



Comments on Issues relating to Prorogation of the Legislative Council

The Law Society of Hong Kong has been invited by the Panel on Constitutional Affairs of the Legislative Council to express its views on constitutional issues relating to prorogation of the Legislative Council (“Legco”).

The paper prepared by the Constitutional Affairs Bureau (“CAB”) dated 14 February 2005 (LC Paper No. CB (2)862/04-05(03)) was discussed. The Law Society notes the reference to the pre-Reunification practice may not be entirely relevant to the new constitutional order given the role of the Basic Law in our system.

The Law Society considers the procedures involved in the prorogation of Legco should be institutional, rather than a personal one vested in the Chief Executive. The Law Society endorses the suggestion given by Professor Yash Ghai in his submission to the Panel dated 14 April 2005 (LC Paper No. CB(2)1477/04-05(01)) namely: *“that the law should provide for an automatic prorogation at a fixed period of time before Legco expires”*.

Such an arrangement has the advantage of providing clarity and consistency concerning electoral arrangements of Legco. It will also not affect the constitutional position of the Executive and the Legislature as provided for under the Basic Law.

**The Law Society of Hong Kong
The Constitutional Affairs Committee
2 September 2005**