



立法會秘書處 法律事務部
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LEGISLATIVE COUNCIL SECRETARIAT

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By Fax (2869 4420)

17 February 2014

Ms Manda CHAN
Principal Assistant Secretary for Commerce and
Economic Development (Commerce and Industry)
(Special Duties)
Commerce, Industry and Tourism Branch
Commerce and Economic Development Bureau
22-23/F, West Wing
Central Government Offices
2 Tim Mei Avenue
Tamar
Hong Kong

Dear Ms CHAN,

**Toys and Children's Products Safety
(Additional Safety Standards or Requirements) Regulation
(L.N. 17 of 2014)**

Further to our letter of 14 February 2014, we would be grateful for your clarification on one additional point under "Penalties provision" as follows.

Statutory defence under section 8(7) of the Toys and Children's Products Safety Ordinance (Cap. 424)

Section 8(7) of Cap. 424 provides that-

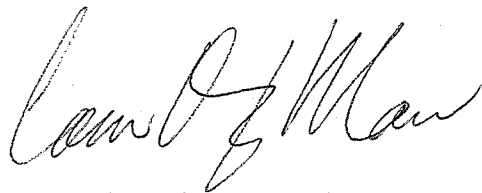
"In any proceedings against any person for an offence under this section in respect of any toys or children's products it shall be a defence for that person to show-

- (a) that he reasonably believed that they would not be used or consumed in Hong Kong;
- (b) that-
 - (i) he supplied them in the course of carrying on a retail business; and
 - (ii) at the time he supplied them, he neither knew nor had reasonable grounds for believing that they failed to comply with the general safety requirement; or
- (c) that the terms on which he sold them indicated that they were not being sold as new goods."

Since there is no provision on statutory defence under the Toys and Children's Products Safety Regulation (Cap. 424B), it appears that the above statutory defence is not available to a person charged with an offence under Cap. 424B. If that is the case, would you please explain the reason for making the above statutory defence now available to a person who is charged with an offence under section 5, 6, 10 or 11 (these provisions are substantially similar to sections 2 to 4 of Cap. 424B) of L.N. 17 of 2014?

It is appreciated for your reply, in both languages, to us by **close of play today**.

Yours sincerely,



(Stephen LAM)
Assistant Legal Adviser