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Department of Justice
Legal Policy Division
(Attention: Mr Michael R Scott, Sr Asst Solicitor Gen)
Room 105A High Block
Queensway Government Offices
66 Queensway
Hong Kong

3 April 2008

BY FAX
Fax No. : 2180 9928

Dear Mr. Scott,

Statute Law (Miscellaneous Provisions) Bill 2008

I am scrutinizing the legal and drafting aspects of the above Bill. I would be most grateful if you could clarify the following matters:-

Parts 2, 3 and 4

It is noted that there are numerous offence provisions with the drafting formula “to the satisfaction of” an enforcement agency in various ordinances. However, some of these provisions (e.g. regulation 122 of the Dangerous Goods (General) Regulations (Cap. 295 sub. leg. B), regulation 23(1) of the Radiation (Control of Radioactive Substances) Regulations (Cap. 303 sub. leg. A), regulation 6(1)(b) and (2)(b) of the Occupational Safety and Health Regulation (Cap. 509 sub. leg. A), etc.) have not been included in the Bill. It would assist Members if they could be advised of the criteria for including the relevant provisions in the Bill. It would also assist Members if a list of offence provisions with the similar drafting formula “to the satisfaction of” an enforcement agency which are not included in the Bill could be provided, preferably with information on the reasons for not including them in the Bill.

Clause 57

What is the meaning of “official prosecutor” (公職主控官) under clause 57 relating to the proposed amendments to section 13 of the Magistrates Ordinance (Cap. 227)? Does it refer to Court Prosecutor and/or departmental prosecutor? Why is it necessary to use the word “official” (公職)?

Clause 64

Clause 64 seeks to add a new section 13A to the Conveyancing and Property Ordinance (Cap. 219). Please clarify whether the proposed amendment would have any effect on past transactions completed before the proposed amendment comes into operation. What is the effect of the proposed amendment on transactions in which the sale and purchase agreement has been signed before the commencement of the amendment but the law has then been changed at completion? Is there any need for transitional provision(s)?

It is noted that the proposed new section 13A(1)(b) only refers to section 13(1)(a) and (c) of Cap. 219. Please explain the rationale for not including section 13(1)(b).

Unlike the Chinese rendition of the proposed new section 13A(3) and (4) (給予上述土地的業權), the Chinese rendition of the proposed new section 13A(2) (給予業權) does not appear to fully reflect the meaning of the English phrase “give title to that land”. Please consider whether it is necessary to amend the Chinese rendition of the proposed new section 13A(2) in order to achieve consistency.

Moreover, please also consider whether the Chinese rendition of the English phrase “right or interest” in the proposed new section 13A(4) should be amended from “權力或權益” to “權利或權益”.

I shall be most grateful if you could let me have your response in both Chinese and English on the above queries at your earliest convenience, preferably before the first meeting of the Bills Committee (tentatively fixed to be held on 18 April 2008).

Yours sincerely,

(Timothy TSO)
Assistant Legal Adviser

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