

**Replies to supplementary questions raised by Finance Committee Members in examining the
Estimates of Expenditure 2012-13**

**Director of Bureau : Secretary for the Civil Service
Session No. : 2**

Reply Serial No.	Question Serial No.	Name of Member	Head	Programme
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Examination of Estimates of Expenditure 2012-13
**CONTROLLING OFFICER'S REPLY TO
SUPPLEMENTARY QUESTION**

Reply Serial No.

S-CSB01

Question Serial No.

SV002

Head: 143 – Government Secretariat: Civil Service Bureau Subhead (No. & title):

Programme: (2) Human Resource Management

Controlling Officer: Permanent Secretary for the Civil Service

Director of Bureau: Secretary for the Civil Service

Question:

Provide, for members' reference at the miscellaneous session of the meeting, copies of the Acceptance of Advantages (Chief Executive) Permission Notice 2010 and relevant circulars on acceptance of advantages by civil servants

Asked by: Hon. Emily LAU Wai-hing

Reply:

The following Civil Service Regulations (CSR) and Civil Service Bureau (CSB) Circulars specifically on acceptance of advantages and entertainment which have been promulgated to all civil servants are attached for members' reference -

- (1) Acceptance of Advantages (Chief Executive's Permission) Notice 2010 (Annex 1);
- (2) CSR 431 to 435 on "Acceptance of entertainment" (Annex 2);
- (3) CSR 444 on "Acceptance of advantages (Annex 3);
- (4) CSR 448 on "Retirement gifts" (Annex 4);
- (5) CSB Circular No. 3/2007 on "Acceptance of advantages offered to an officer in his private capacity" (Annex 5); and
- (6) CSB Circular No. 4/2007 on "Advantages/entertainment offered to an officer in his official capacity and gifts and donations to a department for the benefit of staff" (Annex 6).

Signature _____

Name in block letters _____ Raymond H.C. Wong

Post Title _____ Permanent Secretary for the Civil Service

Date _____ 6 March 2012

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;

Permission in respect of advantages other than passages

- (b) solicit or accept any gift of money or loan of money or other allowance or advance made or given out of any Government staff welfare fund or permitted by the Government under any Government regulations or permitted in accordance with the prescribed officer's terms and conditions of employment or appointment;
 - (c) solicit or accept any air, sea or overland passage provided in accordance with any Government regulations or provided in accordance with the prescribed officer's terms and conditions of employment or appointment.
8. (1) (a) If a prescribed officer wishes to accept any gift (whether of money or otherwise), discount or loan of money 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 or presented with the gift, discount, or loan of money, seek the permission of the approving authority to accept it.
- (b) If a prescribed officer wishes to solicit any gift (whether of money or otherwise), discount or loan of money which he does not have permission to solicit under sections 3 to 7, he must, before soliciting the gift, discount or loan of money, seek the permission of the approving authority to solicit it.
- (2) In the case of gifts other than money, the approving authority may:—
- (a) permit the prescribed officer to solicit or accept the gift either unconditionally or subject to such conditions as the approving authority may specify; or
 - (b) refuse him permission to solicit or accept the gift and, if the gift is already in his possession,
 - (i) require him to return it to the donor; or
 - (ii) require the gift to be handed to a charitable organisation nominated by the prescribed officer and approved by the approving authority; or
 - (iii) require him to dispose of the gift in such other manner as the approving authority may direct.
- (3) In the case of discounts, the approving authority may:—
- (a) permit the prescribed officer to solicit or accept or take the benefit of the discount either unconditionally or subject to such conditions as the approving authority may specify; or
 - (b) refuse him permission to solicit or accept or take the benefit of the discount and, if he has already accepted or taken the benefit of the discount, require him to pay to the donor of the discount an amount equal to the value of the discount.
- (4) In the case of gifts of money or loans of money, the approving authority may:—
- (a) permit the prescribed officer to solicit or accept the gift of money or loan of money either unconditionally or subject to such conditions as the approving authority may specify; or
 - (b) refuse him permission to solicit or accept the money and, if the money is already in his possession,
 - (i) require him to return the money to the donor or lender; or
 - (ii) require him to dispose of the money in such other manner as the approving authority may direct.

(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.

CHAPTER III - CONDUCT AND DISCIPLINE

- Dec 92 431. (1) Entertainment is not of itself an advantage as defined by section 2 of the Prevention of Bribery Ordinance. (Cap. 201).
- Dec 92 (2) An officer is permitted to accept any entertainment from any person except such entertainment as is prohibited by Regulation 434 or under Regulation 435.
- Dec 92 432. (1) Entertainment is defined by section 2 of the Prevention of Bribery Ordinance to mean -
- “the provision of food or drink, for consumption on the occasion when it is provided, and of any other entertainment connected with, or provided at the same time as, such provision.”
- For the purposes of Regulations 431 - 435, the same definition applies.
- (2) The following are examples of what constitutes entertainment -
- (a) a meal;
 - (b) an occasion at which drinks of any kind are provided;
 - (c) attendance at a cinema, theatre or other public entertainment before or after a meal;
 - (d) dancing or other entertainment before, during or after a meal;
- Feb 2007 (3) Officers are warned that notwithstanding Regulation 431(1) and paragraph (2) above, the acceptance of free food, drink, show, etc., may in certain circumstances be regarded as “an advantage”, which may constitute a criminal offence under the Prevention of Bribery Ordinance. For example, when an officer visits a restaurant with which he has official dealings and at the end of the meal the restaurant owner waives the bill, the free meal may amount to “a discharge of obligation” which is an advantage under the Prevention of Bribery Ordinance, in that the officer is discharged from the obligation to pay the bill. If in doubt about such provision, the officer should reject it, or seek advice from his Permanent Secretary/Head of Department.
- Feb 2007 433 An officer who accepts entertainment other than in accordance with Regulations 431 – 435 may be subject to disciplinary proceedings.

CHAPTER III - CONDUCT AND DISCIPLINE

- Feb 2007 434 (1) An officer may not, without the permission of his Permanent Secretary/Head of Department, accept entertainment from any person if the entertainment is likely, for example by reason of its excessive nature or of the relationship between the officer and the other person or of the character of that person –
- (a) to lead to the embarrassment of the officer in the discharge of his functions; or
 - (b) to bring the officer or the public service into disrepute.
- Feb 2007 (2) In this regulation, reference to the Head of a Department means –
- (a) in relation to a person who is himself the Permanent Secretary/Head of Department, the Secretary for the Civil Service;
 - (b) in relation to any other officer –
 - (i) the Permanent Secretary/Head of Department of the bureau/department in which that officer is serving at the time when the entertainment is offered to the officer;
 - (ii) any other officer of that bureau/department authorised in writing by the Permanent Secretary/Head of Department to act on his behalf for the purposes of this regulation.
- Feb 2007 435 (1) A Permanent Secretary/Head of Department may, with the approval of the Secretary for the Civil Service, issue directions to the officers serving in that bureau/department.
- Feb 2007 (2) Such directions may prohibit an officer serving in that bureau/department from accepting, or from accepting without the permission of the Permanent Secretary/Head of Department or another officer of the bureau/department authorised by the Permanent Secretary/Head of Department for this purpose, any entertainment which such officer would, but for such prohibition, be permitted to accept, or to accept with permission.
- (3) An officer who contravenes any direction applicable to him issued under this regulation shall be deemed to have accepted entertainment other than in accordance with these regulations.
- Dec 92 (4) Any directions issued under this regulation shall be supplementary to Regulation 434.

CHAPTER III - CONDUCT AND DISCIPLINE

ACCEPTANCE OF ADVANTAGES

- Dec 2002 444 (1) The soliciting and/or acceptance of advantages by officers is governed by sections 3 and 4 of the Prevention of Bribery Ordinance (Cap. 201) and the Acceptance of Advantages (Chief Executive's Permission) Notice (see Annexes 3.4 and 3.5).
- Dec 2002 (2) Advantages offered/presented to an officer and/or the officer's spouse by virtue of the officer's official position or on an occasion attended in the officer's official capacity (including those offered/presented by another government department), whether in Hong Kong or elsewhere, are regarded as advantages to the bureau/department in which the officer works. They should be dealt with in accordance with the internal directive of the Secretary for the Civil Service in force at the time (see Annex 3.6, paragraphs 4-8 in particular).

CHAPTER III - CONDUCT AND DISCIPLINE

RETIREMENT GIFTS

- Dec 2002 448 (1) No gifts on retirement from officers in the same bureau/department (a departmental presentation) or from officers in the same general grade (a general grade presentation) may be accepted -
- (a) by a Permanent Secretary/Head of Department without the prior permission of the Secretary for the Civil Service; and
 - (b) by any other officer without the prior permission of his Permanent Secretary/Head of Department in the case of a departmental presentation, or of his Head of Grade in the case of a general grade presentation.
- (2) Departmental and General Grade presentations will be subject to the following conditions -
- (a) before any collection is organised, the retiring officer should be asked discreetly whether he has any objection to accepting a gift on his retirement;
 - (b) no arrangements to organise a subscription may be made until permission has been obtained under Regulation 448(1);
 - (c) there must be no element of compulsion or pressure of any sort on individuals to subscribe;
 - (d) the amount of individual subscription should not exceed 0.5% of the substantive monthly salary of the donor;
 - (e) unless special permission to the contrary is given by the Secretary for the Civil Service, subscriptions will be limited to -
 - (i) in the case of departmental presentations, officers in the same bureau/department as the recipient; and
 - (ii) in the case of general grade presentations, officers in the same general grade as the recipient (e.g. an executive grade subscription for a retiring executive officer will be limited to all ranks within the whole executive grade);
 - (f) lists showing the names of individual officers and the amounts they have contributed should be kept but on no account should they be circulated; arrangements should be made for contributions to be sent to a senior officer appointed to be responsible for organising the collection;

CHAPTER III - CONDUCT AND DISCIPLINE

448
(Cont'd) (g) a circular should be issued notifying the staff of the total amount collected towards a retirement present, the nature of the gift, and the date and time of presentation; and

(h) while there is no objection to the presentation of a gift voucher, the presentation of money, including cash, cheques, and promissory notes, is undesirable and may be approved only in exceptional circumstances on application to the Secretary for the Civil Service; the reasons for proposing a money gift should be stated fully when permission is sought.

Feb 2007

(3) Retirement gifts may be accepted from close personal friends or other persons, provided that in any one of the following cases, the retiring officer shall seek special permission from his Permanent Secretary/Head of Department to retain the gift or, in respect of a Permanent Secretary/Head of Department, from the Secretary for the Civil Service -

(a) the value of the gift from any close personal friend or any other person exceeds \$3,000 or \$1,500 respectively;

(b) the close personal friend or the other person has official dealings with the bureau/department in which the officer works; or

(c) in the case of a close personal friend or the other person working in the same bureau/department as the officer, the close personal friend or the other person is subordinate to the officer.

Dec 2002

(4) Retirement gifts other than those covered by paragraphs (1), (2) and (3) above should be dealt with as follows -

(a) except as provided in sub-paragraphs (b) below, retirement gifts may not be accepted from any person and such gifts should be politely refused save in the circumstances outlined in sub-paragraph (c) below;

(b) retirement presents from staff clubs and messes or other private associations or organisations or public bodies with which the officer has close association either in his private or official capacity may be accepted only with the approval from his Permanent Secretary/Head of Department or, in the case of an officer who is a Permanent Secretary/Head of Department, from the Secretary for the Civil Service. Permission to accept such retirement gifts will only be given subject to the following criteria -

(i) the gift is not in the form of money;

(ii) the value of the gift is not excessive having regard to the position of the officer; and

CHAPTER III - CONDUCT AND DISCIPLINE

448 (iii) acceptance of the gift would not place the officer in an
(Cont'd) obligatory position to the donor or cause embarrassment
to the Government.

Dec 2002 (c) if the presentation is made on a public occasion without
previous warning, then the gift should be accepted and the
officer should subsequently seek instructions from his
Permanent Secretary/ Head of Department as to whether or not
he may retain the gift or, in the case of an officer who is a
Permanent Secretary/Head of Department, from the Secretary
for the Civil Service.

Dec 2002 (5) Repealed.

16 February 2007

CIVIL SERVICE BUREAU CIRCULAR NO. 3/2007

**Acceptance of advantages offered to
an officer in his private capacity**

To : Directors of Bureau c.c. Judiciary Administrator
Permanent Secretaries Commissioner, Independent
Heads of Department Commission Against Corruption
Secretary, Public Service Commission

(Note : Distribution of this circular is Scale A, i.e. it should be read by all officers. A Chinese version is attached.)

Introduction

This circular serves to remind all officers of the provisions in the Prevention of Bribery Ordinance (Cap. 201) ("POBO") against the acceptance of advantages without permission. It gives a digest of the provisions in the Acceptance of Advantages (Chief Executive's Permission) Notice ("AAN") which are applicable to the acceptance of advantages offered to an officer in his private capacity. For advantages/entertainment offered to an officer in his official capacity, and gifts and donations to a department for the benefit of staff, guidelines on how these should be handled are given in CSB Circular No. 4/2007. In reading these two circulars, officers should, where necessary, refer to CSB Circular No. 2/2004 on "Conflict of Interest". This circular supersedes CSB Circular No. 15/2002.

The Prevention of Bribery Ordinance

2. All officers should familiarise themselves with the main provisions in the POBO which are summarised below. The POBO distinguishes between prescribed officers (as defined at **Annex I**) and public servants¹. Government officers, including those employed on non-civil service terms, fall into both of these classes.

- (a) Section 2(2): A person solicits an advantage if he, or any other person acting on his behalf, directly or indirectly demands, invites, asks for or indicates willingness to

¹ Public servants include any prescribed officers and any employees of a public body.

receive, any advantage, whether for himself or for any other person; and a person accepts an advantage if he, or any other person acting on his behalf, directly or indirectly takes, receives or obtains, or agrees to take, receive or obtain any advantage, whether for himself or for any other person;

- (b) Section 3 : it is an offence for a prescribed officer to solicit or accept any advantage without the Chief Executive's general or special permission;
- (c) Section 4 : it is an offence for a public servant to solicit or accept any advantage in Hong Kong or elsewhere as an inducement to or reward for or otherwise on account of his performing or abstaining from performing any act in his capacity as a public servant; and
- (d) Section 10 : it is an offence for a prescribed officer to maintain a standard of living not commensurate with, or to be in control of pecuniary resources or property disproportionate to, his official emoluments in the absence of a satisfactory explanation being made to the court.

An extract of the relevant parts of sections 2(2), 3, 4 and 10 of the POBO is at **Annex II**.

The Acceptance of Advantages (Chief Executive's Permission) Notice

3. Under section 3 of the POBO, any prescribed officer who, without the general or special permission of the Chief Executive, solicits or accepts any advantage is guilty of an offence. Section 3 does not require that the advantage be solicited or accepted for a corrupt purpose. The spirit behind section 3 is to prevent prescribed officers from falling into the "sweetening or softening up process" by accepting advantages and thereby rendering themselves vulnerable to later corrupt approaches.

4. Section 3 is necessary to uphold a high standard of probity within the civil service. To help cushion the impact of section 3 on the private lives of prescribed officers as ordinary citizens, the AAN has been put in place. Except for four specified types of "restricted" advantages, general permission is given under the AAN for an officer to solicit or accept, without restrictions, all the other forms of advantage that are defined in the POBO (including free services and loans of objects) offered to him in his private capacity. The advantages which fall within the "restricted" category, as listed below, may only be solicited or accepted under certain circumstances having regard to the officer's relationship with the person/party offering the advantage; the occasion on which the advantage is offered; and the value of the advantage –

- (a) gifts, both of money and in kind;
- (b) discounts;
- (c) loans of money; and
- (d) air, sea and overland passages.

The circumstances under which these “restricted” advantages may be solicited or accepted are summarised in paragraphs 6 to 12 below which should be read in conjunction with the relevant sections of the AAN.

5. The AAN has been updated to take account of inflation and operational experience over the years, and to further improve its clarity and enforceability. The changes introduced are shown at **Appendix A**. The amended Notice, now known as the ~~2007 Notice~~, has been endorsed by the Chief Executive and gazetted on ~~16 February 2007~~ (**Annex III**). It takes effect on the date of gazettal. CSB Circular Memorandum No. 3/2004 promulgating the 2004 Notice is hereby cancelled.

superseded by
AAN 2010

Advantages from relations

6. Under section 3 of the AAN, an officer may solicit or accept any advantage from a relation. The definition of “relation” is provided in the same section.

Advantages from tradesmen, companies, etc.

7. Under section 4 of the AAN, an officer may solicit or accept any “restricted” advantage offered to him in his private capacity by a tradesman, firm, company, organisation or association in the circumstances set out in sub-section (1)(a) – (d) therein, provided that –

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

Advantages from close personal friends

8. Under section 5 of the AAN, an officer may –

- (a) solicit or accept a short-term loan (to be repaid within 30 days) of up to \$3,000;
- (b) accept, but not solicit, a gift or passage of up to \$3,000 in value on a special occasion (such as the officer’s wedding, birthday, retirement or any other occasion when gifts are traditionally given or exchanged); and

- (c) accept, but not solicit, a gift or passage of up to \$500 in value on other occasions,

from a close personal friend.

9. However, this general permission is conditional upon –

- (a) the donor having no official dealings with the department in which the officer works;
- (b) the donor not being a subordinate of the officer; and
- (c) the occasion on which the gift or passage is presented not being one which the officer attends in his official capacity or by virtue of the official position he holds at the time.

Advantages from other persons

10. Section 6 of the AAN deals with the solicitation and acceptance of gifts, loans and passages from persons other than those mentioned in sections 4 and 5 of the AAN, that is, from persons other than a close personal friend or a tradesman or company, etc. Under this section, an officer may –

- (a) solicit or accept a short-term loan (to be repaid within 30 days) of up to \$1,500 from a person other than a close personal friend or a tradesman, company, etc.;
- (b) accept, but not solicit, a gift or passage of up to \$1,500 in value on a special occasion from a person other than a close personal friend or a tradesman, company, etc.; and
- (c) accept, but not solicit, a gift or passage of up to \$250 in value on other occasions, from a person other than a close personal friend or a tradesman, company, etc.

However, this permission is subject to the same conditions as those specified under paragraph 9 above.

11. A gift/passage that may be accepted by a prescribed officer from other persons on his retirement is now included in Civil Service Regulation (“CSR”) 448. An updated version of CSR 448 in the form of an amendment sheet is at **Appendix B**. It replaces the existing page of the CSR with effect from the date of this circular.

Advantages from the Government

12. Section 7 of the AAN deals with gifts, loans and passages made available by the Government. Gifts and passages which may be accepted (but not solicited) under section 7(a) of the AAN include those accepted in accordance with CSR or other Government regulations. Examples include CSR 444 (gifts offered/presented to an officer in his official capacity, which the approving authority deems fit to give back to the officer for personal retention) and CSR 448 (gifts on retirement). Gifts and loans of money which may be solicited or accepted under section 7(b) of the AAN include those permitted under CSR 440 (a departmental or grade collection made for the relief of an officer or of his/her family), CSR 477 (legal assistance to government officers) and CSRs 615 to 639 (advance of salary), as well as loans and grants from staff welfare and relief funds, etc.

“Restricted” and “unrestricted” advantages

13. “Restricted” advantages are those set out in paragraph 4, namely gifts, loans of money, discounts and passages, and may only be solicited or accepted in the circumstances set out in sections 3 to 7 of the AAN (see paragraphs 6 to 12 of this circular). Otherwise, special permission (see paragraph 17) is required for an officer to solicit or accept such advantages.

14. “Unrestricted” advantage means any advantage other than a “restricted” advantage. Examples of “unrestricted” advantages include loans of objects (but not money); free service (such as legal services, provision of professional advice); cash rewards including Good Citizen Awards; rewards for outstanding academic achievement; and prizes/awards from open competition (e.g. an essay competition or a sports event, etc.).

15. While general permission has been given under the AAN for the solicitation or acceptance of “unrestricted” advantages, officers must ensure that the solicitation or acceptance of such advantages would not give rise to a conflict of interest with their official duties or bring the Government into disrepute. In particular, before accepting a free service, an officer should ensure that he has no official dealings with the provider or his business and that his acceptance of the free service would not place him in an obligatory position towards the provider. An officer should declare to his Permanent Secretary/Head of Department if official dealings with the provider of the free service or his business arise in future. The Permanent Secretary/Head of Department should then consider whether it is still appropriate for the officer to handle a particular work, or whether another officer should take over the work instead.

Official dealings

16. One of the conditions for granting general permission under sections 4 to 6 of the AAN (i.e. acceptance of advantages from tradesmen/companies, close personal friends and other persons) is that there should be no “official dealings”

between the donor and the officer or the department in which the officer works. "Official dealings" are not considered to include routine contact with a government department in making use of the regular services provided by the Government (e.g. the postal, medical, fire and ambulance services, etc.) or in making regular payment of tax, rent, rates, etc. Neither do they mean to include dealings between or within bureaux/departments which do not have investigative, control or supervisory functions over each other. Clearly, a situation may arise where an officer has solicited or accepted in good faith an advantage from a person who has such routine contact with his department but the officer had no knowledge of such contact. The provisions in sections 5(2)(a) and 6(2)(a) of the AAN are not designed to catch such cases.

Special permission

17. Officers who wish to solicit or accept any gifts, discounts, loans of money and passages in circumstances not covered by the general permission that has been given in sections 3 to 7 of the AAN must seek special permission to do so under section 8 or 9 of the AAN. A sample application form is provided at **Appendix C**. The authority to approve such applications rests with the Permanent Secretary/Head of Department or the Secretary for the Civil Service, depending on the rank or position held by the applicant (see sections 1, 8 and 9 of the AAN at Annex III and the summary table at **Appendix D**).

18. The approving authority may authorise officers in his bureau/department to deal with applications for special permission on his behalf. Such authorisation is subject to the conditions set out in paragraph 2 of CSB Circular No. 11/94 on "Delegations Relating to Conduct Matters", except that the authority should not be exercised by officers below the rank of Chief Executive Officer or equivalent.

19. To assist subject officers in processing applications for special permission under the AAN, Permanent Secretaries/Heads of Department may lay down rules for the grant of special permission in the light of the special circumstances of their bureaux/departments. The authority to approve exceptions to such rules should be exercised by the Permanent Secretary/Head of Department personally. In considering the applications, the following factors should be taken into account –

- (a) whether the officer accepts the advantage in his private capacity (acceptance of the advantage in his official capacity should be dealt with in accordance with the guidelines in CSB Circular No. 4/2007);
- (b) the value of the advantage;
- (c) the reputation and status of the donor, and his relationship with the officer;
- (d) whether the donor of the advantage has any official dealings with the officer;

- (e) whether the officer's acceptance of the advantage in his private capacity will adversely affect the image of the bureau/department or the Government or invite public criticism or give rise to a conflict of interest;
- (f) whether the acceptance of the advantage would place the officer in an obligatory position towards the donor and would therefore compromise the officer's position in his official dealings with the donor;
- (g) whether the advantage is also available on equal terms to persons who are not Government servants;
- (h) the frequency of similar permission being sought by the same officer; and
- (i) the status, rank and post of the officer.

Solicitation and Acceptance of Advantages on behalf of Staff Associations or Other Organisations

20. Officers soliciting or accepting advantages on behalf of their staff associations or clubs² in their capacity as members or office-bearers of the staff associations or clubs are required to ensure that they have the necessary permission (either general or special permission) to do so in accordance with the AAN in a similar way as if they are soliciting or accepting the advantages for their own benefit. The same applies if the office-bearers hire an outsider to solicit or accept advantages for their staff associations or clubs. They may solicit or accept advantages such as sponsorship for social events and discounts, etc. provided that the provisions in sections 4 to 7, 8(1) or 9(1) of the AAN are observed as appropriate.

21. Officers, as members of a staff association or club, soliciting or accepting a "restricted" advantage from a tradesman or company provided to the staff association or club are not required to seek special permission in accordance with section 4 of the AAN, provided that the advantage is available on equal terms to non-prescribed officers (e.g. retired civil servants) of the same association or other organizations (e.g. staff clubs of other private companies), and they do not have official dealings with the entity offering the advantage. Likewise, officers soliciting or accepting a "restricted" advantage from a tradesman or company for other non-civil service associations or clubs, e.g. professional institutions, golf clubs, etc., are not required to seek special permission provided that the same conditions are fulfilled.

22. When considering whether special permission should be granted for an officer to solicit or accept an advantage on behalf of his staff association or club, the approving authority should take the following factors into account, in addition to those provided in paragraph 19—

² By staff association or club, we mean all associations, clubs, societies, trade unions or other staff bodies whose majority membership comprises serving civil servants, and quasi-official bodies such as sports and recreation clubs.

- (a) the advantage (e.g. donation) is offered voluntarily and not as a result of pressure or compulsion from the staff association/club; and
- (b) acceptance of the advantage will not bring into question the impartiality of the Government or there should be no undue publicity associated with the acceptance.

Acceptance of Sponsored Visits offered to an Officer in his Private Capacity

23. Where an officer is offered sponsorship to make a visit in his private capacity, he requires special or general permission under the AAN to accept the passages, hotel vouchers, etc. provided. By private visit, it means that –

- (a) it would be undertaken by the individual even if he were not a Hong Kong SAR Government officer;
- (b) the officer is in no way perceived as “representing” the Hong Kong SAR Government; and
- (c) the officer undertakes the visit while on leave or during his non-duty days.

Sponsored visits offered on the basis of an officer’s personal involvement or professional expertise in a particular field would normally fall within this category.

24. As a general rule, officers should ensure that their conduct and activities during their private visits would not bring them or the civil service into disrepute or lead to any actual or perceived conflict of interest. In particular, they should ensure that their private visits are separate from their official duties and avoid putting themselves in an obligatory position through acceptance of advantages or hospitality normally applicable to official purposes.

Acceptance of Entertainment offered to an Officer in his Private Capacity

25. Entertainment is defined in the POBO to mean “the provision of food or drink, for consumption on the occasion when it is provided, and of any other entertainment connected with, or provided at the same time as, such provision”. For detailed guidelines on acceptance of entertainment, officers should refer to CSRs 431 to 435 and paragraphs 20 to 29 of CSB Circular No. 4/2007 for guidance. Whilst an officer may accept entertainment offered to him in his private capacity without restrictions, he may be liable to disciplinary action or even criminal sanction if he accepts entertainment offered to him in his official capacity without observing CSRs 431 to 435.

Offence under Section 4 of the Prevention of Bribery Ordinance

26. Compliance with section 3 of the POBO (or, for that matter, provisions in the AAN) does not exempt an officer from other provisions in the POBO. Officers should note that they will be guilty of an offence under section 4 of the same Ordinance if they solicit or accept any advantage (even one permitted under the AAN) for abusing his official power or position.

Conflict of Interest

27. Officers should also note that they may be liable to disciplinary action if they solicit or accept any advantage (even one permitted under the AAN) if this has led, or could have led, to an actual or perceived conflict between their private interests and their official duties or position, or if this brings the Government into disrepute. Officers should refer to CSB Circular No. 2/2004 on "Conflict of Interest" for guidance.

Distribution

28. Bureaux/departments are requested to provide a copy of this circular to all newly appointed officers as soon as possible after appointment and to re-circulate this circular to their staff every six months.

Enquiries

29. Enquiries about this circular should first be directed to Departmental Secretaries who, if in doubt, may contact Chief Executive Officer (Conduct & Discipline) at 2810 3493 or Senior Executive Officer (Conduct & Discipline)1 at 2810 3185 of the Civil Service Bureau.



(Mrs Rosanna URE)
for Secretary for the Civil Service

Extract of section 2(1) of the Prevention of Bribery Ordinance, Cap. 201

“prescribed officer” (訂明人員) means –

- (a) any person holding an office of emolument, whether permanent or temporary, under the Government; and
- (b) the following persons (to the extent that they are not persons included in paragraph (a)) –
 - (i) any principal official of the Government appointed in accordance with the Basic Law;
 - (ii) the Monetary Authority appointed under section 5A of the Exchange Fund Ordinance (Cap. 66) and any person appointed under section 5A(3) of that Ordinance;
 - (iii) Chairman of the Public Service Commission;
 - (iv) any member of the staff of the Independent Commission Against Corruption;
 - (v) any judicial officer holding a judicial office specified in Schedule 1 to the Judicial Officers Recommendation Commission Ordinance (Cap. 92) and any judicial officer appointed by the Chief Justice, and any member of the staff of the Judiciary;

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

Extract of relevant parts in sections 2(2), 3, 4, and 10

- Interpretation 2. (2)(b) a person solicits an advantage if he, or any other person acting on his behalf, directly or indirectly demands, invites, asks for or indicates willingness to receive, any advantage, whether for himself or for any other person; and
- (2)(c) a person accepts an advantage if he, or any other person acting on his behalf, directly or indirectly takes, receives or obtains, or agrees to take, receive or obtain any advantage, whether for himself or for any other person.
- Soliciting or accepting an advantage 3. Any prescribed officer who, without the general or special permission of the Chief Executive, solicits or accepts any advantage shall be guilty of an offence.
- Bribery 4. (1) Any person who, whether in Hong Kong or elsewhere, without lawful authority or reasonable excuse, offers any advantage to a public servant as an inducement to or reward for or otherwise on account of that public servant's –
- (a) performing or abstaining from performing, or having performed or abstained from performing, any act in his capacity as a public servant;
 - (b) expediting, delaying, hindering or preventing, or having expedited, delayed, hindered or prevented, the performance of an act, whether by that public servant or by any other public servant in his or that other public servant's capacity as a public servant; or
 - (c) assisting, favouring, hindering or delaying, or having assisted, favoured, hindered or delayed, any person in the transaction of any business with a public body,
- shall be guilty of an offence.
- (2) Any public servant who, whether in Hong Kong or elsewhere, without lawful authority or reasonable excuse, solicits or accepts any advantage as an inducement to or reward for or otherwise on account of his –
- (a) performing or abstaining from performing, or having

performed or abstained from performing, any act in his capacity as a public servant;

- (b) expediting, delaying, hindering or preventing, or having expedited, delayed, hindered or prevented, the performance of an act, whether by himself or by any other public servant in his or that other public servant's capacity as a public servant; or
- (c) assisting, favouring, hindering or delaying, or having assisted, favoured, hindered or delayed, any person in the transaction of any business with a public body,

shall be guilty of an offence.

(3) If a public servant other than a prescribed officer solicits or accepts an advantage with the permission of the public body of which he is an employee being permission which complies with subsection (4), neither he nor the person who offered the advantage shall be guilty of an offence under this section.

(4) For the purposes of subsection (3) permission shall be in writing and -

- (a) be given before the advantage is offered, solicited or accepted; or
- (b) in any case where an advantage has been offered or accepted without prior permission, be applied for and given as soon as reasonably possible after such offer or acceptance,

and for such permission to be effective for the purposes of subsection (3), the public body shall, before giving such permission, have regard to the circumstances in which it is sought.

Possession of unexplained property

10. (1) Any person who, being or having been a prescribed officer -

- (a) maintains a standard of living above that which is commensurate with his present or past official emoluments; or

- (b) is in control of pecuniary resources or property disproportionate to his present or past official emoluments,

shall, unless he gives a satisfactory explanation to the court as to how he was able to maintain such a standard of living or how such pecuniary resources or property came under his control, be guilty of an offence.

(2) Where a court is satisfied in proceedings for an offence under subsection (1)(b) that, having regard to the closeness of his relationship to the accused and to other circumstances, there is reason to believe that any person was holding pecuniary resources or property in trust for or otherwise on behalf of the accused or acquired such resources or property as a gift from the accused, such resources or property shall, in the absence of evidence to the contrary, be presumed to have been in the control of the accused.

(3)-(4) (Repealed)

(5) In this section, “official emoluments” (公職薪俸) includes a pension or gratuity payable under the Pensions Ordinance (Cap 89), the Pension Benefits Ordinance (Cap 99) or the Pension Benefits (Judicial Officers) Ordinance (Cap 401).

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;
- (b) solicit or accept any gift of money or loan of money or other allowance or advance made or given out of any Government

staff welfare fund or permitted by the Government under any Government regulations or permitted in accordance with the prescribed officer's terms and conditions of employment or appointment;

- (c) solicit or accept any air, sea or overland passage provided in accordance with any Government regulations or provided in accordance with the prescribed officer's terms and conditions of employment or appointment.

Permission in respect of advantages other than passages

- 8. (1)(a) If a prescribed officer wishes to accept any gift (whether of money or otherwise), discount or loan of money 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 or presented with the gift, discount, or loan of money, seek the permission of the approving authority to accept it.

- (b) If a prescribed officer wishes to solicit any gift (whether of money or otherwise), discount or loan of money which he does not have permission to solicit under sections 3 to 7, he must, before soliciting the gift, discount or loan of money, seek the permission of the approving authority to solicit it.

- (2) In the case of gifts other than money, the approving authority may :-

- (a) permit the prescribed officer to solicit or accept the gift either unconditionally or subject to such conditions as the approving authority may specify; or

- (b) refuse him permission to solicit or accept the gift and, if the gift is already in his possession,

- (i) require him to return it to the donor; or

- (ii) require the gift to be handed to a charitable organisation nominated by the prescribed officer and approved by the approving authority; or

- (iii) require him to dispose of the gift in such other manner as the approving authority may direct.

- (3) In the case of discounts, the approving authority may :-

- (a) permit the prescribed officer to solicit or accept or take the benefit of the discount either unconditionally or subject to such conditions as the approving authority may specify; or

(b) refuse him permission to solicit or accept or take the benefit of the discount and, if he has already accepted or taken the benefit of the discount, require him to pay to the donor of the discount an amount equal to the value of the discount.

(4) In the case of gifts of money or loans of money, the approving authority may :-

(a) permit the prescribed officer to solicit or accept the gift of money or loan of money either unconditionally or subject to such conditions as the approving authority may specify; or

(b) refuse him permission to solicit or accept the money and, if the money is already in his possession,

(i) require him to return the money to the donor or lender; or

(ii) require him to dispose of the money in such other manner as the approving authority may direct.

(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.

APPENDIX A

Changes to the Acceptance of Advantages (Chief Executive's Permission) Notice

- (a) Changes to the **permissible values of advantages from close personal friends and other persons** under sections 5(1) and 6(1) as follows:

	<u>Previous level</u>	<u>Existing level</u>
<u>From close personal friend</u>		
(i) gifts on special occasions when gifts are traditionally given or exchanged	\$2,000	\$3,000
(ii) gifts on other occasions	\$400	\$500
(iii) loans of money	\$2,000	\$3,000
<u>From other persons</u>		
(iv) gifts on special occasions when gifts are traditionally given or exchanged	\$1,000	\$1,500
(v) loans of money	\$1,000	\$1,500

- (b) Extension of the general permission to cover acceptance of **gifts of value not exceeding \$250 from other persons on other occasions** by adding a new section 6(1)(c);
- (c) Extension of the **repayment periods of loans** (from the previous 14 days to **the existing 30 days**) from close personal friends and other persons under sections 5(1) and 6(1);
- (d) Specifying **“Retirement” as a special occasion** for the purpose of the general permission covered under sections 5(1) and 6(1);
- (e) Replacement of all references to **“Civil Service Regulations”** with **“Government regulations”** under section 7.

CHAPTER III – CONDUCT AND DISCIPLINE

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(Cont'd)
- (g) a circular should be issued notifying the staff of the total amount collected towards a retirement present, the nature of the gift, and the date and time of presentation; and
 - (h) while there is no objection to the presentation of a gift voucher, the presentation of money, including cash, cheques, and promissory notes, is undesirable and may be approved only in exceptional circumstances on application to the Secretary for the Civil Service; the reasons for proposing a money gift should be stated fully when permission is sought.

- Feb 2007
- (3) Retirement gifts may be accepted from close personal friends or other persons, provided that in any one of the following cases, the retiring officer shall seek special permission from his Permanent Secretary/Head of Department to retain the gift or, in respect of a Permanent Secretary/Head of Department, from the Secretary for the Civil Service -
 - (a) the value of the gift from any close personal friend or any other person exceeds \$3,000 or \$1,500 respectively;
 - (b) the close personal friend or the other person has official dealings with the bureau/department in which the officer works; or
 - (c) in the case of a close personal friend or the other person working in the same bureau/department as the officer, the close personal friend or the other person is subordinate to the officer.

- Dec 2002
- (4) Retirement gifts other than those covered by paragraphs (1), (2) and (3) above should be dealt with as follows -
 - (a) except as provided in sub-paragraphs (b) below, retirement gifts may not be accepted from any person and such gifts should be politely refused save in the circumstances outlined in sub-paragraph (c) below;
 - (b) retirement presents from staff clubs and messes or other private associations or organisations or public bodies with which the officer has close association either in his private or official capacity may be accepted only with the approval from his Permanent Secretary/Head of Department or, in the case of an officer who is a Permanent Secretary/Head of Department, from the Secretary for the Civil Service. Permission to accept such retirement gifts will only be given subject to the following criteria -
 - (i) the gift is not in the form of money;
 - (ii) the value of the gift is not excessive having regard to the position of the officer; and

(SAMPLE)

Application for special permission to accept "restricted" advantages offered to an officer in his private capacity

(Note : Please read para. xx of Departmental Circular No. XX for reference.)

To : _____ (Permanent Secretary/HoD) (Attn. : _____)
via _____ (Division/Branch Head)

Part I (To be completed by applicant)

I wish to apply for special permission to accept in my private capacity the "restricted" advantage(s) as detailed below (please specify the advantage(s) and the estimated value(s)) -

Relationship between the offeror and me -

- Close personal friend - The offeror is/is not* my subordinate.
Other person - The offeror is/is not* my subordinate.
Tradesman/company (Name : _____)

(To the best of my knowledge, the advantage(s) offered to me in my private capacity is(are)/is(are) not* equally available on equal terms to persons who are not government officers.)

The offeror has/has no* official dealings with me/my department. (Please specify the official dealings with the offeror, if any.)

Additional information (if any) : _____

Name of officer _____ Signature _____
Rank/Post _____ Date _____

Part II (To be completed by Division/Branch Head)

To : _____

I confirm that the applicant has/has no* official dealings with the offeror and the offeror is/is not* the subordinate of the applicant.

I support/do not support* the application.

Name of officer _____ Signature _____
Rank/Post _____ Date _____

Part III (To be completed by the authorised officer)

To : _____

This application is/is not* approved. Please notify the applicant of the decision.

Name of officer _____ Signature _____
Rank/Post _____ Date _____

- as appropriate * delete whichever is inapplicable.

APPENDIX D

**Authority for giving special permission
for prescribed officers to solicit or accept advantages**

	Categories of prescribed officers	Approving authority
(a)	Principal Officials under the accountability system, the Chief Justice, the Director of the Chief Executive's Office, the Commissioner of the Independent Commission Against Corruption, the Director of Audit, Under Secretaries and Political Assistants	Chief Executive
(b)	The Monetary Authority	Financial Secretary
(c)	Permanent Secretaries/ Heads of Departments/ Prescribed officers other than those in (a) and (b) above who holds a post of equivalent status as the Head of a Department	Secretary for the Civil Service
(d)	Judicial Officers other than the Chief Justice	Chief Justice
(e)	Prescribed officers other than those in (a) to (d) above *	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 the prescribed officer is employed at the time

- * There is one exception to this. For prescribed officers under (e) who are at the directorate level, they require special permission from the Secretary for the Civil Service to accept passages offered to them in their private capacity, as set out in section 9 of the Acceptance of Advantages (Chief Executive's Permission) Notice.

16 February 2007

CIVIL SERVICE BUREAU CIRCULAR NO. 4/2007

**Advantages/entertainment offered to an officer in his official capacity
and gifts and donations to a department for the benefit of staff**

**To : Directors of Bureau
Permanent Secretaries
Heads of Department**

**c.c. Judiciary Administrator
Commissioner, Independent
Commission Against Corruption
Secretary, Public Service Commission**

*(Note : Distribution of this circular is Scale A, i.e. it should be
read by all officers. A Chinese version is attached.)*

Introduction

This circular gives guidance to officers and bureaux/departments on how the following should be handled –

- (a) advantages offered to an officer in his official capacity, including gifts presented on social/ceremonial/other occasions, complimentary tickets and free raffle tickets;
- (b) entertainment offered to an officer in his official capacity; and
- (c) gifts and donations offered to a department for the benefit of staff.

2. This circular should be read in conjunction with CSB Circulars No. 3/2007 on “Acceptance of advantages offered to an officer in his private capacity” and No. 2/2004 on “Conflict of Interest”. CSB Circular No. 16/2002 is hereby superseded.

The Acceptance of Advantages (Chief Executive’s Permission) Notice

3. Under section 3 of the Prevention of Bribery Ordinance, Cap. 201 (“POBO”), any prescribed officer⁽¹⁾ who, without the general or special permission

(1) As defined in section 2 of the POBO, a “prescribed officer” includes any person holding an office of emolument, whether permanent or temporary, under the Government. All Government officers, including civil servants and those employed on non-civil service terms in the Government, are prescribed officers.

of the Chief Executive, solicits or accepts any advantage shall be guilty of an offence. The Acceptance of Advantages (Chief Executive's Permission) Notice ("AAN") sets out the circumstances under which general permission has been given for prescribed officers to solicit or accept certain advantages in their private capacity. Outside of these prescribed circumstances, they have to seek special permission for their solicitation/acceptance of the advantage. Relevant guidelines are set out in CSB Circular No. 3/2007 on "Acceptance of advantages offered to an officer in his private capacity".

Gifts/Advantages offered/presented to an officer in his official capacity

4. Officers should note that under CSR 444(2), advantages offered to an officer and/or the officer's spouse by virtue of the officer's official position or on an occasion attended in the officer's official capacity (including those offered/presented by another government department), whether in Hong Kong or elsewhere, are regarded as advantages to the bureau/department in which the officer works. They should be disposed of in accordance with the guidelines set out hereunder.

Official capacity

5. An occasion which an officer attends in his official capacity would usually be considered to be one that the officer attends on duty, whether within or out of working hours, and as a result of the duties of his office or an instruction by his superior officers. An occasion which an officer attends by virtue of his official position would usually be considered to be one to which he would not have been invited had he not held the post that he held in the Government at the time.

General principle

6. Officers should as far as possible decline to accept gifts offered/presented to them by virtue of their official position. Where this cannot be done owing to protocol reasons or the need to avoid causing great offence or embarrassment, such as where a gift is offered/presented to an officer when attending a social/ceremonial occasion in his official capacity, he should take it back to his bureau/department and report to the approving authority for a decision on how to dispose of the gift. A sample form for seeking approval to dispose of the gift is at **Annex I**.

Approving authority

7. Gifts offered/presented to an officer in his official capacity should be dealt with in accordance with paragraphs 9 to 13 below. Permanent Secretaries/Heads of Department have been given the authority to decide how gifts offered/presented to other officers in their bureaux/departments should be dealt with. In the case of gifts that are presented to Permanent Secretaries/Heads of Department personally, they may also decide on the method for disposing of the gifts, other than approving personal retention of the gifts by themselves. The authority to approve personal retention of such gifts by a Head of Department has been delegated to the respective Permanent Secretary, whereas the authority to approve personal retention

of gifts by a Permanent Secretary remains with the Secretary for the Civil Service.

8. The approving authority (as shown in **Annex II**) may authorise officers in his bureau/department to deal with such applications on his behalf. Such authorisation is subject to the conditions set out in paragraph 2 of CSB Circular No. 11/94 on "Delegations Relating to Conduct Matters", except that the authority should not be exercised by officers below the rank of Chief Executive Officer or equivalent.

Factors for consideration

9. The approving authority should first determine if it is in the public interest to accept the gifts. In so doing, he may take the following factors into consideration –

- (a) whether it is appropriate to decline the offer and return the gifts to the donor;
- (b) the nature and the value of the gifts;
- (c) the status and reputation of the donor;
- (d) whether there is any conflict of interest or the extent of official dealings, if any, between the donor and the officer concerned;
- (e) whether the acceptance of the gifts will place the officer, the department or the Government in an obligatory position towards the donor or cause embarrassment to them or invite criticism;
- (f) whether it is inappropriate to accept the gifts in view of prevailing Government policy (e.g. tobacco and product from endangered species);
- (g) whether the offer is also available on equal terms to persons who are not government officers on the same occasion;
- (h) the number of occasions that gifts/advantages have been offered by the same donor previously;
- (i) whether the officer has regulatory responsibility over the offeror (e.g. contractors) and whether such gifts should be disposed of in ways other than personal retention by the officer to avoid actual or perceived conflict of interest; and
- (j) the public perception angle.

Methods of disposal

10. At the discretion of the approving authority and where this can be done

without causing great offence or embarrassment, the gift should be returned to the donor with a carefully worded explanation that Government regulations do not permit the acceptance of gifts and a polite word of gratitude for the thought behind the gift.

11. In circumstances where it is not considered that the gift should be returned, then the following alternatives may be adopted –

- (a) if the gift falls into one of the categories described in paragraph 13 below, and subject to compliance with the conditions set out in the table therein, it may be retained by the officer;
- (b) if the gift is of perishable nature, e.g. food, drink or flower, it may be shared among the office or displayed in the office where the recipient works or donated to charity;
- (c) if the gift is a useful item, it may be sent to a charitable organisation, or, if of historical or other interest, to a school, library or museum. It may also be retained for use in the office;
- (d) if the gift is suitable for display (e.g. a painting or a vase), it may be retained for display in the office of the recipient or elsewhere in the department; or
- (e) if it is suitable and the value of the gift does not exceed \$1,000, the gift may be donated to the department's social functions as a lucky draw prize.

12. In each case, the decision should be recorded on the form at Annex I. Separately, all gifts that are retained for use or display in the office are the property of the office and must be placed on the office's inventory record.

Personal retention of gifts

13. Officers may be presented with souvenir plaques, shields, banners or other gift items when attending official functions as an officiating guest or the principal representative of their bureau/department at the event. Some of these items may be personally inscribed. At some official events such as conferences and seminars, officers may receive souvenir items which are widely distributed to participants. Sometimes, officers may also receive by virtue of their official position seasonal gifts sent to them by working contacts. Examples of such gift/souvenir items include ball pen, memo pad, calendar, desk diary, etc. These items may also be inscribed with the names of the organisation/donor and may be of limited commercial value. In the interest of administrative convenience, **blanket permission** is given by the Secretary for the Civil Service for Permanent Secretaries to personally retain items in categories (a) and (b)(i) of the table below and subject to a report by the officer (a sample form for the purpose is at **Annex III**) -

Category	Value of the item	Arrangement
(a)	Not exceeding \$50 or 0.1% of substantive salary, whichever is the higher	Blanket permission is given for personal retention*.
(b)	Above \$50 or 0.1% of substantive salary, whichever is the higher, to \$400	(i) Blanket permission is given for personal retention* of a gift/souvenir that is <i>personally inscribed</i> with the officer's name or received by the officer at official functions as the <i>Guest of Honour or an officiating guest</i> . (ii) Special permission is required for personal retention of a gift/souvenir other than that at (i) above. Permission may be given having regard to the factors listed in paragraph 9.
(c)	Above \$400 to \$1,000	Special permission is required for personal retention. Permission may be given if the gift/souvenir is <i>personally inscribed</i> with the officer's name or received by the officer at official functions as the <i>Guest of Honour or an officiating guest</i> , and having regard to the factors listed in paragraph 9.
(d)	Above \$1,000	No personal retention should be permitted unless in very exceptional circumstances.

* Despite the blanket permission, the officer is still required to report the retention of the gift(s)/souvenir(s) by using the form at Annex III.

Bearing in mind that gifts/souvenirs from official contacts may be received by staff from junior level to very senior level, the setting of a specified amount as the threshold for personal retention of such gifts/souvenirs is considered too rigid. To balance the risks of officers being "sweetened" by such gifts/souvenirs and the administrative workload, the threshold for blanket permission for gift item under category (a) of the table above is set at \$50 or 0.1% of the officer's substantive salary, whichever is the higher. The financial limits for gift/souvenir items in other categories are determined having regard to policy objective and operational experience over the years. Permanent Secretaries and Head of Departments may consider giving similar blanket permission for officers under them to personally retain such items, but the overall regime should strictly adhere to the table above.

14. By virtue of CSR 444(2) read in conjunction with section 7(a) of the AAN, an officer may personally retain a gift/souvenir received in his official capacity in accordance with the directive issued by the Secretary for the Civil Service as in the context of this circular. Under section 7(a) of the AAN, a prescribed officer may accept a gift/souvenir that he is permitted to accept under any Government regulations.

Acceptance of complimentary tickets

15. Complimentary tickets to functions and performances (e.g. movie, show, sports event, conference, seminar, etc.) are gifts. Where they are offered to an officer by virtue of his official position, they should be handled in accordance with the guidelines outlined in paragraphs 9 to 12 above. Only where it is in the interest of the bureau/department or serves an operational need for an officer to attend the function/performance, the approving authority may approve acceptance of the complimentary tickets by the officer concerned.

16. Invitations to entertainment extended to an officer by virtue of his official position should be dealt with in accordance with CSRs 431 – 435 (see paragraphs 20 – 29 below).

Acceptance of raffle tickets and participation in lucky draws

17. Officers may be presented with free raffle tickets or invited to take part in free lucky draws when attending social or festive functions in their official capacity. They should decline to accept such tickets or to participate in such free lucky draws. If participation cannot be avoided, prizes won should be returned to the organiser for a re-draw. If this may cause great offence or embarrassment, the officer should take the prize back to his bureau/department for a decision by the Permanent Secretary/Head of Department on its disposal in accordance with paragraphs 4 to 13 above, as prizes won under such circumstances are gifts to the bureau/department.

18. On occasions where officers are invited to buy raffle tickets during such official functions, they may accept the prize won, if any, without having to seek special permission. Nevertheless, they should be mindful to avoid taking part in dubious lucky draws which could compromise their integrity (e.g. where one only needs to pay a small sum of money for the raffle tickets but expensive prizes are given to all participants).

Sponsored visits

19. Sponsored visits undertaken by an officer in his official capacity as a representative of a department are not regarded as an advantage to the officer and should be dealt with in accordance with CSB Circular No. 7/94 on "Sponsored Visits".

Acceptance of entertainment

20. Entertainment when offered by way of a favour is not of itself an advantage as defined in section 2 of the POBO. However, the acceptance of free food, drink, show, etc. may, by reason of its nature and the circumstances in which it is given, go beyond just being a favour (i.e. a gratuitous service or courtesy, free of obligation to, or by, both the giver and the receiver) and becomes an advantage if it falls within one of the other categories that make up the definition of advantage in section 2 of the POBO, such as "a discharge of an obligation to pay". In other words, the acceptance of free food, drink, show, etc. is capable of becoming an advantage the acceptance of which renders the officer liable to prosecution under the POBO.

21. Officers who have doubts about accepting an offer of entertainment are strongly advised to seek guidance from their Permanent Secretaries/Heads of Department before they accept the entertainment.

22. Officers should not accept lavish, or unreasonably generous or frequent entertainment, or indeed any entertainment that is likely to –

- (a) put the officers in an obligatory position in the discharge of their duties;
- (b) bring the officers or the public service into disrepute; or
- (c) give rise to any potential or real conflict of interest.

23. Accepting free meal, drink or other related entertainment may in some circumstances give negative connotations such as creating a sense of obligation or a perception that an officer's impartiality has been compromised. When offered entertainment, an officer should consider carefully, in the light of the guidelines mentioned above, whether the entertainment offered could be regarded as –

- (a) excessive – taking into account its value, substance, frequency and nature;
- (b) inappropriate – taking into account the relationship between the officer and the donor (e.g. whether they have any direct official dealings); or
- (c) undesirable – taking into account the character of the host, etc.

24. An officer who accepts entertainment other than in accordance with CSRs 431 – 435 or any relevant departmental guidelines issued by his Permanent Secretary/Head of Department (see paragraph 28 below) renders himself liable to disciplinary action. The opportunity is taken to bring the content of CSRs 431 – 435 up-to-date. An up-dated version of the relevant CSRs is at **Annex IV** in the form of amendment sheets. They replace the relevant pages of the Civil Service Regulations with effect from the date of this circular.

Departmental instructions on entertainment

25. In dealing with cases of entertainment, Permanent Secretaries/Heads of Department should have regard to the circumstances surrounding its provision, the value, substance, frequency and nature of the entertainment offered (whether it gives the officer something which he might not have access to or be able to afford), the relationship between the officer and the donor, and whether or not an obligation or conflict of interest might be created, etc.

26. Where it is considered not appropriate to decline an invitation to entertainment which may contravene the guidelines in paragraphs 22 and 23 above for reasons of courtesy or special circumstances, the officer should seek prior approval from his Permanent Secretary/Head of Department as necessary. If it is impractical for prior approval to be obtained (e.g. where an official contact paid the bill for a meal for an officer or his family or friends without informing the officer in advance), the officer should make an effort to effect the repayment. If this is unsuccessful, he should seek covering approval to accept the entertainment.

27. In circumstances where acceptance of entertainment in an official capacity is considered necessary in the interest of the bureau/department (e.g. for liaison, information gathering and public relations purposes), the number of representatives from the bureau/department should be kept to the minimum.

28. Permanent Secretaries/Heads of Department are reminded that under CSR 435, they may issue directions to their staff to supplement the rules in CSR 434. They are strongly advised to do so where their staff, because of their job nature, are often invited to meals or entertainment by their working contacts or the public. The supplementary guidelines may provide guidance, with illustrative examples where practicable, on –

- (a) the types of entertainment officers are prohibited from accepting or from accepting without permission;
- (b) how to avoid and handle offers of entertainment which are inappropriate (e.g. from persons with whom they have direct official dealings) or undesirable (e.g. taking into account the character of the host); and
- (c) the departmental procedures for approving acceptance of entertainment.

29. Where operational circumstances so warrant, a Permanent Secretary/Head of Department may consider encouraging/requiring his staff to report acceptance of entertainment/hospitality offered to them in their official capacities. This will be conducive to embedding a culture of probity within the bureau/department.

Gifts and donations to a department as a whole for the benefit of staff

30. Gifts and donations which are offered or presented to a bureau/department as a whole for the benefit of staff, rather than presented to an individual officer, should not be accepted without the proper approval.

31. Permanent Secretaries have been delegated with the authority to approve the acceptance of such donations by a department under their respective schedule, where –

- (a) for a donation from one single person or organisation on any one occasion, the value does not exceed \$10,000; and
- (b) for donations to one single social or recreation function, the cumulative value does not exceed \$30,000.

32. Approval may be given subject to the following criteria being met –

- (a) the circumstances leading to the donation should be above board and not open to misconstruction;
- (b) acceptance of the donation must not embarrass the bureau/department or Government (e.g. donations from a tobacco company should be avoided in view of the anti-smoking policy) or cause a conflict of interest or put the bureau/department or Government in an obligatory position towards the donor;
- (c) the donation must be voluntary and not solicited and there is no undue pressure or compulsion whatsoever on the donor by the bureau/department;
- (d) neither the bureau/department nor the Government is involved in advertising or promoting the donor or any commercial products;
- (e) acceptance of the donation will not bring into question the impartiality of the bureau/department or Government and there is no undue publicity associated with the acceptance;
- (f) the value of the donation should not be excessive or disproportionately high;
- (g) for departmental social or recreation functions, donations should preferably be accepted in kind;
- (h) where gifts are donated, departments should record the estimated value of the items;
- (i) where recurrent costs (e.g. in fuel or maintenance) are involved, the advice of the Secretary for Financial Services and the Treasury should

be sought before acceptance; and

- (j) the officer authorised to take day-to-day decision on behalf of the Permanent Secretary should be at directorate level.

33. The approval of the Secretary for the Civil Service must be sought in the following cases –

- (a) acceptance of donations by bureaux for the benefit of staff; and
- (b) acceptance of such donations offered to departments of values exceeding the limits as specified in paragraph 31 above.

Departments should also seek the support from their policy bureau when submitting such cases to the Secretary for the Civil Service for consideration.

Submission of half-yearly returns on donations accepted

34. To enable the Civil Service Bureau to monitor the overall situation, bureaux/departments are requested to make half-yearly returns (ending June and December) to the Civil Service Bureau showing gifts and donations for the benefit of staff accepted, on or before the 15th of January and July. A sample proforma is attached at **Annex V**.

Acceptance of donations to staff welfare funds

35. Cases involving acceptance of donations to staff welfare funds should be processed in accordance with CSB Circular No. 11/2003.

The Prevention of Bribery Ordinance

36. All officers should familiarize themselves with the main provisions in the POBO which are applicable to the acceptance of advantages in their official capacity -

- (a) Section 3 : it is an offence for a prescribed officer to solicit or accept any advantage without the Chief Executive's general or special permission; and
- (b) Section 4 : it is an offence for a public servant to solicit or accept any advantage in Hong Kong or elsewhere as an inducement to or reward for or otherwise on account of his performing or abstaining from performing any act in his capacity as a public servant.

An extract of sections 3 and 4 of the POBO and the AAN (with particular attention drawn to sections 2 and 7 therein) are at **Annex VI**.

37. Officer should note that they will be guilty of an offence under section

4 of the POBO if they solicit or accept any advantage (even one permitted under the AAN) for abusing his official power or position.

Distribution

38. Bureaux/departments are requested to provide a copy of this circular to all newly appointed officers as soon as possible after appointment and to re-circulate this circular to their staff every six months.

Enquiries

39. Any enquiry about the content of this circular should first be addressed to Departmental Secretaries who, if in doubt, may contact Chief Executive Officer (Conduct & Discipline) at 2810 3493 or Senior Executive Officer (Conduct & Discipline) at 2810 3185 of the Civil Service Bureau.



(Mrs Rosanna URE)
for Secretary for the Civil Service

Application for approval to dispose of gift(s) presented to an officer in his official capacity

To : _____ (Permanent Secretary/HoD) (Attn. : _____)
via _____ (Division/Branch Head)

Part I (To be completed by the recipient)

I wish to report the following gift(s) presented to me in my official capacity on the following occasion (please specify the event and date) -

Details of gift(s) presented –

Gift	Estimated value (\$)	Offeror
(a)		
(b)		
(c)		

Please tick the appropriate box below-

- The item is personally inscribed.
- The item was received at an official function where I was the Guest of Honour/an officiating guest.
- The item does not fall under the above two categories and my substantive salary is \$_____.

Additional information (if any)

The following disposal method(s) is/are recommended –

- Gift item(s) _____ to be returned to the offeror.
- Gift item(s) _____ to be retained personally by the recipient.
- Gift item(s) _____ to be shared among staff in the recipient's office or _____.*
- Gift item(s) _____ to be displayed in the recipient's office or _____.*
- Gift item(s) _____ to be donated to an outside organisation (name : _____).
- Gift item(s) _____ to be donated to the department's social functions as lucky draw prize.

Name of recipient _____ Signature _____
Rank/Post _____ Date _____

Part II (To be completed by the authorised officer)

- The recommendation is approved.
- The recommendation is not approved. The gift should be _____.

Name of officer _____ Signature _____

Rank/Post _____ Date _____

* delete whichever is inapplicable

Annex II

**Approving authority for handling gifts
offered/presented to an officer in his official capacity**

	Gifts received by Permanent Secretaries	Gifts received by Heads of Department	Gifts received by other officers in bureaux/departments
(a) for personal retention	Secretary for the Civil Service	Permanent Secretaries	Permanent Secretaries/ Heads of Department respectively
(b) for other disposal ways (as specified in para. 11(b) to (e) of CSB Circular No. 4/2007)	Permanent Secretaries	Heads of Department	Permanent Secretaries/ Heads of Department respectively

Report on gifts retained by an officer received in his official capacity covered by the blanket permission in para. 13 of CSB Circular No. 4/2007

To : _____ (Permanent Secretary/HoD) (Attn. : _____)
via _____ (Division/Branch Head)

I wish to report the following gift presented to me in my official capacity on the following occasion. The gift is retained by me under the blanket permission given in para. 13(a) & (b)(i) of CSB Circular No. 4/2007.

Name of donor	
Event/Occasion	
Date	
Description of gift	
Estimated value (\$)	

Please tick the appropriate box below-

- The gift is personally inscribed and the cost of the gift is \$400 or below.
- The gift was received by me as the Guest of Honour or one of the officiating guests at the official function stated above and the cost of the gift is \$400 or below.
- The gift does not exceed \$50 or 0.1% of my substantive salary (my substantive salary is \$ _____).

Additional information (if any) –

Name of recipient _____ Signature _____

Rank/Post _____ Date _____

Civil Service Regulations 431 – 435
Acceptance of Entertainment

- 431**
Dec 92 (1) Entertainment is not of itself an advantage as defined by section 2 of the Prevention of Bribery Ordinance (Cap. 201).
- Dec 92 (2) An officer is permitted to accept any entertainment from any person except such entertainment as is prohibited by Regulation 434 or under Regulation 435.
- 432**
Dec 92 (1) Entertainment is defined by section 2 of the Prevention of Bribery Ordinance to mean –
- “the provision of food or drink, for consumption on the occasion when it is provided, and of any other entertainment connected with, or provided at the same time as, such provision.”
- For the purposes of Regulations 431 – 435, the same definition applies.
- (2) The following are examples of what constitutes entertainment –
- (a) a meal;
 - (b) an occasion at which drinks of any kind are provided;
 - (c) attendance at a cinema, theatre or other public entertainment before or after a meal;
 - (d) dancing or other entertainment before, during or after a meal.
- Feb 2007 (3) Officers are warned that notwithstanding Regulation 431(1) and paragraph (2) above, the acceptance of free food, drink, show, etc., may in certain circumstances be regarded as “an advantage”, which may constitute a criminal offence under the Prevention of Bribery Ordinance. For example, when an officer visits a restaurant with which he has official dealings and at the end of the meal the restaurant owner waives the bill, the free meal may amount to “a discharge of obligation” which is an advantage under the Prevention of Bribery Ordinance, in that the officer is discharged from the obligation to pay the bill. If in doubt about such provision, the officer should reject it, or seek advice from his Permanent Secretary/Head of Department.
- 433**
Feb 2007 An officer who accepts entertainment other than in accordance with Regulations 431 – 435 may be subject to disciplinary proceedings.

- 434
Feb 2007
- (1) An officer may not, without the permission of his Permanent Secretary/Head of Department, accept entertainment from any person if the entertainment is likely, for example by reason of its excessive nature or of the relationship between the officer and the other person or of the character of that person –
- (a) to lead to the embarrassment of the officer in the discharge of his functions; or
- (b) to bring the officer or the public service into disrepute.
- Feb 2007
- (2) In this regulation, reference to the Head of a Department means –
- (a) in relation to a person who is himself the Permanent Secretary/Head of Department, the Secretary for the Civil Service;
- (b) in relation to any other officer –
- (i) the Permanent Secretary/Head of Department of the bureau/department in which that officer is serving at the time when the entertainment is offered to the officer;
- (ii) any other officer of that bureau/department authorised in writing by the Permanent Secretary/Head of Department to act on his behalf for the purposes of this regulation.
- 435
Feb 2007
- (1) A Permanent Secretary/Head of Department may, with the approval of the Secretary for the Civil Service, issue directions to the officers serving in that bureau/department.
- Feb 2007
- (2) Such directions may prohibit an officer serving in that bureau/department from accepting, or from accepting without the permission of the Permanent Secretary/Head of Department or another officer of the bureau/department authorised by the Permanent Secretary/Head of Department for this purpose, any entertainment which such officer would, but for such prohibition, be permitted to accept, or to accept with permission.
- (3) An officer who contravenes any direction applicable to him issued under this regulation shall be deemed to have accepted entertainment other than in accordance with these regulations.
- Dec 92
- (4) Any directions issued under this regulation shall be supplementary to Regulation 434.

(SAMPLE PROFORMA)

Return on gifts and donations accepted by Bureaux/Departments for the benefit of staff
(for the period from _____ to _____)

To : Civil Service Bureau (Attn : S(CD)1)

From : _____ (Bureau/Department)

<u>Name of Donor</u>	<u>Amount of Donation/ Estimated Value of Gifts</u>	<u>Nature and Purpose of Donation</u>	<u>Details of Approval</u> (please state the approving authority, the date and file ref. of the approval)
----------------------	---------------------------------------------------------	---------------------------------------	--------------------------------------------------------------------------------------------------------------------

Name and post of
contact person : _____

Tel. No. : _____

Date : _____

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

Extract of sections 3 and 4

Soliciting or accepting an advantage 3. Any prescribed officer who, without the general or special permission of the Chief Executive, solicits or accepts any advantage shall be guilty of an offence.

Bribery 4. (1) Any person who, whether in Hong Kong or elsewhere, without lawful authority or reasonable excuse, offers any advantage to a public servant as an inducement to or reward for or otherwise on account of that public servant's -

(a) performing or abstaining from performing, or having performed or abstained from performing, any act in his capacity as a public servant;

(b) expediting, delaying, hindering or preventing, or having expedited, delayed, hindered or prevented, the performance of an act, whether by that public servant or by any other public servant in his or that other public servant's capacity as a public servant; or

(c) assisting, favouring, hindering or delaying, or having assisted, favoured, hindered or delayed, any person in the transaction of any business with a public body,

shall be guilty of an offence.

(2) Any public servant who, whether in Hong Kong or elsewhere, without lawful authority or reasonable excuse, solicits or accepts any advantage as an inducement to or reward for or otherwise on account of his -

(a) performing or abstaining from performing, or having performed or abstained from performing, any act in his capacity as a public servant;

(b) expediting, delaying, hindering or preventing, or having expedited, delayed, hindered or prevented, the performance of an act, whether by himself or by any other public servant in his or that other public servant's capacity as a public servant; or

(c) assisting, favouring, hindering or delaying, or having assisted, favoured, hindered or delayed, any person in the

transaction of any business with a public body,

shall be guilty of an offence.

(3) If a public servant other than a prescribed officer solicits or accepts an advantage with the permission of the public body of which he is an employee being permission which complies with subsection (4), neither he nor the person who offered the advantage shall be guilty of an offence under this section.

(4) For the purposes of subsection (3) permission shall be in writing and -

- (a) be given before the advantage is offered, solicited or accepted; or
- (b) in any case where an advantage has been offered or accepted without prior permission, be applied for and given as soon as reasonably possible after such offer or acceptance,

and for such permission to be effective for the purposes of subsection (3), the public body shall, before giving such permission, have regard to the circumstances in which it is sought.

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;
- (b) solicit or accept any gift of money or loan of money or other allowance or advance made or given out of any Government

staff welfare fund or permitted by the Government under any Government regulations or permitted in accordance with the prescribed officer's terms and conditions of employment or appointment;

- (c) solicit or accept any air, sea or overland passage provided in accordance with any Government regulations or provided in accordance with the prescribed officer's terms and conditions of employment or appointment.

Permission in respect of advantages other than passages

8. (1)(a) If a prescribed officer wishes to accept any gift (whether of money or otherwise), discount or loan of money 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 or presented with the gift, discount, or loan of money, seek the permission of the approving authority to accept it.

- (b) If a prescribed officer wishes to solicit any gift (whether of money or otherwise), discount or loan of money which he does not have permission to solicit under sections 3 to 7, he must, before soliciting the gift, discount or loan of money, seek the permission of the approving authority to solicit it.

(2) In the case of gifts other than money, the approving authority may :-

- (a) permit the prescribed officer to solicit or accept the gift either unconditionally or subject to such conditions as the approving authority may specify; or

- (b) refuse him permission to solicit or accept the gift and, if the gift is already in his possession,

- (i) require him to return it to the donor; or

- (ii) require the gift to be handed to a charitable organisation nominated by the prescribed officer and approved by the approving authority; or

- (iii) require him to dispose of the gift in such other manner as the approving authority may direct.

(3) In the case of discounts, the approving authority may :-

- (a) permit the prescribed officer to solicit or accept or take the benefit of the discount either unconditionally or subject to such conditions as the approving authority may specify; or

(b) refuse him permission to solicit or accept or take the benefit of the discount and, if he has already accepted or taken the benefit of the discount, require him to pay to the donor of the discount an amount equal to the value of the discount.

(4) In the case of gifts of money or loans of money, the approving authority may :-

(a) permit the prescribed officer to solicit or accept the gift of money or loan of money either unconditionally or subject to such conditions as the approving authority may specify; or

(b) refuse him permission to solicit or accept the money and, if the money is already in his possession,

(i) require him to return the money to the donor or lender; or

(ii) require him to dispose of the money in such other manner as the approving authority may direct.

(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.

Examination of Estimates of Expenditure 2012-13
**CONTROLLING OFFICER'S REPLY TO
SUPPLEMENTARY QUESTION**

Reply Serial No.

S-CSB02

Question Serial No.

SV004

Head: 143 – Government Secretariat: Civil Service Bureau Subhead (No. & title):

Programme: (2) Human Resource Management

Controlling Officer: Permanent Secretary for the Civil Service

Director of Bureau: Secretary for the Civil Service

Question:

Clarify if a civil servant has a duty to report to the authority if he suspects his supervisor has committed offences or misconduct.

Asked by: Hon. James TO Kun-sun

Reply:

Civil servants have an obligation to report, either directly or through their bureaux/departments, to the relevant law enforcement authority all instances of crime or alleged crime (including those involving their supervisors) which they may come across. Civil servants may report any alleged or suspected misconduct committed by their supervisors to their departmental/bureau management.

Signature _____

Name in block letters Raymond H.C. Wong

Post Title Permanent Secretary for the Civil Service

Date 6 March 2012

Examination of Estimates of Expenditure 2012-13
**CONTROLLING OFFICER'S REPLY TO
SUPPLEMENTARY QUESTION**

Reply Serial No.

S-CSB03

Question Serial No.

SV003

Head: 143 – Government Secretariat: Civil Service Bureau Subhead (No. & title):

Programme: (2) Human Resource Management

Controlling Officer: Permanent Secretary for the Civil Service

Director of Bureau: Secretary for the Civil Service

Question:

The Administration is requested to provide statistics on enquiries received in recent weeks by staff of the Civil Service Bureau about matters on the acceptance of advantages and entertainment.

Asked by: Hon. KAM Nai-wai

Reply:

The Civil Service Bureau does not normally keep statistics on enquiries from bureaux/departments. In the past two weeks or so, we have received more enquiries from bureaux/departments on conduct-related matters, including matters on the acceptance of advantages and entertainment.

Signature _____

Name in block letters Raymond H.C. Wong

Post Title Permanent Secretary for the Civil Service

Date 13 March 2012

Examination of Estimates of Expenditure 2012-13
**CONTROLLING OFFICER'S REPLY TO
SUPPLEMENTARY QUESTION**

Reply Serial No.

S-CSB04

Question Serial No.

SV016

Head: 143 – Government Secretariat: Civil Service Bureau Subhead (No. & title):

Programme: (2) Human Resource Management

Controlling Officer: Permanent Secretary for the Civil Service

Director of Bureau: Secretary for the Civil Service

Question:

The Administration is requested to provide information on the administrative, legal and other measures taken in respect of the employment of people with disabilities in order to comply with the relevant codes of the International Labour Organization and the Convention on the Rights of Persons with Disabilities.

Asked by: Hon. LAU Wai-hing, Emily

Reply:

The policy objective of the Government in assisting persons with disabilities in attaining employment is to ensure that they have equal access to participation in productive and gainful employment in the open market. To this end, the Government has put in place suitable legislative and administrative measures against disability discrimination at the workplace and in employment. The Government also provides a wide range of employment support and vocational training services for persons with disabilities so as to equip them with job skills that meet market requirements and assist them in securing suitable employment commensurate with their abilities.

The Disability Discrimination Ordinance (DDO) provides persons with disabilities the legal safeguard for equal opportunities and protects them against discrimination, harassment and vilification in employment and other areas. The Government complies with the DDO.

In addition to legal protection, the Government, as an employer, seeks to place persons with disabilities in appropriate jobs whenever possible and welcomes applications from them for both civil service and non-civil service vacancies. Applicants with disabilities who meet the basic entry requirements for a post will not be subject to any further shortlisting criteria and will be automatically invited to attend a selection interview. Candidates with disabilities will also be given an appropriate degree of preference in order to enable them to compete with able-bodied candidates on equal grounds. Once candidates with disabilities are considered suitable by the selection board to carry out the duties of a particular post, they would normally be recommended for appointment even though they may not be able, owing to their disabilities, to perform the full range of duties of every post in the same rank. Our policy on the employment of persons with disabilities is proactive, offering preferential treatment to candidates with disabilities in their application for Government jobs. We will continue to encourage persons with disabilities to apply for Government jobs, and to place them in appropriate jobs whenever possible.

The Government provides on-the-job assistance to their staff members with disabilities to facilitate them in carrying out their duties. Such assistance may take the form of modifications of work areas and facilities, appropriate changes to job design or work schedules and provision of necessary equipment, etc. The Civil Service Bureau also finances the purchase of technical aids, such as Braille display, screen reading software, telephone amplifier to facilitate staff with disabilities to better perform their duties in the workplace.

The Initial Report of the Hong Kong Special Administrative Region of the People's Republic of China under the United Nations Convention on the Rights of Persons with Disabilities (the Report) (a copy is available on the Labour and Welfare Bureau's website), which was submitted in 2010, provides detailed information on the legal protection and administrative measures on the promotion of employment for persons with disabilities. The measures concerning the civil service are set out in paragraphs 27.32 to 27.35 of the Report.

Signature _____

Name in block letters Raymond H.C. Wong

Post Title Permanent Secretary for the Civil Service

Date 15 March 2012

Examination of Estimates of Expenditure 2012-13
**CONTROLLING OFFICER'S REPLY TO
SUPPLEMENTARY QUESTION**

Reply Serial No.

S-CSB05

Question Serial No.

SV013

Head: 143 – Government Secretariat: Civil Service Bureau Subhead (No. & title):

Programme: (2) Human Resource Management

Controlling Officer: Permanent Secretary for the Civil Service

Director of Bureau: Secretary for the Civil Service

Question:

Compare the financial provisions for the conduct of disciplinary proceedings before and after the Court of Final Appeal's ruling that the blanket restriction on professional legal representation in police disciplinary proceedings was unconstitutional, null, void and of no effect.

Asked by: Hon. NG Margaret

Reply:

The Court of Final Appeal has earlier ruled in *Lam Siu Po v. Commissioner of Police*, FACV 9/2008 (“the CFA judgment”) that the provision in the Police (Discipline) Regulations which explicitly prohibits legal representation for officers charged with a disciplinary offence in disciplinary hearings is inconsistent with Article 10 of the Hong Kong Bill of Rights and is hence unconstitutional, null and void. According to the CFA judgment, the approval of legal representation is a matter for the disciplinary authority to decide having regard to the principle of fairness. The CFA judgment has read-across implications for other subsidiary regulations on discipline to the Disciplined Services Legislation (“DSL”) containing similar prohibition. The Public Service (Administration) Order (“PS(AO)”), which governs disciplinary matters for civilian civil servants and senior ranking civil servants of the disciplined service grades in general, does not contain similar prohibition.

Following the CFA judgment and pending amendments to the subsidiary regulations on discipline to the DSL, the Administration has already put in place administrative arrangements and promulgated guidelines on the application procedures and factors for consideration on applications for legal representation from officers charged. If legal representation for an officer charged is allowed, separate legal representation will be provided to the adjudicating tribunal and the prosecuting officer at the hearing. To ensure impartiality of the lawyers appointed, the lawyer acting for the prosecuting officer is retained and funded by the Department of Justice (“DoJ”) whereas legal adviser to the adjudicating tribunal is retained and funded by the Civil Service Bureau (“CSB”) for cases processed under the PS(AO) or the department concerned for cases processed under the DSL.

All additional expenses for conducting disciplinary proceedings with legal representation after the CFA judgment, such as fees for engaging outside lawyers and staffing support to process applications for legal representation, are absorbed by CSB, DoJ or the department concerned. Since the handing down of the CFA judgment in March 2009, the Administration has approved about 100 applications for legal representation in disciplinary cases processed under the PS(AO) and

the DSL. As at 31.1.2012, 29 cases have been or are being heard with legal representation, and the expenses for engaging the services of outside lawyers in these cases were about \$1.6 million.

Signature _____

Name in block letters Raymond H.C. Wong

Post Title Permanent Secretary for the Civil Service

Date 16 March 2012

Examination of Estimates of Expenditure 2012-13
**CONTROLLING OFFICER'S REPLY TO
SUPPLEMENTARY QUESTION**

Reply Serial No.

S-CSB06

Question Serial No.

SV014

Head: 143 – Government Secretariat: Civil Service Bureau Subhead (No. & title):

Programme: (3) Translation and Interpretation Services and Use of Official Languages

Controlling Officer: Permanent Secretary for the Civil Service

Director of Bureau: Secretary for the Civil Service

Question:

The Administration is requested to provide the organization chart and establishment of the Official Languages Division of the Civil Service Bureau, showing the qualifications of the highest-rank personnel.

Asked by: Hon. NG Margaret

Reply:

In 2011-12, the Official Languages Division (OLD) of the Civil Service Bureau has a total establishment of 187 posts, of which 117 are Official Languages Officer (OLO) posts, 13 are Simultaneous Interpreter posts, 28 are Calligraphist (Callig) posts and 29 are posts of various General Grades. It is headed by a Principal Official Languages Officer (POLO). A detailed organisation chart is at Annex. OLOs and Calligs are also deployed to different bureaux and departments to provide services. As of 29.2.2012, there were 332 OLO and 142 Callig posts in various offices outside the OLD Headquarters. The 332 OLO posts comprised 9 Chief Official Languages Officer (COLO), 51 Senior Official Languages Officer (SOLO), 143 OLO I and 129 OLO II posts; the 142 Callig posts were made up of 13 Senior Callig and 129 Callig posts.

The entry requirements for the OLO Grade's entry rank (OLO II rank) are -

- (a) a bachelor's degree; and
- (b) 'Level 2' results, which is the highest pass level, in the Use of Chinese (UC) and Use of English (UE) papers in the Common Recruitment Examination (CRE) conducted by the Examination Unit of the Civil Service Bureau for applicants for civil service posts at degree or professional level. Grade 'C' or above in Chinese Language and Culture/Chinese Language and Literature of the Hong Kong Advanced Level Examination (HKALE) and Grade 'C' or above in Use of English of the HKALE/English Language of the General Certificate of Education (Advanced Level) are accepted as equivalent to 'Level 2' in the UC paper and the UE paper of the CRE respectively.

Above the OLO entry rank are four promotion ranks, namely the OLO I, SOLO, COLO and POLO ranks. There is no higher academic requirement, only rank-specific competency requirements, for appointment to these promotion ranks. For promotion to POLO, an officer must have, among other

competencies, an excellent command of the two official languages, commendable professional ability, strong leadership qualities and sound human resource management skills.

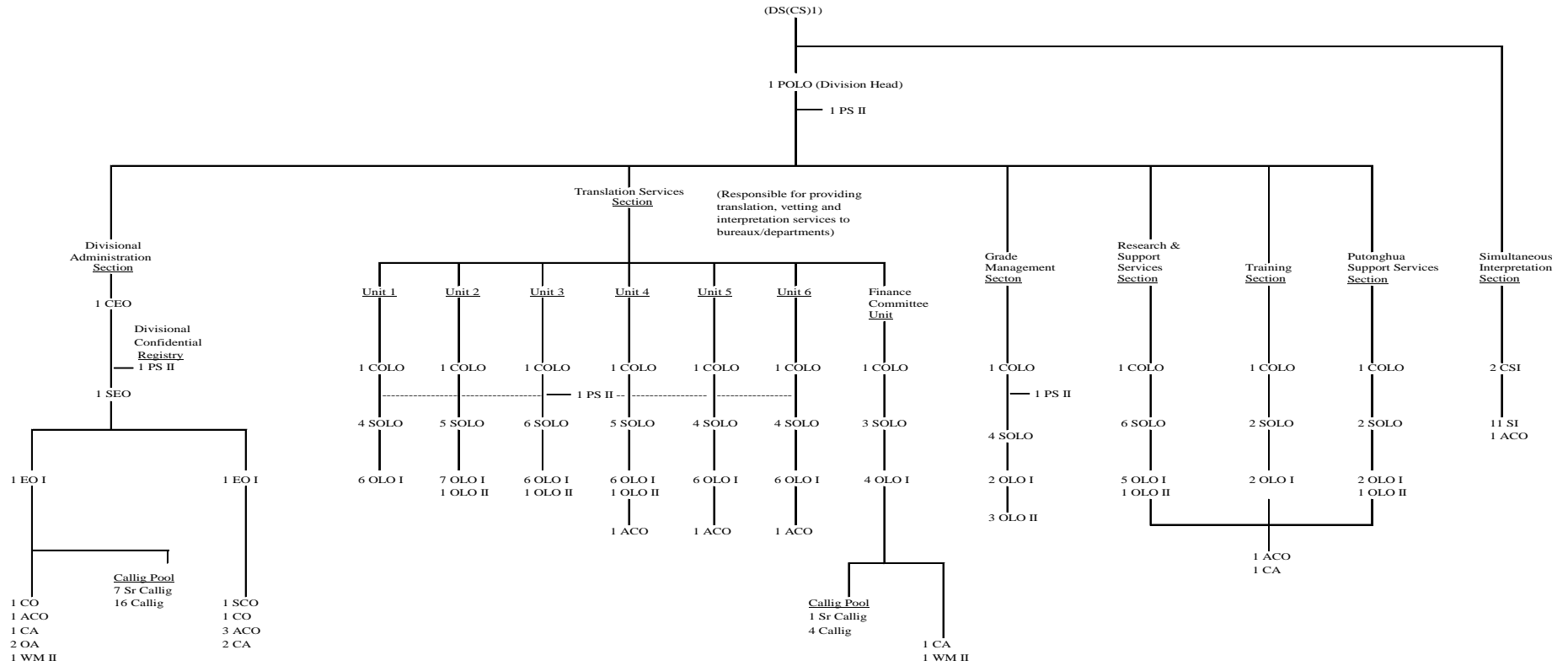
Signature _____

Name in block letters Raymond H.C. Wong

Post Title Permanent Secretary for the Civil Service

Date 15 March 2012

Organisation Chart of Official Languages Division, Civil Service Bureau
(as at 29.2.2012)



Legends [No. of posts]

DS(CS)1 - Deputy Secretary (Civil Service)1
 POLO - Principal Official Languages Officer [1]
 COLO - Chief Official Languages Officer [11]
 SOLO - Senior Official Language Officer [45]
 OLO I - Official Languages Officer I [52]
 OLO II - Official Languages Officer II [8]

CSI - Chief Simultaneous Interpreter [2]
 SI - Simultaneous Interpreter [11]
 Sr Callig - Senior Calligraphist [8]
 Callig - Calligraphist [20]

CEO - Chief Executive Officer [1]
 SEO - Senior Executive Officer [1]
 EO I - Executive Officer I [2]
 PS II - Personal Secretary II [4]

SCO - Senior Clerical Officer [1]
 CO - Clerical Officer [2]
 ACO - Assistant Clerical Officer [9]
 CA - Clerical Assistant [5]
 OA - Office Assistant [2]
 WM II - Workman II [2]

Examination of Estimates of Expenditure 2012-13
**CONTROLLING OFFICER'S REPLY TO
SUPPLEMENTARY QUESTION**

Reply Serial No.

S-CSB07

Question Serial No.

SV015

Head: 143 – Government Secretariat: Civil Service Bureau Subhead (No. & title):

Programme: (2) Human Resource Management

Controlling Officer: Permanent Secretary for the Civil Service

Director of Bureau: Secretary for the Civil Service

Question:

In respect of Reply Serial No. CSB006, please provide an analysis on the causes for the drop in the number of civil servants with disabilities in the non-disciplined services category from 2 506 in 2009-10 to 2 440 in 2010-11.

Asked by: Hon. PAN Pey-chyou

Reply:

The drop in the number of civil servants with disabilities in the non-disciplined services category in 2010-11 was mainly due to wastage, including retirement, resignation and death.

Signature _____

Name in block letters Raymond H.C. Wong

Post Title Permanent Secretary for the Civil Service

Date 16 March 2012

Examination of Estimates of Expenditure 2012-13
**CONTROLLING OFFICER'S REPLY TO
SUPPLEMENTARY QUESTION**

Reply Serial No.

S-CSB08

Question Serial No.

SV012

Head: 37 – Department of Health

Subhead (No. & title):

Programme: (7) Medical and Dental Treatment for Civil Servants

Controlling Officer: Director of Health

Director of Bureau: Secretary for the Civil Service

Question:

In respect of Reply Serial No. CSB029, please provide a breakdown on the financial provision for “Payment and reimbursement of medical fees and hospital charges” in 2011-12 and 2012-13; if it cannot be provided, the reasons for that.

Asked by: Hon. LI Fung-ying

Reply:

A breakdown of the actual expenditure of “payment and reimbursement of medical fees” and “payment and reimbursement of hospital charges” for 2011-12 (up to end of February 2012) is provided as follows -

	Expenditure (\$ million)
I. Payment and reimbursement of medical fees	
(a) Drugs	172.9
(b) Medical equipment and treatment	62.2
(c) Medical tests and imaging services	14.4
(d) Others (e.g. medical expenses for officers on duty outside Hong Kong)	3.3
II. Payment and reimbursement of hospital charges	2.7
	<hr/> 255.5 <hr/>

Payment and reimbursement of medical fees mainly refers to the reimbursement in respect of civil service eligible persons (CSEPs) of medical expenses on drugs, services and equipment that are self-financing items or are not available in or through Hospital Authority (HA). Payment and reimbursement of hospital charges refers to the reimbursement to HA of the difference between 50% of the fees for the public and the reduced fees for CSEPs for the use of special accommodation beds in HA hospitals. While the Government is generally not required to repay the difference between the reduced hospital maintenance fees for CSEPs and the fees for the public to HA because the annual subvention given by the Government to HA is a lump sum provision, in which the resources required for the provision of medical benefits to CSEPs have already been included, there are a small number of special accommodation beds in HA hospitals where the hospitals are allowed to retain 50% of the fee income. For those special accommodation beds in HA hospitals (around 50 beds), the Department of Health (DH) is required to top up the difference between 50% of the fees for the public and the reduced fees for CSEPs for the use of those beds.

As shown in the above breakdown, since the occupation rate of these special accommodation beds by CSEPs fluctuate every year due to the actual demand, and the expenditure only accounts for a very small percentage of the overall expenditure on payment and reimbursement of medical fees and hospital charges (generally less than 2% each financial year), we have not further broken down the provision into “payment and reimbursement of medical fees” and “payment and reimbursement of hospital charges” for the purpose of estimates of expenditure.

Signature _____

Name in block letters Dr Thomas TSANG

Post Title Acting Director of Health

Date 19 March 2012