



立法會秘書處 法律事務部
LEGAL SERVICE DIVISION
LEGISLATIVE COUNCIL SECRETARIAT

來函檔號 YOUR REF :
本函檔號 OUR REF : LS/B/16/10-11
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By Fax (2180 9928)

15 November 2011

Mr LEE Tin-yan
Senior Government Counsel
Department of Justice
1/F, High Block
Queensway Government Offices
66 Queensway
Hong Kong

Dear Mr LEE,

Enduring Powers of Attorney (Amendment) Bill 2011

It is noted from your Paper dated November 2011 (Ref. LC Paper No. CB(2)300/11-12(01)) that given the clear provision in section 15(1) of the Enduring Powers of Attorney Ordinance, it is considered that a failure on the part of the donor to specify whether the appointment of more than one attorney should act jointly or jointly and severally will render the EPA invalid. The Administration proposes that Committee Stage Amendments (CSA) should be introduced to spell out clearly the legal consequence of such a failure in paragraph 2 of Part A in Form 2, Schedule 2 to the Bill.

To make it clearer to a donor that he is required to make a choice between the attorneys acting jointly and jointly and severally, please consider adopting the drafting approach in paragraph 5A in Part A in Form 2 of Schedule 2 proposed on 18 October 2011. Our suggestion is as follows:

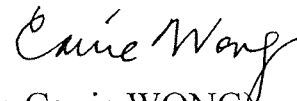
"2. Whether attorneys must act jointly

*[You must decide whether your attorneys are to act (a) jointly; or (b) jointly or severally. See paragraph 3 under the heading "**Information you must read**" and delete from the statement marked with an asterisk below the part that does not apply.]*

- * My attorneys appointed under paragraph 1 are to act -
(a) jointly or
(b) jointly and severally
(delete either (a) or (b))."
[underlining added]

I would appreciate it if you could let me have your reply in both languages before the meeting on 17 November 2011.

Yours sincerely,



(Miss Carrie WONG)
Assistant Legal Adviser

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