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Mrs. Percy Ma  
Clerk to Bills Committee  
Legislative Council Building  
8 Jackson road  
Central  
Hong Kong

10 May 2000  
By Fax 2509 9055

via Mr. Michael Scott, SASG/GAU

Dear Mrs. Ma,

**Legal Practitioners (Amendment) Bill**

I refer to your letter dated 31 March 2000 regarding the captioned Bill and enclose herewith the latest draft CSAs for your attention and consideration. You will note that –

Clause 3 / section 8AAA(3)

Members' suggestions have been accepted and reference to "in accordance with procedural rules prescribed by Council" has been deleted.

Clause 5

It is now provided that the Council (of the Law Society) may, with the leave of the Court of Appeal, appeal against an order of a Solicitors Disciplinary Tribunal.

### Clause 7

Amendments to the Chinese text of the proposed section 27(2)(b)(i) suggested by the LegCo Legal Advisor have been adopted.

### Clause 11

Amendments suggested by the LegCo Legal Advisor have been adopted with slight variation.

### Clause 15

The power to be conferred by the proposed section 72AA on the Bar Council to make rules does not affect the Bar's current Code of Conduct. In future the Bar will consider whether any changes to its rules should be accorded the force of law in deciding whether such changes should be effected by way of subsidiary legislation or amendment to the Code of Conduct.

Members' suggestion to delete the word "direct" before "conflict" has been adopted.

### New clause inserted after clause 7

The clause provides for the repeal of section 27A.

### New clause 17

The clause provides for the exemption of students enrolled in legal studies in the UK. Members' suggestions to extend the exemption to all students who are enrolled as at the time of enactment of the Bill (including those in first year) have been adopted by extending the time for seeking admission to 31 December 2003.

The proposed clause 17 (c) extends the exemptions to those pursuing external degrees.

### New clause 18

The clause provides for transitional arrangements and savings of the accrued rights of the legal officers who are currently in the employ of the

Department of Justice. The proposed arrangements have the support of the Bar Association.

Section 31B

It is up to the Court before which the admittees are appearing to accord them the appropriate precedence as it thinks fit.

It would be appreciated if you would bring the above and the draft CSAs to the attention of the members of the Bills Committee. Chinese versions of this present letter and the CSAs will be provided by the end of close of play on 13 May, 2000.

Please also be informed that the following officers will attend the Bills Committee meeting scheduled for 16 May 2000-

Mr. Stephen K Y Wong, Deputy Solicitor General  
黃繼兒先生, 副法律政策專員

Mr. Michael Scott, Senior Assistant Solicitor General  
單格全先生, 高級助理法律政策專員

Mr. B Maddaford, Senior Assistant Law Draftsman  
麥達輝先生, 高級助理法律草擬專員

Ms Carmen Chu, Senior Government Counsel  
朱映紅女士, 高級政府律師

Miss Agnes Cheung, Senior Government Counsel  
張兆恒女士, 高級政府律師

Yours sincerely,

(Miss Agnes Cheung)  
Senior Government Counsel  
Legal Policy Division

WMADD: DMA#13476v11

1st draft: 12.10.99  
2nd draft: 22.12.99  
3rd draft: 11.2.2000  
4th draft: 16.2.2000  
5th draft: 21.3.2000  
6th draft: 23.3.2000  
7th draft: 10.4.2000  
8th draft: 27.4.2000  
8th (revised) draft: 2.5.2000  
9th draft: 9.5.2000  
10th draft: 10.5.2000

LEGAL PRACTITIONERS (AMENDMENT) BILL 1999

**COMMITTEE STAGE**

Amendments to be moved by the Secretary for Justice

Clause

Amendment Proposed

- 1 (a) In subsection (2), by deleting “section 15” and substituting “sections 7, 7A(1) and (2) and 15”.
- (b) By adding -
- “(3) Sections 7 and 7A(2) shall come into operation on a day to be appointed by the Secretary for Justice by notice in the Gazette, which shall not be before 1 November 2000.”.
- 3 By deleting the proposed section 8AAA and

substituting -

**“8AAA. Additional powers  
of an inspector**

(1) In this section “inspector” ( ) means an inspector appointed under section 8AA.

(2) The Council may direct an inspector to assist it in gathering evidence in respect of a matter the Council is considering for the purpose of deciding whether or not it should be submitted to the Tribunal Convenor of the Solicitors Disciplinary Tribunal Panel.

(3) For the purposes of this section, an inspector may question -

(a) persons who are, or were at the material time, members or employees of any law firm; or

(b) where authorized by the Council, any other persons whom the inspector considers may be able to assist the Council.

5(b) In the proposed subsection (2A), by deleting “Where the Council is not satisfied with an order made by a Solicitors Disciplinary Tribunal, it may appeal the order” and substituting “The Council may, with leave of the Court of Appeal, appeal an order of a Solicitors Disciplinary Tribunal”.

6 In the proposed section 13A -

(a) in subsection (1) by deleting “The” and substituting “Unless, on application by the solicitor, the Solicitors Disciplinary Tribunal or a court, on an appeal under section 13, otherwise orders, the”;

(b) by deleting subsection (2).

7 In the proposed section 27 -

(a) in the Chinese text, by deleting subsection 2(b) (i) and substituting -

“(i) 在緊接認許申請的日期前的 3 個月或更長的時間內一直居於香港；”;

(b) by deleting subsection (4) and substituting -

“(4) Notwithstanding that a person does not satisfy all the requirements specified in subsections (1) and (2) (b), where the Court considers that he is a fit and proper person to be a barrister and is satisfied that he has -

(a) the qualification acquired outside Hong Kong to engage in

work that would, if undertaken in Hong Kong, be similar to that undertaken by a barrister in the course of ordinary practice as a barrister in the High Court or Court of Final Appeal; and

(b) substantial experience in advocacy in a court, the Court may admit such person as a barrister under this section for the purpose of any particular case or cases and may impose such restrictions and conditions on him as it may see fit.”.

New

By adding -

**“7A. Additional power of court**

**to admit barristers**

- (1) Section 27A(1) (e) and (3) is repealed.
- (2) The remainder of section 27A is repealed.”.

10

By deleting paragraph (b) and substituting -

“(b) by repealing subsection (3) and substituting -

“(3) A practising certificate

may only be issued to an applicant who has paid to the  
Hong Kong Bar Association -

(a) except where the Bar Council has  
exempted the applicant therefrom, the  
membership subscription; and

(b) except where the applicant has been  
admitted as a barrister under section 27(4)  
and the Bar Council has exempted him  
therefrom, the premium prescribed for  
insurance of the applicant under the  
current master policy for professional  
indemnity insurance effected by the Hong  
Kong Bar Association,

in respect of the period for which the practising  
certificate is to be



issued.

(3A) On application by a barrister admitted under section 27(4), the Bar Council may waive part of the membership subscription.”;”.

11(c) By deleting the proposed new paragraph (f) and substituting -

“(f) if he is an employed barrister within the meaning of section 31C(1).”.

12 In the proposed section 31C by adding -

“(3A)The publication in the Gazette by the Bar Council of a list of the names and addresses of those barristers who have obtained employed barrister’s certificates for the period therein stated shall be prima facie evidence that each person named therein is the holder of such a certificate for the period specified in such list, and the absence from any such list of the name of any person shall be prima facie evidence that the person does not hold such a certificate.”.

15 By adding -

**“72AAA. Conflict between rules made**

**by Chief Justice and Bar Council**

Where power is given to -

- (a) the Chief Justice; and
- (b) the Bar Council,

to make rules in respect of the same matter, rules made by either or both of them in respect of such a matter shall be valid unless there is a conflict between such rules, in which case the rules made by the Chief Justice shall be given precedence to the extent of such conflict.”.

- 16
- (a) By deleting “(i) and (ii)” and substituting “(i), (ii) and (v)”.
  - (b) By deleting “as long as he qualifies to practise as a barrister under section 31 of the principal Ordinance” and substituting “because of such repeal”.

New By adding -

**“17. Sections added**

The following is added -

**“74B. Students already enrolled in legal studies in the  
UK**

Notwithstanding the repeal and replacement of  
section 27 of this

Ordinance by section 7 of the Legal Practitioners (Amendment) Ordinance 2000 ( of 2000) (“the amending Ordinance”), where a person is, on the day the amending Ordinance is published in the Gazette, enrolled

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- (a) in a course of studies in the United Kingdom that, on completion, will qualify him for a vocational course leading to admission as a barrister in the United Kingdom;
- (b) in the Bar Vocational Course in the United Kingdom; or
- (c) in an external course of studies offered by an institution in the United Kingdom that, on completion, will qualify him for a vocational course leading to admission as a barrister in the

United Kingdom,

the person may, instead of complying with the requirements established under section 27 for admission as a barrister, elect to be admitted under section 27 as that section existed before its repeal by the amending Ordinance, provided he -

- (i) has been called to the Bar in England or Northern Ireland or admitted as an advocate in Scotland;
- (ii) qualifies for admission under the other criteria established under the repealed section 27(1) (b), (c) and (e) and (1A); and
- (iii) applies for admission not later than 31 December 2003.

**74C. Lawyers employed in  
Department of Justice**

- (1) Notwithstanding the repeal

of section 27A of this Ordinance by section 7A of the Legal Practitioners (Amendment) Ordinance 2000 ( of 2000) (“the amending Ordinance”), where a person, on or before the date appointed by the Secretary for Justice by notice in the Gazette for the repeal of section 7A(2) of the amending Ordinance, meets the requirements in section 27A(1) (a) to (d), as that section existed before its repeal, the Court may at any time admit such person as a barrister of the High Court of Hong Kong in accordance with the said section 27A(1).

(2) The Court shall not admit as a barrister, under subsection (1), more than 4 persons in any period of 12 months.

(3) For the avoidance of doubt, section 27A(1) (e) and (3) do not apply to admission as a barrister under this section.“.”.