

## **LEGISLATIVE COUNCIL BRIEF**

### **Prevention of Bribery Ordinance (Chapter 201)**

#### **PREVENTION OF BRIBERY ORDINANCE (AMENDMENT OF SCHEDULE)(No. 3) ORDER 1998**

### **INTRODUCTION**

At the meeting of the Executive Council on 8 September, the Council ADVISED and the Chief Executive ORDERED that the Prevention of Bribery Ordinance (Amendment of Schedule) (No.3) Order 1998 should be made.

### **BACKGROUND AND ARGUMENT**

2. Currently, The Hong Kong Mortgage Corporation Limited (HKMC) and Hong Kong Note Printing Limited (HKNP) are not “public bodies” for the purposes of the Prevention of Bribery Ordinance (PBO). To impose a higher standard on them of ethical practices and enhance their awareness against corruption, we need to designate HKMC and HKNP as public bodies for the purposes of the PBO.

3. Under the PBO, the control in relation to public bodies is more stringent than that relating to private organisations. When HKMC and HKNP are specified as public bodies for the purposes of PBO, their members and employees will become public servants for the purposes of PBO and will be subject to the stringent control in relation to public bodies. For example, it is an offence for a public servant to solicit or accept any advantage relating to his work in the public body concerned unless he has written permission of the public body. Furthermore, there are provisions in the PBO specifically focusing on persons having dealings with public bodies. For example, it is an offence for anyone to offer an advantage to a public servant as an inducement for performing or abstaining from performing any act in his capacity as a public servant or for procuring of any contract with a public body for the performance of any work.

4. The Corruption Prevention Department of the Independent Commission Against Corruption (ICAC) gives special attention to scheduled public bodies and meets with them regularly for necessary corruption prevention work. The ICAC reviews the Schedule from time to time to see if there are other organisations which should be included as public bodies. The general criteria for inclusion are that the organisation is -

- (a) in receipt of or distributing substantial public funds;
- (b) given monopoly of a public service; or
- (c) placed in a position of special trust by the Government.

5. We are satisfied that the HKMC and HKNP meet the general criteria for inclusion as public bodies for the purposes of the PBO. The boards of directors of both the HKMC and HKNP have been consulted. They have no objection to the proposal.

6. The HKMC, incorporated in March 1997, is wholly-owned by the Government through the Exchange Fund. Though it is not a monopoly, it plays a prominent role in the development of the secondary mortgage market in Hong Kong. It serves important public purposes as its work contributes to the promotion of banking and monetary stability, debt market development and home financing.

7. The shareholders of HKNP include the Government, the China Banknote Printing and Minting Corporation and the three note issuing banks, namely, the Hongkong and Shanghai Banking Corporation, the Standard Chartered Bank and the Bank of China. HKNP indirectly receives fund from the Exchange Fund in settlement of banknote printing invoices. It owes a fiduciary duty to the Government in ensuring the integrity of banknote printing in Hong Kong.

## **THE ORDER**

8. Under section 35 of the PBO, the Chief Executive in Council may by order published in the Gazette amend the Schedule. The Order will amend the Schedule by adding “The Hong Kong Mortgage Corporation Limited” and “Hong Kong Note Printing Limited” as public bodies.

## **PUBLIC CONSULTATION**

9. The issue is not expected to be controversial. No public consultation has been conducted.

## **HUMAN RIGHTS IMPLICATIONS**

10. The Department of Justice advises that the proposed Order has no human rights implications.

## **FINANCIAL AND STAFFING IMPLICATIONS**

11. There are no financial or staffing implications.

## **LEGISLATIVE TIMETABLE**

12. The Order, being subsidiary legislation, will come into operation when it is published in the Gazette on 18 September 1998. The Order will then be tabled at the Legislative Council for negative vetting.

## **ENQUIRY**

13. Enquiries on this brief may be directed to Mr Eddie Cheung, Assistant Secretary for Financial Services at 2528 9076.

**16 September 1998**  
**Financial Services Bureau**