

Letterhead of THE LAW SOCIETY OF HONG KONG

Our Ref SG/FA/1613

Your Ref :

Direct Line :

4th October 2001

Mrs. Percy Ma
Clerk to Legco Panel on Administration
of Justice and Legal Services
3/F Citibank Tower
No.3 Garden Road
Central
Hong Kong

Dear Mrs. Ma,

LegCo Panel on Administration of Justice & Legal Services
Solicitors (Professional Indemnity) Rules 2001

I refer to my letter dated 28 September since which time members of the Council and the board of directors of Hong Kong Solicitors Indemnity Fund Limited (“the company”) have met with Mr. Erving and Mr. Giles to discuss the issues raised by you in your letter of 26 September.

As was stated in our submission to the Panel it has always been the intention of the Law Society and the company to use the time provided by the 5 year contract with re-insurers to consider how the Professional Indemnity Scheme can best develop to balance the requirements of both the public and the profession within the framework of the statutory rules. In 1998 a Law Society working party spent many hours looking into what are complex issues and many of the recommendations made in their report have been put in place. Leading Counsel’s opinion has also been sought and implemented in making changes to the rules from time to time in the continuing development of the Scheme.

The Law Society wishes to make it clear that it will, in consultation with its members, implement a review of the current Professional Indemnity Scheme arrangements to consider whether at the expiration of the current contract the Law Society should:

- a) maintain the existing mutual fund; or
- b) demutualise or
- c) put into effect such other options as may be proposed

Amongst issues which will, no doubt, be considered during the course of the review are claims loading and risk banding as referred to in your letter of 26 September although it should be noted that “penalty deductibles” are included in the current proposals before the Legislative Council.

We anticipate that the review to be undertaken by an independent person/body will make such enquiries as are necessary to put forward proposals for the future of the Scheme and will be an in-depth review that will, inevitably involve the Law Society, the company and the membership in significant expenditure. We intend to seek a mandate from the membership for such a review and the considerable expennse which will be incurred.

The Law Society appreciates the concerns of members facing a very large increase in their contributions to the fund. Members of the Council and the board are in the same position as other members and clearly would have avoided taking such drastic measures were it all possible to do so but without the proposed increases in the fund there will be insufficient monies available to continue to pay the premium to re-insurers or to meet claims which have already been made. Prudent management concerns as well as their duty to the public and the profession dictate that sufficient resources be maintained in the fund to meet its foreseeable liabilities and that is the purpose of the proposed increases.

In the light of the above you may wish to consider whether any useful purpose can be served in establishing a sub-committee of LegCo. We believe that Mr. Erving and Mr. Giles share this view.

Yours sincerely,

Patrick Moss
Secretary General

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cc Mr. C. P. Erving (by fax: 852 2521 4792)
Mr. W. Giles (by fax: 852 2804 6745)