

## Annex XII

LEGAL SERVICES LEGISLATION  
(MISCELLANEOUS AMENDMENTS) BILL 1996

## COMMITTEE STAGE

Amendments to be moved by the Attorney General

<u>Clause</u>	<u>Amendment Proposed</u>
1(2)	By deleting "This Ordinance is" and substituting "Sections 2 to 6, 16 to 20 and 21 (in respect of sections 2 and 5 to 7 of Schedule 3 only) of this Ordinance are".
1	By adding -  "(3) Except as provided by subsection (2), this Ordinance comes into operation at the beginning of the day on which it is published in the Gazette."
2	In proposed section 7C(2), by adding "and be accompanied by such fee (if any) as may be prescribed by those rules" after "the Council's rules".
5	In proposed section 39BA(7), by deleting "section 72 or 73" and substituting "sections 72 and 73".
Part III	By deleting the Part.

ClauseAmendment Proposed

8

(a) By deleting proposed section 31A and substituting -

**"31A. Appointment of Senior Counsel**

(1) The Chief Justice may, after consultation with the Chairman of the Bar Council and the President of the Society, appoint as Senior Counsel barristers who satisfy the eligibility requirements of subsection (2).

(2) A barrister is eligible for appointment as a Senior Counsel if the barrister -

- (a) has, in the opinion of the Chief Justice, sufficient ability and standing as a barrister, and sufficient knowledge of the law, to be accorded that status; and
- (b) has the requisite experience; and
- (c) is practising at the bar in Hong Kong or -
  - (i) holds office as a legal officer within the meaning of the Legal Officers Ordinance (Cap. 87); or
  - (ii) holds office as Director of Legal Aid or as a Deputy Director or Assistant Director of Legal Aid; or
  - (iii) holds office as Official Receiver or an office specified in Part I of Schedule 2 to the Bankruptcy Ordinance (Cap.6); or

ClauseAmendment Proposed

- (iv) holds office as Director of Intellectual Property or an office specified in Part I of Schedule 1 to the Director of Intellectual Property (Establishment) Ordinance (Cap. 412).

(3) For the purposes of subsection (2)(b), a barrister has the requisite experience for appointment as a Senior Counsel if the barrister has, for not less than 10 years in aggregate, done one or more of the following -

- (a) practised at the bar in Hong Kong;
- (b) practised as an advocate in a court or courts of a common law jurisdiction that have unlimited jurisdiction in civil or criminal matters, or both;
- (c) as the holder of an office referred to in subsection (2)(c)(i) to (iv), performed the duties of the office;
- (d) as the holder of the office of Registrar General or of an office specified in Part I of the Registrar General (Establishment) Ordinance (Cap. 100)(as previously in force), performed the duties of the office.

(4) The Chief Justice may also, after similar consultation, appoint a person as Senior Counsel in an honorary capacity if the person is a barrister or solicitor, or a member of the academic staff of a faculty or school of law of a university (whether in Hong Kong or elsewhere), who has, in the Chief Justice's opinion, provided distinguished service to the law of Hong Kong.

ClauseAmendment Proposed

(5) The appointment of a person as a Senior Counsel in an honorary capacity does not of itself confer on the person a right to act as an advocate of another in proceedings before the courts of Hong Kong.

(6) The appointment of a person as a Senior Counsel in an honorary capacity does not accord the person precedence in proceedings before the courts of Hong Kong even if the person has a right of audience to appear in those proceedings by virtue of being a barrister or solicitor."

(b) In proposed section 31B, by deleting "duration" and substituting "purposes".

9(1) In proposed section 34(1)(a), by adding "practising" after "15".

9 By deleting subclause (2) and substituting -

"(2) Section 34 is amended by adding -

"(5) A Deputy Tribunal Convenor designated by the Tribunal Convenor may act in place of the Tribunal Convenor whenever the Tribunal Convenor is prevented from exercising the Tribunal Convenor's functions because of illness, absence from Hong Kong or any other cause."."

Part V By deleting the Part.

17 By adding -

"(aa) in subsection (1)(d) by repealing "one member" and substituting "2 members";".

<u>Clause</u>	<u>Amendment Proposed</u>
17(b)	In proposed section 74(1)(e), by deleting "no fewer than 4 and no more than 6" and substituting "3".
17(d)	<p>(a) In proposed section 74(2), by deleting "7" and substituting "5".</p> <p>(b) In proposed section 74(2)(c), by deleting "1 of" and substituting "2 of".</p> <p>(c) In proposed section 74(2)(d), by deleting "4" and substituting "1".</p>
18	<p>In proposed section 34A(2) -</p> <p>(a) by adding "同時" before "代表";</p> <p>(b) by adding "行事" after "買方".</p>
19	<p>(a) By renumbering the clause as clause 19(1).</p> <p>(b) By adding -</p> <p style="padding-left: 40px;">"(2) If section 2 commences before section 5, a provision of the Legal Practitioners Ordinance (Cap. 159), amended in accordance with Schedule 1, that contains a reference to a foreign lawyer corporation or to foreign lawyer corporation is, until section 5 commences, to be read as if the reference were omitted.</p> <p style="padding-left: 40px;">(3) If section 5 commences before section 2, a provision of the Legal Practitioners Ordinance (Cap. 159), amended in accordance with Schedule 1, that contains a reference to a solicitor corporation or to solicitor corporations is, until section 2 commences, to be read as if the reference were omitted."</p>

ClauseAmendment Proposed

New

By adding -

**Rules****"20A. Amendment of Legal Officers (Fees and Costs)**

(1) Rule 2(3) of the Legal Officers (Fees and Costs) Rules (Cap. 87 sub. leg.) is amended by repealing "whether or not such legal officer shall have been appointed one of Her Majesty's Counsel, such" and substituting "whether or not that legal officer is a Senior Counsel, the".

(2) The fact that the Legal Officers (Fees and Costs) Rules (Cap. 87 sub. leg.) are amended by this Ordinance does not affect the power of the Chief Justice to amend those Rules as so amended.

**20B. Amendment of Legal Aid Ordinance**

Section 13(2) and (3) of the Legal Aid Ordinance (Cap. 91) is amended by repealing "御用大律師" and substituting "首席大律師".

**20C. Amendment of Legal Aid Regulations**

(1) Regulation 18(3) of the Legal Aid Regulations (Cap. 91 sub. leg.) is amended -

- (a) by repealing "whether he has been appointed one of Her Majesty's Counsel or not" and substituting "whether the Director is a Senior Counsel or not";
- (b) by repealing "御用大律師" where it secondly occurs and substituting "首席大律師".

ClauseAmendment Proposed

(2) The fact that the Legal Aid Regulations (Cap. 91 sub. leg.) are amended by this Ordinance does not affect the power of the Governor in Council to amend those Regulations as so amended.

**20D. Amendment of Solicitors (Professional Indemnity) Rules**

(1) Schedule 3 to the Solicitors (Professional Indemnity) Rules (Cap. 159 sub. leg.) is amended by repealing paragraph 8(1)(c) and substituting -

"(c) Neither the indemnified nor the fund is required to contest legal proceedings relating to a claim unless a Queen's Counsel or Senior Counsel who has been mutually agreed on by the parties, or, failing agreement, a Queen's Counsel or Senior Counsel who has been appointed by the President of the Society, has advised that the proceedings should be contested.".

(2) The fact that the Solicitors (Professional Indemnity) Rules (Cap. 159 sub. leg.) are amended by this Ordinance does not affect the power of the Council of The Law Society of Hong Kong to amend those Rules as so amended.

**20E. Amendment of Legal Aid in Criminal Cases Rules**

(1) Rule 21 of the Legal Aid in Criminal Cases Rules (Cap. 221 sub. leg.) is amended by repealing "Queen's Counsel" wherever it occurs and substituting "Senior Counsel".

ClauseAmendment Proposed

(2) The fact that the Legal Aid in Criminal Cases Rules (Cap. 221 sub. leg.) are amended by this Ordinance does not affect the power of the Criminal Procedure Rules Committee to amend those Rules as so amended."

Schedule 1 (a) In item 1, by adding "barristers," after "approval and registration of".

(b) In item 4, by deleting the proposed definition of "legal practice entity" and substituting -

""legal practice entity "(法律執業實體) means any of the following -

- (a) a solicitor;
- (b) a foreign lawyer;
- (c) in relation to a solicitor who is a member of a Hong Kong firm, the firm;
- (d) in relation to a foreign lawyer who is a member of a foreign firm, the firm;
- (e) on and after the commencement of Part IIAA, a solicitor corporation;
- (f) on and after the commencement of sections 39BA and 39BB, a foreign lawyer corporation;"



ClauseAmendment Proposed

(c) By adding -

"33A. Heading of Part IIIA Repeal "AND FOREIGN FIRMS" and substitute", FOREIGN FIRMS AND FOREIGN LAWYER CORPORATIONS".  
".

(d) In item 34, by deleting "foreign solicitor" and substituting "foreign lawyer".

(e) In item 37 -

(i) by deleting from proposed section 45(1)(b) "a" where it firstly occurs;

(ii) by deleting paragraph (b).

(f) By deleting item 39 to 41.

(g) By deleting item 43 to 45.

(h) In item 46, by deleting proposed section 50(2).

(i) By adding -

"55A. Section 53 In the heading, delete "**solicitor or foreign lawyer**" and substitute "**legal practice entity**".

(j) In item 73, in the heading to proposed section 58, by deleting "**on for**".

ClauseAmendment Proposed

- (k) In item 90 -
  - (i) in column 2, delete "(a)";
  - (ii) in column 3, paragraph (a), by deleting "Add" and substituting "In paragraph (a), add".
- (l) By adding -
  - "104A. Section 73(1)(dc) Repeal "Hong Kong firms, foreign firms and"."
- (m) In item 105, by deleting proposed section 73(1A)(d) and proposed section 73(1B)(d).
- (n) In item 105, in proposed section 73(1A)(c), by adding "(including the payment of specified fees for that approval)" after "as solicitor corporations".
- (o) In item 105, by adding before proposed section 73(1B)(a) -
  - "(aa) for the registration of foreign lawyer corporations, including applications for registration, qualifications for registration and fees for registration and applications for registration; and".
- (p) In item 109, by deleting "73(4)" and substituting "73A(4)".
- (q) In items 114, 115, 116 and 118, by deleting", or any firm of which the entity is a member,".
- (r) In item 119, in proposed section 5(1)(a), by deleting ", or any firm of which the entity is a member," and "or firm".

ClauseAmendment Proposed

- (s) In item 120, by deleting "or any firm of which the entity is a member".
- (t) In items 121, 122 and 123, by deleting "or firm".
- (u) In item 125, by deleting "or any firm of which the entity is a member".
- (v) In item 126, by adding "paid" after "to be".

Schedule 3 By deleting section 1.

LEGAL SERVICES LEGISLATION  
(MISCELLANEOUS AMENDMENTS) BILL 1996

**COMMITTEE STAGE**

Amendments to be moved by the Hon. Fred LI

Clause

Amendment Proposed

16 By deleting the clause.

17 (a) By adding -

"(aa) by repealing subsection 1(d) and substituting -

"(d) the President and one of the Vice-Presidents of the Society and 4 members of the Society nominated by the Society and approved by the Chief Justice; and "";

(b) in paragraph (b), by deleting the proposed subsection (1)(e) and substituting -

"(e) 3 persons appointed by the Governor of whom -

(i) at least one must be a person who, in the Governor's opinion, can represent the interests of consumers of legal services; and

(ii) the remainder are persons who, in the Governor's opinion, have substantial experience in banking, accounting or some other form of commercial activity.";

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<u>Clause</u>	<u>Amendment Proposed</u>
(c)	in paragraph (d), by deleting the proposed subsection (2) and substituting -  "(2) The quorum for a meeting of the Costs Committee is the Chairman and 5 members.";
(d)	by deleting paragraph (e);
(e)	by deleting paragraph (f).
Part VII	By deleting the part.
20	By deleting the clause.
Schedule 1	In item 69, by deleting the proposed section 56(1) and (1A) and substituting -  "(1) Subject to rules made under section 74, a solicitor or solicitor corporation and a client of the solicitor or corporation may enter into an agreement as to the amount of remuneration payable to the solicitor or corporation for the performance by the solicitor or corporation of any non-contentious business. Such an agreement may be entered into either before, during or after the transaction of the business.".
Schedule 2	By deleting the Schedule.
Schedule 3	By deleting section 5.

LEGAL SERVICES LEGISLATION (MISCELLANEOUS  
AMENDMENTS) BILL 1996

**COMMITTEE STAGE**

Amendments to be moved by the Hon. Andrew CHENG

Clause

Amendment Proposed

17

(a) By adding -

"(aa) by repealing subsection (1)(d) and substituting -

"(d) the President and one of the  
Vice-Presidents of the Society and 3  
members of the Society nominated  
by the Society and approved by the  
Chief Justice; and";

(b) In paragraph (b), by deleting the proposed subsection (1)(e)  
and substituting -

"(e) 3 persons appointed by the Governor who, in the  
Governor's opinion, can represent the interests of  
consumers of legal services."

(c) In paragraph (d), by deleting the proposed subsection (2) and  
substituting -

"(2) The quorum for a meeting of the Costs  
Committee is 5 members, consisting of -

(a) the Chairman; and

ClauseAmendment Proposed

- (b) 1 of the members referred to in subsection (1) (b), (c) or (ca); and
- (c) 2 of the members referred to in subsection (1) (d); and
- (d) 1 of the members appointed under subsection (1)(e).".

18 (a) In the proposed section 34A(3) -

- (a) by adding "or sub-purchaser" after "purchaser";
- (b) by adding "or sub-vendor" after "vendor".

(b) By adding -

"(3A) Subsection (3) has effect only where the vendor and purchaser, or the sub-vendor and sub-purchaser, under the agreement have separate legal representation.".

LEGAL SERVICES LEGISLATION  
(MISCELLANEOUS AMENDMENTS) BILL 1996

**COMMITTEE STAGE**

Amendments to be moved by the Hon. Miss Margaret NG

Clause

Amendment Proposed

- 8 (a) By deleting proposed section 31A and substituting -

**"31A. Appointment of Senior Counsel**

(1) The Chief Justice may, after consultation with the chairman of the Bar Council and the president of the Society, appoint as Senior Counsel barristers who satisfy the eligibility requirements of subsection (2).

(2) A barrister is eligible for appointment as a Senior Counsel if he -

- (a) has, in the opinion of the Chief Justice, sufficient ability and standing as a barrister, and sufficient knowledge of the law, to be accorded that status; and
- (b) has the requisite experience; and
- (c) is practising at the bar in Hong Kong or is practising as an advocate while he holds office as a legal officer within the meaning of the Legal Officers Ordinance (Cap. 87).



ClauseAmendment Proposed

(3) For the purposes of subsection (2)(b), a barrister has the requisite experience for appointment as a Senior Counsel if he has, for not less than 10 years in aggregate, done one or both of the following -

- (a) practised at the bar in Hong Kong;  
or
- (b) practised as an advocate while he holds office as a legal officer within the meaning of the Legal Officers Ordinance (Cap. 87).

(4) The Chief Justice may, after consultation with the chairman of the Bar Council and the president of the Society, appoint a barrister as honorary Senior Counsel if he -

- (a) is a member of the academic staff of a faculty or school of law of a university in Hong Kong; or
- (b) holds office as Director of Legal Aid or as a Deputy Director or Assistant Director of Legal Aid; or
- (c) holds office as Official Receiver or an office specified in Part I of Schedule 2 to the Bankruptcy Ordinance (Cap.6); or
- (d) holds office as Director of Intellectual Property or an office specified in Part I of Schedule 1 to the Director of Intellectual Property (Establishment) Ordinance (Cap. 412)

ClauseAmendment Proposed

and who has, in the Chief Justice's opinion, provided distinguished service to the law of Hong Kong.

(5) The appointment of a person as a Senior Counsel in an honorary capacity does not confer on the person a right to act as an advocate in proceedings before the courts of Hong Kong and will not accord precedence before the courts."

- (b) In proposed section 31B, by deleting "duration" and substituting "purposes".

## Annex XIII

## LEGAL PRACTITIONERS (AMENDMENT) BILL 1996

## COMMITTEE STAGE

Amendments to be moved by the Attorney General

<u>Clause</u>	<u>Amendment Proposed</u>
2	By adding "(主體條例)" before "means".
3	(a) In proposed section 40A (1)(a) - <ul style="list-style-type: none"><li>(i) by deleting "On an application's being made in that behalf" and substituting "Upon application being made under this paragraph";</li><li>(ii) by deleting "may, if he thinks fit," and substituting "shall";</li><li>(iii) in subparagraph (ii), by deleting "on an application's being made in that behalf" and substituting "upon application being made under this subparagraph";</li><li>(iv) in subparagraph (ii), by adding "by notice in the Gazette" before the full stop.</li></ul>

(b) In proposed section 40A(1)(b) -

(i) in subparagraph (ii), by deleting "On an application's being made in that behalf" and substituting "Upon application being made under this paragraph";

(ii) by adding -

"(iii) Where an application under this paragraph for admission to an examination is made, before determining the application the Chief Justice may -

(A) cause notice of the application to be given to The Hong Kong Society of Notaries and such other person as he considers appropriate and invite any person so notified to comment on the application;

(B) if he thinks fit, request any person so notified to supply such particulars or other information as regards the applicant as he shall specify; and

(C) make such inquiries as he considers reasonable in the particular circumstances."

(c) By deleting proposed section 40A(2).

ClauseAmendment Proposed

- (d) In proposed section 40A(3)(a), by deleting "In case" and substituting "If".
- (e) In proposed section 40B(1), by adding ", on" after "appointed before".
- (f) In proposed section 41 -
  - (i) by deleting "法律";
  - (ii) by deleting "by appointment" and substituting "during office hours".
- (g) In proposed section 42, by deleting subsections (1) and (2) and substituting -
  - "(1) (a) If it appears to the Chief Justice, on a complaint being made to him by any person, that any person appointed or deemed to have been appointed under section 40A as a notary public -
    - (i) is bankrupt or has entered into a voluntary arrangement within the meaning of the Bankruptcy Ordinance (Cap. 6);
    - (ii) has engaged in fraudulent conduct in pursuit of his notarial work;

ClauseAmendment Proposed

(iii) has engaged in conduct, whether in pursuit of his notarial work or otherwise, which is prejudicial to the administration of justice, or which is dishonest or otherwise discreditable to a notary public, or which is likely to bring the profession of notary public into disrepute;

(iv) is incapacitated by physical or mental illness so as to be unable to carry out his notarial work,

the Chief Justice shall have power to give such direction as he thinks fit and any such direction may in particular include provision for all or any of the disciplinary sanctions specified in paragraph (b).

(b) The disciplinary sanctions that may be directed by the Chief Justice under paragraph (a) are -

(i) censure of the notary public;

(ii) suspension of the notary public from practising as a notary public for a period specified in the direction;

(iii) removal of the notary public's name from the Register of Notaries Public;

ClauseAmendment Proposed

(iv) payment by the notary public to the complainant of an amount not exceeding the amount or amounts paid or payable to the notary public in relation to the complainant's matters in dispute and, in the event of failure to pay any such amount as directed, the removal of the notary public's name from the Register of Notaries Public; and

(v) payment by the notary public of the costs of and incidental to the proceedings of any panel appointed under subsection (6)(a) and the costs of any prior inquiry or investigation in relation to the matters before the panel, to be taxed by a Master of the Supreme Court on a full indemnity basis, or an amount that the Chief Justice considers to be a reasonable contribution towards those costs and, in the event of failure to pay any such amount as directed, the removal of the notary public's name from the Register of

Notaries Public.

ClauseAmendment Proposed

(2) Upon application being made by or on behalf of a person who has been suspended pursuant to a direction under subsection (1), the Chief Justice may, if he is satisfied that there is reasonable cause so to do, direct that the suspension be lifted before the expiry of the period specified in the direction."

- (h) In proposed section 42(4)(a), by deleting the passage beginning "Where" and ending "on being" and substituting -

"Upon application being made by or on behalf of a person whose name has been removed pursuant to a direction under subsection (1), the Chief Justice may, if he is".

- (i) In proposed section 42, by adding -

"(5) (a) The Chief Justice may make, or cause to be made in accordance with subsection (6), such inquiries as he considers are necessary to enable him to determine any complaint made to him under subsection (1) or any application made to him for a direction under subsection (2) or (4).

- (b) For the purpose of making those inquiries the Chief Justice shall have all such powers as are vested in the Court or in any judge in the course of any action or suit in respect of the following matters -

(i) enforcing the attendance of witnesses and examining them upon oath or otherwise;

(ii) compelling the production of



<u>Clause</u>	<u>Amendment Proposed</u>
	documents;
	(iii) punishing persons guilty of contempt;  (iv) ordering an inspection of any property;  (v) conducting every examination of witnesses; and  (vi) adjourning any meeting from time to time and from one place to another,
	and a summons under this paragraph issued under the hand of the Chief Justice may be substituted for and shall be equivalent to any form of process capable of being issued in any action or suit for compelling the attendance of witnesses or the production of documents.
	(c) Any warrant of committal to prison issued for the purpose of enforcing any powers conferred under paragraph (b) shall be under the hand of the Chief Justice and shall not authorize the imprisonment of any offender for a period exceeding 1 month.
	(d) The Commissioner of Police and all police officers are required to give their utmost assistance to the Chief Justice in the enforcement of summonses and warrants issued under paragraph (b) or (c) or otherwise.

- (e) All proceedings in an inquiry under this subsection are privileged.

Clause

Amendment Proposed

- (6) (a) The Chief Justice may appoint a panel of not less than 3 persons, one of whom he shall appoint to be the chairman of the panel, to make inquiries on his behalf under subsection (5)(a) concerning an application, and a panel so appointed shall report its findings to the Chief Justice and shall also, if requested by the Chief Justice, make recommendations as to any direction to be made by the Chief Justice in the application.
- (b) Unless he considers there is good reason for not doing so in the particular circumstances, the Chief Justice shall appoint as one of the members of every panel appointed under paragraph (a) a member of The Hong Kong Society of Notaries.
- (c) The Chief Justice may authorize a panel appointed under paragraph (a) to exercise any of the powers conferred on the Chief Justice under subsection (5)(b) and for the purpose of subsection (5) as it applies in such a case -
- (i) reference in subsection (5)(b) or (c) to a summons or warrant of committal under the hand of the Chief Justice shall be read as reference to a summons or warrant of committal under the hand of the chairman of the panel;

ClauseAmendment Proposed

- (ii) reference in subsection (5)(d) -
    - (A) to the Commissioner of Police and all police officers shall be read as reference to those persons, officers of the court, gaolers and bailiffs of the court; and
    - (B) to the Chief Justice shall be read as reference to every panel and chairman of such panel.
- (d) Every member of a panel shall have the like protection and privileges, in relation to any action or suit brought against him for any act done or omitted to be done in the execution of his duties as such member, as is given by any law to a magistrate acting in the execution of his office.
- (e) Where a panel is appointed to make inquiries in respect of an application, the Chief Justice shall in determining the application have regard to any finding or recommendation of the panel reported or made under paragraph (a)."
- (j) In proposed section 43(2), by deleting "both a notary public and then" and substituting "a notary public and was".

Clause

Amendment Proposed

(k) In proposed section 43A -

- (i) in paragraph (a), by deleting "or 42";
- (ii) in paragraph (b), by deleting the full stop after "43(3)" and substituting a semicolon;
- (iii) by adding -

"(c) any thing in relation to or in connection with any matter specified in section 42."

(1) By adding -

**"43B. Functions of the Chief Justice  
under this Part**

In the performance of his functions under this Part the Chief Justice shall have regard to -

- (a) the promotion and maintenance of the highest professional notarial standards in Hong Kong;
- (b) the protection of the interests of those who use the services of notaries public, or who may be affected by notarial acts; and
- (c) the protection of the interests of notaries public,

and shall, for these purposes, consult The Hong Kong

Society of Notaries."

Clause

Amendment Proposed

4(b) In proposed section 44(3), by deleting everything after "person who" and substituting -

"for the time being -

- (a) is, or is deemed to have been, appointed under section 40A; and
- (b) is neither suspended under section 10(2)(b) or 42(1)(b)(ii) nor struck off the roll of solicitors under section 10(2)(a) or removed from the Register of Notaries Public under section 42(1)(b)(iii)."

New By adding after the heading "**Consequential Amendments**" -

**"Oaths and Declarations Ordinance**

**5A. Interpretation**

Section 2 of the Oaths and Declarations Ordinance (Cap. 11) is amended by repealing the definition of "notary" and substituting -

""notary" (公證人) has the same meaning as "notary public" in section 2(1) of the Legal Practitioners Ordinance (Cap. 159);".

## LEGAL PRACTITIONERS (AMENDMENT) BILL 1996

**COMMITTEE STAGE**Amendments to be moved by the Attorney GeneralClauseAmendment Proposed

long title  
and  
enactment  
formula

By adding the following as the Chinese text of the long title and enactment formula -

“本條例草案

旨在

就在香港委任公證人及相關的目的，訂定條文

由香港總督參照立法局意見並得該局同意而制定。”。

1

By adding the following as the Chinese text of the clause -

“1. 簡稱及生效日期

(1) 本條例可引稱為《1996年法律執業者（修訂）條例》。

(2) 本條例自行政署長以憲報公告指定的日期起實施，而行政署長可就不同的條文及不同的目的指定不同的日期。”。

ClauseAmendment Proposed

2 By adding the following as the Chinese text of the clause -

“2. 主體條例

在本條例中，“主體條例”(the principal Ordinance)指《法律執業者條例》(第159章)。”.

3 By adding the following as the Chinese text of the clause -

“3. 取代第IV部

主體條例第IV部現予廢除，代以 —

“第IV部

公證人

40. 定義 (第IV部)

在本部中，“生效日期”(the commencement day)指根據《1996年法律執業者(修訂)條例》(1996年第 號)第1(2)條指定為第40A(1)(a)條生效的日期。

40A. 公證人的委任

- (1) (a) 當有人根據本段提出申請並支付當其時依據第43A(b)條指明的費用(如有的話)，首席大法官須委任任何符合以下兩項規定的人為香港的公證人 —

ClauseAmendment Proposed

- (i) 其姓名在不少於7年的連續期間（如適當的話，在顧及第(4)款後）一直列於律師登記冊上；及
  - (ii) 在其姓名如此列於律師登記冊上的情況下，該人在於申請日期終結的1年期間內或在首席大法官應申請人根據本節提出的申請而於該特定個案指明的其他期間內，已在由首席大法官為施行本款而安排舉辦的考試中考取合格，或在以其他形式舉辦並由首席大法官當其時為施行本款而藉憲報公告指明的考試的整體或指明部分中考取合格。
- (b)
- (i) 在以考生身分參加為施行本款而舉辦的考試之前，有關的人須向首席大法官申請參加該項考試，而他只可在申請獲得批准後參加該項考試。
  - (ii) 當有人根據本段提出申請並支付當其時依據第43A(b)條指明的費用（如有的話），首席大法官如認為適當的話可批准參加為施行本款而舉辦的考試的申請。
  - (iii) 凡有人根據本段提出參加考試的申請，首席大法官在裁定該申請前可 —



ClauseAmendment Proposed

(A) 安排將關於該申請的通知書發給予香港法律公證人協會及他認為適當的其他人，並邀請如此獲通知的人就該申請提供意見；

(B) （如他認為適當的話）要求任何如此獲通知的人提供他指明的關於申請人的詳情或其他資料；及

(C) 進行他認為在有關的特定情況下屬合理的研訊。”。

(3) (a) 如根據本條提出的要求獲委任為公證人的申請獲得批准，司法常務官須在公證人登記冊上註冊申請人的姓名。

(b) 凡司法常務官依據(a)段註冊某姓名，他亦須在公證人登記冊上記入他認為適當的其他詳情。

(4) 凡第(1)(a)款所提述的申請人曾在於申請日期終結的7年期間內的任何時間根據第10(2)(b)條被暫時吊銷執業資格，則就第(1)(a)款而言（而非為其他目的），其姓名須被視為在該項暫時吊銷執業資格的整段期間並沒有列於律師登記冊上。

ClauseAmendment Proposed

## 40B. 公證人的權力

(1) 香港的公證人不論是在生效日期之前、生效日期或生效日期之後獲委任的，均具有公證人在緊接生效日期之前根據香港法律可行使的所有權力。

(2) 在不影響第(1)款的一般性的原則下，在該款中提述權力之處包括提述 —

- (a) 見證、認證或核證文件的妥善簽立的權力；
- (b) 在匯票上作拒付紀錄或拒付證明的權力，以及以承付方式見證就任何拒付匯票而作出的參加付款的權力；
- (c) 監誓或主持聲明的權力。

(3) 第(1)款不得解釋為影響 —

- (a) 當其時由香港以外的國家或地區的法律或根據香港以外的國家或地區的法律(單獨或在連同其他事宜的情況下)賦予該國家或地區的司法管轄權以外的公證人的任何權力；
- (b) 當其時由國際間的法律賦予公證人的任何權力或當其時由條約、公約或其他國際性協議設立或依據條約、公約或其他國際性協議設立的群體、組織或國家組合的法律賦予公證人的任何權力。

ClauseAmendment Proposed

(4) 凡由第(3)款(a)或(b)段所描述的法律或根據第(3)款(a)或(b)段所描述的法律賦予屬1個或多於1個指明類別或類型的公證人上述條文所描述的權力，則第(3)款須按照該等法律解釋和具有效力。

(5) (a) 在第(1)款中，“權力”(powers)包括職能及責任，而該款須據此解釋和具有效力。

(b) 在第(3)(a)款中凡提述國家，須解釋為包括提述國家的部分。

#### 41. 公證人登記冊

司法常務官須繼續備存和保管一份公證人註冊紀錄冊(從今以後該紀錄冊的中文名稱為“公證人登記冊”；英文名稱為“Register of Notaries Public”)及與之有關的所有文件，並須容許任何人在辦公時間內免費查閱該登記冊。

#### 42. 刪除註冊及公證人執業資格的 暫時吊銷及重新列入登記冊

(1) (a) 在任何人向首席大法官作出申訴後，如首席大法官覺得根據第40A條獲委任為公證人或當作已根據第40A條獲委任為公證人的任何人——

(i) 已破產或已訂立《破產條例》(第6章)所指的自願安排；

(ii) 在進行其公證工作時從事欺詐行為；

ClauseAmendment Proposed

(iii) 在進行其公證工作時或在其他情況下，從事損害執行司法工作的行為、不誠實或因其他原因而令公證人有損信譽的行為或相當可能損及公證人專業的聲譽的行為；

(iv) 因身體或精神上的疾病以致喪失履行職務能力，並因此而不能執行其公證工作，

則首席大法官有權作出他認為適當的指示，而任何該等指示尤其可包括(b)段所指明的所有或任何一項紀律制裁。

(b) 可由首席大法官根據(a)段指示的紀律制裁為 —

(i) 譴責有關的公證人；

(ii) 於一段上述指示所指明的期間暫時吊銷有關的公證人以公證人身分執業的資格；

(iii) 將有關的公證人的姓名從公證人登記冊上刪除；

(iv) 有關的公證人須向有關的申訴人就受爭議的該申訴人的事宜支付一筆不超過已向或須向該公證人支付的款額，如該公證人不依照指示支付任何上述款額，則將其姓名從公證人登記冊上刪除；及

ClauseAmendment Proposed

- (v) 有關的公證人須支付根據第(6)(a)款委出的任何研訊小組的法律程序的事務費及附帶事務費以及支付與該研訊小組席前的事宜有關的任何事前研訊或調查的事務費，該等事務費由最高法院聆案官按完全彌償基準評定；或支付一筆首席大法官認為屬合理的該等事務費的分擔款額，如該公證人不依照指示支付任何上述款額，則將其姓名從公證人登記冊上刪除。

(2) 凡任何人已依據第(1)款作出的指示被暫時吊銷執業資格，則首席大法官可在該人提出或其他人代其提出申請並令他信納有合理因由這樣做的情況下，指示在該指示所指明的期間屆滿之前將該項暫時吊銷撤銷。

- (3) (a) 凡有根據本條作出刪除姓名的指示，根據第40A條作出的有關委任須停止具有效力，而司法常務官須遵從該指示。

- (b) 凡司法常務官依據根據本條作出的指示刪除姓名，則他亦須在公證人登記冊上記入他認為適合的其他詳情。

- (c) 凡有根據本條作出暫時吊銷執業資格的指示，則司法常務官須在公證人登記冊上記入他認為適合的詳情。

ClauseAmendment Proposed

- (4) (a) 凡任何人已依據第(1)款作出的指示被刪除姓名，則首席大法官在該人提出或其他人代其提出申請並令他信納有合理因由這樣做的情況下，可指示將該人的姓名重新列入公證人登記冊上。
- (b) 凡有根據本款作出重新列入姓名的指示，即使第(3)(a)款另有規定，根據第40A條作出的有關委任須恢復效力，而司法常務官須遵從該指示。
- (5) (a) 首席大法官可作出或安排按照第(6)款作出他認為需要的研訊，以令他能裁定任何根據第(1)款向他作出的申訴或任何向他提出的要求他根據第(2)或(4)款作出指示的申請。
- (b) 為進行該等研訊的目的，首席大法官就以下事宜具有在任何訴訟或起訴的過程中歸於法院或任何大法官的所有權力 —
- (i) 強制證人出席，並在他們宣誓後加以訊問或在他們不宣誓的情況下加以訊問；
  - (ii) 強迫出示文件；
  - (iii) 懲罰犯了藐視罪的人；
  - (iv) 命令檢查或視察任何財產；
  - (v) 進行每項證人訊問；及

ClauseAmendment Proposed

- (vi) 不時押後任何會議和將會議地點從一處地方改至另一處地方，

而首席大法官親自簽署的並根據本段發出的傳票，可代替並相等於在任何訴訟或起訴中為了強迫證人出席或強迫出示文件而可以發出的任何形式的法律程序文件。

- (c) 為了強制執行根據(b)段賦予的任何權力而發出的任何交付監獄的手令，須由首席大法官親自簽署，並不得授權將任何違犯者監禁超過1個月的期間。
- (d) 警務處處長及所有警務人員均須在強制執行根據(b)或(c)段發出的傳票及手令或其他方面，竭力協助首席大法官。
- (e) 根據本款進行的研訊中的所有法律程序，均享有特權。
- (6) (a) 首席大法官可委出一個由不少於3人組成的研訊小組（而首席大法官須委任其中1人為該研訊小組主席），以代表首席大法官作出關於任何申請的研訊，而如此委出的研訊小組須向首席大法官呈報其裁斷；如首席大法官要求的話，該研訊小組亦須就首席大法官在該申請中須作出的任何指示作出建議。

ClauseAmendment Proposed

- (b) 除非首席大法官認為在個別情況下有好的理由不如此作出委任，否則他須委任香港法律公證人協會的一名會員為根據(a)段委出的每一研訊小組的其中一名成員。
- (c) 首席大法官可授權根據(a)段委出的研訊小組行使根據第(5)(b)款賦予首席大法官的任何權力，而就在此情況中適用的第(5)款而言 —
  - (i) 在第(5)(b)或(c)款中凡提述由首席大法官親自簽署的交付監獄的傳票或手令，須解釋為提述由該研訊小組的主席親自簽署的交付監獄的傳票或手令；
  - (ii) 在第(5)(d)款中 —
    - (A) 凡提述警務處處長及所有警務人員，須解釋為提述警務處處長、該等人員、法院人員、監獄看守員及法院執達主任；及
    - (B) 凡提述首席大法官，須解釋為提述每一個研訊小組及該研訊小組的主席。



ClauseAmendment Proposed

- (d) 研訊小組的每名成員，在針對他作為成員執行他的職責時所作出的任何作為或不作為而提出的任何訴訟或起訴方面具有的保障及特權，與任何法律給予正在執行職責而行事的裁判官的保障及特權一樣。
- (e) 凡委出研訊小組就任何申請進行研訊，首席大法官在裁定該申請時須顧及該研訊小組根據(a)段呈報的裁斷或作出的建議。”。

## 43. 關於若干委任等的限制

(1) 除第(3)款另有規定外，從生效日期開始，公證人只可根據第40A條獲委任。

(2) 在緊接生效日期之前是公證人並於當時是已根據本條例註冊為公證人的每名人士，須就第42條而言當作已在生效日期根據第40A條獲委任。

(3) (a) 即使在本部中有任何條文另有規定，司法常務官須在公證人登記冊上註冊任何符合以下規定的申請人 —

- (i) 向司法常務官出示就該申請人發出的公證特權；及

ClauseAmendment Proposed

(ii) 令司法常務官信納 —

(A) 如生效日期未經指定，則在申請當日第40條（以其在緊接生效日期之前的狀況）本會適用於該申請人；及

(B) 在生效日期之前已開始進行取得該特權的法律程序；及

(iii) 向法院送交一份由當其時為施行本條而在根據第43A條訂立的規則中指明格式的申請人身分的宗教式誓章存檔，並支付當其時為施行本條而在該等規則中指明的註冊費用。

(b) 為施行第40B及42條，任何根據本款註冊的人，須當作為已根據第40A條獲委任。

43A. 規則（公證人）

首席大法官可訂立規則，就以下所有或任何事宜訂定條文 —

(a) 決定根據第40A條提出的申請的格式及方式；

ClauseAmendment Proposed

- (b) 為施行第40A(1)(a)及(b)及43(3)條或其中任何一條而指明費用；
- (c) 關於第42條所指明的任何事宜或與第42條所指明的任何事宜有關連的任何東西。

## 43B. 首席大法官在本部下的職能

首席大法官在根據本部執行其職能時，須顧及 —

- (a) 香港的最高專業公證標準的促進及維持；
- (b) 使用公證人服務或可受公證作為影響的人的利益的保障；及
- (c) 公證人的利益的保障，

並須為此等目的諮詢香港法律公證人協會的意見。”。

4

By adding the following as the Chinese text of the clause -

“4. 非法執業為大律師或公證人的罰則

主體條例第44條現予修訂 —

- (a) 將該條重編為第44(1)條；

ClauseAmendment Proposed

(b) 加入 —

“(2) 本條的條文不得解釋為影響《領事關係條例》(第259章)的任何條文。

(3) 在本條中, “合資格公證人”(qualified notary public)指 —

(a) 當其時根據第40A條獲委任或當作已根據第40A條獲委任的人; 及

(b) 當其時既沒有根據第10(2)(b)或42(1)(b)(ii)條被暫時吊銷資格, 亦沒有根據第10(2)(a)條從律師登記冊上被剔除或根據第42(1)(b)(iii)條從公證人登記冊中被除名的人。”。

ClauseAmendment Proposed

5

By adding the following as the Chinese text of the clause -

## “5. 主體條例的雜項修訂

主體條例現予修訂 —

(a) 在第2(1)條中 —

(i) 在“公證人”的定義中，廢除“註冊紀錄”而代以“登記”；

(ii) 廢除“公證人註冊紀錄冊”的定義；

(b) 在第47(1)及48(1)條中，廢除“非公證人”而代以“非第44條所指的合資格公證人”；

(c) 在第48(1)條中，廢除“或公證人”而代以“或第44條所指的合資格公證人”；

(d) 在第72(a)條中 —

(i) 廢除第(iii)節；

(ii) 在第(iv)節中，廢除“或根據第40條註冊”及“或註冊”；

(iii) 在第(vi)節中，廢除“註冊紀錄”而代以“登記”。”。

ClauseAmendment Proposed

New

By adding the following as the Chinese text of clause 5A —

“相應修訂

《宣誓及聲明條例》

## 5A. 釋義

《宣誓及聲明條例》（第11章）第2條現予修訂，廢除“公證人”的定義而代以 —

““公證人” (notary) 的涵義與《法律執業者條例》（第159章）第2(1)條中“公證人”的涵義相同；”。

6

By adding the following as the Chinese text of the clause -

“《認許及註冊規則》

## 6. 廢除

《認許及註冊規則》（第159章，附屬法例）第11及12條以及附表中的表格9現予廢除；但本條的條文不得解釋為阻止最高法院司法常務官藉上述第12條及表格9訂定的格式格備存公證人登記冊的全部或部分。”。

## LEGAL PRACTITIONERS (AMENDMENT) BILL 1996

**COMMITTEE STAGE**Amendments to be moved by the Hon. Miss Margaret NG

<u>Clause</u>	<u>Amendment Proposed</u>
3	<p>(a) In proposed section 40A(1)(a) -</p> <p>(i) by deleting "On an application's being made in that behalf" and substituting "Upon application being made under this paragraph";</p> <p>(ii) by deleting "may, if he thinks fit," and substituting "shall";</p> <p>(iii) in subparagraph (ii), by deleting "on an application's being made in that behalf" and substituting "upon application being made under this subparagraph";</p> <p>(iv) in subparagraph (ii), by adding "by notice in the Gazette" before the full stop.</p> <p>(b) In proposed section 40A(1)(b) -</p> <p>(i) in subparagraph (ii), by deleting "On an application's being made in that behalf" and substituting "Upon application being made under this paragraph";</p>

ClauseAmendment Proposed

(ii) by adding -

"(iii) Where an application under this paragraph for admission to an examination is made, before determining the application the Chief Justice may -

(A) cause notice of the application to be given to The Hong Kong Society of Notaries (hereinafter referred to as "the Society" in this Part) and such other person as he considers appropriate and invite any person so notified to comment on the application;

(B) if he thinks fit, request any person so notified to supply such particulars or other information as regards the applicant as he shall specify; and

(C) make such inquiries as he considers reasonable in the particular circumstances."

(c) By deleting proposed section 40A(2).

(d) In proposed section 40A(3)(a), by deleting "In case" and substituting "If".

(e) In proposed section 40B(1), by adding ", on" after "appointed before".



ClauseAmendment Proposed

(f) In proposed section 41 -

- (i) by deleting "法律";
- (ii) by deleting "by appointment" and substituting "during office hours".

(g) By adding -

**"41A. Membership in The Hong Kong Society of  
Notaries**

A person who is registered as a notary public in the Register of Notaries Public shall, as far as is allowed by the Society, acquire membership in the Society and maintain such membership."

(h) By deleting proposed section 42(1) and (2) and substituting -

"(1) (a) If it appears to the Chief Justice, on a complaint being made to him by any person, that any person appointed or deemed to have been appointed under section 40A as a notary public -

- (i) is bankrupt or has entered into a voluntary arrangement within the meaning of the Bankruptcy Ordinance (Cap. 6);
- (ii) has engaged in fraudulent conduct in pursuit of his notarial work;

ClauseAmendment Proposed

(iii) has engaged in conduct, whether in pursuit of his notarial work or otherwise, which is prejudicial to the administration of justice, or which is dishonest or otherwise discreditable to a notary public, or which is likely to bring the profession of notary public into disrepute;

(iv) is incapacitated by physical or mental illness so as to be unable to carry out his notarial work;

(v) has not complied with section 41A,

the Chief Justice shall have power to give such direction as he thinks fit and any such direction may in particular include provision for all or any of the disciplinary sanctions specified in paragraph (b).

(b) The disciplinary sanctions that may be directed by the Chief Justice under paragraph (a) are -

(i) censure of the notary public;

(ii) suspension of the notary public from practising as a notary public for a

period specified in the direction;

ClauseAmendment Proposed

- (iii) removal of the notary public's name from the Register of Notaries Public;
- (iv) payment by the notary public to the complainant of an amount not exceeding the amount or amounts paid or payable to the notary public in relation to the complainant's matters in dispute and, in the event of failure to pay any such amount as directed, the removal of the notary public's name from the Register of Notaries Public;
- (v) payment by the notary public of the costs of and incidental to the proceedings of any panel appointed under subsection (6)(a) and the costs of any prior inquiry or investigation in relation to the matters before the panel, to be taxed by a Master of the Supreme Court on a full indemnity basis, or an amount that the Chief Justice considers to be a reasonable contribution towards those costs and, in the event of failure to pay any such amount as directed, the removal of

the notary public's name  
from the Register of  
Notaries Public; and

Clause

Amendment Proposed

(vi) payment by the notary  
public of a penalty not  
exceeding \$50,000, which  
shall be paid into the  
general revenue.

(2) Upon application being made by or on  
behalf of a person who has been suspended pursuant to  
a direction under subsection (1), the Chief Justice may,  
if he is satisfied that there is reasonable cause so to do,  
direct that the suspension be lifted before the expiry of  
the period specified in the direction."

- (i) In proposed section 42(4)(a), by deleting the passage  
beginning "Where" and ending "on being" and substituting -

"Upon application being made by or on behalf of a  
person whose name has been removed pursuant to a  
direction under subsection (1), the Chief Justice may, if  
he is".

- (j) In proposed section 42, by adding -

"(5) (a) The Chief Justice may make, or cause to be  
made in accordance with subsection (6),  
such inquiries as he considers are  
necessary to enable him to determine any  
complaint made to him under subsection (1)  
or any application made to him for a  
direction under subsection (2) or (4).

(b) For the purpose of making those inquiries  
the Chief Justice shall have all such  
powers as are vested in the Court or in any

judge in the course of any action or suit in respect of the following matters -

Clause

Amendment Proposed

- (i) enforcing the attendance of witnesses and examining them upon oath or otherwise;
- (ii) compelling the production of documents;
- (iii) punishing persons guilty of contempt;
- (iv) ordering an inspection of any property;
- (v) conducting every examination of witnesses; and
- (vi) adjourning any meeting from time to time and from one place to another,

and a summons under this paragraph issued under the hand of the Chief Justice may be substituted for and shall be equivalent to any form of process capable of being issued in any action or suit for compelling the attendance of witnesses or the production of documents.

- (c) Any warrant of committal to prison issued for the purpose of enforcing any powers conferred under paragraph (b) shall be under the hand of the Chief Justice and shall not authorize the imprisonment of any offender for a period exceeding 1

month.

Clause

Amendment Proposed

- (d) The Commissioner of Police and all police officers are required to give their utmost assistance to the Chief Justice in the enforcement of summonses and warrants issued under paragraph (b) or (c) or otherwise.
- (e) All proceedings in an inquiry under this subsection are privileged.
- (6) (a) The Chief Justice may appoint a panel of not less than 3 persons (who shall include at least one member of the Society), one of whom he shall appoint to be the chairman of the panel, to make inquiries on his behalf under subsection (5)(a) concerning an application, and a panel so appointed shall report its findings to the Chief Justice and shall also, if requested by the Chief Justice, make recommendations as to any direction to be made by the Chief Justice in the application.
- (b) The Chief Justice may authorize a panel appointed under paragraph (a) to exercise any of the powers conferred on the Chief Justice under subsection (5)(b) and for the purpose of subsection (5) as it applies in such a case -
  - (i) reference in subsection (5)(b) or (c) to a summons or warrant of committal under the hand of the Chief Justice shall be read as reference to a

summons or warrant of committal under the hand of the chairman of the panel;

ClauseAmendment Proposed

(ii) reference in subsection (5)(d) -

(A) to the Commissioner of Police and all police officers shall be read as reference to those persons, officers of the court, gaolers and bailiffs of the court; and

(B) to the Chief Justice shall be read as reference to every panel and chairman of such panel.

(c) Every member of a panel shall have the like protection and privileges, in relation to any action or suit brought against him for any act done or omitted to be done in the execution of his duties as such member, as is given by any law to a magistrate acting in the execution of his office.

(d) Where a panel is appointed to make inquiries in respect of an application, the Chief Justice shall in determining the application have regard to any finding or recommendation of the panel reported or made under paragraph (a)."

(k) In proposed section 43(2), by deleting "both a notary public and then" and substituting "a notary public and was".

ClauseAmendment Proposed

- (l) In proposed section 43A -
  - (i) in paragraph (a), by deleting "or 42";
  - (ii) in paragraph (b), by deleting the full stop after "43(3)" and substituting a semi-colon;
  - (iii) by adding -
    - "(c) any thing in relation to or in connection with any matter specified in section 42."



## LEGAL PRACTITIONERS (AMENDMENT) BILL 1996

**COMMITTEE STAGE**Amendments to be moved by the Hon. Miss Margaret NGClauseAmendment Proposed

3 By adding the following as the Chinese text of the clause -

“3. 取代第IV部

主體條例第IV部現予廢除，代以 —

“第IV部

公證人

40. 定義（第IV部）

在本部中，“生效日期” (the commencement day)指根據《1996年法律執業者（修訂）條例》（1996年第 號）第1(2)條指定為第40A(1)(a)條生效的日期。

40A. 公證人的委任

(1) (a) 當有人根據本段提出申請並支付當其時依據第43A(b)條指明的費用（如有的話）時，首席大法官須委任任何符合以下兩項規定的人為香港的公證人 —

(i) 其姓名在不少於7年的連續期間（如適當的話，在顧及第(4)款後）一直列於律師登記冊上；及

ClauseAmendment Proposed

(ii) 在其姓名如此列於律師登記冊上的情況下，該人在於申請日期之前的1年期間內或在首席大法官應申請人根據本節提出的申請而於該特定個案指明的其他期間內，已在由首席大法官為施行本款而安排舉辦的考試中考取合格，或以其他形式舉辦並由首席大法官當其時為施行本款而藉憲報公告指明的考試的整體或指明部分中考取合格。

(b) (i) 在以考生身分參加為施行本款而舉辦的考試之前，有關的人須向首席大法官申請參加該項考試，而他只可在申請獲得批准後才參加該項考試。

(ii) 當有人根據本段提出申請並支付當其時依據第43A(b)條指明的費用（如有的話），首席大法官如認為適當的話可批准參加為施行本款而舉辦的考試的申請。

ClauseAmendment Proposed

- (iii) 凡有人根據本段提出參加考試的申請，首席大法官在裁定該申請前可 —
- (A) 安排將關於該申請的通知書發給予香港法律公證人協會(在本部下文提述時稱為“協會”)及他認為適當的其他人，並邀請如此獲通知的人就該申請提供意見；
- (B) (如他認為適當的話)要求任何如此獲通知的人提供他指明的關於申請人的詳情或其他資料；及
- (C) 進行他認為在有關的特定情況下屬合理的研訊。”。
- (3) (a) 如根據本條提出的要求獲委任為公證人的申請獲得批准，司法常務官須在公證人登記冊上註冊申請人的姓名。

ClauseAmendment Proposed

- (b) 凡司法常務官依據(a)段註冊某姓名，他亦須在公證人登記冊上記入他認為適當的其他詳情。

(4) 凡第(1)(a)款所提述的申請人曾在於申請日期終結的7年期間內的任何時間根據第10(2)(b)條被暫時吊銷執業資格，則就第(1)(a)款而言（而非為其他目的），其姓名須被視為在該項暫時吊銷執業資格的整段期間並沒有列於律師登記冊上。

#### 40B. 公證人的權力

(1) 香港的公證人，不論是在生效日期之前、生效日期或生效日期之後獲委任的，均具有公證人在緊接在生效日期之前根據香港法律可行使的所有權力。

(2) 在不影響第(1)款的一般性的原則下，在該款中提述權力之處包括提述 —

- (a) 見證、認證或核證文件的妥善簽立的權力；
- (b) 在匯票上作拒付紀錄或拒付證明的權力，以及以承付方式見證就任何拒付匯票而作出的參加付款的權力；
- (c) 監誓或主持聲明的權力。

ClauseAmendment Proposed

(3) 第(1)款不得解釋為影響 —

- (a) 當其時由香港以外的國家或地區的法律或根據香港以外的國家或地區的法律（單獨或在連同其他事宜的情況下）賦予該國家或地區的司法管轄權以外的公證人的任何權力；
- (b) 當其時由國際間的法律賦予公證人的任何權力或由條約、公約或其他國際性協議設立或依據條約、公約或其他國際性協議設立的群體、組織或國家組合的法律賦予公證人的任何權力。

(4) 凡由第(3)款(a)或(b)段所描述的法律或根據第(3)款(a)或(b)段所描述的法律賦予屬1個或多於1個指明類別或類型的公證人上述條文所描述的權力，則第(3)款須按照該等法律解釋和具有效力。

- (5) (a) 在第(1)款中，“權力”(powers)包括職能及職責，而該款須據此解釋和具有效力。
- (b) 在第(3)(a)款中，凡提述國家，須解釋為包括提述國家的部分。

ClauseAmendment Proposed

#### 41. 公證人登記冊

司法常務官須繼續備存和保管一份公證人註冊紀錄冊(從今以後該紀錄冊的中文名稱為“公證人登記冊”，英文名稱為“**Register of Notaries Public**”)及與之有關的所有文件，並須容許任何人在辦公時間內免費查閱該登記冊。

#### 41A. 香港法律公證人協會會籍

在公證人登記冊註冊為公證人的人須盡可能在協會容許的範圍內，獲取協會的會員會籍及維持該項會籍。

#### 42. 刪除註冊及公證人執業 資格的暫時吊銷及 重新列入登記冊

(1) (a) 在任何人向首席大法官作出申訴後，如首席大法官覺得根據第40A條獲委任為公證人或當作已根據第40A條獲委任為公證人的任何人 —

(i) 已破產或已訂立《破產條例》(第6章)所指的自願安排；

(ii) 在進行其公證工作時從事欺詐行為；

(iii) 在進行其公證工作時或在其他情況下，從事損害執行司法工作的行為、不誠實或因其他原因而令公證人有損信譽的行為或相當可能損及令公證人專業聲譽受損的行為；

(iv) 因身體或精神上的疾病以致喪失履行職務能力，並因此而不能執行其公證工作；

(v) 並無遵從第41A條，

則首席大法官有權作出他認為適當的指示，而任何該等指示尤其可包括(b)段所指明的所有或任何一項紀律制裁。

(b) 可由首席大法官根據(a)段指示的紀律制裁為—

(i) 譴責有關的公證人；

(ii) 於一段上述指示所指明的期間暫時吊銷有關的公證人以公證人身分執業的資格；

- (iii) 將有關的公證人的姓名從公證人登記冊上刪除；
- (iv) 有關的公證人須向有關的申訴人就受爭議的該申訴人的事宜支付一筆不超過已向或須向該公證人支付的款額，如該公證人不依照指示支付任何上述款額，則將其姓名從公證人登記冊上刪除；
- (v) 有關的公證人須支付根據第(6)(a)款委出的任何研訊小組的法律程序的事務費及附帶事務費以及支付與研訊小組席前的事宜有關的任何事前研訊或調查的事務費，該等事務費由最高法院聆案官按完全彌償基準評定；或支付一筆首席大法官認為屬合理的分擔該等事務費的分擔款額，如該公證人不依照指示支付任何上述款額，則將其姓名從公證人登記冊上刪除；及



- (vi) 有關的公證人須支付一筆不超過\$50,000並須撥入政府一般收入內的罰款。

(2) 凡任何人已依據第(1)款作出的指示被暫時吊銷執業資格，則首席大法官可在該人或其他人代其提出申請並令他信納有合理因由這樣做的情況下，指示在該指示所指明的期間屆滿之前將該項暫時吊銷撤銷。

- (3) (a) 凡有根據本條作出刪除姓名的指示，根據第40A條作出的有關委任須停止具有效力，而司法常務官須遵從該指示。

- (b) 凡司法常務官依據根據本條作出的指示刪除姓名，則他亦須在公證人登記冊上記入他認為適當的其他詳情。

- (c) 凡有根據本條作出暫時吊銷執業資格的指示，則司法常務官須在公證人登記冊上記入他認為適當的詳情。

Clause

Amendment Proposed

- (4) (a) 凡任何人已依據第

(1)款作出的指示已被刪除姓名，則首席大法官在該人提出或其他人代其提出申請並令他信納有合理因由這樣做的情況下，可指示將該人的姓名重新列入公證人登記冊上。

(b) 凡有根據本款作出重新列入姓名的指示，即使第(3)(a)款另有規定，根據第40A條作出的有關委任須恢復效力，而司法常務官須遵從該指示。

(5) (a) 首席大法官可作出或安排按照第(6)款作出他認為需要的研訊，以令他能裁定任何根據第(1)款向他作出的申訴或任何向他提出的要求他根據第(2)或(4)款作出指示的申請。

(b) 為進行該等研訊的目的，首席大法官就以下事宜具有在任何訴訟或起訴的過程中歸於法院或任何大法官的所有權力 —

Clause

Amendment Proposed

(i) 強制證人出席，

並在他們宣誓後  
加以訊問或在他們  
不宣誓的情況下  
加以訊問；

- (ii) 強迫出示文件；
- (iii) 懲罰犯了藐視罪  
的人；
- (iv) 命令檢查或視察  
任何財產；
- (v) 進行每項證人訊  
問；及
- (vi) 不時押後任何會  
議和將會議地點  
從一處地方改至  
另一處地方，

而首席大法官親自簽  
署的並根據本段發出  
的傳票，可代替並相等  
於在任何訴訟或起訴  
中為了強迫證人出席  
或強迫出示文件而可  
以發出的任何形式的  
法律程序文件。

- (c) 為了強制執行根據(b)  
段賦予的任何權力而  
發出的任何交付監獄  
的手令，須由首席大  
法官親自簽署，並不得  
授權將任何違犯者監  
禁超過1個月的期間。

Clause

Amendment Proposed

- (d) 警務處處長及所有警

務人員均須在強制執行根據(b)或(c)段所發出的傳票及手令或其他方面，竭力協助首席大法官。

(e) 根據本款進行的研訊中的所有法律程序，均享有特權。

(6) (a) 首席大法官可委出一個由不少於3人（其中須至少包括一名協會會員）組成的研訊小組，而首席大法官須委任其中1人為研訊小組主席，以代表首席大法官作出關於任何申請的研訊，而如此委出的研訊小組須向首席大法官呈報其裁斷；如首席大法官要求的話，該研訊小組亦須就首席大法官在該申請中須作出的任何指示作出建議。

(b) 首席大法官可授權根據(a)段委出的研訊小組行使根據第(5)(b)款賦予首席大法官的任何權力，而就在此情況中適用的第(5)款而言——

Clause

Amendment Proposed

(i) 在第(5)(b)或(c)

款中凡提述由首席大法官親自簽署的交付監獄的傳票或手令，須解釋為提述由該研訊小組的主席親自簽署的交付監獄的傳票或手令；

(ii) 在第(5)(d)款中—

(A) 凡提述警務處處長及所有警務人員，須解釋為提述警務處處長、該等人員、法院人員、監獄看守員及法院執達主任；及

(B) 凡提述首席大法官，須解釋為提述每一個研訊小組及該研訊小組的主席。

Clause

Amendment Proposed

(c) 研訊小組的每名

成員，在針對他作為成員執行他的職責時所作出的任何作為或不作為而提出的任何訴訟或起訴方面具有的保障及特權，與任何法律給予正在執行職責而行事時的裁判官的保障及特權一樣。

- (d) 凡委任研訊小組就任何申請進行研訊，首席法官在裁定該申請時須顧及該研訊小組根據(a)段呈報的裁斷或作出的建議。

#### 43. 關於若干委任等的限制

(1) 除第(3)款另有規定外，從生效日期開始，公證人只可根據第40A條獲委任。

(2) 在緊接生效日期之前是公證人並於當時足已根據本條例註冊為公證人的每名人士，須就第42條而言當作已在生效日期根據第40A條獲委任。

(3) (a) 即使在本部中有任何  
條文另有規定，司法常  
務官須在公證人登記  
冊上註冊任何符合以  
下規定的申請人 —

(i) 向司法常務官出  
示就該申請人發  
出的公證特權；  
及

(ii) 令司法常務官信  
納 —

(A) 如生效日  
期未經指  
定，則在申  
請當日第  
40條(以其  
在緊接生  
效日期之  
前的狀況)  
本會適用  
於該申請  
人；及

(B) 在生效日  
期之前已  
開始進行  
取得該特  
權的法律  
程序；及

(iii) 向法院送交一份由當其時為施行本條而根據第43A條訂立的規則中指明格式的申請人身分的宗教誓章存檔，並支付當其時為施行本條而在該等規則中指明的註冊費用。

(b) 為施行第40B及42條，任何根據本款註冊的人，須當作為已根據第40A條獲委任。

#### 43A. 規則（公證人）

首席大法官可訂立規則，就以下所有或任何事宜訂定條文 —

- (a) 決定根據40A條提出的申請的格式及方式；
- (b) 為施行第40A(1)(a)及(b)及43(3)條或其中任何一條而指明費用；
- (c) 關於第42條所指明的任何事宜或與第42條所指明的任何事宜有關連的任何東西。” 。” 。



## SUPREME COURT (AMENDMENT) BILL 1997

## COMMITTEE STAGE

Amendments to be moved by the Attorney General

<u>Clause</u>	<u>Amendment Proposed</u>
2(b)	In proposed definition of "detention", by adding "of liberty of the person" after "restraint".
3	<p>In proposed section 22A(4), by adding after "detained." -</p> <p>"All proceedings under this section are to be conducted in open court unless the Court, in exceptional circumstances specified by the Court, orders the proceedings, or a part of the proceedings, to be conducted in camera. All orders and decisions made in respect of those proceedings, and the reasons for those orders and decisions, are in every case to be announced in open court."</p>
3	<p>By deleting proposed section 22A(5) and substituting -</p> <p>"(5) On considering the application, the High Court must, if satisfied that the application has substance, do either of the following -</p> <p>(a) order the issue of a writ of habeas corpus directing the person having custody of the applicant to have the applicant brought before the Court at a specified time on a specified date and to certify to the Court the grounds for the applicant's detention;</p>

ClauseAmendment Proposed

- (b) order the person having custody of the applicant to appear before the Court in order to justify the lawfulness of the applicant's detention."

3 In proposed section 22A(9), by deleting the second sentence.

3 By deleting proposed section 22A(10) to (12) and substituting -

"(10) If a person who has custody of a detained person appears before the Court in accordance with an order made under subsection (5)(b) but fails to satisfy the Court that the detention is lawful, the Court must order the detained person to be released from detention immediately.

(11) If a writ of habeas corpus has been issued in respect of a detained person, the person having custody of the detained person must not, until the writ is discharged or the proceedings are concluded -

- (a) allow the detained person to be moved to another place of detention in Hong Kong otherwise than under the authority of the Prisons Ordinance (Cap. 234) or of any other enactment expressly providing for the detention of persons; or
- (b) allow the detained person to be removed from Hong Kong.

(12) If a person who was formerly held in detention on a particular ground is released because of the issue of a writ of habeas corpus, or in accordance with an order made under subsection (10), a person may redetain that person on the same or a similar ground only if there has been a material change in the relevant circumstances."

ClauseAmendment Proposed

New

By adding -

**"5A. Amendment of Schedule (Writs)**

The Schedule is amended by repealing items (10) and (11).

**5B. Amendment of Rules of the Supreme Court (Forms)**

Appendix A to the Rules of the Supreme Court (Cap.4 sub.leg.) is amended by repealing Form Nos. 91 and 92."

## SUPREME COURT (AMENDMENT) BILL 1997

**COMMITTEE STAGE**Amendments to be moved by the Attorney GeneralClauseAmendment Proposed

Long  
title and  
enactment  
formula

By adding the following as the Chinese text of the long title and  
enactment formula -

"本條例草案

旨在

修訂《最高法院條例》。

由香港總督參照立法局意見並得該局同意而制定。".

1

By adding the following as the Chinese text of the clause -

"1. 簡稱

本條例可引稱為《1997 年最高法院(修訂)條例》。".

2

By adding the following as the Chinese text of the clause -

"2. 釋義

《最高法院條例》(第 4 章)第 2 條現予修訂—

(a) 廢除 “人身保護令的申請” 的定義；

ClauseAmendment Proposed

(b) 加入 —

“ “ 人 身 保 護 令 狀 ” (writ of habeas corpus)指解交被拘押者並說明其拘押日期及原因令狀；

“ 羈 留 ” (detention)包括每一種形式的對人身自由的約制。 ” 。

”。

3 By adding the following as the Chinese text of the clause -

"3. 加入條文

現加入 —

22A. 人身保護令狀的申請及發出

(1) 屬以下情況的申請可向高等法院提出 —

(a) 指稱申請所指名的人是無合法理由而被羈留；並且

(b) 要求就該人發出人身保護令狀。

(2) 申請可由指稱被羈留的人或由任何其他  
人代為提出，尤其可由聲稱在法律上有權看管某另一  
人的人提出，或由他人代該如此聲稱的人提出。

(3) 申請可單方面提出。

(4) 高等法院在接獲申請後，必須在切實可行範圍內盡快查究該項申請人是被非法羈留的指稱。所有根據本條進行的法律程序，均須在公開法庭進行，但如法庭在其所指明的例外情況下，命令法律程序或其某部分須以非公開形式進行，則不在此限。在每一個案中，所有就該等法律程序作出的命令及決定，以及作出該等命令及決定的理由，均須在公開法庭宣布。

(5) 高等法院在考慮申請時，如信納申請是有實據的，則必須作出以下其中一項行動 —

- (a) 命令發出人身保護令狀，指示看管申請人的人在指明日期指明時間，將申請人帶到法庭席前，並向法庭核證將申請人羈留的理由；
- (b) 命令看管申請人的人在法庭席前出庭，以提出將申請人羈留是合理的理由。

(6) 高等法院如經考慮人身保護令狀的申請後信納申請是無實據的，則可駁回申請。

(7) 人身保護令狀所致予的人必須在令狀所指明的日期，並在不遲於令狀所指明的時間 —

- (a) 在高等法院法庭席前交出指稱被羈留的人；及
- (b) 就令狀作出正式回報。

但高等法院如信納有好的理由將遵從人身保護令狀的時限延展，則可如此行事。

(8) 如因任何理由，人身保護令狀所致予的人不可能遵從令狀，則該人仍必須向高等法院作出回報，指明不可能遵從令狀的理由。

ClauseAmendment Proposed

(9) 凡某人按照人身保護令狀被帶到高等法院法庭席前，法庭必須立即查究有關該人被羈留的情況，並且除非信納羈留該人是合法的，否則必須命令將該人從羈留中釋放。

(10) 如看管被羈留者的人按照一項根據第(5)(b)款作出的命令在法庭席前出庭，但沒有使法庭信納羈留該名被羈留者是合法的，則法庭必須命令立即將該名被羈留者從羈留中釋放。

(11) 如已有人身保護令狀就某名被羈留者發出，則直至該令狀已被撤銷或有關的法律程序完結為止，看管該名被羈留者的人不得 —

(a) 容許該名被羈留者被送往香港另一羈留地方，但根據《監獄條例》(第 234 章)的授權或任何其他就將人羈留作出明文規定的成文法則的授權則除外；或

(b) 容許該名被羈留者被移離香港。

(12) 如先前以某一理由被羈留的人因人身保護令狀的發出或按照一項根據第(10)款作出的命令而獲釋放，則任何人只可在有關的情況有重大改變的情況下，始能以同一或相類的理由再度羈留該人。

(13) 任何人 —

(a) 沒有遵從人身保護令狀或本條的規定；或

(b) 違反第(12)款，

即屬犯藐視高等法院罪。

ClauseAmendment Proposed

(14) 根據普通法取得人身保護令狀的權利現予保存，並只在其與本條有抵觸的範圍內始受本條影響。

(15) 就本條而言 —

(a) 某人看管另一人，不但指該人實際看管該另一人的人身，亦指該人對該另一人的人身具有支配權或控制權；及

(b) 就代某人提出的申請而言，凡提述申請人亦包括提述該人。".

4 By adding the following as the Chinese text of the clause -

"4. 對重覆提出人身保護令的申請的限制

第 23 條現予修訂 —

(a) 在第(1)款中，廢除“刑事或民事”；

(b) 廢除第(2)款。".

5 By adding the following as the Chinese text of the clause —

"5. 人身保護令程序的上訴

第 24 條現予修訂 —

(a) 廢除“刑事或民事”而代以“一項”；

(b) 廢除“約制”而代以“羈留”。".



ClauseAmendment Proposed

New By adding the following as the Chinese text of clauses 5A and 5B

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"5A. 修訂附表(令狀)

附表現予修訂，廢除第(10)及(11)項。

5B. 修訂《最高法院規則》(表格)

《最高法院規則》(第4章，附屬法例)附錄A現予修訂，廢除表格01及02。".

6 By adding the following as the Chinese text of the clause -

"6. 《英國法律應用條例》的相應修訂

《英國法律應用條例》(第88章)的附表現予修訂，廢除第18及50項。".

**Annex XV****VETERINARY SURGEONS REGISTRATION BILL****COMMITTEE STAGE**Amendments to be moved by the Secretary for Economic ServicesClauseAmendment Proposed

3

By deleting subclause (2) and substituting -

"(2) The Board shall consist of -

- (a) a chairman;
- (b) a person who is a medical practitioner or pharmacist who is entitled to practise his profession in Hong Kong;
- (c) 2 persons who, in the opinion of the Secretary for Economic Services, represent the interests of persons who utilize veterinary services; and
- (d) 6 persons who are registered veterinary surgeons,

each of whom shall be appointed by the Secretary for Economic Services for a term not exceeding three years, but any person may be appointed for further terms not exceeding three years in each case."

<u>Clause</u>	<u>Amendment Proposed</u>
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17(3) and 18(1)	By adding "or (c)" after "3(2)(b)".
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New	By adding -
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**"29A. Transitional**

(1) Notwithstanding section 3(2)(d), the Secretary for Economic Services may appoint a veterinary surgeon who is not a registered veterinary surgeon to the Board when it is first established for such term or terms, not exceeding in the aggregate 18 months, as he determines but the appointment of such a veterinary surgeon to the Board shall not be further renewed unless by then he is registered.

(2) Section 3(3) applies to an appointment made under this section."

35	By deleting the clause and substituting -
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**"35. Interpretation**

Section 2 of the Antibiotics Ordinance (Cap. 137) is amended by repealing the definition of "veterinary surgeon" and substituting -

""registered veterinary surgeon" (註冊獸醫)  
means a veterinary surgeon registered  
under the Veterinary Surgeons  
Registration Ordinance ( of 1997)".

ClauseAmendment Proposed**35A. Control of sale and supply of substances to which this Ordinance applies**

Section 4(1)(a) is amended by adding "registered" after "registered dentist or a".

## VETERINARY SURGEONS REGISTRATION BILL

## COMMITTEE STAGE

Amendments to be moved by the Secretary for Economic Services

<u>Clause</u>	<u>Amendment Proposed</u>
12(2) and (3)	By deleting "某年中的某個時間" and substituting "某年內".
24(4)(b)	By deleting "他" where it secondly appears.
36	<p>In the Chinese text, by deleting the clause and substituting -</p> <p>"36. 禁止管有本條例適用的物質</p> <p>第 5(2)(d)及(h)條現予修訂，在“獸醫”之前加入“註冊”。"</p>
37	<p>In the Chinese text, by deleting the clause and substituting -</p> <p>"37. 釋義</p> <p>《藥劑及毒藥條例》(第 138 章)第 2(1)條現予修訂 —</p> <p>(a) 在“配發”、“配藥”的定義中，廢除“合資格”而代以“註冊”；</p> <p>(b) 廢除“合資格獸醫”的定義；</p>

ClauseAmendment Proposed

(c) 在“註冊”的定義中，加入—

“(e) 就獸醫而言，指根據《獸醫註冊條例》(1997 年第 號)妥為註冊的人;”。

38 In the Chinese text, by deleting the clause and substituting -

"38. 關於藥物的豁免

第 28(1)(a)條現予修訂，廢除“合資格”而代以“註冊”。

39 In the Chinese text, by deleting the clause and substituting -

"39. 訂立規例的權力

第 29(1)(n)條現予廢除。

40 In the Chinese text, by deleting the clause and substituting -

"40. 在批發銷售以及將物質售予某些人方面所作的豁免

第 32(c) 條現予修訂，廢除“合資格”而代以“註冊”。

41 In the Chinese text, by deleting the clause and substituting -

"41. 進行視察及本條例的強制執行

第 35(5)條現予修訂，廢除“合資格”而代以“註冊”。

## VETERINARY SURGEONS REGISTRATION BILL

## COMMITTEE STAGE

Amendments to be moved by Dr the Hon. HUANG Chen-yaClauseAmendment Proposed

1

By adding -

"(3) Notwithstanding subsection(2), section 29B shall come into operation on the day the Ordinance is published in the Gazette."

New

**"29B." Transitional**

(1) Section 2 of the Antibiotics Ordinance (Cap. 137) is amended in the definition of "veterinary surgeon" by repealing everything before "diploma" and substituting "certificate granted by any veterinary institution which requires the completion of a five year degree course, or a certificate granted by such examining body as the Governor in Council may from time to time approve."

(2) Section 2(1) of the Pharmacy and Poisons Ordinance (Cap. 138) is amended in the definition of "duly qualified veterinary surgeon" by repealing everything before "diploma" and substituting "certificate granted by any veterinary institute which requires the completion of a five year degree course, or a certificate granted by such examining body as the Governor in Council may from time to time approve;"

(3) Subsection (1) shall take effect until such time as sections 35, 35A and 36 come into operation."

ClauseAmendment Proposed

(4) Subsection (2) shall take effect until such time as sections 37, 38, 39, 40 and 41 come into operation."



## Annex XVI

## DOGS AND CATS (AMENDMENT) BILL 1996

## COMMITTEE STAGE

Amendments to be moved by the Secretary for Economic Services

<u>Clause</u>	<u>Amendment Proposed</u>
4(b)	(a) By deleting the proposed definitions of "veterinary certificate" and "veterinary surgeon".
	(b) In the proposed definition of "authorized officer", by adding "(獲授權人員)" after ""authorized officer"".
	(c) In the proposed definition of "Board", by adding "(委員會)" after ""Board"".
	(d) In the proposed definition of "Chairman", by adding "(主席)" after ""Chairman"".
	(e) In the proposed definition of "conveyance", by adding "(運輸工具)" after ""conveyance"".
	(f) In the proposed definition of "dog licence", by adding "(狗隻牌照)" after ""dog licence"".
	(g) In the proposed definition of "domestic premises", by adding "(住用處所)" after ""domestic premises"".
	(h) In the proposed definition of "keeper", by adding "(畜養人)" after ""keeper"".

ClauseAmendment Proposed

- (i) In the proposed definition of "legal officer", by adding "(律政人員)" after ""legal officer"".
- (j) In the proposed definition of "medical certificate", by adding "(醫生證明書)" after ""medical certificate"".
- (k) In the proposed definition of "operator", by adding "(操作人)" after ""operator"".
- (l) In the proposed definition of "owner", by adding "(擁有人)" after ""owner"".
- (m) In the proposed definition of "proof of identity", by adding "(身分證明文件)" after ""proof of identity"".

5

In the proposed section 3 -

- (a) in subsection (1)(g), by deleting "public places" and substituting "any specified place";
- (b) in subsections (1)(j) and (2)(c), by adding "weighing, measuring and" before "inspection";
- (c) in subsection (2)(g), by deleting "裁定" and substituting "決定".

8(a)

In the proposed section 6(1) -

- (a) by adding ", if required" after "on production of his authority";
- (b) in paragraph (a) -
  - (i) by deleting ", if required";

ClauseAmendment Proposed

- (ii) in subparagraph (i), by adding "death or" before "serious bodily injury";
- (c) in paragraph (c)(iii), by deleting  
 "嚴重危及公眾安全" and substituting "對公眾安全有嚴重危險";
- (d) in paragraph (f) -
  - (i) in subparagraph (iii), by deleting "and veterinary certificate";
  - (ii) by adding -  
 "(iiia) weigh, measure and inspect a dog;".
- 8(c) (a) In the proposed section 6(5)(a), by deleting "任何".
- (b) In the proposed section 6(6), by deleting everything after "if he suffers" and substituting "any bodily injury of a kind which reasonably requires his being admitted to a hospital for treatment as an in-patient immediately following the infliction of the bodily injury.".
- 10 (a) In the proposed section 11 -
  - (i) in subsection (2)(b), by deleting "繳款通知發出" and substituting "繳款要求作出";
  - (ii) in subsection (7), by deleting "即" and substituting "須".
- (b) In the proposed section 12(1) and (2), by deleting "繳款通知" and substituting "繳款要求".

ClauseAmendment Proposed

- (c) In the proposed section 13 -
- (i) in subsection (2), by deleting "裁定" and substituting "決定";
  - (ii) in subsection (3)(a), by deleting "香港最少 1 間" and substituting "最少 1 間香港";
  - (iii) in subsection (3)(b), by deleting "香港最少 1 個" and substituting "最少 1 個香港";
  - (iv) in subsection (3)(c), by adding "persons entitled to practise as" before "veterinary surgeons".
- (d) In the proposed section 14(3)(c), by deleting "裁定" and substituting "決定".
- (e) In the proposed section 15 -
- (i) in the heading, by deleting "裁定" and substituting "決定";
  - (ii) by deleting "裁定" where it twice appears and substituting "決定".
- (f) By adding -

**"21. Saving**

Any regulation made under section 3 immediately before the commencement of the Dogs and Cats (Amendment) Ordinance 1997 ( of 1997) ("amending Ordinance") shall continue in force and have effect as if such regulation had been made under section 3 as amended by the amending Ordinance."

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DOGS AND CATS (AMENDMENT) BILL 1996**COMMITTEE STAGE**Amendments to be moved by the Hon. Michael HOClauseAmendment Proposed

- 5 In the proposed section 3(1), by adding ", with the approval of the Legislative Council," after "Governor in Council may".