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2877 5029

Secretary for Home Affairs
Home Affairs Bureau
31/F, Southorn Centre
130 Hennessy Road
Wan Chai, Hong Kong

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BY FAX

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(Attn : Mr Stephen Fisher
Deputy Secretary for Home Affairs)

Dear Mr Fisher,

Village Representative Election Bill

We have the following comments on the Bill.

General observation

Has the Administration consulted the Equal Opportunities Commission about the compatibility of the proposals in the Bill with the Sex Discrimination Ordinance (Cap. 480)?

Clause 2

In paragraph (h) of the definition of "prescribed public officer", why is it unnecessary to add "or bureau" after "department" where it twice appears (c.f. the District Councils Ordinance (Cap. 547))?

In the definition of "principal residential address", would it be possible that a person has two main homes at the same time (for example, a person has been living 180 days of a year abroad and the remaining days of the year in a Village)?

In the definition of "spouse", would it be necessary to make reference to the Marriage Reform Ordinance (Cap. 178) in relation to the term "concubine"? Would it be necessary to include kim tiu as referred to in section 6 of the Marriage Reform Ordinance" in the definition of "spouse"?

Clause 5(3)

Do you have any legal authority to elucidate the meaning of "deal with"?

Would a Resident Representative who reflects views on behalf of the residents of an Existing Village on the affair relating to the lawful traditional rights and interests of indigenous inhabitants be considered to be dealing with the same?

Would it be necessary to add "and the traditional way of life" after "the lawful traditional rights and interests" (c.f. clause 6(4)(b))?

Clause 9(1)(g)

In comparing with similar provision in section 24(1)(g) of the District Councils Ordinance or section 39(1)(i) of the Legislative Council Ordinance (Cap. 542), it is appreciated that the reference to composition with the person's creditors is taken out due to the recent amendment to the Bankruptcy Ordinance (Cap. 6). However, does the phrase "in either case without paying the creditors in full" apply to composition with creditors or voluntary arrangement? So that in the absence of the reference to composition with the creditors, the phrase "in either case without paying the creditors in full" should also be taken out.

We are still scrutinising the legal and drafting aspects of the Bill and will write to you further if necessary. In the meantime, it is appreciated that you would respond to our comments, in both languages, at your earliest convenience.

Yours sincerely,

(Stephen Lam)
Assistant Legal Adviser

c.c. Department of Justice
(Mr Lawrence Peng, SALD (Acting))
(Fax No. : 2845 2215)
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