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Urgent by fax: 2185 7845
29 May 2008

Miss Betty Ma
Clerk to Bills Committee
Legislative Council
3/F, Citibank Tower
3 Garden Road
Central

Dear Miss Ma,

Bills Committee on Statute Law (Miscellaneous Provisions) Bill 2008

I refer to our phone discussion this morning.

As noted in the enclosure to your letter dated 13 May 2008, at the Bills Committee meeting on 9 May 2008, Members requested the Administration to follow up on certain issues relating to Parts 2 and 3 of the Statute Law (Miscellaneous Provisions) Bill 2008. Parts 2 and 3 propose amendments to over 90 provisions in a variety of ordinances and regulations which contain the drafting formula “to the satisfaction of” an enforcement authority.

Requests (a) to (c) asked that the Administration –

- (a) seek the views of the relevant authorities on whether and what action would be taken to inform the person regulated of the specific measures to be taken “to the satisfaction of” those authorities after amendment of the relevant provisions as proposed;

- (b) provide responses to Members' concern about requiring the person regulated to approach the relevant authorities to ascertain the measures to be taken "to the satisfaction of" those authorities and whether a person who had commenced a regulated activity without approaching the relevant authority to ascertain the measures to be taken "to the satisfaction of" that authority would be subject to prosecution after amendment of the relevant provisions as proposed; and
- (c) consider deleting the provisions referred to in (b) above, i.e. requiring the person regulated to approach the relevant authorities to ascertain the measures to be taken "to the satisfaction of" those authorities, even if he was not informed of the specific measures to be taken "to the satisfaction of" those authorities after amendment of the relevant provisions as proposed.

Perhaps inevitably with such a large number of provisions and relevant authorities, it has taken some time for all returns to be received. There are also matters of some complexity upon which the Administration would wish to seek clarification from the relevant authorities regarding their responses in the context of individual provisions. It would be impossible, in the time remaining before second reading must be resumed, to reach a properly concluded view, and to draft appropriate CSAs, should they be required, in respect of the many provisions which are subject to proposed amendment.

Accordingly, we have decided to withdraw Parts 2 to 4 of the Bill (amendments relating to the drafting formula "to the satisfaction of") for further consideration and reintroduction in a future bill.

However, we intend to proceed with Parts 1 (Preliminary), 5 (New Post Titles of Prosecutors of rank of Senior Government Counsel and Government Counsel), 6 (Conveyancing and Property Ordinance), 7 (relating to repealed subsidiary legislation under the District Court Ordinance) and 8 (Rating Ordinance).

We will send CSAs relating to the above in due course.

We would be grateful for your confirmation whether or not the meetings of the Bills Committee scheduled for 30 May and 2 June 2008 will be

cancelled.

Yours sincerely,

(Michael Scott)
Senior Assistant Solicitor General
(General Legal Policy)

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