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Secretary for Health, Welfare and Food  
(Attn : Mr Gavin Kwai, Assistant Secretary (Family 1))  
Health, Welfare and Food Bureau  
Family Division  
20/F, Murray Building  
Garden Road  
Hong Kong

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**BY FAX**

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Dear Mr Kwai,

**Child Care Services (Amendment) Bill 2005**

We are scrutinizing the legal and drafting aspects of the above Bill for and on behalf of Members and would be grateful if you could clarify the following:

Clause 3      Interpretation

Under the existing Child Care Services Ordinance (Cap. 243), a “child care centre” is defined to mean premises at which more than 5 children who are under the age of 6 years are habitually received. The Bill proposes to reduce the age from 6 to 3 years (other than those centres receiving children with disability or providing overnight accommodation). Under the Education Ordinance (Cap. 279), a “school” is defined to mean, inter alia, an institution, organization or establishment which provides nursery or kindergarten education for 8 or more persons at any one time. What is the Administration’s policy with regard to centres habitually receiving 6 or 7 children of 3 to 6 years of age since they are currently regulated by the Child Care Services Ordinance but would fall outside the scope of both Ordinances if the Bill is passed?

In the proposed section 2(2)(b)(i), would the Administration consider replacing “and” with “but”?

Clause 4      Application

It is proposed that the Child Care Services Ordinance would not apply to any school registered under the Education Ordinance satisfying all of the criteria in paragraphs (i), (ii) and (iii). Please explain:

- (a) the need for paragraph (i) since children under the age of 3 years would not receive “nursery education” as defined in the Education Ordinance (the term meaning a one year course of education normally commencing when a child has attained the age of 3 years);
- (b) the intent of paragraphs (ii) and (iii). Does the Administration intend to specify that the Child Care Services Ordinance would not apply to any school registered under the Education Ordinance that provides overnight accommodation to children under the age of 6 years or receives more than 5 children with disability under the age of 6 years? It is advisable to clarify the policy intent and improve the drafting of Clause 4 to reflect the intent accurately.

Clause 11     Inclusion in and removal from the registers referred to in regulation 3

What is the intended date to be specified by the Director of Social Welfare by notice in the Gazette? Why is such notice not subsidiary legislation? What is the length of period allowed for application for inclusion in the register by virtue of the qualifications as principals or registered teachers? Are there any other means by which these qualified persons are notified?

Clause 15     Periodic inspection of premises

Who are the persons presently specified by the Director for the purposes of Regulation 23 to inspect the premises? Why is it necessary to provide for inspection by an authorized person as an alternative?

Clause 20     First Schedule amended

What are the criteria of a suitable person to be included in the register pursuant to paragraph 2(c)(iii) of Part I and paragraph 2(b)(iii) of Part II of the proposed First Schedule? Is there any distinction between “a suitable person” in this context and “a fit person” referred to in Regulation 4(3)(a)?

Please consider if the drafting of the Chinese text of paragraph 2(c)(ii) of Part I and paragraph 2(b)(ii) of Part II of the proposed First Schedule can be improved.

Yours sincerely,

(Bernice Wong)  
Assistant Legal Adviser

c.c. D of J  
(Attn : Ms Grace Leung, GC)(Fax : 2869 1302)  
LA, SALA1