

THE

**LAW SOCIETY OF HONG KONG**

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PPTY

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**BY FAX (25099055) AND BY POST**

27 March 2002

Mrs. Percy Ma  
Clerk to the Bills Committee  
Legislative Council  
Legislative Council Building  
8 Jackson Road  
Central, Hong Kong

Dear Mrs. Ma,

**Statute Law (Miscellaneous Provisions) Bill 2001 – Legislation to Empower Courts to Order the Return of Deposits to Purchasers**

I refer to your letter dated 8 March 2002 to our Secretary General Mr. Patrick Moss on the above Bill.

You have invited the Society's views on, inter alia, Part V and Part VII of the Bill.

**Part V (Marital Rape)**

I regret that as the Society's Criminal Law & Procedure Committee will consider the relevant provisions at a meeting on 8 April 2002, I can only let you have our comments after the said meeting.

**Part VII (power of court to order repayment of deposit)**

We note that Section 19 of the Bill seeks to amend Section 12 of the Conveyancing and Property Ordinance ("CPO") along the line of the UK law, i.e. Section 49(2) of the Law of Property Act. This, in effect, will give an absolute discretion to the court to decide whether the deposit should be returned to the purchaser in a given case. The Society's Property Committee does not agree that such a wide discretion as suggested should be given to the court but will reiterate its previous preference for the law to be amended along the line of the Australian legislation, i.e. Section 55 of the New South Wales Conveyancing Act 1919.

Yours sincerely,

Christine W. S. Chu  
Assistant Director of Practitioners Affairs