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30 September 2009

Miss Winnie Lo
Assistant Legal Adviser
Legislative Council
Legislative Council Building
8 Jackson Road
Central
Hong Kong

via Ms Adeline Wan, SASG/GLP

Dear Miss Lo,

Legal Practitioners (Amendment) Bill 2009

I refer your letter dated 7 September 2009 (“**Letter**”) in which you asked us to :

- a) explain the rationale for allowing decisions to be made by the Higher Rights Assessment Board without any serving or former judges and how the proposed new section 39G(4) may be applied in meetings where the chairperson is absent; and
- b) consider whether it is necessary to specify that the quorum of the Higher Rights Assessment Board must include the chairperson or an eligible-person member acting as the chairperson (“**Proposed Requirement**”).

In paragraph 50 of its Final Report published in October 2007, the Working Group on Solicitors Rights of Audience recommended that “*Decisions of the Board would be made by majority vote, with a minimum of seven members required in support to approve an application.*” No recommendation

was made to require an eligible person to form a quorum of a Board meeting. As such, the Proposed Requirement was not included in the Bill initially.

Having considered your views and consulted the Judiciary, we agree to amend the Bill to provide for the Proposed Requirement. Specifically, our tentative proposal is to make the following amendments to the Bill: –

- (i) To add in s.39G(1) a new paragraph referring to "(aa) one must be the chairperson of the Board or a member appointed under section 39E(3)(b)(i);"
- (ii) To add in s.39G a new subsection along the following line:

"(1A) At a meeting of the Assessment Board –

 - (a) subject to paragraph (b), the chairperson of the Board must preside; or
 - (b) if the chairperson is not present at the meeting, a member of the Board appointed under section 39E(3)(b)(i) and nominated by the chairperson must preside.
- (iii) To amend the existing s.39G(4) to refer to "...if on any matter the votes are equally divided, the person presiding at the meeting of the Assessment Board, in addition....".

Yours sincerely,



(Christopher Ng)
Senior Government Counsel
Legal Policy Division

c.c. SG
Ms Sherman Chan, SALD(ED)1