

**SUBMISSIONS BY THE LAW SOCIETY ON THE OMBUDSMAN
(AMENDMENT) BILL 2001**

The Law Society has the following observations on the Ombudsman (Amendment) Bill 2001:-

1. Section 11B - Dealing with complaints by mediation

Section 2(a) of the Amendment Bill enables the Ombudsman to deal with any mediation. However, if the Ombudsman personally conducts a mediation which subsequently fails the provisions of sub-sections 6 and 7 will prevail. It is undesirable for the office holder to be placed in a potential position of conflict, and therefore inappropriate for the office holder to participate in any mediation. This provision should be deleted.

2. Section 11(E)(b)

This provision enables the Ombudsman to authorise '*any person appointed*' in Section 6(1) to be a mediator in any mediation. There are no provisions on to the qualifications of these "persons" in Section 6(1). The Clause, as currently drafted, could result in *any* person being appointed as a mediator which is undesirable. The Law Society considers that persons appointed to conduct mediations should be accredited mediators i.e. on the Hong Kong International Arbitration Centre's General Panel of Mediators.

3. Section 18A Immunity

The immunity provided is very wide and prevents and aggrieved complainant from instituting proceedings for example in cases of negligence by the Ombudsman's office.

**The Law Society of Hong Kong
27 June 2001**