

**Note on Application for a Licence  
under section 21 of the Companies Ordinance**

**(Revised 2011)**

1. In order to assist persons applying for a licence under section 21 of the Companies Ordinance (Cap.32), the attached standard form has been prepared to indicate the way in which the Memorandum and Articles of Association should be prepared.
2. An association about to be formed as a limited company for the purpose of promoting commerce, art, science, religion, charity, or any other useful object which intends to apply its profits or other income to promote its objects and prohibit the division of any such profits amongst its members may apply to the Registrar of Companies for a licence under section 21(1) of the Companies Ordinance to be registered as a company with limited liability without the addition of the word 'Limited' and/or the characters '有限公司' to its name.
3. An existing company may apply to the Registrar of Companies for a licence under section 21(2) of the Companies Ordinance. Where it is proved to the satisfaction of the Registrar that the company satisfies the above requirements, the Registrar may by licence authorise the company to make by special resolution a change to its name by omitting the word 'Limited' and/or the characters '有限公司' from its name.
4. The documents and information required for an application under section 21(1) or section 21(2) are listed in the checklists at **Appendices I and II** respectively. An application should be made in writing and submitted together with the completed checklist, the full set of documents and information required and the lodgement fee payable. Please refer to Part IV(c) of the Eighth Schedule to the Companies Ordinance for the lodgement fee to be paid on delivery of an application. No refund of lodgement fee will be made. An additional licence fee has to be paid under Part IV(b) of the Eighth Schedule upon the grant of a licence.
5. The grant of a licence is at the discretion of the Registrar of Companies. A licence will normally be granted in cases where an applicant can show, preferably by means of its past history, if any, that it is a body capable of carrying out the objects for which it is to be/was formed, and that its financial position is or will be secure. A licence is not usually granted to companies which are not of general public interest, or whose objects are of a controversial nature.
6. Consideration will be given to a newly formed body if the applicant can show that it is an exempt charity under section 88 of the Inland Revenue Ordinance (Cap.112), or will be granted such exemption upon incorporation, and that its application is supported by the relevant Government Department(s). If there are any other special circumstances which would justify the approval of an application, the documents mentioned in the checklist at Appendix I should be submitted together with a statement of such special circumstances.

Companies Registry

## **IMPORTANT NOTICE**

- This Standard Form shall serve as a guide as to the form of Memorandum and Articles of Association which should be prepared in respect of all applications to the Registrar of Companies for a licence to be issued under section 21 of the Companies Ordinance (Cap. 32) or for alterations to be made to the Memorandum and/or Articles of Association of holders of section 21 licences.
  
- The Memorandum and Articles of Association should be drafted or altered (as the case may be) with due regard to the Standard Form. Any deviation from this should be marked with an explanation provided.
  
- Applicants may adopt in the Articles of Association the respective provisions contained in Table C in the First Schedule to the Companies Ordinance where applicable.
  
- Applicants should note that applications for section 21 licences and approval of proposed alterations of Memorandum and/or Articles of Association involve considerable processing time periods which may range from three months to a year, depending on the circumstances of each case. Applicants are advised to submit early applications.

**STANDARD FORM  
OF  
MEMORANDUM OF ASSOCIATION**

1. The name of the Company (“the Association”) is “  
” . (See Note 1)
2. The Registered Office of the Association will be situated in Hong Kong.
3. The objects for which the Association is established are :  
(Here express objects.) (See Note 2)
  - (1) To
  - (2) To
  - (3) To do all such other lawful things as are incidental or conducive to the attainment of the above objects.

Provided that :-

  - (i) In case the Association shall take or hold any property which may be subject to any trusts, the Association will only deal with or invest the same in such manner as allowed by law, having regard to such trusts.
  - (ii) The objects of the Association shall not extend to the regulation of relations between workers and employers or organisations of workers and organisations of employers.
  - (iii) The powers set forth in the Seventh Schedule of the Companies Ordinance (Cap. 32) are hereby excluded.
4.
  - (1) The income and property of the Association, however derived, shall be applied solely towards the promotion of the objects of the Association as set out in this Memorandum of Association. (See Note 3)
  - (2) Subject to sub-clauses (4) and (5) below, no portion of the income and property of the Association shall be paid or transferred directly or indirectly, by way of dividend, bonus, or otherwise howsoever, to the members of the Association.  
(See Note 3)

- (3) No member of the Council of Management or Governing Body of the Association shall be appointed to any salaried office of the Association, or any office of the Association paid by fees and no remuneration or other benefit in money or money's worth (except as provided in sub-clause (5) below) shall be given by the Association to any member of the Council of Management or Governing Body. (See Notes 3 and 4)
- (4) Nothing herein shall prevent the payment, in good faith, by the Association of reasonable and proper remuneration to any officer or servant of the Association, or to any member of the Association not being a member of the Council of Management or Governing Body of the Association in return for any services actually rendered to the Association. (See Note 3)
- (5) Nothing herein shall prevent the payment, in good faith, by the Association :-
- (a) to any member of its Council of Management or Governing Body of out-of-pocket expenses;
  - (b) of interest on money lent by any member of the Association or its Council of Management or Governing Body at a rate per year not exceeding 2% above the prime rate prescribed for the time being by The Hongkong And Shanghai Banking Corporation Limited for Hong Kong dollar loans;
  - (c) of reasonable and proper rent for premises demised or let by any member of the Association or of its Council of Management or Governing Body;
  - (d) of remuneration or other benefit in money or money's worth to a body corporate in which a member of the Association or of its Council of Management or Governing Body is interested solely by virtue of being a member of that body corporate by holding not more than one-hundredth part of its capital or controlling not more than a one-hundredth part of its votes.
- (See Note 3)
- (6) No person shall be bound to account for any benefit he may receive in respect of any payment properly paid in accordance with sub-clauses (4) and (5) above. (See Note 3)

5. The liability of the members is limited.
6. Every member of the Association undertakes to contribute to the assets of the Association in the event of its being wound up while he is a member, or within one year after he ceased to be a member, for payment of the debts and liabilities of the Association contracted before he ceases to be a member, and of the costs, charges and expenses of winding up, and for the adjustment of the rights of the contributories among themselves, such amount as may be required not exceeding ..... dollars.
7. If upon the winding up or dissolution of the Association there remains, after the satisfaction of all its debts and liabilities, any property whatsoever, this shall not be paid to or distributed among the members of the Association; but shall be given or transferred to some other institution or institutions, having objects similar to the objects of the Association, and which shall prohibit the distribution of its or their income and property amongst its or their members to an extent at least as great as is imposed on the Association under or by virtue of clause 4 above, such institution or institutions to be determined by the members of the Association at or before the time of dissolution and in default thereof by a Judge of the High Court of the Hong Kong Special Administrative Region having jurisdiction in regard to charitable funds and, if this provision cannot be effected, then to some charitable object. (See Note 3)
8. No addition, alteration or amendment shall be made to or in this Memorandum of Association or the Articles of Association for the time being in force, unless such alteration has previously been submitted to and approved by the Registrar of Companies in writing. (See Note 3)
9. The Association shall not form a subsidiary or hold a controlling interest in another body corporate, unless the formation of such a subsidiary or the holding of such a controlling interest has previously been approved by the Registrar of Companies in writing. (See Note 5)

We, the several persons whose names and addresses are given below, wish to form a company in pursuance of this Memorandum of Association.

Names, Addresses and Descriptions of Signatories (See Note 6)

1.-

2.-

Dated this                      day of                      , 20     .

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- Note 1 : The description “Association”, “Chamber”, “Institute”, or “Society” is normally used to describe the company. Please use the same description throughout the Memorandum and Articles of Association to avoid confusion.
- Note 2 : Powers or ancillary objects should be made subject to the wording “For the purposes of the Association” so that it is clear that they are limited to the attainment of the main objects.
- Note 3 : In the case of an existing incorporated company where there are no existing clauses in the memorandum, the new provisions should be inserted in the Articles of Association.
- Note 4 : It is preferable to adopt the style “Council of Management” or “Executive Committee”, “Board of Deacons”, etc. throughout, and to avoid the use of the words “Board of Directors”.
- Note 5 : Reference should be made to section 2(4) – (6) of the Companies Ordinance with regard to the interpretation of a subsidiary. In granting approval, the Registrar of Companies will impose such terms and conditions on the section 21 licence holder as may be deemed appropriate in the circumstances, including but not limited to the requirement for the section 21 licence holder to procure an application for a section 21 licence to be made by its subsidiary or the body corporate in which the section 21 licence holder has a controlling interest within a specified period of time.
- Note 6 : All the names and addresses should be stated in full.



## Retirement of Members

6. (Here set out the provisions for the retirement of members.) (See Note 3)

## Subscription Rights of Members

7. (Here set out the provisions for the subscription rights of members.) (See Note 4)

## General Meetings

8. The Association shall in each year hold a general meeting as its annual general meeting in addition to any other meetings in that year, and shall specify the meeting as such in the notices calling it; and not more than 15 months shall elapse between the date of one annual general meeting of the Association and that of the next. Provided that so long as the Association holds its first annual general meeting within 18 months of its incorporation, it need not hold it in the year of its incorporation or in the following year. The annual general meeting shall be held at such time and place as the Councillors shall appoint.
9. All general meetings other than annual general meetings shall be called extraordinary general meetings.
10. The Councillors may, whenever they think fit, convene an extraordinary general meeting, and extraordinary general meetings shall also be convened on such requisition, or, in default, may be convened by such requisitionists, as provided by section 113 of the Ordinance. If at any time there are not within Hong Kong sufficient Councillors capable of acting to form a quorum, any Councillor or any two members of the Association may convene an extraordinary general meeting in the same manner as nearly as possible as that in which meetings may be convened by the Councillors.

## Notice of General Meetings

11. An annual general meeting and a meeting called for the passing of a special resolution shall be called by 21 days' notice in writing at the least, and a meeting of the Association other than an annual general meeting or a meeting for the passing of a special resolution shall be called by 14 days' notice in writing at the least. The notice shall be exclusive of the day on which it is served or deemed to be served and of the day for which it is given, and shall specify the place, the day and the hour of meeting and, in case of special business, the general nature of that business and shall be given,



in manner hereinafter mentioned or in such other manner, if any, as may be prescribed by the Association in general meeting, to such persons as are, under the articles of the Association, entitled to receive such notices from the Association.

Provided that a meeting of the Association shall, notwithstanding that it is called by shorter notice than that specified in this article, be deemed to have been duly called if it is so agreed –

- (1) in the case of a meeting called as the annual general meeting, by all the members entitled to attend and vote at the meeting; and
- (2) in the case of any other meeting, by a majority in number of the members having a right to attend and vote at the meeting, being a majority together representing not less than 95 per cent of the total voting rights of all the members entitled to attend and vote at that meeting.

12. The accidental omission to give notice of a meeting to, or the non-receipt of notice of a meeting by, any person entitled to receive notice shall not invalidate the proceedings at that meeting.

#### Proceedings at General Meetings

13. All business shall be deemed special that is transacted at an extraordinary general meeting, and also all that is transacted at an annual general meeting, with the exception of the consideration of the accounts, balance sheets and the reports of the Councillors and auditors, the election of Councillors in the place of those retiring and the appointment of, and the fixing of the remuneration of, the auditors.
14. No business shall be transacted at any general meeting unless a quorum of members is present at the time when the meeting proceeds to business and continues to be present until the conclusion of the meeting; save as otherwise provided, [ ] members present in person shall be a quorum. (See Note 5)
15. If within half an hour from the time appointed for the meeting a quorum is not present, the meeting, if convened upon the requisition of members, shall be dissolved; in any other case it shall stand adjourned to the same day in the next week, at the same time and place, or to such other day and at such other time and place as the Councillors may determine, and if at the adjourned meeting a quorum is not present within half an hour from the time appointed for the meeting the members present shall be a quorum.

16. The chairman, if any, of the Councillors shall preside as chairman at every general meeting of the Association, or if there is no such chairman, or if he shall not be present within 15 minutes after the time appointed for the holding of the meeting or is unwilling to act or is absent from Hong Kong or has given notice to the Association of his intention not to attend the meeting, the Councillors present shall elect one of their number to be chairman of the meeting.
17. If at any meeting no Councillor is willing to act as chairman or if no Councillor is present within 15 minutes after the time appointed for holding the meeting, the members present shall choose one of their number to be chairman of the meeting.
18. The chairman may, with the consent of any meeting at which a quorum is present (and shall if so directed by the meeting), adjourn the meeting from time to time and from place to place, but no business shall be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place. When a meeting is adjourned for 30 days or more, notice of the adjourned meeting shall be given as in the case of an original meeting. Save as previously stated it shall not be necessary to give any notice of an adjournment or of the business to be transacted at an adjourned meeting.
19. (Here set out other provisions for the proceedings at general meeting.) (See Note 6)

#### Votes of Members

20. Every member shall have [one] vote.
21. (Here set out the provisions for votes of members, including provisions for proxies and polls.) (See Note 7)

#### Councillors

22. The number of the Councillors shall not be more than [ ] and not less than [two] and the names of the first Councillors shall be determined in writing by the founder members of the Association or a majority of them. (See Note 8)

#### Powers and Duties of Councillors

23. The business of the Association shall be managed by the Councillors, who may pay all

expenses incurred in promoting and registering the Association, and may exercise all such powers of the Association as are not, by the Ordinance or by these Articles, required to be exercised by the Association in general meeting, subject nevertheless to the provisions of the Ordinance or these Articles and to such regulations, being not inconsistent with these provisions, as may be prescribed by the Association in general meeting; but no regulation made by the Association in general meeting shall invalidate any prior act of the Councillors which would have been valid if that regulation had not been made. (See Note 9)

24. All cheques, promissory notes, drafts, bills of exchange and other negotiable instruments, and all receipts for moneys paid to the Association, shall be signed, drawn, accepted, endorsed, or otherwise executed, as the case may be, by at least two Councillors of the Association.

25. The Councillors shall cause minutes to be made in books provided for the purpose-

- (1) of all appointments of officers made by the Councillors;
  - (2) of the names of the Councillors present at each meeting of the Councillors and of any committee of the Councillors;
  - (3) of all resolutions and proceedings at all meetings of the Association, and of the Councillors, and of committees of Councillors,
- and every Councillor present at any meeting of Councillors or committee of Councillors shall sign his name in a book to be kept for that purpose.

26. (Here set out the other powers and duties of the Councillors, if any.)

#### Disqualification of Councillors

27. The office of Councillor shall be vacated if the Councillor-  
(Here set out the provisions for the disqualification of Councillor.)

#### Election of Councillors

28. (Here set out the provisions for the election of Councillors.) (See Note 10)

#### Rotation of Councillors

29. (Here set out the provisions for the rotation of Councillors.) (See Note 11)

## Proceedings of Councillors

30. The quorum necessary for the transaction of the business of the Councillors shall be [ ]. (See Note 12)

31. (Here set out the provisions for the proceedings of Councillors.)

## Secretary

32. (Here set out the provisions for secretary and his election, etc.)

## The Seal

33. The Councillors shall provide for the safe custody of the seal, which shall only be used by the authority of the Councillors or of a committee of the Councillors authorised by the Councillors in that behalf, and every instrument to which the seal shall be affixed shall be signed by a Councillor and shall be countersigned by the secretary or by a second Councillor.

## Accounts

34. The Councillors shall cause proper books of account to be kept with respect to-

- (1) all sums of money received and expended by the Association and the matters in respect of which the receipt and expenditure takes place;
- (2) all sales and purchases of goods by the Association; and
- (3) the assets and liabilities of the Association.

Proper books shall not be deemed to be kept if there are not kept such books of account as are necessary to give a true and fair view of the state of the Association's affairs and to explain its transactions.

35. The books of account shall be kept at the registered office of the Association, or, subject to section 121(3) of the Ordinance, at such other place or places as the Councillors think fit, and shall always be open to the inspection of the Councillors.

36. The Councillors shall from time to time determine whether and to what extent and at what times and places and under what conditions or regulations the accounts and books of the Association or any of them shall be open to the inspection of members not being

Councillors, and no member (not being a Councillor) shall have any right of inspecting any account or book or document of the Association except as conferred by statute or authorised by the Councillors or by the Association in general meeting.

37. The Councillors shall from time to time, in accordance with the requirements of the Ordinance, cause to be prepared and to be laid before the Association in general meeting such income and expenditure accounts, balance sheets and reports as are required by the Ordinance.

38. A copy of every balance sheet (including every document required by law to be annexed to it) which is to be laid before the Association in general meeting, together with a copy of the Councillors' report and a copy of the auditors' report, shall not less than 21 days before the date of the meeting be sent to every member of the Association: Provided that this article shall not require a copy of those documents to be sent to any person of whose address the Association is not aware.

#### Audit

39. (Here set out the provisions for the appointment of auditors, etc.)

#### Notices

40. (Here set out the provisions for notices.)

#### Winding Up

41. The provisions of Clause 7 of the Memorandum of Association relating to the winding-up or dissolution of the Association shall have effect and be observed as if the same were repeated in these Articles.

Names, Addresses and Descriptions of Signatories (See Note 6 in Memorandum of Association).

1.-

2.-

Dated this                      day of                      , 20                      .

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- Note 1 : It is preferable to adopt the style “Councillor”, “Deacon”, “Member of the Council of Management”, “Member of the Executive Committee”, “Committee Member”, etc. throughout, and to avoid the use of the word “Director”.
- Note 2 : Pursuant to section 10(2) of the Companies Ordinance, Cap. 32, the number of members must be fixed.
- Note 3 : For expulsion of members on a decision of the Council of Management, the provision should provide for a right of appeal to the members of the Association in general meeting.
- Note 4 : Fees and subscriptions should be set or endorsed in general meeting by members. Waiver and setting of fees by members of the Council of Management or Governing Body of the Association is not permitted.
- Note 5 : The quorum should be a fixed number not a percentage or fraction. The number required for a quorum should depend on the likely number of members.
- Note 6 : The applicant may adopt Articles 15 to 18 contained in Table C in the First Schedule to the Companies Ordinance, Cap. 32, where applicable.
- Note 7 : The applicant may adopt Articles 20 to 28 contained in Table C in the First Schedule to the Companies Ordinance, Cap. 32, where applicable.
- Note 8 : The number of Councillors must be fixed. There must be a maximum and a minimum number. The maximum and minimum numbers of Councillors should depend on the likely number of members of the Association.
- Note 9 : Two tier management is not allowed. The responsibility of management should vest in the Council of Management only.
- Note 10 : Councillors must be elected by members of the Association in general meeting. Non-members are not permitted to be elected or appointed as Councillors. Alternate or co-opted Councillors elected by the Council of Management or the Governing Body of the Association are also not allowed. Vetting of nominees or candidates for election to the Council of Management or Governing Body of the Association by the incumbent Council of Management or Governing Body is not permitted, as it is the members of the Association in general meeting who should decide whether or not the candidate is elected.

Note 11 : Permanent members of the Council of Management or Governing Body of the Association are not allowed.

Note 12 : The quorum should be a fixed number not a percentage or fraction. The number required for a quorum should depend on the likely number of Councillors.

**Checklist for application under Section 21(1) of the Companies Ordinance**

**Note:** Incomplete checklist will be returned to the applicant for completion before the application is processed.

		*Document submitted	*Document not available	If document is not available, please provide reasons.
1.	Application letter.	<input type="checkbox"/>	<input type="checkbox"/>	
2.	A printed or typed copy draft Memorandum and Articles of Association in standard form with deviation, if any, marked up with explanation.	<input type="checkbox"/>	<input type="checkbox"/>	
3.	A list of promoters and proposed governing body (information includes English and Chinese names, occupation and addresses).	<input type="checkbox"/>	<input type="checkbox"/>	
4.	If the association has been operated as an unincorporated body, a brief history of the unincorporated body.	<input type="checkbox"/>	<input type="checkbox"/>	
5.	Copies of accounts and balance sheets for the past two years.	<input type="checkbox"/>	<input type="checkbox"/>	

\* Please tick where appropriate.



6.	If the association is a new body with no past history and accounts, please confirm so in writing.	<input type="checkbox"/>	<input type="checkbox"/>
7.	A statement showing in details the assets (with estimated values) and liabilities, if any, to be taken over by the proposed association including a list of all property owned by the association, either in its own name or in the names of trustees holding the property on behalf of the association.	<input type="checkbox"/>	<input type="checkbox"/>
8.	An updated computerised land search record of the property held.	<input type="checkbox"/>	<input type="checkbox"/>
9.	An estimate of the future income (with sources) and expenditure (with breakdown).	<input type="checkbox"/>	<input type="checkbox"/>
10.	A statement of work done for the past two years, e.g. nature and number of activities held.	<input type="checkbox"/>	<input type="checkbox"/>
11.	A statement of work planned for the coming year, e.g. any specific plans or a schedule of events.	<input type="checkbox"/>	<input type="checkbox"/>
12.	Grounds for the application.	<input type="checkbox"/>	<input type="checkbox"/>
13.	Forwarding address of the association.	<input type="checkbox"/>	<input type="checkbox"/>

14.	Evidence of tax exemption under section 88 of the Inland Revenue Ordinance.	<input type="checkbox"/>	<input type="checkbox"/>
15.	A statement as to whether the subject application has obtained any support from government departments or relevant organisations. If affirmative, please provide letters of support.	<input type="checkbox"/>	<input type="checkbox"/>
16.	A statement as to the current number of members.	<input type="checkbox"/>	<input type="checkbox"/>
17.	A statement as to whether the association has any subsidiary or holds a controlling interest in another body corporate. If affirmative, please provide a list of such subsidiary/body corporate with its nature of business/activities and details of members.	<input type="checkbox"/>	<input type="checkbox"/>
18.	A statement as to whether the association has registered under the Societies Ordinance, Cap.151. If affirmative, please provide a copy of the certificate.	<input type="checkbox"/>	<input type="checkbox"/>
19.	For an application made by a church or religious organisation, a statement as to whether it is affiliated to any of the main churches in Hong Kong. If affirmative, please provide a letter of support.	<input type="checkbox"/>	<input type="checkbox"/>

**Checklist for application under Section 21(2) of the Companies Ordinance**

**Note:** Incomplete checklist will be returned to the applicant for completion before the application is processed.

		*Document submitted	*Document not available	If document not available, please provide reasons.
1.	Application letter.	<input type="checkbox"/>	<input type="checkbox"/>	
2.	A copy of existing Memorandum and Articles of Association (M&A) endorsed in red to show the amendments to the name of the association and, with due regard to the standard form any other amendments which are proposed if the application is successful.	<input type="checkbox"/>	<input type="checkbox"/>	
3.	Copies of accounts and balance sheets for the past two years (unless these have already been filed with the Companies Registry).	<input type="checkbox"/>	<input type="checkbox"/>	
4.	An updated computerised land search record of any property held.	<input type="checkbox"/>	<input type="checkbox"/>	
5.	Please advise whether the association has been operating as an unincorporated body before incorporation. If affirmative, please provide a brief history of the unincorporated body.	<input type="checkbox"/>	<input type="checkbox"/>	

\* Please tick where appropriate.

6. An estimate of the future income (with sources) and expenditure (with breakdown) if this is likely to vary materially from the Income and Expenditure Account provided/filed under item 3.

7. A statement of work done for the past two years, e.g. nature and number of activities held.

8. A statement of work planned for the coming year, e.g. any specific plans or a schedule of events.

9. Grounds for the application.

10. All outstanding annual returns with relevant financial statements, if any.

11. Forms R1, D2A and/or D2B to report any change in the association's registered office address, directors or secretary or their particulars that have not yet been reported.

12. A statement as to whether the records of the association are up to date and all other outstanding documents (e.g. special resolutions, reprinted copy of M&A etc) have been filed with the Companies Registry.

13.	Evidence of tax exemption under section 88 of the Inland Revenue Ordinance.	<input type="checkbox"/>	<input type="checkbox"/>	
14.	A statement as to whether the subject application has obtained any support from government departments or relevant organisations. If affirmative, please provide letters of support.	<input type="checkbox"/>	<input type="checkbox"/>	
15.	A statement as to the current number of members.	<input type="checkbox"/>	<input type="checkbox"/>	
16.	A statement as to whether the association has any subsidiary or holds a controlling interest in another body corporate. If affirmative, please provide a list of such subsidiary/body corporate with its nature of business/activities and details of members.	<input type="checkbox"/>	<input type="checkbox"/>	
17.	For a newly incorporated association, a statement as to whether the association is registered under the Societies Ordinance, Cap.151. If affirmative, please provide a copy of the certificate of registration.	<input type="checkbox"/>	<input type="checkbox"/>	
18.	For an application made by a church or religious organisation, a statement as to whether it is affiliated to any of the main churches in Hong Kong. If affirmative, please provide letter(s) of support.	<input type="checkbox"/>	<input type="checkbox"/>	