

LETTERHEAD OF Legislative Council Secretariat Legal Service Division

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URGENT BY FAX

Fax No.:2869 0720

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Dear Ms Fung,

Adaptation of Laws (No.4) Bill 1998

We are scrutinising the legal and drafting aspects of the Bill with a view to reporting to Members. We should be grateful for your clarifications of the following points:

Legal Officers Ordinance

- (a) Section 4(1)(b) is amended by repealing “Crown” and substituting “Government”. Why is it considered to be an appropriate substitution?
- (b) The reference to “the Trade Commissioner for the United Kingdom or any territory forming part of the Commonwealth” in section 4(1)(d)(ii) is repealed. Is there any equivalent institution of China in Hong Kong for the purpose of adaptation?
- (c) Section 5 is repealed and substituted with a new section. New section 5 states that “all rights which were enjoyed by the then Attorney General immediately before 1 July 1997 in the courts of Hong Kong, except for those that are inconsistent with the Basic Law (emphasis supplied), shall on and after that date be exercisable by the Secretary for Justice”. Can a list be given to illustrate those rights which were exercisable by the Attorney General before 1 July 1997 but are not exercisable by the Secretary for Justice because they are considered to be inconsistent with the Basic Law?

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- (d) Section 6 is repealed and substituted with a new section. Similar to the rationale in (c) above, can a list be given to illustrate those rights or duties which were exercisable or dischargeable by the Attorney General before 1 July 1997 but are not exercisable or dischargeable by the Secretary for Justice because they are considered to be inconsistent with the Basic Law?
- (e) Section 11 is amended by repealing “Governor” and substituting with “Chief Executive in Council”. Why is it considered to be an appropriate substitution?

Legal Practitioners Ordinance

Section 3(3) is repealed. Would the jurisdiction of the Court or a judge in respect of any person admitted to practise therein be impaired?

In facilitating us to report on the Bill to the House Committee meeting to be held on 13 November 1998, it is appreciated that your reply, in both languages, could reach us by close of play tomorrow.

Yours sincerely,

(Stephen Lam)
Assistant Legal Adviser