

DEPARTMENT OF JUSTICE

Legal Policy Division

1/F., High Block  
Queensway Government Offices  
66 Queensway, Hong Kong

Fax: 852-2180 9928

律政司

法律政策科

香港金鐘道 66 號  
金鐘道政府合署高座 1 樓



圖文傳真：852-2180 9928

本司檔號 Our Ref.: LP 3/00/12C, L/M (1) to LP 3/00/12C  
來函檔號 Your Ref.: KLCB2/BC/6/11  
電話號碼 Tel. No.: 2867 4328

**By fax: 2869 6794**

28 May 2012

Ms Amy Yu  
Clerk to Bills Committee  
Legislative Council  
Legislative Council Complex  
1 Legislative Council Road  
Central  
Hong Kong

via Ms Adeline Wan, DSG (G)(Ag.)

Dear Ms Yu,

**Bills Committee on  
Statute Law (Miscellaneous Provisions) Bill 2012  
2<sup>nd</sup> Meeting on 29 May 2012**

We refer to our letter of 24 May 2012.

In addition to the two proposed CSAs set out in Annex C to our paper entitled "Follow up on the issues raised at the meeting on 22 May 2012" (LC Paper No. CB(2)2152/11-12(02)), the Administration would like to introduce further CSAs to the Bill pursuant to a request made by the Law Society on 23 May 2012 ("new CSAs"). The new CSAs are related to solicitor corporations.

To facilitate Members' consideration of the new CSAs at the Bills Committee meeting tomorrow, we enclose:

- (a) the bilingual versions of the latest CSAs;
- (b) a copy of the marked up English version of the relevant provisions in the Legal Practitioners Ordinance (Cap. 159) incorporating the amendments made by the Legal Services Legislation (Miscellaneous Amendments) Ordinance 1997 (Ord. No. 94 of 1997) and the new CSAs; and

(c) a copy extract of the 97 Ordinance.

Thank you for your kind assistance in this matter.

Yours sincerely,

A handwritten signature in black ink, appearing to be 'Ida Chan', written in a cursive style.

(Miss Ida Chan)  
Senior Government Counsel  
Legal Policy Division

#372541

Statute Law (Miscellaneous Provisions) Bill 2012

**Committee Stage**

Amendments to be moved by the Secretary for Justice

Clause

Amendment Proposed

1(2) By deleting “subsection (3)” and substituting “subsections (3) and (4)”.

1 By adding—

“(4) Section 72(2) comes into operation on the day on which section 157 of the Lifts and Escalators Ordinance (8 of 2012) comes into operation.”.

33

By adding—

“(6A) Schedule 1, after item 25—

**Add**

“25A. Section 20(3) Repeal everything after  
“principal” and substitute—

“without the special  
leave in writing of the  
Society unless the  
person—

(a) is practising as a  
solicitor on the  
person’s own  
account or in  
partnership; or

(b) is a director of a

solicitor  
corporation.””.

(6B) Schedule 1—

**Repeal items 26 and 27.”.**

33

By adding—

“(15A) Schedule 1, item 88, column 2—

**Repeal**

“and (3)”.

(15B) Schedule 1, Chinese text, item 88, column 3, before “律師”—

**Add**

“法院在”.

(15C) Schedule 1, after item 88—

**Add**

“88A. Section 67(3) Add “or solicitor corporation  
or the foreign lawyer” after  
“the solicitor”.”.

(15D) Schedule 1, item 90, column 3, new section 67A(1),  
after “corporation” (wherever appearing)—

**Add**

“or the foreign lawyer”.

(15E) Schedule 1, item 90, column 3, new section 67A(2),  
after “solicitor corporation”—

**Add**

“or the foreign lawyer”.

(15F) Schedule 1, item 90, column 3, new section 67A(3)(a),  
after “solicitor corporation”—

**Add**

“or the foreign lawyer”.

(15G) Schedule 1, item 90, column 3, new section 67A(4),  
after “solicitor corporation”—

**Add**

“or a foreign lawyer”.

72

(a) By renumbering the clause as clause 72(1).

(b) By adding—

“(2) The Lifts and Escalators (Safety) (Fees) Regulations  
(Cap. 327 sub. leg. A) is repealed.”.

Schedule By adding after item 10—

“10A. Hong Kong Airport (Control of Obstructions)  
(Consolidation) Order (Cap. 301 sub. leg. A).”.

《2012年成文法(雜項規定)條例草案》

委員會審議階段

由律政司司長動議的修正案

條次

建議修正案

1(2) 在“第(3)”之後加入“及(4)”。

1 加入 —

“(4) 第 72(2)條自《升降機及自動梯條例》(2012 年第 8 號)第 157 條開始實施的日期起實施。”。

33 加入 —

“(6A) 附表 1, 在第 25 項之後 —

加入

“ 25A. 第 20(3)條

廢除在“除非”之後  
的所有字句而代  
以 —

“該人 —

(a) 是獨自  
或以合  
夥形式  
執業為  
律師；  
或

(b) 是律師  
法團的  
董事。”  
。”。

(6B) 附表 1 —

廢除第 26 及 27 項。”。

33

加入 —

“ (15A) 附表 1, 第 88 項, 第 2 欄 —

廢除

“及(3)”。

(15B) 附表 1, 中文文本, 第 88 項, 第 3 欄, 在“律  
師”之前 —

加入

“法院在”。

(15C) 附表 1, 在第 88 項之後 —

加入

“ 88A. 第 67(3)條

在所有“律師”之後  
加入“或律師法團  
或外地律師”。”。

(15D) 附表 1, 第 90 項, 第 3 欄, 新的第 67A(1)條,  
在所有“法團”之後 —

加入

“或外地律師”。

(15E) 附表 1，第 90 項，第 3 欄，新的第 67A(2)條，  
在“律師法團”之後 —

加入

“或外地律師”。

(15F) 附表 1，第 90 項，第 3 欄，新的第 67A(3)(a)  
條，在“律師法團”之後 —

加入

“或外地律師”。

(15G) 附表 1，第 90 項，第 3 欄，新的第 67A(4)條，  
在“律師法團”之後 —

加入

“或外地律師”。”。

72

(a) 將該條重編為第 72(1)條。

(b) 加入 —

“(2) 《升降機及自動梯(安全)(費用)規例》(第 327  
章，附屬法例 A)現予廢除。”。

附表

在第 10 項之後加入 —

“10A. 《香港機場(障礙管制)(綜合)令》(第 301 章, 附屬法例 A)。”。

Section:	20	Restrictions on employing trainee solicitors	L.N. 362 of 1997	01/07/1997
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(1) No person who has not at some time been in continuous practice as a solicitor in Hong Kong for a period of 5 years shall, without the special leave in writing of the Society, employ a trainee solicitor or act as his principal. (Amended 25 of 1968 s. 6)

(2) No person shall employ or act as principal for more than 2 trainee solicitors at the same time.

(3) No person shall employ a trainee solicitor or act as his principal ~~unless he is practising as a solicitor on his own account or in partnership, without the special leave in writing of the Society. — (Replaced 60 of 1994 s. 21) without the special leave in writing of the Society unless the person —~~

(a) is practising as a solicitor on the person's own account or in partnership; or

(b) is a director of a solicitor corporation.

(4) If any solicitor employs or acts as principal for a trainee solicitor in contravention of any of the provisions of subsection (1), (2) or (3), the Council may terminate the trainee solicitor's contract upon such terms as it thinks fit. (Amended 52 of 1980 s. 2)

(4A) It is not a contravention of subsection (1), (2) or (3) for a person other than a solicitor to employ a trainee solicitor so long as—

(a) the trainee solicitor is assigned to a solicitor who acts as his principal;

(b) the solicitor who acts as principal is qualified under and complies with subsections (1), (2) and (3); and

(c) the solicitor is employed by the same person as the trainee solicitor. (Added 60 of 1994 s. 21)

(5) Any—

(a) solicitor; or

(b) qualified person,

serving in the—

(i) Department of Justice; or (Amended L.N. 362 of 1997)

(ii) the Legal Advisory and Conveyancing Office of the Lands Department; or (Replaced 8 of 1993 s. 20. Amended L.N. 291 of 1993)

(iia) the Land Registry; or (Added 8 of 1993 s. 20)

(iib) the Companies Registry; or (Added 8 of 1993 s. 20)

(iii) Legal Aid Department; or (Amended 39 of 1992 s. 11)

(iv) Official Receiver's Office; or (Added 39 of 1992 s. 11. Amended 60 of 1992 s. 6)

(v) Intellectual Property Department, (Added 60 of 1992 s. 6)

of the Government shall, for the purpose of this section, be deemed to be practising as a solicitor on his own account; and this subsection shall apply in relation to periods before as well as periods after the commencement of the Legal Practitioners (Amendment) Ordinance 1982 (50 of 1982). (Added 50 of 1982 s. 4)

(6)-(7) (Repealed 70 of 1991 s. 13)

(Amended 50 of 1982 ss. 4 & 8; 70 of 1991 s. 13; 60 of 1994 s. 21)

[cf. 1957 c. 27 s. 41 U.K.]

Section:	23	Termination of trainee solicitor contracts in cases of bankruptcy, etc.	L.N. 213 of 1998	24/04/1998
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~~(1) If a solicitor who employs a trainee solicitor or acts as his principal becomes bankrupt before the expiration of the trainee solicitor contract or is imprisoned for debt and remains in prison for more than 21 days, the Court, on the application of any person, may order the trainee solicitor contract to be terminated or to be assigned to another solicitor or to a solicitor corporation on such terms and in such manner as the Court thinks fit.~~

(Amended 70 of 1991 s. 13; 60 of 1994 s. 23; 27 of 1998 s. 7)

~~(2) If a solicitor corporation who employs a trainee solicitor, or acts as principal of a trainee solicitor, is or will be dissolved before the trainee solicitor contract expires, the Court may, on the application of any person, order the trainee solicitor contract to be terminated or to be assigned to a solicitor or another solicitor corporation on such terms and in such manner as the Court thinks fit.~~

Section:	67	Taxation of bills on application of party chargeable on solicitor or foreign lawyer		30/06/1997
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(1) On the application, made within 1 month of the delivery of a ~~solicitor's bill~~ bill of costs of a solicitor or solicitor corporation or a foreign lawyer's bill, of the party chargeable therewith the Court shall, without requiring any sum to be paid into court, order that the bill shall be taxed and that no action shall be commenced thereon until the taxation is completed. (Amended 80 of 1997 s. 40)

(2) If no such application is made within the period mentioned in subsection (1), then, on the application of the solicitor or solicitor corporation or the foreign lawyer or of the party chargeable with the bill, the Court may, upon such terms, if any, as it thinks fit (not being terms as to the costs of the taxation), order- (Amended 80 of 1997 s. 40)

- (a) that the bill shall be taxed;
- (b) that, until the taxation is completed, no action shall be commenced on the bill, and any action already commenced be stayed:

Provided that-

- (i) if 12 months have expired from the delivery of the bill, or if the bill has been paid, or if a verdict has been obtained or a writ of inquiry executed in an action for the recovery of the costs covered thereby, no order shall be made on the application of the party chargeable with the bill except in special circumstances and, if an order is made, it may contain such terms as regards the costs of the taxation as the Court may think fit;
- (ii) if the bill has been paid, no order under this subsection shall be made where the application for the order is made after the expiration of 12 months from the date of payment of the bill. (Replaced 61 of 1992 s. 24)

(3) Every order for the taxation of a bill shall require the taxing officer to tax not only the bill but also the costs of taxation and to certify what is due to or by the solicitor ~~or solicitor corporation or solicitor corporation or the foreign lawyer~~ in respect of the bill and in respect of the costs of the taxation.

(4) If after due notice of any taxation either party thereto fails to attend, the taxing officer may proceed with the taxation ex parte.

~~(5) Unless-~~

- ~~(a) the order for taxation was made on the application of the solicitor or the foreign lawyer, and the party chargeable does not attend the taxation; or (Amended 80 of 1997 s. 40)~~
- ~~(b) the order for taxation otherwise provides,-~~

~~the costs of the taxation shall be paid according to the event of the taxation, that is to say, if one-sixth or more of the amount of the bill is taxed off, the solicitor or the foreign lawyer, shall pay the costs, but otherwise the party chargeable shall pay the costs: (Amended 80 of 1997 s. 40)~~

~~Provided that-~~

- ~~(i) if, in the case of a bill for non-contentious business, not less than half of the amount of the bill before taxation consists of costs for which no scale charge is prescribed, for the reference in this subsection to one-sixth of the amount of the bill there shall be deemed to be substituted a reference to one-fifth thereof;-~~
- ~~(ii) the taxing officer may certify any special circumstances relating to the bill or the taxation thereof to the Court, and the Court may make thereon any such order as it thinks fit respecting the payment of the costs of the taxation.~~

[cf. 1957 c. 27 s. 69 U.K.]

Section:	67A	Costs of taxation		
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(1) The solicitor or solicitor corporation or the foreign lawyer concerned is liable to pay the costs of a taxation under section 67 if one-sixth or more of the bill of the solicitor or corporation or the foreign lawyer is taxed off, but otherwise the party who is charged with the bill is liable to pay the costs of the taxation.

(2) However, the solicitor or solicitor corporation or the foreign lawyer concerned is liable to pay the costs of the taxation if, in the case of a bill of costs for non-contentious business-

(a) not less than half of the amount of the bill before taxation consists of costs for which no scale charge is prescribed by rules of the Costs Committee; and

(b) one-fifth or more of the bill is taxed off.

(3) Subsections (1) and (2) do not apply if-

(a) the order for taxation was made on the application of the solicitor or solicitor corporation or the foreign lawyer and the party charged does not attend the taxation; or

(b) the order for the taxation or an order under subsection (4) otherwise provides.

(4) The taxation officer may, if of the opinion that there are special circumstances relating to the bill of costs of a solicitor or solicitor corporation or a foreign lawyer or to the taxation of the bill, refer the matter to the Court. The Court may make in respect of the reference such order as at it considers appropriate as to the payment of the costs of the taxation.

#372550

LEGAL SERVICES LEGISLATION  
(MISCELLANEOUS AMENDMENTS)

Item	Provision affected	Amendment
23.	Section 19	Add after subsection (1)— “(1AA) On reasonable cause being shown to the Council by a solicitor corporation, the Council may cancel the approval of the corporation under section 7C.” The Secretary General of the Society must record the cancellation in the roll of solicitor corporations as soon as practicable after becoming aware of the cancellation.”
24.	Section 19(1A)	Repeal “or foreign firm” where it twice occurs and substitute “, foreign firm or foreign lawyer corporation”.
25.	Section 19(3)	Repeal and substitute— “(3) When an application is made to the Council to take action under subsection (1), (1AA) or (1A), the Council may advertise the application, or require the legal practice entity concerned to advertise the application, in a specified publication, together with a notice inviting any person who wishes to object to the application to lodge an objection in writing with the Council before a specified date.”
<del>26.</del>	<del>Section 23</del>	<del>Add “or to a solicitor corporation” after “another solicitor”.</del>
27.	Section 23	Renumber it as section 23(1) and add— “(2) If a solicitor corporation who employs a trainee solicitor, or acts as principal of a trainee solicitor, is or will be dissolved before the trainee solicitor contract expires, the Court may, on the application of any person, order the trainee solicitor contract to be terminated or to be assigned to a solicitor or another solicitor corporation on such terms and in such manner as the Court thinks fit.”
28.	Section 26A	Add— “(2A) Subject to subsection (2B), the powers conferred by Schedule 2 are also exercisable in relation to a solicitor corporation or foreign lawyer corporation where— (a) the Council has reason to suspect dishonesty on the part of the corporation, or any officer, employee or trainee solicitor of the corporation; or (b) the Council is satisfied that the corporation has failed to comply with rules made by virtue of section 73(1)(b) or 73A; or (c) a person is appointed as a receiver or manager of property of the corporation; or

項	受影響的條文	修訂
23.	第 19 條	在第(1)款之後加入—— “(1AA) 在任何律師法團向理事會提出合理理由後，理事會可取消該法團根據第 7C 條獲得的批准。律師會秘書長在得悉該項取消後，須在切實可行的範圍內盡快將該項取消記錄於律師法團登記冊上。”
24.	第 19(1A) 條	廢除兩度出現的“或外國律師行”而代以“、外國律師行或外國律師法團”。
25.	第 19(3) 條	廢除而代以—— “(3) 當有人向理事會提出申請根據第(1)、(1AA)或(1A)款採取行動，理事會可將該項申請並連同一份邀請任何欲反對該項申請的人在指明的日期之前向理事會提出書面反對的通知書刊登在指明的刊物上，或要求有關的法律執業實體將該項申請連同該通知書刊登在指明的刊物上，以告周知。”
26.	第 23 條	在“另一名律師”之後加入“或一個律師法團”。
27.	第 23 條	將第 23 條重編為第 23(1) 條，並加入—— “(2) 如僱用一名實習律師或以實習律師的導師的身分行事的律師法團在或將會在實習律師合約屆滿前解散，則法院在接獲任何人的申請後，可命令實習律師合約須予終止，或以該法院認為適當的條款及方式轉讓予一名律師或另一個律師法團。”
28.	第 26A 條	加入—— “(2A) 除第(2B)款另有規定外，凡有以下情況，附表 2 所賦予的權力亦可就律師法團或外國律師法團而行使—— (a) 理事會有理由懷疑該法團或該法團的任何高級人員、僱員或實習律師不誠實；或 (b) 理事會信納該法團沒有遵從憑藉第 73(1)(b) 或 73A 條訂立的規則；或 (c) 某人已獲委任為該法團的財產接管人或財產管理人；或

LEGAL SERVICES LEGISLATION  
(MISCELLANEOUS AMENDMENTS)

Item	Provision affected	Amendment
86.	Section 66(2)	(a) In paragraph (a), add "or a member of the solicitor corporation" after "by the solicitor". (b) Add "or corporation" after "for the solicitor".
87.	Section 67(1)	Repeal "solicitor's bill" and substitute "bill of costs of a solicitor or solicitor corporation".
88.	Section 67(2) and (3)	Add "or solicitor corporation" after "the solicitor".
89.	Section 67(5)	Repeal.
90.	New	Add— <b>"67A. Costs of taxation"</b> (1) The solicitor or solicitor corporation concerned is liable to pay the costs of a taxation under section 67 if one-sixth or more of the bill of the solicitor or corporation is taxed off, but otherwise the party who is charged with the bill is liable to pay the costs of the taxation. (2) However, the solicitor or solicitor corporation concerned is liable to pay the costs of the taxation if, in the case of a bill of costs for non-contentious business— (a) not less than half of the amount of the bill before taxation consists of costs for which no scale charge is prescribed by rules of the Costs Committee; and (b) one-fifth or more of the bill is taxed off. (3) Subsections (1) and (2) do not apply if— (a) the order for taxation was made on the application of the solicitor or solicitor corporation and the party charged does not attend the taxation; or (b) the order for taxation or an order under subsection (4) otherwise provides. (4) The taxation officer may, if of the opinion that there are special circumstances relating to the bill of costs of a solicitor or solicitor corporation or to the taxation of the bill, refer the matter to the Court. The Court may make in respect of the reference such order as at it considers appropriate as to the payment of the costs of the taxation."  91. Section 68(1)
		Add "or solicitor corporation" after "the solicitor".
92.	Section 68(2)	(a) Add "or solicitor corporation" after "a solicitor". (b) Add "or corporation" after "the solicitor" where it twice occurs.

項	受影響的條文	修訂
86.	第 66(2) 條	(a) 在 (a) 段中，在“由律師”之後加入“或律師法團的一名成員”。 (b) 在“則該律師”之後加入“或法團”。
87.	第 67(1) 條	廢除“帳單的一方在獲交付律師”而代以“或律師法團的訟費或事務費帳單的一方在獲交付該”。
88.	第 67(2) 及 (3) 條	在“律師”之後加入“或律師法團”。
89.	第 67(5) 條	廢除。
90.	新條文	加入— <b>"67A. 評定費"</b> (1) 如有關的律師或律師法團的帳單款額的六分之一或多於六分之一經評定而被削減，則該律師或法團須支付第 67 條所指的評定費，否則須由須支付帳單的一方支付該等評定費。 (2) 但如屬非爭訟事務的事務費帳單，有關的律師或律師法團在以下情況下須支付評定費— (a) 在評定之前該帳單款額有不少於一半是由並無經事務費委員會規則訂明的按表收費的事務費組成的；而 (b) 該帳單款額的五分之一或多於五分之一經評定而被削減。 (3) 如有以下情況，則第 (1) 及 (2) 款並不適用— (a) 評定的命令是應律師或律師法團提出的申請而作出的，且須支付的一方並無出席該次評定；或 (b) 評定的命令或根據第 (4) 款作出的命令另有規定。 (4) 訟費評定人員如認為有關乎律師或律師法團的訟費或事務費帳單或關乎該帳單的評定的特殊情況，則可將該事轉介法院，而法院則可就該轉介事項作出其認為適當的關於評定費的支付的命令。”  91. 第 68(1) 條
		在“律師”之後加入“或律師法團”。
92.	第 68(2) 條	(a) 在“支付律師”之後加入“或律師法團的”。 (b) 在第 2 至 5 次出現的“律師”之後加入“或律師法團”。

↑ 法院在