



立法會秘書處 法律事務部  
LEGAL SERVICE DIVISION  
LEGISLATIVE COUNCIL SECRETARIAT

來函檔號 YOUR REF : SF(37) TO CPA 272/00C  
本函檔號 OUR REF : LS/B/36/20-21  
電話 TELEPHONE : 3919 3528  
電郵 EMAIL : [mkylam@legco.gov.hk](mailto:mkylam@legco.gov.hk)

By Email ([williamliu@doj.gov.hk](mailto:williamliu@doj.gov.hk))

14 July 2021

Mr William LIU  
Deputy Law Officer (Civil Law) (Advisory) (Acting)  
Civil Division  
Department of Justice  
6/F, Main Wing, Justice Place  
18 Lower Albert Road, Central  
Hong Kong

Dear Mr LIU,

### **Legal Practitioners (Amendment) Bill 2021**

We are scrutinizing the captioned Bill with a view to advising Members on its legal and drafting aspects. We should be grateful if you could clarify the following issues.

2. As shown in its long title, the Bill seeks to amend section 31A of the Legal Practitioners Ordinance (Cap. 159) so that a person (not being a barrister) who holds office as a legal officer is eligible to be appointed as a Senior Counsel. According to the proposed amendment to section 31A(2) of Cap. 159, it seems that only legal officers (within the meaning of the Legal Officers Ordinance (Cap. 87)) practising as an advocate would satisfy the new eligibility requirements for appointment as a Senior Counsel. However, the object of the Bill, as stated in the long title and explanatory memorandum of the Bill, and the Legislative Council Brief (File Ref.: SF(37) TO CPA 272/00C), seems to be wider in that any legal officer is eligible to be appointed as a Senior Counsel. Please kindly clarify the legislative intent.

3. One effect of the Bill (if passed) is that a person who is a solicitor practising as an advocate while holding office as legal officer ("legal officer-solicitor advocate") would be eligible for consideration to be appointed as a Senior Counsel (subject to satisfaction of eligibility requirements of section 31A(2) of Cap. 159) while a solicitor advocate (within the meaning of Cap. 159) in private practice would not be eligible. Please kindly provide the justification for this difference in the eligibility for appointment as Senior Counsel of legal officer-solicitor advocate and solicitor advocate in private practice.

4. Officers deemed to be legal officers for the purposes of Cap. 87 are provided in various Ordinances (e.g. officers deemed to be legal officers under section 3(3) of the Director of Intellectual Property (Establishment) Ordinance (Cap. 412) etc.). Please consider whether it is appropriate to assist understanding by adding reader's aids (i.e. note without legislative effect) to the proposed new section 31A(6) of Cap. 159 (i.e. definition of "legal officer") so as to clearly list out all those officers deemed to be legal officers for the purposes of Cap. 87.

5. I look forward to receiving your reply in both English and Chinese as soon as possible, preferably by **21 July 2021**.

Yours sincerely,



(Mark LAM)  
Assistant Legal Adviser

c.c. Department of Justice  
(Attn: Mr Henry CHAN, Senior Assistant Law Draftsman)  
(By Email: [henrychan@doj.gov.hk](mailto:henrychan@doj.gov.hk))  
Legal Adviser  
Senior Assistant Legal Adviser 2