

LN265-E

L. N. 265 of 2000

Solicitors' Practice (Amendment) (No. 2) Rules 2000

(Made by the Council of The Law Society of Hong Kong under section 73 of the Legal Practitioners Ordinance (Cap. 159) with the prior approval of the Chief Justice)

1. Rule added

The Solicitors' Practice Rules (Cap. 159 sub. leg.) are amended by adding---

"5AA. Particulars relating to sole practitioner

(1) A solicitor who commences practice as a solicitor in his own name or under a firm name, where he is the sole proprietor of the firm, (in this rule referred to as a "sole practitioner") shall---

(a) ensure that, at the commencement of his practice, there is in effect a testamentary provision which provides---

(i) for the management of his practice as a sole practitioner after his death, pending the disposal or cessation of that practice; and

(ii) for such management to be carried out by a person who is a solicitor holding an unconditional practising certificate and who has consented in writing to so manage that practice;

(b) within 14 days of commencement of practice as a sole practitioner advise the Society in writing in a form approved by the Society of the following particulars---

(i) the name, address, telephone number, fax number, telex number and DX number, where appropriate, of---

(A) the executor of the will which contains the testamentary provision as required under paragraph (a); and

(B) the solicitor mentioned in paragraph (a)(ii);

(ii) if that will has been lodged with another person by the sole practitioner, the name and address of that person.

(2) A solicitor who practises as a sole practitioner shall---

(a) ensure that a testamentary provision as required under subrule (1)(a) remains in effect at all times during his practice as a sole practitioner, except for a period of 14 days after any change in the solicitor mentioned in subrule (1)(a)(ii);

(b) advise the Society in writing in a form approved by the Society within 14 days of such occurrence of any change in any of the particulars referred to in subrule (1)(b).

(3) Except upon formal resolution of the Council, the particulars furnished under

subrule (1) (b) or (2) (b) shall not be disclosed by the Secretary General to any person other than---

- (a) Council members;
- (b) members of committees established by the Council;
- (c) a Solicitors Disciplinary Tribunal;
- (d) the Tribunal Convenor of the Solicitors Disciplinary Tribunal Panel;
- (e) counsel, accountants, solicitors and agents appointed by the Society; and
- (f) employees of the Society,

whose proper business it is to have access to such particulars for the purposes of---

- (i) ascertaining whether the provisions of these rules or any other laws or regulations concerning the sole practitioner have been complied with; or
- (ii) dealing with the disciplinary consequences of any alleged breach of those provisions. "

## 2. Transitional

(1) Rule 5AA of the principal Rules as added by these Rules applies to a solicitor who is in practice as a sole practitioner immediately before the commencement of these Rules as it applies to a solicitor who commences such practice after that commencement.

(2) For the purposes of subrule (1), a solicitor who is in practice as a sole practitioner immediately before the commencement of these Rules shall be regarded as commencing practice as a sole practitioner at the commencement of these Rules.

Approved this 31st day of August 2000.

Andrew LI

Chief Justice

Made this 31st day of August 2000.

Herbert H. K. TSOI

Shing Hing IP

Paul C. Y. TAN

Mark J. BRADLEY

Junius K. Y. HO

Lester G. HUANG

Anson K. C. KAN

Vincent W. S. LIANG

Michael J. LINTERN-SMITH

Michael S. L. LIU

Amy Y. K. LIU

Peter C. L. LO

Billy W. Y. MA

## Explanatory Note

These Rules amend the Solicitors' Practice Rules (Cap. 159 sub. leg.)---

(a) to provide that a solicitor who commences practice as a sole practitioner shall ensure that there is in effect a testamentary provision which provides for the management of his practice as a sole practitioner after his death, pending the disposal or cessation of that practice;

(b) to require the sole practitioner to provide The Law Society of Hong Kong ("the Society") certain particulars about the will which contains the testamentary provision; and

(c) to provide for the confidentiality of such particulars furnished to the Society.