

來函檔號 Your Ref. (1.7) LDT/150/00/8(A)II  
本函檔號 Our Ref. LS/B/3/98-99  
電 話 Tel. 2869 9216  
圖文傳真 Fax. 2877 5029

立法會秘書處法律事務部  
Legislative Council Secretariat  
Legal Service Division

**By Fax No. 2869 1302**  
22 October 1998

Mr. Geoffrey Fox  
Senior Assistant Law Draftsman  
Department of Justice  
8/F High Block  
Queensway Government Offices  
Hong Kong

Dear Mr. Fox,

**Evidence (Amendment) Bill 1998**

I refer to the draft Committee stage amendments on the above Bill which have been brought to my attention.

By adding the proposed section 47A, does the Administration intend to adopt the notice requirement as provided in the English Civil Evidence Act 1995? If so, please explain why new section 47A(1)(a) differs from the corresponding section (section 2(2)(a)) in the 1995 Act?

In light of the proposed section 47A, will consequential amendments be made in this Bill to the High Court Ordinance (Cap. 4) and the Rules of the High Court (Cap. 4 sub. leg.)?

I would appreciate it if you could let me have your reply before the next Bills Committee meeting on 29 October 1998.

Yours sincerely,

(Connie Fung)  
Assistant Legal Adviser

c.c. Mr. Jimmy MA, LA

**LETTERHEAD OF DEPARTMENT OF JUSTICE**  
**Law Drafting Division**

本司檔號 Our Ref.: (19) in LDT/150/00/8 (A) II

By Fax No. 2877 5029

來函檔號 Your Ref.:

電話號碼 Tel No.: 2867 4483

22 October 1998

Ms Connie Fung  
Assistant Legal Adviser  
Legislative Council Secretariat  
Legislative Council  
8 Jackson Road  
Central  
Hong Kong

Dear Ms Fung,

**re: Bills Committee on Evidence (Amendment) Bill 1998**

Your memo dated 22.10.98 refers (ref. LS/B/3/98-99).

Proposed section 47A is modelled on section 2 of the Civil Evidence Act 1995 of the U.K. ("the U.K. Act") and (as noted) does not follow the latter verbatim.

Proposed section 47A(1)(a) differs from section 2(2)(a) of the U.K. Act because it is intended that proposed section should be applied by way of rules of court. The advantage of this is that the judiciary, in consultation with the legal profession, can determine which classes of hearsay evidence are most appropriate to be caught by the proposed section. It is considered that this approach is more temperate than having a blanket application of the provision to all classes of hearsay evidence which rules of court may then have to disapply to a number of those classes.

It is not intended that consequential amendments be made to the High Court Ordinance (Cap. 4) or the Rules of the High Court in view of proposed section 47A. The proposed section entrusts the judiciary's rule-making body to make the necessary rules of court, and the Administration does not intend to second-guess that body via any such consequential amendments. I finally add that, as stated in my letter dated 19.10.98, we are presently seeking the judiciary's comments on the CSAs. Accordingly, the Administration cannot at this stage advise as to what is the judiciary's position on the proposed section.

Yours sincerely,

(Geoffrey Fox)  
Senior Assistant Law Draftsman  
(Legislative Counsel)

c.c. Legal Policy Division (Attn:Mr Michael Scott  
Ms Daphne Siu)  
Law Drafting Division (Attn:Ms Lonnie Ng)-'B' file  
Law Reform Commission (Attn:Mr Thomas Leung)-f/i