



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

來函檔號 YOUR REF : CPA 3/00/17C
本函檔號 OUR REF : LS/B/20/2025
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By Email (jennyhui@doj.gov.hk)

9 May 2025

Miss Jenny HUI
Senior Government Counsel
Department of Justice
Constitutional and Policy Affairs Division
5/F, East Wing, Justice Place
18 Lower Albert Road
Central, Hong Kong

Dear Miss HUI,

Statute Law (Miscellaneous Provisions) Bill 2025

We are scrutinizing the captioned Bill with a view to advising Members on its legal and drafting aspects. To facilitate Members' consideration of the Bill, we should be grateful if you could clarify the matters set out in the **Appendix**.

Please let us have your response in both Chinese and English as soon as practicable, and in any event, before the second meeting of the Bills Committee.

Yours sincerely,

(Yvonne WONG)
Assistant Legal Adviser

Encl.

c.c. Department of Justice
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Clause 1(2) and (3) - commencement

1. According to clause 1(2) and (3) of the Bill, the Bill (if passed) would come into operation on the expiry of 30 days beginning on the day on which the enacted Ordinance is published in the Gazette, except that clauses 30, 31, 94, 96, 98, 99 and 197 of the Bill (which relate to the renaming of the “Hong Kong-Macau Ferry Terminal” as the “Hong Kong-Macao Ferry Terminal”) would come into operation on a day to be appointed by the Secretary for Transport and Logistics by notice published in the Gazette. Please clarify the reason(s) for proposing such commencement arrangements.

Part 15 – amendments to the Audit Ordinance (Cap. 122)

2. Clauses 46 and 50(2) of the Bill propose to amend sections 5 and 10(2) of Cap. 122 respectively such that the employment of the Director of Audit (“Director”) and all members of the Director’s staff would be subject to the Public Service (Administration) Order (“Order”), the government regulations (as defined in the proposed amended section 2 of Cap. 122 (see clause 41(7) of the Bill)), and such Ordinances as apply generally to public officers. Under section 2(4) of the Official Solicitor Ordinance (Cap. 416), the Order, and such Ordinances, administrative rules and conditions of service as apply generally to public officers apply to the Official Solicitor. Please clarify whether the sets of rules as proposed to be applicable to the employment of the Director/Director’s staff (i.e. under “government regulations”), and those as applicable to the appointment of the Official Solicitor (i.e. under “administrative rules and conditions of service”), are different. If so, please clarify why a different set of rules is proposed to apply in relation to the employment of the Director/Director’s staff.

3. Please clarify the reason(s) for proposing to repeal item 12 (i.e. World Refugee Year Loan Fund) of Schedule 1 to Cap. 122 under clause 57 of the Bill, the effect of which is that the Fund would no longer be subject to audit by the Director.

Part 61 – amendments to the Church of England Trust Ordinance (Cap. 1014) and its subsidiary legislation

4. Please clarify the reason(s) for proposing to repeal section 3(2) of Cap. 1014 under clause 203(2) of the Bill, which empowers the Bishop of Victoria, Hong Kong (which is proposed to be replaced as the Archbishop of the Hong Kong Sheng Kung Hui under clause 202(1) of the Bill) (“Bishop”) to give and revoke a dormant commission to any clergyman of the Church of England to be a trustee, and to act for the Bishop in accordance with the terms of the dormant commission under specified circumstances etc.

5. Please clarify the reason(s) for proposing to replace “Diocesan Conference” with “Bishop” in section 8(2)(b) of Cap. 1014 (clause 207(3) of the Bill), instead of “Diocesan Synod”, which is the proposed substitution for “Diocesan Conference”

(clause 202(4) of the Bill). It is noted that “Diocesan Conference” is proposed to be replaced with “Diocesan Synod” in regulation 17(1)(d) of, and rule 13 set out in the Appendix to, the Church of England Trust (Church Councils) Regulations (Cap. 1014A) (clauses 218(2) and 220 of the Bill).

6. Please clarify the reason(s) for proposing to repeal the definition of “commissary” in section 2 of Cap. 1014 (clause 202(6) of the Bill), and to repeal the references to “commissary” in sections 3, 7 and 8 of Cap. 1014 (clauses 203(3), 206, and 207(1), (2), (4) and (5) of the Bill), and regulation 16(6) of Cap. 1014A (clause 217(6) of the Bill).

7. Please clarify the reason(s) for proposing to replace “Church of England” with “Anglican Church” in the English text, and to replace “英語聖公會” with “聖公會” in the Chinese text, of section 15 of Cap. 1014 (clause 209 of the Bill), and of regulation 16 of Cap. 1014A (clause 217(1) and (3) of the Bill), instead of replacing it with “English-speaking Anglican Church” (and retaining “英語聖公會” as its Chinese rendition) as in, for example, the proposed amended sections 3, 6 and 11 of Cap. 1014 (clauses 203(1), 205 and 208 of the Bill).

Part 67 – amendment to the St. Paul’s College Council Incorporation Ordinance (Cap. 1102)

8. Clause 232 of the Bill proposes to add a new section 6(4) to Cap. 1102 to provide that the regulations of the St. Paul’s College Council (“Corporation”) would not be subsidiary legislation (i.e. such regulations, including their amendments, would not be subject to scrutiny by the Legislative Council (“LegCo”) under the negative vetting procedure of LegCo set out in section 34 of the Interpretation and General Clauses Ordinance (Cap. 1)). Clause 234(z) of the Bill consequentially proposes to repeal the St. Paul’s College Council Regulations (Cap. 1102A). According to paragraph 14(f) of the LegCo Brief (File Ref.: CPA 3/00/17C) issued by the Department of Justice in April 2025, such proposed amendment to Cap. 1102 is to make clear that the regulations of the Corporation are not subsidiary legislation. Please clarify whether it is considered that the regulations of the Corporation are currently not subsidiary legislation. If so, please clarify why it is considered so, given the definition of “subsidiary legislation” under section 3 of Cap. 1. If otherwise, please clarify why the proposed arrangement, which would result in LegCo not having the power to amend such regulations, is considered appropriate.

Part 68 – repeal of certain enactments

9. Please clarify why the Mercantile Marine Assistance Fund Ordinance (Cap. 1001) and the Mercantile Marine Assistance Fund Regulations (Cap. 1001A) are considered to have become obsolete (as per paragraph 57(ix) of item (II) of Annex B to the LegCo Brief), and are therefore proposed to be repealed under clause 234(x) and (y) of the Bill.

Drafting issues

10. Please consider specifying in clause 29(1) and (2) of the Bill that the proposed amendments therein relate to Part 2 of Schedule 2 to the Immigration Regulations (Cap. 115A), as in Part 56 of the Bill.

11. Please consider repealing “of the other part” in the English text of the proposed amended definition of “Lease” in section 2 of the Crown Lease (Pok Fu Lam) Ordinance (Cap. 118) (clause 36(1) of the Bill) for consistency with its Chinese text.