

For discussion
on 15 December 2009

Panel on Administration of Justice and Legal Services

Limited liability partnerships for legal practice

Background

At the meeting of the Panel on Administration of Justice and Legal Services on 25 May 2009, the Administration undertook to report to the Panel on the legislative proposals for the introduction of limited liability partnerships (LLP) for solicitors' practices in Hong Kong. This paper provides a brief summary of the legislative proposals which have been sent to the Law Society for consultation.

The legislative proposals

2. The Administration has formulated legislative proposals to implement LLPs, which recognise the need to strike a proper balance between limiting professional liability on the one hand and safeguarding consumer interests on the other. It is proposed that amendments will be made to the Legal Practitioners Ordinance (Cap. 159) to implement such proposals.

3. In November 2009, the Administration sent a draft Bill to the Law Society, the Bar Association, the Consumer Council and the Judiciary to seek their views. The draft Bill contains the following major proposals:

- (a) Subject to certain exceptions, a partner in an LLP is not, solely by reason of being such a partner, liable for any debts, liabilities or obligations of the LLP that arise from any wrongful act committed by any other partner of the firm.
- (b) A new solicitor firm intending to form an LLP must by written notice inform the Law Society, at least 7 days before the intended date of commencement of business, of the name of the LLP; the names of its principals; the business address; the date on which the firm is intended to commence business; and other particulars as may be prescribed by rules made by the Council of the Law Society ("the Council").

- (c) An existing solicitor firm intending to convert to an LLP must by written notice inform the Law Society, at least 7 days before the intended date of conversion to LLP, of the name of the firm; the names of its principals upon the conversion; any change in the business address; the date on which the conversion is intended to take effect; and other particulars as may be prescribed by rules made by the Council.
- (d) An LLP must include the words “有限責任合夥” as part of its Chinese name, and include the words “Limited Liability Partnership” or the abbreviation “LLP” or “L.L.P.” at the end of its English name.
- (e) An LLP must exhibit its name at or outside its office or business premises and set out its name in all its correspondence, notices, invoices, bills of costs and official publications and websites in a clearly visible and legible manner.
- (f) A solicitor firm must, within 30 days after it becomes an LLP, inform its existing clients by a written notice of the fact and effects of its becoming an LLP.
- (g) The Council must keep a list of solicitor firms that are LLPs, which must contain the name and business address of each LLP and the date of its becoming or ceasing to be an LLP. The list must be available for public inspection at the office of the Council during office hours without payment. The Council should also make available for public inspection an extract from the past records showing the specified particulars of solicitor firms that were once but are no longer LLPs at the time of inspection.

Recent developments

4. We received the Law Society’s comments on the draft Bill on 25 November 2009. We are still awaiting responses from the other consultees, which will be taken into account in our finalisation of the legislative proposals.

5. Insofar as the Law Society’s comments are concerned, there remain a number of outstanding issues to be resolved before the draft Bill can be further revised and finalized. These issues include, but are not limited to, sanctions for LLP firms that have failed to comply with the consumer protection

measures; whether the consumer protection measures should be placed in the primary legislation or in the subsidiary legislation; and whether the Law Society should enjoy statutory immunity for errors or omissions in the supply of information under the list of LLPs. Further consultation will be held with the Law Society to resolve these outstanding issues.

The legislative timetable

6. Given that responses from certain bodies that we have consulted are yet to be received and further discussion has to be held with the Law Society, we expect that the proposed Bill can only be introduced into the Legislative Council in the second half of the 2009 – 2010 session.

Department of Justice
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