CHAPTER 6

NOTIFICATION PROCEDURE

CH6_S1_V3

Chapter 6
Section 1 - Notification Procedure

1.0   Introduction

1.1   The Director of Highways (DHy) acting as the Authority or his delegate under some sections of the Land (Miscellaneous Provisions) Ordinance (LMPO) is required to serve notice on the parties including permittee, nominated permittee or to notify the Secretary for Development (SDEV). This procedure is to ensure that all notices are served strictly in compliance with the LMPO.

2.0   Service of Notice

2.1   As stipulated in section 10V of the LMPO, a notice shall be deemed to be served under the following circumstances:-

(i)   In case of an individual, it is:-
(a)   delivered to him;
(b)   left at his last known address for service, or at his last known place of residence or business, in Hong Kong;
(c)   sent by post to him at his last known address for service, or at his last known postal address, in Hong Kong; or
(d)   send by telex, facsimile transmission or other similar method to him at his last known address for service, or at his last known postal address, or at his last known place of residence or business, in Hong Kong.

(ii) In case of a company, it is:-
(a)   given to or served on a director or manager of the company;
(b)   left at the company's last known address for service, or at its last known place of business, in Hong Kong;
(c)   sent by post to the company at its last known address for service, or at its last known postal address, in Hong Kong; or
(d)   send by telex, facsimile transmission or other similar method to the company at its last known address for service, or at its last known postal address, or at its last known place of business, in Hong Kong.

(iii) In case of a partnership, it is:-

    (a) delivered, left or sent in accordance with paragraph (i) above in respect of any partner who is an individual; or

    (b) given, left or sent in accordance with paragraph (ii) above in respect of any partner which is a company.

(iv) in case of a person ("attorney") holding a power of attorney under which the attorney is authorized to accept service in respect of another person on whom it is required to be sent or served, it is-,

    (a) where the attorney is an individual, delivered, left or sent in accordance with paragraph (i) above;

    (b) where the attorney is a company, given, left or sent in accordance with paragraph (ii) above;

    (c) where the attorney is a partnership, delivered, left or sent in accordance with paragraph (i) in respect of any partner who is an individual; or

    (d) where the attorney is a partnership, given, left or sent in accordance with paragraph (ii) above in respect of any partner which is a company.

2.2   Basically, in respect of service of notice in excavation permit (XP) administration and processing, the applicants are divided into two categories namely Excavation Permit Management System (XPMS) user and non-XPMS user.

(i) For XPMS users such as utility undertakings and government departments, the notice shall be:-

    (a) sent to him through XPMS; or

    (b) sent by facsimile transmission to him at fax number stated in the application form if XPMS has broken down; or

    (c) sent by post to him at the address stated in the application form if XPMS has broken down and he has not provided his contact fax number in the form.

(ii) For non-XPMS users such as Authorized Person for private project, the notice shall be:-

    (a) sent by facsimile transmission to him at fax number stated in the application form; or

    (b)   sent by post to him at the address stated in the application form if he has not provided his contact fax number in the form.

2.3   In respect of notifying the SDEV, the memo shall be:-

    (i)   delivered to the officer in charge; or

    (ii)   sent by dispatch or facsimile transmission to the officer in charge.

2.4   Sections of the LMPO under which DHy or his delegate is required to serve notice on the permittee, nominated permittee or to notify the SDEV are shown in the Appendix 6.1.1.