

## Legislative Council Brief

### A. Title of the subsidiary legislation

Solicitors' Practice (Amendment) Rules 2018

Foreign Lawyers Practice (Amendment) Rules 2018

Summary Disposal of Complaints (Solicitors) (Amendment) Rules 2018

### B. Introduction / Background

#### Explanation of main provision

#### Solicitors' Practice Rules ("the SP Rules")

1. Rule 4B(2) of the SP Rules provides as follows:

*"No firm shall, except with the written approval of the Council, knowingly employ any unqualified person who is in the part-time or full-time employment of another firm."*

2. Under rule 1A of the SP Rules, a "firm" means a firm as from time to time constituted, whether of a sole practitioner or as a partnership carrying on the business of practising as a solicitor or as solicitors and whether conducted from one address or more than one address. It does not include a foreign firm.

#### Legal Practitioners Ordinance ("the Ordinance")

3. Under section 2(1) of the Ordinance, "unqualified person" means a person who is not a solicitor.
4. Under section 39C(1) of the Ordinance, a Hong Kong firm may form an Association with a foreign firm whereby they may share employees.

#### Foreign Lawyers Practice Rules ("the FLP Rules")

5. Under rule 8(1) of the FLP Rules, an "unqualified person" means a person who is not a foreign lawyer.

6. There is no corresponding provision of rule 4B(2) of the SP Rules in the FLP Rules. There is no express provision in the FLP Rules prohibiting a foreign firm's employee who is not a foreign lawyer to work full-time or part-time in another foreign firm or Hong Kong firm simultaneously.

**Summary Disposal of Complaints (Solicitors) Rules ("SD Rules")**

7. Under the SD Rules, a breach of rule 4B(2) of the SP Rules can be dealt with in a summary manner. The fixed penalty is \$10,000 and the fixed investigation cost is \$15,000.

**C. Justification for introducing the amendments to the subsidiary legislation**

8. The Law Society proposed to amend rule 4B(2) of the SP Rules to make it clear that an unqualified person employed by a Hong Kong law firm cannot be employed by another Hong Kong firm or a foreign firm simultaneously, full time or part time unless approved by the Law Society in writing.
9. The Law Society proposed to introduce a new rule 8(4) of the FLP Rules so that an unqualified person employed by a foreign firm cannot be employed simultaneously, full time or part time, by another foreign firm or a Hong Kong firm unless approved by the Law Society in writing. This is a corresponding provision of rule 4B(2) of the SP Rules for foreign firms.
10. The Law Society also proposed to introduce a new item 7A under the heading of "Foreign Lawyers Practice Rules" in the Schedule to the SD Rules so that a breach of rule 8(4) of the FLP Rules can be dealt with under the SD Rules. The fixed penalty is \$10,000. The fixed investigation cost is \$15,000. This is in line with a breach of rule 4B(2) of the SP Rules.

**D. Date of tabling the subsidiary legislation in the Legislative Council and its Commencement Date**

11. It is hoped that the Legislative Council will table the Amendment Rules on 21 March 2018. The Commencement Date is to be appointed by the President of the Law Society by notice published in the Gazette.

**E. Consultation with the Legislative Council's Panel on Administration of Justice and Legal Services ("AJLS Panel")**

12. The Law Society consulted the AJLS Panel on the proposed amendments. The AJLS Panel has no comment on the Law Society's proposed amendments. The email from the Legislative Council Secretariat of 14 August 2017 is attached.

**F. Contact details of relevant officers**

The relevant officer for this amendment exercise is Assistant Director, Regulation and Guidance of the Law Society at 3rd Floor, Wing On House, 71 Des Voeux Road Central, Hong Kong (Telephone No. 852-2846 0503).

**G. Issuing party and issuance date**

The Amendment Rules were gazetted on 9 March 2018. This brief is prepared by the Law Society on 9 March 2018.

Date: 9 March 2018

## Kathy WONG

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**From:** Sophie SY LAU [ssylau@legco.gov.hk]  
**Sent:** 14 August 2017 15:04  
**To:** Kathy WONG  
**Cc:** Mandy KM LAM; Joyce HL CHING  
**Subject:** Re: Rule 4B(2) of the Solicitors' Practice Rules, Rule 8(4) of the Foreign Lawyers Practice Rules and Schedule to the Summary Disposal of Complaints (Solicitors) Rules

Dear Ms Angela Li,

I refer to your letter of 20 July 2017 on the above subject.

Please be informed that the three draft Amendment Rules attached to the above said letter had been circulated to the members of the Panel on Administration of Justice and Legal Services for their consideration. Please also note that no comment had been received on the proposed amendments by the deadline of 11 August 2017.

Thanks and regards,  
Sophie S Y LAU  
Legislative Council Secretariat  
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Website: [www.legco.gov.hk](http://www.legco.gov.hk)

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From: Kathy WONG <kathy@hklawsoc.org.hk>  
To: "ssylau@legco.gov.hk" <ssylau@legco.gov.hk>, "panel\_ajls@legco.gov.hk" <panel\_ajls@legco.gov.hk>  
Date: 20/07/2017 16:38  
Subject: Rule 4B(2) of the Solicitors' Practice Rules, Rule 8(4) of the Foreign Lawyers Practice Rules and Schedule to the Summary Disposal of Complaints (Solicitors) Rules

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Dear Ms. Lau,

I attach our letter of 20 July 2017 with enclosures for your reference.

Regards,  
Kathy

Kathy Wong  
Secretary to Miss Angela Li  
Department of Standards & Development

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[attachment "Letter of 20 July 2017 to Ms. Sophie Lau of Legislative Council Secretariat.pdf" deleted by Sophie SY LAU/LEGCO] [attachment "Solicitors' Practice (Amendment) Rules 2017.pdf" deleted by Sophie SY LAU/LEGCO] [attachment "Foreign Lawyers Practice (Amendment) Rules 2017.pdf" deleted by Sophie SY LAU/LEGCO] [attachment "Summary Disposal of Complaints (Solicitors) (Amendment) Rules 2017.pdf" deleted by Sophie SY LAU/LEGCO] [attachment "2017 年律師執業(修訂)規則.pdf" deleted by Sophie SY LAU/LEGCO] [attachment "2017 年外地律師執業(修訂)規則.pdf" deleted by Sophie SY LAU/LEGCO] [attachment "2017 年簡易處理申訴(律師)(修訂)規則.pdf" deleted by Sophie SY LAU/LEGCO]