

For information

27 March 2006

**Legislative Council Panel on
Administration of Justice and Legal Services**

Limitation of Liability

Introduction

At its meeting on 31 March 2005, the Panel considered the Research Report on “Limited Liability Partnership and Liability Capping Legislation for the Practice of Law in Selected Places” (RP04/04-05) and a submission made by the Hong Kong Institute of Certified Public Accountants on professional liability reform in Hong Kong.

2. The Panel continued discussion on the relevant issues at its meeting on 23 May 2005, with particular reference to the report prepared by the Law Society’s Working Party on Limited Liability Partnership. DoJ advised the Panel that the Government would consider internally whether to carry out further studies, and undertook to report back to the Panel.

Proposals for limiting liability

3. The Government has considered proposals for the limitation of liability to pay compensation put forward by organisations representing various sectors including the legal, accounting and medical professions.

4. The proposals included introduction of proportionate liability, either generally or in some modified form; the introduction of limited liability partnerships; and the introduction of caps on the amount of compensation to be awarded.

5. An argument common to the representations by the organisations representing the three professions was that levels of compensation and the cost of professional indemnity insurance impose onerous burdens on those professions.

6. On the other hand the proposals to introduce proportionate liability and to introduce caps on compensation awarded would depart from the long held common law principle that the full cost of wrong doing should be borne by the wrong doer. All of the proposals would have the effect (to a greater or lesser extent) of shifting liability from the professional service providers to the consumers.

7. The professional sectors have been given recognition and a degree of protection under the law. This must be balanced against the need to safeguard the interests of consumers and service users.

No further study of proposals to limit liability

8. After consideration the Government has concluded that it will not at this time consider upsetting the balance. No further studies will be carried out into the proposals for limitation of liability, during the remainder of the Chief Executive's term of office.

Department of Justice

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