

法律政策專員辦公室
律政司
法律政策科



Office of the Solicitor-General
Department of Justice
Legal Policy Division

Queensway Government Offices
Hong Kong

Fax: 852-2501 0371

香港金鐘道政府合署
圖文傳真：852-2501 0371

電話號碼：852-2867 2003

Tel.: 852-2867 2003

本司檔號 Our Ref.: LP 5004/4/15C Pt. 31
來函檔號 Your Ref.: PRES/FA/737187-1

27 February 2012

Mr Junius Ho
President
The Law Society of Hong Kong
3/F Wing On House
71 Des Voeux Road Central
Hong Kong

Dear *Junius*,

Legal Practitioners (Amendment) Bill 2010

Thank you for your letter dated 23 February 2012 and the Law Society's invitation to me and my colleagues to attend its Forum on 13 February 2012.

The Forum has given us an invaluable opportunity of hearing not only the Law Society's working group's views, but also those of your members on the matter. It has also allowed us to address and explain our policy considerations on the subject directly to your members.

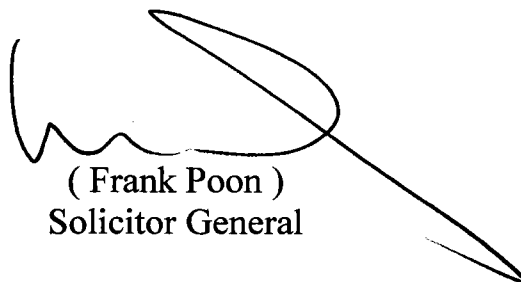
I am pleased to note that much progress has been made in narrowing our differences on the matter in the past few weeks, and that the only principal issue that remains to be resolved is the duration of the clawback period. I also note from the results of your members' survey that the majority of your members has demanded that our proposed 6 year clawback period be shortened, preferably to 2 years.

The LLP Bill aims to lay the foundation for the sustainable operation of LLPs for law firms in Hong Kong over the long term, one that matches our aspiration for Hong Kong to prosper as a principal legal services centre in this region. The Bill will only command support from the public if it can strike a proper and fair balance between protecting consumers of legal services on the one hand and innocent partners on the other.

In formulating our policy for the Bill, we noted that there is no universal LLP model which is applicable to all overseas LLP jurisdictions. Instead, each jurisdiction tends to stipulate its own requirements for LLPs based on its individual circumstances. Thus, while the relevant requirements for LLPs in other overseas jurisdictions have provided us with very useful references, we would only adopt them in our Bill if we are satisfied that they suit our circumstances. For example, in the case of the Malaysian LLP Act cited in your letter, we noted that it adopts a corporate mode for LLPs and this explains why reliance is placed on general insolvency law to protect creditors.

That said, given the Law Society's objection to the 6 year clawback period, we would like to listen to the views of the Bills Committee members on the issue before we conclude our position. Meanwhile, please rest assured that the Administration shall continue to work hard with the stakeholders for an acceptable consensus on the issue, and I remain cautiously optimistic that a satisfactory conclusion on the Bill could be reached before the end of this legislative session.

Yours sincerely,



(Frank Poon)
Solicitor General

c.c. Ms. Mary So, Clerk to the Bills Committee on the Legal Practitioners
(Amendment) Bill 2010