

律政司
法律政策科
香港金鐘道66號
金鐘道政府合署高座1樓
圖文傳真：852-2180 9928
網址：www.doj.gov.hk



DEPARTMENT OF JUSTICE
Legal Policy Division
1/F., High Block
Queensway Government Offices
66 Queensway, Hong Kong
Fax : 852-2180 9928
Web Site : www.doj.gov.hk

本司檔號 **Our Ref.:** LP 5004/4/9C VIII
來函檔號 **Your Ref.:** CB2/PL/AJLS
電話號碼 **Tel. No.:** 2867 4226

BY FAX: 2509 9055

Total pages : 2

13 January 2006

Mrs Percy Ma
Clerk to Panel
Legislative Council Building
8 Jackson Road
Central
Hong Kong

via Mr Michael Scott, SASG/GLP

Dear Mrs Ma,

**Panel on Administration of Justice and Legal Services
Meeting on 23 January 2006 at 4:30 pm**

Item V: Professional Indemnity Scheme of the Law Society of Hong Kong

I refer to your letter dated 5 January 2006 regarding the above matter.

Recent Development

Further to our report to you on 30 September 2005, we have been liaising with the Law Society on the timetable for having the legislative framework in place for implementing any new professional indemnity scheme. This is, of course, subject to the legislative requirement that the rules be finally approved by the Chief Justice. Our Department has already arranged for Counsel from the Law Drafting Division to provide any necessary drafting assistance.

Meanwhile we await a response from the Law Society on the following –

- (1) what system will be in place for ensuring that only reliable insurers are approved as qualifying insurers;
- (2) whether reinsurance will offer any protection to solicitors and their clients against the insolvency of a qualifying insurer;
- (3) whether qualifying insurers will introduce practice standards for solicitors which will help to prevent negligence occurring;
- (4) whether solicitors with bad claims records will be forced either to improve their practices or to cease to practise through inability to obtain insurance cover.

The question whether our Department will be able to support the scheme will be re-assessed after the Law Society has responded to the questions raised by us in June last year.

With regard to the draft Qualifying Insurance Rules, one issue of concern to us is whether or not they will contain a provision that would preclude an insurer from being able to avoid or repudiate the insurance on any ground. We note that the English rules contain such a provision, and that this protects the clients of negligent solicitors from being denied the protection of the insurance scheme.

We understand from the Law Society that it has accepted a tender for preparation of the Qualifying Insurers Agreement and Assigned Risks Pool Agreement and it is anticipated that these documents will be ready soon. The Law Society has also indicated that it intends to revert to the general membership with the documents that have been prepared so far.

We will continue to work closely with the Law Society on this issue.

Yours sincerely,

(Ms Kitty Fung)
Senior Government Counsel
Legal Policy Division