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BY FAX : 2877 5029

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By Fax

Dear Anita,

Adaptation of Laws (No. 12) Bill 1998

Ms Roxanna Cheng asked me to reply to your letter of 31 May.

2. The Bill proposes to amend sections 56(2)(a), 59 and 83S of the Criminal Procedure Ordinance (Cap. 221), rules 64(2) and 71(1) of the Criminal Appeal Rules (Cap. 221 sub.leg.) and rule 2 of the Criminal Procedure (Representation) Rules (Cap. 221 sub.leg.) by replacing -

- (a) the references to "Crown" in the English text with "HKSAR"; and
- (b) the reference to "官方" in the Chinese text with "特區".

3. The Bill also proposes to amend -

- (a) Forms I, IV to VII, XII to XIV, XV, XVIII, XIX, XXII to XXX in the Schedule to the Criminal Appeal Rules (Cap. 221 sub.leg.);
- (b) the Form of Indictment in the Schedule to the Indictment Rules (Cap. 221 sub.leg.); and
- (c) the Form of Notice of Solicitors' Appointment in the Schedule to the Criminal Procedure (Representation) Rules (Cap. 221 sub.leg.),

by replacing -

- (i) the case title "R./Reg./The Queen v. [*defendant*]" at the commencement in the English text with "HKSAR v. [*defendant*]"; and
- (ii) the case title "英女皇對[被告人]" at the commencement in the Chinese text with "香港特別行政區對[被告人]".

4. Under the Interpretation and General Clauses Ordinance (Cap. 1) -

- (a) the expression "HKSAR" means "the Hong Kong Special Administrative Region of the People's Republic of China"; and
- (b) both expressions "特區" and "香港特別行政區" means "中華人民共和國香港特別行政區".

In other words, the new wording proposed under the Bill to the provisions and forms mentioned in paragraphs 2 and 3 has the same meaning in the English text and the Chinese text.

5. We do not adapt the Chinese case titles mentioned in paragraph 3 to become "特區對[被告人]" because that is not consistent with the current practice of stating case titles. Moreover, the case titles may subsequently be adopted in law reports, textbooks and other documents, to which Cap. 1 does not apply. In that case, "特區" may not be readily construed as "中華人民共和國香港特別行政區".

6. We do not think it is necessary to amend section 3 of Cap. 1 either. Apparently, your concern is that since the Chinese equivalent for "HKSAR" in that section is "特區", the expression in the Chinese text corresponding to every "HKSAR" in the English text can only be "特區". In our view, that is not necessarily so, as there is a reason for not adopting "特區" in the Chinese texts of the forms mentioned in paragraph 3, and "香港特別行政區" and "特區" are in fact one and the same. As long as the English and Chinese texts of a provision have the same meaning, it is not necessary for an expression in one text to be an exact rendition (as adopted in Cap. 1) of its counterpart in other text.

Yours sincerely,

(Lawrence Peng)
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c.c. Ms Roxana Cheng, SASG
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