

**立法會**  
**Legislative Council**

LC Paper No. LS80/14-15

**Legal Service Division Report on  
Subsidiary Legislation Gazetted on 18 September 2015**

**Tabling in LegCo** : Council meeting of 14 October 2015

**Amendment to be made by** : Council meeting of 11 November 2015 (or 2 December 2015 if extended by resolution)

**Rules of the High Court (Amendment) (No. 3) Rules 2015** (L.N. 175)

**Rules of the District Court (Amendment) Rules 2015** (L.N. 176)

Background

The Legal Practitioners (Amendment) Ordinance 2012 (Ord. No. 22 of 2012) (LPAO) was enacted by the Legislative Council (LegCo) in July 2012 to introduce limited liability partnership (LLP) for solicitors' firms in Hong Kong by adding a new Part IIAAA to the Legal Practitioners Ordinance (Cap. 159). The effect of LPAO is that the innocent partners of solicitors' firms will be subject to limited liability arising from the default of other partners in the course of LPP's business. LPAO has not been brought into operation pending the making of the relevant subsidiary legislation<sup>1</sup> by the Council of The Law Society of Hong Kong (LS), the Rules Committee of the High Court and the District Court Rules Committee.

2. Under the new Part IIAAA of Cap. 159, a partner of a solicitors' firm which is a LLP is not, solely by reason of being a partner of such firm, jointly or severally liable for any partnership obligation (whether founded on tort, contract or otherwise) arising from a default of another partner, an

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<sup>1</sup> Except L.N. 175 and L.N. 176, the other three items of subsidiary legislation that have been made (by the Council of The Law Society of Hong Kong) for the implementation of LPAO are the Foreign Lawyers Practice (Amendment) Rules 2015 (L.N. 101), the Solicitors' Practice (Amendment) Rules 2015 (L.N. 102), and the Limited Liability Partnerships (Top-up Insurance) Rules (L.N. 103). The Subcommittee formed to study these three Rules has completed the scrutiny of the Rules and will report the deliberations to the House Committee on 9 October 2015. Members may make reference to the report of the Subcommittee (Ref.: LC Paper No. CB(4)1403/14-15) for further details on these Rules and the deliberations of the Subcommittee.

employee, agent or representative of the solicitors' firm in the provision of professional services. An innocent partner's interest in the partnership property<sup>2</sup> may still be subject to the enforcement of a judgment or order given or made in the related legal proceedings against the solicitors' firm. However, the innocent partner's personal assets will be protected and not be subject to the enforcement action in the relevant proceedings<sup>3</sup>.

3. At present, the procedures adopted in the High Court and the District Court in litigation involving partnerships (including enforcement action taken against a partnership) are respectively provided in Order 81 of the Rules of the High Court (Cap. 4A) and Order 81 of the Rules of the District Court (Cap. 336H). However, the provisions of Order 81 in both Rules primarily cater for general partnerships, but not for LPP.

#### L.N. 175 and L.N. 176

4. L.N. 175 and L.N. 176 are respectively made by the Rules Committee of the High Court under section 54 of the High Court Ordinance (Cap. 4) and the District Court Rules Committee under section 72 of the District Court Ordinance (Cap. 336) to provide for the relevant procedures relating to the implementation of the LPP provisions in LPAO.

5. L.N. 175 and L.N. 176 amend rule 5 of Order 81 of Cap. 4A and Cap 336H respectively, mainly by adding a new paragraph (6) to the relevant rules. The effect is that any execution to enforce a judgment or order given or made against a solicitors' firm which is a LPP may not issue separately against a partner who is protected under Part IIAAA of Cap. 159 from liability for the partnership obligation unless (a) such partner admits in the pleading in the relevant proceedings that he is not protected under Part IIAAA of Cap. 159 or (b) such partner is adjudged by the court as not so protected.

#### Commencement

6. Both L.N. 175 and L.N. 176 will come into operation on the day on which LPAO comes into operation. According to paragraph 18 of the LegCo Brief (File Ref.: LP 5004/4/15C Pt. 42) issued by the Department of Justice in August 2015, the Administration aims to bring LPAO into operation as soon as practicable after completion of the negative vetting of L.N. 175 and L.N. 176 by the LegCo. In response to our enquiries, the Administration has confirmed that LAPO is ready for implementation after the making of L.N. 175 and L.N. 176 and it will consult LS on the commencement date of LPAO.

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<sup>2</sup> Under section 22(1) of the Partnership Ordinance (Cap. 38), all property and rights and interests in property originally brought into the partnership stock or acquired on account of the firm, or for the purposes and in the course of the partnership business, are partnership property.

<sup>3</sup> See new sections 7AC(1) and 7AH of Cap. 159.

Public consultation

7. According to paragraph 14 of the LegCo Brief, the Administration has consulted the Hong Kong Bar Association and LS in the course of preparation of the relevant amendments. The two professional bodies have no objections to the amendments.

Consultation with LegCo Panel

8. The Clerk to the Panel on Administration of Justice and Legal Services has advised that the Panel has not been consulted on L.N. 175 and L.N. 176.

Concluding observations

9. No difficulties have been identified in the legal and drafting aspects of L.N. 175 and L.N. 176.

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