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國際法律科 THE LAW SOCIETY OF
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DEPARTMENT OF JUSTICE
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3 March, 1998

Ms Joyce Wong
Director of Practitioners Affairs
The Law Society of Hong Kong
1403 Swire House
11 Chater Road
Central
Hong Kong

Dear Ms Wong,

**Maintenance Orders (Reciprocal Enforcement)
Ordinance (Cap. 188)**

Thank you for your letter dated 27 January 1998 about the
above Ordinance.

Background

The Maintenance Orders (Reciprocal Enforcement) Ordinance
(Cap. 188) implements a system whereby maintenance orders granted in a
jurisdiction designated under Cap. 188 can be registered and enforced in
Hong Kong, and *vice versa*, on the basis of reciprocity.

Reciprocity with foreign jurisdictions can be achieved by each
jurisdiction designating the other as a reciprocating jurisdiction under its
own domestic legislation. This is the general approach adopted under a
Commonwealth Scheme. Under our Ordinance any jurisdiction (whether or
not in the Commonwealth) can be designated if it in turn extends similar
benefits to maintenance orders made by the courts here, although only
Commonwealth jurisdictions are in fact designated under our Ordinance at
present.

Section 2A(2)(b) of Cap. 1

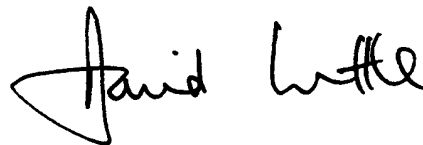
As you are aware, section 2A(2)(b) of the Interpretation and General Clauses Ordinance (Cap. 1) provides that provisions of any Ordinance that confer privileges on the United Kingdom or other Commonwealth countries, other than provisions giving effect to reciprocal arrangements, have no further effect. Consequently, maintenance orders from the jurisdictions designated under Cap 188 can still be registered and enforced in Hong Kong if these jurisdictions continue to reciprocate.

Present position

We will be making enquires with jurisdictions designated under Cap. 188 about whether maintenance orders granted in the HKSAR can still be enforced there, and will keep the Law Society informed of the results of our enquiries.

In the meantime, the United Kingdom has confirmed that maintenance orders made by a court in the HKSAR on or after 1 July 1997 can still be registered and enforced in a court in the United Kingdom under its Maintenance Orders (Reciprocal Enforcement) Act 1972. In that case, although the interpretation of the legislation is, of course, a matter for the courts, it appears that the courts here can continue to enforce maintenance orders from the UK on the basis of continuing reciprocity.

Yours sincerely,

A handwritten signature in black ink, appearing to read "David Little". The signature is written in a cursive, slightly stylized font.

(Mr David Little)
Law Officer (International Law)