

## 書面答覆

### 房屋局局長就陳榮燦議員對第一項質詢的補充質詢所作書面答覆

在過去 3 年共有 3 所位於公共屋邨內的幼稚園停辦。在這期間，教育署共收到 198 項有關租用公共屋邨內單位以營辦幼稚園的申請。由於申請人只能選取喜愛的地區，而不能指定租用某屋邨單位，因此未能提供申請於上述騰空單位營辦幼稚園的辦學團體數目。

**Annex I**

**WRITTEN ANSWER**

**Translation of written answer by the Secretary for Housing to Mr CHAN Wing-chan's supplementary question to Question 1**

Over the past three years, a total of three kindergartens in public housing estates had ceased to operate. During the same period of time, the Education Department received a total of 198 applications in relation to leasing premises in public housing estates for operating kindergartens. Since the applicants could only indicate the districts of their preference instead of designating which housing estate premises they would like to lease, the number of sponsoring bodies that had applied for operating kindergartens in the said vacant premises is therefore not available.

## 書面答覆

### 教育統籌局局長就何秀蘭議員對第一項質詢的補充質詢所作書面答覆

根據《教育規例》第 40 條，幼稚園的課室須使每名學生有不少於 0.9 平方米的樓面空間。此外，教育署編訂的《幼稚園辦學手冊》，亦建議幼稚園提供一個室內遊戲場，其面積應不少於所有課室總面積的 50%，並應盡量提供一個便於由課室通達的戶外遊戲場。

以上資料顯示，政付並沒有為幼稚園學生活動空間訂立上限。

**Annex II**

**WRITTEN ANSWER**

**Translation of written answer by the Secretary for Education and Manpower to Miss Cyd HO's supplementary question to Question 1**

According to Regulation 40 of the Education Regulations, a classroom to be used by pupils undergoing kindergarten education shall have an area of floor space of not less than 0.9 sq m for each pupil. Besides, the Manual of Kindergarten Practice compiled by the Education Department also recommends that in addition to an indoor play area of not less than 50% of the total floor space of all classrooms, kindergartens should also provide, where possible, an outdoor play area offering easy access from classrooms.

As indicated in the aforementioned information, the Government has not set any limit on the maximum activity space for kindergarten pupils.

## 附件 IV

## 書面答覆

**保安局局長就李永達議員對第六項質詢的補充質詢所作書面答覆**

我們已與警方進一步瞭解有關情況，並確定任何人士在私人地方舉辦或參加舞獅／舞龍／舞麒麟等活動，均不須按《簡易程序治罪條例》向警務處處長申請許可證。一般來說，學校及社區會堂均會被視為私人地方。但如果有關活動是公開給公眾人士參加，則場地會成為公眾地方，警方便會根據《簡易程序治罪條例》第 4C 條，要求有關主辦者申請許可證，以確保公眾秩序及安全。

**Annex IV**

**WRITTEN ANSWER**

**Written answer by the Secretary for Security to Mr LEE Wing-tat's supplementary question to Question 6**

We have followed up the issue with the police and been confirmed that any person who organizes or participates in a lion dance, dragon dance or unicorn dance in private premises is not required to obtain permits under the Summary Offences Ordinance. Generally speaking, schools and community halls are regarded as private premises. However, if the performance is open to the public, the venue would become a public place. The police would require the organizer to apply for a permit under section 4C of the Summary Offences Ordinance so as to ensure public order and safety.

## 《1999 年法律執業者（修訂）條例草案》

## 全體委員會審議階段

由律政司司長動議的修正案條次建議修正案

- 1 (a) 在第(2)款中，在“15”之前加入“7A(1)及”。
- (b) 加入 —

“(3) 第 7、7A(2)、8、9、10(b)、11(a)及 16 至 30 條自律政司司長以憲報公告指定的日期起實施，該日期不得早於 2001 年 11 月 1 日。”。

- 3 刪去建議的第 8AAA 條而代以 —

## “8AAA. 調查員的額外權力

(1) 在本條中，“調查員”(inspector)指根據第 8AA 條獲委任的調查員。

(2) 凡理事會正在考慮某事宜以決定應否向律師紀律審裁團的審裁組召集人呈交該事宜，理事會可指示一名調查員協助理事會就該事宜搜集證據。

(3) 為施行本條，調查員可詢問下述人士

—

- (a) 現時是或在關鍵時間是任何律師行的成員或僱員的人；或

條次

建議修正案

- (b) (在理事會授權下) 該調查員認為能協助理事會的任何其他人。”。

5(b) 在建議的第(2A)款中，刪去在“提出”之前的所有字句而代以 —

“(2A) 在上訴法庭的許可下，理事會可根據第(1)款針對律師紀律審裁組的命令”。

6 在建議的第 13A 條中 —

(a) 在第(1)款中，在句號之前加入“，但如律師紀律審裁組應該律師的申請而另作命令或上訴法庭在根據第 13 條提出的上訴中應該律師的申請而另作命令，則屬例外”；

(b) 刪去第(2)款。

7 在建議的第 27 條中 —

(a) 刪去第(2)(b)(i)款而代以 —

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

(b) 刪去第(4)款而代以 —

“(4) 即使某人並不全部符合第(1)及(2)(b)款指明的規定，但如法院認為該人是適當作為大律師的人，且信納該人 —



條次建議修正案

- (a) 具有在香港以外地方取得從事某些工作的資格，而該等工作假若是在香港承辦，會與一名大律師作為高等法院或終審法院的大律師的日常執業過程中所承辦的工作類似；以及
- (b) 具有豐富的出庭代訟的經驗，

則法院可根據本條就任何一宗或多於一宗個別案件而認許該人為大律師，並可對該人施加法院認為適合的限制及條件。”。

新條文 加入 —

“7A. 法院認許大律師的額外權力

(1) 第 27A(1)(e)及(3)條現予廢除。

(2) 第 27A 條中第(1)(e)及(3)款以外的條文現予廢除。”。

10 刪去(b)款而代以 —

“(b) 廢除第(3)款而代以 —

“(3) 為某期間發出的執業證書只可發給已就該期間向香港大律師公會繳付以下費用的申請人 —

條次

建議修正案

(a) 會員費（但如該申請人獲執委會豁免繳付會員費，則無需繳付此項費用）；及

(b) 根據香港大律師公會所投保的專業彌償保險的現行總保單而就該申請人的保險訂明的保費（但如該申請人是根據第 27(4)條獲認許為大律師且獲執委會豁免繳付該項保費的，則無需繳付此項費用）。

(3A) 執委會可應根據第 27(4)條獲認許的大律師的申請，免收部分會員費。”；”。

11(c) 刪去建議的(f)段而代以 —

“(f) 如他屬第 31C(1)條所指的受僱大律師。”。

12 在建議的第 31C 條中，加入 —

“(3A) 凡執委會在憲報刊登載有已取得受僱大律師證書的大律師的姓名及地址的名單，而名單亦述明各證書的有效期間，則該名單即為證明每名該等大律師在其中所指明的期間持有上述證書的表面證據；而任何人如並無名列上述任何名單，此事實即為該人並非持有上述證書的表面證據。”。

條次建議修正案

15 加入 —

“72AAA. 終審法院首席法官所訂立的規則與執委會所訂立的規則互相抵觸的情況

凡 —

(a) 終審法院首席法官；及

(b) 執委會，

均就相同的事宜獲賦予訂立規則的權力，則他們任何一方或雙方各自就該事宜所訂立的規則均屬有效，但如一方所訂立的規則與另一方所訂立的規則相抵觸，則在抵觸的範圍內，以終審法院首席法官所訂立的規則為準。”。

16 刪去該條而代以 —

“16. 保留條文

儘管本條例第 7 條廢除《法律執業者條例》（第 159 章）第 27(1)(a)(i)、(ii)及(v)條，任何已根據該等條文獲認許的大律師的姓名不得因該項廢除而從大律師登記冊刪除。”。

新條文 加入 —

“17. 立法會可修訂附表 1

第 72B 條現予廢除。

條次

建議修正案

18. 加入條文

現加入 —

“74C. 已被取錄在聯合王國修讀法律課程的學生

儘管《2000 年法律執業者(修訂)條例》(2000 年第 號)(“《修訂條例》”)第 7 條廢除並以新條文取代第 27 條，凡任何人在《修訂條例》刊登憲報當日 —

- (a) 已被取錄或已註冊在聯合王國修讀某個課程，或已獲提供在聯合王國修讀某個課程的學籍，而該人在修畢該課程後將會具有資格修讀某個直接導致他在聯合王國獲認許為大律師的職業課程；
- (b) 已被取錄或已註冊在聯合王國修讀大律師職業課程，或已獲提供在聯合王國修讀大律師職業課程的學籍；或
- (c) 已被取錄或已註冊在香港修讀由聯合王國某機構主辦的某個校外課程，或

條次建議修正案

已獲提供在香港修讀由聯合王國某機構主辦的某個校外課程的學籍，而該人在修畢該課程後將會具有資格修讀某個直接導致他在聯合王國獲認許為大律師的職業課程，

則該人如符合下述條件，即可選擇根據第 27 條（按該條緊接在被《修訂條例》廢除前的規定）獲認許為大律師，以代替符合第 27 條所訂的規定 —

- (i) 該人已在英格蘭或北愛爾蘭獲認許為大律師，或已在蘇格蘭獲認許為出庭代訟人；
- (ii) 根據已廢除的第 27(1)(b)、(c)及(e)及(1A)條所訂的其他準則，該人具有資格獲認許；及
- (iii) 該人在 2004 年 12 月 31 日或之前申請認許。

條次

建議修正案

74D. 受僱於律政司的律師

(1) 儘管《2000 年法律執業者（修訂）條例》（2000 年第 號）（“《修訂條例》”）第 7A 條廢除第 27A 條，凡任何人在律政司司長為實施《修訂條例》第 7A(2) 條而以憲報公告指定的日期當日或之前，符合第 27A(1)(a)至(d)條（按該條緊接在被廢除前的規定）的規定，則法院可隨時按照上述的第 27A(1) 條認許該人為香港高等法院的大律師。

(2) 法院在任何 12 個月的期間內，不得根據第(1)款認許超過 4 人為大律師。

(3) 為免生疑問，第 27A(1)(e) 及(3) 條並不適用於根據本條認許大律師。”。

19. 廢除附表

附表 1 現予廢除。

相應修訂

《破產條例》

20. 破產管理署署長及其他人員的委任

《破產條例》（第 6 章）第 75(2) 條現予修訂，廢除“《執業律師條例》（第 159 章）附表 1”而代以“《律政人員條例》（第 87 章）附表 2”。

條次建議修正案

## 《律政人員條例》

## 21. 釋義

《律政人員條例》（第 87 章）第 2 條現予修訂，在“律政人員”的定義中，在“附表”之後加入“1”。

## 22. 委任資格

第 2A 條現予修訂，廢除“《執業律師條例》（第 159 章）附表 1”而代以“附表 2”。

## 23. 律政人員的權利及特權

第 3(3)條現予修訂，在“附表”之後加入“1”。

## 24. 行政長官修訂附表的權力

第 11 條現予修訂，在“附表”之後加入“1”。

## 25. 重編附表

現將附表重編為附表 1。

## 26. 加入附表

現加入 —

條次

建議修正案

“附表 2 [第 2A 條]

1. 澳大利亞聯邦各州及領地。
2. 加拿大各領地及省，魁北克除外。
3. 新西蘭。
4. 愛爾蘭共和國。
5. 津巴布韋。
6. 新加坡。”。

《法律援助條例》

27. 委任

《法律援助條例》(第 91 章)第 3(2)條現予修訂，廢除“《執業律師條例》(第 159 章)附表 1”而代以“《律政人員條例》(第 87 章)附表 2”。

《市政服務上訴委員會條例》

28. 釋義

《市政服務上訴委員會條例》(第 220 章)第 2(1)條現予修訂，在“律政人員”的定義中，在“附表”之後加入“1”。



條次建議修正案

## 《知識產權署署長（設立）條例》

## 29. 釋義

《知識產權署署長（設立）條例》（第 412 章）第 2 條現予修訂，在“具有專業法律資格”的定義中，廢除“《律師及大律師條例》（第 159 章）附表 1”而代以“《律政人員條例》（第 87 章）附表 2”。

## 《香港終審法院條例》

## 30. 釋義

《香港終審法院條例》（第 484 章）第 2(1)條現予修訂，在“律政司的律政人員”的定義中，在“附表”之後加入“1”。

**Annex V**

**LEGAL PRACTITIONERS (AMENDMENT) BILL 1999**

**COMMITTEE STAGE**

Amendments to be moved by the Secretary for Justice

<u>Clause</u>	<u>Amendment Proposed</u>
1	<p>(a) In subsection (2), by deleting "section 15" and substituting "sections 7A(1) and 15".</p> <p>(b) By adding -</p> <p style="padding-left: 40px;">"(3) Sections 7, 7A(2), 8, 9, 10(b), 11(a) and 16 to 30 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 2001."</p>
3	<p>By deleting the proposed section 8AAA and substituting -</p> <p style="padding-left: 40px;"><b>"8AAA. Additional powers of an inspector</b></p> <p style="padding-left: 80px;">(1) In this section "inspector" (調查員) means an inspector appointed under section 8AA.</p> <p style="padding-left: 80px;">(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.</p> <p style="padding-left: 80px;">(3) For the purposes of this section, an inspector may question -</p>

<u>Clause</u>	<u>Amendment Proposed</u>
	(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 under this section" and substituting "The Council may, with leave of the Court of Appeal, appeal an order of a Solicitors Disciplinary Tribunal under subsection (1)".
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 the Court of Appeal, 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 個月內或更長的時間內一直居於香港；";

Clause

Amendment Proposed

(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.

ClauseAmendment Proposed

(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.";

Clause

Amendment Proposed

11(c) By deleting the proposed 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.".

ClauseAmendment Proposed

- 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. Legislative Council may  
 amend Schedule 1**

Section 72B is repealed.

**18. Sections added**

The following are added -

**"74C. Students already  
 enrolled in legal  
 studies in the  
 United Kingdom**

Notwithstanding the repeal and replacement of section 27 by section 7 of the Legal Practitioners (Amendment) Ordinance 2000 ( of 2000) ("the amending Ordinance"), where a person, on the day the amending Ordinance is published in the Gazette, is enrolled or registered in, or has been offered a place -

- (a) in a course of studies in the United Kingdom that, on completion,

Clause

Amendment Proposed

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 in Hong Kong 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;



ClauseAmendment Proposed

- (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 2004.

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

(1) Notwithstanding the repeal of section 27A 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 coming into operation 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.

Clause

Amendment Proposed

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

**19. Schedule repealed**

Schedule 1 is repealed.

**CONSEQUENTIAL AMENDMENTS**

**Bankruptcy Ordinance**

**20. Appointment of Official  
Receiver and other  
officers**

Section 75(2) of the Bankruptcy Ordinance (Cap. 6) is amended by repealing "Schedule 1 to the Legal Practitioners Ordinance (Cap. 159)" and substituting "Schedule 2 to the Legal Officers Ordinance (Cap. 87)".

**Legal Officers Ordinance**

**21. Interpretation**

Section 2 of the Legal Officers Ordinance (Cap. 87) is amended, in the definition of "legal officer", by repealing "the Schedule" and substituting "Schedule 1".

ClauseAmendment Proposed**22. Appointment qualification**

Section 2A is amended by repealing "Schedule 1 of the Legal Practitioners Ordinance (Cap. 159)" and substituting "Schedule 2".

**23. Rights and privileges  
of a legal officer**

Section 3(3) is amended by repealing "the Schedule" and substituting "Schedule 1".

**24. Power of the Chief  
Executive to amend  
Schedule**

Section 11 is amended by repealing "the Schedule" and substituting "Schedule 1".

**25. Schedule renumbered**

The Schedule is renumbered as Schedule 1.

**26. Schedule added**

The following is added -

"SCHEDULE 2 [s. 2A]

1. The States and Territories of the Commonwealth of Australia.

<u>Clause</u>	<u>Amendment Proposed</u>
	2. The Territories and Provinces of Canada, except Quebec.
	3. New Zealand.
	4. The Republic of Ireland.
	5. Zimbabwe.
	6. Singapore."

### **Legal Aid Ordinance**

#### **27. Appointments**

Section 3(2) of the Legal Aid Ordinance (Cap. 91) is amended by repealing "Schedule 1 to the Legal Practitioners Ordinance (Cap. 159)" and substituting "Schedule 2 to the Legal Officers Ordinance (Cap. 87)".

### **Municipal Services Appeals Board Ordinance**

#### **28. Interpretation**

Section 2(1) of the Municipal Services Appeals Board Ordinance (Cap. 220) is amended, in the definition of "legal officer", by repealing "the Schedule" and substituting "Schedule 1".

ClauseAmendment Proposed**Director of Intellectual Property  
(Establishment) Ordinance****29. Interpretation**

Section 2 of the Director of Intellectual Property (Establishment) Ordinance (Cap. 412) is amended, in the definition of "legally qualified", by repealing "Schedule 1 to the Legal Practitioners Ordinance (Cap. 159)" and substituting "Schedule 2 to the Legal Officers Ordinance (Cap. 87)".

**Hong Kong Court of Final  
Appeal Ordinance****30. Interpretation**

Section 2(1) of the Hong Kong Court of Final Appeal Ordinance (Cap. 484) is amended, in the definition of "legal officer in the Department of Justice", by repealing "the Schedule" and substituting "Schedule 1".

附件 VI

《1999 年法律適應化修改（第 3 號）條例草案》

全體委員會審議階段

由房屋局局長動議的修正案

條次

建議修正案

- |                            |  |
|----------------------------|--|
| 附表 1<br>第 1、6(b)<br>及 13 條 | 刪去“會同行政會議”。  |
| 附表 3<br>第 1 條              | 刪去“人民政府或香港特別行政區政府根據《基本法》或”而<br>代以“或香港特別行政區政府根據《基本法》和”。 |
| 附表 4<br>第 4 條              | 刪去(a)段。  |
| 附表 5<br>第 3 條              | 刪去“人民政府或香港特別行政區政府根據《基本法》或”而<br>代以“或香港特別行政區政府根據《基本法》和”。 |

## Annex VI

## ADAPTATION OF LAWS (NO. 3) BILL 1999

## COMMITTEE STAGE

Amendments to be moved by the Secretary for Housing

<u>Clause</u>	<u>Amendment Proposed</u>
Schedule 1, sections 1, 6(b) and 13	By deleting "in Council".
Schedule 3, section 1	By deleting "People's Government or the Government of the Hong Kong Special Administrative Region under the Basic Law or" and substituting "Authorities or the Government of the Hong Kong Special Administrative Region under the Basic Law and".
Schedule 4, section 4	By deleting paragraph (a).
Schedule 5, section 3	By deleting "People's Government or the Government of the Hong Kong Special Administrative Region under the Basic Law or" and substituting "Authorities or the Government of the Hong Kong Special Administrative Region under the Basic Law and".

附件 VII

《2000 年公司（修訂）條例草案》

全體委員會審議階段

由財經事務局局長動議的修正案

條次

建議修正案

1 刪去第(2)款而代以 —

“(2) 本條例自 2000 年 7 月 1 日起實施。”。

2 刪去(b)段。

9 在(a)段之前加入 —

“(aa) 在第(1)款中，廢除“最少”；”。

14 (a) 在建議的第 116B 條中，加入 —

“(6A) 公司須安排將所有按照本條的規定而獲贊同的決議（以及在其上的簽名）的紀錄，記入為此目的而備存的簿冊，其方式與處理公司大會的議事程序紀錄無異。

(6B) 凡公司按照第(6A)款作出的某紀錄看來是由公司某董事或公司秘書簽署的，則 —

(a) 該紀錄即為其關乎的決議獲贊同的議事程序的證據；而



條次建議修正案

- (b) 在相反證明成立之前，本條例中關於該等議事程序的規定須當作已獲遵從。

(6C) 第 120 條適用於按照第(6A)款作出的紀錄，一如該條適用於公司任何大會的議事程序紀錄。

(6D) 如公司沒有遵從第(6A)款，則公司及其每名失責高級人員均可處罰款，如持續失責，則另可處按日計算的失責罰款。”。

- (b) 在建議的第 116BA 條中 —

- (i) 在第(3)款中 —

(A) 在(a)段中，刪去“或”；

(B) 在(b)段中，刪去句號而代以“；或”；

(C) 加入 —

“(c) 他相信某人已獲明確地委以將該項決議的文本送予公司的核數師或以其他方式將決議內容通知核數師的責任，而該被告人是有合理理由相信此事的。”；

- (ii) 刪去第(4)款而代以 —

“(4) 第(1)款不獲遵從並不影響任何決議的效力。”。

條次

建議修正案

16、17 及  
18 刪去該等條文。

19 刪去 (b)、(c)(i) 及 (d) 段。

21 及 22 刪去該等條文。

24 刪去該條。

30 刪去 (a)(iii) 段而代以 —

“(iii) 廢除 (d) 段而代以 —

“(d) 如公司的債權人及分擔人沒有通過決議或沒有舉行會議，則法院可作出其認為合適的委任及命令；” ；”。

33(b) 在建議的第 199(4)(b) 條中，刪去 “(5)” 而代以 “(6)”。

38 刪去該條。

39 刪去該條而代以 —

“39. 在無能力繼續業務的情況下自動清盤的特別程序

第 228A 條現予修訂 —

條次建議修正案

(a) 廢除第(1)(b)款而代以 —

“(b) 在符合第(1B)款的規定下，該等董事的意見認為需要將公司清盤，並認為基於根據本條例的其他條文開始清盤並非合理地切實可行，故應根據本條開始清盤；及”；

(b) 廢除第(2)款而代以 —

“(1B) 第(1)款提述的決議須指明有何理由支持該款(b)段提及的意見。

(2) 如公司的任何董事根據第(1)款作出法定聲明，但並無合理的理由而 —

(a) 得出公司因其負債而不能繼續其業務的結論；  
或

(b) 認為基於公司根據本條例的其他條文開始清盤並非合理地切實可行，故應根據本條開始清盤，

條次

建議修正案

該名董事可處罰款及監禁。”。

40 及 41 刪去該等條文。

42 刪去(b)(iii)段。

43、44 及 45 刪去該等條文。

51 (a) 在(b)段中 —

(i) 在關於建議的第 116BA(2)條的記項之前加入 —

“116B 公司沒有記 簡易程序 第 3 級 \$300”  
(6D) 入按照第 ;  
116B 條獲  
贊同的決  
議紀錄

(ii) 刪去關於建議的第 168ZI(2)、168ZN(5)及 168ZW(4)條的記項。

(b) 刪去(c)段而代以 —

“(c) 在關於第 228A(2)條的記項中，在“務”之後加入“或聲明根據第 228A 條以外的其他條文將公司清盤並非合理地切實可行”。

條次建議修正案

52 及 53 刪去該等條文。

附表 刪去第 30、32、40、45、47、48、49、50、51、53、54 及 55 條。

**Annex VII**

**COMPANIES (AMENDMENT) BILL 2000**

**COMMITTEE STAGE**

Amendments to be moved by the Secretary for Financial Services

<u>Clause</u>	<u>Amendment Proposed</u>
1	By deleting subclause (2) and substituting -  "(2) This Ordinance shall come into operation on 1 July 2000."
2	By deleting paragraph (b).
9	By adding before paragraph (a) -  "(aa) in subsection (1), by repealing "最少";".
14	(a) In the proposed section 116B, by adding -  "(6A) A company shall cause a record of all resolutions (and of the signatures thereto) agreed to in accordance with this section to be entered into a book kept for that purpose in the same way as minutes of proceedings of a general meeting of the company.  (6B) Where a record made in accordance with subsection (6A) by a company purports to be signed by a director of the company or secretary of the company, then -

ClauseAmendment Proposed

- (a) the record is evidence of the proceedings in agreeing to the resolution to which the record relates; and
- (b) until the contrary is proved, the requirements of this Ordinance with respect to those proceedings shall be deemed to have been complied with.

(6C) Section 120 shall apply to a record made in accordance with subsection (6A) as that section applies to the minutes of proceedings of any general meeting of a company.

(6D) If a company fails to comply with subsection (6A), the company and every officer of the company who is in default shall be liable to a fine and, for continued default, to a daily default fine."

(b) In the proposed section 116BA -

(i) in subsection (3) -

(A) in paragraph (a), by deleting "or";

(B) in paragraph (b), by deleting the full stop and substituting "; or";

(C) by adding -

"(c) that he had reasonable grounds to believe and did believe that a person was

<u>Clause</u>	<u>Amendment Proposed</u>
	specifically charged with the duty of sending a copy of the resolution to the company's auditors or of otherwise informing the auditors of its contents.";
	(ii) by deleting subsection (4) and substituting -  "(4) A failure to comply with subsection (1) shall not affect the validity of any resolution."
16, 17 and 18	By deleting the clauses.
19	By deleting paragraphs (b), (c)(i) and (d).
21 and 22	By deleting the clauses.
24	By deleting the clause.
30	By deleting paragraph (a)(iii) and substituting -  "(iii) by repealing paragraph (d) and substituting -  "(d) the court may make any appointment and order as it thinks fit if the creditors and contributories of the company do not pass a resolution or do not meet;"



<u>Clause</u>	<u>Amendment Proposed</u>
33(b)	In the proposed section 199(4)(b), by deleting "subsection (5)" and substituting "subsection (6)".
38	By deleting the clause.
39	By deleting the clause and substituting -  <b>"39. Special procedure for voluntary winding up in case of inability to continue its business</b>  Section 228A is amended -  (a) by repealing subsection (1)(b) and substituting -  "(b) subject to subsection (1B), they consider it necessary that the company be wound up and that the winding up should be commenced under this section because it is not reasonably practicable for the winding up to be commenced under another section of this Ordinance; and";  (b) by repealing subsection (2) and substituting -

Clause

Amendment Proposed

"(1B) The resolution referred to in subsection (1) shall specify the reasons in support of the consideration mentioned in paragraph (b) of that subsection.

(2) Any director of a company making a declaration under subsection (1) without having reasonable grounds -

- (a) for the opinion that the company cannot by reason of its liabilities continue in business; or
- (b) to consider that the winding up of the company should be commenced under this section because it is not reasonably practicable for the winding up to be commenced under another section of this Ordinance,

<u>Clause</u>	<u>Amendment Proposed</u>
	shall be liable to a fine and imprisonment."."
40 and 41	By deleting the clauses.
42	By deleting paragraph (b)(iii).
43, 44 and 45	By deleting the clauses.
51	<p>(a) In paragraph (b) -</p> <p style="padding-left: 40px;">(i) by adding before the entry relating to the proposed section 116BA(2) -</p> <p style="padding-left: 80px;">"116B(6D) Company Summary Level 3 \$300"; failing to enter record of resolutions agreed in accordance with section 116B</p> <p style="padding-left: 40px;">(ii) by deleting the entries relating to the proposed sections 168ZI(2), 168ZN(5) and 168ZW(4).</p> <p>(b) By deleting paragraph (c) and substituting -</p> <p style="padding-left: 40px;">"(c) in the entry relating to section 228A(2), by adding ", or declaring that it is not reasonably</p>

Clause

Amendment Proposed

practicable for company to be wound up under a provision other than section 228A," after "liabilities".

52 and 53      By deleting the clauses.

Schedule      By deleting sections 30, 32, 40, 45, 47, 48, 49, 50, 51, 53, 54 and 55.

## 附件 VIII

## 《2000 年建築物管理(修訂)條例草案》

## 全體委員會審議階段

由民政事務局局長動議的修正案條次建議修正案

- 3 (a) 在(a)段之前加入 —
- “(aa) 在第(1)款中，在“委任”之前加入 —
- “除根據第(3)款召開的會議外，”；”。
- (b) 在(a)段中，刪去在“中”之後的所有字句而代以 —
- “ —
- (i) 在“根據”之前加入“除第(3)款另有規定外，”；
- (ii) 在(b)段中，廢除“50%”而代以“30%”；”。
- (c) 在(b)段中 —
- (i) 在建議的第 3(3)條中，在“如”之後加入 —
- “某建築物可在沒有根據《建築物條例》(第 123 章)第 21(1)(a)或(b)條就其發出的佔用許可證或臨時佔用許可證的情況下被佔用，而該”；
- (ii) 加入 —

條次

建議修正案

“(4)如某建築物只可在有根據《建築物條例》(第 123 章)第 21(1)(a)或(b)條就其發出的佔用許可證或臨時佔用許可證的情況下被佔用，而該建築物的公契是於《2000 年建築物管理(修訂)條例》(2000 年第 號)第 3 條生效之後簽立的 —

(a) 凡該建築物是不構成某屋邨或一組建築物的一部分，則可在就該建築物發出佔用許可證或臨時佔用許可證(視屬何情況而定)後的任何時間，按照第(3)款委任管理委員會；

(b) 凡該建築物是構成某屋邨或一組建築物的一部分，則可在就該屋邨內的所有建築物或該組建築物(視屬何情況而定)發出佔用許可證或臨時佔用許可證(視屬何情況而定)後的任何時間，按照第(3)款委任管理委員會。

(5) 就第(3)款而言 —

(a) “業主人數 10%”  
(10% of the owners)—  
詞 —

條次建議修正案

- (i) 指業主的人數的 10%，而無須理會他們在建築物的總分割份數中的擁有權的百分率；而
- (ii) 並非指總共擁有達 10%份數的業主；
- (b) 第(1)(c)款不適用於根據第(3)款舉行的會議，而 —
  - (i) 該等會議可由不少於業主人數 10%的業主召開；
  - (ii) 根據第(i)節召開會議的通知，可由各召集人所指派的一名業主送達。

(6) 凡在根據第(3)款召開的業主會議上，通過決議委任管理委員會，則該委員會委員須以擁有份數的業主親自出席所投或委派代表出席所投的多數票通過的決議委任。”。

《2000 年建築物管理(修訂)條例草案》

**全體委員會審議階段**

由李永達議員動議的修正案

條次

建議修正案

3(b) (a) 在建議的第(3)款中，在“如”之後加入 —

“某建築物可在沒有根據《建築物條例》(第 123 章)第 21(1)(a)或(b)條就其發出的佔用許可證或臨時佔用許可證的情況下被佔用，而該”。

(b) 加入 —

“(4)如某建築物只可在有根據《建築物條例》(第 123 章)第 21(1)(a)或(b)條就其發出的佔用許可證或臨時佔用許可證的情況下被佔用，而該建築物的公契是於《2000 年建築物管理(修訂)條例》(2000 年第 號)第 3 條生效之後簽立的 —

(a) 凡該建築物是不構成某屋邨或一組建築物的一部分，則可在就該建築物發出佔用許可證或臨時佔用許可證(視屬何情況而定)後的任何時間，按照第(3)款委任管理委員會；

(b) 凡該建築物是構成某屋邨或一組建築物的一部分，則可在任何該屋邨內或該組建築物內的建築物發出佔用許可證或臨時佔用許可證(視屬何情況而定)3 年後的任何時間及當不少於 40%已發出佔用許可證或臨時佔用許可證的建築物的單位已被佔用，按照第(3)款委任管理委員會。”。



## Annex VIII

## BUILDING MANAGEMENT (AMENDMENT) BILL 2000

## COMMITTEE STAGE

Amendments to be moved by the Secretary for Home Affairs

<u>Clause</u>	<u>Amendment Proposed</u>
3	<p>(a) By adding before paragraph (a) -</p> <p style="padding-left: 40px;">"(aa) in subsection (1), by repealing "A" and substituting -</p> <p style="padding-left: 80px;">"Except in the case of a meeting to be convened under subsection (3), a";".</p> <p>(b) In paragraph (a), by deleting everything after "(2)" and substituting -</p> <p style="padding-left: 40px;">"-</p> <p style="padding-left: 80px;">(i) by repealing "At" and substituting "Subject to subsection (3), at";</p> <p style="padding-left: 80px;">(ii) in paragraph (b), by repealing "50%" and substituting "30%";".</p> <p>(c) In paragraph (b) -</p> <p style="padding-left: 40px;">(i) in the proposed section 3(3), by adding after "building" -</p> <p style="padding-left: 80px;">"which may be occupied without the issue, in respect of that building, of an occupation permit or a temporary occupation permit, under section</p>

Clause

Amendment Proposed

21(1)(a) or (b) of the Buildings Ordinance (Cap. 123) and";

(ii) by adding -

"(4) In the case of a building which may not be occupied without the issue, in respect of that building, of an occupation permit or a temporary occupation permit, under section 21(1)(a) or (b) of the Buildings Ordinance (Cap. 123) and the deed of mutual covenant of which is executed by the parties to it after the commencement of section 3 of the Building Management (Amendment) Ordinance 2000 ( of 2000), a management committee may be appointed in accordance with subsection (3) -

(a) where that building does not form part of an estate or a group of buildings, at any time after the issue of the occupation permit or the temporary occupation permit, as the case may be, in respect of that building;

(b) where that building does form part of an estate or a group of buildings, at any time

ClauseAmendment Proposed

after the issue of an occupation permit or a temporary occupation permit, as the case may be, in respect of all of the buildings in that estate or group of buildings, as the case may be.

(5) For the purposes of subsection (3) -

(a) the expression "10% of the owners" (業主人數 10%) -

(i) means 10% of the number of persons who are owners without regard to their ownership of any particular percentage of the total number of shares into which the building is divided; and

Clause

Amendment Proposed

(ii) does not mean the owners of 10% of the shares;

(b) subsection (1)(c) shall not apply to a meeting to be held under subsection (3) and for any such meeting -

(i) the meeting may be convened by not less than 10% of the owners;

(ii) notice of a meeting convened under subparagraph (i) may be served by an owner nominated by the convenors.

(6) Where a meeting of owners convened under subsection (3) has passed a resolution to appoint a management committee, the members of the management committee are to be appointed by a resolution passed by a

ClauseAmendment Proposed

majority of the votes of the owners of the shares voting either personally or by proxy."

BUILDING MANAGEMENT (AMENDMENT) BILL 2000

COMMITTEE STAGE

Amendments to be moved by the Honourable LEE Wing-tat

<u>Clause</u>	<u>Amendment Proposed</u>
3(b)	<p>(a) In the proposed subsection (3), by adding after "building" -</p> <p>"which may be occupied without the issue, in respect of that building, of an occupation permit or a temporary occupation permit, under section 21(1)(a) or (b) of the Buildings Ordinance (Cap. 123) and".</p> <p>(b) By adding -</p> <p>"(4) In the case of a building which may not be occupied without the issue, in respect of that building, of an occupation permit or a temporary occupation permit, under section 21(1)(a) or (b) of the Buildings Ordinance (Cap. 123) and the deed of mutual covenant of which is executed by the parties to it after the commencement of section 3 of the Building Management (Amendment) Ordinance 2000 ( of 2000), a management committee may be appointed in accordance with subsection (3) -</p> <p>(a) where that building does not form part of an estate or a group of buildings, at any time after the issue of the occupation permit or the temporary occupation permit, as the case may be, in respect of that building;</p> <p>(b) where that building does form part of an estate or a group of</p>

ClauseAmendment Proposed

buildings, at any time 3 years after the issue of an occupation permit or a temporary occupation permit, as the case may be, in respect of any of the buildings in that estate or group of buildings and when not less than 40% of the units of such buildings has been occupied."