

L.N. 90 of 1999

PUBLIC REVENUE PROTECTION (REVENUE) ORDER 1999

(Made under section 2 of the Public Revenue Protection Ordinance (Cap. 120) after consultation with the Executive Council)

1. Commencement

This Order shall come into force on 1 April 1999.

2. Operation of Scheduled Bill

The Bill set out in the Schedule shall have the full force and effect of law so long as this Order remains in force.

SCHEDULE [s. 2]

A BILL

To

Amend certain Ordinances to give effect to the proposals in the Budget introduced by the Government for the 1999--2000 financial year, and for connected purposes.

Enacted by the Legislative Council.

1. Short title and commencement

(1) This Ordinance may be cited as the Revenue Ordinance 1999.

(2) This Ordinance shall be deemed to have come into operation on 1 April 1999.

2. Application

Notwithstanding that this Ordinance is deemed to have come into operation on 1 April 1999 under section 1(2)---

(a) sections 3 and 4 shall only apply to an export declaration on which the shipment date specified is on or after 1 April 1999;

(b) sections 5 and 7(a) shall only apply to take effect on and after 1 September 1999;

(c) sections 9 and 10 shall only apply in relation to the estates of persons dying on or after 1 April 1999;

(d) sections 15, 18 and 21(b)(ii), (iii)(b) and (c) and (iv) shall only apply to an agreement for sale, or an unwritten sale agreement, as defined in section 29A(1) of the Stamp Duty Ordinance (Cap. 117), if the relevant date within the meaning of section 29B(3) of that Ordinance is, in so far as such agreement for sale or unwritten sale agreement, as the case may be, is concerned, on or after 1 April 1999;

(e) sections 23, 24 and 25 shall only apply to take effect on and after 1 August 1999;

(f) sections 33 to 36, 37(a) and (c) to (f), 46, 47 and 48 shall only apply to take effect on and after 1 September 1999.

Import and Export (Registration) Regulations

3. Export declarations

Regulation 5(3) of the Import and Export (Registration) Regulations (Cap. 60 sub. leg.) is amended by repealing everything before "one declaration" and substituting---
"(3) Only".

4. Charges payable on lodgement of declarations

Regulation 8(1)(c) is amended---

(a) in sub-subparagraph (i), by repealing "23,000" and substituting "46,000";

(b) in sub-subparagraph (ii)---

(i) by repealing "23,000" where it twice appears and substituting "46,000";

(ii) by repealing everything after "and" and substituting "25 cents for each additional 1,000 dollars' value or part thereof and rounded up to the nearest 10 cents.".

Betting Duty Ordinance

5. Authorization of totalizator or pari-mutuel

betting on horse or pony races

Section 3(3)(b) of the Betting Duty Ordinance (Cap. 108) is amended by repealing "77%" and substituting "76%".

6. Allocation of proceeds of a lottery

Section 4C(1) is amended by repealing "59%" and substituting "54%".

7. Duty on bets and cash-sweeps

Section 6 is amended---

(a) in subsection (1)(b), by repealing "18%" and substituting "19%";

(b) in subsection (1A), by repealing "20%" and substituting "25%".

Dutiable Commodities Ordinance

Resolution of the Legislative Council

8. Resolution amended

The Resolution made and passed by the Legislative Council under section 4(2) of the Dutiable Commodities Ordinance (Cap. 109) on 22 July 1998 and published in the Gazette as Legal Notice No. 288 of 1998 is amended by repealing "1 April 1999" and substituting "1 April 2000".

Estate Duty Ordinance

9. Exceptions for transactions for money

consideration, property situate outside

Hong Kong, shares on local registers,

certain land in the New Territories, etc.

Section 10 of the Estate Duty Ordinance (Cap. 111) is amended by adding---

"(ga) any property consisting of the benefits under a policy of insurance effected on the life of the deceased, being---

(i) any moneys, including any accrued dividends, payable on the death of the deceased under the terms or provisions of the policy, less any loans, advances, unpaid premiums, interest on loans or advances, administrative fees and other charges deductible from the moneys under such terms or provisions; and

(ii) any interest in the policy passing on the death of the deceased;".

10. Aggregation of property

Section 11(4) and (5) is repealed.

Inland Revenue Ordinance

11. Qualifying debt instruments

Section 14A of the Inland Revenue Ordinance (Cap. 112) is amended---

(a) by repealing subsection (4)(d) and substituting---

"(d) subject to subsection (5), has---

(i) where it is issued before 1 April 1999, a minimum denomination of \$500,000 or its equivalent in a foreign currency; or

(ii) where it is issued on or after 1 April 1999, a minimum denomination of \$50,000 or its equivalent in a foreign currency;"

(b) in subsection (5)(b), by adding "(i) or (ii), as the case may be" after "subsection (4)(d)".

Inland Revenue (Qualifying Debt Instruments) Order

12. Minimum denomination

Section 2 of the Inland Revenue (Qualifying Debt Instruments) Order (Cap. 112 sub. leg.) is amended by adding "(i)" after "section 14A(4)(d)".

Stamp Duty Ordinance

13. Interpretation

Section 2(1) of the Stamp Duty Ordinance (Cap. 117) is amended, in the definition of "stamp", in paragraph (d), by repealing "endorsement made under section 5(2A)" and substituting "imprint made under section 5(2A)(b)".

14. Methods of stamping and denoting

Section 5 is amended---

(a) by repealing subsection (2A) and substituting---

"(2A) Notwithstanding subsection (2), a contract note to which an agreement under section 5A relates may be stamped by any person authorized in that behalf by the Collector by imprinting in such manner as the Collector may think fit on the contract note---

(a) the amount of the stamp duty chargeable thereon; and

(b) a note to the effect that the amount of the stamp duty referred to in paragraph (a) has been or will be paid through the Exchange Company under the agreement.";

(b) by repealing subsection (2C) and substituting---

"(2C) Any person who with intent to defraud the Government---

(a) imprints on a contract note the matters described in subsection (2A)(a) and (b) without authorization from the Collector for the purposes of subsection (2A); or

(b) imprints on a contract note any matter, as a matter described in subsection (2A)(a) or (b), which is false in a material particular, commits an offence."

15. Non-admissibility etc. of instruments

not duly stamped

Section 15(3)(a) is amended---

(a) by adding "either" before "contains";

(b) by adding "or is endorsed under section 29C(13)(a)" after "section 29A(1)".

16. Contract notes, etc. in respect of sale and purchase of Hong Kong stock

Section 19 is amended---

(a) by adding---

"(1F) For the purposes of subsection (1), where---

(a) any sale or purchase of Hong Kong stock is effected by a broker, whether as principal or agent;

(b) the contract note required to be made under subsection (1) in respect of the sale or purchase is one to which an agreement under section 5A relates; and

(c) the contract note is made by the broker,

the contract note shall, whether or not it has been executed by the broker, be regarded as having been so executed.";

(b) in subsection (12)---

(i) by repealing paragraph (a) and substituting---

"(a) the borrower ceases to be required to make a stock return in accordance with the stock borrowing and lending agreement to which the stock borrowing relates, in respect of the borrowed stock or part thereof or its reasonable equivalent (other than that which is the subject of the stock return referred to in paragraph (c)), pursuant to the stock borrowing and lending agreement or to any other agreement reached with the lender of the borrowed stock (whether by settlement or otherwise);";

(ii) in paragraph (b), by adding "or its reasonable equivalent" after "part thereof";

(iii) in paragraph (c), by repealing everything after "relates" and substituting "to make a stock return in respect of the borrowed stock or part thereof or its reasonable equivalent,";

(iv) by repealing everything after "to be a sale and a purchase of" and substituting---

"---

(i) where paragraph (a) applies, the borrowed stock or part thereof, or the reasonable equivalent, which is the subject of the stock return the borrower ceases to be required to make as described in that paragraph;

(ii) where paragraph (b) applies, the borrowed stock or part thereof which, or the borrowed stock or part thereof the reasonable equivalent of which, was used for a purpose other than a specified purpose as described in that paragraph; or

(iii) where paragraph (c) applies, the borrowed stock or part thereof, or the reasonable equivalent, which is the subject of the stock return referred to in that paragraph.";

(c) by adding after subsection (12)---

"(12AA) This Ordinance, except subsection (1)(d), shall apply to the sale and purchase referred to in subsection (12) as if that sale and purchase were effected in Hong Kong---

(a) by the borrower who obtained the relevant borrowed stock;
(b) on the specified day; and
(c) for a consideration calculated at the previous closing price of Hong Kong stock of the same description as the stock which is the subject of the sale and purchase or, if there is more than one description of the stock, at their respective previous closing prices as quoted on the Unified Exchange.";

(d) by repealing subsection (12A) and substituting---

"(12A) Subsection (11) shall not apply to any stock borrowing or stock return, unless---

(a) an executed copy of the stock borrowing and lending agreement under which the stock borrowing and stock return are provided for;

(b) such fee as may be specified by the Financial Secretary for the purposes of this subsection by notice in the Gazette; and

(c) such other documents, and such particulars and information as the Collector may require,

are provided by the borrower to the Collector at any time after the stock borrowing and lending agreement is executed but before the expiry of 30 days after the stock borrowing is effected.";

(e) in subsection (16)---

(i) by repealing the definition of "specified day" and substituting---

" "specified day" (指明日期), in relation to a stock borrowing, means---

(a) where subsection (12)(a) applies, the day on which the borrower ceases to be required to make a stock return as described in that subsection;

(b) where subsection (12)(b) applies, the day on which the borrowed stock referred to in that subsection was obtained under the stock borrowing and lending agreement to which the stock borrowing relates; or

(c) where subsection (12)(c) applies, the day on which the borrower fails to comply with any demand as described in that subsection;"

(ii) in the definition of "stock borrowing", by repealing ", for one or more than one specified purpose";

(iii) in the definition of "stock borrowing and lending agreement", by repealing paragraphs (a) and (b) and substituting---

"(a) an agreement which---

(i) contains---

(A) provisions providing for the obtaining of any stock by a person from any other person;

(B) provisions requiring---

(I) the return of stock of the same quantity and description as the stock obtained pursuant to the provisions referred to in sub-subparagraph (a); or

(II) the delivery of the reasonable equivalent of the stock so obtained; and

(C) provisions which---

(I) require a specified payment to be made by the person by whom the stock is obtained pursuant to the provisions referred to in sub-subparagraph (a) to the person from whom the stock is obtained pursuant to the provisions; or

(II) provide for an arrangement which, in the opinion of the Collector, can be regarded as a fair and proper alternative to the requirement to make the specified payment; and

(ii) does not, in the opinion of the Collector, have the effect of reducing the risk of loss or opportunity for gain, in respect of the stock, of the person from whom the stock is obtained pursuant to the provisions referred to in subparagraph (i)(a); or

(b) the rules of a recognized clearing house which---

(i) contain the following provisions approved by the Collector---

(A) provisions providing for the obtaining of any stock by a participant of the clearing system of the recognized clearing house from any other participant of such clearing system;

(B) provisions requiring---

(I) the return of stock of the same quantity and description as the stock obtained pursuant to the provisions referred to in sub-subparagraph (a); or

(II) the delivery of the reasonable equivalent of the stock so obtained; and

(C) provisions which---

(I) require a specified payment to be made by the participant by whom the stock is obtained pursuant to the provisions referred to in sub-subparagraph (a) to the participant from whom the stock is obtained pursuant to the provisions; or

(II) provide for an arrangement which, in the opinion of the Collector, can be regarded as a fair and proper alternative to the requirement to make the specified payment;

(ii) do not, in the opinion of the Collector, have the effect of reducing the risk of loss or opportunity for gain, in respect of the stock, of the person from whom the stock is obtained pursuant to the provisions referred to in subparagraph (i)(a); and

(iii) are subscribed to by participants of the clearing system of the recognized clearing house as a precondition for their obtaining of any stock within the meaning of subparagraph (i)(a);";

(iv) in the definition of "stock return", by repealing everything before paragraph (i) and substituting---

" "stock return" (證券交還), in relation to a stock borrowing, means a transaction by which a borrower, in accordance with the stock borrowing and lending agreement to which the stock borrowing relates---

(a) returns any stock which is of the same description as the borrowed stock (other

than that which is the subject of a sale and purchase referred to in subsection (12));
or

(b) delivers any reasonable equivalent of the borrowed stock (other than that which is the subject of a sale and purchase referred to in subsection (12)),
whether or not the return or delivery is made---";

(v) by adding---

" "reasonable equivalent" (合理對等項目), in relation to any stock obtained pursuant to the provisions referred to in paragraph (a)(i)(a) or (b)(i)(a) of the definition of "stock borrowing and lending agreement", means any stock or monies which, in the opinion of the Collector, can, as a result of the occurrence of a relevant event, be reasonably and fairly be regarded as the equivalent of the stock so obtained;
"relevant event" (有關事件), in relation to any stock obtained pursuant to the provisions referred to in paragraph (a)(i)(a) or (b)(i)(a) of the definition of "stock borrowing and lending agreement", means---

(a) the exercise of any of the powers conferred by section 53(1)(a) to (d) of the Companies Ordinance (Cap. 32); or

(b) any other event,

which, in the opinion of the Collector, makes any requirement to return stock of the same quantity and description as the stock so obtained either impracticable or inappropriate;

"specified payment" (指明付款), in relation to any stock, means a payment of an amount equivalent to the amount of any dividend, interest and other distribution payable in respect of the stock or its reasonable equivalent or both by the issuer of the stock or its reasonable equivalent or by any other person to the holder of the stock or its reasonable equivalent during the period after the stock is obtained pursuant to the provisions referred to in paragraph (a)(i)(a) or (b)(i)(a) of the definition of "stock borrowing and lending agreement" and before a return or delivery is required to be made in accordance with the provisions referred to in paragraph (a)(i)(b) or (b)(i)(b) of that definition;"

17. Passing on of dividends or interest

on Hong Kong stock prohibited

Section 21 is amended by adding---

"(4) Notwithstanding anything in this section, this section shall not apply to a specified payment as defined in section 19(16)."

18. Chargeable agreements for sale

Section 29C is amended---

(a) by repealing subsection (1);

(b) by adding---

"(5A) (a) Notwithstanding any other provisions of this Part, an agreement for sale to which head 1(1A) in the First Schedule would, apart from this subsection, apply shall, subject to paragraph (b), not be regarded as an agreement for sale to which

that head applies if the agreement is cancelled, annulled or rescinded or is otherwise not performed.

(b) Where an agreement for sale described in paragraph (a) is cancelled, annulled or rescinded or is otherwise not performed by reason of the occurrence of a specified event described in subsection (11)(b)(ii) or (iii), the agreement shall, notwithstanding paragraph (a), continue to be regarded as an agreement for sale to which head 1(1A) in the First Schedule applies.

(5B) (a) Subject to paragraph (b), if any monies have been paid under this Ordinance, whether by way of stamp duty, additional stamp duty or penalty, in respect of an agreement for sale as an agreement for sale to which head 1(1A) in the First Schedule applies, but the agreement is under subsection (5A)(a) not regarded as an agreement for sale to which that head applies, the Collector shall refund the monies paid.

(b) In relation to an agreement for sale described in paragraph (a), no monies shall be

refun*****

*****ement (whether the date is determined by reference to the happening of an event or otherwise); and

(ii) such evidence, by statutory declaration or otherwise, in support of the application as the Collector may require has been produced to the Collector.

(c) Where any monies paid in respect of an agreement for sale are refunded under paragraph (a), the Collector may cancel the stamp, if any, denoting payment of the monies on the agreement.";

(c) by repealing subsection (6);

(d) by adding---

"(11) (a) Subject to subsection (12), the time for stamping a chargeable agreement for sale which, if implemented, would be implemented by a conveyance on sale shall be---

(i) subject to subparagraphs (ii) and (iii), not later than 3 years after the relevant date within the meaning of section 29B(3);

(ii) subject to subparagraph (iii), where, within 3 years after such relevant date, a conveyance on sale is made in conformity with or in pursuance of the agreement, not later than 30 days after the conveyance on sale is made, or 3 years after such relevant date, whichever is of the earlier date;

(iii) where, before a conveyance on sale is made in conformity with or in pursuance of the agreement but within 3 years after such relevant date, there is

occurrence of a specified event described in paragraph (b)(i), (ii) or (iii), not later than 7 days after the occurrence of the specified event, or 3 years after such relevant date, whichever is of the earlier date.

(b) In relation to an agreement for sale ("first agreement") made in respect of immovable property, there is occurrence of a specified event where---

(i) another agreement for sale is made for a sub-sale of the property or any part of the property by the purchaser under the first agreement;

(ii) another agreement for sale is made by the purchaser under the first agreement in which the purchaser makes a nomination or gives a direction that---

(a) transfers, or gives a power to transfer, any benefit of the purchaser in respect of the property or any part of the property under the first agreement; or

(b) authorizes another person to take a conveyance of the property or any part of the property or to execute such a conveyance in favour of a third party, other than a nomination made, or a direction given, in favour of a person who is to be a trustee for the purchaser in respect of the property or the part of the property, as the case may be, or in favour of a person who is a parent, spouse or child of the purchaser, whether or not also in favour of the purchaser; or

(iii) another agreement for sale is made for the sale of the property or any part of the property---

(a) between the vendor under the first agreement and a party introduced, directly or indirectly, to the vendor by the purchaser under the first agreement; or

(b) under the direction of or upon the request of the purchaser.

(12) Subsection (11) shall not apply to a chargeable agreement for sale made in respect of immovable property unless---

(a) an application in a form specified by the Collector has been made to the Collector by a person liable for stamping the agreement within 30 days after the date on which the agreement was made;

(b) it is proved to the satisfaction of the Collector that---

(i) the vendor under the agreement is registered in the Land Registry as the owner of the property; or

(ii) (A) all the instruments through which the vendor acquired, from the person who is registered in the Land Registry as the owner of the property, his right or interest in or title to the property are, in so far as they are chargeable with stamp duty, duly stamped; or

(B) where it is not proved to the satisfaction of the Collector that all the instruments referred to in sub-subparagraph (a) are duly stamped within the meaning of that sub-subparagraph, security to the satisfaction of the Collector has been given for the payment of the stamp duty chargeable on the instruments in so far as they are not so duly stamped; and

(c) where a body corporate is liable for stamping the agreement as a purchaser under

the agreement, a banker's undertaking described in subsection (14) has been given by way of security for the payment of the stamp duty chargeable on the agreement.

(13) On an application made to the Collector under subsection (12)(a) in respect of a chargeable agreement for sale which, if implemented, would be implemented by a conveyance on sale---

(a) where the requirements set out in subsection (12)(b) and (c) are, in so far as they are applicable, satisfied, the Collector shall endorse the agreement to the effect that subsection (11) applies to the agreement in such manner as he may think fit;

(b) where any of the requirements set out in subsection (12)(b) and (c) are, in so far as they are applicable, not satisfied, the Collector shall issue a notice in writing of the decision to the person making the application.

(14) For the purposes of subsection (12)(c), a banker's undertaking given in relation to a chargeable agreement for sale shall---

(a) be in a form acceptable to the Collector;

(b) be provided by a bank as defined in the Banking Ordinance (Cap. 155);

(c) not be revocable without the consent of the Collector;

(d) be expressed to be an undertaking to pay an amount equivalent to the stamp duty chargeable on the agreement; and

(e) provide that the amount referred to in paragraph (d), or such lesser amount as demanded by the Collector, shall be paid to the Collector upon written notification to the bank by the Collector that the agreement has become due for stamping.

(15) Notwithstanding subsections (11) to (14), where at any time before the time for stamping specified in relation to a chargeable agreement for sale in subsection (11)(a) has expired---

(a) a banker's undertaking described in subsection (14) has been given in relation to the agreement; and

(b) no further banker's undertaking described in subsection (14) is given in relation to the agreement by way of security for the payment of the stamp duty chargeable on the agreement, one month before the banker's undertaking referred to in paragraph (a) expires or ceases to have effect under the terms of that undertaking, the agreement shall, on demand of the Collector, immediately become due for stamping."

19. Conveyances on sale of residential property

Section 29D is amended---

(a) in subsection (2)(b)(ii), by repealing "purpose of calculating the time for stamping the conveyance on sale" and substituting "purposes of subparagraph (i)";

(b) by repealing subsections (4)(b)(ii) and (iii) and (5)(b)(ii) and (iii).

20. Expiration of this Part and head 1(1A)

in First Schedule

Section 29I is repealed.

21. First Schedule amended

The First Schedule is amended---

(a) in head 1(1)---

(i) by repealing paragraphs (b) to (i) and substituting---

"(b) where the amount or value of the consideration exceeds \$1,000,000 but does not exceed \$1,080,000 and the instrument is certified in accordance with section 29 at \$1,080,000

(b) \$100 plus 10% of the amount by which the amount or value of the consideration exceeds \$1,000,000

(c) where the amount or value of the consideration exceeds \$1,080,000 but does not exceed \$2,000,000 and the instrument is certified in accordance with section 29 at \$2,000,000

(c) 0.75% of the amount or value of the consideration

(d) where the amount or value of the consideration exceeds \$2,000,000 but does not exceed \$2,176,470 and the instrument is certified in accordance with section 29 at \$2,176,470

(d) \$15,000 plus 10% of the amount by which the amount or value of the consideration exceeds \$2,000,000

(e) where the amount or value of the consideration exceeds \$2,176,470 but does not exceed \$3,000,000 and the instrument is certified in accordance with section 29 at \$3,000,000

(e) 1.5% of the amount or value of the consideration

(f) where the amount or value of the consideration exceeds \$3,000,000 but does not exceed \$3,290,320 and the instrument is certified in accordance with section 29 at \$3,290,320

(f) \$45,000 plus 10% of the amount by which the amount or value of the consideration exceeds \$3,000,000

(g) where the amount or value of the consideration exceeds \$3,290,320 but does not exceed \$4,000,000 and the instrument is certified in accordance with section 29 at \$4,000,000

(g) 2.25% of the amount or value of the consideration

(h) where the amount or value of the consideration exceeds \$4,000,000 but does not exceed \$4,428,570 and the instrument is certified in accordance with section 29 at \$4,428,570

(h) \$90,000 plus 10% of the amount by which the amount or value of the consideration exceeds \$4,000,000

(i) where the amount or value of the consideration exceeds \$4,428,570 but does not exceed \$6,000,000 and the instrument is certified in accordance with section 29 at \$6,000,000

(i) 3% of the amount or value of the consideration

(j) where the amount or value of the consideration exceeds \$6,000,000 but does not exceed \$6,720,000 and the instrument is certified in accordance with section 29 at \$6,720,000

(j) \$180,000 plus 10% of the amount by which the amount or value of the consideration exceeds \$6,000,000

(k) in any other case (k) 3.75% of the amount or value of the consideration";

(ii) in Note 1---

(A) by repealing "(h)" and substituting "(j)";

(B) by repealing "(i)" and substituting "(k)";

(b) in head 1(1A)---

(i) by repealing paragraphs (b) to (i) and substituting---

"(b) where the amount or value of the consideration exceeds \$1,000,000 but does not exceed \$1,080,000 and the instrument is certified in accordance with section 29G at \$1,080,000

(b) \$100 plus 10% of the amount by which the amount or value of the consideration exceeds \$1,000,000

(c) where the amount or value of the consideration exceeds \$1,080,000 but does not exceed \$2,000,000 and the instrument is certified in accordance with section 29G at \$2,000,000

(c) 0.75% of the amount or value of the consideration

(d) where the amount or value of the consideration exceeds \$2,000,000 but does not exceed \$2,176,470 and the instrument is certified in accordance with section 29G at \$2,176,470

(d) \$15,000 plus 10% of the amount by which the amount or value of the consideration exceeds \$2,000,000

(e) where the amount or value of the consideration exceeds \$2,176,470 but does not exceed \$3,000,000 and the instrument is certified in accordance with section 29G at \$3,000,000

(e) 1.5% of the amount or value of the consideration

(f) where the amount or value of the consideration exceeds \$3,000,000 but does not

exceed \$3,290,320 and the instrument is certified in accordance with section 29G at \$3,290,320

(f) \$45,000 plus 10% of the amount by which the amount or value of the consideration exceeds \$3,000,000

(g) where the amount or value of the consideration exceeds \$3,290,320 but does not exceed \$4,000,000 and the instrument is certified in accordance with section 29G at \$4,000,000

(g) 2.25% of the amount or value of the consideration

(h) where the amount or value of the consideration exceeds \$4,000,000 but does not exceed \$4,428,570 and the instrument is certified in accordance with section 29G at \$4,428,570

(h) \$90,000 plus 10% of the amount by which the amount or value of the consideration exceeds \$4,000,000

(i) where the amount or value of the consideration exceeds \$4,428,570 but does not exceed \$6,000,000 and the instrument is certified in accordance with section 29G at \$6,000,000

(i) 3% of the amount or value of the consideration

(j) where the amount or value of the consideration exceeds \$6,000,000 but does not exceed \$6,720,000 and the instrument is certified in accordance with section 29G at \$6,720,000

(j) \$180,000 plus 10% of the amount by which the amount or value of the consideration exceeds \$6,000,000

(k) in any other case (k) 3.75% of the amount or value of the consideration";

(ii) in paragraph (b), by repealing "Note 2" and substituting "section 29C(11) and Notes 2 and 3";

(iii) in Note 2---

(A) by adding before paragraph (a)---

"(aa) for the purposes of Part IIIA and this sub-head, the second-mentioned agreement is deemed to be made on the relevant date (within the meaning of section 29B(3));";

(B) in paragraph (a), by adding "notwithstanding paragraph (aa) but subject to section 29C(11)," before "the time for stamping";

(C) in paragraph (b), by adding ", or is endorsed under section 29C(13)(a)," before "the obligation";

(iv) by repealing Note 3 and substituting---

"Note 3

Subject to Note 2, if 2 or more agreements for sale are made between the same parties and on the same terms---

(a) for the purposes of Part IIIA and this sub-head, all of the agreements are deemed to be made on the relevant date (within the meaning of section 29B(3)); and
(b) where any of the agreements is duly stamped or stamped under section 5(1) or 13(2), or is endorsed under section 29C(13)(a)---

(i) the other agreements are each chargeable with stamp duty of \$100; and

(ii) notwithstanding paragraph (a) and section 29C(11), the time for stamping each of the other agreements is not later than 30 days after it was executed".

Air Passenger Departure Tax Ordinance

22. Passengers exempted from liability to pay the tax

The Second Schedule to the Air Passenger Departure Tax Ordinance (Cap. 140) is amended by adding---

"2A. Passengers who---

(a) arrive at the airport from a place outside Hong Kong by an aircraft which, when the passenger ticket for the flight of the aircraft by which they so arrive at the airport was issued, has been scheduled to land at the airport on a particular day; and

(b) subsequently depart from Hong Kong by an aircraft which, when the passenger ticket for the flight of the aircraft by which they so depart from Hong Kong was issued, has been scheduled to take off at the airport on the same day as the particular day referred to in paragraph (a)."

Fixed Penalty (Traffic Contraventions) Ordinance

23. Fixed penalty

Section 13 of the Fixed Penalty (Traffic Contraventions) Ordinance (Cap. 237) is amended by repealing "\$200" and substituting "\$410".

Resolution of the Legislative Council

24. Repeal

The Resolution made and passed on 23 February 1994 by the then Legislative Council under section 13 of the Fixed Penalty (Traffic Contraventions) Ordinance (Cap. 237) and published in the Gazette as Legal Notice No. 109 of 1994 (Cap. 237 sub. leg.) is repealed.

Fixed Penalty (Criminal Proceedings) Ordinance

25. Offence

The Schedule to the Fixed Penalty (Criminal Proceedings) Ordinance (Cap. 240) is amended---

(a) in items 1, 3, 4, 5, 7, 9, 9A, 15, 18 to 22, 28, 30 to 34, 37, 38 and 40 to 52, by repealing "\$320" and substituting "\$410";

(b) in items 2, 2A, 2B, 6, 8, 10 to 14, 16, 17, 23, 25, 26, 27, 29, 35, 36, 56 and 57, by repealing "\$450" and substituting "\$570";

(c) in item 24, by repealing "\$1,000" and substituting "\$1,270";

(d) in items 39, 53, 54 and 55, by repealing "\$230" and substituting "\$300".

Merchant Shipping (Fees) Regulations

26. Fees for issue of certificates of survey, etc.

Regulation 8(1) of the Merchant Shipping (Fees) Regulations (Cap. 281 sub. leg.) is amended by repealing everything after "Part II of the Schedule," and substituting---

"there shall be payable a fee of \$565, unless---

- (a) the issue is specified in that Part to be included in the service in question;
- (b) a fee for the issue is specified in that Part; or
- (c) the issue is that of a certificate for a ship in respect of which a service relevant to the issue of the certificate has been rendered by an organization approved under section 8(1) of the Merchant Shipping (Safety) Ordinance (Cap. 369).".

27. Schedule amended

Item 10 in section F of Part II of the Schedule is repealed.

Business Registration Ordinance

28. Registration of business and issue of business registration certificate

Section 6 of the Business Registration Ordinance (Cap. 310) is amended---

- (a) in subsection (5), by repealing "有效期屆滿日期" and substituting "屆滿日期";
- (b) by adding---

"(5A) The expiry date endorsed on a business registration certificate shall be the date of the expiration of---

- (a) where the certificate is an applicable business registration certificate in respect of which an election has been made under subsection (5C), 3 years from the date of commencement endorsed thereon; or
- (b) in any other case, 1 year from the date of commencement endorsed thereon.

(5B) (a) The expiry date endorsed on a branch registration certificate issued in respect of a branch of a business shall---

(i) where there is a relevant business registration certificate, be the same as the expiry date endorsed on the relevant business registration certificate; or

(ii) where there is no relevant business registration certificate, be such date as the Commissioner shall reasonably decide having regard to the circumstances of the case.

(b) In this subsection, "relevant business registration certificate" (有關商業登記證), in relation to a branch registration certificate issued in respect of a branch of a business, means a business registration certificate issued in respect of the business on which---

(i) the date of commencement endorsed is the same as the date of commencement endorsed on the branch registration certificate; or

(ii) the date of commencement endorsed is earlier than the date of commencement endorsed on the branch registration certificate, but the expiry date endorsed is not earlier than the date of commencement endorsed on the branch

registration certificate.

(5C) A person carrying on business may---

(a) where a valid business registration certificate has been issued in respect of the business, by notice in writing given to the Commissioner not later than 1 month before the expiry date endorsed on the certificate; or

(b) where an application for the registration of the business under section 5(1) is made within 1 year of the commencement of the business, by a statement in

the*****

the business after the election is made;

(ii) subject to subparagraph (i), the election may be revoked by the person by notice in writing given to the Commissioner at any time not later than 1 month before the expiry date endorsed on a valid business registration certificate where the expiry date is endorsed in accordance with the election.

(b) Where an election is revoked under paragraph (a)(ii), the election shall be regarded as not having been made in respect of any business registration certificate that may be issued after the revocation is made.

(5E) In this section, a reference to applicable business registration certificate is a reference to---

(a) in relation to an election made in the manner specified in subsection (5C)(a), a business registration certificate on which the date of commencement endorsed--

(i) shall be a date after the expiry date endorsed on the valid business registration certificate referred to in that subsection; and

(ii) shall not be a date before the commencement of the Revenue Ordinance 1999 (of 1999);

(b) in relation to an election made in the manner specified in subsection (5C)(b), a business registration certificate on which the date of commencement endorsed shall not be a date before the commencement of the Revenue Ordinance 1999 (of 1999).".

29. Payment of fees

Section 7 is amended by adding---

"(5) Notwithstanding the cessation of a business or of a branch of a business---

(a) any prescribed business registration fee or prescribed branch registration fee or any levy which is payable in respect of the business or the branch, as the case may be, shall remain payable;

(b) any prescribed business registration fee or prescribed branch registration fee or any levy which has been paid in respect of the business or the branch, as the case

may be, shall not be refunded."

30. Schedule 1 amended

Schedule 1 is amended in item 1---

(a) in paragraph (k), by adding "and before 1 April 1999" after "1994";

(b) by adding---

"(1) on or after 1 April 1999---

(i) where no election is made under section 6(5C) \$2,000 7

(ii) where an election is made under section 6(5C) \$5,200 7".

31. Schedule 2 amended

Schedule 2 is amended---

(a) in item 1(a)---

(i) by repealing "\$71";

(ii) by repealing "11(1)";

(iii) by adding after "levy"---

"---

(i) where no election is made under section 6(5C) \$71 11(1)

(ii) where an election is made under section 6(5C) \$213 11(1)";

(b) in item 1(b)---

(i) by repealing "\$300";

(ii) by repealing "11(1)";

(iii) by adding after "levy"---

"---

(i) where no election is made under section 6(5C) \$300 11(1)

(ii) where an election is made under section 6(5C) \$900 11(1)";

(c) in item 2---

(i) by repealing "\$73";

(ii) by repealing "7";

(iii) by adding after "(56 of 1984)"---

"---

(a) where no election is made under section 6(5C) \$73 7

(b) where an election is made under section 6(5C) \$189 7";

(d) by repealing item 3 and substituting---

"3. Levy payable on registration of business or branch, issue of further business registration certificate or issue of further branch registration certificate---

(a) where no election is made under section 6(5C) \$250 7

(b) where an election is made under section 6(5C) \$750 7".

Business Registration Regulations

32. Forms

Regulation 9 of the Business Registration Regulations (Cap. 310 sub. leg.) is amended---

(a) in Forms 1(a), 1(b) and 1(c), by adding before the heading "Certificate of

Applicant"---

"I wish/do not wish* to elect that the expiry date to be endorsed on all applicable business registration certificates (as defined in section 6 of the Business Registration Ordinance (Cap. 310)) to be issued at any time hereafter in respect of the above business shall be the date of the expiration of 3 years from the date of commencement endorsed thereon.";

(b) in Form 1(a), by adding before "SECTION B."---

"*Delete as appropriate."

Road Tunnels (Government) Ordinance

33. Schedule amended

The Schedule to the Road Tunnels (Government) Ordinance (Cap. 368) is amended by adding---

"Cross-Harbour Tunnel."

Road Tunnels (Government) Regulations

34. Interpretation

Regulation 2 of the Road Tunnels (Government) Regulations (Cap. 368 sub. leg.) is amended---

(a) by renumbering it as regulation 2(1);

(b) by adding---

"(2) Notwithstanding paragraph (1), the description of a vehicle mentioned in the table of tolls for the Cross-Harbour Tunnel in the Second Schedule shall be interpreted in accordance with the definitions and classes of motor vehicles mentioned in section 2 of the Road Traffic Ordinance (Cap. 374), in so far as they are applicable to such description."

35. Fee for removal of vehicles etc. causing obstruction

Regulation 13 is amended by repealing "specified in the Second Schedule" and substituting "(if any) specified in the Second Schedule in relation to the tunnel".

36. Vehicles requiring permits

Regulation 14(5) is repealed and the following substituted---

"(5) The permit fee (if any) specified in the Second Schedule in relation to a tunnel shall be paid on the issue of a permit for the passage of a vehicle through the tunnel."

37. Tolls and Fees

The Second Schedule is amended---

(a) by repealing "[regs. 12, 13 & 14]" and substituting "[regs. 2, 12, 13 & 14]";

(b) in the table of tolls, by repealing "\$6" and substituting "\$8";

(c) by adding before the table of tolls---

"Tolls (for tunnels other than
the Cross-Harbour Tunnel)";

(d) by adding after the table of tolls---

"Tolls (for the Cross-Harbour Tunnel)

Vehicle Tolls

1. Motor cycles, motor tricycles 0\$8
2. Taxis \$10
3. Private cars \$20
4. Public and private light buses \$10
5. Light goods vehicles of a permitted gross vehicle weight \$15
not exceeding 5.5 tonnes
6. Medium goods vehicles of a permitted gross vehicle \$20
weight exceeding 5.5 tonnes but not exceeding 24 tonnes
7. Heavy goods vehicles of a permitted gross vehicle weight \$30
exceeding 24 tonnes
8. Public and private single-decked buses \$10
9. Public and private double-decked buses \$15
10. Each additional axle in excess of two \$10 ";

(e) by adding before the table of removal fees---

"Removal Fee";

(f) by adding before the table of permit fees---

"Permit Fee".

Merchant Shipping (Safety) (Cargo Ship Safety
Equipment Survey) Regulations

38. Regulation substituted

Regulation 6 of the Merchant Shipping (Safety)(Cargo Ship Safety Equipment Survey)
Regulations (Cap. 369 sub. leg.) is repealed and the following substituted---

"6. Surveys by Government surveyor

(1) Without prejudice to the requirements under regulation 4 or 5, the owner or
master of a ship may, by an application to the Director, request a survey required
under regulation 4 or 5 to be carried out by a Government surveyor.

(2) An application under this section shall be accompanied by a fee as set out
in Schedule 3."

39. First registry inspection by Government surveyor

Regulation 7 is repealed.

40. Penalties

Regulation 11 is amended by repealing ", 6(1), 7(1)".

41. Schedule 3 amended

Schedule 3 is amended---

(a) in the heading, by repealing "and First Registry Inspection";

(b) by repealing "[regs. 6 & 7]" and substituting "[reg. 6]";

(c) by repealing item 4.

Merchant Shipping (Safety) (Minimum Safe
Manning Certificate) Regulation

42. Fees

Item 1(a) in Schedule 2 to the Merchant Shipping (Safety) (Minimum Safe Manning Certificate) Regulation (Cap. 369 sub. leg.) is amended by repealing "1,320" and substituting "Nil".

Road Traffic (Parking) Regulations

43. Schedule 2 amended

Schedule 2 to the Road Traffic (Parking) Regulations (Cap. 374 sub. leg.) is amended---

(a) in Part 1, in items 1 to 3, by repealing "\$2.00" and substituting "\$4.00";

(b) in Part 2, in items 1 to 3, by repealing "\$2.00" and substituting "\$4.00".

Merchant Shipping (Registration) (Fees and Charges) Regulations

44. Schedule amended

The Schedule to the Merchant Shipping (Registration) (Fees and Charges) Regulations (Cap. 415 sub. leg.) is amended---

(a) in Part 1---

(i) by repealing item 1(a) and (b) and substituting---

"(a) for a ship not exceeding 500 gross registered tons 3,500";

(b) for a ship exceeding 500 gross registered tons 15,000";

(ii) in item 4, by repealing everything after "discharge of mortgage" and substituting "..... 440";

(iii) by repealing items 8, 9, 11, 12, 14, 15, 17 and 18;

(b) in Part 3, by repealing item 1(b) and substituting---

"(b) for a ship exceeding 1 000 net registered tons---

for the first 1 000 net registered tons 1,500";

and

for each additional net registered ton or part thereof---

over 1 000 up to 15 000 net registered tons 3.50";

and

over 15 000 net registered tons 3.00";

subject to a maximum charge of \$100,000."

Merchant Shipping (Seafarers) (Fees) Regulation

45. Schedule amended

The Schedule to the Merchant Shipping (Seafarers) (Fees) Regulation (Cap. 478 sub. leg.) is amended---

(a) in item 5 in Part II, by repealing "2,960" and substituting "715";

(b) in Part III, by repealing items 1, 2 and 3 and substituting---

"1. For employment or discharge of seafarers at the Office---

(a) For each seafarer employed Nil

(b) For each seafarer discharged Nil

(c) For opening a new crew agreement Nil

(d) Copies of crew agreement duly opened (per copy) Nil

2. For employment or discharge of seafarers at places other

than the Office---

- (a) For each seafarer employed Nil
- (b) For each seafarer discharged Nil
- (c) For opening a new crew agreement Nil
- (d) Copies of crew agreement duly opened (per copy) Nil

3. For employment or discharge of seafarers where Form HK Eng. 2A is used---

For recording the employment or discharge of any seafarer Nil ".

Consequential Amendments

Cross-Harbour Tunnel Ordinance

46. Repeal

The Cross-Harbour Tunnel Ordinance (Cap. 203) and all subsidiary legislation made thereunder are repealed.

Cross-Harbour Tunnel (Passage Tax) Ordinance

47. Repeal

The Cross-Harbour Tunnel (Passage Tax) Ordinance (Cap. 274) and all subsidiary legislation made thereunder are repealed.

48. Power to make regulation for consequential amendments, etc.

The Secretary for Transport may by regulation provide for such consequential amendments (whether made to the provisions of any Ordinance or to the provisions of any subsidiary legislation), and such savings and transitional arrangements, as are required or expedient consequent on the repeal under sections 46 and 47.

Explanatory Memorandum

The purpose of this Bill is to introduce amendments to certain Ordinances to give effect to the proposals in the 1999--2000 Budget.

2. Clauses 3 and 4 amend the Import and Export (Registration) Regulations (Cap. 60 sub. leg.) to reduce the charge imposed under the Regulations in respect of re-exports from Hong Kong, so that there will be a uniform charge for all export declarations.

3. Clauses 5 to 7 amend the Betting Duty Ordinance (Cap. 108) to increase the rates of duties imposed on exotic bets on horse races and on lottery proceeds, and to correspondingly reduce the percentages of the bets and proceeds to be allocated in prizes.

4. Clause 8 amends a Resolution of the Legislative Council (L.N. 288 of 1998) made and passed under the Dutiable Commodities Ordinance (Cap. 109) to maintain the duty on light diesel oil at a reduced rate until 31 March 2000.

5. Clauses 9 and 10 amend the Estate Duty Ordinance (Cap. 111) to exempt from estate duty the moneys payable under and interests in a policy of insurance effected on the life of a deceased person.

6. Clauses 11 and 12 amend the Inland Revenue Ordinance (Cap. 112) and the Inland Revenue (Qualifying Debt Instruments) Order (Cap. 112 sub. leg.) to reduce the minimum

denomination for newly issued debt instruments in respect of which interests and trading profits are subject to tax at concessionary rates.

7. Clauses 13, 14 and 16(a) amend certain provisions in the Stamp Duty Ordinance (Cap. 117) to remove the existing execution requirements in respect of a contract note for the sale or purchase of Hong Kong stock effected through the Stock Exchange of Hong Kong Limited, in order to simplify the relevant handling procedures.

8. Clauses 16(b) to (e) and 17 amend provisions in the Stamp Duty Ordinance (Cap. 117) relating to the exemption granted in respect of stock borrowing and lending transactions by---

(a) removing the requirement that the borrowed stocks have to be returned to the lender within 12 months after the stocks are borrowed;

(b) specifying, as a result of the removal of the requirement described in subparagraph (a), other requirements to be satisfied for the exemption to be granted, including the requirements to return specified stock and to make specified payment;

(c) amending the registration requirements in respect of stock borrowing and lending agreements.

9. Clauses 15 and 18 to 21 amend certain provisions in the Stamp Duty Ordinance (Cap. 117) to---

(a) provide that a chargeable agreement for sale which is cancelled, annulled or rescinded or is otherwise not performed is, unless it is occasioned by a sub-sale, nomination, or a replacement of the agreement upon the direction of or upon the request of the purchaser under the agreement, not subject to stamp duty;

(b) provide for a deferred payment of stamp duty on chargeable agreements for sale which, if implemented, would be implemented by a conveyance on sale;

(c) revise the rates of the stamp duty payable in respect of conveyances on sale, and agreements for sale, of immovable property;

(d) provide for amendments related to the introduction of the above proposals.

10. Clause 22 amends the Air Passenger Departure Tax Ordinance (Cap. 140) to extend the scope of the exemption from liability to pay air passenger departure tax to cover passengers arriving in and departing from Hong Kong within the same day.

11. Clause 23 amends the Fixed Penalty (Traffic Contraventions) Ordinance (Cap. 237) to increase the fixed penalty imposed in respect of a contravention of the provisions of the Ordinance to \$410, while clause 24 repeals a Resolution of the Legislative Council which, having increased the penalty from \$200 to \$320, will have become spent further to the amendment under clause 23.

12. Clause 25 amends the Fixed Penalty (Criminal Proceedings) Ordinance (Cap. 240) to increase the fixed penalties imposed in respect of contraventions of the provisions of the Ordinance.

13. Clauses 26, 27, 38 to 42, 44 and 45 amend provisions in certain merchant shipping legislation, viz. the Merchant Shipping (Fees) Regulations (Cap. 281 sub. leg.), the

Merchant Shipping (Safety) (Cargo Ship Safety Equipment Survey) Regulations (Cap. 369 sub. leg.), the Merchant Shipping (Safety) (Minimum Safe Manning Certificate) Regulation (Cap. 369 sub. leg.), the Merchant Shipping (Registration) (Fees and Charges) Regulations (Cap. 415 sub. leg.), and the Merchant Shipping (Seafarers) (Fees) Regulation (Cap. 478 sub. leg.), to---

(a) reduce or abolish certain fees and charges payable for registration of ships, issue of certificates, etc.;

(b) remove the mandatory requirement for ships to be surveyed by Government surveyors in appropriate cases.

14. Clauses 28 to 32 amend the Business Registration Ordinance (Cap. 310) as well as the Business Registration Regulations (Cap. 310 sub. leg.) to provide for the issue of 3-year business registration certificates and branch registration certificates under the Ordinance. Under the proposed scheme, an election may be made in the prescribed manner, whereupon a business registration certificate and thus a branch registration certificate to which the scheme is applicable shall have a validity period of 3 years instead of 1 year as already provided for under the existing provisions of the Ordinance.

15. Clauses 33 to 37 amend the Road Tunnels (Government) Ordinance (Cap. 368) and the Road Tunnels (Government) Regulations (Cap. 368 sub. leg.) to---

(a) provide for the application of the Ordinance to the Cross-Harbour Tunnel;

(b) prescribe the tolls for the use of the Cross-Harbour Tunnel; and

(c) increase the toll for the use of the Lion Rock Tunnel.

16. Clause 43 amends the Road Traffic (Parking) Regulations (Cap. 374 sub. leg.) to increase the maximum fees for the use of metered parking spaces and of pay and display parking spaces.

17. Clauses 46 and 47 consequentially repeal the Cross-Harbour Tunnel Ordinance (Cap. 203) and the Cross-Harbour Tunnel (Passage Tax) Ordinance (Cap. 274) and their subsidiary legislation further to the amendments made under clauses 33 to 36 and 37(a) and (c) to (f).

18. Clause 48 provides for a regulation-making power in respect of consequential amendments and savings and transitional provisions required as a result of the repeal under clauses 46 and 47.

TUNG Chee-hwa

Chief Executive

30 March 1999