

**立法會**  
***Legislative Council***

LC Paper No. LS22/99-00

**Paper for the House Committee Meeting  
of the Legislative Council  
on 19 November 1999**

**Legal Service Division Report on  
Dutiable Commodities (Amendment) Bill 1999**

**Objects of the Bill**

This Bill seeks to amend the Dutiable Commodities Ordinance (Cap. 109) ("the Ordinance") so as to -

- (a) strengthen the enforcement efforts of the Customs and Excise Department in tackling the problem of the supply and use of illicit fuel;
- (b) relax control on home brewing; and
- (c) make some technical amendments.

**LegCo Brief Reference**

- 2. FIN CR6/3231/89 issued by the Finance Bureau dated 1 November 1999.

**Date of First Reading**

- 3. 17 November 1999.

**Comments**

- 4. The Ordinance governs the taxation and control of liquor, hydrocarbon oil and other commodities.

5. In recent years, there has been an increase in the supply and use of illicit fuel in motor vehicles. To facilitate enforcement action by the Commissioner of Customs and Excise, Clause 4 of the Bill seeks to amend the existing section 40 of the Ordinance to extend the scope of presumptions so that -

- (a) if a person sells, supplies, buys, receives or otherwise deals in light diesel oil (other than marked oil) or motor spirit at a location not being licensed premises for the storage of diesel oil or petrol, the light diesel oil or motor spirit in or about the location is presumed to be dutiable goods; and
- (b) subject to specific exemptions, any light diesel oil found in the fuel tank of a motor vehicle with excessive sulphur content is presumed to be dutiable goods.

6. This Bill also seeks to increase the penalty for offences relating to use of kerosene and marked oil in motor vehicles or pleasure vessels and offences relating to marking and colouring of light diesel oil (Clause 10). The maximum penalty of these offences is increased from a fine of \$200,000 and imprisonment for 2 years to a maximum fine of \$1,000,000 and imprisonment for 2 years.

7. Clauses 3, 6, 7 and 9(c) deal with the relaxation of controls on home brewing of alcoholic liquors. Home brewing of alcoholic liquors not by distillation nor for the purpose of sale will be exempted from both duty payment and licensing control.

8. Some other technical amendments are introduced in clauses 2, 5, 8, 9(a) and (b). Clause 2 repeals the provision conferring power on the Chief Executive in Council to make regulations dispensing with or relaxing requirements under the Ordinance relating to certain categories of goods or duties imposed thereunder and replaces it with a provision conferring a similar power in relation to goods generally.

### **Public Consultation**

9. According to the LegCo Brief, the Business Advisory Group of the Business & Services Promotion Unit under the Financial Secretary's Office has been consulted on the home brewing proposal and is generally supportive of it.

### **Consultation with the LegCo Panel**

10. On 29 October 1999, the Administration submitted a Paper on "Measures to strengthen enforcement efforts against the supply and use of illicit fuel" (vide CB(1)228/99-00(03)) to the Legislative Council Panel on Financial Affairs. During the meeting, Members have expressed reservations on the penalty provisions.

## **Conclusion**

11. The Legal Service Division is seeking clarifications from the Administration on some technical points. Since Members have expressed concerns during the Panel meeting, it is recommended that a Bills Committee be set up to scrutinize the Bill in detail.

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15 November 1999

LS/B/10/99-00