

立法會
Legislative Council

LC Paper No. LS21/07-08

**Paper for the House Committee Meeting
on 7 December 2007**

**Legal Service Division Report on
Subsidiary Legislation Gazetted on 30 November 2007**

Date of tabling in LegCo : 5 December 2007

Amendment to be made by : 19 December 2007 (or 23 January 2008 if extended by resolution)

Unsolicited Electronic Messages Ordinance (9 of 2007)
Unsolicited Electronic Messages Regulation (L.N. 108 of 2007)
Unsolicited Electronic Messages (Amendment) Regulation 2007 (L.N. 225)

The Unsolicited Electronic Messages Regulation (L.N. 108 of 2007) (the UEM Regulation) is made under the Unsolicited Electronic Messages Ordinance (9 of 2007) to supplement the rules for the sending of commercial electronic messages set out in Part 2 of the Ordinance. Section 5 of the UEM Regulation provides for the requirement to include in a commercial electronic message information relating to the identity and contact information of the sender of the message. Section 6(1) of the UEM Regulation provides that the identity and the contact information (the relevant information) required to be given under section 5 must be given in both Chinese and English. The same language requirement applies to the unsubscribe facility statement as provided in section 7(1). Sections 6(2) and 7(2) of the UEM Regulation provide for an exception to the above language requirement by respectively allowing the relevant information and the unsubscribe facility statement to be given solely in Chinese, English or another language if the recipient of the message has indicated to the sender or the individual or organization who authorized the sending of the message that the information and the unsubscribe facility statement concerned may be given in that language.

2. This Regulation amends sections 6(2) and 7(2) of the UEM Regulation to replace the words “solely in Chinese, English or another language” by “in any language” and adds further exceptions which will allow the relevant information and the unsubscribe facility statement to be given in any language if the sender or the individual or organization who authorized the sending of the message knows or reasonably believes that the person to whom the message is sent is an individual who resides outside Hong Kong and uses or is able to communicate in that language, or is an organization that is not carrying on business or activities in Hong Kong and uses or is able to communicate in that language.

3. The Subcommittee on Unsolicited Electronic Messages Regulation (Commencement) Notice (the Subcommittee) reported to the House Committee at its meeting on 30 November 2007 (LC Paper No. CB(1)345/07-08 refers). It was noted in the Subcommittee's report that the electronic marketing industry was concerned about the language requirement in respect of the provision of sender information and the unsubscribe facility statement in sending commercial electronic messages that have a Hong Kong link. The Subcommittee agreed to the Administration's proposal to amend the UEM Regulation to address the concern, and had given views on how amendments should be made. This Regulation is the same as the version of the draft Unsolicited Electronic Messages (Amendment) Regulation for which the Subcommittee had expressed support.

4. This Regulation will come into operation on the day appointed for the commencement of the UEM Regulation. By the Unsolicited Electronic Messages Regulation (Commencement) Notice (L.N. 202 of 2007), the Secretary for Commerce and Economic Development has appointed 22 December 2007 as the day on which the UEM Regulation will come into operation.

Tax Reserve Certificates (Fourth Series) Rules (Cap. 289 sub. leg. A)
Tax Reserve Certificates (Rate of Interest) (No. 6) Notice 2007 (L.N. 226)

5. By this Notice, the rate of interest payable on tax reserve certificates issued on or after 3 December 2007 is fixed at 2.3333% per annum. The Schedule to the Tax Reserve Certificates (Rate of Interest) (Consolidation) Notice (Cap. 289 sub. leg. B) is consequentially amended as a result of the new rate.

6. No difficulties relating to the legal and drafting aspects of the above items of subsidiary legislation have been identified.

Prepared by

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3 December 2007