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LEGAL SERVICE DIVISION
LEGISLATIVE COUNCIL SECRETARIAT

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23 May 2014

Mr Howard LEE
Assistant Director of Administration
Administration Wing
Chief Secretary for Administration's Office
25/F, Central Government Offices
2 Tim Mei Avenue
Tamar
Hong Kong

Dear Mr LEE,

Administration of Justice (Miscellaneous Provisions) Bill 2014

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

Part 2

While arrangements might have been made to protect the existing closed circuit television system used in courtrooms from external interference to or interception of the signals transmitted in the system, what security arrangements would be put in place for the audio-visual facilities to be introduced by the Judiciary in the evidence-taking process for criminal proceedings?

Part 4

Regarding the new section 80(2) of the District Court Ordinance (Cap. 336) introduced under Part 4 of the Bill, what would be the relevant factors that should be considered by District Judges when deciding whether they should deliver the reasons for the verdict orally or in writing under the new section 80(2)? Will the Administration consider setting out such factors in section 80 of Cap. 336?

Part 5

Amendments contained in Part 5 of the Bill relate to the abolition of the existing as-of-right appeal mechanism for civil causes or matters to the Hong Kong Court of Final Appeal (CFA). Clause 6 of the Bill provides for the scope of application of Part 5 to the Hong Kong Court of Final Appeal Ordinance (Cap. 484). However, as clause 6 does not form part of Cap. 484, after the Bill is enacted, how could the public be able to know the scope of application of Part 5 by reading Cap. 484? For example, if a final judgment of the Court of Appeal falls on a date just before the commencement of Part 5, how would the appellant be able to know that before the expiration of the relevant appeal period, he still has the right to appeal under the repealed section 22(1)(a) of Cap. 484? It is noted that a new section is added to the Labour Tribunal Ordinance (Cap. 25) by clause 15 of the Bill to provide for the application of the Bill to Cap. 25. Should a similar approach be adopted in Part 5?

Part 6

It appears that the Labour Tribunal's orders made under the existing section 30 of Cap. 25, which relate to security for the payment of the amount of any award, are usually made against the defendants, because this section only concerns the risk of disposal or loss of control of assets **by a defendant**. However, the new section 30 of Cap. 25 as drafted appears to suggest that the Labour Tribunal may make an order for security for the payment of an award or order against **any party** before the Tribunal which would include employees. What is the reason for the extension of the application of section 30? Does this reflect the Administration's intention? If so, under what circumstances would an employee (as a claimant) be ordered by the Labour Tribunal to give security for the payment of an award or order?

Part 7

- (a) Under the existing section 57(2)(f) of the High Court Ordinance (Cap. 4) and section 73(2)(f) of the District Court Ordinance

(Cap. 336), the Chief Judge of the High Court may makes rules to provide for disposing of (a) money, other than the balance of an intestate estate, unclaimed in the High Court or the District Court or (b) money remaining unclaimed in the Bankruptcy Estate Account established under section 128 of the Bankruptcy Ordinance (Cap. 6). It is noted that the proposed section 57(2)(f) of Cap. 4 and section 73(2)(f) of Cap. 336 under the Bill simply refer to disposing of money remaining unclaimed in court without specific reference to the balance of an intestate estate and the money remaining unclaimed in the Bankruptcy Estate Account. Kindly clarify the reason(s) for such amendments.

- (b) In the new section 40A(1)(c) of Cap. 484 and the new section 10AA(1)(c) of the Lands Tribunal Ordinance (Cap. 17), if it is intended that the orders referred to in the sections are confined to those relating to money, securities or movable property of suitors, should this be stipulated clearly in the same way as in other sub-paragraphs of section 40A(1) of Cap. 484 and section 10AA(1) of Cap. 17?

It is appreciated that your reply in both languages could reach us as soon as possible, preferably by **13 June 2014**.

Yours sincerely,



(YICK Wing-kin)
Assistant Legal Adviser

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