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Government Secretariat
Hong Kong

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 Permanent Secretaries Heads of Department	c.c. Judiciary Administrator Commissioner, Independent Commission Against Corruption Secretary, Public Service Commission
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(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.

superseded by
AAN 2010

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.

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

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|--------------------------------------|--|
| Interpretation | <p>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</p> <p>(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.</p> |
| Soliciting or accepting an advantage | <p>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.</p> |
| Bribery | <p>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 –</p> <ul style="list-style-type: none">(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, <p>shall be guilty of an offence.</p> <p>(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 –</p> <ul style="list-style-type: none">(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.

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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.