

立法會
Legislative Council

LC Paper No. LS44/08-09

**Paper for the House Committee Meeting
on 6 March 2009**

**Legal Service Division Report on
Subsidiary Legislation Gazetted on 25 February 2009**

Date of tabling in LegCo : 4 March 2009

Amendment to be made by : 1 April 2009 (or 22 April 2009 if extended by resolution)

**Public Revenue Protection Ordinance (Cap. 120)
Public Revenue Protection Order 2009 (L.N. 27)**

The Public Revenue Protection Order 2009 (the Order) was made by the Chief Executive under section 2 of the Public Revenue Protection Ordinance (Cap. 120) (the Ordinance) after consultation with the Executive Council. Section 2 of the Ordinance provides, among other things, that 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, fee, rate, 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. The Order is made to give full force and effect to all the provisions of the bill contained in the Schedule to the Order.

2. The bill contained in the Schedule to the Order proposes to amend Part II of Schedule 1 to the Dutiable Commodities Ordinance (Cap. 109) to increase tobacco duty by 50% as set out in paragraph 108 of the 2009-10 Budget Speech delivered by the Financial Secretary on 25 February 2009. The bill will be introduced into the Legislative Council in accordance with the normal legislative procedures.

3. The Order is a temporary measure. Under section 5 of the Ordinance, the Order 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 the Order; 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.

4. Under section 6 of the Ordinance, any duty paid under the Order in excess of the respective duty immediately after the expiry of the Order shall be repaid to the person who paid the same.

5. The Order came into force at 11 a.m. on 25 February 2009.

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.

Rating Ordinance (Cap. 116)
Rating (Exemption) Order 2009 (L.N. 28)

7. The Rating (Exemption) Order 2009 (the Exemption Order) was made by the Chief Executive in Council under section 36(2) of the Rating Ordinance (Cap. 116) to give effect to the rates concession proposed in paragraph 124 of the 2009-10 Budget Speech. The Exemption Order declares that all tenements are exempted from the payment of rates in respect of each of the two quarters within the period from 1 April 2009 to 30 September 2009 wholly, if the amount of rates payable for the quarter is \$1,500 or less, or up to \$1,500 if the amount is more than \$1,500.

8. The Exemption Order will come into operation on 1 April 2009.

9. No difficulties in the legal and drafting aspects of the above items of subsidiary legislation have been identified.

Prepared by

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