



THE

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OF HONG KONG

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8 July 2015

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Dear Miss So,

**Panel on Administration of Justice and Legal Services ("AJLS Panel")  
Meeting on 20 July 2015**

Thank you for your letter of 25 June 2015 to Ms. Heidi Chu, Secretary General of the Law Society ("Society").

I refer to item IV of the Agenda of the captioned meeting.

The Law Society has agreed with the Department of Justice ("DOJ") on the Drafting Protocol of Legislation, a copy of which is attached for your reference. I also attach a copy of the Society's letter of 9 January 2015 to DOJ on the measures to prevent future occurrence of the problem relating to the Solicitors (General) Costs (Amendment) Rules.

I should be grateful if you could put this letter with the enclosures before the AJLS Panel for its consideration.

Yours sincerely,

Angela Li  
Assistant Director

Regulation and Guidance  
Email: [adrg@hklawsoc.org.hk](mailto:adrg@hklawsoc.org.hk)

Encls.

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Christine W.S. Chu  
朱穎雪

**Protocol by the Law Drafting Division**  
**for Processing Draft Legislation**  
**Prepared by the Law Society**

Purpose

The purpose of this Protocol is to define the roles of the Secretariat of the Law Society of Hong Kong (*Secretariat*) and the Law Drafting Division of the Department of Justice (*LDD*) in vetting the format of –

- (a) the draft rules to be made by the Council of the Law Society under section 73 or 73A of the Legal Practitioners Ordinance (Cap. 159) (*LPO*); or
- (b) the draft rules to be made by the Costs Committee under section 74 of LPO.

Guiding Principles

LDD acknowledges the role of the Law Society in the self-regulation of the profession of solicitors and the authority of the Council of the Law Society to make rules under LPO for that purpose. LDD also acknowledges the authority of the Costs Committee to make rules under LPO. LDD's role is restricted to ensuring that the rules comply with the general format of the legislation of Hong Kong.

The Law Society acknowledges the expertise of the Law Drafting Division in legislative drafting and the Division's duty to ensure consistency in the presentational aspects of the legislation of Hong Kong.

The Secretariat is responsible for drafting both the English text and Chinese text of the rules. LDD is responsible for vetting their format.

Part A : Obligations on the part of Law Drafting Division  
in the vetting process

- A1. On receiving a set of draft rules from the Secretariat, LDD is to assign the item to a counsel as soon as practicable and inform the Secretariat accordingly.
- A2. If two or more sets of amendments are proposed to the same piece of subsidiary legislation, LDD is to assign the items to the same counsel. If that is not practicable, LDD is to ensure effective co-ordination among the officers concerned.
- A3. LDD is to offer comments on the format of the draft rules and any revised draft as soon as practicable. If LDD is not able to complete the vetting within 28 days of receiving the draft rules from the Secretariat, LDD is to advise, as soon as possible, the Secretariat on the estimated time within which the vetting will be completed.
- A4. If the draft in one language is sent to LDD earlier than the draft in the other language, LDD is to commence vetting the former without waiting for the latter.
- A5. LDD is to offer comments in the form of a typed draft.
- A6. In offering comments, LDD is to identify –
- (a) suggested amendments that must be made lest the draft rules not comply with the standard format of the legislation of Hong Kong (e.g. nomenclature of provisions); and
  - (b) suggested amendments that do not amount to non-compliance with the standard format of the legislation of Hong Kong but should nevertheless be adopted as improvements in presentational aspects (e.g. grammatical errors, incorrect cross-references, typos, discrepancies in meaning between the Chinese text and English text, failure to adopt gender-neutral drafting etc.).
- A7. While the LDD counsel has neither authority over nor

responsibility for the content of the draft rules, he or she is to bring to the attention of the Secretariat any drafting pitfalls or other substantial problem with any provision identified in passing during the vetting process.

- A8. LDD is to prepare the faired final copy of the draft rules on the advice of the Secretariat. LDD is to remind the Secretariat to have the rules made by the appropriate authority.
- A9. If consulted by the Secretariat, LDD is to offer advice on procedural matters concerning the gazettal of the rules.
- A10. LDD is not to disclose its comments on draft rules to any third party without having agreed with the Secretariat on the disclosure. LDD may however bring to the attention of the Legal Policy Division of the Department of Justice any legal policy issue identified during the vetting process. This does not prejudice the right of the Secretariat to notify and advise the Legal Policy Division of the Department of Justice when the Secretariat decides not to adopt any amendment proposed by LDD during the vetting process.

Part B : Obligations on the part of the Secretariat of the  
Law Society of Hong Kong in the Vetting Process

- B1. When a set of draft rules is sent to LDD for vetting, the Secretariat is to provide the contact details of a responsible officer who is to answer any question raised by LDD on the draft rules.
- B2. The Secretariat is to send both the English and Chinese texts of a set of draft rules to LDD at the same time. If that is not practicable, the Secretariat may send one of the texts first, followed by the other text.
- B3. The Secretariat is to let LDD have a soft copy of the draft rules which is, as far as possible, in a format consistent with the format of legislation published in the Gazette.

- B4. The Secretariat is to –
- (a) take on board the comments mentioned in paragraph A6(a);  
and
  - (b) consider the comments mentioned in paragraph A6(b).
- B5. The Secretariat is to allow reasonable time for LDD to perform the vetting and preparation of the faired final copy.
- B6. If LDD raises any question, the Secretariat is to let LDD have the answer as soon as practicable.
- B7. If, before the vetting of a set of amendments (*former*) to a piece of subsidiary legislation is completed, another set of amendments (*latter*) to the subsidiary legislation is prepared, the Secretariat is to, so far as it is practicable, incorporate the latter into the former and take the item forward as a single project.

#### Part C : Operation

- C1. The Secretariat and LDD are to keep the operation of this Protocol under constant review.
- C2. If there is any problem with the operation of this Protocol, the responsible officers on both sides are to bring the matter to the attention of their respective supervising authority with a view to have a solution worked out by mutual agreement.



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By email and by post  
adelinewan@doj.gov.hk

Dear Ms. Wan,

Re: Solicitors (General) Costs (Amendment) Rules 2013 –  
Follow up by LegCo Panel on Administration of Justice and Legal Services

Thank you for your letter dated 19 December 2014.

The task of reviewing the Legal Practitioners Ordinance and the subsidiary rules under the Ordinance falls on the Standards and Development Department within the Law Society. The responsible staff are all qualified Hong Kong solicitors who are familiar with the Ordinance and its subsidiary rules and with the rule making procedures.

The error relating to the Solicitors (General) Costs (Amendment) Rules 2013 was an unfortunate isolated incident. After this incident, an item on the relevant enabling provision had been included in our internal checklist for legislative amendments to ensure that this aspect would be specifically checked in future.

All proposed legislative amendments will first be considered and reviewed by the relevant Law Society Committees and Working Parties, then by the Standing Committee on Standards and Development and the Council before the Law Society liaises with external bodies in accordance with the required procedure for legislative amendments. For example, where applicable, the proposed amendments will then be submitted to the Chief Justice for his approval-in-principle. After the Chief Justice has granted his approval-in-principle, the Law Society will liaise with the Drafting Division of the Department of Justice which will review the drafting of the proposed amendments. Upon finalization of the draft legislation, the Law Society will apply to the Chief Justice for his final approval prior to gazettal.

**The Law Society of Hong Kong**

The legislative amendment process is thus a very elaborate process involving vetting at various stages by different stakeholders. We will use our best endeavours to prevent the recurrence of similar incidents.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Heidi Chu', with a stylized flourish at the end.

Heidi Chu  
Secretary General