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Secretary for Home Affairs
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BY FAX

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Dear Miranda,

Hong Kong Sports Development Board (Repeal) Bill

We are scrutinizing the legal and drafting aspects of the Bill. We should be grateful for your clarification of the following points.

General Points

In paragraph 3(b) of the LegCo Brief, it mentions that the Hong Kong Sports Institute should be re-constituted to become an incorporated body. Is it intended that the incorporation be done by way of an ordinance?

In paragraph 3(c) of the LegCo Brief, it mentions that a new Sports Commission should be established. Is it intended that the Commission be established under an ordinance?

Is there any delegation or authorization made by the Hong Kong Sports Development Board ("the Board"), the Hong Kong Sports Institute Trust Fund Committee of Trustees ("the Committee") or the Hong Kong Sports Institute Management Committee, in force immediately before the commencement date of the Hong Kong Sports Development Board (Repeal) Ordinance upon enactment, required to be saved to the extent that it is consistent with the Ordinance?

Is there any bylaw made under section 18 of the Hong Kong Sports Development Board (Cap. 1149) ("the repealed Ordinance")? If the answer is yes, should it be saved to the extent that it is consistent with the Hong Kong Sports Development Board (Repeal) Ordinance upon enactment? Further assuming the answer is yes, would it be necessary to save the power to prosecute an offence under the bylaw committed before the commencement date of the Ordinance or a continuing offence under the bylaw extending beyond the commencement date of the Ordinance?

Why is it not necessary to dissolve the Hong Kong Sports Institute management Committee established under section 5B of the repealed Ordinance?

Clause 7(2)

Under section 5G(4) of the repealed Ordinance, it lists out the three components of the Hong Kong Sports Institute Trust Fund ("the Fund"). Clause 7(2) only refers to one of those components, namely balance of the Fund. Would it be necessary for clause 7(2) be amended to encompass the other two components?

Clause 7(3)

Is there any agreement, etc. to which the Board or the Committee is a party, containing a provision referred to in clause 7(3)(a) or (b)? If the answer is yes, would you explain the context of the provision in such an agreement, etc.?

Clause 9(1)

Would it be necessary to add "or which is to take effect on or after that date" after "the commencement" in order to cover the situation where the agreement, etc. was made before the commencement but takes effect on or after that date?

Do you have in mind any agreement, etc. made by the Board or the Committee which is inconsistent with the Hong Kong Sports Development Board (Repeal) Ordinance upon enactment?

Clause 10(2)

Is the word "appeal" wide enough to cover accrued right of appeal where no actual legal proceedings have been instituted yet before the commencement?

Clause 11(a)

Why is it necessary to exclude the reference to "enactment"?

Clause 12(4)(b)

Why is it considered to be appropriate to confine the subject of inquiry to "former Chairman" only?

Your early reply in both languages is appreciated.

Yours sincerely,

(Stephen Lam)
Assistant Legal Adviser

Encl

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