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10 July 2017

Miss Rachel Dai
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Legislative Council Secretariat
Legislative Council Complex
1 Legislative Council Road
Central, Hong Kong

Dear Miss Dai,

Statute Law (Miscellaneous Provisions) Bill 2017

Thank you for your letter of 6 July 2017. We set out below the Government's response to the issues raised in your letter.

Clause 1(3)

The current list of recognized Basic People's Courts for the purpose of the *Mainland Judgments (Reciprocal Enforcement) Ordinance* (Cap. 597) was published by the Secretary for Justice in the Gazette on 25 July 2014 pursuant to section 25(1) of Cap. 597 (G.N. 4289). If the amendments to Cap. 597 proposed under the Statute Law (Miscellaneous Provisions) Bill 2017 are adopted, a new list of recognized "Primary" People's Courts would be published. Clause 1(3) proposes that Part 6 will commence on a day to be appointed by the Secretary for Justice so that the new list would be published on the same day when Part 6 commences.

Clause 1(4)

Section 8 of the *Road Traffic (Traffic Control) (Amendment) Regulation 2017* (L.N. 63 of 2017) amends regulation 52 of the *Road Traffic (Traffic Control) Regulation* (Cap. 374G) to empower the Commissioner for Transport to cause or permit another person to install and operate on or near a road any equipment that the Commissioner considers necessary for collecting information on vehicle and pedestrian movements, and controlling and guiding vehicles.

Section 50(1) of the *Airport Authority Bylaw* (Cap. 483A) provides that the *Road Traffic Ordinance* (Cap. 374) and its subsidiary legislation shall apply to all designated roads as defined in section 2 of Cap. 483A, and when applied to the designated roads, provisions of Cap. 374 and its subsidiary legislation shall be subject to the provisions of Cap. 483A made under section 36(3) of the *Airport Authority Ordinance* (Cap. 483) and the exclusions and modifications set out in Schedule 2 to Cap. 483A. As sections 12 and 13 of Part V of Schedule 2 to Cap. 483A modify regulation 52 of Cap. 374G, Division 52 of Part 9 makes consequential and related amendments to these sections. Hence, Division 52 of Part 9 will commence on 15 December 2017, to align with the commencement date of L.N. 63 of 2017.

Clause 3(4)

The expressions “並可施加法庭認為在有關情況下屬恰當的條件規限” in the existing section 79B(4) and “並可施加法庭認為在有關情況下屬恰當的條件，規限該項准許” in the new section 79B(4A) are meant to achieve the same effect. In view of the plain language drafting policy adopted in recent years, it is a common and acceptable practice for a new provision to depart from an existing provision in terms of drafting style with a view to enhancing readability and comprehensibility (even in the case where the existing and new provisions are located in the same section). This is why the expression used in the new section 79B(4A) is different from its counterpart in the existing section 79B(4).

As to the comma following the phrase “藉電視直播聯繫方式”, the usage of comma is explained in 《用詞·造句·標點》¹ as follows: “表示句子裡一般性的停頓，用在說話需要換一口氣的地方” (to indicate a

¹ 王自強, 《用詞·造句·標點》(山西人民出版社, 1985), p.195.

general pause within a sentence, used where a change of breath is needed in speech). The sentence in the provision concerned is a serial verb sentence (連動句). In such a sentence, there is generally no comma between the two verb-object structures (動賓結構) (i.e. “准許該人” and “提供證據” in this case). However, the adverbial (狀語) “藉電視直播聯繫方式” expands the second verb-object structure and significantly lengthens the whole sentence, leading to a reasonable breathing point within that second verb-object structure. Therefore, the addition of that comma is acceptable in terms of usage. The breaking of the long sentence into shorter parts by the comma serves to enhance readability, which is in line with the plain language drafting policy.

Clause 12(1)

For the Rules Committee in the Court of Final Appeal (“CFA Rules Committee”), section 40(1)(f) of the *Hong Kong Court of Final Appeal Ordinance* (Cap. 484) refers to “the Secretary for Justice or a legal officer in the Department of Justice appointed by him” as one of the members. “Legal officer in the Department of Justice” is defined specifically in section 2 of Cap. 484 to mean “a person holding one of the offices in the Department of Justice mentioned in Schedule 1 to the *Legal Officers Ordinance* (Cap. 87)”. This means that only legal officers who are in the Department of Justice (“DoJ”) may become a member of the CFA Rules Committee.

On the other hand, the formulation of “the Secretary for Justice or a legal officer, as defined in section 2 of the *Legal Officers Ordinance* (Cap. 87), appointed by the Secretary for Justice” in the proposed section 17(1A)(f) of the *District Court Ordinance* (Cap. 336) for the District Court Rules Committee (“DCRC”) will cover legal officers not confined to those in DoJ (please see Schedule 1 of Cap. 87).

We have proposed to adopt this formulation for DCRC because:

- (a) the proposed formulation follows that for the High Court Rules Committee and the Criminal Procedure Rules Committee (please see section 55(1)(f) of the *High Court Ordinance* (Cap. 4) and section 9(1)(d) of the *Criminal Procedure Ordinance* (Cap. 221)); and

- (b) it provides greater flexibility for the Secretary for Justice to identify a suitable legal officer to sit on the DCRC.

Yours sincerely,



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c.c. Clerk to the Bills Committee
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