

立法會
Legislative Council

LC Paper No. LS 73/02-03

**Paper for the House Committee Meeting
on 21 March 2003**

**Legal Service Division Report on
Public Revenue Protection (Revenue) Order 2003 made under
section 2 of the Public Revenue Protection Ordinance (Cap. 120)**

The Public Revenue Protection (Revenue) Order 2003 (L.N. 59 of 2003) ("the Order") was gazetted on 5 March 2003 and laid on the table of the Legislative Council on 12 March 2003. This is a temporary measure taken under the Public Revenue Protection Ordinance (Cap. 120) ("the Ordinance") to give effect to the proposed increase in motor vehicles first registration tax as set out in paragraph 89 of and page (9) of the Supplement to the Budget Speech delivered by the Financial Secretary on 5 March 2003 when moving the Second Reading of the Appropriation Bill 2003. The effect of the Order is to give full force and effect to the provisions contained in the Revenue Bill 2003 ("the Bill") in the Schedule to the Order. The Bill which would give long-term effect to the revenue proposal will be introduced into the Legislative Council following normal legislative procedures.

2. Under section 2 of the Ordinance, if the Chief Executive approves of the introduction into the Legislative Council of a bill whereby, if the bill were to become law any duty, tax, etc. would be imposed, removed or altered, the Chief Executive may make an order giving full force and effect of law to all the provisions of the bill. Under section 5 of the Ordinance, an order so made shall come into force immediately upon signing by the Chief Executive, and shall expire and cease to be in force—

- (a) upon the notification in the Gazette of the rejection by the Legislative Council of the bill in respect of which the order was made; or
- (b) upon the notification in the Gazette of the withdrawal of the bill; or
- (c) upon the bill, with or without modification, becoming law in the ordinary manner; or
- (d) upon the expiration of 4 months from the day on which the order came into force,

whichever event first happens.

3. Under section 6 of the Ordinance, any excess of duty, tax, fee, rate or other item of revenue paid under the Order over that payable immediately after the expiry of the Order shall be repaid to the person who paid the same.

4. The objects of the Bill in the Schedule to the Order are to—

- (a) cancel the exemption from first registration tax now given in respect of certain accessories and warranties (the fitting of any accessory to, or the obtaining of any taxable warranty for, a motor vehicle within six months after its first registration will also be subject to first registration tax);
- (b) increase the bandwidths and introduce a marginal tax system for private cars; and
- (c) make adjustment to tax rates for different classes of motor vehicles.

5. The Order came into force at 2:30 p.m. on 5 March 2003.

6. Section 34(2) of the Interpretation and General Clauses Ordinance (Cap. 1) provides that Members may amend subsidiary legislation in any manner whatsoever consistent with the power to make such subsidiary legislation. The power of the Chief Executive in Council under section 2 of the Ordinance is to make an order giving full force and effect of law to all the provisions of the Bill. Consistent with this power, Members have the power to repeal the Order but do not have power to amend the provisions therein. Should the Legislative Council decide to exercise the power under section 34(2) of Cap. 1, the repeal of the Order has to be made by 9 April 2003, or by 30 April 2003 if the amendment period is extended by a resolution.

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