

CSO/ADM CR 5/3231/00 (01) Pt. 5

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11 June 2001

Mr LEE Yu-sung
Senior Assistant Legal Adviser
Legislative Council Secretariat
Legislative Council Building
6 Jackson Road
Central
Hong Kong

Dear Mr Lee,

The Ombudsman (Amendment) Bill 2001

Thank you for your letter of 30 May 2001. Our response to the points raised in your letter is set out below –

1. Proposed section 7A(a)

The proposed section 7A(a) aims to empower The Ombudsman to acquire and hold property for either the accommodation of The Ombudsman or staff, or the performance of any of his functions, or for both purposes.

2. Proposed section 9A(1)

The proposed section 9A(1) aims to allow The Ombudsman the discretion to charge fees on services which are administrative or miscellaneous in nature, such as duplication of taped copies of telephone complaints, photocopying of documents or papers kept in the Office of The Ombudsman or its Resource Centre. The nature of such chargeable services will be subject to the approval of the Director of Administration who will ensure that the proposals are reasonable. These services should be distinguished from the obligation of The Ombudsman under the Ordinance, such as to look into complaints or inform the complainant of the result of any investigation.

3. Proposed section 11A

All complaints within The Ombudsman's jurisdiction will commence with preliminary inquiries, although only some will proceed to the full investigation stage. The complaints capable of speedy resolution through clarification of policies or practices could well be disposed of at the end of the preliminary inquiries. A formal investigation may be launched at any stage during the course of preliminary inquiries should findings from the inquiries reveal

maladministration.

4. Proposed section 11B

The settlement of cases by mediation is a voluntary dispute resolution process with the objective of finding mutually acceptable solutions to complaints or problem identified. The proposed section aims to provide an additional means for The Ombudsman to resolve complaints so that more speedy and effective assistance may be provided to complainants. No fees would be charged for mediation.

5. Proposed amendment to section 15(1)

Yes. The obligation to maintain secrecy applies to all matters that arise from any investigation or complaint made to The Ombudsman, and come to her and the staff's knowledge in the exercise of their functions.

Yours sincerely,

(Ms Maggie Wong)
for Director of Administration

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Post

By Fax (2877 0802) & By

(2 Pages)

30 May 2001

Chief Secretary for Administration's Office
(Attn. : Ms Maggie WONG,
Assistant Director of Administration)
Administration Wing
12/F, West Wing
Central Government Offices
11 Ice House Street
Central, Hong Kong

Dear Ms WONG,

The Ombudsman (Amendment) Bill 2001

We are scrutinizing the above Bill with a view to advise Members on the legal aspects. We would appreciate if your comment on the following points before we make a further report to Members :-

1. Proposed section 7A(a)

In relation to the acquisition and holding of property by The Ombudsman, is it necessary for both purposes in (i) and (ii) to be satisfied before The Ombudsman could acquire etc. property, or either (i) or (ii) would be enough?

2. Proposed section 9A(1)

What are the services which fees could be charged?

What is "an obligation imposed by this Ordinance"?

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3. Proposed section 11A

Is it intended that preliminary inquiries would be held in all cases? If not, what are the factors to be considered whether a preliminary inquiry would be held?

4. Proposed section 11B

(a) Under section 7 of The Ombudsman Ordinance, the function of The Ombudsman is to investigate whether a person has sustained injustice in consequence of maladministration. In this context, would the settlement of cases by mediation be a departure from or addition to the function of The Ombudsman?

(b) Would a fee be charged for mediation?

5. Proposed amendment to section 15(1)

Is it intended that the requirement to maintain secrecy would apply to mediation as well?

We would be grateful if you could provide the above information in both Chinese and English for submission to Members for consideration.

Yours sincerely,

(LEE Yu-sung)
Senior Assistant Legal Adviser

c.c. Mr Michael LAM, Government Counsel
(Fax No. : 2869 1302)