

LEGISLATIVE COUNCIL BRIEF

Dutiable Commodities Ordinance (Chapter 109)

Dutiable Commodities (Amendment) Regulation 2014

INTRODUCTION

A At the meeting of the Executive Council on 11 March 2014, the Council ADVISED and the Chief Executive ORDERED that the Dutiable Commodities (Amendment) Regulation 2014 (the Regulation), at Annex A, be made under section 6 of the Dutiable Commodities Ordinance (Cap. 109) (DCO). The Regulation enables an electronic licensing (e-licensing) system to be introduced. It provides a legal framework for the Customs and Excise Department (C&ED) to require traders who import, export or manufacture dutiable commodities (DCs) or operate a warehouse for storing DCs to obtain relevant licences under the DCO via electronic means.

JUSTIFICATIONS

Licence for DCs

2. In accordance with section 17 of the DCO, a licence is required for the import, export, manufacture or storage of DCs, which mean alcoholic liquors (with an alcoholic strength above 30% by volume measured at the temperature of 20°C), tobacco, hydrocarbon oil and methyl alcohol. Different types of licence are required for the handling and storage of DCs, notable ones being the Import and Export Licence, Manufacturer's Licence and Bonded Warehouse Licence.

3. Pursuant to the current Regulation 22(2) of the Dutiable Commodities Regulations (Cap. 109 sub. leg. A) (DCR), an application for a licence, and any information¹ submitted in connection with the application,

¹ Information may include audited financial statement, Business Registration Certificate, tenancy agreement, records of the Land Registry, floor plans of a warehouse, letter for the appointment of responsible personnel, etc.

shall be in paper form. Some documents (e.g. audited financial statement and letter for the appointment of responsible personnel) produced to C&ED in support of the licence application must be original or certified true copy. For applications fulfilling the relevant requirements for a licence, C&ED will issue a paper licence to the applicants by registered mail subject to the payment of relevant licence fees.

Permit for DCs

4. For every instance of movement of DCs for import, export, and transfer between bonded warehouses before duty payment, a DC licensee must apply for a permit in advance. Currently, permit applications are submitted by electronic means via the Electronic Data Interchange platform of electronic service providers specified under the DCO. This electronic permit system was launched in 2002. At that time, the DCO and DCR were amended to mandate electronic submission and processing of permit applications.

Proposed Electronic Licensing System

5. Given that the electronic permit system has been in operation for over ten years and is widely accepted by the trade, as a trade facilitation measure, the Government considers it opportune to extend the current electronic mode of operations for permit applications to make it applicable to licence applications as well. To this end, we propose to implement an e-licensing system for DC traders. The proposed e-licensing system will be built into a new electronic platform of C&ED called the Dutiable Commodities System (DCS). The new system, to be managed by C&ED itself, is scheduled to come into operation in January 2017.

6. Under the proposed e-licensing regime, traders will be required to submit applications and relevant supporting documents (in scanned copy) to the DCS. For authentication of their identity, they will be required to use an e-Cert during the course of submission. For supporting documents such as audited financial statement or letter for the appointment of responsible personnel, the licence applicants will still be required to provide original or certified true copy to C&ED during the interview stage, subsequent to submission of the scanned copy to the DCS. When a licence application is approved, the applicant will receive notification of licence fee payment via the DCS. Upon payment of the licence fee by the applicant, C&ED will issue an electronic licence certificate.

Benefits of the Proposed E-licensing System

7. The proposed e-licensing system will benefit the trade and the Government as detailed in paragraphs 8 to 12 below.

Saving time, cost and manpower resources

8. Under the proposed e-licensing arrangement, traders will submit licence applications through electronic means, thus saving their time and manpower resources spent in the current paper application process, which may require several rounds of despatch of documents to C&ED. At the same time, it will minimise manual input of data by C&ED. Automatic checking and cross referencing of records and information will become possible, which will in turn reduce C&ED's processing time of each application. For instance, the net processing time required for issue of a warehouse licence will be reduced by two working days, which will otherwise take about 12 working days under the current paper mode.

Offering new services

9. The proposed e-licensing system will bring about new and convenient services to traders. For example, traders will receive automatic reminders of licence renewal and electronic notification of payment of licence fees, thus facilitating their timely completion of formalities as required. The proposed system will also cater for electronic submission of monthly reports and returns by the licensees on the movement of DCs under their accounts which are currently submitted in paper form.

Adding value to the electronic permit system

10. The proposed e-licensing system will align and simplify some of the procedures currently required under the electronic permit environment. For example, with the introduction of the proposed e-licensing system, the registration process of new permit holders will be substantially shortened from the current five working days to three working days.

Enhancing licence service and revenue control

11. The proposed e-licensing system will allow effective data retrieval and system interface with other information databases of C&ED, thereby enhancing the efficiency of C&ED in processing licence applications, handling enquiries about licence matters as well as carrying out duties regarding revenue control.

Reaping benefits of electronic filing

12. With the introduction of the proposed e-licensing system, C&ED will be able to file numerous documents relating to licence electronically, which is environment-friendly and in line with the Government's intention to save paper and space required for document storage.

Transitional Arrangement

13. As mentioned in paragraph 5 above, the DCS, in which the e-licensing system will be built, is scheduled to come into operation in January 2017. The exact date on which the e-licensing system will come into operation will be published in the Gazette by the Secretary for Financial Services and the Treasury. In order to ensure smooth migration to the proposed e-licensing arrangement, we propose allowing for a transitional period of six months for traders to adapt to the operation of the new system. During the six-month period, traders may submit licence applications in either paper form or electronic form. C&ED will also arrange briefing sessions to familiarise the stakeholders with the system.

Legal Basis

14. Under section 6(1)(a) of the DCO, the Chief Executive in Council (CE in Council) may by regulation prescribe or provide for regulating, restricting, licensing or prohibiting, except by licensed persons and on, from or to licensed premises, vehicles, trains, ships or aircraft, as the case may be, the importation, exportation, manufacture, storage, sale, supply, use and possession of goods to which the DCO applies. According to section 8 of the DCO, any person seeking a licence shall make application in accordance with regulations. As the existing regulation prescribed by the CE in Council provides that such applications must be made in paper form, it is necessary for the CE in Council to amend the regulation to implement the proposed e-licensing system.

OTHER OPTIONS

15. We must amend the DCR in order to bring our proposal into effect. There is no other option.

THE REGULATION

16. The main provisions of the Regulation are as follows –

- (a) section 3 amends regulation 22 of the DCR to require all applications for licences to be in the form of an electronic record that is submitted to the Commissioner of Customs and Excise (the Commissioner) using a specified information system;
- (b) section 4 adds a new regulation 22AAA to the DCR to empower the Commissioner to specify an information system for the applications for licences;

- (c) section 5 repeals regulation 106 of the DCR, the effect of which is spent; and
- (d) section 6 adds a new regulation 107 to the DCR so that applications for licences may also be made in paper form during a six-month transitional period.

LEGISLATIVE TIMETABLE

17. The legislative timetable is as follows –

Publication in the Gazette	21 March 2014
Tabling at Legislative Council (LegCo)	26 March 2014
Commencement of the Regulation	To be appointed by the Secretary for Financial Services and the Treasury

IMPLICATIONS OF THE PROPOSAL

B 18. The proposal has financial, civil service, economic and environmental implications as set out in Annex B. The proposal is in conformity with the Basic Law, including the provisions concerning human rights. The proposal will not affect the binding effect of the existing provisions of the DCO and its subsidiary legislation. It has no productivity, sustainability or family implications.

PUBLIC CONSULTATION

19. In July and September 2013, C&ED consulted the trade (with some 1 700 DC licensees) about the proposal of e-licensing. Major stakeholders, including the Dutiable Commodities Customer Liaison Group², in general support the proposal. No objection has been received. On 6 January 2014, we consulted the LegCo Panel on Financial Affairs on the proposed legislative amendments to put in place an e-licensing system. Members of the Panel supported the proposal.

² The Dutiable Commodities Customer Liaison Group comprises the Warehouses/Duty-free Shop Operators/Ship Stores Suppliers Sub-group, Hydrocarbon Oil Sub-group, Tobacco Sub-group and Liquor Sub-group.

PUBLICITY

20. We will issue a press release on the Regulation upon publication in the Gazette and a spokesperson will be available to answer media and public enquiries. Furthermore, prior to the launch of the proposed e-licensing system, C&ED will organise publicity to alert the industry to the impending changes, including sending letters to DC licensees, posting information on the website of C&ED, distributing leaflets or guidebooks, and conducting briefing sessions.

ENQUIRY

21. In case of enquiries about this Brief, please contact Ms Shirley Kwan, Principal Assistant Secretary for Financial Services and the Treasury (Treasury), at 2810 2370.

Financial Services and the Treasury Bureau
19 March 2014

LEGISLATIVE COUNCIL BRIEF

Dutiable Commodities Ordinance (Chapter 109)

DUTIABLE COMMODITIES (AMENDMENT) REGULATION 2014

ANNEXES

Annex A	Dutiable Commodities (Amendment) Regulation 2014
Annex B	Financial, Civil Service, Economic and Environmental Implications of the Proposal

Dutiable Commodities (Amendment) Regulation 2014

(Made by the Chief Executive in Council under section 6 of the Dutiable Commodities Ordinance (Cap. 109))

1. Commencement

This Regulation comes into operation on a day to be appointed by the Secretary for Financial Services and the Treasury by notice published in the Gazette.

2. Dutiable Commodities Regulations amended

The Dutiable Commodities Regulations (Cap. 109 sub. leg. A) are amended as set out in sections 3 to 6.

3. Regulation 22 amended (applications for licences and permits)

(1) Regulation 22—

Repeal subregulation (2)

Substitute

“(2) An application for a licence must be in the form of an electronic record that is submitted using the information system specified under regulation 22AAA.”.

(2) After regulation 22(2)—

Add

“(2A) An application for a licence is to be regarded as having been submitted when the specified information system accepts the application.”.

4. Regulation 22AAA added

After regulation 22—

Add

“22AAA. Specification of information system

- (1) The Commissioner may specify an information system for the purposes of regulation 22(2).
- (2) As soon as practicable after making a specification, the Commissioner must give notice of the details of the specification in a manner that the Commissioner thinks fit.”.

5. Regulation 106 repealed (transitional)

Regulation 106—

Repeal the regulation.

6. Regulation 107 added

Before the Schedule—

Add

“107. Transitional provision for licence application

- (1) This regulation applies to an application for a licence under regulation 22.
- (2) During the period specified in subregulation (4), the application may also be made in the manner provided for by regulation 22 as in force immediately before the commencement date of section 3 of the Dutiable Commodities (Amendment) Regulation 2014.
- (3) For that purpose, regulation 22 as so in force continues to have effect in relation to the application despite the amendments to it by section 3 of that Regulation.
- (4) The period specified for the purposes of subregulation (2) is a period of 6 months beginning on the commencement date of section 3 of that Regulation.”.

Explanatory Note

The purpose of this Regulation is to amend the Dutiable Commodities Regulations (Cap. 109 sub. leg. A) (*the Regulations*) to make provision regarding the use of an information system in connection with applications for licences under the Dutiable Commodities Ordinance (Cap. 109).

2. Section 3 amends regulation 22 of the Regulations to require all applications for licences to be in the form of an electronic record that is submitted to the Commissioner of Customs and Excise (*the Commissioner*) using a specified information system.
3. Section 4 adds a new regulation 22AAA to the Regulations to empower the Commissioner to specify an information system for the applications for licences.
4. Section 5 repeals regulation 106 of the Regulations, the effect of which is spent.
5. Section 6 adds a new regulation 107 to the Regulations so that applications for licences may also be made in paper form during a 6-month transitional period.

Clerk to Executive Council

COUNCIL CHAMBER

2014

**Financial, Civil Service, Economic and Environmental
Implications of the Proposal**

Financial and Civil Service Implications

Computer system-wise, the proposed electronic licensing system will incur non-recurrent expenditure of about \$5 million. We plan to seek resources required for the implementation of the system, as part of the project to develop the DCS, from the LegCo Finance Committee in June 2014.

2. The implementation of the proposed electronic licensing system will entail additional non-recurrent staff cost of about \$500,000 and recurrent civil service staff cost of about \$200,000 from 2017-18 onwards, which will be partly offset by savings to be achieved after the launch of the DCS. The initiative can also enable C&ED to have more effective analysis of licence data for better protection of government revenue.

Economic Implications

3. The Regulation will facilitate the implementation of the proposed electronic licensing system, which is business-friendly in that traders can reduce significantly their time and resources spent on applying for DC licences.

Environmental Implications

4. The proposal will have positive environmental implications, because the DC licence applications will be made via electronic means, thus saving paper.