

HC/sp/SG179

2846 0503

17 April 2003

Mrs Percy Ma
Clerk to LegCo Panel on Administration of
Justice and Legal Services
Legislative Council
Legislative Council Building
8 Jackson Road
Central, Hong Kong

Dear Mrs Ma,

Re: Proposed amendments to the Foreign Lawyers Practice Rules

Please find enclosed at **Annexure 1** for the assistance of the Panel an advanced copy of the English text of the Foreign Lawyers Practice (Amendment) Rules 2003.

Under the Solicitors' Practice Rules which apply to local firms, it is provided that the Chinese text of the name and description of a firm must correspond with the English text if it is to be included on the firm's letterhead (rule 2B(3)(f) of the Solicitors Practice Rules - **Annexure 2**).

There is however no similar regulatory requirement relating to the name of a registered foreign law firm in the Foreign Lawyers Practice Rules. As a result, there is no statutory basis for regulating the translated version(s) of the name of a foreign firm, which may be in Chinese or other languages.

The Council of the Society therefore proposed that the Foreign Lawyers Practice Rules be amended so that if the name and the description of the foreign firm appear in more than one language on the firm's letterhead, each version of the name and description must correspond with the other version(s).

The Rules have been approved and signed by the Chief Justice. It is intended that the Rules be gazetted on 2 May 2003 after they have been signed by the members of the Council.

Yours sincerely,

Heidi Chu
Assistant Director
Regulation and Guidance

c.c. Mr Patrick Moss
Secretary General

Encl
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ANNEXURE /

FOREIGN LAWYERS PRACTICE (AMENDMENT) RULES 2003

(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. Commencement

These Rules shall come into operation on a day to be appointed by the President of the Council of The Law Society of Hong Kong by notice published in the Gazette.

2. Business letters

Section 5 of the Foreign Lawyers Practice Rules (Cap. 159 sub. leg. R) is amended by adding -

“(1A) A principal of a foreign firm shall ensure that if the name or any other description of the firm is stated in more than one language on any business letter issued in connection with the firm’s practice, each version of the name or description corresponds to the other version or versions of the name or description.”.

Approved this 15th day of April 2003.

Andrew Li

Chief Justice

Made this day of 2003.

Explanatory Note

These Rules amend section 5 of the Foreign Lawyers Practice Rules (Cap. 159 sub. leg. R) and require that where the name or any other description of a foreign firm is stated in more than one language on any business letter issued in connection with that firm's practice, each version of the name or description shall correspond to the other version or versions of the name or description. (Note: The expression "foreign firm" is defined in section 2 of the Legal Practitioners Ordinance (Cap. 159).)

- (c) the use of a firm name-
 - (i) in use at the date of the coming into operation of this rule; or
 - (ii) approved in writing by the Council.

2B. Letterhead

- (1) (Omitted as spent)
- (2) A firm shall state on the letterhead of all letters issued, whether by post or by facsimile, in connection with the firm's practice -
 - (a) the name and address of the firm;
 - (b) unless otherwise determined by the Council, the names of each of the principals of the firm who -
 - (i) has been admitted in Hong Kong as a solicitor;
 - (ii) holds a current practising certificate; and
 - (iii) is ordinarily resident in Hong Kong;
 - (c) in the case of a firm forming part of an association or Association, reference to the office or offices of the other firm or firms in the association or Association such that -
 - (i) the first-mentioned firm's name is more prominent than the name or such other firm or firms;
 - (ii) such other firm or firms is or are clearly distinguished from any other firm that is not in the association or Association; and
 - (iii) any reference to the office or offices of the firm or firms in the association or Association is clearly distinguished from the branch office or offices of the first mentioned firm referred to in subparagraph (i);
- (3) A firm may state on the letterhead of all the letters issued in accordance with subrule (2) -
 - (a) the name of any principal of the firm who is not ordinarily resident in Hong Kong, if and only if there is a description of the person as being non-resident in Hong Kong;
 - (b) the name of any assistant solicitor, associate or consultant in the firm who is not a principal of the firm, if and only if -
 - (i) he holds a current practising certificate; and
 - (ii) his status as such is clearly indicated;
 - (c) the name of any foreign lawyer employed by the firm, if and only if there is a description of the person as a person qualified to practise the law of a jurisdiction other than Hong Kong;

- (d) in respect of any person named in the letterhead, any honour or title held by him, including -
 - (i) Notary Public;
 - (ii) Justice of the Peace;
 - (iii) China-Appointed Attesting Officer;
- (e) in respect of any person named in the letterhead, any academic or professional qualification held by him, not being examination qualification which leads to such qualification;
- ✓ (f) the Chinese text of the name and description of the firm, if and only if it corresponds with the English text;
- (g) reference to other branch offices; or
- (h) in the case of a firm associated with an overseas firm or firms, any reference to any other firm or firms with which it is associated, if and only if such reference is in less prominent type and is clearly distinguished from the firm's branch office or offices and the office or offices of the other firm or firms in the association or Association.

3. Fee cutting

A solicitor shall not hold himself out or allow himself to be held out directly or indirectly and whether or not by name as being prepared to do professional business in contentious matters at less than the scale fixed by Rules of Court or by any other enactment or in any other matters at less than such scale as may from time to time be fixed by any enactment or by the Society.

4. Sharing with non-qualified persons

A solicitor shall not share or agree to share with any person not being a solicitor practising in Hong Kong his profit costs in respect of any business whether by way of paying or agreeing to pay a commission on business introduced by any such person not being a solicitor, or otherwise:

Provided that-

- (a) a solicitor carrying on practice on his own account may agree to pay an annuity or other sum out of profits to a retired partner or predecessor or the dependants or legal personal representative of a deceased partner or predecessor;
- (b) a solicitor who has agreed in consideration of a salary to do the legal work of an employer who is not a solicitor may agree with such employer to set off his profit costs received in respect of contentious business from the opponents of such employer or the costs paid to him as the solicitor for such employer by third parties of non-contentious business, against the salary so paid or payable to him and the reasonable office expenses incurred by such employer in connection with such solicitor and to the extent of such salary and expenses; and
- (c) a solicitor whose firm is a party to an Association may share fees and profits with the foreign firm or firms in that Association.