



THE

# LAW SOCIETY

OF HONG KONG

香港律師會

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Ms. Mary So  
Clerk to Bills Committee  
Legislative Council  
Legislative Council Building  
8 Jackson Road, Central, Hong Kong

Dear Ms. So,

**Re: Prevention of Bribery (Amendment) Bill 2007**

I refer to your letter dated 29 February 2008 addressed to the Secretary General and I have been asked to send a reply on his behalf.

The Law Society does not support the provisions in the Bill and restates its earlier observations on the application of the Prevention of Bribery Ordinance in relation to the Chief Executive. I attach a copy of the Law Society's submissions dated 24 October 2005.

The Law Society will not be sending any representative to attend the Bills Committee meeting scheduled for 19 March 2008.

Yours sincerely,

Joyce Wong  
Director of Practitioners Affairs  
e-mail: dpa@hklawsoc.org.hk



## **Application of Certain Provisions of the Prevention of Bribery Ordinance to the Chief Executive**

The Law Society's Constitutional Affairs Committee has reviewed the matters and has the following observations:

### **1. Basic Law Article 47**

The Chief Executive has a unique constitutional position but this does not mean he or she is above the law. BL 47 requires the CE be a person of "integrity, dedicated to his or her duties", but there are no sanctions if these requirements are breached.

### **2. Basic Law: Article 57**

- How can an investigation be launched given the provisions of BL 57?
- Who would ICAC report to if the CE is being investigated?

### **3. Amend POBO or separate legislation?**

The Law Society recommends that separate legislation should be drafted to deal with the CE rather than amend the POBO. The Common law offence of bribery is insufficient to cover potential acts of corruption, particularly those persons attempting to corrupt the CE.

### **4. Independent ad hoc committee**

In order to avoid conflict the following should be considered:

- establish an independent ad hoc committee to which the ICAC would report
- the committee to be chaired by a retired Judge
- the committee be authorized to sift out unmeritorious complaints
- the committee to have the authority to second officers from the ICAC to investigate complaints.

The Law Society of Hong Kong  
Constitutional Affairs Committee  
24 October 2005  
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