

LEGISLATIVE COUNCIL BRIEF

Telecommunications Ordinance (Chapter 106)

TELECOMMUNICATIONS (TELECOMMUNICATIONS APPARATUS) (EXEMPTION FROM LICENSING) ORDER

INTRODUCTION

At the meeting of the Executive Council on 14 January 2003, the Council ADVISED and the Chief Executive ORDERED that the Telecommunications (Telecommunications Apparatus) (Exemption from Licensing) Order (the Order) at Annex A should be made under section 39 of the Telecommunication Ordinance (the Ordinance), so as to consolidate and update seven exemption orders currently in force exempting the private use, sale or demonstration with a view to sale, and import or export of various types of telecommunications apparatus from the licensing requirements under the Telecommunications Ordinance (the Ordinance).

JUSTIFICATIONS

2. The existing seven exemption orders¹ were made individually over time since 1981. They need consolidation and updating to reflect technological advancement and market developments. Specifically,

¹ The seven exemption orders are:

- Telecommunications (Model Control Equipment) (Exemption from Licensing) Order (Cap 106I)
- Telecommunications (Public Non-exclusive Telecommunications Service Customers) (Exemption from Licensing) Order (Cap 106J)
- Telecommunications (Cordless Telecommunications Apparatus) (Exemption from Licensing) Order (Cap 106L)
- Telecommunications (Low Power Devices) (Exemption from Licensing) Order (Cap 106M)
- Telecommunications (Public Radiocommunications Service Customers) (Exemption from Licensing) Order (Cap 106N)
- Telecommunications (Fixed Telecommunications Network Services) (Exemption from Licensing) Order (Cap 106R)
- Telecommunications (Mobile Earth Stations) (Exemption) Order (Cap 106U).

technological convergence has removed the functional distinction among different products. It is therefore no longer necessary to retain multiple exemption orders for different apparatus as distinguished by their functions. Wireless local area network services, which can now be provided by either cordless telecommunications apparatus or low power devices, is a case in point. Second, we aim to provide a more business-friendly environment by expanding the exemption arrangement. We therefore propose, for example, to exempt the private use of radiocommunications apparatus operating on new frequency bands, the sale of practically all exempted radiocommunications apparatus and the import or export of practically all exempted radiocommunications apparatus for personal use. Third, the opportunity is taken to tidy up the exemption arrangements and to clarify that the use of apparatus for offering public telecommunications services is subject to licensing control to protect consumer interests.

THE ORDER

3. The main provisions of the Order are summarised as follows –
 - (a) Section 3 provides for exemption from the licensing requirement for non-radiocommunications apparatus.
 - (b) Section 4 provides for exemption from the licensing requirement for private use of radiocommunications apparatus for communications between a taxi and the taxi control service centre.
 - (c) Section 5 provides for exemption from the licensing requirement for radiocommunications apparatus (e.g. cordless telephones meeting the technical criteria set out in the Schedules to the Order).
 - (d) Section 6 provides for exemption from the licensing requirement for hybrid telecommunications apparatus.
 - (e) Section 7 provides for exemption from the licensing requirement for import or export of radiocommunications apparatus already

exempted under other sections of this Order if the apparatus is for personal use.

LEGISLATIVE TIMETABLE

4. The legislative timetable will be -

Publication in the Gazette	17 January 2003
Table at the Legislative Council	22 January 2003
Commencement	on a date to be designated by the Telecommunications Authority

IMPLICATIONS OF THE ORDER

5. The Order has no financial and staffing implications.

6. The Order is in conformity with the Basic Law, including the provisions concerning human rights. It has no productivity, environmental or sustainability implications.

7. The Order will update and streamline the exemption arrangement under the Ordinance. As it will relax the current exemption regime, the Order is conducive to developing a vibrant telecommunications market, which will in turn bring benefits to consumers and businesses. A thriving telecommunications market enhances the status of Hong Kong as a business hub and underpins the development of other economic sectors.

PUBLIC CONSULTATION

8. The Order is a technical exercise for updating and consolidating the existing exemption orders. The Office of the Telecommunications Authority

(OFTA) has taken into account the latest technological application and market situation through its regular contact with industry.

PUBLICITY

9. A press release will be issued when the Order is published in the Gazette. A spokesperson will be available to answer media and public enquiries.

BACKGROUND

10. Section 8(1)(a) of the Ordinance provides that the establishment and maintenance of any means of telecommunications (including radiocommunications apparatus) is subject to licensing. Sections 8(1)(b), (c) and (d) and 9 of the Ordinance further provide that the possession, use, sale or demonstration with a view to sale, and import or export of radiocommunications apparatus are also subject to licensing. The relevant provisions are extracted at Annex B for Members' reference.

11. Section 39 of the Ordinance (Annex C) provides that the Chief Executive in Council may by order exempt any person from any of the provisions in the Ordinance. The existing seven exemption orders were made under section 39 to provide for exemption from licensing in respect of the private use, sale or demonstration with a view to sale, and import or export of various types of telecommunications apparatus. These apparatus include radiocommunications apparatus (such as mobile phones and cordless telephones) as well as non-radiocommunications apparatus (such as telephones and fax terminals). The exemption arrangement aims at achieving a less onerous and more business-friendly regulatory environment, after taking into account the interest and convenience of users and customers.

ENQUIRIES

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**Commerce, Industry and Technology Bureau
Information Technology and Broadcasting Branch
17 January 2003**

**TELECOMMUNICATIONS (TELECOMMUNICATIONS APPARATUS)
(EXEMPTION FROM LICENSING) ORDER**

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**TELECOMMUNICATIONS (TELECOMMUNICATIONS APPARATUS)
(EXEMPTION FROM LICENSING) ORDER**

(Made by the Chief Executive in Council under section 39
of the Telecommunications Ordinance (Cap. 106))

1. Commencement

This Order shall come into operation on a day to be appointed by the Telecommunications Authority by notice published in the Gazette.

2. Interpretation

In this Order, unless the context otherwise requires -
"carrier power" (載波功率), "effective radiated power" or "e.r.p." (有效輻射功率), "equivalent isotropically radiated power" or "e.i.r.p." (等效全向輻射功率), "mean power" (平均功率), "mobile earth station" (移動地球站), "spurious emission" (雜散發射) and "unwanted emissions" (無用發射) have the meanings assigned to them respectively by Article 1 of Chapter 1 of the Radio Regulations published by the General Secretariat of the International Telecommunication Union, edition of 2001, as revised from time to time;

"digital modulation" (數碼調制) means the process by which the characteristics of a carrier wave (that is to say, an electromagnetic wave used to carry an information signal) are varied among a set of predetermined discrete values in accordance with a digital modulating function as specified in document

ANSI C63.17-1998 published by the American National Standards Institute;

"frequency hopping spread spectrum modulation" (頻率跳變擴譜調制) means a modulation system which hops to channel frequencies that are selected at the system hopping rate from a pseudorandomly ordered list of hopping frequencies;

"modulation" (調制) has the meaning assigned to it in "Terms and Definitions" of the Recommendation ITU-R V.662 approved by the International Telecommunication Union, as revised from time to time;

"non-radiocommunications" (非無線電通訊) means telecommunications other than by means of radio waves;

"non-radiocommunications apparatus" (非無線電通訊器具) means telecommunications apparatus used for or in connection with non-radiocommunications;

"taxi" (的士) means a motor vehicle which is registered as a taxi under the Road Traffic Ordinance (Cap. 374);

"telecommunications apparatus" (電訊器具) means an apparatus used for or in connection with non-radiocommunications or radiocommunications or both.

3. Exemption for non-radiocommunications apparatus

(1) A person who establishes or maintains any non-radiocommunications apparatus which is not used to provide a public telecommunications service and -

- (a) is lawfully connected to a telecommunications network or system for obtaining services from a person who

operates that telecommunications network or system under any of the following licences issued or created under the Ordinance -

- (i) a fixed carrier licence;
 - (ii) a fixed telecommunications network services licence;
 - (iii) a public non-exclusive telecommunications service licence (for services other than a licence for mobile virtual network operator services);
 - (iv) the class licence for in-building telecommunications systems;
 - (v) any other licence (including a class licence) for the provision of any public telecommunications service; or
- (b) is used in a manner other than that described in paragraph (a) where -
- (i) the person and the apparatus meet the conditions specified in subsection (2); and
 - (ii) the apparatus meets the technical criteria set out in Schedule 2,

is exempted from the obligation to hold a licence under section 8 (1)(a) of the Ordinance.

(2) For the purposes of subsection (1)(b)(i), the conditions are that -

- (a) the person does not use the apparatus in such a manner as to cause harmful interference with other telecommunications apparatus or any

telecommunications system authorized under the Ordinance;

- (b) the person complies with any direction given by the Authority for avoiding interference with other telecommunications apparatus or any telecommunications system authorized under the Ordinance;
- (c) the apparatus tolerates interference from other telecommunications apparatus or any telecommunications system authorized under the Ordinance; and
- (d) the apparatus is made available for inspection and testing, if so required, by any person authorized for the purpose by the Authority.

4. Exemption for radiocommunications apparatus relating to taxis

(1) Subject to subsection (2), a person who -

- (a) possesses any radiocommunications apparatus capable of being used; or
- (b) uses any radiocommunications apparatus,

solely for a lawful connection to a telecommunications network or system for obtaining services from a person who operates that telecommunications network or system under a public radiocommunications service licence for communication between a radiocommunications installation and taxis is exempted from the obligation to hold a licence under section 8(1)(a) or (b) of the Ordinance, as the case may be.

(2) A person is not exempted from section 8(1)(a) or (b) of the Ordinance, as the case may be, unless -

- (a) the person complies with any standards or specifications as may be prescribed under section 32D, and with any order or requirements as may be prescribed under section 32E, of the Ordinance;
- (b) the person does not use the apparatus to provide a public telecommunications service;
- (c) the person does not use the apparatus in such a manner as to cause harmful interference with other telecommunications apparatus or any telecommunications system authorized under the Ordinance;
- (d) the person complies with any direction given by the Authority for avoiding interference with other telecommunications apparatus or any telecommunications system authorized under the Ordinance; and
- (e) the apparatus is made available for inspection and testing, if so required, by any person authorized for the purpose by the Authority.

5. Exemption for other radiocommunications apparatus

(1) Subject to subsection (2), a person who is under an obligation to hold a licence under section 8(1)(a), (b), (c) or (d) of the Ordinance in respect of any radiocommunications apparatus is

exempted from section 8(1)(a), (b), (c) or (d) of the Ordinance, as the case may be, if the apparatus is used or is capable of being used -

(a) for a lawful connection by radiocommunications to a telecommunications network or system for obtaining services from a person who operates that telecommunications network or system under any of the following licences issued or created under the Ordinance -

- (i) a fixed carrier licence;
- (ii) a mobile carrier licence;
- (iii) a fixed telecommunications network services licence;
- (iv) a public radiocommunications service licence (for services other than a licence for communication between a radiocommunications installation and taxis);
- (v) a public radiocommunications service licence (for services other than land mobile services);
- (vi) a public non-exclusive telecommunications service licence;
- (vii) the class licence for in-building telecommunications systems;
- (viii) any other licence (including a class licence) for the provision of any public telecommunications service; or

(b) in a manner other than that described in paragraph (a),
and -

(i) in the case where the apparatus is used or
is capable of being used as a mobile earth
station, it meets the technical criteria set
out in Schedule 1; or

(ii) in the case where the apparatus is used or
is capable of being used other than as a
mobile earth station, it meets the technical
criteria set out in Schedule 2 and tolerates
interference from other telecommunications
apparatus or any telecommunications system
authorized under the Ordinance.

(2) A person is not exempted from section 8(1)(a), (b), (c) or
(d) of the Ordinance, as the case may be, unless -

(a) the person complies with any standards or
specifications as may be prescribed under section 32D,
and with any order or requirements as may be prescribed
under section 32E, of the Ordinance;

(b) the person does not use the apparatus to provide a
public telecommunications service;

(c) the person does not use the apparatus in such a manner
as to cause harmful interference with other
telecommunications apparatus or any
telecommunications system authorized under the
Ordinance;

(d) the person complies with any direction given by the
Authority for avoiding interference with other

telecommunications apparatus or any telecommunications system authorized under the Ordinance; and

- (e) the apparatus is made available for inspection and testing, if so required, by any person authorized for the purpose by the Authority.

6. Exemption for hybrid telecommunications apparatus

(1) A person who is under an obligation to hold a licence under section 8(1)(a) of the Ordinance in respect of any non-radiocommunications apparatus that is used in a combination of those manners as described in section 3(1)(a) and (b) is exempted from section 8(1)(a) of the Ordinance if the provisions in section 3 are complied with.

(2) A person who is under an obligation to hold a licence under section 8(1)(a), (b), (c) or (d) of the Ordinance in respect of any radiocommunications apparatus that is used or is capable of being used in a combination of those manners as described in section 5(1)(a) and (b) is exempted from section 8(1)(a), (b), (c) or (d) of the Ordinance, as the case may be, if the provisions in section 5 are complied with.

(3) A person who is under an obligation to hold a licence under section 8(1)(a), (b), (c) or (d) of the Ordinance in respect of any telecommunications apparatus that is used or is capable of being used in a combination of any one or more of those manners as described in sections 3(1) and in 5(1) is exempted from section 8(1)(a), (b), (c) or (d) of the Ordinance, as the case may be, if the relevant provisions in both sections 3 and 5 are complied with.

7. Exemption for import and export of radiocommunications apparatus

A person who imports into, or exports from, Hong Kong any radiocommunications apparatus exempted under section 5 or 6 is also exempted from section 9 of the Ordinance if the apparatus is imported or exported, as the case may be, for the person's reasonable personal use and that the relevant quantity commensurates with such use.

8. Repeals

The following Orders are repealed -

- (a) Telecommunications (Model Control Equipment) (Exemption from Licensing) Order (Cap. 106 sub. leg.);
- (b) Telecommunications (Public Non-exclusive Telecommunications Service Customers)(Exemption from Licensing) Order (Cap. 106 sub. leg.);
- (c) Telecommunications (Cordless Telecommunications Apparatus)(Exemption from Licensing) Order (Cap. 106 sub. leg.);
- (d) Telecommunications (Low Power Devices)(Exemption from Licensing) Order (Cap. 106 sub. leg.);
- (e) Telecommunications (Public Radiocommunications Service Customers)(Exemption from Licensing) Order (Cap. 106 sub. leg.);
- (f) Telecommunications (Fixed Telecommunications Network Services)(Exemption from Licensing) Order (Cap. 106 sub. leg.); and
- (g) Telecommunications (Mobile Earth Stations)(Exemption) Order (Cap. 106 sub. leg.).

SCHEDULE 1

[s. 5]

TECHNICAL CRITERIA FOR APPARATUS USED, ETC. AS MOBILE
EARTH STATIONS

1. The operating frequency for transmission shall be within the frequency band 1610 MHz to 1660.5 MHz or 1980 MHz to 2010 MHz.
2. The operating frequency for reception shall be within the frequency bands 1525 MHz to 1559 MHz, 1613.8 MHz to 1626.5 MHz, 2170 MHz to 2200 MHz or 2483.5 MHz to 2500 MHz.
3. The mean equivalent isotropically radiated power density produced by the mobile earth station shall not exceed -3dBW/4kHz within the frequency band 1610 MHz to 1626.5 MHz.
4. The unwanted emissions generated by the mobile earth station shall comply with the relevant requirements in -
 - (a) Recommendation ITU-R M.1343 "Essential Technical Requirements of Mobile Earth Stations for Global Non-Geostationary Mobile-Satellite Service Systems in the Bands 1-3 GHz"; or
 - (b) Recommendation ITU-R M.1480 "Essential Technical Requirements of Mobile Earth Stations of Geostationary Mobile-Satellite Systems that are Implementing the Global Mobile Personal Communications By Satellite (GMPCS) - Memorandum of Understanding Arrangements in Parts of the Frequency Band 1-3 GHz",

approved by the International Telecommunication Union as revised from time to time.

SCHEDULE 2

[ss. 3 & 5]

TECHNICAL CRITERIA FOR APPARATUS USED, ETC. OTHER THAN
AS MOBILE EARTH STATIONS

Telecommunications apparatus shall operate within a frequency band shown in column 1 of the following table and shall generate an output level and spurious emission level as set out opposite to that frequency band in columns 2 and 3 -

Column 1	Column 2	Column 3
Frequency Band	Output Level	Spurious Emission Level
3-195 kHz	electric field strength not to exceed 40 dB μ V/m and magnetic field strength not to exceed 48.4 dBnA/m at 100 m from the apparatus	spurious emission level not to exceed the limits set out in Note ^[9]
1627.5-1796.5 kHz [1]	electric field strength not to exceed 88 dB μ V/m at 30 m from the apparatus	electric field strength not to exceed 34 dB μ V/m at 30 m from the apparatus within 0.5-30 MHz; spurious emission level not to exceed the limits set out in Note ^[9] (b)
13.553-13.567 MHz	(a) electric field strength not to exceed 80 dB μ V/m at 30 m; or (b) magnetic field strength not to exceed 42 dB μ A/m at 10 m from the apparatus	spurious emission level not to exceed the limits set out in Note ^[9]
26.96-27.28 MHz	mean power not to exceed 0.5 W	

33-33.28 MHz	e.r.p. not to exceed 10 mW	
36.26-36.54 MHz		
36.41-36.69 MHz		
36.71-36.99 MHz		
36.96-37.24 MHz		
40.66-40.70 MHz		
42.75-43.03 MHz		
43.71-44.49 MHz ^[2]	electric field strength not to exceed 10 mV/m at 3 m from the apparatus	spurious emission level not to exceed the limits set out in Note ^[10]
44.73-45.01 MHz	e.r.p. not to exceed 10 mW	spurious emission level not to exceed the limits set out in Note ^[9]
46.6-46.98 MHz ^[2]	electric field strength not to exceed 10 mV/m at 3 m from the apparatus	spurious emission level not to exceed the limits set out in Note ^[10]
47.13-47.41 MHz	e.r.p. not to exceed 10 mW	spurious emission level not to exceed the limits set out in Note ^[9]
47.43-47.56 MHz ^[1]	e.r.p. not to exceed 10 mW	spurious emission level not to exceed the limits set out in Note ^{[9](b)}
48.75-50 MHz ^[2]	electric field strength not to exceed 10 mV/m at 3 m from the apparatus	spurious emission level not to exceed the limits set out in Note ^[10]
173.96-174.24 MHz	e.r.p. not to exceed 20 mW	spurious emission level not to exceed the limits set out in Note ^[9]
187.5-188.0 MHz	e.r.p. not to exceed 10 mW	
253.85-255 MHz ^[3]	e.r.p. not to exceed 12 mW	e.r.p. not to exceed 2.5 μ W
266.75-267.25 MHz	e.r.p. not to exceed 10 mW	spurious emission level not to exceed the limits set out in Note ^[9]
313.75-314.25 MHz		
314.75-315.25 MHz		
380.2-381.325 MHz ^[3]	e.r.p. not to exceed 12 mW	e.r.p. not to exceed 2.5 μ W
409.74-410 MHz ^[4]	e.r.p. not to exceed 0.5 W	e.r.p. not to exceed 50 μ W
819.1-823.1 MHz	(a) e.r.p. not to exceed 100 mW; and (b) power spectral density not to exceed 10 mW per 25 kHz	spurious emission level not to exceed the limits set out in Note ^[9]
864.1-868.1 MHz ^[5]	carrier power or e.r.p.	(a) e.r.p. not to exceed 250 nW for

	not to exceed 10 mW	frequency below 1 GHz excluding 41-68 MHz, 87.5-118 MHz, 162-230 MHz and 470-862 MHz; (b) e.r.p. not to exceed 4 nW for frequency in the bands 41-68 MHz, 87.5-118 MHz, 162-230 MHz and 470-862 MHz; and (c) e.r.p. not to exceed 1 μ W for frequency above 1 GHz
919.5-920.0 MHz	e.r.p. not to exceed 10 mW	spurious emission level not to exceed the limits set out in Note ^[9]
1880-1900 MHz ^[6]	(a) peak power not to exceed 250 mW for apparatus with antenna output terminal; or (b) peak e.i.r.p. not to exceed 250 mW for apparatus with integral antenna	(a) e.r.p. not to exceed 250 nW for frequency below 1 GHz; and (b) e.r.p. not to exceed 1 μ W for frequency above or equal to 1 GHz
1895-1906.1 MHz ^[7]	(a) carrier power not to exceed 10 mW for apparatus with antenna output terminal; or (b) e.r.p. not to exceed 10 mW for apparatus with integral antenna	(a) e.r.p. not to exceed 250 nW for frequency within 1895-1906.1 MHz; and (b) e.r.p. not to exceed 2.5 μ W for frequency within 30 MHz-10 GHz excluding 1895-1906.1 MHz
2400-2483.5 MHz	(a) peak e.i.r.p. not to exceed 4 W for frequency hopping spread spectrum modulation or digital modulation systems; or (b) aggregate e.r.p. not to exceed 100 mW for any modulation	e.r.p. not to exceed 10 μ W outside the frequency band in which the fundamental frequencies are located
5150-5350 MHz ^[11]	e.i.r.p. not to exceed 200 mW using only digital modulation	e.r.p. not to exceed 10 μ W

5725-5850 MHz	(a) peak e.i.r.p. not to exceed 4 W for frequency hopping spread spectrum modulation or digital modulation systems; or (b) aggregate e.r.p. not to exceed 100 mW for any modulation	e.r.p. not to exceed 10 μ W outside the frequency band in which the fundamental frequencies are located
18.82-18.87 GHz	(a) e.r.p. not to exceed 100 mW; and (b) power spectral density not to exceed 3 mW per 100 kHz	e.r.p. not to exceed 10 μ W outside the frequency band in which the fundamental frequencies are located
3000 GHz or above ^[8]	Not applicable	Not applicable

Note: ^[1] The apparatus shall operate within the frequency bands 1627.5-1796.5 kHz paired with 47.43-47.56 MHz and on one of the following pairs of frequencies -

Channel Number	kHz	MHz
1	1642.00	47.45625
2	1662.00	47.46875
3	1682.00	47.48125
4	1702.00	47.49375
5	1722.00	47.50625
6	1742.00	47.51875
7	1762.00	47.53125 or 47.44375
8	1782.00	47.54375

^[2] The apparatus shall operate within the frequency bands 43.71-44.49 MHz, 46.6-46.98 MHz and 48.75-50 MHz and on any one or more of the following pairs of frequencies -

Channel Number	MHz	MHz
1	43.720	48.760
2	43.740	48.840
3	43.820	48.860
4	43.840	48.920

5	43.920	49.020
6	43.960	49.080
7	44.120	49.100
8	44.160	49.160
9	44.180	49.200
10	44.200	49.240
11	44.320	49.280
12	44.360	49.360
13	44.400	49.400
14	44.460	49.460
15	44.480	49.500
16	46.610	49.670
17	46.630	49.845
18	46.670	49.860
19	46.710	49.770
20	46.730	49.875
21	46.770	49.830
22	46.830	49.890
23	46.870	49.930
24	46.930	49.990
25	46.970	49.970

- [3] The apparatus shall operate within the frequency bands 253.85-255 MHz paired with 380.2-381.325 MHz and the frequency pairs shall be as follows -

Speech Channel	$380.2 + n \times 0.0125$ MHz, where n is an integer in the ranges 1 to 45 and 47 to 88	$253.85 + n \times 0.0125$ MHz, where n is an integer in the ranges 1 to 45 and 47 to 88
Control Channel	380.775 MHz and 381.3125 MHz	254.425 MHz and 254.9625 MHz

- [4] The apparatus shall employ frequency modulation and the carrier frequencies of the apparatus shall be $409.7375 +$

(0.0125 x n) MHz, where n is an integer in the range 1 to 20.

[5] The carrier frequencies of the apparatus shall be 864.05 + (0.1 x n) MHz, where n is an integer in the range 1 to 40.

[6] The carrier frequencies of the apparatus shall be 1880.064 + (1.728 x n) MHz, where n is an integer in the range 1 to 10.

[7] The carrier frequencies of the apparatus shall be 1895.15 + (n - 1) x 0.3 MHz, where n is an integer in the range 1 to 37.

[8] The apparatus shall satisfy at least one of the following conditions:-

(a) the maximum usable range of the apparatus does not exceed 30 m;

(b) the transmission path does not cross a public street or unleased Government land.

[9] The apparatus shall generate a spurious emission level as set out opposite to the following frequency range -

(a) 3 kHz-30 MHz

Frequency Range	Spurious Emission Level
3-415 kHz	electric field strength not to exceed 17 dB μ V/m and magnetic field strength not to exceed 25.4 dBnA/m at 300 m from the apparatus
415 kHz-30 MHz	electric field strength not to exceed 30 dB μ V/m and magnetic field strength not to exceed 38.4 dBnA/m at 30 m from the apparatus

(b) 30 MHz-1000 MHz

Frequency Range	Spurious Emission Level
30-1000 MHz excluding 87-137 MHz and 470-790 MHz	e.r.p. not to exceed 300 nW
87-137 MHz and 470-790 MHz	e.r.p. not to exceed 60 nW

(c) 1-2 GHz

Frequency Range	Spurious Emission Level
1-2 GHz	e.r.p. not to exceed 1 μ W

^[10] The apparatus shall generate a spurious emission level as set out opposite to the following frequency range -

Frequency Range	Spurious Emission Level
1.705-30.0 MHz	electric field strength not to exceed 30 μ V/m at 30 m from the apparatus
30-88 MHz	electric field strength not to exceed 100 μ V/m at 3 m from the apparatus
88-216 MHz	electric field strength not to exceed 150 μ V/m at 3 m from the apparatus
216-960 MHz	electric field strength not to exceed 200 μ V/m at 3 m from the apparatus
above 960 MHz	electric field strength not to exceed 500 μ V/m at 3 m from the apparatus

^[11] Use of the band 5150-5350 MHz is restricted to indoor operations until the requirements of the International Telecommunication Union as applicable to the band are available, by which time the use of the band shall be in

compliance with the requirements as laid down by the International Telecommunication Union.

COUNCIL CHAMBER

Clerk to the Executive Council

2002

Explanatory Note

This Order repeals and replaces seven existing exemption orders ("the existing orders") which were made under section 39 of the Telecommunications Ordinance (Cap. 106) ("the Ordinance"). The object of the Order is to exempt a person from the obligation to hold a licence under the Ordinance in respect of certain telecommunications apparatus.

2. The Order provides for -

- (a) exemptions in respect of non-radiocommunications apparatus (section 3);
- (b) exemptions in respect of radiocommunications apparatus (sections 4, 5 and 7);

- (c) exemptions in respect of telecommunications apparatus that may be used in a combination of manners relating to both non-radiocommunications and radiocommunications apparatus (section 6);
- (d) the repeal of the existing orders (section 8).

Chapter:	106	Title:	TELECOMMUNICATIONS	Gazette Number:	48 of 2000
Section:	8	Heading:	Prohibition of establishment and maintenance of means of telecommunications, etc., except under licence	Version Date:	07/07/2000

(1) Save under and in accordance with a licence granted by the Governor in Council or with the appropriate licence granted or created by the Authority, no person shall in Hong Kong or on board any ship, aircraft or space object that is registered or licensed in Hong Kong- (Amended 39 of 1990 s. 3; 74 of 1990 s. 104(3); 36 of 2000 s. 5)

- (a) establish or maintain any means of telecommunications; or
- (b) possess or use any apparatus for radiocommunications or any apparatus of any kind that generates and emits radio waves notwithstanding that the apparatus is not intended for radiocommunications; or
- (c) deal in the course of trade or business in apparatus or material for radiocommunications or in any component part of any such apparatus or in apparatus of any kind that generates and emits radio waves whether or not the apparatus is intended, or capable of being used, for radiocommunications; or
- (d) demonstrate, with a view to sale in the course of trade or business, any apparatus or material for radiocommunications. (Amended 36 of 2000 s. 28)

(2) For the avoidance of doubt, it is hereby declared that the fact that the person from whom any apparatus for telecommunications is loaned, leased or hired, or the person maintaining a means of telecommunications of which other apparatus forms part or with which other apparatus is connected, is the holder of a licence granted under this Ordinance, does not exempt the person to whom the apparatus is loaned, leased or hired, or the person maintaining, possessing or using the apparatus forming part of, or connected with, such means of telecommunications, as the case may be, from the necessity to obtain such licence or licences as may be required under this Ordinance. (Amended 36 of 2000 s. 28)

(3) (Repealed 40 of 1995 s. 7)

(4) Notwithstanding anything contained in subsection (1), no licence shall be required under that subsection in respect of-

- (a) any sound broadcast receiving apparatus;
- (b) any material or component part of such sound broadcast receiving apparatus;
- (c) any television receiver;
- (d) any material or component part of a television receiver; (Added 2 of 1968 s. 3. Amended 17 of 1972 s. 2)

(e) any system which, without a change of frequency, carries from a single aerial, by wire or other material substance which does not cross a public street or unleased Government land, to outlet points in one

building or in more than one building if such buildings are owned by the same person television programmes provided by any company licensed under the Broadcasting Ordinance (Cap 562); or (Added 57 of 1973 s. 2. Amended 29 of 1998 s. 105; 48 of 2000 s. 44)

(f) any closed circuit television system consisting of a television transmitter unit, with or without an associated audio system, connected to reception units by wire or other material substance which does not cross a public street or unleased Government land, if- (Amended 29 of 1998 s. 105)

(i) the system is operated solely for internal information or security communication purposes solely within premises occupied by the person operating the system or for private entertainment purposes in domestic premises occupied by such person; and

(ii) no advertising material is transmitted by means of the system, other than such material advertising only the goods or services sold or provided by the person operating the system or which is transmitted free of charge by such person. (Added 57 of 1973 s. 2. Amended 62 of 1973 s. 2)

Chapter: 106	Title: TELECOMMUNICATIONS	Gazette	36 of 2000
	ORDINANCE	Number:	
Section: 9	Heading: Control of import and export of radiocommunications transmitting apparatus	Version	16/06/2000
		Date:	

Save under and in accordance with a permit granted by the Authority, no person shall import into Hong Kong or export therefrom any apparatus or any component part of any apparatus for transmission by radio waves unless he is the holder of a licence authorizing him to deal in the course of trade or business in such apparatus.

Annex C

Chapter:	106	Title:	TELECOMMUNICATIONS Gazette	36 of 2000
			ORDINANCE	Number:
Section:	39	Heading:	Exemption	Version Date: 16/06/2000

(1) The Governor in Council may by order exempt any person or any class of persons from this Ordinance or from such of the provisions thereof as he thinks fit.

(2) Without derogation from the provisions of section 40 of the Interpretation and General Clauses Ordinance (Cap 1) an order under this section may provide that it shall be a condition of any exemption granted thereunder that the person or class of persons to whom it is granted shall not directly or indirectly fix, levy or make payable, any charge for any service, facility or circuit in respect of which the exemption is made greater than such charge as may, from time to time, be specified by the Authority by order in the Gazette. (Added 69 of 1983 s. 6)