

立法會
Legislative Council

LC Paper No. LS94/05-06

**Paper for the House Committee Meeting
on 21 July 2006**

**Legal Service Division Further Report on
Hong Kong Society for the Protection of
Children Incorporation (Amendment) Bill 2006**

Hong Kong Society for the Protection of Children Incorporation (Amendment) Bill 2006 (Private Member's Bill introduced by Hon. Bernard Chan, JP) seeks to introduce certain technical amendments to the Hong Kong Society for the Protection of Children Incorporation Ordinance (Cap. 1058) including, amongst other things, an objects clause to enable the Society to engage alone or in partnership with the community in Hong Kong or elsewhere, services which promote the care, education and social development of children and their families. The Legal Service Division's report on the Bill was considered at the House Committee on 23 June 2006. It was agreed that no decision would be made as the Legal Service Division was looking at the technical aspects of the Bill and clarifications on the Bill were being sought from the solicitors responsible for the drafting of the Bill.

2. The solicitors responsible for the Bill has provided information on certain technical issues of the Bill and the Legal Service Division has completed the examination of them. (Correspondence between the Legal Service Division and the solicitors responsible for the Bill are annexed for members' reference.) Members may wish to note that the Hong Kong Society for the Protection of Children will take on board our suggestion to amend its constitution to ensure that it will be consistent with the Ordinance.

3. The drafting of the Bill presents no difficulty and subject to members' view, the Bill is ready for resumption of Second Reading debate.

Encl

Prepared by

Kitty Cheng
Assistant Legal Adviser
Legislative Council Secretariat
18 July 2006

LS/B/15/05-06

2877 5029

Messrs Arculli Fong & Li
(Attn: Mr Tan Kuang Hwee)
Rm 2012, 20/F
Hutchison House
10 Harcourt Road
Hong Kong

By Fax (2882 0888) and By Post

10 July 2006

Dear Sirs,

**Hong Kong Society for the Protection of
Children Incorporation (Amendment) Bill 2006**

Thank you for your letter dated 4 July 2006. I trust that your client is fully aware of our concerns as contained in our previous correspondence and appropriate advice has been tendered by your good selves.

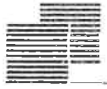
It is noted that the Hong Kong Society for the Protection of Children will take on board our suggestion to amend its constitution to ensure that it will be consistent with Cap. 1058. You may also wish to draw your client's attention to section 20(2)(a) of the Interpretation and General Clauses Ordinance (Cap. 1), under which the Bill will commence once it is passed and published in the Gazette and any amendments to its constitution should therefore be made with that time frame in mind.

I will make a further report on the Bill to the House Committee and subject to any view of the House Committee, you may arrange for the resumption of second reading of the Bill. Please feel free to contact me if I can be of any assistance.

Yours faithfully,

Kitty Cheng
Assistant Legal Adviser

c.c. Hon Bernard CHAN, JP
Legal Adviser



ARCULLI FONG & NG

夏佳理 方和 吳正和 律師事務所

LAWYERS

in association with

KING & WOOD, PRC LAWYERS

與 金杜律師事務所 聯營

Our Ref : 213989/TKH

Your Ref : LS/B/15/05-06

4 July 2006

By Hand

Legislative Council
Legislative Council Building
8 Jackson Road
Central, Hong Kong

Attn: **Ms. Kitty Cheng**

Dear Madam,

Hong Kong Society for the Protection of Children Incorporation (Amendment) Bill 2006 ("the Bill")

We thank you for your letter dated 29 June 2006.

We are instructed to reply to the queries raised in your letter as follows:

(A) Clause 3 (objects clause) of the Bill

Although the Ordinance does not expressly list out the Society's objects, section 4(g) of the Ordinance however gives the Society the power to do such acts and things that are incidental or conducive to the objects or aims of the Society. The objects and aims are set out in the Society's constitution in which the Ordinance has acknowledged this to be in force. To address your concern, the Society will take your suggestion to amend the constitution in due course so that the object provisions in the Bill are also reflected in the constitution.

(B) Clause 3 of the Bill – Proposed section 3A(2)

The intention of the new section 3A(2) is for the Society either to work on its own or to work

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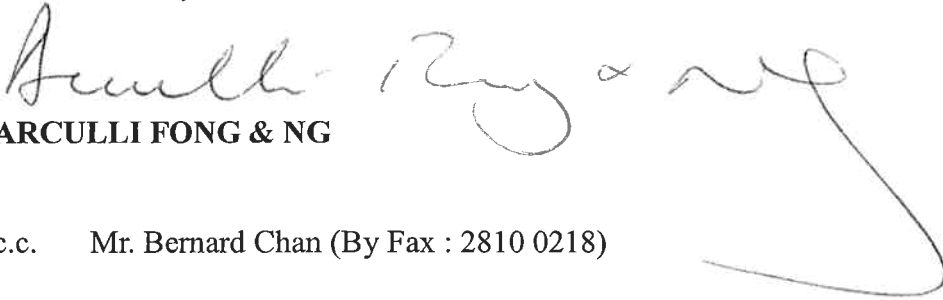
together with the community. Although the Society may choose to work together with the community without entering into a legal partnership arrangement as it is often the case, a legal corporate entity such as the Society can nevertheless choose to do otherwise if necessary. Therefore it is the Society's view that your proposed amendments are not required.

(C) Clause 4 of the Bill (Power of the Society)

The term "depository instruments" is meant to include cash deposits or fixed term deposits or deposits of any kind placed in banks. The term is commonly used in the banking industry and therefore the Society is of the view that the definition of this term is not necessary.

We hope we have fully dealt with your queries and please do not hesitate to contact us if you have further queries. Our reply in Chinese will be provided to you shortly.

Yours faithfully,



ARCULLI FONG & NG

c.c. Mr. Bernard Chan (By Fax : 2810 0218)

LS/B/15/05-06

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Messrs Arculli Fong & Li
(Attn: Mr Tan Kuang Hwee)
Rm 2012, 20/F
Hutchison House
10 Harcourt Road
Hong Kong

By Fax (2882 0888) and By Post

29 June 2006

Dear Sirs,

**Hong Kong Society for the Protection of
Children Incorporation (Amendment) Bill 2006**

Thank you for your letter dated 22 June 2006 and I would be grateful if you could consider the following -

(A) Clause 3 (objects clause) of the Bill

As you may be aware, there is in fact no express provision in the existing Hong Kong Society for the Protection of Children Incorporation Ordinance (Cap. 1058) which sets out the objects or aims of the Society save that section 7 of the Ordinance provides that the constitution of the Society which was in force immediately prior to the commencement of the Ordinance shall continue to be the constitution of the Society but the same may be amended or varied at any time in accordance with the provisions of the constitution subject nevertheless to the provisions of that Ordinance relating to any matter expressly dealt with therein.

It is also noted that the constitution of the Society contains only an "objects clause" (clause 2) but no express "powers clause".

It is apparent that the provisions of the proposed section 3A of the Bill (objects clause) and clause 2 of the constitution (objects clause) are broadly in line with each other but they are not exactly the same, for example,

Proposed section 3A(2) of the Bill:

“The objects include, but are not limited to, the following –

- (a) to provide and operate day nurseries, day crèches ...”.

Clause 2(b) of the constitution:

“The aims and objects of the Society shall be to provide services promote care, education and social development of children in partnership with the community which shall include the following –

- (i) To establish day nurseries, day crèches...”.

One might possibly argue that given the drafting of section 7 of the Ordinance as such, although the life of the constitution of the Society (hence the objects as set out therein) is acknowledged and continued by the Ordinance, the constitution is not expressly incorporated into the Ordinance. Moreover, the introduction of a new objects clause by the Bill might possibly give rise to the questions of, (a), whether the objects as stated in the Bill should be read independent of or in conjunction with those in the constitution, (b) in case of inconsistency between the two versions, which one should prevail, and (c) in such a case, how they are to be reconciled.

I wonder if you would consider taking this opportunity (by means of putting in Committee Stage Amendments to the Bill) to expressly incorporate by reference the constitution of the Society in the Ordinance and/or tidy up the provisions of the constitution so that they will be technically consistent with the Bill and the Ordinance.

(B) Clause 3 of the Bill – Proposed section 3A(2)

As I understand from your letter and the Chinese rendition of the Bill, the phrase “to provide or engage (services or activities) alone or *in partnership* with the community (與社群合作)” is intended to mean to provide or engage (services or activities) alone or jointly (or in co-operation) with the community. Do you think the word “*jointly*” or “*in co-operation*” should be adopted in the English text instead of “in partnership” so as to more accurately convey the legislative intention and to avoid the implication of partnership arrangement in the business law text.

(C) Clause 4 of the Bill (Powers of the Society)

Please explain the meaning of “depository instruments” in the proposed section 4(*aa*) and do you consider it necessary to define this term and the “bank” in that provision?

Please feel free to contact me if I can be of any assistance. I look forward to your reply in bilingual form (English and Chinese) at your earliest convenience.

Yours faithfully,

Kitty Cheng
Assistant Legal Adviser

c.c. Hon Bernard CHAN, JP
LA



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與 金杜律師事務所 聯營

Our Ref : 213989/TKH

Your Ref : LS/B/15/05-06

22 June 2006

By Hand

Legislative Council
Legislative Council Building
8 Jackson Road
Central, Hong Kong

Attn: Ms. Kitty Cheng

Dear Madam,

**Hong Kong Society for the Protection of Children Incorporation (Amendment) Bill 2006
("the Bill")**

We thank you for your letter dated 16 June 2006.

We now reply to your queries as follows (using your paragraph numbering):

- (1) The new section 3A is introduced to define and set out clearly what are the aims and objects of the Society since the definition of the objects in the Ordinance is inadequate and they do not include future work that may be extended outside Hong Kong.
- (2) A copy of the Society's constitution is enclosed as requested.
- (3) The Society's involvement with the community extends to other charitable societies/ organisations, non governmental organizations, governmental departments, companies and schools. A list of some of the activities undertaken by the Society with the community is enclosed for your attention.

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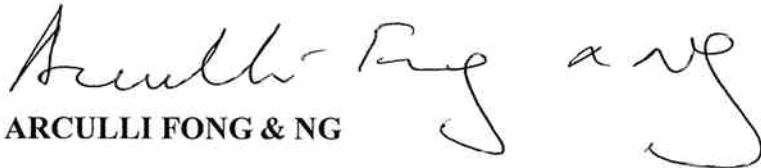
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- (4) Although there is no provision to the Ordinance specifically states that the Society may carry out its objects in partnership with the community, such power is nevertheless provided in the Society's constitution. The new section 3A(2) has now made it clear that the Society may carry out its objects in partnership with the community.

We will let you have this reply in Chinese shortly.

We hope we have dealt with your queries and please do not hesitate to contact us if you need further information.

Yours faithfully,

A handwritten signature in cursive script, appearing to read "Arculli Fong & Ng".

ARCULLI FONG & NG

Encls.

c.c. Mr. Bernard Chan (By Fax : 2810 0218)

Examples of HKSPC's partnership with the community :-

1. Joint programs with Non –governmental organizations :-
 - “Living above the Rainbow “ Project with Yang Memorial Methodist Social Service to teach pre-school children the value of life ;
 - Mission for New Arrivals – parenting sessions for Ethnic Minority parents

2. Other Government departments :-
 - Social Welfare Department Kowloon City Integrative Family Services Centre – programs, outings, community orientation and computer classes for Ethnic Minority children and parents

3. Companies :-
 - Goodwell Property Management Ltd – activities support and providing free electrical and plumbing repair work for low income and ethnic minority families of our Children & Family Services Centre
 - Morgan Stanley – IT learning Room, Volunteer support for outings
 - Hong Kong Society for Children's Education & Art – Art teaching training

4. Other charitable societies & organizations
 - Sathya Sai Baba Centre – parenting talks, activities, donations of supplies and volunteer assistance for our Ethnic Minority Programs
 - British Consulate – Volunteers to teach “Fun with English” programs
 - Buddhist Ho Wong Cheong Po Elderly Social Centre – children & parents from our Children & Family Services Centre participate in a program to visit and show concern for single elderly at their homes
 - Christian Action -Emergency Education Fund where we provide emergency grants to new arrival deprived children to help them buy books and uniforms to start school

5. Schools :-
 - Island School & Shatin College – volunteer program for their Form 5 – Form 7 students

HONG KONG SOCIETY FOR THE PROTECTION OF CHILDREN

CONSTITUTION

Including Amendments up to November 14, 2000

1. Name and Definitions

- (a) The name of the Society is the Hong Kong Society for the Protection of Children.
- (b) In this Constitution, unless the context otherwise requires:-
 - (i) "Auditor" shall mean such qualified person to audit the accounts of Society as the Society in general meeting may elect;
 - (ii) "Chairman" shall mean the chairman of the Executive Committee elected in accordance with Article 4(f) hereof;
 - (iii) "Executive Committee" means the executive committee of the Society described in Article 4 herein;
 - (iv) "Secretary" shall mean the secretary of the Society elected in accordance with Article 6(a)(iii);
 - (v) "Life Member" means a member of the Society admitted in the manner described in Articles 3(a)(ii) and 3(b) hereof;
 - (vi) "Ordinary Member" means a member of the Society admitted in the manner described in Articles 3(a)(ii) and 3(b) hereof;
 - (vii) "Corporate Member" means a member of the Society admitted in the manner described in Articles 3(a)(iii) and 3(b) hereof;
 - (viii) "Patron" shall mean such person as accepts and supports the policy, aims and objects of the Society and is invited by the Society at its general meeting to be such;
 - (ix) "Society" means the Hong Kong Society for the Protection of Children.

2. Objects

- (a) The Society is established for charitable purposes.
- (b) The aims and objects of the Society shall be to provide services which promote care, education and social development of children in partnership with the community which shall include the following:-

I, the undersigned, do hereby certify that this is a true and complete copy of the original.

Dated

7 February 2002

Winnie M.S. Cheng
Solicitor,
Stephane Hui Bon Hoa & Co.
Hong Kong.

- (i) To establish day nurseries, day crèches, residential crèches and centers in Hong Kong for the care of children and their families and from time to time to provide them with such medical or food supplies as may be available to the Society and any other facilities as the Society through its Executive Committee may think fit, and to make such reasonable charges or fees for the services and facilities provided by the Society as the Committee may consider equitable in the circumstances;
- (ii) To accept and receive any donation, grants, subvention or financial assistance from the Government or other body or organization or any person;
- (iii) To take such steps by written or printed statements, public meetings, or other means as may be expedient to educate the public regarding the welfare of the young;
- (iv) To provide and maintain an organization for the above objects;
- (v) To do such other lawful things as are incidental or conducive to the attainment of the above objects.

3. Members

- (a) Subject to Clause 3(b) hereof, the following persons may be admitted as members of the Society:-
 - (i) A person who subscribes to the Society such annual sum as the Executive Committee may from time to time determine appropriate for an Ordinary Member, shall be an Ordinary Member of the Society and shall be entitled to attend and vote at all general meetings of the Society as long as his current subscription has been paid but a person whose subscription is more than two years in arrears shall cease to be a member.
 - (ii) A person who subscribes to the Society such sum as the Executive Committee may from time to time determine appropriate for an Life Member, shall be a Life Member of the Society and shall be entitled to attend and vote at all general meetings of the Society. The Executive Committee may admit a person to Honorary Life Membership as it deems appropriate and such Honorary Life Member will not be required to pay any subscription whatsoever.
 - (iii) A body corporate which subscribes to the Society such an annual sum as the Executive Committee may determine appropriate for a

Corporate Member, shall be a Corporate Member of the Society and shall so long as its current subscription has been paid be entitled by its nominee to attend and vote at all general meetings of the Society.

- (b) All applications for membership of the Society shall be reviewed by the Executive Committee or a sub-committee duly authorized by it and the Executive Committee or the sub-committee authorized may in its direction refuse any such application without giving any reason therefor. All applications for memberships shall be accompanied by such information and documents as the Executive Committee or the sub-committee authorized may reasonably request for.
- (c) All subscriptions for membership shall be payable in advance on or before 1st day of each financial year of the Society.
- (d) Any member of the Society may withdraw from the Society by giving written notice to the Secretary of his intention so to do.

4. The Executive Committee

- (a) The administration and management of the Society shall be vested in the Executive Committee of the Society which shall be comprised of the following persons:-
 - (i) the President ex officio;
 - (ii) the Treasurer ex officio;
 - (iii) the Honorary Secretary of the Executive Committee;
 - (iv) Chairman of the Fund Raising sub-committee; and
 - (v) not more than fifteen nor less than seven elected members.
- (b) The Society in annual general meeting shall elect from among the members of the Society not more than fifteen (15) nor less than seven (7) members of the Executive Committee.
- (c) Each member of the Executive Committee shall hold office only from the end of the meeting at which he was elected until the next annual general meeting of the Society when he retires but any such member may be re-elected for a further term or further terms.
- (d) The office of an Executive Committee member shall be vacated if: -
 - (i) he dies;
 - (ii) he resigns from his office by written notice to the Secretary;
 - (iii) he ceases to be a member of the Society;
 - (iv) he has been adjudged bankrupt;
 - (v) he is convicted of a crime involving moral turpitude;

- (vi) he becomes of unsound mind; or
 - (vii) he is removed by a resolution of the members of the Society in general meeting notwithstanding anything contained herein or in any agreement between the Society and him.
- (e) The Executive Committee shall have power to appoint any member of the Society to fill any casual vacancy in the Executive Committee which may occur during a year of office. Any Executive Committee member so appointed shall hold office only until the next Annual General Meeting of the members of the Society and shall then be eligible for re-election.
- (f) The Executive Committee shall elect its Chairman and its Vice-Chairman among its members. The Chairman and the Vice-Chairman so elected shall hold office not beyond the next election of the members of the Executive Committee.
- (g) Without limiting the generality of the foregoing Clause 4(a), the Executive Committee shall, in addition to the powers specifically provided for herein, have the following powers:-
- (i) to carry out the objects of the Society in whatever manner it may think expedient;
 - (ii) to regulate finances and submit a statement of the same to the members at the annual general meeting;
 - (iii) to have power to frame Rules and Regulations as to the management and administration of the affairs of the Society and the procedure at meetings and from time to time to alter or amend the same;
 - (iv) to transact all administrative and other business of the Society;
 - (v) to maintain from time to time an up-to-date list of the members of the Society.

5. Executive Committee Meetings

- (a) Meetings of the Executive Committee may be called by the Chairman as often as he may consider necessary and in the event of the office of Chairman being vacant, may be called by any two members of the Executive Committee. Reasonable notice of meetings of the Executive Committee shall be given to the members thereof. There shall be a quorum when six members including at least one of the Chairman, Vice-Chairman, President, Treasurer or Secretary is present. The Chairman shall chair all meetings of the Executive Committee and in his absence, the Vice-Chairman and in the absence of both the Chairman and

the Vice-Chairman, the meeting shall elect a chairman among the members present. All decisions of the Executive Committee meetings shall be arrived at solely by a majority of the votes of those present at such meetings. The chairman shall have a second and casting vote in the event of a vote deadlock.

- (b) A special meeting of the Executive Committee shall be convened by the Secretary on the written demand of any five members of the Executive Committee and subject to Article 5(d) hereof, any meeting so convened shall have all the powers of an ordinary meeting of the Executive Committee and be conducted in the same manner as an ordinary meeting of the Executive Committee.
- (c) If the Secretary shall fail within seven days of such written demand as aforesaid to convene the special meeting, such special meeting may be convened in the name of the Society by the persons who demanded that it should be convened.
- (d) The written demand for the convening of any of the special meetings as aforesaid and the notice convening such meeting shall contain a statement of the business intended to be dealt with at the meeting and no other business shall be dealt with at the meeting other than those stated.
- (e) A resolution in writing signed by three-quarters of the members of the Executive Committee including the Chairman, Vice-Chairman, President, Treasurer and Secretary shall be treated as a resolution duly passed at a meeting of the Executive Committee duly convened. Any such written resolution shall be deemed to have been passed at a meeting of the Executive Committee held on the date on which it was signed by the last requisite member of the Executive Committee to sign, and where the written resolution states a date as being the date of his signature thereof by any member the statement shall be prima facie evidence that it was signed by him on that date.

6. Officers

- (a) The Society in annual general meeting shall elect the following officers: -
 - (i) the President;
 - (ii) a Treasurer; and
 - (iii) a Secretary who shall also be the Honorary Secretary of the Executive Committee.

- (b) The President, the Treasurer and the Secretary shall have such duties as the Executive Committee shall define for them from time to time and the Society may engage such staff members of the Society or professionals as they see fit to assist the President, the Treasurer and the Secretary in the performance of their duties.
- (c) The President, the Treasurer and the Secretary shall hold office only from the end of the meeting at which he was elected until the next annual general meeting of the Society when he retires but any such officer may be re-elected for a further term of further terms.

7. Annual General Meetings

- (a) An annual general meeting of the members of the Society shall be held once at least in every calendar year and not more than fifteen months after the holding of the last preceding annual general meeting, save that if default be made in holding a meeting, the Executive Committee may direct the calling of a general meeting at which the omission, and all things resulting from the omission, may be ratified. Such annual or other general meeting shall be for the purpose of: -
 - (i) receiving and considering the reports and accounts for the past year;
 - (ii) reviewing, and if thought fit, revising the policy of the Society and its Constitution;
 - (iii) electing a Patron, President, members of the Executive Committee, Secretary and Treasurer; and to appoint a qualified person to audit the accounts of the Society.
 - (iv) deciding any question of general policy or administration raised upon notice given by any member.
- (b) Notice of the annual general meeting of not less than 14 days before the date fixed for the holding of this meeting shall be given by the Secretary either by advertisement in one English newspaper and two Chinese newspapers or by notice in writing to all members at their last known addresses as the Executive Committee shall direct.
- (c) Notice shall be given in writing to the Secretary not less than 7 days before the date fixed for the holding of the annual general meeting, of all proposals and amendments to the Constitution which are to be discussed at the meeting.

- (d) All decisions of the annual general meeting shall be arrived at solely by a majority of the votes of the members present at such meeting.
- (e) Fifteen members of the Society shall constitute a quorum for an annual general meeting.

8. Special Meetings

- (a) A special meeting of the Society shall be convened by the Secretary on the written demand of not fewer than 15 members of the Society and subject to Article 8(c) hereof, a special meeting so convened shall have all the powers of a general meeting of the Society.
- (b) If the Secretary shall fail within seven days of such written demand as aforesaid, to convene the special meeting, such special meeting may be convened in the name of the Society by the persons who demanded that it should be convened.
- (c) The written demand for the convening of any of the special meetings as aforesaid and the notice convening such meeting shall contain a statement of the business intended to be dealt with at the meeting and no other business shall be dealt with at the meeting other than those stated.

9. Proceedings of Meetings of the Society

- (a) The President shall be the chairman of the annual general meeting and any other meetings of the members of the Society. In the absence of the President, the Chairman shall be the chairman and in the absence of both the President and the Chairman, the meeting shall elect a chairman. The chairman shall not have a vote but shall have a casting vote in the event of a vote deadlock.
- (b) Every matter at a meeting of the Society shall be decided in the first place on a show of hands but the chairman may order a poll and must do so if it is required by more than seven members. A poll shall be taken in such manner as the chairman appoints.
- (c) Each member shall have one vote and on a poll, votes may be given personally or by proxy.
- (d) The instrument appointing a proxy shall be in writing under the hand of the appointor and shall be deposited at the headquarters of the Society, not less than 48 hours before the time for holding the meeting or adjourned meeting at which the person named in the instrument proposes to vote, or in the case of a poll, not less than 24 hours before the time appointed for the taking of

the poll, and in default the instrument of proxy shall not be treated as valid. No instrument of proxy shall be valid after the expiration of twelve months from the date named in it as the date of its execution.

- (e) An instrument appointing a proxy shall be in the following form or a form as near thereto as circumstances admit or such other form as the Executive Committee may from time to time approve: -

“HONG KONG SOCIETY FOR THE PROTECTION OF CHILDREN

I
of
being a Member of the Hong Kong Society for the Protection of
Children, hereby appoint
of
or failing him,
of
as my proxy to vote for me on my behalf at the (annual general or
special, as the case may be) meeting of the Society to be held on the
day of 20 , and at any adjournment thereof.

Signed this day of 20

Signature ”

- (f) The instrument appointing a proxy shall be deemed to confer authority to demand or join in demanding a poll.
- (g) A vote given in accordance with the terms of an instrument of proxy shall be valid notwithstanding the previous death or insanity of the principal or revocation of the proxy or of the authority under which the proxy was executed, provided that no intimation in writing of such death, insanity or revocation as aforesaid shall have been received by the Society at its headquarters before the commencement of the meeting or adjourned meeting at which the proxy is used.

10. Minutes of Meetings

Minutes of all meetings of the Society and of the Executive Committee shall be kept in books provided for that purpose. At every meeting of the Society or the Executive Committee, the minutes of the last meeting of the Society or the Executive Committee (as the case may be) shall be read and if confirmed by the meeting shall be signed by the chairman.

11. Sub-committees

- (a) The Executive Committee may from time to time and for such time as it thinks fit, form sub-committees consisting of such members of the Executive Committee or Members of the Society together with other persons as it thinks fit and delegate to them such of its functions and powers as it thinks fit and to make such regulations as to the proceedings of such subcommittees as it may deem expedient.
- (b) The Women's Auxiliary shall be known as the Fund Raising sub-committee to be formed and regulated in the manner described in Article 11(a) hereof.

12. Advisory Council

The President may form an Advisory Council consisting of such Members of the Society together with other persons as he may think fit and to make such regulations as to the proceedings of the Advisory Council as he may deem expedient.

13. Employees

The Executive Committee shall have the power to appoint and remove such employees as it may from time to time think fit, to fix their remuneration, to set up pension schemes for their benefit and to define the duties to be performed by them respectively.

14. Professional Advisors

The Executive Committee may appoint and pay such legal, financial and other professional advisors as shall from time to time be necessary for carrying out the work of the Society.

15. Bank Accounts

The Executive Committee shall maintain such banking account or accounts as it thinks fit into such of which as may be appropriate shall be paid forthwith all funds received by the Society from any source or for the time being belonging to the Society. Such bank accounts shall be operated by such persons and in such manner as the Executive Committee shall from time to time authorize.

16. Donations and Gifts

The Executive Committee may receive on behalf of the Society gifts whether in the form of permanent endowments or otherwise for the general purposes of the Society and may also receive any gifts whether by way of permanent endowments or otherwise for any special purposes connected with the Society.

17. Investment

All sums of cash at any time standing to the credit of the said banking accounts and not required for immediate working purposes shall be invested by Executive Committee in the name of and for the Society. Any such sum may be invested in securities for the time being authorized by law for the investment of trust funds or in such other investments (including the purchase of freehold or leasehold land) as the Executive Committee shall on the advice of its financial advisers given at the time of investment, elect.

18. Trust Funds

The Executive Committee may establish and maintain trust funds for specific purposes utilizing such funds of the Society as it may deem appropriate and appointing the trustees therefor upon such terms and conditions as it may deem fit.

19. Financial Year

The financial year of the Society shall end on the 31st day of March in each year or such other date as the Society in general meeting may determine from time to time and the accounts of the Society shall be presented by the Treasurer to the Executive Committee within six months after the end of the financial year and shall be presented to the Society at its first annual general meeting after that date. The accounts shall be audited by a firm of certified public accountants appointed by the Executive Committee for that purpose.

20. Charges and Expenses

(a) All the proper costs charges and expenses of and incidental to the management of the Society shall first be defrayed out of the income of the Society.

(b) Subject to the payments aforesaid, the Executive Committee shall as and when it thinks fit apply or cause to be applied the whole or any part of the income of the Society and may (with the consent of the Society in general meeting and subject as aforesaid) apply capital of the Society in furtherance of the objects of the Society.

(c) The Executive Committee shall cause to be prepared annually a general accounts of the Receipts and Expenditure of the Society and such accounts shall be audited annually or at such other times as the Executive Committee may direct, by the Auditor.

21. Applications for Financial Relief

Applications for financial relief shall be submitted to the Executive Committee for consideration in such form as the Executive Committee shall from time to time require. The Executive Committee shall have power to make to any applicant grants and loans up to such amount as the Executive Committee shall from time to time determine.

22. Headquarters

The headquarters of the Society shall be situated in Hong Kong SAR.

23. Alteration of the Constitution

No alteration, repeal or amendment of the Constitution of the Society shall be effected unless the same shall have been carried by a majority vote consisting of at least two-thirds of the Members present at the meeting and voting thereon and approved by the Registrar of Companies.

LS/B/15/05-06

2877 5029

Messrs Arculli Fong & Li
(Attn: Mr Tan Kuang Hwee)
Rm 2012, 20/F
Hutchison House
10 Harcourt Road
Hong Kong

By Fax (2882 0888) and By Post

16 June 2006

Dear Sirs,

**Hong Kong Society for the Protection of
Children Incorporation (Amendment) Bill 2006**

I am looking at the legal and drafting aspects of the aforesaid Bill presented by Hon. Bernard Chan with a view to advising the House Committee of the Legislative Council. I would be grateful if you could provide the following information-

- (a) It seems that the existing Hong Kong Society for the Protection of Children Incorporation Ordinance (Cap. 1058) does not expressly provide for the objects of the Society although section 4(g) of the Ordinance (Powers of the Society) enables the Society to “do such other acts and things as are incidental or conducive to the aims and objects of the Society”. Could you provide more background information about the reasons for introducing a new section 3A in the Bill to expressly provide for the objects of the Society?
- (b) Section 7 of the Ordinance provides that the constitution of the Society in force immediately prior to the commencement of the Ordinance (i.e. in 1969) shall continue to be the constitution of the Society and it may be amended or varied from time to time. I wonder if you could provide a copy of the said Constitution for our reference.
- (c) The proposed section 3A (clause 3) seeks to provide that “[t]he aims and objects of the Society are to provide or engage, alone or in partnership with the community, in Hong Kong or elsewhere, services or activities which promote the care, education and social development of children

and their families.” Please explain the meaning of “community” and if possible, illustrate with examples.

- (d) As you may be aware, the powers of a corporation created by statute are limited and extend no further than what is necessarily and properly required for carrying into effect the purposes of its incorporation as stated in its objects. Clause 3 of the Bill seeks to extend the objects of the Society to cover its activities, either on its own or in partnership with the community in Hong Kong or elsewhere. Please identify the provisions in the Bill or the Ordinance which give power to the Society to participate in partnership or other legal arrangements through which to carry out its objects.

I look forward to your reply in bilingual form (English and Chinese) at your earliest convenience.

Yours faithfully,

Kitty Cheng
Assistant Legal Adviser

c.c. LA