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16 April, 2002

Mrs Percy Ma
Clerk to Bills Committee
Legislative Council Secretariat
Legislative Council Building
8 Jackson Road
Central
Hong Kong

By Fax: 2509 9055

Dear Mrs Ma,

Statute Law (Miscellaneous Provisions) Bill 2001

I refer to your letter of 4 April 2002 requesting the Administration to provide information on the nature of the organizations specified in the 15 Ordinances set out under Part X of the Statute Law (Miscellaneous Provisions) Bill 2001. The information is set out below.

There are some references to the nature of the organizations in a paper issued to the Bills Committee on the Adaptation of Laws (No. 16) Bill 1999 (see LC Paper No. CB (2) 2363/99-00). The organizations are established under their respective Ordinances. They are bodies corporate and have perpetual succession and their own common seals. They are capable of suing and being sued and of doing and suffering all such other acts and things as bodies corporate may lawfully do and suffer.

The organizations are empowered to perform public functions, but the Chief Executive may, if he considers that the public interest so requires, give to the organizations such directions as he thinks fit. The members of the organizations include both public and non-public officers appointed by the Chief Executive. However, the management boards can appoint their own employees on such terms and conditions as they think fit.

The organizations can acquire and dispose of properties, and can enter into contracts. The resources of those organizations consist of government subsidies, fees and charges received for services rendered, donations and gifts. Each year, statements of accounts and reports on the

affairs of the organizations have to be submitted to the Administration and have to be tabled in the Legislative Council.

A paper setting out further details regarding the nature of the 15 organizations is enclosed.

Yours sincerely,

(Michael Scott)
Senior Assistant Solicitor General

Encl.

c.c. Miss Monica Law, SALD
Miss Doris Lo, GC

#50144

Statute Law (Miscellaneous Provisions) Bill 2001

**Nature of the organizations specified in the 15 Ordinances
set out under Part X of the Bill**

Consumer Council Ordinance (Cap. 216)

The Consumer Council (the Council) established under the Consumer Council Ordinance (Cap. 216) is a body corporate. It has perpetual succession and a common seal and is capable of suing and being sued and of doing and suffering all such other acts and things as bodies corporate may lawfully do and suffer. The fixing of the seal of the Council to any document shall be authorized by resolution of the Council and be authenticated by the signatures of any 2 members authorized by resolution of the Council.

2. The functions of the Council are to protect and promote the interests of consumers of goods and services and purchasers, mortgagors and lessees of immovable property. The Council may do such things as are reasonably necessary to enable it to carry out its functions. The Chief Executive may, if he considers that the public interest so requires, give to the Council such directions as he thinks fit with respect to the exercise and performance by the Council of its powers, functions and duties. In carrying out its functions, the Council may, inter alia, acquire or dispose of movable and immovable properties and enter into contracts.

3. The Council consists of a Chairman, a Vice-Chairman and not more than 20 other persons. They are appointed by the Chief Executive. The Council appoints a person to hold office as its chief executive and such other employees as it thinks fit, and determines all matters relating to their remuneration and terms and conditions of appointment or employment. However, the terms and conditions for appointing the chief executive requires the prior approval of the Chief Executive.

4. The resources of the Council consists of money appropriated by the Legislative Council, money paid to the Council by way of donations, fees, subscriptions, rent and interest and all other money and property received by the Council. The annual audited accounts of the Council have to be furnished to the Chief Executive and has to be tabled in the Legislative Council.

Hong Kong Examination and Assessment Authority Ordinance (Cap. 261)

5. The Hong Kong Examination and Assessment Authority (the Authority) established under the Hong Kong Examination and Assessment Authority Ordinance (Cap. 261) is a body corporate with perpetual succession and a common seal. It is capable of holding and disposing of properties, of suing and being sued

and of doing and suffering all such other acts and things as bodies corporate may lawfully do and suffer. Its members are appointed by the Chief Executive.

6. The Authority has power to do all such things as are necessary or advantageous and proper in planning and conducting examinations in Hong Kong. The Chief Executive may give the Authority directions of a general character as to the discharge by the Authority of its functions in relation to matters appearing to the Chief Executive to affect the public interest.

7. For the carrying out of its powers and duties, the Authority may, inter alia, appoint on such terms and conditions of service as it thinks fit the Secretary of the Authority and such staff, advisers and consultants as the Authority considers necessary.

8. The resources of the Authority consist of fees paid by candidates sitting examinations, Government subsidies, payments received for services rendered and such other sums and properties received by the Authority. The Authority has to submit annually to the Chief Executive a programme of its proposed activities and estimates of income and expenditure of the Authority. The audited accounts of the Authority have to be furnished to the Chief Executive and have to be tabled in the Legislative Council every year.

Employees Compensation Assistance Ordinance (Cap. 265)

9. The Employees Compensation Assistance Fund Board (The Board) established under the Employees Compensation Assistance Ordinance (Cap. 365) is a body corporate having perpetual succession and capable of suing and being sued.

10. The Board consists of the Commissioner for Labour or his representative, the Director of Legal Aid or his representative and other members appointed by the Chief Executive. The Board may appoint such employees as it determines on such terms and conditions of service as it thinks fit.

11. The main function of the Board is to consider applications from persons applying for payment from or relief under the Employees Compensation Assistance Fund. The Chief Executive in Council may give such directions to the Board for the proper performance of the Board. The main resource of the Fund is moneys received by the Board from the Employees' Compensation Insurance Levies Management Board established under the Employees' Compensation Insurance Levies Ordinance (Cap. 411). The Board opens and maintains an account in the name of the Fund with a bank approved by the Financial Secretary.

12. Estimates of income and expenditure of the Board have to be approved by the Secretary for Education and Manpower. Statements of accounts and

reports on the activities and affairs of the Board have to be submitted to the Chief Executive and laid on the table of the Legislative Council.

Kowloon-Canton Railway Corporation Ordinance (Cap. 372)

13. The Kowloon-Canton Railway Corporation (the Corporation) established under the Kowloon-Canton Railway Corporation Ordinance (Cap. 372) is a body corporate having perpetual succession and a common seal. The Corporation may enter into financial transactions on such terms and conditions as it thinks fit as if it were a natural person of full age and capacity.

14. The Corporation consists of a Chairman and members appointed by the Chief Executive. A member who is appointed and who is not a public officer may at any time by notice in writing to the Chief Executive resign his office. The Corporation may appoint its own employees on such terms as it thinks fit.

15. The Corporation has the power to construct and operate railways for the use of the public. However, the Corporation has to comply with any direction made by the Chief Executive in Council, the Chief Secretary for Administration or the Financial Secretary.

16. The Corporation has to conduct its business according to prudent commercial principles. Its authorized capital is an amount specified by the Financial Secretary. At present, all shares in the authorized capital are allotted to the Government at par value. The Corporation may create and issue bonds, notes or other securities, and may declare and pay dividend. The audited accounts and a report on the affairs of the Corporation have to be submitted to the Financial Secretary annually who shall then table the same in the Legislative Council.

Protection of Wages and Insolvency Ordinance (Cap. 380)

17. The Protection of Wages on Insolvency Fund Board (the Board) established under the Protection of Wages on Insolvency Ordinance (Cap. 380) has the power to administer the Protection of Wages on Insolvency Fund for the payment of monies to employees whose employers become insolvent. The Board has a common seal, and the affixing of which shall be authenticated by the signature of any 2 members. The Board may hold and dispose of movable or immovable properties, and may invest in such manner as it thinks fit. It has an account with a bank approved by the Financial Secretary.

18. The Board consists of a Chairman and members who are appointed by the Chief Executive. Any member who is appointed and who is not a public officer may at any time resign from office by giving notice to the Chief Executive.

19. The financial resources of the Board consist of moneys paid by the Commissioner of Inland Revenue for the establishment and maintenance of the

Protection of Wages on Insolvency Fund, moneys recovered in the place of employees who have received money out of the Fund. All costs and expenses incurred by the Government in administering the Fund shall be a charge upon the general revenue. The Board has to submit to the Chief Executive for his approval estimates of the income and expenditure of the Fund each year. A statement of accounts and a report on the Board's activities also have to be submitted to the Chief Executive who shall have the same tabled in the Legislative Council.

Ocean Park Corporation Ordinance (Cap. 388)

20. The Ocean Park Corporation (the Corporation) established under the Ocean Park Corporation Ordinance is a body corporate and has perpetual succession. It has a common seal and is capable of suing and being sued.

21. The Board of the Corporation is the governing and executive body of the Corporation, and consists of not less than 7 members appointed by the Chief Executive. A member may at any time by notice to the Chief Executive resign from the Board.

22. The main function of the Corporation is to manage and control the Ocean Park as a public recreational and educational park. It can acquire or dispose of movable and immovable properties, enter into contracts, apply for and receive sponsorships and gifts, fix and collect fees, subscriptions and charges. It has the power to borrow money for the promotion of its functions. A copy of the signed and audited statement of accounts and a report by the Corporation on its activities will have to be tabled in the Legislative Council each year.

23. The Corporation can appoint a Chief Executive of the Corporation for the day to day management and administration of the Ocean Park. It can also appoint such other employees on such terms and conditions as it thinks fit.

Hong Kong Council on Smoking and Health Ordinance (Cap. 389)

24. The Hong Kong Council on Smoking and Health (the Council) established under the Hong Kong Council on Smoking and Health Ordinance (Cap. 389) is a body corporate and has perpetual succession and a common seal. It is capable of suing and being sued and of doing and suffering all such other acts and things as bodies corporate may lawfully do and suffer.

25. The Council's main tasks are to collate the latest information and research connected with smoking and health, to organise anti-smoking publicity and education programmes, to advise the Government on the implementation and development of anti-smoking measures, and to liaise with other local bodies and international agencies on smoking and health matters.

26. The Council may appoint such employees on such terms and conditions

as it thinks fit. The resources of the Council consist of money appropriated by the Legislative Council and all other money and property including donations, fees, rent, interest and accumulations of income received by the Council. With the prior approval of the Financial Secretary, the Council may borrow money and charge all or any part of its property as security. Every year, the Council has to submit a report on the affairs of the Council and its audited report to the Secretary for Health and Welfare who shall cause the same to be tabled in the Legislative Council.

Occupational Safety and Health Council Ordinance (Cap. 298)

27. The Occupational Safety and Health Council (the Council) established under the Occupational Safety and Health Council Ordinance (Cap. 398) is a body corporate and has a common seal. Members of the Council comprise public and non-public officers who are appointed by the Chief Executive. The Council may do such things to foster safer and healthier working conditions in Hong Kong. Towards carrying out its duties, the Council may, among other things, acquire and dispose of movable and immovable properties, charge fees for the use of any facility or service provided by the Council, and appoint such employees on such terms and conditions as the Council thinks fit.

28. The resources of the Council consist of Government payments out of moneys appropriated by the Legislative Council, contributions, surcharges for non-payment of contribution by employers and penalties received by the Council, all monies (including grants, loans, funds, donations, fees, rent, interest, proceeds from the sale of publications of the Council or property held by or on behalf of the Council) and all assets lawfully acquired by the Council. The Council may, subject to the approval of the Financial Secretary, borrow by way of overdraft, mortgage or otherwise. Every year, the Council has to submit a copy of its statement of accounts and a report on the activities of the Council to the Chief Executive who shall cause the same to be tabled in the Legislative Council.

Employees' Compensation Insurance Levies Ordinance (Cap. 411)

29. The Employees' Compensation Insurance Levies Management Board (the Board) established under the Employees' Compensation Insurance Levies Ordinance (Cap. 411) is a body corporate and has a common seal. The governing body of the Board comprises members of public and non-public officers appointed by the Chief Executive.

30. The main function of the Board is to distribute funding to the statutory bodies established to receive claims for and make payments of employees' compensation in default cases. The Chief Executive may give to the Board such directions as he thinks fit in relation to the performance of the Board's functions. To facilitate the proper carrying out of its functions, the Board may appoint such employees on such terms and conditions as it may think fit.

31. The resources of the Board consist of all amounts of levy remitted to and received by the Board and all other moneys, including grants, fees and interest paid to and received by the Board. Each year, the Board has to submit a copy of the statement of accounts and a report on its activities to the Chief Executive who shall cause the same to be tabled in the Legislative Council.

Employees Retraining Ordinance (Cap. 423)

32. The Employees Retraining Board (the Board) established under the Employees Retraining Ordinance (Cap. 423) is a body corporate and has a common seal. The main function of the Board is to set up the Employees Retraining Fund by imposing levies payable by employers who employ imported employees and to consider the provision, administration and availability of retraining courses and intended for the benefit of eligible employees in adjusting to changes in the employment market.

33. The resources of the Board consist of levies payable by employers and all other moneys including grants, loans, fees and interest received by the Board. The Board may acquire and dispose of movable and immovable properties and may appoint such employees on such terms and conditions as it may think fit.

34. The governing body of the Board consists of public and non-public officers who are appointed by the Chief Executive. The Chief Executive may give to the Board such directions as he thinks fit in relation to the performance of the Board's functions. A copy of the statement of accounts and a report on the activities of the Board have to be submitted to the Chief Executive each year who will then table the same in the Legislative Council.

Estate Agents Ordinance (Cap. 511)

35. The Estate Agents Authority (the Authority) established under the Estate Agents Ordinance (Cap. 511) is a body corporate. The main function of the Authority is to regulate and control the practice of estate agents and salespersons. The Chief Executive may, if he considers the public interest requires, give to the Authority written general directions as to the performance of any of its functions.

36. The main resources of the Authority consist of the various fees charged under the Ordinance. Each year, a copy of the statement of accounts and a report on the affairs of the Authority will have to be forwarded to the Secretary for Housing who would cause the same to be tabled in the Legislative Council.

37. Membership of the Authority consists of public and non-public officers appointed by the Chief Executive. The Authority may appoint staff on such terms and conditions as it thinks fit. To facilitate the performance of its functions, the

Authority may, inter alia, acquire and dispose of properties, invest, accept gifts and borrow with the prior approval of the Financial Secretary.

The Prince Philip Dental Hospital Ordinance (Cap. 1081)

38. A Board of Governors of the Prince Philip Dental Hospital (the Board) established under the Prince Philip Dental Hospital Ordinance (Cap. 1081) is a body corporate with perpetual succession and is capable of suing and being sued. The Board has a common seal.

39. The membership of the Board consists of public and non-public officers appointed by the Chief Executive and the Comptroller of the Hospital appointed by the Board to assist in the management, conduct and administration of the Hospital. The Board may appoint employees on such terms and conditions as it thinks fit.

40. The resources of the Board consist of fees and charges paid by patients and other persons for the facilities and services provided by the Hospital, money borrowed by the Hospital, Government subsidies and any gifts or donations received by the Board.

41. The Board has the power to do all such things as are necessary for the better carrying out of the objects of the Hospital which include acquiring and disposing of properties and entering into contracts. The Chief Executive in Council may, however, give the Board directions of a general character as to the discharge by the Board of its functions in relation to matters affecting the public interest. Each year, the Board has to submit a copy of the statement of accounts and a report on the activities of the Board to the Chief Executive who shall cause the same to be tabled in the Legislative Council.

Vocational Training Council Ordinance (Cap. 1130)

42. The Vocational Training Council (the Council) established under the Vocational Training Council Ordinance (Cap. 1130) is a body corporate with perpetual succession and is capable of suing and being sued. The Council has a common seal. The main function of the Council is to co-ordinate the development of a comprehensive system of technical education and training for industry and commerce intended to suit the developing needs of Hong Kong.

43. The membership of the Council consists of public and non-public officers appointed by the Chief Executive. To facilitate the better carrying out of its functions, the Council may do such things which include appointing employees, acquiring and disposing of properties and entering into contracts. The Chief Executive in Council may give to the Council such directions as he thinks fit with respect to the exercise of its functions.

44. The resources of the Council consist of money appropriated by the Legislative Council, money received by the Council by way of grants, loans, donations, fees, rent or interest and all assets lawfully acquired by the Council. Each year a copy of the statement of accounts and a report on the activities of the Council have to be submitted to the Chief Executive who shall cause the same to be tabled in the Legislative Council.

Hong Kong Sports Development Board Ordinance (Cap. 1149)

45. The Hong Kong Sports Development Board (the Board) established under the Hong Kong Sports Development Board Ordinance (Cap. 1149) is a body corporate which has perpetual succession and a common seal.

46. The main function of the Board is to promote the development of sport and physical recreation in Hong Kong. The Chief Executive may give directions as to the exercising of power and engagement of activities to the Board.

47. The resources of the Board consist of government subsidies and all money received including donations, fees, rent and interest. Members of the Board are public and non-public officers appointed by the Chief Executive. The Board may appoint employees on such terms and conditions as it thinks fit. Every year a copy of the statement of accounts and a report on the activities of the Board will have to be submitted to the Chief Executive who will cause the same to be tabled in the Legislative Council.

Hong Kong Council for Academic Accreditation Ordinance (Cap. 1150)

48. The Hong Kong Council for Academic Accreditation (the Council) is a body corporate which may sue and be sued. The Council members consist of distinguished local and overseas academics, as well as leading representatives of our professions, industries and commerce. They are appointed by the Chief Executive.

49. The main function of the Council is to assess and accredit degrees awarded by local institutions of higher education. The Chief Executive may give directions with respect to the exercise of powers or performance of functions and duties to the Council. The resources of the Council consist of Government subsidies, all money received by the Council as gifts or donations and all assets acquired by the Council. The Council may appoint employees on such terms with the prior approval of the Secretary for Education and Manpower and may pay charge fees determined by the Secretary for the Treasury for any service provided to the Council by the Government.

50. The annual report of activities of the Council and statements of accounts will have to be furnished to the Chief Executive who will cause the same to be tabled in the Legislative Council.

