

G.N. 1967

PREVENTION OF BRIBERY ORDINANCE
(Chapter 201, Laws of Hong Kong)

ACCEPTANCE OF ADVANTAGES (CHIEF EXECUTIVE'S PERMISSION)
NOTICE 2010

Given by the Chief Executive for the purposes of section 3 of the
Prevention of Bribery Ordinance

[Commencement: 9 April 2010]

Interpretation

1. In this notice, unless the context otherwise requires, 'approving authority' means:—

- (a) in relation to a prescribed officer who is a member of the Executive Council or the Chief Justice or the Director of the Chief Executive's Office or the Commissioner of the Independent Commission Against Corruption or the Director of Audit or an Under Secretary or a Political Assistant, the Chief Executive;
- (b) in relation to a prescribed officer who is the Monetary Authority appointed under section 5A of the Exchange Fund Ordinance (Chapter 66), the Financial Secretary;
- (c) in relation to a prescribed officer who is a Permanent Secretary or the Head of a Department or holds a post of equivalent status as the Head of a Department other than those in (a) and (b) above, the Secretary for the Civil Service;
- (d) in relation to a prescribed officer who is a judicial officer other than the Chief Justice, the Chief Justice;
- (e) in relation to any other prescribed officer, the relevant Permanent Secretary of the Bureau or the Head of the Department or a person who holds a post of equivalent status as the Head of a Department in an organisation in which that prescribed officer is employed at the time when the advantage is offered to or solicited or accepted by the prescribed officer.

'discount' includes vouchers or coupons expressed to have a monetary value in exchange for which goods to that value may be obtained and also includes goods so obtained.

General and special permission of the Chief Executive

2. For the purposes of section 3 of the Prevention of Bribery Ordinance (Chapter 201), by this notice:—

- (a) the general permission of the Chief Executive is given to all prescribed officers in respect of any advantage, other than gifts, discounts, loans of money or passages not permitted by sections 3 to 7;
- (b) the special permission of the Chief Executive is given to any prescribed officer in respect of any advantage for the solicitation or acceptance of which that prescribed officer has been given the permission of the approving authority under section 8 or 9.

Advantages from relations

3. (1) A prescribed officer is permitted to solicit or accept from a relation any gift (whether of money or otherwise), any discount, any loan of money or any air, sea or overland passage.

(2) In sub-section (1) 'relation' means:—

- (a) spouse (including a concubine);
- (b) any person with whom the prescribed officer is living in a regular union as if man and wife;
- (c) fiancé, fiancée;

- (d) parent, step-parent, lawful guardian;
- (e) spouse's parent, spouse's step-parent, spouse's lawful guardian;
- (f) grandparent, great-grandparent;
- (g) child, ward of court;
- (h) spouse's child, spouse's ward of court;
- (i) grandchild;
- (j) child's spouse;
- (k) brother, sister;
- (l) spouse's brother, spouse's sister;
- (m) half-brother, half-sister;
- (n) step-brother, step-sister;
- (o) brother's spouse, sister's spouse;
- (p) brother's child, sister's child;
- (q) parent's brother, parent's sister;
- (r) parent's brother's spouse, parent's sister's spouse;
- (s) parent's brother's child, parent's sister's child.

Advantages from tradesmen, etc.

4. (1) Subject to sub-section (2) a prescribed officer is permitted to solicit or accept any gift (whether of money or otherwise), any discount, any loan of money or any air, sea or overland passage given to or made available to a prescribed officer in his private capacity by a tradesman, firm, company, organisation or association:—

- (a) by virtue of the terms on which the prescribed officer's spouse, parent or child, is employed; or
- (b) by virtue of the membership of any organisation or association of the prescribed officer or the prescribed officer's spouse, parent or child; or
- (c) by virtue of the prescribed officer or the prescribed officer's spouse, parent or child being a regular customer; or
- (d) in the course of normal business.

(2) The permission given under sub-section (1) shall only apply where:—

- (a) the advantage is equally available on equal terms to persons who are not prescribed officers; and
- (b) the donor of the advantage has no official dealings with the prescribed officer.

Advantages from close personal friends

5. (1) Subject to sub-section (2) a prescribed officer is permitted to:—

- (a) solicit or accept a loan of money from a close personal friend so long as the loan does not exceed \$3,000 on any one occasion and is repaid within 30 days;
- (b) accept, but not solicit, a gift or gifts (whether of money or otherwise) or any air, sea or overland passage from a close personal friend given on an occasion such as the prescribed officer's birthday, wedding, wedding anniversary, engagement, baptism, retirement or on any other occasion when gifts are traditionally given or exchanged, so long as the value or apparent value in total of the gift, gifts and/or passage does not exceed \$3,000 from any one person on any one occasion;
- (c) accept, but not solicit, a gift or gifts (whether of money or otherwise) or any air, sea or overland passage from a close personal friend on any occasion other than one referred to in sub-sub-section (b), so long as the value or apparent value in total of the gift, gifts and/or passage does not exceed \$500 from any one person on any one occasion.

- (2) The permission under sub-section (1) shall only apply so long as:—
 - (a) the close personal friend has no official dealings with the department or organisation in which the prescribed officer works;
 - (b) in the case of a close personal friend working in the same department or organisation as the prescribed officer, the close personal friend is not subordinate to the prescribed officer;
 - (c) in the case of a gift or passage to which sub-sub-section (b) or (c) of sub-section (1) applies, the prescribed officer does not attend the occasion on which the gift or passage is given in his official capacity or by virtue of the official position he holds at the time he attends the occasion.

Advantages from other persons

- 6. (1) A prescribed officer is permitted to:—
 - (a) solicit or accept a loan of money from any person (not being a loan to which section 4 or 5 applies) so long as the loan does not exceed \$1,500 on any one occasion and is repaid within 30 days;
 - (b) accept, but not solicit, a gift or gifts (whether of money or otherwise) or any air, sea or overland passage from any person (not being a gift or passage to which section 4 or 5 applies) given on an occasion such as the prescribed officer's birthday, wedding, wedding anniversary, engagement, baptism, retirement or on any other occasion when gifts are traditionally given or exchanged, so long as the value or apparent value in total of the gift, gifts and/or passage does not exceed \$1,500 from any one person on any one occasion.
 - (c) accept, but not solicit, a gift or gifts (whether of money or otherwise) or any air, sea or overland passage from any person (not being a gift or passage to which section 4 or 5 applies) on any occasion other than one referred to in sub-sub-section (b), so long as the value or apparent value in total of the gift, gifts and/or passage does not exceed \$250 from any one person on any one occasion.
- (2) The permission under sub-section (1) shall apply so long as:—
 - (a) the person offering the loan, gift or passage has no official dealings with the department or organisation in which the prescribed officer works;
 - (b) in the case of such a person working in the same department or organisation as the prescribed officer, that person is not subordinate to the prescribed officer;
 - (c) in the case of a gift or passage to which sub-sub-section (b) or (c) of sub-section (1) applies, the prescribed officer does not attend the occasion on which the gift or passage is given in his official capacity or by virtue of the official position he holds at the time he attends the occasion.

Advantages from the Government

- 7. A prescribed officer is permitted to:—
 - (a) accept, but not solicit, a gift (other than a gift of money) or an air, sea or overland passage given on the prescribed officer's retirement, or on other occasions, which the prescribed officer has been permitted to accept under any Government regulations or permitted to accept in accordance with the prescribed officer's terms and conditions of employment or appointment;

(5) The prescribed officer may, if he has complied with sub-section (1)(a), retain the gift or loan in his possession or take the benefit of the discount until a decision under sub-sections (2), (3) or (4) has been notified to him.

Permission in respect of passages

9. (1) (a) If a prescribed officer wishes to accept any air, sea or overland passage which he does not have permission to accept under sections 3 to 7, he must, before or as soon as is reasonably possible after being offered the passage or presented with the tickets or vouchers to which the passage relates, seek the permission of:—

- (i) the Chief Executive; or
- (ii) the Financial Secretary; or
- (iii) the Secretary for the Civil Service; or
- (iv) the Chief Justice; or
- (v) the relevant Permanent Secretary of the Bureau or the Head of the Department or a person who holds a post of equivalent status as the Head of a Department in an organisation in which that prescribed officer is employed at the time to accept the passage.

(b) If a prescribed officer wishes to solicit any air, sea or overland passage which he does not have permission to solicit under sections 3 to 7, he must, before soliciting the passage, seek the permission of:—

- (i) the Chief Executive; or
- (ii) the Financial Secretary; or
- (iii) the Secretary for the Civil Service; or
- (iv) the Chief Justice; or
- (v) the relevant Permanent Secretary of the Bureau or the Head of the Department or a person who holds a post of equivalent status as the Head of a Department in an organisation in which that prescribed officer is employed at the time to solicit the passage.

(2) The approving authority referred to in sub-section (4) below may:—

- (a) permit the prescribed officer to solicit or accept the passage either unconditionally or subject to such conditions as he may specify;
- (b) refuse him permission to solicit or accept the passage, and if the tickets or vouchers to which the passage relates are already in his possession, require him to dispose of the passage in such other manner as he may direct.

(3) Where a prescribed officer has sought the permission of the approving authority referred to in sub-section (4) below to solicit or accept a passage and the decision has not been notified to him, he shall not solicit or make the passage or use the tickets or vouchers to which the passage relates.

(4) The approving authority for the purpose of section 9 means:—

- (a) in relation to a prescribed officer who is a member of the Executive Council or the Chief Justice or the Director of the Chief Executive's Office or the Commissioner of the Independent Commission Against Corruption or the Director of Audit or an Under Secretary or a Political Assistant, the Chief Executive;

- (b) in relation to a prescribed officer who is the Monetary Authority appointed under section 5A of the Exchange Fund Ordinance (Chapter 66), the Financial Secretary;
- (c) in relation to a prescribed officer other than those in (a) above who is at the directorate level, the Secretary for the Civil Service;
- (d) in relation to a prescribed officer who is a judicial officer other than the Chief Justice, the Chief Justice;
- (e) in relation to any other prescribed officer, the relevant Permanent Secretary of the Bureau or the Head of the Department or a person who holds a post of equivalent status as the Head of a Department in an organisation in which that prescribed officer is employed at the time when the passage is solicited or accepted by the prescribed officer.

Revocation

10. The Acceptance of Advantages (Chief Executive's Permission) Notice 2007 which was promulgated on 16 February 2007 is hereby cancelled.