



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/18/12-13
電話 TELEPHONE : 3919 3511

傳真 FACSIMILE : 2877 5029
電郵 E-MAIL : wkyick@legco.gov.hk

By Fax (2802 4893)

7 May 2013

Ms Elaine MAK
Prin AS (Culture)1
Home Affairs Bureau
Culture Branch
13/F, West Wing,
Central Government Offices,
2 Tim Mei Avenue, Tamar,
Hong Kong

Dear Ms MAK,

Hong Kong Arts Development Council (Amendment) Bill 2013


We are scrutinizing the legal and drafting aspects of the captioned Bill and have the following questions for your clarification-

- (a) It is noted from paragraphs 6 to 9 of the LegCo Brief on the Hong Kong Arts Development Council (Amendment) Bill 2013 that the practice of specifying individual arts workers which has started from the second nomination exercise in 1997 and the practice of "cross-arts interest nomination" which has been introduced since the nomination exercise in 1999 are respectively inconsistent with the statutory scheme under section 3 of the Hong Kong Arts Development Council Ordinance (Cap. 472). Accordingly, it appears that the past nomination exercises have not been conducted in accordance with the relevant statutory provisions. Please clarify whether this would have any legal implications on (a) the validity of the relevant appointment of members of Hong Kong Arts Development Council (HKADC) by the Chief Executive (CE) under section 3(3)(a) of Cap. 472 and (b) the acts or decisions of HKADC since 1997.

- (b) To avoid challenge against the validity of the past appointment and the acts or decisions of HKADC, will the Administration consider giving retrospective effect to the proposed amendments or adding a clause validating the previous acts or decisions of HKADC?

It is appreciated that your reply in both languages could reach us as soon as possible, preferably by 15 May 2013.

Yours sincerely,


(YICK Wing-kin)
Assistant Legal Adviser

cc DoJ (Attn.: Ms Leonora IP, Sr Asst Law Draftsman (By Fax: 2869 1302))
LA
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