

## Consultation Paper on the Legal Practitioners (Amendment) Ordinance 1998 – Subsidiary Legislation

### INTRODUCTION

1. The Legal Practitioners (Amendment) Ordinance 1998 (“the Amendment Ordinance”) (*Appendix A*), as enacted on 7 April 1998 and gazetted on 17 April 1998, introduces changes to the Legal Practitioners Ordinance (“LPO”) to, inter alia, establish a system of locally appointed and regulated notaries public in the Hong Kong Special Administrative Region<sup>1</sup>. The old system of appointment by the Archbishop of Canterbury came to an end on 30 June 1997.

2. The main features of the new system are as follows:
- (a) the Chief Justice of the Court of Final Appeal will be the appointing authority for new notaries public;
  - (b) membership of Hong Kong Society of Notaries (“HKSN”) will be compulsory for practising notaries public and optional for non-practising notaries public;
  - (c) the HKSN will have a regulatory role in relation to the practice, conduct and discipline of notaries public;
  - (d) the Chief Justice shall appoint a Notaries Public Disciplinary Tribunal Panel from which the Notaries Public Disciplinary Tribunal is to be set up; and
  - (e) Rules and Regulations dealing with the admission, conduct, discipline and removal of notaries can be made by the Chief Justice or by the HKSN subject to the approval of the Chief Justice, as appropriate.

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<sup>1</sup> Section 3 of the Amendment Ordinance seeks to repeal and replace Part IV of the LPO and Section 4 introduces new provisions to provide rule making power to the Council of the HKSN

3. The new section 73D of the LPO will empower the Council of the HKSN, subject to the prior approval of the CJ, to make rules to provide for, inter alia,:

- (a) the prerequisites for appointment as a notary public;
- (b) the professional practice, conduct and discipline of notaries public and their employees;
- (c) matters relating to practising certificates of notaries public and the fees payable;
- (d) the conduct of any inquiry by a Notaries Public Disciplinary Tribunal;
- (e) examinations to be passed by persons applying for appointment as notaries public and the fees in connection with such examinations.

4. Under Section 1(2), the Amendment Ordinance shall come to operation on a day to be appointed by the Secretary for Justice by notice in the Gazette after the rules to give effect to the purposes set out in paragraph 3(a) – (e) above are put in place. The HKSN expects this date will be within this calendar year.

5. The Council has been working closely with the Legal Policy Division and the Law Draftsman of the Administration on the drafting of the necessary Rules. The following 8 sets of draft Rules are now finalised:

- (a) Notaries Public (Examination) Rules (*Appendix B*)
- (b) Notaries Public (Qualifications For Appointment) Rules (*Appendix C*)
- (c) Admission and Registration (Amendment) Rules 2002 (*Appendix D*)
- (d) Legal Practitioners (Fees) (Amendment) Rules (*Appendix E*)
- (e) Notaries Public (Practising Certificate) Rules (*Appendix F*)
- (f) Notaries Public (Grounds for Refusal to issue Practising Certificate) Rules (*Appendix G*)
- (g) Notaries Public (Practice) Rules (*Appendix H*)

- (b) Notaries Public (Disciplinary Tribunal Proceedings) Rules (*Appendix I*)

## **MAIN FEATURES OF THE RULES**

### **PART A - APPOINTMENT AND REGISTRATION**

6. The following draft Rules are relevant regarding the appointment and registration of notaries public in Hong Kong:

- (a) Notaries Public (Examinations) Rules;
- (b) Notaries Public (Qualifications for Appointment) Rules;
- (c) Admission and Registration (Amendment) Rules; and
- (d) Legal Practitioners (Fees) (Amendment) Rules

#### **Qualifications for Appointment**

7. Under the new Section 40A of the LPO, applicants for appointment to become a notary public will have to meet the following:

- (a) the applicant's name must have been on the Roll of Solicitors continuously for the whole of the period of 7 years immediately before the date of application for appointment;
- (b) the applicant must have practised as a solicitor in Hong Kong for a period or periods in aggregate of not less than 7 years;

- (c) the applicant must have passed any examination prescribed by the Council of the HKSN<sup>2</sup> within the period of one year<sup>3</sup> ending on the date of his application for appointment, and
- (d) the applicant has complied with all requirements to be prescribed by the Council of the HKSN under the new Section 73D of the LPO<sup>4</sup>.

### Notaries Public (Examination) Rules

- 8. The Notaries Public (Examination) Rules provide for the local examination that all persons applying for appointment as notaries public will need to pass<sup>5</sup>.
- 9. Section 2 will require a candidate to apply to HKSN to sit an examination in the form approved by the HKSN and pay the prescribed fee of HK\$2,000<sup>6</sup>.
- 10. Section 5 sets out the subjects of the examination to be taken, namely, (a) bills of exchange; and (b) notarial practice as well as the syllabus of the examination. The Council will determine the syllabus from time to time.
- 11. Upon the request of the Council under section 6, the candidate will be required to pay the prescribed examination fee, which is presently set at HK\$10,000<sup>7</sup>.

<sup>2</sup> see the Notaries Public (Examination) Rules

<sup>3</sup> Under the new Section 40A(4) of the LPO, the Chief Justice has power to specify a different period

<sup>4</sup> Two additional requirements for appointment are proposed in the Notaries Public (Qualifications for Appointment) Rules as follows::

(a) that the applicant has applied for a letter of no objection from HKSN and either holds a current letter of no objection or a written notice of refusal issued by the HKSN; and

(b) that the applicant has applied for membership of the HKSN.

<sup>5</sup> Notarial examinations used to be set and marked in England before 1 July 1997, under the auspices of the Faculty Office of the Archbishop of Canterbury.

<sup>6</sup> see Schedule of the Notaries Public (Examination) Rules

<sup>7</sup> ibid

12. There will be no limit on the number of occasions on which a person may take an examination, but an applicant must pass all subjects in a single sitting (Section 7).

13. As soon as practicable after an examination, the Council will notify each candidate in writing of the examination result and issue a certificate to each person who has passed the examination.

#### **Notaries Public (Qualifications For Appointment) Rules**

14. The Notaries Public (Qualifications For Appointment) Rules will prescribe two additional requirements that those applying for appointment as a notary public will need to meet:

- (a) the applicant must either hold a current letter of no objection (“letter of no objection”) or a written notice of refusal issued by the HKSN. Either of these documents will be issued upon application to the HKSN; and
- (b) that he has applied for membership of the HKSN.

15. Section 4 will prescribe the procedures to be followed and the documents to be submitted when applying for a letter of no objection from HKSN. The application will have to be made in a form specified by HKSN with payment of the prescribed fee, which is presently set at HK\$3,000.<sup>8</sup> The following must accompany the application:

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<sup>8</sup> see Schedule of the Notaries Public (Qualifications for Appointment) Rules

- (a) certified copies of the documents and a draft of the affidavit that the applicant has to submit to the Court when applying for appointment<sup>9</sup> (see paragraph 22 below);
- (b) a letter of support endorsed by at least 30 persons of good standing of whom at least 5 shall be judicial officers and 10 shall be practising notaries public, solicitors or barristers;
- (c) a statutory declaration confirming that, at the date of the application, the applicant has not been (i) suspended from practising either as a notary public or a solicitor, or (ii) convicted of an offence involving fraud, dishonesty or moral turpitude in any jurisdiction; and
- (d) such other information as HKSJ may reasonably require to substantiate the applicant's compliance with (a) to (c).

16. HKSJ will consider the application as soon as practicable and may decide to either:

- (a) grant the application in which event HKSJ must, as soon as practicable after granting the application, issue a letter of no objection to the applicant; or
- (b) refuse the application on the grounds that
  - (i) the applicant does not comply with the application requirements as stated in paragraph 15 above; or
  - (ii) a letter of no objection previously issued to the applicant had been revoked.

17. However, before refusing any application, HKSJ must first give the applicant an opportunity to make written representations as to why the application should not be refused. If the HKSJ decides to refuse to issue a letter of no objection, it must

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<sup>9</sup> see the new section 12B of the Admission and Registration Rules introduced under Section 2 of the

accordingly notify the applicant in writing and set out the grounds on which such decision was made.

18. Section 5 will provide that a letter of no objection shall be valid for 12 months from the date on which the applicant had passed the examination, unless HKSJ shall determine otherwise.

19. If the HKSJ becomes aware of any matter that renders the applicant no longer a fit and proper person to be issued with a letter of no objection after such a letter has been issued, the HKSJ can invoke the proposed section 6 to revoke it. HKSJ is however obliged to first give the holder of the letter an opportunity to make written representations and must as soon as practicable after a decision to revoke is made, notify the person in writing of (a) the revocation; and (b) the grounds on which the decision is made.

20. Section 7 will require the applicant to apply for membership of the HKSJ when applying for a letter of no objection and prescribes the manner of application. The application has to be made in a form to be specified by the HKSJ and must be accompanied by information reasonably required by HKSJ and the application fee.

### **Application for Appointment and Registration of Notaries Public**

#### **Admission and Registration (Amendment) Rules 2002**

21. These Rules seek to insert additional provisions in Part IV of the Admission and Registration Rules to prescribe the manner in which a person may be appointed as a notary public and provide for registration of notaries public by the Registrar of the High Court.

22. A simple mechanism will be introduced under the Rules requiring an application for appointment, which may or may not involve a hearing. The application for appointment will be made to the Chief Justice by way of motion to be accompanied by payment of the prescribed application fee of HK\$1,135<sup>10</sup> and the following documents:

- (a) a certificate issued by the Registrar certifying that the name of the applicant has remained on the Roll of Solicitors for the whole of the period of 7 years immediately prior to the date of the application for appointment<sup>11</sup>;
- (b) a certificate issued by the Law Society certifying that the applicant has practiced as a solicitor for a period or periods in aggregate of not less than 7 years<sup>12</sup>;
- (c) a certificate issued by the Society of Notaries certifying that the applicant has passed any examination prescribed by the Council of the HKSN within the period of 1 year ending on the date of the application for appointment<sup>13</sup>;
- (d) subject to (e) below, a letter of no objection issued by the HKSN, if applicable;
- (e) an affidavit by the applicant including such information as:
  - the date of the applicant's admission as a solicitor;
  - the period the applicant has practised as such in Hong Kong, being in aggregate not less than 7 years,

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<sup>10</sup> see the Legal Practitioners (Fees) (Amendment) Rules 2002

<sup>11</sup> the new Section 40A(1)(a)(i) of the LPO requires that the applicant name has been on the roll of solicitors continuously for the whole of the period of 7 years immediately before the date of his application for appointment

<sup>12</sup> The new Section 40A(1)(a)(ii) of the LPO requires the applicant to have practised as a solicitor for a period or periods in aggregate of not less than 7 years

<sup>13</sup> The new Section 40A(1)(a)(iii) of the LPO requires the applicant to have, within the period of 1 year ending on the date of his application for appointment, passed any examination prescribed by



- the firm/employer in which the applicant has practised or is practising;
- the nature or types of work undertaken by the applicant;
- the date on which the applicant had passed the examination;
- the fact that the applicant had not been issued with a letter of no objection and exhibiting the refusal notice served on him by the HKSN (if applicable); and
- other particulars that the applicant considers relevant to the application

23. The new Section 12D of the Admission and Registration Rules will prescribe the manner in which an applicant can apply to the Chief Justice under the new section 40A(4) of the LPO to extend the 1-year period prescribed under section 40A(1)(a)(iii)<sup>14</sup>. The application shall be made by summons filed together with the Notice of Motion applying for appointment as a notary public and supported by an affidavit by the applicant.

24. The applicant will have to serve upon the Secretary for Justice and the HKSN the following documents as soon as practicable after the same has been filed with the Registrar:

- (a) a copy of the Notice of Motion and each accompanying document<sup>15</sup>; and
- (b) if an application for an extension of the 1-year period under section 40A(1)(a)(iii) has been made under section 40A(4) of the LPO, a copy of the summons and the affidavit.

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the Council of the HKSN. The period of 1 year is, however, subject to the power of the Chief Justice to order a different period under the new Section 40A(4).

<sup>14</sup> The new section 40A(1)(a)(iii) of LPO requires an applicant to have, within the period of 1 year ending on the date of his application for appointment, passed any examination prescribed by the Council of the HKSN.

25. The Chief Justice may determine the application under Section 40A(4) of the LPO, either before or at the same time as the application for appointment and with or without a hearing. However, as soon as practicable after a determination is made, the Registrar shall serve a copy of the relevant order on the applicant.

26. After having considered the application for appointment, the Chief Justice may, with or without a hearing:

- (a) order that the applicant be appointed as a notary public and issue a certificate of appointment<sup>16</sup>; or
- (b) dismiss the application.

27. Under the new Section 12F of the Admission and Registration Rules, a person seeking to be registered as a notary public will have to produce to the Registrar the Certificate of Appointment and pay the prescribed registration fee, which is presently set at HK\$360.<sup>17</sup>

#### **Legal Practitioners (Fees) (Amendment) Rules 2002**

28. These Rules will amend the Legal Practitioners (Fees) Rules so as to prescribe the fees payable for (a) applying for appointment as a notary public; and (b) the registration of a notary public, which are set at HK\$1,135 and HK\$360 respectively.

#### **PART B - PRACTISING CERTIFICATES – NOTARIES PUBLIC**

29. Under the new Section 40D of LPO, a practising notary public must hold either a current practising certificate as a notary public or a current practising

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<sup>15</sup> The new section 12C of the Admission and Registration Rules

<sup>16</sup> The prescribed form of Certificate of Appointment is contained in Form 11 of the Schedule of the Admission and Registration Rules

certificate as a solicitor issued by the Law Society together with a current certificate of membership issued by the Society of Notaries.

30. The manner of applying to the HKSJ for a practising certificate is set out in the new section 40E. The application for a practising certificate is to be made to the HKSJ, in a form approved by the Council together with payment of the prescribed application fee. Section 40E(6) will empower the HKSJ to refuse to issue a practising certificate on grounds prescribed by the Chief Justice.

### **Notaries Public (Practising Certificate) Rules**

31. Only those who do not hold a solicitor's practising certificate will be required to obtain a practicing certificate under these rules. The Notaries Public (Practising Certificate) Rules will specify the documents that a person will be required to submit when applying for a practising certificate as a notary public, namely, a statutory declaration (1) confirming that (a) his name is on the register of notaries public and on the roll of solicitors; (b) he is not suspended from practising as a notary public or a solicitor, whether in Hong Kong or elsewhere and (2) giving details of (a) any period he has been suspended from practising as a notary public or as a solicitor, whether in Hong Kong or elsewhere; and (b) any pending inquiry against him in connection with such practice, whether in Hong Kong or elsewhere.

32. The Rules also prescribe (a) in Section 3 the form of the Practising Certificate (Schedule 2); and (b) in Schedule 1, the fee payable for its issuance which is presently set at HK\$2,000.

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<sup>17</sup> see Section 2 of the Legal Practitioners (Fees) (Amendment) Rules 2002

33. Section 4 requires the HKSN to first give the applicant an opportunity to make representation before refusing the application and to notify the applicant in writing of the refusal decision as soon as practicable.

**Notaries Public (Grounds for Refusal to issue Practising Certificate) Rules**

34. The Notaries (Grounds for Refusal to issue Practising Certificate) Rules prescribe the grounds on which the HKSN may refuse to issue a practising certificate to an applicant.

35. Section 2(1) prescribes the two main grounds, namely:

- (a) the application does not comply with the application requirements under the Notaries Public (Practising Certificate) Rules; and
- (b) in the opinion of the HKSN, the applicant has conducted himself in a manner that is unbecoming of a notary public or is unfit to practise as such.

36. Section 2(2) gives some illustrations of the circumstances under which an applicant may reasonably be regarded as having conducted himself in a manner that is unbecoming of a notary public or where a notary public is unfit to practise as such. These include but are not limited to:

- (a) the applicant has been suspended from practising either as a notary public or a solicitor, whether in Hong Kong or elsewhere;
- (b) the applicant has been convicted of an offence involving fraud, dishonesty or moral turpitude, whether in Hong Kong or elsewhere;
- (c) the applicant has knowingly provided to HKSN false or misleading information in relation to his application for a practising certificate; or
- (d) the applicant is suffering or appears to suffer from a mental disorder within the meaning of the Mental Health Ordinance.

## **PART C - CONDUCT REGULATION**

### **Notaries Public (Practice) Rules**

37. The Notaries Public (Practice) Rules will make provision for the regulation of the professional practice and conduct of notaries public.

38. Section 3 will set out the general standard of conduct required of notaries public, which is, that notaries public must not, in the course of practising as such, do or permit to be done on their behalves anything which compromises or impairs or is likely to compromise or impairs any of the following:

- (a) their independence or integrity;
- (b) the freedom of a person to instruct a notary public of the person's choice;
- (c) the duty to act in the best interests of his client;
- (d) their own reputation or the reputation of the profession;
- (e) a proper standard of work;
- (f) the duty of care to person in any jurisdiction who may place legitimate reliance on a statement of fact contained in their notarial work.

39. Section 4 will prohibit notaries public from publicising or otherwise promoting their notarial practices.

40. Section 5 will specify the requirements for letterheads issued in connection with notarial work. Notaries public who are principals of a firm will have to ensure that the letterhead of every letter issued in connection with any notarial work carried out by the firm will state the name of every principal of the firm who practises as a notary public and is ordinarily resident in Hong Kong and describe such principal as a notary public. Notaries public who practises in his own name will have to ensure

that his name will appear on the letterhead of every letter issued in connection with his notarial work.

41. Section 6 will prohibit a notary public from sharing profits by way of a commission for business introduced by such person or otherwise with persons not being a notary public or solicitor who practise in the same firm. A notary public practising on his own account may however pay an annuity or other sum out of profits to a retired principal or predecessor or dependents or legal personal representatives of a deceased partner or predecessor.

42. Sections 7 and 8 will provide for practising notaries public to furnish specified particulars to and to notify the HKSN of any changes in such particulars within 14 days of such change. In the case of a firm of notaries public, every principal or failing whom, every person in the firm who practises as a notary public must ensure that the firm shall give notice of the following particulars to HKSN:

- (a) the name of the firm;
- (b) the names of every principal of the firm;
- (c) the name of every person in the firm who practises as a notary public;
- (d) the address of every office of the firm in Hong Kong and the telephone, fax, DX numbers and email address of such office, if available.

All other notaries public whose names have not been provided to HKSN as aforesaid must give notice to the HKSN of the address of his principal place of business in Hong Kong, and the telephone, fax and DX numbers and email address of such place, if available.

43. Section 9 will empower the HKSAN to appoint a person to inspect the books and records of a notary public relating to his notarial practice either on its own motion or as a result of a complaint being made to it for the purpose of inquiry into the conduct of the notary public. However, before launching such an investigation as a result of a complaint, the Council must first satisfy itself that the complaint is justified. As soon as practicable after completing the inspection, the person must provide the Council with a written report of the inspection, which report may form the basis of any subsequent inquiry into the conduct of the notary public. The Council is also given the power to require a complainant to deposit with it an amount to cover the costs and expenses of the inspection and the costs of the notary public being complained of and to direct the complainant to pay a specified amount towards such costs and expenses.

44. Section 10 will require every notary public to establish and maintain a register of all notarial works done by him and the particulars to be entered in the Register, which particular shall be retained for not less than 6 years. This rule does not require a notary public to retain copies of the documents that bear his notarial act.

45. Section 11 will empower the Council of the HKSAN to waive any requirements imposed by the Rules in any particular case, either unconditionally or subject to such conditions as the HKSAN may think fit to impose.

#### **PART D - DISCIPLINE OF NOTARIES PUBLIC**

46. A notary public will be liable to be disciplined in certain circumstances mentioned in the new Section 40F of the LPO by a Notaries Public Disciplinary Tribunal ("NPDT"). Upon receipt of a submission from the HKSAN or the Chief Justice under section 40H, the Tribunal Convenor shall convene a NPDT by appointing 2 notaries public and one lay person from the Notaries Public Disciplinary

Tribunal Panel. The NPDT has power to inquire into the conduct of the notary public and make such orders as it thinks fit under section 40J, which may include provision for all of any of the following:

- (a) striking off the register of notaries public the name of the notary public to whom the inquiry relates;
- (b) suspending that notary public from practice for such period as the NPDT thinks fit;
- (c) permitting the notary public to continue practice, but subject to conditions which may be imposed for up to 3 years;
- (d) payment by that notary public to the complainant of an amount not exceeding the amount paid or payable to the notary public in relation to the complainant's matters in dispute;
- (e) payment by that notary public to a fund established under rules prescribed under section 73E of an amount not greater than an amount paid out of the fund in respect of that notary public;
- (f) payment by that notary public of a penalty not exceeding \$500,000 which shall be paid into the general revenue;
- (g) censure of that notary public;
- (h) payment by any party of the costs of and incidental to the proceedings of the NPDT and the costs of any prior inquiry or investigation in relation to the matters before the NPDT, to be taxed by a Master of the High Court on a full indemnity basis, or payment of any amount that the NPDT considers is a reasonable contribution towards those costs.



## Notaries Public (Disciplinary Tribunal Proceedings) Rules

47. The Notaries Public (Disciplinary Tribunal Proceedings) Rules will provide for the conduct of disciplinary inquiry before a NPDT.

48. Under section 2, the applicant of the proceedings will be the HKSN (if the matter was submitted by the HKSN) or any person appointed by the Chief Justice under Section 3 which can also be the HKSN (if the Chief Justice decides to submit the matter himself)<sup>18</sup>.

49. Section 4 will require the clerk to a NPDT to inform the parties of the constitution of the Tribunal, its composition and address for service within 7 days after the NPDT has been constituted.

50. The NPDT should first consider the matter submitted to it and decides whether it is satisfied on the evidence that a case of disciplinary action is shown against the respondent. Section 5 will provide that if the NPDT is not so satisfied, it shall make an order<sup>19</sup> that the inquiry be discontinued without further hearing

51. If the NPDT is satisfied that a case of disciplinary action can be shown, Section 6 requires it to fix the date, time and place of the first hearing of the inquiry which should be as soon as practicable. The clerk should then, not less than 21 days before the date of the first hearing, notify the parties in writing of such hearing and serve on the respondent copies of the relevant documents containing particulars of the conduct to be inquired into and of any associated allegations of misconduct. Section 11 will provide that no proceedings can be withdrawn after a notice of first hearing has been served, unless otherwise directed by a NPDT.

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<sup>18</sup> The new section 40H(2) empowers the Chief Justice to submit a matter to the Tribunal Convenor if the Council of the HKSN does not do so within 6 months after receipt of a complaint made to it.

<sup>19</sup> Under Section 40J(2) of the LPO

52. Section 7 empowers the NPDT to proceed with the inquiry if either party should fail to appear at a hearing after a notice of hearing has been served and to have the option to order the inquiry be discontinued if the absent party is the applicant.

53. Various provisions are proposed as to the procedure to be adopted in the Tribunal inquiry and as to rules regarding admissibility of evidence. Basically, subject to the LPO and other provisions of the Notaries Public (Disciplinary Tribunal Proceedings) Rules, section 17 will empower the NPDT to determine its own procedure and provides that the Evidence Ordinance shall apply to disciplinary proceedings. Section 9 will empower the NPDT to rely and act upon affidavit evidence and to require the deponent to attend hearings to give oral evidence and to be cross-examined. Section 8 is to provide that the parties can be legally represented at an inquiry.

54. A NPDT will have power to make various orders on completion of its inquiry under the new Section 40J of the LPO. The order will have to be filed with, inter alia, the Secretary of the HKSN<sup>20</sup> and the Registrar<sup>21</sup>. Section 10 will provide for the time for making, serving and filing of such an order. The NPDT will be able to make the order on the day on which the inquiry is completed or at a later date in which event the clerk must notify the parties of the date, time and place fixed for doing so. The clerk will have 4 days in which to serve the order on the parties and 14 days to file the same with the Secretary of the HKSN and the Registrar.

55. Section 12 will provide power for the NPDT to adjourn the proceedings.

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<sup>20</sup> the new Section 40J(3) of the LPO

<sup>21</sup> the new Section 40L(2)

56. Section 13 will require the Tribunal proceedings to be recorded by shorthand notes or a sound recording. These should be made available for inspection by the parties who are also entitled to take copies of the same upon payment of reasonable charges.

57. Section 14 will provide for the mode of service of any notice or document under the Notaries Public (Disciplinary Tribunal Proceedings) Rules.

58. Section 15 will empower the NPDT to extend or abridge the time requirements in the Notaries Public (Disciplinary Tribunal Proceedings) Rules.

59. Section 16 will provide for the retention of documents by the Secretary of the tribunal or the clerk pending appeal by the parties and thereafter by the Secretary of the HKSJ for a period of 3 years after the date of their receipt.

60. Section 18 will prescribe the forms of summons to be issued under the hand of the chairman of the NPDT under the new section 40K(1) of the LPO to compel the attendance of witnesses or production of documents. The form appears in the Schedule to the Rules.

## **PART E - PROFESSIONAL INDEMNITY**

61. Under Section 40D(1)(D) of the LPO, a notary public has to comply with any indemnity rules made by the Council under Section 73E or is exempt from complying with them. Section 73E of the LPO enables the Council of the HKSJ to make rules concerning indemnity against loss arising from claims in respect of any civil liability incurred by a notary public or former notary public or his/her employee in connection with the notarial practice.

62. The Council does not see the need for any indemnity rules to be enacted for the moment and will not require any members to obtain separate indemnity coverage for the time being.

## CONSULTATION

63. This Consultation Paper is issued for discussion. HKSJ invites comments on the 8 sets of draft Rules. Save for the Notaries Public (Practice) Rules, the intention is for all other 7 sets of Rules to come into operation on the day appointed for the Amendment Ordinance (except sections 1 and 7). The Notaries Public (Practice) Rules will come into operation on a later date (the 91<sup>st</sup> day after the appointed day for the commencement of the Amendment Ordinance) to enable members of the HKSJ to comply with the provisions stipulated there.

64. The Report is prepared for consultation purpose and is not intended to create any legal rights or obligations.

65. **The Council of the HKSJ welcomes any comments on the Report. Please forward your views to Ms. Christine W. S. Chu, the Hon. Secretary of the HKSJ on or before 31 August 2002 in either of the following ways-**

- by mail, at 3/F., Wing On House, 71, Des Voeux Road, Central, Hong Kong
- by fax, at 28450387

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- Your comment may be quoted or referred to and the source will be disclosed unless you have indicated otherwise.

The Council

The Hong Kong Society of Notaries

25 July 2002