

香港特別行政區政府
財經事務及庫務局
財經事務科
香港夏慤道十八號
海富中心第一座十八樓



FINANCIAL SERVICES BRANCH
FINANCIAL SERVICES AND
THE TREASURY BUREAU
GOVERNMENT OF THE HONG KONG
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18TH FLOOR
ADMIRALTY CENTRE TOWER 1
18 HAR COURT ROAD
HONG KONG

URGENT

電話 TEL.: 2527 3909
圖文傳真 FAX.: 2528 3345
本函檔號 OUR REF.: (4) in C2/1/55(03) Pt.18
來函檔號 YOUR REF.:

CB(1) 1092/02-03(06)

By Fax (2877 2069)

5 February 2003

Mr Patrick Moss
Secretary General
The Law Society of Hong Kong
3/F., Wing On House
71 Des Voeux Road
Central
Hong Kong

Dear Mr Moss,

Companies (Amendment) Bill 2002

As requested by the Bills Committee set up to scrutinize the above Bill, I am writing to seek the views of the Probate Committee of the Law Society of Hong Kong on the need for appointment of a person to act in place of the sole director (who is also the sole member) of a company.

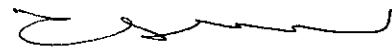
The issue has arisen in relation to the recommendation of the Standing Committee on Company Law Reform that the formation of a company by a person should be permitted. The Bills Committee is concerned about the lack of a mechanism to deal with issues arising from the death of a company's sole director who is also its sole member pending the grant of representation. To address such concern, we have agreed to add an enabling provision in the Bill to the effect that, notwithstanding anything to the contrary in its articles of association, such a company may, before the death of the director, appoint a person to act in the place of the director upon the director's death.

The Bills Committee, however, considers that such an appointment should be a statutory requirement. We are not inclined to go down this route, having regard to the fact that there is, at present, no

statutory provision requiring a person to make a will.

I would be grateful if you would consult the Probate Committee of the Law Society on the above matter. Your response by close, 18 February 2003 would be much appreciated as the Bills Committee will next meet on 20 February 2003.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Esmond Lee', with a stylized flourish at the end.

(Esmond Lee)
for Secretary for Financial Services
and the Treasury



THE
LAW SOCIETY
OF HONG KONG

香港律師會

3/F WING ON HOUSE - 71 DES VOEUX ROAD
CENTRAL - HONG KONG DX-009100 Central 1
香港中環德輔道中71號
永安集團大廈3字樓

TELEPHONE (電話) : (852) 2846 0500
FACSIMILE (傳真) : (852) 2845 0387
E-MAIL (電子郵件) : sg@hklawsoc.org.hk
HOME PAGE (網頁) : http://www.hklawsoc.org.hk

Our Ref
Your Ref
Direct Line

: Probate
:(4) in C2/1/55(03) Pt.18

BY FAX (25283345) AND BY POST

26 February 2003

Mr. Esmond Lee
Financial Services Branch
Financial Services and the Treasury Bureau
18/F., Admiralty Centre,
Tower 1, 18 Harcourt Road,
Hong Kong.

Dear Mr. Lee

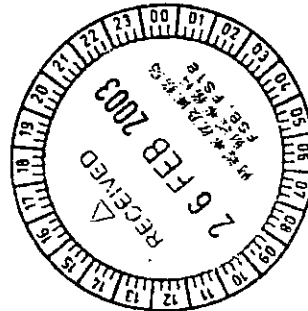
COMPANIES (AMENDMENT) BILL 2002

Further to my letter dated 18 February 2003, I would advise that the Probate Committee has considered the issue raised by you in your letter dated 5 February 2003.

The Committee believes that whether the proposed legislation to require the appointment of a person to act in the place of a sole member-director should be permissive or mandatory is a matter of social policy and does not think that it is appropriate to express any view on the matter. In any event, members of the Committee are divided on the issue.

Yours sincerely,

Christine W. S. Chu
Assistant Director of Practitioners Affairs



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