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By Fax
(Fax No. : 2877 5029)

Ms Connie Fung
Legal Service Division
Legislative Council Secretariat
Legislative Council Building
8 Jackson Road
Central
Hong Kong

Dear Ms Fung,

Massage Establishments (Amendment) Bill 2001

Thank you for your fax dated 16 May 2001. In respect of your queries on the above Bill, I would like to offer our explanations as follows –

Clause 3

The phrase “foot (up to knee)” is used to indicate the part of the leg from the foot up to the knee. As “up to knee” is in brackets, it is not intended to extend the ordinary dictionary meaning of “foot”. We consider the provision, as presently drafted, is sufficiently clear.

Clause 4

- (a) Section 7(4) of the existing Ordinance provides, *inter alia*, that section 6(7) of the Ordinance (which provides that a licence shall authorize the licensee to operate a massage establishment for 12 months) shall apply *mutatis mutandis* to an application for renewal of a licence. As section 7(8) of the Bill empowers the licensing authority to renew a licence for 24 months, we agree that section 7(4) of the Ordinance should be made subject to the new section 7(8).

- (b) It is the Administration's policy that the renewal should take effect from the day following the expiry of the licence. In order to avoid any doubt caused, we would suggest that "from the date on which the renewal is granted" is to be deleted from section 7(7) so that it is clear that the renewal is to take effect from the day following the expiry of the licence under the operation of section 7(6)(b).
- (c) Please refer to paragraph (b) above.
- (d) Section 8(1)(a) provides that the licensing authority may revoke, suspend or refuse to renew any licence if the licensee has been in breach of any conditions of the licence. However, such penalties are heavy and would only be warranted if some serious licensing conditions are breached such as the occurrence of vice activities. If a licensee is found to have breached some minor conditions such as those on opening hours or lighting requirement, it would be disproportionate to impose a heavy penalty such as revocation of the licence. Instead, it is proposed that the licence would only be renewed for 12 months instead of 24 months.

Refund of licence fees already paid

There is no express provision in the existing Ordinance for the licensing authority to refund licence fees in the circumstances. Subject to the Legislative Council's approval of the Bill, when the Amendment Ordinance comes into operation, the licensees of the massage establishments that no longer require a licence to operate will not be refunded the licence fees they have paid on a pro rata basis.

This is basically because the licence fees are charged to cover the processing costs of licence applications which have already been incurred. Nevertheless, the relevant licences will not be forfeited and the licensees may keep the licences until their expiry.

Chinese text

Your comments on the Chinese text are under consideration by the Law Draftsman and a reply will be given to you in due course.

Yours sincerely,

(Miss Eliza Yau)
for Secretary for Security