

LEGISLATIVE COUNCIL BRIEF

Dutiable Commodities Ordinance (Chapter 109)

Dutiable Commodities (Liquor) Regulations (Chapter 109B)

DUTIABLE COMMODITIES (AMENDMENT) BILL 2017

INTRODUCTION

A At the meeting of the Executive Council on 6 June 2017, the Council ADVISED and the Chief Executive ORDERED that the Dutiable Commodities (Amendment) Bill 2017 (“the Amendment Bill”) at Annex A should be introduced into the Legislative Council with the main purpose of prohibiting the sale and supply of intoxicating liquor to minors in the course of business.

JUSTIFICATIONS

2. Regulation 28 of the Dutiable Commodities (Liquor) Regulations (Chapter 109B) (“Regulations”) provides that no licensee shall permit any person under the age of 18 years to drink any intoxicating liquor on any licensed premises. There is no prohibition on the sale or supply of intoxicating liquor to minors in licensed premises.¹

3. There is also no prohibition on the sale or supply of intoxicating liquor

¹ While there is no prohibition on the sale or supply of intoxicating liquor to minors on licensed premises under the existing liquor licensing regime, as far as a temporary liquor licence is concerned, the Commissioner of Police will impose a set of conditions on every temporary liquor licence, including that the licensee shall ensure intoxicating liquor must not be sold to any person under 18 years of age, and that a prominent sign stating that “No intoxicating liquor will be sold or supplied to any person under 18 years of age” is to be displayed at the place of sale or supply.

to minors in non-licensed premises including retail stores (such as liquor stores, convenience stores and supermarkets). Whilst the operators of these retail stores do not require a liquor licence for selling intoxicating liquor to their customers, the retail industry has been refraining from selling intoxicating liquor to minors on a voluntary basis for a number of years². However, there are concerns over the effectiveness of such a voluntary measure. There is also no prohibition on the sale or supply of intoxicating liquor to minors through remote means (such as orders received on the internet, over the phone, and by mail).

4. For the overall well-being of minors and to plug the loophole in the sale of intoxicating liquor to minors on licensed premises and non-licensed premises, as well as through remote means, we consider it necessary to amend the law.

THE BILL

5. The main provisions of the Amendment Bill are –

- (a) **Clause 3** amends section 6 of the Dutiable Commodities Ordinance (Chapter 109) to cover the proposal under the Amendment Bill;
- (b) **Clause 7** adds a new Part 5 and a Schedule to the Regulations. The new Part 5 seeks to regulate the sale or supply of intoxicating liquor in the course of business by -
 - (i) restricting the sale of intoxicating liquor from vending machines;
 - (ii) prohibiting the sale or supply of intoxicating liquor to minors in the course of business;
 - (iii) imposing a requirement to display a sign containing the prescribed notice at the place of sale or supply in face-to-face distribution;
 - (iv) imposing requirements to include the prescribed notice and to receive a declaration of age from the purchaser or recipient for remote distribution;
 - (v) providing for the appointment, powers and protection of inspectors.

B, C The existing provisions being amended are at Annexes B and C.

² The Hong Kong Retail Management Association (with members representing more than 8 000 retail outlets employing over half of the local retail workforce) has stated in the Code of Practice for its members that liquor should not be sold to persons under the age of 18.

6. Regarding paragraph 5(b)(i) above, a vending machine is a special sale channel where there is no direct contact between the operator and the purchaser. It would be difficult to prevent sales to minors through vending machines. We consider it necessary to restrict the sale of intoxicating liquor from vending machines.

7. Regarding other parts of paragraph 5(b) above, the new Part 5 is basically intended to cover prohibition of sale and supply of intoxicating liquor to minors, including in face-to-face distribution and remote distribution. Under the Interpretation and General Clauses Ordinance (Chapter 1), “minor” is defined to mean a person who has not attained the age of 18 years. Relying on the interpretation of Chapter 1, our proposed age limit, being 18 years of age, is in line with the legal age for consumption of intoxicating liquor on licensed premises as stipulated under the Regulations, as well as the legal age of majority as stipulated under section 2(1) of the Age of Majority (Related Provisions) Ordinance (Chapter 410).

Age inspection or declaration

8. For face-to-face distribution, we do not intend to impose requirement to check purchasers’ or recipients’ proof of identity. Instead, it is one of the defences to a charge for selling or supplying intoxicating liquor to minors to establish that the person charged had inspected a proof of identity purporting to be the proof of identity of the purchaser or recipient of the intoxicating liquor, and was reasonably satisfied that the purchaser or recipient was not a minor.

9. For remote distribution, we intend to impose a requirement to require the purchasers or recipients to declare that they are 18 years of age or over before intoxicating liquor is sold or supplied. It is one of the defences to a charge for selling or supplying intoxicating liquor to minors to establish that the person charged had received a declaration from the purchaser or recipient that he or she had reached the age of 18 years, and there was no circumstance that caused the person to reasonably suspect that the declaration was false.

Display of sign containing prescribed notice

10. For face-to-face distribution, we propose to impose a requirement to display at the place of sale or supply a sign containing the prescribed notice on the prohibition of sale or supply of intoxicating liquor to minors. Similarly, for remote distribution, we propose to impose the requirement to include the

prescribed notice in an offer to sell or to supply intoxicating liquor.

Enforcement

11. We propose that the Secretary for Food and Health should be given the authority to appoint public officers of the Department of Health (“DH”) to carry out enforcement action. Routine inspection of all places that involve selling or supplying intoxicating liquor is not practicable. DH officers will conduct inspections and carry out enforcement actions upon receipt of intelligence and complaints. DH officers may conduct inspections, either randomly or targeted, on vendors to check whether the latter has displayed the sign, and enhance inspection of black spots. DH officers will conduct compliance checks on remote distribution. To facilitate compliance of the trade under the proposed regulatory regime, DH will prepare detailed guidelines.

12. We propose to impose a penalty level sufficiently high to achieve the desired deterrent effect without being unduly harsh. We have made reference to the regulatory regimes related to on-site consumption of alcohol on licensed premises under the Regulations, the control on tobacco products under the Smoking (Public Health) Ordinance (Chapter 371) and overseas experience³, we propose to fix the penalty level (a) for sale of intoxicating liquor from vending machine at Level 5 (a fine of \$50,000), (b) for sale and supply of intoxicating liquor to minors at Level 5 (a fine of \$50,000), (c) for failure to display the sign for face-to-face distribution at Level 4 (a fine of \$25,000), and (d) for failure to include the prescribed notice or require the purchaser or recipient to declare his or her age for remote distribution at Level 4 (a fine of \$25,000). We believe the proposed sanctions are commensurate with the seriousness of offences which could ensure compliance and deter non-compliance and violation, and could avoid strong opposition from the trade.

LEGISLATIVE TIMETABLE

13. The legislative timetable will be as follows –

Publication in the Gazette

9 June 2017

³ Under the Regulations, a licensee who permits a person under the age of 18 years to drink intoxicating liquor on premises shall be liable on conviction to a fine at Level 5 (\$50,000) and imprisonment for 6 months. A person selling or giving tobacco products to any person under the age of 18 years, or failing to display at the person’s premises or at the place of promotion the prescribed sign under the Smoking (Public Health) Ordinance (Chapter 371) commits an offence and is liable on summary conviction to a fine at Level 4 (\$25,000). Conviction relating to sale or supply of intoxicating liquor to minors in overseas jurisdictions may be punishable by a fine and/or imprisonment.

First Reading and commencement of
Second Reading debate 21 June 2017

Resumption of Second Reading debate,
Committee Stage and Third Reading To be notified

IMPLICATIONS OF THE PROPOSAL

D 14. The proposal has financial, civil service, economic, sustainability and family implications as set out in Annex D. The proposal is in conformity with the Basic Law, including the provisions concerning human rights. It has no gender or environmental implications.

PUBLIC CONSULTATION

15. We conducted briefing sessions between January and February 2017 for relevant stakeholders including the wine industry, retail industry, medical and health sector, and education sector as well as the Chairmen and vice-Chairmen of the District Councils to introduce our proposal and exchange ideas. We also invited stakeholders to provide written submissions in order to gauge their views on the proposal. Among the 100 written submissions received, 78 submissions supported the proposed regulatory regime, 20 submissions had reservations about the proposal and suggested introducing a Government-led voluntary scheme instead, and none expressed in-principle objection. The trade requested the Government to provide detailed guidelines to facilitate their compliance with the new requirements, including display of the prescribed notice, age declaration measures, etc., as well as statutory defence for the new offences and a reasonable adaptation period. The trade had particular concerns about the penalty level and liabilities under various business models.

16. The Panel on Health Services of the Legislative Council was consulted on the proposed legislative amendments on 25 April 2017. The majority of the Members of the Panel supported the legislative intent to prohibit the commercial sale and supply of intoxicating liquor to minors. Among other things, concerns were raised on the operational difficulties to be faced by frontline staff in complying with the proposed legislative amendments, and the difficulties in enforcement by DH. Some Members also suggested to the Government to consider reviewing the alcohol tax policy with a view to further limiting minors' access to alcohol. We also consulted the Liquor Licensing Board on 9 May 2017,

members of the Wholesale and Retail Task Force, Food Business and Related Services Task Force, and Task Force on Business Liaison Groups under the Business Facilitation Advisory Committee on 24 May 2017, and conducted another briefing session for the trade on 22 May 2017.

PUBLICITY

17. A press release will be issued.

18. To further appeal for public action to protect minors from alcohol-related harm, DH has been stepping up publicity activity in the 2016-17 school year by launching a series of territory-wide activities against harmful use of alcohol through a thematic website, seminars for schools and parents, meetings with school heads, and dissemination of age-specific educational materials including pamphlets and posters targeting young people and their parents. DH will continue to seek support from the school community in fuelling the anti-alcohol drive to work for the vision "Young and Alcohol Free".

ENQUIRES

19. Enquires on this brief can be addressed to Miss Renie Lai, Assistant Secretary Food & Health (Heath)9, at 3509 8946.

Food and Health Bureau
7 June 2017

Dutiable Commodities (Amendment) Bill 2017

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A BILL

To

Amend the Dutiable Commodities Ordinance and the Dutiable Commodities (Liquor) Regulations to prohibit the sale of intoxicating liquor from vending machines; to prohibit the sale or supply of intoxicating liquor to minors in the course of business; to impose requirements for a prescribed notice and age declaration for the sale or supply of intoxicating liquor; and to provide for related matters.

Enacted by the Legislative Council.

Part 1

Preliminary

1. Short title and commencement

- (1) This Ordinance may be cited as the Dutiable Commodities (Amendment) Ordinance 2017.
- (2) This Ordinance comes into operation on a day to be appointed by the Secretary for Food and Health by notice published in the Gazette.

2. Enactments amended

The enactments specified in Parts 2 and 3 are amended as set out in those Parts.

Part 2

Amendment to Dutiable Commodities Ordinance (Cap. 109)

3. Section 6 amended (regulations)

After section 6(1)(o)—

Add

“(oa) regulating or restricting the sale or supply of liquor;”.

Part 3**Amendments to Dutiable Commodities (Liquor)
Regulations (Cap. 109 sub. leg. B)**

4. **Part 4 heading amended (offences and supplemental)**
Part 4, heading—
Repeal
“Offences and Supplemental”
Substitute
“Supplementary Provisions for Part 3”.
5. **Regulation 28 amended (offence to permit persons under 18 years to drink on licensed premises)**
(1) Regulation 28, heading—
Repeal
“persons under 18 years”
Substitute
“minors”.
(2) Regulation 28—
Repeal
everything before “to drink”
Substitute
“A licensee must not permit a minor”.
6. **Regulation 29 amended (restrictions on employment of young persons on licensed premises)**
Regulation 29(1)(b) and (c)—

Repeal

“person under the age of 18 years”

Substitute

“minor”.

7. **Part 5 and Schedule added**

After Part 4—

Add**“Part 5****Restrictions on Sale of Intoxicating Liquor from
Vending Machines and on Sale and Supply of
such Liquor to Minors**35. **Interpretation of Part 5**

In this Part—

agent (代理人), 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;

face-to-face distribution (當面分發) means a sale or supply of intoxicating liquor to a person where—

- (a) the person comes into face-to-face contact with the seller or supplier, or an employee or agent of the seller or supplier who has the authority to conduct the sale or supply, at a place; and
- (b) the person—
- (i) takes possession of the liquor at the place; or

- (ii) requests, at the place, the delivery of the liquor to another place;

function (職能) includes a power and a duty;

inspector (督察) means a person appointed under regulation 43(1);

place (地方) includes a licensed premises, but does not include an aircraft or a train;

prescribed notice (訂明通知) means the notice prescribed in the Schedule;

proof of identity (身分證明文件) has the meaning given by section 17B(1) of the Immigration Ordinance (Cap. 115);

remote distribution (遙距分發) means a sale or supply of intoxicating liquor otherwise than in a face-to-face distribution.

36. Selling intoxicating liquor from vending machines prohibited

- (1) A person must not sell intoxicating liquor from a vending machine.
- (2) A person who contravenes paragraph (1) commits an offence and is liable on summary conviction to a fine at level 5.

37. Selling or supplying intoxicating liquor to minors prohibited

- (1) A person must not, in the course of business, sell or supply intoxicating liquor to a minor.
- (2) A person who contravenes paragraph (1) commits an offence and is liable on summary conviction to a fine at level 5.

- (3) To avoid doubt, if a person sells a product that is not intoxicating liquor but that is accompanied by intoxicating liquor as a gift, the person supplies the liquor.

38. Defences for face-to-face distribution

- (1) This regulation applies if a person is charged with an offence under regulation 37 in relation to a face-to-face distribution.
- (2) If a person is charged because of the person's act, it is a defence for the person to establish that, before the intoxicating liquor was sold or supplied, the person—
 - (a) inspected a proof of identity purporting to be the proof of identity of the purchaser or recipient of the liquor; and
 - (b) reasonably satisfied himself or herself, because of the inspection, that the purchaser or recipient was not a minor.
- (3) If a person (*defendant*) is charged because of another person's act, it is a defence for the defendant to establish that, before the intoxicating liquor was sold or supplied, the defendant had taken reasonable measures to prevent intoxicating liquor from being sold or supplied by that other person in the course of business to a minor in a face-to-face distribution.

39. Defences for remote distribution

- (1) This regulation applies if a person is charged with an offence under regulation 37 in relation to a remote distribution.

- (2) If a person is charged because of the person's act, it is a defence for the person to establish that, before the intoxicating liquor was sold or supplied—
- (a) the person received a declaration to the effect that the purchaser or recipient of the liquor had reached the age of 18 years; and
 - (b) there was no circumstance that caused the person to reasonably suspect that the declaration was false.
- (3) If a person (*defendant*) is charged because of another person's act, it is a defence for the defendant to establish that, before the intoxicating liquor was sold or supplied, the defendant had taken reasonable measures to prevent intoxicating liquor from being sold or supplied by that other person in the course of business to a minor in a remote distribution.

40. Burden of proof for defences

A person charged with an offence under regulation 37 is taken to have established a fact that needs to be established for a defence under regulation 38 or 39 if—

- (a) there is sufficient evidence to raise an issue with respect to the fact; and
- (b) the contrary is not proved by the prosecution beyond reasonable doubt.

41. Notice requirement for face-to-face distribution

- (1) Subject to paragraphs (2) and (3), a person who, in the course of business—
- (a) sells or supplies intoxicating liquor in a face-to-face distribution at a place; or
 - (b) offers to do so,

must ensure a sign containing both the Chinese version and English version of the prescribed notice is displayed in a prominent position at the place.

- (2) The sign must be rectangular in shape with sides of at least 38 cm in length and 20 cm in width.
- (3) The prescribed notice contained in the sign must—
 - (a) be in plain and readily legible characters and letters; and
 - (b) be set out in characters and letters of a colour that contrasts with the background on which they appear.
- (4) A person who contravenes paragraph (1) commits an offence and is liable on summary conviction to a fine at level 4.

42. Notice and declaration requirements for remote distribution

- (1) Subject to paragraphs (2) and (3), a person who, in the course of business, offers to sell or to supply intoxicating liquor by way of a remote distribution must ensure the offer—
- (a) if published in the form of a visual image (including text) or a series of moving visual images—contains both the Chinese version and English version of the prescribed notice;
 - (b) if published in the form of a sound recording, or an oral communication, expressed in Chinese—includes the contents of the Chinese version of the prescribed notice; or
 - (c) if published in the form of a sound recording, or an oral communication, expressed in a language other

- than Chinese—includes the contents of the English version of the prescribed notice.
- (2) The prescribed notice referred to in paragraph (1)(a) must be reasonably legible.
 - (3) Paragraph (1)(a) does not apply to an offer by a person in the form of a visual image (including text) or a series of moving visual images if—
 - (a) the visual image or images were prepared before the commencement of this regulation; and
 - (b) it is not reasonably practicable for the person to—
 - (i) retract the image or images; or
 - (ii) amend the image or images to contain both the Chinese version and English version of the prescribed notice.
 - (4) A person must not, in the course of business, by the person's own act, sell or supply intoxicating liquor to another person in a remote distribution unless, before the sale or supply—
 - (a) the person receives a declaration to the effect that the other person has reached the age of 18 years; and
 - (b) there is no circumstance that causes the person to reasonably suspect that the declaration is false.
 - (5) A person must not, in the course of business, by another person's act, sell or supply intoxicating liquor, to a third person in a remote distribution unless the person has taken reasonable measures to ensure that the other person only sells or supplies the liquor after receiving a declaration to the effect that the third person has reached the age of 18 years.

- (6) A person who contravenes paragraph (1), (4) or (5) commits an offence and is liable on summary conviction to a fine at level 4.

43. Appointment of inspectors

- (1) The Secretary for Food and Health may, in writing, appoint a public officer to be an inspector to perform any function under this Part.
- (2) An inspector must, if so required, produce written proof of his or her appointment before performing a function under this Part.

44. Powers of inspectors

- (1) An inspector may do all or any of the following—
 - (a) at any reasonable time enter and inspect an area in a public place as the inspector considers necessary to ascertain whether this Part is complied with;
 - (b) require any person to give his or her name and address and to produce proof of identity if the inspector reasonably suspects that the person has committed an offence under this Part;
 - (c) require any person to give his or her name and address and to produce proof of identity if the inspector reasonably suspects that—
 - (i) the person is a minor; and
 - (ii) intoxicating liquor has been sold or supplied to the person in the course of business;
 - (d) seize, remove or detain anything that appears to the inspector to be evidence of an offence under this Part;

- (e) take samples of intoxicating liquor or anything that the inspector may reasonably require for analysis;
- (f) take photographs or make sound or video recordings for obtaining evidence in connection with an offence under this Part;
- (g) require any person to produce for inspection documents or records under the person's control to enable the inspector to obtain information in connection with an offence under this Part;
- (h) make copies of all or any part of the documents or records;
- (i) require any person to provide the inspector with the assistance or information the inspector considers necessary to enable the inspector to perform his or her function under this Part.

(2) In this regulation—

documents or records (文件或紀錄) includes any information which is recorded in a non-legible form but is capable of being reproduced in a legible form.

45. Obstruction of inspectors etc. prohibited

- (1) A person must not—
 - (a) delay, obstruct, hinder or molest—
 - (i) an inspector who is performing a function under this Part; or
 - (ii) any person who aids the inspector;
 - (b) refuse the request of an inspector made in the performance of a function under this Part;

- (c) refuse to give his or her name and address or to produce proof of identity when required to do so by an inspector; or
 - (d) give a false or misleading name or address when required to give his or her name and address by an inspector.
- (2) A person who contravenes paragraph (1) commits an offence and is liable on summary conviction to a fine at level 3.

46. Disposal of property seized by inspectors

If an inspector seizes any property while performing a function under this Part, section 102 of the Criminal Procedure Ordinance (Cap. 221) applies as if—

- (a) a reference to police in that section includes the inspector; and
- (b) the property were property that had come into possession of the police in connection with an offence.

47. Protection of inspectors

- (1) An inspector is not personally liable for any act done or omitted to be done by the inspector if the inspector did or omitted to do an act in the honest belief that the act or omission was required or authorized by or under this Part.
- (2) Paragraph (1) does not affect any liability of the Government for the act or omission of the inspector.

Schedule

[reg. 35]

Prescribed Notice

Chinese version:

根據香港法律，不得在業務過程中，向未成年人售賣或供應令人醺醉的酒類。

English version:

Under the law of Hong Kong, intoxicating liquor must not be sold or supplied to a minor in the course of business.”

Explanatory Memorandum

The main purpose of this Bill is to prohibit the sale or supply of intoxicating liquor to minors in the course of business. It also introduces a prohibition on the sale of intoxicating liquor from vending machines and several requirements for the sale or supply of intoxicating liquor.

2. The Bill contains 3 Parts.

Part 1—Preliminary

3. Clause 1 sets out the short title and provides for commencement.

Part 2—Amendment to Dutiable Commodities Ordinance (Cap. 109) (Ordinance)

4. Clause 3 amends section 6 of the Ordinance to provide the legal basis for the proposal under the Bill.

Part 3—Amendments to Dutiable Commodities (Liquor) Regulations (Cap. 109 sub. leg. B) (Liquor Regulations)

5. Clause 4 amends the heading to Part 4 of the Liquor Regulations as the Part relates to Part 3 only.
6. According to the Interpretation and General Clauses Ordinance (Cap. 1) (*Cap. 1*), *minor* is defined to mean a person who has not attained the age of 18 years. This word is used in the Ordinance by relying on the meaning in Cap. 1. Clauses 5 and 6 are amendments made to achieve consistency with the use of *minor* in the Ordinance.
7. Clause 7 adds a new Part 5 and a Schedule to the Liquor Regulations.
8. New Part 5 consists of new regulations 35 to 47.

9. New regulation 35 contains the definitions for interpreting new Part 5, including the definitions of *face-to-face distribution* and *remote distribution*. *Face-to-face distribution* includes the sale or supply of intoxicating liquor at supermarkets, convenience stores and licensed premises. *Remote distribution* includes the sale or supply of intoxicating liquor through electronic means, telephone calls and mail.
10. New regulation 36 prohibits the sale of intoxicating liquor from a vending machine.
11. New regulation 37 prohibits the sale or supply of intoxicating liquor to a minor in the course of business.
12. New regulation 38 provides for defences in a face-to-face distribution.
13. New regulation 39 provides for defences in a remote distribution.
14. New regulation 40 provides for the burden of proof in relation to the defences to the offence created under new regulation 37.
15. New regulation 41 requires a sign containing the prescribed notice to be displayed for a face-to-face distribution.
16. New regulation 42 deals with the requirements for the prescribed notice and age declaration for a remote distribution.
17. New regulation 43 provides that the Secretary for Food and Health may appoint inspectors for the enforcement of new Part 5.
18. New regulation 44 sets out the powers of inspectors.
19. New regulation 45 provides for the acts that amount to an obstruction to inspectors.
20. New regulation 46 deals with the disposal of property seized by inspectors.

21. New regulation 47 gives protection to inspectors who did or omitted to do an act in the honest belief that the act or omission was required or authorized by new Part 5.
22. The Schedule provides for the contents of the prescribed notice in both the Chinese version and English version as required under new regulations 41 and 42.

Chapter:	109	DUTIABLE COMMODITIES ORDINANCE	Gazette Number	Version Date
Section:	6	Regulations	L.N. 130 of 2007	01/07/2007

Remarks:

For the saving and transitional provisions relating to the amendments made by the Resolution of the Legislative Council (L.N. 130 of 2007), see paragraph (12) of that Resolution.

- (1) The Chief Executive in Council may by regulation prescribe or provide for- (Amended 12 of 1999 s. 3)
- (a) regulating, restricting, licensing or prohibiting, except by licensed persons and on, from or to licensed premises, vehicles, trains, ships or aircraft, as the case may be, the importation, exportation, manufacture, storage, sale, supply, use and possession of goods to which this Ordinance applies; (Amended 66 of 1986 s. 6)
 - (aa) the Commissioner to authorize a licensee to issue a pass or voucher for the removal of goods to which this Ordinance applies from a licensed warehouse, and conditions that the Commissioner may apply to the authorization; (Added 46 of 1996 s. 6)
 - (b) standards of quality for and determining the quality and origin of, and for packing, canning or bottling any goods (to which this Ordinance applies) to be manufactured, sold or exported under licence; and for materials to be used in such manufacture;
 - (c) (Repealed 46 of 1996 s. 6)
 - (d) the construction, maintenance, management and control of licensed premises;
 - (e) books and records to be kept for the purposes of this Ordinance, the manner in which they are to be kept, and the periods for which they are to be preserved, and empowering the Commissioner and any member of the Customs and Excise Service so authorized in writing by him to grant exemptions from any such requirement; (Amended 66 of 1986 s. 6)
 - (ea) the Commissioner to specify any form or requirement for giving information under this Ordinance in respect of any goods to which this Ordinance applies; (Added 19 of 2001 s. 4)
 - (f) the containers in which goods to which the Ordinance applies may be imported, exported, kept, sold or supplied and for the labelling or marking of such goods and containers;
 - (g) fees other than fees referred to in section 6A; (Replaced 78 of 1999 s. 7)
 - (h) the payment of fees, duties and drawback; (Replaced 66 of 1986 s. 6)
 - (ha) the refund of duty-
 - (i) on duty-paid goods used in the manufacture of dutiable goods;
 - (ii) on duty-paid goods destroyed in Hong Kong with the written consent of the Commissioner;
 - (iii) on duty-paid goods exported from Hong Kong with the written consent of the Commissioner;
 - (iv) on duty-paid goods drawn as samples for analysis by the Government Chemist;
 - (iva) on duty-paid fuel for ships of more than 60 tons net register, for use either outside Hong Kong or partly inside and partly outside Hong Kong; (Added 35 of 1992 s. 4)
 - (v) on such other duty-paid goods as the Legislative Council may by resolution direct; (Added 66 of 1986 s. 6)
 - (i) dispensing with or relaxing any of the provisions of this Ordinance or duties imposed under this Ordinance relating to goods to which this Ordinance applies and empowering the Commissioner to impose conditions in respect of the dispensation or relaxation; (Replaced 57 of 2000 s. 2)
 - (ia) exemptions from or refunds of duty which are required by any Ordinance as to immunities and privileges of a diplomatic, consular or similar nature; (Added 40 of 1974 s. 4)
 - (j) the furnishing of bonds, or cash or other securities, by licensees and others to secure the due payment of duty and the observance of the provisions of this Ordinance and the conditions of licences; (Amended 3 of 1970 s. 36)
 - (k) the examination of the baggage and goods of persons entering or leaving Hong Kong;
 - (ka) the procedures for compounding offences under this Ordinance; (Added 46 of 1996 s. 6)
 - (l) requiring importers and exporters of goods to which this Ordinance applies to furnish certificates relating to the goods from places outside Hong Kong;
 - (m) marking by means of chemicals and coloration of hydrocarbon oil; (Amended 66 of 1986 s. 6)
 - (n) the issue, suspension and revocation of liquor licences and the establishment of a board for the purpose

of issuing liquor licences and the functions, powers and procedure of that board; (Added 3 of 1970 s. 4. Amended 4 of 1979 s. 2; 78 of 1999 s. 7)

- (na) exemptions from the requirement for a liquor licence; (Added 78 of 1999 s. 7)
- (o) regulating the premises in respect of which a liquor licence is granted; (Added 3 of 1970 s. 4)
- (p) regulating or prohibiting the sale and supply of liquor to minors; (Added 3 of 1970 s. 4)
- (q) regulating or prohibiting the employment and presence of minors on licensed premises;
- (r) the conditions of employment of minors on licensed premises; (Added 3 of 1970 s. 4)
- (ra) the issue of certificates as evidence of landing, shortages and breakages of cargo or relating to entries in official records; (Added 66 of 1986 s. 6)
- (s) matters in which the Commissioner may give directions for the protection of the revenue and the carrying out of the provisions of this Ordinance, and for empowering him to give such directions; (Amended 3 of 1970 s. 36; L.N. 294 of 1982)
- (sa) empowering the Commissioner to grant exemptions in any particular case or generally from any regulations made under this section; (Added 66 of 1986 s. 6)
- (t) anything which is by this Ordinance to be prescribed or provided for by regulation;
- (u) generally, carrying into effect the provisions of this Ordinance.

(2) Without prejudice to subsection (1)(n), regulations made under this section may provide that a contravention of any regulation shall be an offence and prescribe a penalty therefor: (Amended 4 of 1979 s. 2)

Provided that no penalty so prescribed shall exceed a fine of \$1000000 and imprisonment for 2 years. (Amended L.N. 338 of 1995)

(3) Any regulation made under this Ordinance may provide that in any criminal proceedings for a contravention thereof-

- (a) it shall be for the person charged with such contravention to prove certain facts; or
- (b) facts may be presumed, with or without proof of other facts, until the contrary is proved.

(4) Any regulation made by the Chief Executive in Council-

- (a) on the matter stated in subsection (1)(i); or
- (b) in exercise of the powers conferred by subsection (3),

shall be subject to the approval of the Legislative Council. (Replaced 57 of 2000 s. 2)

(4A) Without limiting subsection (1)(n), regulations made under that subsection may-

- (a) provide for the composition of the board established under the regulations, including the appointment of its members by the Chief Executive and its staff by the Secretary for Food and Health; (Amended L.N. 106 of 2002; L.N. 130 of 2007)
- (b) empower the board to determine its procedures and forms for the purposes of those regulations (in addition to the procedure provided in the regulations). (Added 78 of 1999 s. 7)

(5) (Repealed 48 of 1994 s. 2)

(6) (Repealed 66 of 1986 s. 6)

(7) (Repealed 48 of 1994 s. 2)

(8) (Spent)

Chapter:	109B	Dutiable Commodities (Liquor) Regulations	Gazette Number	Version Date
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Part:	4	Offences and Supplemental	E.R. 3 of 2015	12/11/2015
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Chapter:	109B	Dutiable Commodities (Liquor) Regulations	Gazette Number	Version Date
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Regulation:	28	Offence to permit persons under 18 years to drink on licensed premises	E.R. 3 of 2015	12/11/2015
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No licensee shall permit any person under the age of 18 years to drink any intoxicating liquor on any licensed premises.

Chapter:	109B	Dutiable Commodities (Liquor) Regulations	Gazette Number	Version Date
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Regulation:	29	Restrictions on employment of young persons on licensed premises	E.R. 3 of 2015	12/11/2015
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- (1) No licensee shall employ, or permit the employment of, on or about the licensed premises, or in connection with the business carried on therein-
- (a) at any time any person under the age of 15 years; or (L.N. 223 of 1980)
 - (b) between the hours of 10 p.m. and 6 a.m. any person under the age of 18 years; or (L.N. 74 of 1982)
 - (c) between the hours of 6 a.m. and 10 p.m. any person under the age of 18 years except with the written permission of the Board. (L.N. 74 of 1982; L.N. 329 of 1996; L.N. 467 of 1996)
- (1AA) If the Board refuses permission for the purposes of paragraph (1)(c), the Board must give reasons in writing for the refusal. (78 of 1999 s. 7)
- (1A) Any licensee aggrieved by the Board's refusal to grant permission for the purposes of paragraph (1)(c) may appeal to the Municipal Services Appeals Board within 28 days after receiving notice of the refusal. (L.N. 74 of 1982; 58 of 1990 s. 22; 78 of 1999 s. 7)
- (2) For the purposes of paragraph (1) a person shall be deemed to be employed, or permitted to be employed, by the licensee for whom he works on or about the licensed premises notwithstanding that-
- (a) he receives no wages, commission or other advantage from the licensee; or
 - (b) any services offered by the employee are to be performed elsewhere than on the licensed premises.

Financial, Civil Service, Economic, Sustainability and Family Implications

Financial and Civil Service Implications

The Department of Health (“DH”) would implement the proposed regulatory regime on alcohol, including inspections, enforcement and prosecution, complaints handling, supervision and training. DH’s tentative assessment is that it may require additional resources to implement the proposed regulatory regime on alcohol. DH would endeavour to absorb the additional work from within its existing resources as far as possible, particularly from the Tobacco Control Office where there may be room for achieving synergy and economy of scale, and seek additional manpower and resources in accordance with the established mechanism if necessary.

2. The proposal may affect government revenue from duty charged on spirits though the exact impact is difficult to estimate.

Economic Implications

3. To the extent that the proposal could effectively reduce alcohol consumption by minors, it would help reduce the economic losses due to diseases and injuries arising from alcohol-related harm among minors, though retail outlets selling alcoholic beverages might suffer some loss in business. Nevertheless, the expected loss of business arising from the proposal should not be significant as there already is a voluntary Code of Practice not to sell liquor to minors.

Sustainability Implications

4. The proposal would help protect the health of adolescents which in turn could reduce the burden on the healthcare system. A healthier youth population would also contribute to the productivity of the labour force in the long run.

Family Implications

5. The proposal has positive impacts on families. It seeks to restrict minors' access and exposure to alcohol thereby reducing their likelihood of developing alcoholism and is conducive to preventing family problems.