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Paper for the House Committee meeting on 30 May 2008

Report of the Subcommittee to Study Six Items of Subsidiary Legislation under the Trade Descriptions Ordinance Gazetted on 18 April 2008

Purpose

This paper reports on the deliberations of the Subcommittee to Study Six Items of Subsidiary Legislation under the Trade Descriptions Ordinance Gazetted on 18 April 2008 (the Subcommittee).

Background

2. There have been repeated incidents in which unscrupulous retailers employed deceptive, misleading and unfair trade practices in the course of their business in recent years. The blatant malpractices of some retailers have been widely reported in the local and Mainland media and have given rise to much public concern on the seriousness of the problem. In order to protect local consumers and tourists, and to uphold Hong Kong's reputation as a "Shoppers' Paradise", the Government considers it necessary to strengthen the consumer protection regime to ensure that it will continue to afford effective protection to consumers.

3. The Financial Secretary announced in his Budget Speech of February 2007 that the Consumer Council (CC) would conduct a comprehensive review of existing measures to protect consumer rights. CC then set up a dedicated working group to take forward the task. On 25 February 2008, CC published the report entitled "Fairness in the Marketplace for Consumers and Business" which put forward a package of recommendations including the introduction of a comprehensive Trade Practices Statute in Hong Kong to prohibit unfair trade practices of all types of goods and services.

4. While the Government is reviewing the outcome of the review conducted by CC, the Administration considers it necessary to take urgent action to strengthen the regulatory tools to tackle the prevalent malpractices of the unscrupulous shops and bring charges against them. Some of the proposals have been introduced through the

Trade Descriptions (Amendment) Bill 2007 introduced to the Legislative Council (LegCo) in January 2008¹, and two items of subsidiary legislation made under the Trade Descriptions Ordinance (TDO) (Cap. 362) namely, the Trade Descriptions (Definition of Fei Cui and Natural Fei Cui) Regulation (Definition of Fei Cui and Natural Fei Cui Regulation) and the Trade Descriptions (Definition of Diamond) Regulation. These two items of subsidiary legislation were tabled at the LegCo meeting on 5 March 2008 and have gone through the negative vetting procedure of the LegCo.

The six items of subsidiary legislation under the Trade Descriptions Ordinance

5. TDO is a major piece of legislation to protect consumers against false trade descriptions and misstatements made by deceitful traders. However, as complaints against false or misleading representations by retailers cannot be followed up easily in the absence of written records, existing provisions in TDO are inadequate in protecting consumers. This is particularly the case for jewellery items and popular electronic products which are major subjects of consumer complaints received in recent years. The Administration tabled the following six items of subsidiary legislation under TDO at the LegCo meeting on 23 April 2008 to strengthen the existing regulatory regime with a view to enhancing protection for consumers in the purchase of these products.

- (a) Trade Descriptions (Provision of Information on Natural Fei Cui) Order (Information on Natural Fei Cui Order);
- (b) Trade Descriptions (Provision of Information on Diamond) Order (Information on Diamond Order);
- (c) Trade Descriptions (Provision of Information on Regulated Electronic Products) Order (Information on Regulated Electronic Products Order);
- (d) Trade Descriptions (Marking) (Gold and Gold Alloy) (Amendment) Order 2008 (Gold and Gold Alloy Marking Amendment Order);
- (e) Trade Descriptions (Marking) (Platinum) (Amendment) Order 2008 (Platinum Marking Amendment Order); and
- (f) Trade Descriptions (Definition of Platinum) (Amendment) Regulation 2008 (Definition of Platinum Amendment Regulation).

6. The first three Orders require retailers of articles of natural fei cui, diamond, and five types of regulated electronic products (i.e. electronic products are digital audio player, digital camcorder, digital camera, mobile phone and portable multimedia player) to issue to consumers invoices or receipts containing specified information in the sale of the items. Retailers are required to retain a copy of the invoice or receipt for a period of not less than three years after the date of issue. Retailers of articles of natural fei cui and diamond are required to display prominently at the point of supply a prescribed notice informing customers of the definitions of natural fei cui and diamond and the supplier's obligation to issue a detailed invoice or receipt when he supplies such articles². The notice is of not less than 210 mm x 297 mm in size (i.e. equivalent

¹ A Bills Committee has been formed to study the Trade Descriptions (Amendment) Bill 2007. The Bills Committee will report its deliberations to the House Committee on 30 May 2008.

² For regulated electronic products, there is no requirement on retailers to display notice.

to an A-4 size paper) with letters and characters not less than 5 mm in height.

7. As regarding the two Amendment Orders at paragraph 5(d) and (e), there are already provisions under the existing Trade Descriptions (Marking) (Gold and Gold Alloy) Order and the Trade Descriptions (Marking) (Platinum) Order to require suppliers of articles of gold, gold alloy, platinum or platinum alloy to issue detailed invoices or receipts when supplying the articles and display prescribed notice at the point of supply. The two Amendment Orders are to enhance the protection to consumers purchasing the articles. The amendments include revising the Chinese equivalents of certain terms describing gold and platinum to avoid misunderstanding and requiring retailers to provide consumers with further particulars regarding the articles in invoices or receipts. The requirements on retailers regarding display of notice and retention of copies of invoices or receipts are the same as those in the Information Orders on Natural Fei Cui, Diamond and Regulated Electronic Products.

8. Retailers who fail to comply with any of the requirements under the first five items of subsidiary legislation commit an offence. The maximum penalty for the offence (other than the offence for failing to comply with the requirement to retain invoices and receipts) is a fine of \$500,000 and imprisonment for five years on conviction on indictment, and a fine of \$100,000 and imprisonment for two years on summary conviction. The maximum penalty for failing to comply with the requirement to retain the invoice or receipt for three years is a fine of level 2 (\$5,000) and imprisonment for one month.

9. The Definition of Platinum Amendment Regulation is made under section 33 of TDO to assign definite meanings to the expression "platinum" used in relation to any goods in the course of trade or business. The amendments under the Amendment Regulation include changing the Chinese translation of "platinum" to "白金" or "鉑金" and defining the fineness of platinum when "足白金" or "足鉑金" is used. Under TDO, the use of the expression "platinum" or its Chinese equivalents in relation to any goods would be a false trade description if the goods does not fit the meanings of "platinum" under the Amendment Regulation. The maximum penalty for the offence of applying a false trade description to any goods in the course of trade or business under TDO is a fine of \$500,000 and imprisonment for five years on conviction on indictment, and a fine of \$100,000 and imprisonment for two years on summary conviction.

The Subcommittee

10. The House Committee agreed at its meeting on 25 April 2008 to form a Subcommittee to study the six items of subsidiary legislation. The membership list of the Subcommittee is in **Appendix I**. Under the chairmanship of Hon CHAN Kam-lam, the Subcommittee has held a total of four meetings, including one meeting with deputations. It has received a total of eight submissions from 11 organizations/individuals. The list of the organizations/individuals concerned is in **Appendix II**.

Deliberations of the Subcommittee

11. Members of the Subcommittee support the six items of subsidiary legislation to enhance protection for consumers in purchasing jewellery items and popular electronic products. They note that the trade associations also welcome early enactment of the subsidiary legislation to combat malpractices of the dishonest retailers and help boost citizens' and visitors' confidence in shopping in Hong Kong. Nonetheless, during the scrutiny of the subsidiary legislation, members have identified some issues relating to the requirements and implementation of the subsidiary legislation which are of concern to retailers in the relevant trades. The deliberations of the Subcommittee are summarized below.

Responsibilities of manufacturers, importers and retailers to provide information on products to consumers

12. The first five items of the subsidiary legislation impose a requirement on retailers of articles of natural fei cui, diamond, gold or gold alloy, platinum or platinum alloy, and five electronic products to issue to consumers an invoice or receipt containing specified particulars. The particulars include the full name and address of the supplier, the price at which the article or product is supplied, the date of supply, and details of the article or product concerned. In respect of articles of natural fei cui and diamond, the required details include a description of the article. As for articles of gold and platinum items, the required details include information on the fineness of the gold and platinum content. On the five regulated electronic products, the required details include a description of the product, its core features, availability or otherwise of after-sale services and information relating to the after-sale services if such services are available.

13. The Subcommittee notes deputations' concern about difficulties for retailers, especially small traders, in providing the technical information required in invoices or receipts. As a result, articles or products covered by the subsidiary legislation could only be sold in specialty shops. This would cause great inconvenience to consumers and tourists, and adversely affect the business of small retailers. The Subcommittee notes that while CC supports imposing the obligation on retailers to provide prescribed information in invoices or receipts to consumers, deputations are concerned that the legal responsibilities to make full and clear product descriptions to consumers would fall entirely on the retailers. Members consider that manufacturers and/or importers should also assume such responsibilities.

14. The Administration explains that the objective of the subsidiary legislation is to protect consumers. The information required is very basic, which should be readily available to retailers or can be obtained by them without difficulties. Given that manufacturers or importers do not interact with consumers direct, retailers have an obligation to provide consumers with essential sales information relating to the products. As regards the concern that retailers would have to bear all legal responsibilities on product descriptions, the Administration advises that provisions of TDO, unless specified otherwise, apply to all parties in their course of trade or

business. In this connection, the offence under section 7 of TDO in respect of trade descriptions applies to manufacturers, importers, and retailers, while section 26 of TDO provides a defence for a person charged with an offence under the Ordinance to prove that the giving of the false information was due to reliance on information supplied to him. If a retailer supplies false or misleading information on the product to consumers relying on the information provided by manufacturers or importers, section 26 is available as a defence to the retailer. Depending on the circumstances of individual cases, the enforcement agencies would prosecute the relevant parties.

15. There is concern about the lack of sanction on retailers for giving false or misleading information in invoices or receipts, as particulars such as the name of the supplier, the price of the product and the date of the transaction, which are required under the subsidiary legislation, are not included in the definition of "trade description" under section 2 of TDO. The Administration assures members that consumers should have no problem verifying such information in the invoices or receipts, as they would enquire or dispute the accuracy of the information if there is discrepancy. Other items of information that cannot be verified by the consumer on the spot, such as the resolution of camera or storage capacity of the regulated electronic products, are considered as the "strength" or "performance" of the product and are within the definition of "trade description" under TDO.

Protection for retailers in the course of trade or business

16. Members of the Subcommittee are concerned that the subsidiary legislation would only govern the sale of jewellery articles and electronic products at retail level, but fail to protect retailers when they are supplied with these articles in the course of their business. For instance, it is stipulated in the Information on Natural Fei Cui Order, Information on Diamond Order and Information on Regulated Electronic Products Order that persons who supply the article or product in the course of trade or business "at retail level" are required to issue invoices or receipts and/or display the notice. Members further note that the phrase "any person in the course of trade or business" in paragraph 4 of the existing Gold and Platinum Marking Orders is wide enough to cover persons who may be the manufacturers or wholesalers supplying the articles to retailers, as well as retailers who supply the articles at retail level to consumers. However, the addition of "at retail level" in paragraph 4 of the two Amendment Orders would have the effect of narrowing the scope of application to retailers only, as the manufactures or wholesalers supplying the articles to retailers will no longer have the legal responsibility to mark on the articles concerned indicating the fineness of the gold or platinum content.

17. The Administration has stressed that the objective of the subsidiary legislation is to protect consumers. Misrepresentations by manufactures or wholesalers to retailers are governed by provisions of TDO. The responsibilities of these parties to retailers are set out in the contracts entered between them. Hence, there is adequate protection for retailers in this respect. Moreover, manufacturers or wholesalers will not be precluded from following the requirements under the subsidiary legislation when supplying the articles or products to retailers. As retailers will need to comply with the statutory requirements, there will be a knock-on effect on

the manufacturers or wholesalers to follow the same requirements. The Administration further points out that it is the established practice of the gold and platinum trade for manufacturers or wholesalers to supply marked articles to retailers upon the latter's request. Nonetheless, the Administration assures members that it would review the subsidiary legislation and consider the need to enhance the protection for retailers in the light of implementation of the new requirements.

18. The Subcommittee also examines the circumstances under which a person will be regarded as supplying goods "at retail level". The Administration is of the view that a trader who sells goods to consumers is regarded as supplying goods in the course of trade or business at retail level. "Consumers" generally refers to members of the public. As auction is considered as a form of supplying goods at the retail level, the requirements to display notice and issue invoices or receipts under the subsidiary legislation will also apply to auctioneers. The Administration believes that the court will interpret "at retail level" according to its ordinary meaning taking into account the facts of each case.

The requirement for retailers of natural fei cui to display notice and issue invoices or receipts

19. The Information on Natural Fei Cui Order requires retailers of natural fei cui to display prominently at the point of supply a notice in the prescribed form informing customers of the definition of natural fei cui and fei cui, and the suppliers' obligation to issue a detailed invoice or receipt to consumers on the sale of an article of natural fei cui. Members of the Subcommittee are concerned that as the notice only refers to the statutory definitions of "fei cui" and "natural fei cui", general customers would have difficulty in understanding the meaning of the terms. Members suggest that detailed descriptions of natural fei cui and non-natural fei cui, such as Type A fei cui (known in the market as natural fei cui), Type B and Type C fei cui, should be included in the notice.

20. The Administration explains that the definition of "fei cui" and "natural fei cui" are provided in the Definition of Fei Cui and Natural Fei Cui Regulation tabled at the LegCo in March 2008. Under the Regulation, "fei cui" means an article of a granular to fibrous polycrystalline aggregate composed solely or principally of jadeite, omphacite, or kosmochlor, or any combination of these substances. Inclusion of such a technical definition in the notice might not necessarily enhance customers' understanding of the term and might even confuse them. Nonetheless, the retailers of "natural fei cui" are required to state in the notice that "fei cui" can be described as "natural" only if it has not been subjected to any treatment or process which altered its crystalline structure or original colour. The information would help customers to differentiate between articles of "natural fei cui" and "fei cui". Enforcement actions would be taken to ensure that retailers comply with the requirement. The Administration further points out that the gemstone trade has reservation about using the term "Type A, Type B and Type C fei cui" to describe articles of fei cui, and the term "non-natural fei cui" to describe fei cui which does not fall within the definition of "natural fei cui", as these terms are not internationally recognized and the term

"non-natural fei cui" might carry negative implications on traders selling the articles and adversely affect their business.

21. The Subcommittee has examined whether the word "jade" should be used in place of "fei cui" as the English name for "翡翠" as the former is more easily understood by tourists, and whether the crystalline structure of fei cui should be adopted as a criterion for defining the term. The Administration advises that there is no internationally agreed English name for "翡翠". It has consulted the gemstone trade and the Gemological Association of Hong Kong, which include key players in the trade and professionals in the field, on the matter. They are supportive of using the term "fei cui". Nevertheless, the Administration has taken on board members' suggestion and consulted academics and experts in the relevant field. The advice from academics and experts is in line with that set out in the Definition of Fei Cui and Natural Fei Cui Regulation. They have also confirmed that the Administration's understanding of "fei cui" and "natural fei cui" is correct and that the legislative proposals are proper and practicable.

22. As there is no requirement on retailers of fei cui to display the notice and issue invoice or receipt, members are concerned about the lack of protection for consumers in purchasing articles of fei cui. The Administration points out that the Information on Natural Fei Cui Order aims at combating deceitful acts of traders in the sale of natural fei cui, who claim fei cui to be natural fei cui which is the subject of complaints from consumers in recent years. The suggestion of requiring all retailers of jade articles to display notice and issue invoice or receipt would affect the operation of small traders, in particular those running small stalls on the streets. The Administration considers that the present proposal has struck an appropriate balance between enhancing protection for consumers and avoiding unnecessary compliance burden on small traders.

23. In this regard, the Subcommittee notes that the trade welcomes the enactment of the Information on Natural Fei Cui Order, which would combat malpractices of dishonest retailers deceiving consumers that their jade products are articles of "natural fei cui". Members share the trade's views that the Administration should keep the regulatory regime under review in the light of operation of the Definition on Fei Cui and Natural Fei Cui Regulation and the Information on Natural Fei Cui Order. It is also necessary to step up publicity on the new requirements and consumer education, in particular, to enhance consumers' understanding of "fei cui" and "natural fei cui". Members welcome the trade's initiative to strengthen training for sales representatives to further enhance their professional knowledge of the terms and the Administration's initiative to work with the trade and CC in strengthening consumer education, so that consumers would make an informed decision in the purchase of the articles.

Requirements for retailers to provide specified information in the sale of popular electronic products

24. Under the Information on Regulated Electronic Products Order, retailers selling the five types of electronic products namely, digital audio player, digital camcorder, digital camera, mobile phone and portable multimedia player, are required to issue invoices or receipts containing eight items of information relating to the transaction. These include the name and address of the supplier, the price, the date of supply, the brand name of the product, the model number, the place of manufacture of the product, core features of the product as listed in the Schedule to the Order, and the availability or otherwise of after-sale services for the product and information relating to such services. Retailers are required to retain the copies of invoices or receipts for at least three years.

25. The Subcommittee notes the concern of deputations that due to rapid changes in the features and functions of the electronic products, substantial work would be involved for retailers to provide the prescribed information in invoices and receipts. While large retail shops would have the resources to invest in computer systems to facilitate compliance with the requirement, small retailers would encounter problems.

26. The Administration explains that the first five items of information relating to the transaction are already information provided in invoices or receipts currently issued by retailers. If the place of manufacture of the product is unknown to the retailers, they could just state so in the invoices or receipts. As regards information on the core features and the availability of after-sale services for the products, retailers should encounter no difficulty as such information is available from manufacturers or importers. During the Administration's consultation with the trades, no association has expressed difficulties in providing the information.

27. To ease the compliance burden on retailers, the Subcommittee has requested the Administration to consider deputations' suggestion that retailers stating in the invoices or receipts that the functions and after-sale services for the electronic products are the same as provided in the warranty cards, product specifications and user manuals should be accepted as satisfying the legal requirement of providing detailed information. The Administration has reservation on whether the proposal could effectively protect consumers from deceptive acts and misrepresentation by retailers. It points out that with the specified information provided in the invoices or receipts, consumers could read the information at the time of the transaction and raise enquiries to the retailers in a timely manner. The requirement should not take retailers much time or cause too much trouble. The Administration advises that there is no requirement on how the prescribed information should be presented. Retailers can use either Chinese or English to list the information in the invoices or receipts. The information can be hand-written, computer-printed, or sealed in chop.

Application of the Information on Regulated Electronic Products Order to retailers of second-hand electronic products

28. Deputations have raised concern on the scope of the Information on Regulated Electronic Products Order in covering retailers selling second-hand regulated electronic products. While members of the Subcommittee understand the policy intent of the Administration to regulate these retailers from the consumer protection perspective, they express grave concern about difficulties for these retailers in complying with the requirement. In particular, the requirement to issue invoices or receipts listing the prescribed information would impose a heavy burden on retailers running small second-hand stalls on the streets. These small stalls usually sell low price products and the retailers concerned may not have the professional knowledge to provide the prescribed information. Members have urged the Administration to address the concern and consider the feasibility of providing exemption for retailers operating small stalls. The Administration points out that there is no reason to exempt retailers of second-hand shops from the requirement. The Subcommittee notes that the Administration has consulted relevant retailers' associations including small and medium-sized traders and they have not raised any concern about difficulties in complying with the requirement. Nevertheless, to address members' concern about compliance burden on retailers of small stalls, the Administration will move amendments to stipulate in the Order that the requirement of issuing invoices or receipts would only apply to retailers of regulated electronic products whose trade or business is conducted on premises included in the valuation list under section 14 of the Rating Ordinance (Cap. 116). The effect of this amendment is that retailers operating small stalls on the streets would be exempted from the requirement.

Other major amendments to the subsidiary legislation proposed by the Administration

29. With a view to improving the clarity of the six items of subsidiary legislation and facilitating retailers' compliance and the Administration's enforcement, the Administration has taken on board views expressed by members and deputations to make technical and drafting amendments to the subsidiary legislation. The Subcommittee supports the amendments to be moved by the Administration. Major amendments are summarized below.

Information on Natural Fei Cui Order and Information on Diamond Order

30. For greater clarity and consistency, reference to the definition of "natural fei cui" in the Definition of Fei Cui and Natural Fei cui Regulation will be added in section 2 of the Information on Natural Fei Cui Order, and the name of the Regulation will be cited in the Schedule to the Order. To enhance protection for consumers of articles of natural fei cui, amendments to the Information on Natural Fei Cui Order will be made to require retailers to state clearly in the invoices or receipts whether the article is solely or principally composed of natural fei cui, and whether it is inlaid with other jade. Similar amendments will be made to the Information on Diamond Order,

under which retailers are required to state clearly in the invoices or receipts whether the article is inlaid with only diamond, or both diamond and other precious stones.

Information on Regulated Electronic Products Order

31. Amendments will be introduced to the definitions of the five types of regulated electronic products in section 2 of the Order to ensure consistency with the definitions of the same types of products used in the Trade Descriptions (Amendment) Bill 2007. Moreover, amendments will be made to the drafting of section 3(2)(f) and section 3(3) of the Order to ensure consistency with the provisions in the Trade Descriptions (Amendment) Bill 2007, and to clarify the information required on the place at which after-sale services for the electronic products are available.

32. Given the rapid development in technology, members note that a single electronic product may have multiple functions. To ensure effective regulation on the products, the Administration has adopted an approach focusing on the "principal function" in defining the five types of regulated electronic products. For instance, a product with its principal function as a camera will be defined as a digital camera. In order to provide the courts with more flexibility in considering other factors when determining the principal function of a regulated electronic product, the Administration will make amendment to section 2(2) of the Order to achieve this effect.

Conclusion

33. The Subcommittee has completed scrutiny of the six items of subsidiary legislation and the proposed amendments to be moved by the Administration. The Subcommittee supports the Administration's proposed amendments and will not propose amendments to the subsidiary legislation. Draft amendments to the subsidiary legislation to be moved by the Administration are in **Appendix III**.

Advice sought

34. The House Committee is invited to note the deliberations of the Subcommittee.

Council Business Division 1
Legislative Council Secretariat
28 May 2008

**Subcommittee to Study Six Items of Subsidiary Legislation under the Trade
Descriptions Ordinance Gazetted on 18 April 2008**

Membership List

Chairman Hon CHAN Kam-lam, SBS, JP

Members Hon Fred LI Wah-ming, JP

Hon SIN Chung-kai, SBS, JP

Hon Audrey EU Yuet-mee, SC, JP

Hon Vincent FANG Kang, JP

Hon Andrew LEUNG Kwan-yuen, SBS, JP

Hon WONG Ting-kwong, BBS

Hon Ronny TONG Ka-wah, SC

Hon CHIM Pui-chung

(Total : 9 Members)

Clerk Ms Connie SZETO

Legal Adviser Ms Connie FUNG

**Subcommittee to Study Six Items of Subsidiary Legislation under the Trade
Descriptions Ordinance Gazetted on 18 April 2008**

List of organizations/individuals submitted views on the Subsidiary Legislation

1. Consumer Council
2. German Industry and Commerce Ltd.
3. Hong Kong & Kowloon Jade Merchants Union Association
4. Hong Kong General Chamber of Commerce
5. Hong Kong Jade Wholesalers & Retailers Association Limited
6. Hong Kong Tourism Industry Employees General Union
7. Hong Kong Trade Services Council
8. Hong Kong Tsuen Wan Industries and Commerce Association Limited
9. The Hong Kong Chinese Enterprises Association
10. The Hong Kong Electronic Industries Association Limited
11. The Law Society of Hong Kong

INTERPRETATION AND GENERAL CLAUSES ORDINANCE

RESOLUTION

(Under section 34(2) of the Interpretation and General Clauses Ordinance (Cap. 1))

TRADE DESCRIPTIONS (PROVISION OF INFORMATION ON NATURAL FEI CUI) ORDER

RESOLVED that the Trade Descriptions (Provision of Information on Natural Fei Cui) Order, published in the Gazette as Legal Notice No. 79 of 2008 and laid on the table of the Legislative Council on 23 April 2008, be amended –

- (a) by renumbering section 2 as section 2(1);
- (b) in section 2(1), in the definition of “natural fei cui”, by repealing everything after “meaning of” and substituting “section 2 of the Trade Descriptions (Definition of Fei Cui and Natural Fei Cui) Regulation (L.N. 42 of 2008) which falls within the definition of “natural” or “天然” in section 3 of that Regulation when used to describe fei cui.”;
- (c) in section 2(1), in the Chinese text, in paragraph (b) of the definition of “天然翡翠製品”, by repealing “鑲嵌” and substituting “嵌有”;
- (d) in section 2, by adding –

- “(2) An article on which an object is mounted is regarded for the purposes of this Order as an article inlaid with that object.”;
- (e) in section 3(2)(d), by repealing everything after “describe the” and substituting –
- “article –
- (i) where the article is inlaid with both natural fei cui and other jade, as “natural fei cui plus other jade” or “天然翡翠和其他玉石”; or
- (ii) where the article is –
- (A) composed solely or principally of natural fei cui; or
- (B) inlaid with natural fei cui but with no other jade, as “natural fei cui” or “天然翡翠”.”;
- (f) in the Schedule, in the English version of the notice, by repealing paragraph (a) and substituting –
- “(a) only jade that falls within the definition in the Trade Descriptions (Definition of Fei Cui and Natural Fei Cui) Regulation (Cap. 362 sub. leg.) can be described as “fei cui”.”;
- (g) in the Schedule, in the Chinese version of the notice, by repealing paragraph (a) and substituting –

- “(a) 只有符合《商品說明(翡翠及天然翡翠的定義)規例》(第 362 章，附屬法例)中的定義的玉石，方可被稱為“翡翠”；”;
- (h) in the Schedule, in paragraph (b) of the Chinese version of the notice, by adding “任何” after “經過”.

INTERPRETATION AND GENERAL CLAUSES ORDINANCE

RESOLUTION

(Under 34(2) of the Interpretation and General Clauses Ordinance (Cap. 1))

TRADE DESCRIPTIONS (PROVISION OF INFORMATION ON DIAMOND) ORDER

RESOLVED that the Trade Descriptions (Provision of Information on Diamond) Order, published in the Gazette as Legal Notice No. 80 of 2008 and laid on the table of the Legislative Council on 23 April 2008, be amended –

- (a) by re-numbering section 2 as section 2(1);
- (b) in section 2(1), in the definition of “article of diamond” by repealing paragraphs (a), (b) and (c) and substituting –
 - “(a) which is composed solely of diamond; or
 - (b) which is inlaid with diamond for the purpose of adornment;”;
- (c) in section 2, by adding –
 - “(2) An article on which an object is mounted is regarded for the purposes of this Order as an article inlaid with that object.”;
- (d) in section 3(2)(d), by repealing everything after “describe the” and substituting –
 - “article –
 - (i) as being composed solely of diamond;

- (ii) where the article is inlaid with both diamond and other precious stone, as being inlaid with both diamond and other precious stone; or
 - (iii) where the article is inlaid with diamond but with no other precious stone, as being inlaid with diamond,
- as may be appropriate; and”.

INTERPRETATION AND GENERAL CLAUSES ORDINANCE

RESOLUTION

(Under section 34(2) of the Interpretation and General Clauses Ordinance (Cap. 1))

TRADE DESCRIPTIONS (PROVISION OF INFORMATION ON REGULATED ELECTRONIC PRODUCTS) ORDER

RESOLVED that the Trade Descriptions (Provision of Information on Regulated Electronic Products) Order, published in the Gazette as Legal Notice No. 81 of 2008 and laid on the table of the Legislative Council on 23 April 2008, be amended –

- (a) in section 2(1), in the English text, in paragraph (a) of the definition of “digital audio player”, by repealing “playing” and substituting “to play”;
- (b) in section 2(1), in the English text, in paragraph (b) of the definition of “digital audio player”, by repealing “products” and substituting “the product”;
- (c) in section 2(1), in the English text, in the definition of “digital camcorder”, by repealing “making” and substituting “to make”;
- (d) in section 2(1), in the English text, in the definition of “digital camera”, by repealing “recording and storing” and substituting “to record and store”;
- (e) in section 2(1), in paragraph (a) of the definition of “mobile phone”, by adding “and” after the semi-colon;

- (f) in section 2(1), in the English text, in paragraph (a) of the definition of “portable multimedia player”, by repealing “playing” and substituting “to play”;
- (g) in section 2(1), in the English text, in paragraph (b) of the definition of “portable multimedia player”, by repealing “products” and substituting “the product”;
- (h) in section 2(2)(b), by repealing “and”;
- (i) in section 2(2)(c), by repealing the full stop and substituting “; and”;
- (j) in section 2(2), by adding –
 - “(d) any other relevant information.”;
- (k) in section 3, by adding –
 - “(1A) Subsection (1) applies only to trade or business conducted on premises being a tenement included in the valuation list in force under section 14 of the Rating Ordinance (Cap. 116).”;
- (l) in section 3(2), in the English text, by repealing paragraph (f) and substituting –
 - “(f) the following information as regards service for the inspection, repair or maintenance of the product –
 - (i) such service is available free of charge or such service is not so available, as may be applicable; and
 - (ii) where such service is available –

- (A) subject to subsection (3),
the place at which such
service is available;
 - (B) the identity of the
provider of such service;
and
 - (C) the period for which such
service is available;”;
- (m) in section 3(3), in the English text, by repealing “facilities for the inspection, repair or service” and substituting “a service for the inspection, repair or maintenance”;
 - (n) in section 3(3)(a), by repealing “facilities are available in any particular one of those places, show” and substituting “service is available in any particular one of those places, contain information on”;
 - (o) in section 3(3)(b), by repealing “facilities are available in a particular place, show” and substituting “service is available in a particular place, contain information on”;
 - (p) in section 3(3)(b)(i), in the English text, by repealing “facilities” and substituting “service”;
 - (q) in section 3(3)(b)(ii), in the English text, by repealing “facilities are” and substituting “service is”;
 - (r) in the Schedule, in the Chinese text, in paragraph (c) of the item “數碼攝錄機”, by adding “以像素列出的” before “硬照”;
 - (s) in the Schedule, in paragraph (d) of the item “Digital camcorder”, by adding “(if provided)” after “card”;

- (t) in the Schedule, in the Chinese text, in paragraph (a) of the item “數碼相機”, by repealing “鏡頭” and substituting “相機”;
- (u) in the Schedule, in paragraph (b) of the item “Digital camera” , by adding “(if provided)” after “card” ;
- (v) in the Schedule, in paragraph (b) of the item “Mobile phone” , by adding “(if provided)” after “card” ;
- (w) in the Schedule, in the Chinese text, in paragraph (d) of the item “手提電話”, by repealing “鏡頭”.

INTERPRETATION AND GENERAL CLAUSES ORDINANCE

RESOLUTION

(Under section 34(2) of the Interpretation and General Clauses Ordinance (Cap. 1))

TRADE DESCRIPTIONS (MARKING)(GOLD AND GOLD ALLOY)(AMENDMENT) ORDER 2008

RESOLVED that the Trade Descriptions (Marking)(Gold and Gold Alloy)(Amendment) Order 2008, published in the Gazette as Legal Notice No. 82 of 2008 and laid on the table of the Legislative Council on 23 April 2008, be amended –

(a) in section 4(2), in the proposed paragraph 6(1)(d)(ii), by adding “by virtue of paragraph 5(1)” before “and the”;

(b) in section 10, by adding before subsection (1) –

“(1A) The Third Schedule is amended in the English version of the Notice by repealing “Order 1984” and substituting “Order (Cap. 362 sub. leg.)”.”;

(c) in section 10, by adding –

“(2A) The Third Schedule is amended in the Chinese version of the Notice by repealing “《 1984 年商品說明(標記)(黃金及黃金合金)令 》” and substituting “《 商品說明(標

記)(黃金及黃金合金)令》(第 362 章，附屬法
例)”。

INTERPRETATION AND GENERAL CLAUSES ORDINANCE

RESOLUTION

(Under section 34(2) of the Interpretation and General Clauses Ordinance (Cap. 1))

TRADE DESCRIPTIONS (MARKING)(PLATINUM) (AMENDMENT) ORDER 2008

RESOLVED that the Trade Descriptions (Marking)(Platinum)(Amendment) Order 2008, published in the Gazette as Legal Notice No. 83 of 2008 and laid on the table of the Legislative Council on 23 April 2008, be amended –

- (a) in section 5(2), in the proposed paragraph 6(1)(d)(ii), by adding “by virtue of paragraph 5(1)” before “and the”;
- (b) in section 11(1), by repealing everything after “by” and substituting “repealing “Order, every article made of platinum that is supplied or offered for supply in the course of trade or business” and substituting “Order (Cap. 362 sub. leg.), every article made of platinum that is supplied or offered for supply in the course of trade or business at retail level”.”;
- (c) in section 11(3), by repealing everything after “by” and substituting “repealing “令》, 每一件在” and substituting “令》(第 362 章, 附屬法例), 每一件在零售層面的”.”.