

LEGISLATIVE COUNCIL BRIEF

ELECTRONIC TRANSACTIONS ORDINANCE (AMENDMENT OF SCHEDULE 3) ORDER 2006

ELECTRONIC TRANSACTIONS (EXCLUSION) (AMENDMENT OF SCHEDULES) ORDER 2006

INTRODUCTION

On 8 June 2006, the Secretary for Commerce, Industry and Technology (the Secretary) made the Electronic Transactions Ordinance (Amendment of Schedule 3) Order 2006 set out in Annex A under section 50 of the Electronic Transactions Ordinance (ETO)(Cap. 553) to add certain provisions to Schedule 3 to the ETO.

2. On 8 June 2006, the Permanent Secretary for Commerce, Industry and Technology (Communications and Technology) (the Permanent Secretary) made the Electronic Transactions (Exclusion)(Amendment of Schedules) Order 2006 set out in Annex B under section 11(1) of the ETO to repeal certain exemptions from the Electronic Transactions (Exclusion) Order (the Exclusion Order).

JUSTIFICATIONS

Background

3. The ETO was enacted in January 2000 and came into full operation in April 2000. Subject to certain requirements set out in sections 5 to 8 of the ETO, the ETO gives electronic records and electronic/digital signatures used in electronic transactions the same legal status as that of their paper-based counterparts as follows –

- (a) section 5 of the ETO provides that if a rule of law requires or permits information to be or given in writing, the use of electronic records satisfies the rule of law;
- (b) section 5A of the ETO provides that if a rule of law under a legal provision specified in Schedule 3 to the ETO requires or permits a document to be served on a person by personal service or by post, the service of the document in the form of an electronic record satisfies the rule of law;
- (c) section 6(1) of the ETO provides that if a rule of law requires a signature of a person on a document and neither the person whose signature is required nor the person to whom the signature is to be given is or is acting on behalf of a government entity, an electronic signature satisfies the requirement;
- (d) section 6(1A) of the ETO provides that if a rule of law requires a signature of a person on a document and the person whose signature is required and/or the person to whom the signature is to be given is/are acting on behalf of a government entity/entities, a digital signature satisfies the requirement;
- (e) section 7 of the ETO provides that if a rule of law requires certain information to be presented or retained in its original form, that requirement is satisfied by presenting or retaining the information in the form of electronic records; and
- (f) section 8 of the ETO provides that if a rule of law requires certain information to be retained, that requirement is satisfied by retaining electronic records.

The Exclusion Order

4. Government departments took the lead in setting a good example in adopting electronic transactions by accepting electronic submission under the bulk of the statutory provisions in the laws of Hong Kong. However, for some specific statutory provisions concerning the operation of individual Government departments, there is a genuine and practical

need to exclude electronic submissions/transmissions because of operational, technological or other reasons. To ensure that the Government departments concerned would continue to operate smoothly, the Permanent Secretary¹ has been given the power under section 11(1) of the ETO to exclude by order published in the Gazette specific legislative provisions from the application of sections 5, 6, 7 or 8 of the ETO. The Exclusion Order was published in the Gazette on 3 March 2000 and came into effect on 7 April 2000 after negative vetting by the Legislative Council.

5. The statutory provisions covered by the Exclusion Order can be classified into the following five categories –

- (a) provisions which have to be excluded due to the solemnity of the matter or document involved, e.g. provisions concerning the electoral process;
- (b) provisions which have to be excluded on operational grounds, e.g. provisions concerning the production of documents to Government authorities on the spot;
- (c) provisions which have to be excluded due to the involvement of voluminous submissions and complex plans which would be difficult to handle electronically at present, e.g. provisions concerning submission of documents and plans to the works departments;
- (d) provisions which have to be excluded because of international practices, e.g. provisions concerning documents to be kept by the flight crew for air navigation purposes; and
- (e) provisions which have to be excluded to ensure that Government would be able to meet its contractual obligations, e.g. provisions on the submission of trade-related documents which concern the franchise of Tradelink Electronic Commerce Limited

¹ The power to amend the Exclusion Order under section 11(1) of the ETO has been transferred from the Secretary for Commerce, Industry and Technology to the Permanent Secretary for Commerce, Industry and Technology (Communications and Technology) through the Electronic Transactions (Amendment) Ordinance 2004 which has become effective from 30 June 2004.

(Tradelink).²

6. When making the Exclusion Order, the Government made a commitment to withdraw the exemptions where appropriate, while noting the need to make new exemptions with the enactment of new legislation where circumstances so merit. So far, five amendment orders have been made to amend the Exclusion Order to withdraw exemptions that were no longer necessary and to provide for new exemptions with the enactment of new legislation.

Schedule 3 to the ETO

7. Some legislation contains requirements of serving documents on the parties concerned by post or in person. These legal provisions were enacted at the time when electronic transactions were not prevalent. In some cases, there are now no justifications to exclude the electronic means for serving the documents and such legal provisions, if remain unaltered, will become an impediment to electronic transactions and the implementation of e-Government.

8. To remove such unnecessary impediments, Section 5A of the ETO and Schedule 3 to the ETO were introduced by the Electronic Transactions (Amendment) Ordinance 2004 enacted in June 2004. Section 5A provides that for documents that are required or permitted to be served by post or in person under the provisions set out in Schedule 3, the service of the documents in the form of electronic record satisfies the requirement. Schedule 3 currently contains provisions of three Ordinances, namely, the Landlord and Tenant (Consolidation) Ordinance (Cap. 7), the Rating Ordinance (Cap. 116) and the Government Rent (Assessment and Collection) Ordinance (Cap. 515). The provisions concerned require or permit the service of certain notices, applications or other documents on or by the Commissioner of Rating and Valuation and

² To promote the widespread use of electronic data interchange (EDI) by the trading community, the Government granted Tradelink a franchise in 1992 to provide EDI services for the submission of a number of Government trade-related documents. When the ETO was enacted in January 2000, the EDI services for some of these documents had not been launched yet and therefore the statutory provisions relating to the submission of these documents had been excluded from the application of the ETO. With the launching of the EDI services for these documents through Tradelink, the provisions concerned were later repealed from the Exclusion Order by the Electronic Transactions (Exclusion) (Amendment) Order 2003.

related parties. When Schedule 3 to the ETO was introduced, it was noted that the schedule would be expanded over time through an ongoing review process. Section 50 of the ETO provides that the Secretary may by an order published in the Gazette amend Schedule 3 to the ETO.

Proposals

9. We propose the following amendments to Schedule 3 to the ETO and the Exclusion Order:

- (a) inclusion of nine additional provisions in Schedule 3, covering the serving of claims, objections and notices relating to land, works and transport matters; and
- (b) withdrawal of 39 currently exempted provisions from the Exclusion Order covering objections, claims, applications, notices, plans, manuals, reports and medical prescriptions relating to land, works, transport, environmental protection, hotels and guesthouses, and trade matters.

10. Details of the amendments proposed in paragraph 9(a) and (b) above are set out at Annex C and Annex D respectively.

THE ORDERS

11. The Electronic Transactions Ordinance (Amendment of Schedule 3) Order 2006 at Annex A sets out the specific statutory provisions to be added to Schedule 3 to the ETO, as proposed in paragraph 9(a) above.

12. The Electronic Transactions (Exclusion)(Amendment of Schedules) Order 2006 at Annex B sets out the specific statutory provisions to be repealed from the Exclusion Order, as proposed in paragraph 9(b) above.

LEGISLATIVE TIMETABLE

13. The Electronic Transactions Ordinance (Amendment of Schedule 3) Order 2006 and the Electronic Transactions (Exclusion)(Amendment of Schedules) Order 2006 will be gazetted on 23 June 2006 and will be tabled before the Legislative Council on 28 June 2006. The target commencement date of the two orders falls on 1 December 2006.

IMPLICATIONS OF THE PROPOSAL

14. The proposals are in conformity with the Basic Law, including the provisions concerning human rights. Allowing the service of certain documents in the form of electronic records and repealing exemptions that have become unnecessary (due to operational, technological or social changes) do not give rise to any financial or staffing implications.

PUBLIC CONSULTATION

15. The proposed amendments will provide to the public the option of satisfying the requirements of serving documents, giving information, giving signature or retaining information in certain statutory provisions by means of electronic records, in addition to the existing option of using the paper form. Moreover, the principles for making exclusions from the electronic process set out in paragraph 5 above were noted by the Legislative Council when the Exclusion Order was first made, and the proposed repeal of existing exemptions follows these established principles. No special public consultation is therefore considered necessary.

PUBLICITY

16. We will publicize the new provisions added to Schedule 3 to the ETO and the provisions repealed from the Exclusion Order through the relevant Government websites and other publicity materials relating to the concerned provisions.

ENQUIRIES

17. Any enquiries on this brief should be addressed to Mr. Victor Lam, Assistant Government Chief Information Officer, at 2189 2287 or by facsimile at 2511 1458.

**Office of the Government Chief Information Officer
Commerce, Industry and Technology Bureau
June 2006**

**ELECTRONIC TRANSACTIONS ORDINANCE
(AMENDMENT OF SCHEDULE 3) ORDER 2006**

(Made by the Secretary for Commerce, Industry and Technology under section 50 of the Electronic Transactions Ordinance (Cap. 553))

1. Commencement

This Order shall come into operation on 1 December 2006.

2. Service of documents

Schedule 3 to the Electronic Transactions Ordinance (Cap. 553) is amended by adding –

- | | | |
|-----|------------------------------------------------------------------------------------|---------------------------------------------------|
| “4. | Mass Transit Railway (Land Resumption and Related Provisions) Ordinance (Cap. 276) | Section 21(1) |
| 5. | Roads (Works, Use and Compensation) Ordinance (Cap. 370) | Sections 10(1) and (3) and 29(1) |
| 6. | Railways Ordinance (Cap. 519) | Sections 10(1) and (4), 27(6) and (7) and 34(1)”. |

Secretary for Commerce, Industry
and Technology

Explanatory Note

This Order adds several provisions to Schedule 3 to the Electronic Transactions Ordinance (Cap. 553). The effect is that a document required or permitted to be served on a person by personal service or post under these provisions may be served in the form of an electronic record. The electronic record must be sent to an information system designated by the person, and the information in it must be accessible for subsequent reference.

**ELECTRONIC TRANSACTIONS (EXCLUSION)
(AMENDMENT OF SCHEDULES) ORDER 2006**

(Made by the Permanent Secretary for Commerce, Industry and Technology
(Communications and Technology) under section 11(1) of the Electronic
Transactions Ordinance (Cap. 553))

1. Commencement

This Order shall come into operation on 1 December 2006.

**2. Provisions excluded from application of
section 5 of Ordinance**

Schedule 1 to the Electronic Transactions (Exclusion) Order (Cap. 553 sub.
leg. B) is amended –

- (a) by repealing items 15, 16, 17, 24, 34, 35, 36, 39, 41, 42, 43, 49, 50, 53, 69 and 70;
- (b) in item 44, by repealing “5(1), 12R(1), 17(2) and 20(1) and (3)” and substituting “12R(1), 17(2) and 20(1)”;
- (c) in item 51, by repealing “, (2), (4) and (5)” and substituting “and (2)”.

**3. Provisions excluded from application of
section 6 of Ordinance**

Schedule 2 is amended –

- (a) in item 9, by repealing “Regulations 5(3), 17(2) and 20(3)” and substituting “Regulation 17(2)”;
- (b) by repealing items 12, 25 and 26.

**4. Provisions excluded from application of
section 8 of Ordinance**

Schedule 4 is amended by repealing items 3 and 4.

Permanent Secretary for Commerce,
Industry and Technology
(Communications and Technology)

2006

Explanatory Note

The statutory provisions excluded from the application of sections 5, 6 and 8 of the Electronic Transactions Ordinance (Cap. 553) are listed in Schedules 1, 2 and 4 to the Electronic Transactions (Exclusion) Order (Cap. 553 sub. leg. B) respectively. This Order deletes a number of statutory provisions from the Schedules so that these provisions will no longer be so excluded and electronic records can be used for the purposes of these provisions.

Provisions Proposed to be Included in Schedule 3 to the ETO

Details of the provisions containing the requirement of serving documents by post or in person which are proposed to be included in Schedule 3 to the ETO are set out below.

(a) Claims for compensation in respect of land resumption and creation of easements or rights

2. Under the Mass Transit Railway (Land Resumption and Related Provisions) Ordinance (Cap. 276), the Chief Executive may by order direct that any land within the Mass Transit Railway area shall be resumed. He may also direct that easements or other permanent or temporary rights in the railway area shall be created in favour of the Government for the purposes of the railway. In addition, he may authorize the closure or substantial alteration of a street for the purposes of the construction, operation, maintenance or improvement of the railway. Section 21(1) of the Mass Transit Railway (Land Resumption and Related Provisions) Ordinance provides that any person who claims to be entitled to compensation under the Ordinance shall serve upon the Director of Lands (D of L) a written claim. With the proposed withdrawal of section 21(1) from the Exclusion Order, it is proposed that the provision be added to Schedule 3 to the ETO so that the claims for compensation can be served upon D of L in the form of electronic record.

(b) Objections in relation to road works

3. Under the Roads (Works, Use and Compensation) Ordinance (Cap. 370), where the Secretary for the Environment, Transport and Works (SETW) proposes to carry out works other than minor works, she shall cause a plan delineating the works area and a scheme describing the general nature of the works to be deposited in the Land Registry and cause a notice of such deposit to be published. Sections 10(1) and (3) provide that any person may, by notice in writing delivered to SETW within a specified period after the publication of such notice, object to the works and may amend or withdraw the objection lodged in writing.

With the proposed withdrawal of sections 10(1) and (3) from the Exclusion Order, it is proposed that the provisions be added to Schedule 3 to the ETO so that the notices of objection and notices of amendment to or withdrawal of objection can be served upon SETW in the form of electronic record.

(c) Claims for compensation in relation to road works

4. Section 29(1) of the Roads (Works, Use and Compensation) Ordinance provides that a person who claims to be entitled to compensation under the Ordinance must serve upon SETW a written claim setting out the specified particulars. With the proposed withdrawal of section 29(1) from the Exclusion Order, it is proposed that the provision be added to Schedule 3 to the ETO so that the claims for compensation can be served upon SETW in the form of an electronic record.

(d) Objections in relation to railway development

5. Under the Railways Ordinance (Cap. 519), if SETW proposes that a railway is to be constructed, modified or improved in a way which she considers is not minor, SETW needs to prepare a scheme for the railway and must deposit a copy of it in the Land Registry. Sections 10(1) and (4) provide that a person may object to the scheme, a part of the scheme or an amendment to the scheme by delivering an objection in writing to SETW within the statutory timeframe, and may also amend or withdraw the objection by writing to SETW. With the proposed withdrawal of sections 10(1) and (4) from the Exclusion Order, it is proposed that the provisions be added to Schedule 3 to the ETO so that the notices of objection and notices of amendment to or withdrawal of objection can be served upon SETW in the form of electronic record.

(e) Notices to require resumption of land

6. Under section 27(5) of the Railways Ordinance, where a person intends to carry out building works on land described in a railway scheme but where the works are in the opinion of the Building Authority incompatible with the scheme, the Building Authority must advise the

person who intends to carry out building works the particulars of which he is of the opinion that the building works would be incompatible with the scheme. Sections 27(6) and (7) of the Railways Ordinance provide that the owner of land specified in section 27(5) may, under the circumstances specified in sections 27(6) and (7), by notice in writing to SETW, require that the land be resumed under the Ordinance. It is proposed that sections 27(6) and (7) be added to Schedule 3 to the ETO so that the notices requiring resumption of land can be served upon SETW in the form of electronic record.

(f) Claims for compensation in relation to railway development

7. Section 34(1) of the Railways Ordinance provides that a person who claims to be entitled to compensation under the Ordinance must serve on SETW a written claim setting out the specified details. With the proposed withdrawal of section 34(1) from the Exclusion Order, it is proposed that the provision be added to Schedule 3 to the ETO so that the claim for compensation can be served upon SETW in the form of electronic record.

Exemptions Proposed to be Withdrawn from the Exclusion Order

Details of the provisions proposed to be withdrawn from the Exclusion Order are set out below.

(a) Lands-related submissions, objections and claims

(i) Claims for compensation in respect of lands resumption

2. Under the Lands Resumption Ordinance (Cap. 124), D of L shall write to the former owner of or any person having an interest in land to be resumed by the Government, making an offer of compensation in respect of the resumption. Section 6(2) provides that the person who has been offered compensation may submit his/her claim for compensation and relevant documents in support of such claim to D of L within a specified period. Moreover, section 8(1) provides that any person with an interest in the land resumed who has not been offered compensation by D of L in writing may submit a claim for compensation. Due to technical difficulties, these provisions have been exempted from the application of section 5 of the ETO. Since the technical difficulties relating to the receipt of such claims in electronic form have now been resolved, the exemption of sections 6(2) and 8(1) from section 5 of the ETO should be withdrawn.

(ii) Objections and claims for compensation in respect of reclamations

3. Section 6(1) of the Foreshore and Sea-bed (Reclamations) Ordinance (Cap. 127) provides that any person with an interest in the foreshore and sea-bed to be affected by a proposed reclamation may by notice in writing to D of L object to such reclamation within a specified period. Moreover, section 12(1) provides that any person who claims that his interest will be injuriously affected by the reclamation may deliver to D of L a written claim for compensation and relevant supporting documents. Due to technical difficulties, these provisions have been exempted from the application of section 5 of the ETO. Since the technical difficulties relating to the receipt of such objections and claims

in electronic form have now been resolved, the exemption of sections 6(1) and 12(1) from section 5 of the ETO should be withdrawn.

(iii) Claims of ownership of lands to be acquired by the Government

4. Section 6(1) of the Land Acquisition (Possessory Title) Ordinance (Cap. 130) provides that a person who has a claim of ownership or claims to have interest in respect of land to be acquired by the Government may submit to D of L a written notice of his/her claim with supporting evidence. Due to technical difficulties, this provision has been exempted from the application of section 5 of the ETO. Since the technical difficulties relating to the receipt of such claims in electronic form have now been resolved, the exemption of section 6(1) from section 5 of the ETO should be withdrawn.

(iv) Claims for compensation in respect of land resumption and creation of easements or rights

5. Under the Mass Transit Railway (Land Resumption and Related Provisions) Ordinance (Cap. 276), the Chief Executive may by order direct that any land within the Mass Transit Railway area shall be resumed. He may also direct that easements or other permanent or temporary rights in the railway area shall be created in favour of the Government for the purposes of the railway. In addition, he may authorize the closure or substantial alteration of a street etc. for the purposes of the construction, operation, maintenance or improvement of the railway. Section 21(1) provides that any person who claims to be entitled to compensation under the Ordinance shall serve upon D of L a written claim. Due to technical difficulties, this provision has been exempted from the application of section 5 of the ETO. Since the technical difficulties relating to the receipt of such claims in electronic form have now been resolved, the exemption of section 21(1) from section 5 of the ETO should be withdrawn. (The same provision is also proposed to be included in Schedule 3 to the ETO to allow service of the claims in the form of an electronic record.)

(v) Certified land boundary plans and notices to require submission of specified documents related to land boundary surveys

6. Section 30(4) of the Land Survey Ordinance (Cap. 473) provides that an authorized land surveyor who certified a land boundary plan shall deposit with the Land Survey Authority a duplicate of the land boundary plan and the survey record plan of the relevant land boundary survey, both signed and certified in a specified form within a specified period. Moreover, section 30(6) provides that the Land Survey Authority may by notice in writing require any authorized land surveyor to deliver to the Authority for his inspection within a specified period specified documents such as the calibration reports of survey instruments. Due to technical difficulties, section 30(4) has been exempted from the application of sections 5 and 6 of the ETO, and section 30(6) has been exempted from the application of section 5 of the ETO. Since the technical difficulties relating to the receipt of such signed and certified plans in electronic form have now been resolved, the exemption of section 30(4) from sections 5 and 6 of the ETO and the exemption of section 30(6) from section 5 of the ETO should be withdrawn.

(vi) Notices of changes in the particulars in claims in respect of land exchange entitlement and requests for further information/evidence

7. Section 5(4) of the New Territories Land Exchange Entitlements (Redemption) Ordinance (Cap. 495) provides that where there are changes in the particulars in a claim furnished to D of L by a claimant who claims, as an owner of a land exchange entitlement, payment of any of the redemption money payable in respect of the land exchange entitlement, the claimant shall serve a notice in writing on D of L to furnish the particulars of the changes. In addition, section 5(5) provides that D of L may, by notice in writing served on the claimant, request him to furnish any further particulars or evidence in support of his claim. Due to technical difficulties, these provisions have been exempted from the application of section 5 of the ETO. Since the technical difficulties relating to the receipt and issue of such notices and requests in electronic form have now been resolved, the exemption of sections 5(4) and (5) from section 5 of the ETO should be withdrawn.

(b) Transportation-related applications, objections and claims

(i) Objections and claims in relation to road works

8. Under the Roads (Works, Use and Compensation) Ordinance (Cap. 370), where SETW proposes to carry out works other than minor works, she shall cause a plan delineating the works area and a scheme describing the general nature of the works to be deposited in the Land Registry and cause a notice of such deposit to be published. Sections 10(1) and (3) provide that any person may, by notice in writing delivered to SETW within a specified period after the publication of such notice, object to the works, and may amend or withdraw the objection lodged in writing. Moreover, section 29(1) provides that any person who claims to be entitled to compensation in respect of such works shall serve a written claim on SETW, and section 29(4) provides that SETW may by notice in writing to the claimant request him to give further particulars of his claim. Due to technical difficulties, these provisions have been exempted from the application of section 5 of the ETO. Since the technical difficulties relating to the receipt and issue of such notices and claims in electronic form have now been resolved, the exemption of sections 10(1) and (3) and 29(1) and (4) from section 5 of the ETO should be withdrawn. (Sections 10(1) and (3) and 29(1) are also proposed to be included in Schedule 3 to the ETO to allow service of the notices and claims in the form of an electronic record.)

(ii) Applications for registration of vehicles and documents and proofs about the breaking up, destruction or dispatch of vehicles

9. Regulation 5(1) of the Road Traffic (Registration and Licensing of Vehicles) Regulations (Cap. 374E) provides that any person who wishes to register a motor vehicle of which he is the owner shall deliver to the Commissioner for Transport (C for T) an application for registration in a specified form together with specified documents. Regulation 5(3) further provides that the application shall be signed by the owner of the motor vehicle or by some person duly nominated or authorized by the owner. Due to technical difficulties, regulations 5(1) and (3) have been exempted from the application of section 5 and 6 of the ETO respectively. Since the technical difficulties relating to the receipt

of such signed applications and specified documents in electronic form have now been resolved, the exemption of regulations 5(1) and (3) from section 5 and 6 respectively of the ETO should be withdrawn.

10. Regulation 20(3) empowers C for T to require the registered owner of a vehicle which has been broken up, destroyed or dispatched to produce a signed certificate or other proof. Due to technical difficulties, this provision has been exempted from the application of sections 5 and 6 of the ETO. Since the technical difficulties relating to the receipt of such signed certificates and other proofs in electronic form have now been resolved, the exemption of regulation 20(3) from sections 5 and 6 of the ETO should be withdrawn.

(iii) Objections and claims in relation to railway development

11. Under the Railways Ordinance (Cap. 519), if SETW proposes that a railway is to be constructed, modified or improved in a way which she considers is not minor, SETW needs to prepare a scheme for the railway and must deposit a copy of it in the Land Registry. Sections 10(1) and (4) provide that a person may object to such scheme by delivering an objection in writing to SETW, and may amend or withdraw the objection by writing to SETW. Moreover, section 34(1) provides that a person who claims to be entitled to compensation must serve on SETW a written claim. Due to technical difficulties, these provisions have been exempted from the application of section 5 of the ETO. Since the technical difficulties relating to the receipt of such objections and claims in electronic form have now been resolved, the exemption of sections 10(1) and (4) and 34(1) from section 5 of the ETO should be withdrawn. (The same provisions are also proposed to be included in Schedule 3 to the ETO to allow service of the objections and claims in the form of an electronic record.)

(c) Works-related submissions and applications

(i) Operation and maintenance manuals and reports of examination

12. Regulation 6(1) of the Aerial Ropeways (Operation and Maintenance) Regulations (Cap. 211 sub. leg. A) provides that the owner

of an aerial ropeway shall, within a specified period, supply to the Director of Electrical and Mechanical Services (DEMS) an operation manual and a maintenance manual in relation to the ropeway. Moreover, regulation 20(5) provides that the owner of an aerial ropeway shall send every examination report in respect of the ropeway required under the Ordinance to DEMS. Due to technical difficulties, these provisions have been exempted from the application of section 5 of the ETO. Since the technical difficulties relating to the receipt of such manuals and reports in electronic form have now been resolved, the exemption of regulations 6(1) and 20(5) from section 5 of the ETO should be withdrawn.

(ii) Reports of surveyor and engineering superintendent, operation and maintenance manuals and training programme by the Peak Tramways Company Limited

13. Regulation 30 of the Peak Tramway (Safety) Regulations (Cap. 265 sub. leg. A) provides that the Peak Tramways Company Limited shall as soon as practicable furnish to DEMS a copy of written reports of the surveyor and engineering superintendent employed by the company, maintenance programme and operation and maintenance manual in relation to the tramway as well as any training programme conducted for the tramway operators. Due to technical difficulties, this provision has been exempted from the application of section 5 of the ETO. Since the technical difficulties relating to the receipt of such reports, manuals and training programmes in electronic form have now been resolved, the exemption of regulation 30 from section 5 of the ETO should be withdrawn.

(iii) Applications for approval for carrying out lift work and first installation of builder's lift or tower working platform

14. Section 12(3) of the Builders' Lifts and Tower Working Platforms (Safety) Ordinance (Cap. 470) provides that if a registered examiner or registered contractor is to carry out lift work that is not in accordance with the relevant codes of practice, the registered examiner or registered contractor shall, before carrying it out, submit details of the proposed lift work to DEMS to obtain his approval. Moreover, section

15(a) provides that before a builder's lift or tower working platform is installed for the first time in Hong Kong, the responsible registered contractor shall submit design and technical details, a maintenance manual and relevant test certificates to DEMS for his approval. Due to technical difficulties, these provisions have been exempted from the application of section 5 of the ETO. Since the technical difficulties relating to the receipt of such documents in electronic form have now been resolved, the exemption of sections 12(3) and 15(a) from section 5 of the ETO should be withdrawn.

(d) Environment protection-related claims

Claims and notices in relation to sewerage works

15. Under the Water Pollution Control (Sewerage) Regulations (Cap. 358 sub. leg. AL), the Director of Environmental Protection (DEP) may construct, maintain, repair or demolish any sewerage and carry out related works for the purpose of establishing and maintaining a communal sewer or connecting wastewater to such a sewer. For such purpose, DEP may by service of a notice on the owner of any land or premises require the owner to construct works to convey wastewater from the land or premises to another specified place and to maintain such works etc. Regulation 14(1) provides that any person who claims to be entitled to compensation shall serve a written claim on SETW. Regulation 16(1) provides that SETW may by notice in writing to the claimant request him to give further particulars of his claim. Due to technical difficulties, these provisions have been exempted from the application of section 5 of the ETO. Since the technical difficulties relating to the receipt and issue of such claims and notices in electronic form have now been resolved, the exemption of regulations 14(1) and 16(1) from section 5 of the ETO should be withdrawn.

(e) Licensing applications in respect of places of amusement and hotels and guesthouses

(i) Applications for licences for places of amusement

16. Regulation 5(1) of the Places of Amusement Regulation (Cap.

132 sub. leg. BA) provides that every application for the grant, renewal or transfer of a licence for places of amusement including billiard establishment, public bowling-alley and public skating rink shall be made in writing to the Director of Leisure and Cultural Services and accompanied by the required plans. Due to technical difficulties, this provision has been exempted from the application of section 5 of the ETO. Since the technical difficulties relating to the receipt of such applications in electronic form have now been resolved, the exemption of regulation 5(1) from section 5 of the ETO should be withdrawn.

(ii) Applications for certificates of exemption and licences for hotel and guesthouse

17. Under the Hotel and Guesthouse Accommodation Ordinance (Cap. 349), any person who on any occasion operates, keeps, manages or otherwise has control of a hotel or a guesthouse must apply for a certificate of exemption or a licence. Sections 6(1) and (4) and 7(2) provide, inter alia, that an application by a person for a certificate of exemption or renewal or transfer to another person of such certificate in respect of a hotel or guesthouse shall be made to the Hotel and Guesthouse Accommodation Authority in a specified form. Sections 8(1), 9(2) and 12(12) provide for similar requirements in relation to a licence. Due to technical difficulties, these provisions have been exempted from the application of section 5 of the ETO. Since the technical difficulties relating to the receipt of such applications in electronic form have now been resolved, the exemption of sections 6(1) and (4), 7(2), 8(1), 9(2) and 12(12) from section 5 of the ETO should be withdrawn.

(f) Trade-related registration matters

Applications for registration as a wholesaler of a reserved commodity

18. Under the Reserved Commodities (Control of Sales by Wholesale) Regulations (Cap. 296 sub. leg. B), “reserved commodities” are specified in its Schedule and rice is the only scheduled “reserved commodity” at the moment. Regulation 3(2) provides that any person who wishes to be a registered wholesaler of a reserved commodity may apply in writing in a specified form to the Director-General of Trade and

Industry (DGTI). In view of the liberalization of the rice trade, DGTI repealed all notices issued under regulation 22(1)(a) of the Reserved Commodities (Control of Imports, Exports and Reserve Stocks) Regulations (Cap. 296 sub. leg. A) to registered stockholders on restriction on sales by wholesale to registered rice wholesalers with effect from 1 January 2001, which in effect removed the requirement for a wholesaler to be registered before undertaking the rice wholesale business. The exemption of regulation 3(2) of Cap. 296 sub. leg. B from section 5 of the ETO should therefore be withdrawn.

(g) Medical prescriptions

Presentation and retention of medical prescriptions

19. Section 4(1)(c) of the Antibiotics Ordinance (Cap. 137) provides that no person can sell any substance to which the Ordinance applies unless he is, inter alia, a registered pharmacist or an authorized seller of poisons, and the substance is sold under the authority of a prescription signed and dated by a registered medical practitioner, dentist or veterinary surgeon. Regulation 9(3)(a) of the Pharmacy and Poisons Regulations (Cap. 138 sub. leg. A) provides that a prescription shall be in writing and signed and dated by the person giving it. Due to operational and enforcement difficulties, these provisions have been exempted from the application of sections 5 and 6 of the ETO. Since the operational and enforcement difficulties relating to the sending, signing and receipt of such prescriptions in electronic form have now been resolved, the exemption of section 4(1)(c) of the Antibiotics Ordinance and regulation 9(3)(a) of the Pharmacy and Poisons Regulations from sections 5 and 6 of the ETO should be withdrawn.

20. Section 4(4)(c) of the Antibiotics Ordinance and regulation 9(4)(d) of the Pharmacy and Poisons Regulations provide that, except in the case of a prescription which may be dispensed again, the prescription should be retained and made readily available for inspection for two years. Due to operational and enforcement difficulties, these provisions have been exempted from the application of section 8 of the ETO. Since the operational and enforcement difficulties relating to the retention of such prescriptions in electronic form have now been resolved, the exemption

of section 4(4)(c) of the Antibiotics Ordinance and regulation 9(4)(d) of the Pharmacy and Poisons Regulations from section 8 of the ETO should be withdrawn.