

立法會 *Legislative Council*

立法會LS94/05-06號文件

2006年7月21日內務委員會會議文件

《2006年香港保護兒童會法團(修訂)條例草案》

法律事務部進一步報告

《2006年香港保護兒童會法團(修訂)條例草案》(由陳智思議員, JP提交的議員私人條例草案)旨在對《香港保護兒童會法團條例》(第1058章)提出若干技術修訂, 其中包括訂定一項宗旨條文, 讓保護兒童會能單獨或與社群合作在香港或其他地方, 提供或從事促進兒童及其家庭的照顧、教育及社交發展的服務。內務委員會已於2006年6月23日研究法律事務部就條例草案提交的報告, 由於當時法律事務部正研究條例草案的技術事宜, 並正向負責草擬條例草案的律師事務所澄清有關條例草案的若干事項, 因此內務委員會同意不作決定。

2. 負責草擬條例草案的律師事務所已提供資料, 闡釋條例草案若干技術事宜, 而法律事務部亦已完成有關資料的研究工作。(法律事務部與負責草擬條例草案的律師事務所往來的函件載於附件, 供委員參閱。)謹請委員注意, 香港保護兒童會將會採納本部的意見, 修訂該會的章程以確保該章程與該條例一致。

3. 條例草案在草擬方面並無問題。視乎委員的意見, 條例草案可恢復二讀辯論。

連附件

立法會秘書處

助理法律顧問

鄭潔儀

2006年7月18日

(譯文)

來函檔號：
本函檔號：LS/B/15/05-06
電 話：
圖文傳真：2877 5029

香港
夏慤道10號
和記大廈20樓2012室
夏佳理律師事務所
(經辦人：陳光輝先生)

傳真(2882 0888)及郵遞函件

敬啟者：

《 2006年香港保護兒童會法團(修訂)條例草案 》

閣下2006年7月4日來函奉悉。相信閣下的當事人已經詳細知悉本部在之前發出的函件中所提出的關注，而閣下亦已向當事人提出適當意見。

本部得悉，香港保護兒童會將會採納本部的建議修訂其章程，以確保章程內容與香港法例第1058章的內容一致。亦請閣下轉告當事人，根據《釋義及通則條例》(第1章)第20(2)(a)條，一俟條例草案獲得通過並在憲報刊登後，該條例隨即生效。因此，閣下的當事人就其章程作出修訂時，應考慮該時間規定。

本人將會就條例草案向內務委員會提交進一步的報告。倘若內務委員會並無其他意見，閣下可就條例草案恢復二讀辯論作出安排。如有疑問，請隨時與本人聯絡。

助理法律顧問

(鄭潔儀)

副本致：陳智思議員, JP
法律顧問

2006年7月10日

m7068



ARCULLI FONG & NG

夏佳理 方和 吳正和 律師事務所

L A W Y E R S

in association with

KING & WOOD, PRC LAWYERS

與 金杜律師事務所 聯營

(譯文)

我方檔號 : 213989/TKH

來函檔號 : LS/B/15/05-06

傳真(2877 5029)及郵寄

香港中環皇后大道中8號

立法會大樓

立法會

致: 鄭潔儀小姐

敬啟者 :

2006 年香港保護兒童會法團(修訂)條例草案 (“條例草案”)

感謝閣下於 2006 年 6 月 29 日的來信。

我們現在就閣下之詢問，作出回覆如下：

(A) 條例草案第 3 條 (宗旨條文)

儘管條例未明確列明保護兒童會的宗旨，但條例第 4(g)條已賦予保護兒童會進行及開展有關或有利於保護兒童會之宗旨或目標之行動及事宜的權力。保護兒童會之宗旨及目標已於會章中載列，且條例已承認其效力。為解決閣下之疑慮，保護兒童會將採納閣下之建議，在適當之時候對會章進行修訂，以令條例草案之宗旨條文在會章中得以反映。

(B) 條例草案第 3 條—擬訂第 3A(2)條

K:\Associate - KHTan\213989 - HK Society for the Protection of Children Incorporation\Fax & Letter\Letter to LegCo (190706)-CHN_a.doc

Ronald Arculli
Ching Wo Ng
Sheldon Hiu Tung Tse
Simon Yung
Wing On Chui
Robert L. Caldwell
Chiu Kit Paulus Lau
Winnie Lai Chun Cheung
Siu Ngor Chow
Leo Seewald

夏佳理律師
吳正和律師
謝曉東律師
容潤生律師
徐永安律師
高德偉律師
劉超傑律師
張麗珍律師
鄒小岳律師
李 豪律師

Agnes Chi Man Chan
Catherine Min Geng
Ka Wai Hung
Daisy Yee Yan Lam
Ching Woon Lee
Pamela Lee Ting Leong
Theresa San San Leung
Michael Ming Kan Wong
Simon Wai Hang Wong
Kuang Hwee Tan
Juliana Ching Ching Sham
Yuk Sim Man

陳智敏律師
耿 民律師
洪嘉偉律師
林懿茵律師
李鎔垣律師
梁例婷律師
梁珊珊律師
王明勤律師
黃偉恒律師
陳光輝律師
沈菁菁律師
文玉嫻律師

* Felix Wo Fong
Josephine Cheng Kwan Chan
Jeremy Chun Kit Wong
Russell Chun Hung Chiu
Peter Francis Waters
Anthony Brooke Sylvester

方 和律師
陳正君律師
黃俊傑律師
趙鎮鴻律師
韋達仕律師
邵偉德律師

Foreign Lawyers
Xuhua Huang
Xusheng Yang
Jiajia Chen
En Ze Yuan

黃緒華律師 New York, USA
楊旭升律師 New York, USA
陳佳嘉律師 New York, USA
袁恩澤律師 PRC

* China-Appointed Attesting Officer 中國委託公証人

Address: 908, Hutchison House, Central, Hong Kong
Interchange No.: DX-009177-Central 1
E-mail: general@kingandwood.com.hk

Tel No.: (852) 28484848
Fax No.: (852) 28452995
Website: www.kingandwood.com.hk

地址: 香港中環和記大廈 908 室
文件交匯中心: DX-009177-Central 1
電子郵箱: general@kingandwood.com.hk

電話: (852) 28484848
傳真: (852) 28452995
網址: www.kingandwood.com.hk

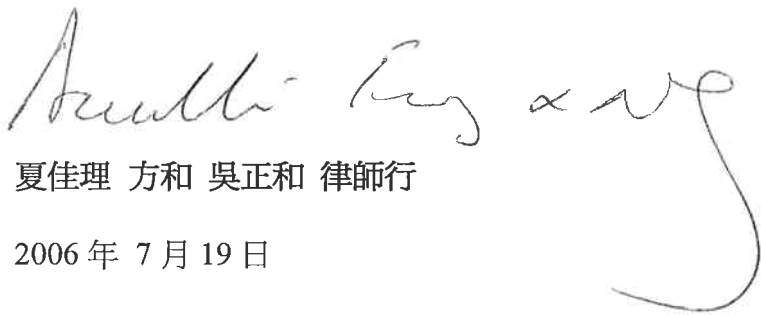
Associate Offices: BEIJING • SHANGHAI • GUANGZHOU • SHENZHEN • CHENGDU • PALO ALTO • HONG KONG • TOKYO
北京 • 上海 • 廣州 • 深圳 • 成都 • 硅谷 • 香港 • 東京

新訂第 3A(2)條旨在訂明保護兒童會可單獨或與社群合作開展工作。儘管依照慣例，保護兒童會可選擇以不建立法律合作關係之形式與社群合作，但作為一個法團實體，保護兒童會亦可在必要時選擇以其他形式開展工作。因此，保護兒童會認為該擬訂之修訂並非必要。

(C) 條例草案第 4 條（保護兒童會之權力）

「存託工具」一詞之涵義包括現金存款、定期存款或任何其它形式的銀行存款。該名詞為銀行業之常用詞匯，因此，保護兒童會認為對該名詞的定義並非必要。

希望閣下滿意我們的回覆。如閣下需要進一步諮詢，請隨時與我們聯絡。我們稍後會附上此回覆的中文版本。



夏佳理 方和 吳正和 律師行

2006 年 7 月 19 日

副本致：Mr. Bernard Chan
傳真：2810 0218

(譯文)

來函檔號：
本函檔號：LS/B/15/05-06
電 話：
圖文傳真：2877 5029

香港
夏慤道10號
和記大廈20樓2012室
夏佳理律師事務所
(經辦人：陳光輝先生)

傳真(2882 0888)及郵遞函件

敬啟者：

《2006年香港保護兒童會法團(修訂)條例草案》

閣下2006年6月22日來函奉悉，謹請考慮以下各項 ——

(A) 條例草案第3條(宗旨條文)

閣下諒必知悉，在現行的《香港保護兒童會法團條例》(第1058章)(下稱“該條例”)中，實際上並無任何條文明文訂定保護兒童會的宗旨或目標，惟該條例第7條訂明，在緊接該條例生效日期前有效的香港保護兒童會(下稱“保護兒童會”)章程，須繼續為保護兒童會的章程，但該章程可隨時按照章程的條文予以修訂或更改，惟須受與該條例明文處理的任何事宜有關的該條例條文規限。

本人亦注意到保護兒童會的章程只載有“宗旨條文”(該章程第2條)，並無明訂的“權力條文”。

條例草案擬議第3A條的條文(宗旨條文)很明顯的與保護兒童會章程第2條(宗旨條文)大致相同，但並非完全一樣，例如下列：

條例草案擬議第3A(2)條：

“該等宗旨包括(但不限於)以下各項 ——

(a)提供和營辦日間托兒所、日間育嬰園.....”。

章程第2(b)條^{*}：

“本會的目標及宗旨是須與社群合作提供促進兒童的照顧、教育及社交發展的服務，該等服務須包括以下各項 ——

(i) 設立日間托兒所、日間育嬰園.....”。

^{*}該章程只備英文本；上文章程第2(b)條的中文本為立法會秘書處擬備的譯本，只供議員參考用。

有人可能爭論，根據該條例第7條的措辭，儘管該條例確認並延續了保護兒童會章程(因此亦延伸至包括章程所載的宗旨)的生命，但有關章程其實並無明文納入該條例之內。此外，藉條例草案加入一項新訂的宗旨條文，可能會產生以下問題：(a)條例草案所載的宗旨應與章程內的宗旨分開理解，還是一併理解；(b)倘若兩個文本出現不一致的情況，應以哪個文本為準；及(c)在這情況下，如何協調該兩個文本。

謹請閣下考慮藉此機會，(透過就條例草案提出委員會審議階段修正案)以提述的方式將保護兒童會的章程明文納入該條例內，及／或整理章程內的條文，使章程的條文在技術上與條例草案及該條例的條文一致。

(B) 條例草案第3條 —— 擬議第3A(2)條

從閣下的來函及條例草案的中文本得悉，“單獨或與社群合作(*in partnership*).....提供或從事(服務或活動)”這片語的原意，是指單獨或與社群共同(*jointly*)(或合作(*in co-operation*))提供或從事(服務或活動)。閣下是否認同，應在條例草案的英文本中採用“*jointly*”或“*in co-operation*”以取代“*in partnership*”，以便更準確地表達立法原意，以及避免涉及商業法律中有關“合夥安排”(partnership arrangement)的涵義？

(C) 條例草案第4條(保護兒童會的權力)

請解釋擬議第4(aa)條中“存款票據”的涵義。閣下認為，是否有需要界定該條文中“存款票據”及“銀行”的定義？

如有疑問，請隨時與本人聯絡。請盡早以中、英文示覆。

助理法律顧問

(鄭潔儀)

副本致：陳智思議員, JP
法律顧問

2006年6月29日

m7067



ARCULLI FONG & NG

夏佳理 方和 吳正和 律師事務所

L A W Y E R S

in association with

KING & WOOD, PRC LAWYERS

與 金杜律師事務所 聯營

(譯文)

我方檔號 : 213989/TKH

來函檔號 : LS/B/15/05-06

面交函件

香港中環皇后大道 8 號

立法會大樓

立法會

致: 鄭潔儀小姐

敬啟者 :

2006 年香港保護兒童會法團(修訂)條例草案 (“條例草案”)

謝謝你在 2006 年 6 月 16 日的來信。

我們現在就你的詢問, 並引用你來信中的分段號碼, 作出回覆如下 :

- (1) 在條例草案中新加入的第 3A 條很清晰地解釋保護兒童會的目標及宗旨, 是因為條例中對宗旨的定義不充分, 以及他們未有將未來有可能伸延至香港以外地區的工作包括在內。

K:\Associate - KHTan\213989 - HK Society for the Protection of Children Incorporation\Fax & Letter\Letter to LegCo (240606)-CHN_a.doc

Ronald Arculli
Ching Wo Ng
Sheldon Hiu Tung Tse
Simon Yung
Wing On Chui
Robert L. Caldwell
Chiu Kit Paulus Lau
Winnie Lai Chun Cheung
Siu Ngor Chow
Leo Seewald

夏佳理律師
吳正和律師
謝曉東律師
容潤生律師
徐永安律師
高德偉律師
劉超傑律師
張麗珍律師
鄒小岳律師
李 豪律師

Agnes Chi Man Chan
Catherine Min Geng
Ka Wai Hung
Daisy Yee Yan Lam
Ching Woon Lee
Pamela Lee Ting Leong
Theresa San San Leung
Michael Ming Kan Wong
Simon Wai Hang Wong
Kuang Hwee Tan
Juliana Ching Ching Sham
Yuk Sim Man

陳智敏律師
耿 民律師
洪嘉偉律師
林懿茵律師
李靖垣律師
梁俐婷律師
梁珊珊律師
王明勳律師
黃偉恒律師
陳光輝律師
沈菁菁律師
文玉嫻律師

* Felix Wo Fong
Josephine Cheng Kwan Chan
Jeremy Chun Kit Wong
Russell Chun Hung Chiu
Peter Francis Waters
Anthony Brooke Sylvester

方 和律師
陳正君律師
黃俊傑律師
趙鎮鴻律師
韋達仕律師
邵偉德律師

Foreign Lawyers
Xuhua Huang
Xusheng Yang
Jiajia Chen
En Ze Yuan

黃緒華律師 New York, USA
楊旭升律師 New York, USA
陳佳嘉律師 New York, USA
袁恩澤律師 PRC

* China-Appointed Attesting Officer 中國委託公証人

Address: 908, Hutchison House, Central, Hong Kong
Interchange No.: DX-009177-Central 1
E-mail: general@kingandwood.com.hk
Tel No.: (852) 28484848
Fax No.: (852) 28452995
Website: www.kingandwood.com.hk

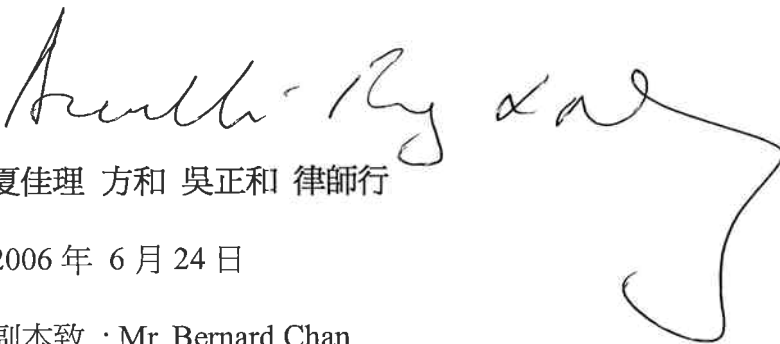
地址: 香港中環和記大廈 908 室
文件交匯中心: DX-009177-Central 1
電子郵件: general@kingandwood.com.hk
電話: (852) 28484848
傳真: (852) 28452995
網址: www.kingandwood.com.hk

Associate Offices: BEIJING 北京 • SHANGHAI 上海 • GUANGZHOU 廣州 • SHENZHEN 深圳 • CHENGDU 成都 • PALO ALTO 硅谷 • HONG KONG 香港 • TOKYO 東京

- (2) 隨信附上了一份保護兒童會的章程副本。
- (3) 保護兒童會在社會上的參與已伸延到其他慈善團體或機構，非政府機構，政府部門，私人公司及學校。請參閱隨信附上保護兒童會在社會上承辦的活動的清單。
- (4) 雖然條例中並沒有條款明確地列明保護兒童會可以用社群合作型式實行其宗旨，然而這仍賦權於保護兒童會的章程內。現在新加入的第 3A(2)條已很清晰地解釋保護兒童會可以在社會以用社群合作型式去實行其宗旨。

因應你的要求，我們也隨信附上這回覆的英文版本。

我們希望你滿意這回覆。如你仍需要更多資料，請隨時與我們聯絡。



夏佳理 方和 吳正和 律師行

2006 年 6 月 24 日

副本致：Mr. Bernard Chan

傳真：2810 0218

Examples of HKSPC's partnership with the community :-

1. Joint programs with Non –governmental organizations :-
 - “Living above the Rainbow “ Project with Yang Memorial Methodist Social Service to teach pre-school children the value of life ;
 - Mission for New Arrivals – parenting sessions for Ethnic Minority parents
2. Other Government departments :-
 - Social Welfare Department Kowloon City Integrative Family Services Centre – programs, outings, community orientation and computer classes for Ethnic Minority children and parents
3. Companies :-
 - Goodwell Property Management Ltd – activities support and providing free electrical and plumbing repair work for low income and ethnic minority families of our Children & Family Services Centre
 - Morgan Stanley – IT learning Room, Volunteer support for outings
 - Hong Kong Society for Children's Education & Art – Art teaching training
4. Other charitable societies & organizations
 - Sathya Sai Baba Centre – parenting talks, activities, donations of supplies and volunteer assistance for our Ethnic Minority Programs
 - British Consulate – Volunteers to teach “Fun with English” programs
 - Buddhist Ho Wong Cheong Po Elderly Social Centre – children & parents from our Children & Family Services Centre participate in a program to visit and show concern for single elderly at their homes
 - Christian Action -Emergency Education Fund where we provide emergency grants to new arrival deprived children to help them buy books and uniforms to start school
5. Schools :-
 - Island School & Shatin College – volunteer program for their Form 5 – Form 7 students

HONG KONG SOCIETY FOR THE PROTECTION OF CHILDREN

CONSTITUTION

Including Amendments up to November 14, 2000

1. Name and Definitions

- (a) The name of the Society is the Hong Kong Society for the Protection of Children.
- (b) In this Constitution, unless the context otherwise requires:-
 - (i) "Auditor" shall mean such qualified person to audit the accounts of Society as the Society in general meeting may elect;
 - (ii) "Chairman" shall mean the chairman of the Executive Committee elected in accordance with Article 4(f) hereof;
 - (iii) "Executive Committee" means the executive committee of the Society described in Article 4 herein;
 - (iv) "Secretary" shall mean the secretary of the Society elected in accordance with Article 6(a)(iii);
 - (v) "Life Member" means a member of the Society admitted in the manner described in Articles 3(a)(ii) and 3(b) hereof;
 - (vi) "Ordinary Member" means a member of the Society admitted in the manner described in Articles 3(a)(ii) and 3(b) hereof;
 - (vii) "Corporate Member" means a member of the Society admitted in the manner described in Articles 3(a)(iii) and 3(b) hereof;
 - (viii) "Patron" shall mean such person as accepts and supports the policy, aims and objects of the Society and is invited by the Society at its general meeting to be such;
 - (ix) "Society" means the Hong Kong Society for the Protection of Children.

2. Objects

- (a) The Society is established for charitable purposes.
- (b) The aims and objects of the Society shall be to provide services which promote care, education and social development of children in partnership with the community which shall include the following:

I, the undersigned, do hereby certify that this is a true and complete copy of the original.

Dated

7 February 2002

Winnie M.S. Cheng
Solicitor,
Stephane Hui Bon Hoa & Co.
Hong Kong.

- (i) To establish day nurseries, day crèches, residential crèches and centers in Hong Kong for the care of children and their families and from time to time to provide them with such medical or food supplies as may be available to the Society and any other facilities as the Society through its Executive Committee may think fit, and to make such reasonable charges or fees for the services and facilities provided by the Society as the Committee may consider equitable in the circumstances;
- (ii) To accept and receive any donation, grants, subvention or financial assistance from the Government or other body or organization or any person;
- (iii) To take such steps by written or printed statements, public meetings, or other means as may be expedient to educate the public regarding the welfare of the young;
- (iv) To provide and maintain an organization for the above objects;
- (v) To do such other lawful things as are incidental or conducive to the attainment of the above objects.

3. Members

- (a) Subject to Clause 3(b) hereof, the following persons may be admitted as members of the Society:-
 - (i) A person who subscribes to the Society such annual sum as the Executive Committee may from time to time determine appropriate for an Ordinary Member, shall be an Ordinary Member of the Society and shall be entitled to attend and vote at all general meetings of the Society as long as his current subscription has been paid but a person whose subscription is more than two years in arrears shall cease to be a member.
 - (ii) A person who subscribes to the Society such sum as the Executive Committee may from time to time determine appropriate for an Life Member, shall be a Life Member of the Society and shall be entitled to attend and vote at all general meetings of the Society. The Executive Committee may admit a person to Honorary Life Membership as it deems appropriate and such Honorary Life Member will not be required to pay any subscription whatsoever.
 - (iii) A body corporate which subscribes to the Society such an annual sum as the Executive Committee may determine appropriate for a

Corporate Member, shall be a Corporate Member of the Society and shall so long as its current subscription has been paid be entitled by its nominee to attend and vote at all general meetings of the Society.

- (b) All applications for membership of the Society shall be reviewed by the Executive Committee or a sub-committee duly authorized by it and the Executive Committee or the sub-committee authorized may in its direction refuse any such application without giving any reason therefor. All applications for memberships shall be accompanied by such information and documents as the Executive Committee or the sub-committee authorized may reasonably request for.
- (c) All subscriptions for membership shall be payable in advance on or before 1st day of each financial year of the Society.
- (d) Any member of the Society may withdraw from the Society by giving written notice to the Secretary of his intention so to do.

4. The Executive Committee

- (a) The administration and management of the Society shall be vested in the Executive Committee of the Society which shall be comprised of the following persons:-
 - (i) the President ex officio;
 - (ii) the Treasurer ex officio;
 - (iii) the Honorary Secretary of the Executive Committee;
 - (iv) Chairman of the Fund Raising sub-committee; and
 - (v) not more than fifteen nor less than seven elected members.
- (b) The Society in annual general meeting shall elect from among the members of the Society not more than fifteen (15) nor less than seven (7) members of the Executive Committee.
- (c) Each member of the Executive Committee shall hold office only from the end of the meeting at which he was elected until the next annual general meeting of the Society when he retires but any such member may be re-elected for a further term or further terms.
- (d) The office of an Executive Committee member shall be vacated if: -
 - (i) he dies;
 - (ii) he resigns from his office by written notice to the Secretary;
 - (iii) he ceases to be a member of the Society;
 - (iv) he has been adjudged bankrupt;
 - (v) he is convicted of a crime involving moral turpitude;

- (vi) he becomes of unsound mind; or
 - (vii) he is removed by a resolution of the members of the Society in general meeting notwithstanding anything contained herein or in any agreement between the Society and him.
- (e) The Executive Committee shall have power to appoint any member of the Society to fill any casual vacancy in the Executive Committee which may occur during a year of office. Any Executive Committee member so appointed shall hold office only until the next Annual General Meeting of the members of the Society and shall then be eligible for re-election.
- (f) The Executive Committee shall elect its Chairman and its Vice-Chairman among its members. The Chairman and the Vice-Chairman so elected shall hold office not beyond the next election of the members of the Executive Committee.
- (g) Without limiting the generality of the foregoing Clause 4(a), the Executive Committee shall, in addition to the powers specifically provided for herein, have the following powers:-
- (i) to carry out the objects of the Society in whatever manner it may think expedient;
 - (ii) to regulate finances and submit a statement of the same to the members at the annual general meeting;
 - (iii) to have power to frame Rules and Regulations as to the management and administration of the affairs of the Society and the procedure at meetings and from time to time to alter or amend the same;
 - (iv) to transact all administrative and other business of the Society;
 - (v) to maintain from time to time an up-to-date list of the members of the Society.

5. Executive Committee Meetings

- (a) Meetings of the Executive Committee may be called by the Chairman as often as he may consider necessary and in the event of the office of Chairman being vacant, may be called by any two members of the Executive Committee. Reasonable notice of meetings of the Executive Committee shall be given to the members thereof. There shall be a quorum when six members including at least one of the Chairman, Vice-Chairman, President, Treasurer or Secretary is present. The Chairman shall chair all meetings of the Executive Committee and in his absence, the Vice-Chairman and in the absence of both the Chairman and

the Vice-Chairman, the meeting shall elect a chairman among the members present. All decisions of the Executive Committee meetings shall be arrived at solely by a majority of the votes of those present at such meetings. The chairman shall have a second and casting vote in the event of a vote deadlock.

- (b) A special meeting of the Executive Committee shall be convened by the Secretary on the written demand of any five members of the Executive Committee and subject to Article 5(d) hereof, any meeting so convened shall have all the powers of an ordinary meeting of the Executive Committee and be conducted in the same manner as an ordinary meeting of the Executive Committee.
- (c) If the Secretary shall fail within seven days of such written demand as aforesaid to convene the special meeting, such special meeting may be convened in the name of the Society by the persons who demanded that it should be convened.
- (d) The written demand for the convening of any of the special meetings as aforesaid and the notice convening such meeting shall contain a statement of the business intended to be dealt with at the meeting and no other business shall be dealt with at the meeting other than those stated.
- (e) A resolution in writing signed by three-quarters of the members of the Executive Committee including the Chairman, Vice-Chairman, President, Treasurer and Secretary shall be treated as a resolution duly passed at a meeting of the Executive Committee duly convened. Any such written resolution shall be deemed to have been passed at a meeting of the Executive Committee held on the date on which it was signed by the last requisite member of the Executive Committee to sign, and where the written resolution states a date as being the date of his signature thereof by any member the statement shall be prima facie evidence that it was signed by him on that date.

6. Officers

- (a) The Society in annual general meeting shall elect the following officers: -
 - (i) the President;
 - (ii) a Treasurer; and
 - (iii) a Secretary who shall also be the Honorary Secretary of the Executive Committee.

- (b) The President, the Treasurer and the Secretary shall have such duties as the Executive Committee shall define for them from time to time and the Society may engage such staff members of the Society or professionals as they see fit to assist the President, the Treasurer and the Secretary in the performance of their duties.
- (c) The President, the Treasurer and the Secretary shall hold office only from the end of the meeting at which he was elected until the next annual general meeting of the Society when he retires but any such officer may be re-elected for a further term of further terms.

7. Annual General Meetings

- (a) An annual general meeting of the members of the Society shall be held once at least in every calendar year and not more than fifteen months after the holding of the last preceding annual general meeting, save that if default be made in holding a meeting, the Executive Committee may direct the calling of a general meeting at which the omission, and all things resulting from the omission, may be ratified. Such annual or other general meeting shall be for the purpose of: -
 - (i) receiving and considering the reports and accounts for the past year;
 - (ii) reviewing, and if thought fit, revising the policy of the Society and its Constitution;
 - (iii) electing a Patron, President, members of the Executive Committee, Secretary and Treasurer; and to appoint a qualified person to audit the accounts of the Society.
 - (iv) deciding any question of general policy or administration raised upon notice given by any member.
- (b) Notice of the annual general meeting of not less than 14 days before the date fixed for the holding of this meeting shall be given by the Secretary either by advertisement in one English newspaper and two Chinese newspapers or by notice in writing to all members at their last known addresses as the Executive Committee shall direct.
- (c) Notice shall be given in writing to the Secretary not less than 7 days before the date fixed for the holding of the annual general meeting, of all proposals and amendments to the Constitution which are to be discussed at the meeting.

- (d) All decisions of the annual general meeting shall be arrived at solely by a majority of the votes of the members present at such meeting.
- (e) Fifteen members of the Society shall constitute a quorum for an annual general meeting.

8. Special Meetings

- (a) A special meeting of the Society shall be convened by the Secretary on the written demand of not fewer than 15 members of the Society and subject to Article 8(c) hereof, a special meeting so convened shall have all the powers of a general meeting of the Society.
- (b) If the Secretary shall fail within seven days of such written demand as aforesaid, to convene the special meeting, such special meeting may be convened in the name of the Society by the persons who demanded that it should be convened.
- (c) The written demand for the convening of any of the special meetings as aforesaid and the notice convening such meeting shall contain a statement of the business intended to be dealt with at the meeting and no other business shall be dealt with at the meeting other than those stated.

9. Proceedings of Meetings of the Society

- (a) The President shall be the chairman of the annual general meeting and any other meetings of the members of the Society. In the absence of the President, the Chairman shall be the chairman and in the absence of both the President and the Chairman, the meeting shall elect a chairman. The chairman shall not have a vote but shall have a casting vote in the event of a vote deadlock.
- (b) Every matter at a meeting of the Society shall be decided in the first place on a show of hands but the chairman may order a poll and must do so if it is required by more than seven members. A poll shall be taken in such manner as the chairman appoints.
- (c) Each member shall have one vote and on a poll, votes may be given personally or by proxy.
- (d) The instrument appointing a proxy shall be in writing under the hand of the appointor and shall be deposited at the headquarters of the Society, not less than 48 hours before the time for holding the meeting or adjourned meeting at which the person named in the instrument proposes to vote, or in the case of a poll, not less than 24 hours before the time appointed for the taking of

the poll, and in default the instrument of proxy shall not be treated as valid. No instrument of proxy shall be valid after the expiration of twelve months from the date named in it as the date of its execution.

- (e) An instrument appointing a proxy shall be in the following form or a form as near thereto as circumstances admit or such other form as the Executive Committee may from time to time approve: -

“HONG KONG SOCIETY FOR THE PROTECTION OF CHILDREN

I
of
being a Member of the Hong Kong Society for the Protection of
Children, hereby appoint
of
or failing him,
of
as my proxy to vote for me on my behalf at the (annual general or
special, as the case may be) meeting of the Society to be held on the
day of 20 , and at any adjournment thereof.

Signed this day of 20

Signature ”

- (f) The instrument appointing a proxy shall be deemed to confer authority to demand or join in demanding a poll.
- (g) A vote given in accordance with the terms of an instrument of proxy shall be valid notwithstanding the previous death or insanity of the principal or revocation of the proxy or of the authority under which the proxy was executed, provided that no intimation in writing of such death, insanity or revocation as aforesaid shall have been received by the Society at its headquarters before the commencement of the meeting or adjourned meeting at which the proxy is used.

10. Minutes of Meetings

Minutes of all meetings of the Society and of the Executive Committee shall be kept in books provided for that purpose. At every meeting of the Society or the Executive Committee, the minutes of the last meeting of the Society or the Executive Committee (as the case may be) shall be read and if confirmed by the meeting shall be signed by the chairman.

11. Sub-committees

- (a) The Executive Committee may from time to time and for such time as it thinks fit, form sub-committees consisting of such members of the Executive Committee or Members of the Society together with other persons as it thinks fit and delegate to them such of its functions and powers as it thinks fit and to make such regulations as to the proceedings of such subcommittees as it may deem expedient.
- (b) The Women's Auxiliary shall be known as the Fund Raising sub-committee to be formed and regulated in the manner described in Article 11(a) hereof.

12. Advisory Council

The President may form an Advisory Council consisting of such Members of the Society together with other persons as he may think fit and to make such regulations as to the proceedings of the Advisory Council as he may deem expedient.

13. Employees

The Executive Committee shall have the power to appoint and remove such employees as it may from time to time think fit, to fix their remuneration, to set up pension schemes for their benefit and to define the duties to be performed by them respectively.

14. Professional Advisors

The Executive Committee may appoint and pay such legal, financial and other professional advisors as shall from time to time be necessary for carrying out the work of the Society.

15. Bank Accounts

The Executive Committee shall maintain such banking account or accounts as it thinks fit into such of which as may be appropriate shall be paid forthwith all funds received by the Society from any source or for the time being belonging to the Society. Such bank accounts shall be operated by such persons and in such manner as the Executive Committee shall from time to time authorize.

16. Donations and Gifts

The Executive Committee may receive on behalf of the Society gifts whether in the form of permanent endowments or otherwise for the general purposes of the Society and may also receive any gifts whether by way of permanent endowments or otherwise for any special purposes connected with the Society.

17. Investment

All sums of cash at any time standing to the credit of the said banking accounts and not required for immediate working purposes shall be invested by Executive Committee in the name of and for the Society. Any such sum may be invested in securities for the time being authorized by law for the investment of trust funds or in such other investments (including the purchase of freehold or leasehold land) as the Executive Committee shall on the advice of its financial advisers given at the time of investment, elect.

18. Trust Funds

The Executive Committee may establish and maintain trust funds for specific purposes utilizing such funds of the Society as it may deem appropriate and appointing the trustees therefor upon such terms and conditions as it may deem fit.

19. Financial Year

The financial year of the Society shall end on the 31st day of March in each year or such other date as the Society in general meeting may determine from time to time and the accounts of the Society shall be presented by the Treasurer to the Executive Committee within six months after the end of the financial year and shall be presented to the Society at its first annual general meeting after that date. The accounts shall be audited by a firm of certified public accountants appointed by the Executive Committee for that purpose.

20. Charges and Expenses

- (a) All the proper costs charges and expenses of and incidental to the management of the Society shall first be defrayed out of the income of the Society.
- (b) Subject to the payments aforesaid, the Executive Committee shall as and when it thinks fit apply or cause to be applied the whole or any part of the income of the Society and may (with the consent of the Society in general meeting and subject as aforesaid) apply capital of the Society in furtherance of the objects of the Society.
- (c) The Executive Committee shall cause to be prepared annually a general accounts of the Receipts and Expenditure of the Society and such accounts shall be audited annually or at such other times as the Executive Committee may direct, by the Auditor.

21. Applications for Financial Relief

Applications for financial relief shall be submitted to the Executive Committee for consideration in such form as the Executive Committee shall from time to time require. The Executive Committee shall have power to make to any applicant grants and loans up to such amount as the Executive Committee shall from time to time determine.

22. Headquarters

The headquarters of the Society shall be situated in Hong Kong SAR.

23. Alteration of the Constitution

No alteration, repeal or amendment of the Constitution of the Society shall be effected unless the same shall have been carried by a majority vote consisting of at least two-thirds of the Members present at the meeting and voting thereon and approved by the Registrar of Companies.

(譯文)

來函檔號：
本函檔號：LS/B/15/05-06
電 話：
圖文傳真：2877 5029

香港
夏慤道10號
和記大廈20樓2012室
夏佳理律師事務所
(經辦人：陳光輝先生)

傳真(2882 0888)及郵遞函件

敬啟者：

《2006年香港保護兒童會法團(修訂)條例草案》

本人正研究上述由陳智思議員提交的條例草案在法律及草擬方面的事宜，以便向立法會內務委員會提供意見。謹請閣下提供以下資料——

- (a) 雖然根據《香港保護兒童會法團條例》(第1058章)第4(g)條(保護兒童會的權力)，保護兒童會可“作出屬附帶於或有助於保護兒童會的目標及宗旨的其他作為及事情”，但現行的《香港保護兒童會法團條例》似乎並無明文訂定保護兒童會的宗旨。閣下可否提供更多背景資料，闡釋為何在條例草案中加入新訂第3A條以明文訂定保護兒童會的宗旨？
- (b) 《香港保護兒童會法團條例》第7條訂明，在緊接該條例生效日期(即1969年)前有效的香港保護兒童會章程，須繼續為保護兒童會的章程，但該章程可不時予以修訂或更改。請問閣下可否提供上述章程副本供本部參閱？
- (c) 擬議第3A條(條例草案第3條)旨在訂明，“保護兒童會的目標及宗旨是單獨或與社群合作在香港或其他地方，提供或從事促進兒童及其家庭的照顧、教育及社交發展的服務或活動。”請闡釋“社群”的涵義，如可以的話，請以例子述明。
- (d) 閣下或已知悉，藉法規成立的法團的權力有所限制，極其量僅延伸至為貫徹該法團在其宗旨內所述的成立目的而必需及適當需要的權力。條例草案第3條旨在延伸保護兒童會的宗旨，以便把該會單獨或與社群合作(in partnership)在香港或其他地方提供的活動包含在內。請指出在條例草案或條例中，哪項條文賦權保護兒童會為貫徹該會的宗旨而參與合作或其他法律安排。

請盡早以中、英文示覆。

助理法律顧問

(鄭潔儀)

副本致：法律顧問

2006年6月16日

m7046