargo carried in or on a vehicle other than a train and that under this Ordinance is required to be given to the Commissioner or the Director, or to an officer appointed by the Commissioner, by using services provided by a specified body.

(2) The Commissioner may, by notice published in the Gazette, specify that any information to which this section applies shall be given in paper form and, where a notice published under this subsection has effect, the information shall, in accordance with the provisions of this Ordinance as read together with the notice, be given in paper form only.

(3) A notice published under subsection (2) may require that the information to be given in paper form be certified as correct or that the document containing the information be certified as a true copy, as may be appropriate, by the person giving the information or by some other person.

(4) A notice published under

subsection (2) is not subsidiary legislation.”.”.

Schedule 1,
section 13

By deleting proposed section 42(1) and substituting –

“(1) Any provision of section 8, 9 or 11 requiring that information given under those sections be given by using services provided by a specified body shall, in respect of the period specified in subsection (2), but subject to any determination made under section 32A(2)(a) or notice published under section 32B(2), be construed as requiring that the information be given either in paper form or by using services provided by a specified body.”.

Schedule 2,
section 1

(a) By renumbering it as section 1(1).

(b) In section 1(1) –

(i) in the proposed definition of “specified electronic services agent”, by deleting “section 2A(2)” and substituting “Schedule 2”;

(ii) in the proposed definition of “specified electronic services provider”, by deleting “section 2A(1)” and substituting “Schedule 1”;

(iii) by adding –

““manifest” (艙單) means a record prepared as a manifest containing the particulars prescribed under section 17 of the Import and Export Ordinance (Cap. 60) but does

not include any record,
containing the same or similar
particulars, which is not
specifically prepared as a
manifest;”.

(c) By adding –

“(2) Section 2 is amended by adding –

“(3) The Secretary for Commerce,
Industry and Technology may, by notice
published in the Gazette, amend Schedule 1
or 2; and a notice under this subsection is
subsidiary legislation.”.

Schedule 2,
section 2

By deleting proposed section 2A.

Schedule 2,
section 6

By deleting the section and substituting –

“6. **Sections added**

The following are added –

“14. **Provision of information where
use of recognized electronic
service is not practicable**

(1) This section applies to any
information that under a provision of this
Ordinance (a “relevant provision”) is
required to be given to another person using
a recognized electronic service.

(2) Where the Commissioner
considers that –

(a) it is not practicable for
any information to which

this section applies to be given in the manner specified in subsection (1), he may determine that the information shall be given in paper form and shall not be given using a recognized electronic service; or

- (b) it is not practicable for any information to which this section applies to be given solely in the manner specified in subsection (1), he may determine that the information shall be given either in paper form or using a recognized electronic service,

and where a determination has been made under this subsection, the relevant provision shall have effect subject to that determination.

(3) Notice of a determination made under subsection (2) shall be published in the Gazette within 14 days of the determination having been made.

(4) A determination made under subsection (2) may require that the

information to be given in paper form be certified as correct or that the document containing the information be certified as a true copy, as may be appropriate, by the person giving the information or by some other person.

(5) A determination made under subsection (2) may make different provision in relation to different classes of persons or information.

15. Provision of manifest information relating to cargo carried in a road vehicle

(1) This section applies to any information that is contained in the manifest of cargo carried in or on a vehicle other than a train and that under this Ordinance is required to be given to the Director using a recognized electronic service.

(2) The Commissioner may, by notice published in the Gazette, specify that any information to which this section applies shall be given in paper form and, where a notice published under this subsection has effect, the information shall, in accordance with the provisions of this Ordinance as read together with the notice, be given in paper form only.

(3) A notice published under subsection (2) may require that the

information to be given in paper form be certified as correct or that the document containing the information be certified as a true copy, as may be appropriate, by the person giving the information or by some other person.

(4) A notice published under subsection (2) is not subsidiary legislation.”.”.

Schedule 2

By adding –

“7. **Schedules 1 and 2 added**

The following are added –

“SCHEDULE 1 [s. 2]

**SPECIFIED ELECTRONIC
SERVICES PROVIDERS**

1. Tradelink Electronic Commerce Limited

SCHEDULE 2 [s. 2]

**SPECIFIED ELECTRONIC
SERVICES AGENTS**

1. Tradelink Electronic Commerce Limited”.”.

Schedule 3,
section 2

In proposed section 30A(1)(b) and (2)(b), by adding “、申報” after “陳述” wherever it appears.