

## **Bills Committee on Dutiable Commodities (Amendment) Bill 2017**

### **Follow-up actions arising from the discussion at the Bills Committee meeting on 9 October 2017**

The Government's response to the items raised by Members is set out as follows.

#### **Proof of identity**

2. According to section 17B(1) of the Immigration Ordinance (Cap. 115), "proof of identity" in relation to any person means -

- (a) his valid identity card;
- (b) a document issued by the Commissioner of Registration acknowledging that that person has applied-
  - (i) to be registered under the Registration of Persons Ordinance (Cap. 177); or
  - (ii) for a new identity card under regulation 13 or 14 of the Registration of Persons Regulations (Cap. 177 sub. leg. A);
- (c) a valid travel document held by him;
- (d) documentary proof of identity officially issued to him for the purpose of his service in the Chinese People's Liberation Army;  
or
- (e) a Vietnamese refugee card issued to him.

3. Under section 17C(1) of Cap. 115, basically, every person who has attained the age of 15 years and is the holder of an identity card shall have with him at all times proof of his identity. Apart from a valid identity card, there are other choices of proof of identity (including a valid travel document) available under section 17B. The Home Return Permit and the Hong Kong driving licence do not fall within the meaning of "proof of identity" under section 17B(1) of Cap. 115. We consider it reasonable to follow the legal requirement adopted by the Immigration Service of the HKSARG.

4. In any event, it is not the policy intent to require the checking of proof of identity for each and every purchaser or recipient under the Bill. Instead, it will be a defence for the person who in the course of business sells or supplies intoxicating liquor, upon being charged for the person's act, to establish that the person had inspected a proof of identity produced by the purchaser or recipient before the intoxicating liquor was sold or supplied, and was reasonably satisfied that the purchaser or recipient was not a minor.

### **Manpower and resources**

5. The Department of Health (DH) is planning to set up an Alcohol Enforcement and Publicity Unit after the enactment of the Bill. We will allocate resources to set up an enforcement team to monitor and ensure compliance during their periodic check on selected retail outlets such as retail stores and licensed premises that sell intoxicating liquor, handle complaints, monitor and conduct surveillance concerning remote distribution. DH will also work out enforcement strategies and priorities to ensure effective implementation of the regulatory regime. Besides, we will establish a team for providing back-end support for prosecution, administrative services, and public education and publicity.

### **Agent**

6. In the Bill, the term "agent", in relation to a sale or supply of intoxicating liquor, does not include a person who delivers the liquor in the course of business but is not otherwise involved in the sale or supply. Members and the trade have raised concern over the definition of "agent" in the Bill. To avoid doubt, we propose to move amendments to clearly exclude the person who is only engaged in delivering the liquor in the course of business and is not otherwise involved in the sale or supply of the liquor. Examples are the Post Office, delivery and courier companies and their delivery staff. The draft amendment is at Annex A.

Food and Health Bureau  
Department of Health  
Department of Justice  
October 2017

Dutiable Commodities (Amendment) Bill 2017

**Committee Stage**

Amendments to be moved by the Secretary for Food and Health

Clause

Amendment Proposed

- 7            In the proposed regulation 35, by deleting the definition of *agent*.
- 7            In the proposed regulation 37, by adding—
- “(1A) For the purpose of paragraph (1), a person is not regarded as selling or supplying intoxicating liquor only by delivering the liquor if the person—
- (a) delivers the liquor in the course of business for another person who—
- (i) sells or supplies the liquor; and
- (ii) is not the employer of the first-mentioned person; and
- (b) is not otherwise involved in the sale or supply of the liquor.”.