

**OFFENCES WHICH MAY BE DEALT WITH
BY MEANS OF AN INTERMEDIATE SANCTION**

NOTE: For any of the offences listed below, the Council has complete discretion as to the action to be taken for breach. It may resolve to take no action, or to issue a letter of regret or disapproval, or to agree to deal with the matter by way of intermediate sanction, or to refer the matter to a Solicitors Disciplinary Tribunal for a full hearing.

LEGAL PRACTITIONERS ORDINANCE

Section 8 “Accountant’s reports”

- Failure to submit an accountant’s report within the time limits prescribed in subsections (1) and (2)

SOLICITORS’ PRACTICE RULES

Rule 2B “Letterhead”

(After the firm has been given the opportunity to rectify the breach and has not done so):

- Failure to comply with mandatory requirements set out in subrule (2)
- Where a firm opts to state on its letterhead any of the matters set out in subrule (3), failure to satisfy the pre-conditions to do so

Rule 4A “Supervision of office”

- Breach of subrule (a) requiring a solicitor with a practising certificate to be in attendance at an office during the hours it is open to the public
- Breach of subrule (b) requiring the office to be attended each day by a solicitor holding an unconditional practising certificate

Rule 4B “Control of employment of unqualified persons”

- Temporary breach of the ratio of unqualified person to solicitors in subrule (1) without having sought a waiver from the Council
- Breach of subrule (2) by employing an unqualified person who is also employed by another firm without Council approval
- Breach of subrule (4) by allowing an unqualified person to carry a name card in the name of the firm without a clear description of his job capacity

Rule 5 “Particulars relating to firms”

- Failure to provide the Society with the particulars required in subrules (1), (1A), (2) or (3)

Rule 5D “Steps to be taken in criminal matters”

- Breach of subrule (a) – failure to issue a confirmation letter to the client
- Breach of subrule (b) – failure to notify the client in writing of change in the information and obtain written consent
- Breach of subrule (c) – failure to deliver to deliver account to the client at the end of the case

- Breach of subrule (d) – failure to deliver receipt to client for fees or costs and disbursements
- Breach of subrule (e) – failure to deliver backsheet to counsel
- Breach of subrule (f) – payment to counsel without receipt of a fee note
- Breach of subrule (g) – failure to retain copies of documents for at least two years after completion

SOLICITORS (PROFESSIONAL INDEMNITY) RULES

- Failure to submit an accountant’s certificate under rule 8(1)(a)

CONTINUING PROFESSIONAL DEVELOPMENT RULES

- Failure to comply with rule 5 (provided that the breach has already been rectified within a very short period after the date for compliance with the Rules)

PRACTICE DIRECTIONS

PD B.1 “Solicitors’ Bill of Costs

- Failure to render an itemized bill to a client upon request

PD C.3 “Steps to be taken in criminal matters

- Breach of subparagraph (2) – failure to carry the confirmatory letter from the client when at court

PD D.2 “Signature of post”

- Breach of subparagraph (1) – failure to ensure letters in the course of professional practice are signed by an approved signatory

PD D.5 “Sharing an office and staff”

- Breach of subparagraph (4) – failure to have adequate signs in common areas

PD D.7 “Cessation of practice

- Breach of subparagraph (1) – failure to notify the Society 6 weeks prior to cessation date
- Breach of subparagraph (2) – failuer to appoint an agent

PD D.8 “Format of electronic communications

- Failure to comply with mandatory requirements set out in subparagraph (1)
- Breach of subparagraph (2) – issue of an e-mail by unapproved person

PD F.1 “Instructions to counsel”

- Breach of subparagraph (1) – failure to supply backsheets (see Solicitors’ Practice Rule 5D)

PD G. “Professional stationery”

- Breach of PD G.1(1) – failure to state the names of principals
- Breach of PD G.1(2) – failure to specify non-resident partners
- Breach of PD G.1A(1) – failure to state foreign lawyer’s jurisdiction

- Breach of PD G.2(1) – stating “PCLL” or similar on namecard

PD H.1 “Election addresses”

- Breach of subparagraph (2) – stating name or address of firm or advertising work as solicitor

FOREIGN LAWYERS PRACTICE RULES

Rule 5 “Business letters”

- Failure to comply with the mandatory requirements set out in subrules (1) or (2)

Rule 6” Supervision of office”

- Breach of subrule (a) or requiring a foreign lawyer to be in attendance at the office during the hours it is open to the public
- Breach of subrule (b) requiring the office to be attended each day by a foreign lawyer holding an unconditional certificate of registration

Rule 7 “Sharing an office and staff”

- Breach of subrule (4) – failure to have adequate signs in common areas

Rule 8 “Control of employment of unqualified persons

- Temporary breach of subrule (1) without having sought a waiver from the Council
- Breach of subrule (3) by allowing an unqualified person to carry a name card in the name of the firm without a clear description of his job capacity

Rule 9 “Reporting of particulars

- Failure to provide the Society with the particulars required in subrules (1), (1A), (2) or (3)

VOLUME 1 OF “THE HONG KONG SOLICITORS’ GUIDE TO PROFESSIONAL CONDUCT”

Principle 13.09 “When an oath must not be administered”

- Administering an oath or affirmation or taking a declaration in proceeding or matter in which the solicitor or his firm is acting for any of the parties, or is otherwise interested

Principle 14.02 “Performance of undertakings”

- Breach of undertaking in conveyancing matters (provided that the breach has been rectified and is not continuing)