

LEGISLATIVE COUNCIL BRIEF

Hong Kong Airport (Control of Obstructions) Ordinance (Chapter 301)

Hong Kong Airport (Control of Obstructions) (Exemption)(Amendment) Order 2007

BACKGROUND AND ARGUMENT

The Hong Kong Airport (Control of Obstructions) Ordinance (Chapter 301) (the Ordinance) controls, among other things, the height of buildings in prescribed areas in the interest of aviation safety. Pursuant to section 3(1AA) of the Ordinance, the Secretary for Development (the Secretary) may, where in her opinion the safety of aircraft so requires and on the advice of the Director-General of Civil Aviation, by order prescribe the areas within which no building shall exceed the height specified in the order. In conjunction with the opening of the Hong Kong International Airport at Chek Lap Kok, the Hong Kong Airport (Control of Obstructions) (No. 2) Order 1997 (the Order) was made pursuant to section 3(1AA) of the Ordinance. The Order, which specified the airport height restrictions (AHR) for certain prescribed areas, came into operation on 20 June 1997.

2. Section 3(3A) of the Ordinance provides that the Secretary may, on the advice of the Director-General of Civil Aviation, by order grant an

exemption from the operation of an order made pursuant to section 3(1AA) of the Ordinance subject to such terms and conditions required for or related to the safety of aircraft as she may impose. An application for exemption from the AHR specified in the Order has been received from the Hong Kong CSL Limited (CSL).

The Application

3. CSL has applied for an exemption from the AHR for the erection of a mobile phone base station near Tai Lam Chung Reservoir to improve the mobile phone coverage. The proposed station will be at a height of about 147.9mPD, exceeding the AHR of 114mPD specified under the Order for the area. This proposed station will not be allowed unless an exemption from the operation of the Order is obtained.

4. The Director-General of Civil Aviation has no objection to the granting of an exemption from the operation of the Order for the proposed station. The Director-General of Telecommunications supports the exemption as the proposed mobile phone base station is required for improving the mobile coverage for the Tai Lam Country Park and its vicinity. The Director of Planning, Director of Buildings, Director of Lands, Director of Architectural Services, Director of Civil Engineering and Development, Director of Drainage Services, Director of Highways, Commissioner for Transport and Director of Agriculture, Fisheries and Conservation have no objection to the proposal.

THE EXEMPTION AMENDMENT ORDER

5. The Hong Kong Airport (Control of Obstructions) (Exemption) Order (Cap. 301 sub. leg. E) is amended to exempt the portion of land* from the operation of the Order. It also specifies the new height restriction for buildings which may be erected on the exempted area.

**Note: all that portion of land shown coloured pink hatched black on Plan No. TMM2776d signed by the Secretary for Development and deposited at the Land Registry subject to a height restriction of 147.9mPD.*

LEGISLATIVE TIMETABLE

6. The Exemption Amendment Order will be published in the Gazette on 5 October 2007 and tabled in the Legislative Council for negative vetting on 10 October 2007.

BASIC LAW AND HUMAN RIGHTS IMPLICATIONS

7. The Exemption Amendment Order is in conformity with the Basic Law, including the provisions concerning human rights.

FINANCIAL AND STAFFING IMPLICATIONS

8. There are no financial or staffing implications arising from the Exemption Amendment Order.

PUBLIC CONSULTATION AND PUBLICITY

9. The Exemption Amendment Order concerns matters of a technical nature. It is unlikely to attract public interest. As such, neither consultation with the public nor publicity is considered necessary.

ENQUIRIES

10. For enquiries, please contact Miss Zorina Wan, Assistant Secretary of the Development Bureau, at 2189 7951.

Development Bureau
October 2007

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2. Section 3(3A) of the Ordinance provides that the Secretary may, on the advice of Director-General of Civil Aviation, by order grant an exemption

from the operation of an order made pursuant to section 3(1AA) of the Ordinance subject to such terms and conditions required for or related to the safety of aircraft as she may impose. An application for exemption from the AHR specified in the Order has been received from the Television Broadcasts Limited (TVB).

The Application

3. TVB has applied for an exemption from the AHR for the construction of new infrastructures at its Temple Hill Site to facilitate the implementation of the digital terrestrial TV. The proposed new infrastructures will be at a height of 531mPD, exceeding the AHR of 460mPD specified under the Order for the area. These proposed new infrastructures will not be allowed unless an exemption from the operation of the Order is obtained.

4. The Director-General of Civil Aviation has no objection to the granting of an exemption from the operation of the Order for the proposed new infrastructures. The Director-General of Telecommunications supports the exemption as the proposed infrastructures are required for the implementation of the digital terrestrial TV. The Director of Planning, Director of Buildings, Director of Lands, Director of Agriculture, Fisheries and Conservation, Director of Environmental Protection, Commissioner for Transport, Director of Water Supplies, Director of Drainage Services, Director of Civil Engineering and Development, Director of Architectural Services and Controller of Government

Flying Service have no objection to the proposal.

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5. The Hong Kong Airport (Control of Obstructions) (Exemption) Order (Cap. 301 sub. leg. E) is amended to exempt the portion of land* from the operation of the Order. It also specifies the new height restriction for buildings which may be erected on the exempted area.

**Note: all that portion of land shown coloured pink stippled black on Plan No. STM8394g signed by the Secretary for Development and deposited at the Land Registry subject to a height restriction of 531mPD.*

LEGISLATIVE TIMETABLE

6. The Exemption Amendment Order will be published in the Gazette on 5 October 2007 and tabled in the Legislative Council for negative vetting on 10 October 2007.

BASIC LAW AND HUMAN RIGHTS IMPLICATIONS

7. The Exemption Amendment Order is in conformity with the Basic Law, including the provisions concerning human rights.

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8. There are no financial or staffing implications arising from the Exemption Amendment Order.

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