

立法會
Legislative Council

LC Paper No. CB(2)2231/09-10
(These minutes have been seen
by The Law Society of Hong Kong)

Ref : CB2/SS/6/09

**Subcommittee on
Solicitors (Professional Indemnity) (Amendment) Rules 2010**

**Minutes of the meeting
held on Monday, 7 June 2010, at 8:30 am
in Conference Room B of the Legislative Council Building**

Members present : Dr Hon Margaret NG (Chairman)
Hon James TO Kun-sun
Hon Miriam LAU Kin-yee, GBS, JP
Hon Audrey EU Yuet-mee, SC, JP

Members absent : Hon LAU Kong-wah, JP
Hon Paul TSE Wai-chun

Public Officers attending : Item II
The Law Society of Hong Kong

Mr Huen WONG
President

Ms Vivien LEE
Director of Standards & Development

Clerk in attendance : Miss Betty MA
Chief Council Secretary (2) 4

Staff in attendance : Mr Stephen LAM
Assistant Legal Adviser 4

Ms Yvonne YU
Senior Council Secretary (2) 5

Miss Maggie CHIU
Legislative Assistant (2) 4

Action

I. Election of Chairman

Dr Hon Margaret NG was elected Chairman of the Subcommittee.

II. Meeting with The Law Society of Hong Kong

[L.N. 65 of 2010, LC Paper Nos. LS68/09-10 and CB(2)1695/09-10(01) to (02)]

2. At the invitation of the Chairman, President of The Law Society of Hong Kong ("President of the Law Society") briefed members on the background and justifications for introducing the Solicitors (Professional Indemnity) (Amendment) Rules 2010 ("Amendment Rules"). He elaborated that the purpose of the Amendment Rules was to amend Schedule 1 to the Solicitors (Professional Indemnity) Rules (Cap. 159 sub. leg. M) ("the principal Rules") to enable the Hong Kong Solicitors Indemnity Fund Limited, authorised by a resolution passed by the Council of The Law Society of Hong Kong ("the Council"), to reduce the contributions to the indemnity fund payable by all solicitors firms (instead of the newly constituted firms) during an indemnity period. The Amendment Rules also made some technical amendments to Schedule 1 to the principal Rules to rectify a minor error in the Chinese text of the principal Rules to achieve consistency with their English text.

3. Noting that the proposed reduction in contributions was applicable to all solicitors firms, including those set up after 2003 and which had not made extra contributions to the Solicitors indemnity Fund ("the Fund") arising from the collapse of the HIH Group, Ms Miriam LAU cautioned that some solicitors firms might claim undue disadvantage although she welcomed the proposed reduction.

4. President of the Law Society stressed that the Council had given due consideration to all relevant factors and put forward the current arrangement. He pointed out that based on projections made by actuaries, the reserves generated by the contributions collected over the past years and the income generated by investments of the Fund were sufficient to meet projected claim payments. It was therefore considering further reducing the contributions to the Fund.

5. Ms Audrey EU enquired about the basis for calculating the amount of reduction in contributions to the Fund. President of the Law Society explained that it was the first time for the Law Society to make such an arrangement. The percentage of reduction in contributions payable by solicitors firms in the 2010-2011 indemnity year would be resolved by the Council in accordance with paragraph 2(7)(c) of Schedule 1 to the principal Rules in late August 2010. As the total contributions payable by all law firms for the 2010-2011 indemnity year

Action

was projected to be HK\$308 million, the interim dividends from the HHH Group constituted about 16% of the projected contributions.

6. At the request of Ms Audrey EU, Director of Standards & Development of the Law Society advised that all solicitors firms had been requested to provide information on the size of the firms and number of solicitors employed before 15 August 2010 for the purpose of calculating the premium for the 2010-2011 indemnity period. The Law Society would take into account the information so provided, the claims records and past contributions, and determine the contributions payable by individual firms. Individual solicitors firms would be notified of the reduced premium vide the debit notes for the 2010-2011 indemnity period to be issued by the end of August 2010, and they were expected to settle their respective contributions before 30 September 2010. The next indemnity period would commence on 1 October 2010.

7. Mr James TO was concerned that the reduction in contributions to the Fund would give rise to shortfall in the Fund to meet future claims made by the public, if the actuaries had made wrongful projections. To safeguard public interest in seeking professional indemnity, Mr James TO requested the Law Society to make available the actuaries' projection reports. In response, President of the Law Society said that while it would consider Mr TO's request, the Fund provided indemnity cover up to a limit of \$10 million for each and every claim under the Professional Indemnity Scheme.

8. The Chairman and Ms Miriam LAU said that they did not consider it necessary for the Law Society to provide the detailed projections made by actuaries given that the Law Society assumed the overall responsibility for administering the indemnity scheme. In the circumstances, the Chairman suggested and the Law Society agreed that, in future, it would provide the Panel on Administration of Justice and Legal Services with an information note on its plan to revise the contributions to the Fund together with the proposed ranges of revision so that Panel members would have an early opportunity to discuss the proposal.

Law
Society

III. Any other business

9. The Chairman said that the Subcommittee had completed scrutiny of the Amendment Rules, and would submit a report to the House Committee on 11 June 2010.

10. There being no other business, the meeting ended at 9:34 am.

Council Business Division 2
Legislative Council Secretariat
3 September 2010

**Proceedings of the meeting of the
Subcommittee on
Solicitors (Professional Indemnity) (Amendment) Rules 2010
on Monday, 7 June 2010, at 8:30 am
in Conference Room B of the Legislative Council Building**

Time marker	Speaker(s)	Subject(s)	Action required
<i>Agenda item I – Election of Chairman</i>			
000000 - 000654	Dr Margaret NG Ms Miriam LAU Ms Audrey EU	Election of Chairman	
<i>Agenda item II – Meeting with Law Society</i>			
000655 - 001759	Chairman The Law Society of Hong Kong ("the Law Society")	Briefing by the Law Society on the background and justifications for introducing the Solicitors (Professional Indemnity) (Amendment) Rules 2010 ("Amendment Rules"). [LC Paper No. CB(2)1695/09-10(01)]	
001800 - 002237	Chairman Law Society	Briefing by the Law Society on the marked-up copy of the relevant provisions of the Solicitors (Professional Indemnity) Rules to be amended. [LC Paper No. CB(2)1695/09-10(02)]	
002238 - 002716	Chairman Law Society	Briefing by the Law Society on the methodology of calculating the reduction in contributions to the Solicitors Indemnity Fund ("the Fund"). [LC Paper No. CB(2)1695/09-10(01)]	
002717 - 003217	Chairman Ms Audrey EU Law Society	Ms Audrey EU's enquiry about the basis for calculating the amount of reduction in contributions. The Law Society's elaboration on the calculation of the reduction in contributions to the Fund.	
003218 - 003735	Ms Miriam LAU Law Society Chairman	Ms Miriam LAU welcomed the Amendment Rules which empowered the Council of the Law Society ("the Council") to reduce the contributions to the Fund if so warranted, and enquired about the percentage of contributions to be reduced. The Law Society's advice that the percentage of reduction in contributions payable by solicitors firms in the 2010-2011 indemnity year would be resolved by the Council in accordance with paragraph 2(7)(c) of Schedule 1 to the Solicitors (Professional Indemnity) Rules. Based on the projected contributions for the year, the interim dividends from HIH Group constituted about 16% of the projected contributions.	
003736 - 004745	Mr James TO Law Society Chairman	Mr James TO declared that he was a practising solicitor. Mr TO was concerned that the reduction in contributions to the Fund would give rise to shortfall in the Fund to meet future claims made by the public, if the actuaries had made wrongful projections, and requested the Law Society to make available the actuaries' projection reports.	

Time marker	Speaker(s)	Subject(s)	Action required
		<p>The Law Society's response that while it would consider Mr James TO's request, the Fund provided indemnity cover up to a limit of \$10 million for each and every claim under the Professional Indemnity Scheme.</p> <p>The Chairman's views that she did not consider it necessary for the Law Society to provide the detailed projections made by actuaries given that the Law Society assumed the overall responsibility for administering the indemnity scheme. The Chairman suggested and the Law Society agreed that, in future, it would provide the Panel on Administration of Justice and Legal Services with an information note on its plan to revise the contributions to the Fund together with the proposed ranges of revision so that Panel members would have an early opportunity.</p>	<p>Law Society</p>
004746 - 005452	Ms Audrey EU Law Society Chairman	<p>Ms Audrey EU's enquiry about the timetable for effecting the reduction in contributions to the Fund.</p> <p>The Law Society's response that all solicitors firms had been requested to provide information on the size of the firms and number of solicitors employed before 15 August 2010 for the purpose of calculating the premium for the 2010-2011 indemnity period. The Law Society would take into account the information so provided, the claims records and past contributions, and determine the contributions payable by individual firms. Individual solicitors firms would be notified of the reduced premium vide the debit notes for the 2010-2011 indemnity period to be issued by the end of August 2010, and they were expected to settle their respective contributions before 30 September 2010. The next indemnity period would commence on 1 October 2010.</p>	
005453 - 010151	Ms Miriam LAU Law Society Chairman	<p>Noting that the proposed reduction in contributions was applicable to all solicitors firms, including those set up after 2003 and which had not made extra contributions to the Fund arising from the collapse of the HIH Group, Ms Miriam LAU cautioned that some solicitors firms might claim undue disadvantage although she welcomed the proposed reduction.</p> <p>The Law Society stressed that the Council had given due consideration to all relevant factors and put forward the current arrangement. It further advised that based on projections made by actuaries, the reserves generated by the contributions collected over the past years and the income generated by investments of the Fund were sufficient to meet projected claim payments. It was therefore considering further reducing the contributions to the Fund.</p> <p>Ms Miriam LAU expressed reservations with Mr James TO's proposal of requesting the Law Society to provide the actuaries' projection reports.</p>	

Time marker	Speaker(s)	Subject(s)	Action required
010152 - 010513	Chairman Law Society Ms Miriam LAU	At the Chairman's request, the Law Society agreed to consider the views of Mr James TO and Ms Miriam LAU, and provide the Panel on Administration of Justice and Legal Services with an information note on its future plan to revise the contributions to the Fund as early as practicable.	Law Society
010514 - 010608	Chairman	Legislative timetable	

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3 September 2010