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16 February 2011

Mr. Arthur Cheung,
Senior Assistant Legal Adviser,
Legislative Council Building,
8 Jackson Road,
Central,
Hong Kong.

Dear *Arthur*,

**Chief Executive Election (Amendment) Bill 2010
and Legislative Council (Amendment) Bill 2010 :
Outstanding Matters**

Clause 6 of the Chief Executive Election
(Amendment) Bill 2010
Proposed section 2A of the Schedule to the
Chief Executive Election Ordinance

The proposed section 2A provides for a transitional arrangement. A sun-set clause (section 2A(17)) is therefore necessary.

As the status of the special members is based upon the application of the proposed section 2A(8), it would be neater and conceptually more desirable to terminate the status by discontinuing the application of section 2A(8) under the express provision of the proposed section 2A(11) rather than relying on the general provision of section 2A(17).

Although some may find that there may be a conceptual difficulty as regards the timing of the commencement of subsections (11) and (17), the concern is an academic one because the effect of subsection (17) is clear. There will be no doubt on the cessation of the status of the 10 special members. Section 2A will then be omitted from the text of the principal ordinance. We do not consider necessary or worthwhile to amend the proposed section 2A.

Reference to “commencement of the term of office of the fifth term of the Legislative Council in 2012”

At the last meeting of the Bills Committee, the Hon. Lau Kong Wah queried the need for the reference to 2012 in the proposed amendment to Clause 1(4) of the Legislative Council (Amendment) Bill 2010.

Although the omission of “in 2012” will not prejudice the effect of the provision, we are of the view that the reference informs the readers the year in which the commencement takes place. It serves a useful purpose. We consider it appropriate to keep the reference. The ambiguity in the Chinese text perceived by the Honourable Member is not a significant problem because the context should be able to make it clear that “開始” qualifies “任期” rather than “2012年”. The same reference is included in Clause 1(4) of the Chief Executive Election (Amendment) Bill 2010. To align with the Chinese version of the proposed amendment to Clause 1(4) of the Legislative Council (Amendment) Bill, we propose to add the reference of “in 2012” in the English version of the relevant CSAs accordingly.

Commencement clauses and the new proposed provisions

Clause 1 of the Legislative Council (Amendment) Bill 2010 and clause 1 of the Chief Executive Election (Amendment) Bill 2010 as amended by the proposed CSAs are sufficient to cover the new provisions in the proposed CSAs.

Yours faithfully,



(Gilbert Mo)

Deputy Law Draftsman
(Bilingual Drafting and Administration)

c.c. SCMA (Mr. Freely Cheng
Ms. Anne Teng)