

Panel on Financial Affairs
Information Paper on
Proposed Amendments to the Business Registration Ordinance

PURPOSE

Members are invited to note the proposals to amend the Business Registration Ordinance.

BACKGROUND

2. The Business Registration Ordinance (the Ordinance) provides for the registration of businesses in Hong Kong to enable the Inland Revenue Department (the Department) to raise tax assessments on them. Every person carrying on a business in Hong Kong, with only a few exceptions, is required to register his business with the Department and to renew the business registration certificate annually. He is required to pay a business registration fee and the levy for the Protection of Wages on Insolvency Fund (the levy) for such registration and renewal of the business registration certificate. The Ordinance also stipulates that a branch of a business has to be registered separately and each branch registration certificate also has to be renewed annually. There are about 700 000 active businesses and branches on the Business Register (the Register).

3. In order to provide timely and quality services to the business community and the public at large, we have reviewed the operation of the business registration system. We recommend that a new computer system and revamped office procedures should be introduced in order to rationalise the operation of the system and to keep pace with the development of today's business environment.

PROPOSALS

Provision of an Open Business Index

4. Under the Ordinance, any person may, on payment of the prescribed fee, request the Commissioner of Inland Revenue (the Commissioner) to extract any information on the Register, provided that the person can furnish the Commissioner with the business registration number of the business concerned. If the number is not known, the person has to request the Department to conduct a search for the number before any further search can be done. The Department receives around 100 000 such requests per year. We propose to set

up an Open Business Index (the Index) which will be accessible to the public for the search of business registration numbers of businesses on a self-service basis. This will enable the public to obtain the required information in a timely manner and reduce the workload of the Department. The proposed Index will only include minimal particulars of the registered businesses which enable such businesses to be identified. The Index may in due course be published in electronic form such as on the Internet.

Streamlining the operation of the system

5. The Ordinance contains some restrictive provisions which are onerous to businesses and may sometimes cause inconvenience. We therefore propose to amend the Ordinance to streamline the operation and to facilitate business operation as follows -

- (a) the Department will be allowed to supply business particulars in uncertified form upon the payment of a fee. The dispensation with the certifying process which has to be done manually will enable full automation of extraction of information from the Register and hence shorten the processing time. It will also enable the particulars to be transmitted to information seekers electronically;
- (b) business registration fee and the levy will be required to be fully paid upfront upon the lodging of an application for registration. This will enable the Department to send new certificates by post to the applicants and relieve the Department from recovering the outstanding amount in new registration cases where payments are in default;
- (c) the fee payable for the issue of business registration certificates will refer to the date of commencement, instead of the expiry date, of the certificate;
- (d) the Commissioner will be authorised to issue a renewal demand notice for the business/branch registration certificate to the business owner concerned if the Commissioner has not received a notice of cessation in respect of such business/branch or where the company is deemed to be a person carrying on business;
- (e) no duplicate copy of the application form for business registration will be required to be submitted;
- (f) for a notice which is required to be served under the Ordinance, it may be served to the last known business, residential or other correspondence address of the person concerned;

- (g) penalty will be levied when outstanding payment is not fully received and the amount of penalty imposed will make reference to the amount prevailing on the date of commencement of the business/branch registration certificate;
- (h) to make it clear that the provisions of the Ordinance apply to companies registered under the Companies Ordinance until the registration of such companies under the Companies Ordinance is removed and that the provisions applying to a business shall also apply to the branch of a business; and
- (i) the Commissioner will be empowered to compound offences under the Ordinance. This proposed compounding arrangement is in line with that stipulated under sections 80(5) and 82(2) of the Inland Revenue Ordinance (Cap. 112). The intention is to compound minor offences, e.g. failure to display a business registration certificate prominently or failure to supply information as required, and the consent of the person concerned will be obtained before the compounding.

Business names and the Register

6. The legislative provisions in respect of business names and the maintenance of the Register do not suit today's business environment. We propose to introduce the following amendments to such provisions -

- (a) every business will be allowed to register for business registration purposes under any business name except that a business name of a limited company will not be allowed to register under a name which suggests that it is a different limited company;
- (b) the Department will publish on the Register the place of incorporation of an overseas-incorporated business;
- (c) the Commissioner will be empowered to, in the case of an unlawful business, remove the business registration concerned from the Register, and in the case of an undesirable business name (e.g. a name which suggests a connection with the Government or a public body), direct the business owner concerned to register a new business name. We also propose to introduce an appeal channel to the Court of First Instance or the Administrative Appeals Board, as the case may be, for business owners who are aggrieved by the Commissioner's decision; and

- (d) the Commissioner will also be empowered to remove from the Register the registration of a business which is found untraceable or where the required business registration fees and the levy have not been paid for a continuous period of 10 years and to remove superseded or obsolete information of a business from the Register after a lapse of 10 years. We also propose that a business registration so removed can be reinstated.

Finance Bureau
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