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Secretary for Security  
(Attention: Miss Eliza YAU,  
Principal Assistant Secretary (S)E)  
Security Bureau  
6/F Main and East Wing  
Central Government Offices  
Hong Kong

16 May 2001

**BY FAX**

Fax No. : 2810 7702  
Total no. of pages : (5)

Dear Miss Yau,

### **Massage Establishments (Amendment) Bill 2001**

I am scrutinizing the above Bill with a view to advising Members and should be grateful if you would clarify the following matters:

#### **Clause 3**

Please explain why the reference to “foot (up to knee)” is used. As you would probably be aware, the ordinary dictionary meaning of “foot” is the terminal part of the leg, below the ankle joint, on which the body stands and moves. Is it appropriate and desirable to stretch the ordinary meaning of “foot” to cover the part of the leg from the foot up to the knee as proposed? Would it be better if “foot (up to knee)” is amended to the part of the body or leg from the knee to the foot? It would appear that such amendment would also make the way of presentation in the English text more consistent with that in the present Chinese text.

#### **Clause 4**

- (a) Section 7(4) of the Massage Establishments Ordinance (Cap. 266) ("the Ordinance") provides, among other things, that subsection (7) of section 6 shall apply mutatis mutandis to an application for renewal of a licence. Having regard to the amendment introduced by proposed section 7(7) which subjects the renewal period of 12 months to proposed section 7(8), is it necessary to make section 7(4) subject to subsection (8) as well?
- (b) In proposed section 7(7), please explain why a renewal of a licence shall be granted "from the date on which the renewal is granted"? If the renewal is granted before the expiration of a licence, is it the Administration's intention that the renewal should take effect from the

earlier date instead of from the day following the expiry of the licence?

- (c) Would proposed section 7(7) be inconsistent with section 7(6)(b) of the Ordinance? As you may be aware, section 7(6)(b) provides that a renewal of licence granted under section 7 of the Ordinance shall be deemed to be granted from the day following the day upon which the licence being renewed would have expired.
- (d) It appears that the combined effect of proposed section 7(7) and (8) is that a licence may be renewed for 24 months if the licensee has not been in breach of any conditions of the licence but the licence may still be renewed for a period of 12 months even if the licensee has been in breach of a licence condition. What is the rationale for granting a renewal of a licence for 12 months when the licensee has been in breach of a licence condition? How is this provision to be reconciled with section 8(1)(a) of the Ordinance, which provides that breach of a condition of a licence may be a ground for the licensing authority to refuse to renew a licence?

***Refund of licence fees already paid***

According to the LegCo Brief on the Bill, approximately 29 currently licensed massage establishments will no longer be required to obtain licences for their businesses if the proposed amendments are implemented. Will the relevant licensees be refunded the licence fees they have paid on a pro rata basis? Should transitional provisions be made to cover this matter?

***Chinese text***

My comments on the Chinese text have been marked up on the relevant pages attached for your consideration.

I would appreciate it if you would let me have your reply in both languages as soon as possible.

Yours sincerely,

(Connie Fung)  
Assistant Legal Adviser

Encl.

c.c.: Department of Justice (Attn: Mr. John Wong, SGC)  
LA