

Statute Law (Miscellaneous Provisions) Bill 2014 to be introduced in LegCo

\*\*\*\*\*

The Government will introduce the Statute Law (Miscellaneous Provisions) Bill 2014 in the Legislative Council to propose a number of technical and non-controversial amendments to various ordinances for the purpose of updating and improving those ordinances. The Bill will be gazetted tomorrow (April 17).

Following are the major proposed amendments covered by the Bill:

\* To amend/repeal the parts of the provisions of the Crimes Ordinance (Cap 200) (CO) that were ruled unconstitutional by the courts in two judgments. The judgments respectively declared that sections 118C and 118H (to the extent that they apply to a man aged 16 or over and under 21) and sections 118F(2) (a) and 118J(2) (a) of the CO are inconsistent with Articles 25 and 39 of the Basic Law and Articles 1, 14 and 22 of the Hong Kong Bill of Rights (HKBOR); and that section 118F(1) of the CO infringed the respondents' right to equality guaranteed under Article 25 of the Basic Law and Article 22 of the HKBOR.

\* To amend the Sex Discrimination Ordinance (Cap 480) (SDO), Disability Discrimination Ordinance (Cap 487) (DDO), Family Status Discrimination Ordinance (Cap 527) (FSDO) and Race Discrimination Ordinance (Cap 602) (RDO) so as to repeal certain items in Part 2 of Schedule 5 to the SDO which are exempted from the operation of the relevant parts of the SDO; to enable enforcement notices to be served on persons by the Equal Opportunities Commission (EOC) for discriminatory practices under the DDO; to provide protection to the members and staff of the EOC against liability when they act in good faith in the performance or purported performance of any of the EOC's functions, etc, under the DDO and FSDO; and to refine the Chinese text of some provisions of the DDO, SDO, FSDO and

RDO.

\* To amend section 81 of the Evidence Ordinance (Cap 8) (EO) to provide explicit powers for the judges and judicial officers (JJOs) of the Lands Tribunal to bring up any person in lawful custody before the tribunal to enable such person to prosecute, defend, or to be examined as a witness; and to amend section 6A of the Lands Tribunal Ordinance (Cap 17) to put it beyond doubt that the temporary members of the Lands Tribunal shall exercise the same powers of a member of the Tribunal (including the power under section 81 of the EO).

\* To amend the EO to the effect that a notarial instrument may be received in evidence in civil proceedings in the courts of Hong Kong, without further proof, as duly authenticated unless the contrary is proved.

\* To amend the EO and the Mutual Legal Assistance in Criminal Matters Ordinance (Cap 525) to render foreign public, banking, routine business and computer records obtained pursuant to mutual legal assistance requests admissible in criminal proceedings in Hong Kong as prima facie evidence of any fact stated therein if they are annexed to a deposition, affidavit, affirmation or declaration made according to the law of the foreign jurisdiction concerned.

\* To amend section 44 of the Unsolicited Electronic Messages Ordinance (Cap 593) (UEMO) to provide greater flexibility in the service of the notices issued by the Communications Authority and to enhance the effectiveness of the enforcement mechanism under the UEMO.

\* To amend section 26(4) of the Trade Descriptions Ordinance (Cap 362) (TDO), together with similar defence provisions in the TDO, to make it clear that these provisions impose only an evidential burden on the accused.

\* To amend the Building Management Ordinance (Cap 344) to

replace the existing requirements that a member of the management committee of an owners' incorporation is required to lodge a statutory declaration stating that he/she does not fall within any of the categories of ineligible persons within 21 days after his/her appointment with the requirement of written statement. According to the existing laws, a statutory declaration has to be made before a justice of peace, notary public, commissioner or other persons authorised by law to administer an oath.

\* To amend Schedule 1 to the Legal Services Legislation (Miscellaneous Amendments) Ordinance 1997 (94 of 1997) (the 1997 Ordinance) to retain the existing definition of controlled trust (which refers to solicitor or foreign lawyers, rather than legal practice entities, as trustees or co-trustees) for the purposes of Part IIA of and Schedule 2 to the Legal Practitioners Ordinance (Cap 159) (LPO).

\* To amend section 8A of the LPO in order to empower the Council of the Law Society to revoke and restore a suspension of a solicitor's practice or a foreign lawyer's registration pending a decision of the Solicitors Disciplinary Tribunal if the Council is satisfied that the circumstances that gave rise to the suspension/revocation no longer exist or otherwise considers appropriate; and to amend the 1997 Ordinance to provide for similar powers.

The Bill will be introduced in the Legislative Council on April 30.

Ends/Wednesday, April 16, 2014