

17 July 1997

**Legal Advisory and Conveyancing Office**  
**Circular Memorandum No.25**

**Lands Department Consent Scheme -**  
**Effect of Legal Services Legislation**  
**(Miscellaneous Amendments) Ordinance 1997**

Section 14 of the above Ordinance amends S.34A(3) and (4) of the Conveyancing and Property Ordinance, Cap.219, to read as follows:-

- “(3) Any provision of an agreement to which this section applies is void in so far as it would, but for this section, have the effect of requiring the purchaser or sub-purchaser of the undivided shares in the relevant land to pay the costs of the vendor or sub-vendor in or in relation to -”
- “(4) Subsection 3 has effect only where the vendor and the purchaser, or the sub-vendor and the sub-purchaser, under the agreement have separate legal representation”.

In view of these provisions, Clause 11(2)(b) of the standard residential Agreement for Sale and Purchase should be amended to read as follows:-

- “(b) instruct any firm of solicitors of his choice to act for him in the Agreement for Sale and Purchase and subsequent Assignment to the Purchaser and in the event that the Purchaser instructs solicitors other than the vendor’s solicitors to act for him, each party shall pay its own solicitors’ costs of and incidental to this Agreement and the subsequent Assignment to the Purchaser (including all legal costs of and incidental to the preparation, completion, stamping and registration of this Agreement and the subsequent Assignment)”.

Similar amendments should be made to Clause 11(a) in the form for Private Sector Participation Scheme units and in Clause 11(c) of non-residential Agreements for Sale and Purchase.

The amendments to Cap.219 came into force on Monday 30 June 1997 and do not affect Agreements for Sale and Purchase entered into before that date. The revised clauses in the Agreements for Sale and Purchase are to be adopted with immediate effect; any Agreements for Sale and Purchase entered into on or after 30 June 1997 but before promulgation of this Circular Memorandum where consent has already been issued, can be

amended to incorporate the new clauses set out above and do not require my specific approval in each case.

While my Office does not approve any form of preliminary agreement, Solicitors will note that the legislation also includes preliminary agreements by s.14(3)(c).

(T E Berry)  
Principal Solicitor  
for Director of Lands

To: All Solicitors

bcc LACO 7/316/61 XV