
8. Foreign Lawyers Registration Rules

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1. Interpretation

(1) In these Rules -

"foreign law" (外地法律) means the law of a foreign jurisdiction;

"overseas firm" (海外律師行) means a firm carrying on the business of practising the law in a foreign jurisdiction, but does not include a Hong Kong firm which has a branch in a foreign jurisdiction;

"partner" (合夥人), in respect of a foreign firm, an overseas firm, or a firm referred to in section 7(1)(a)(iii), whether constituted of a sole practitioner or as a partnership, means the sole practitioner or a partner of such firm;

"principal" (主管) has the same meaning as in the Solicitors' Practice Rules (Cap. 159 sub. leg. H).

(2) For the purpose of these Rules, a person is associated with a firm if he is -

(a) a principal of, or a partner in, the firm;

(b) a consultant to the firm; or

(c) employed by the firm.

2. Application for registration under Part IIIA of the Ordinance

Any person or firm wishing to be registered under Part IIIA of the Ordinance shall apply to the Society in a form approved by the Society and shall pay the fee specified in rules made by the Society for such application.

3. Qualification for registration as a foreign lawyer

A person to whom section 39A(1) of the Ordinance applies is qualified to be registered as a foreign lawyer if -

(a) he is a person of good standing in the foreign jurisdiction in which he is qualified to practise law; and

(b) he has satisfied the Society that he is a fit and proper person to be so registered.

4. Evidence of professional indemnity insurance for foreign lawyer

A person applying to be registered as a foreign lawyer shall furnish with his application such documentary evidence as the Society may require showing the existence of a policy of insurance such as is required to be maintained by a foreign lawyer pursuant to section 6.

5. Foreign lawyer with limited post-qualification experience

(1) This section applies to any person who, in applying for a certificate of registration as a foreign lawyer, does not satisfy the Society that he has had at least 2 years of post-qualification experience in the full-time practice of foreign law.

- (2) Subject to subsection (3), it shall be a condition of a certificate of registration issued to any person to whom this section applies that he shall not practise foreign law as an employee of a foreign firm or a Hong Kong firm until he satisfies the Society that he has completed at least 2 years of post-qualification experience in the full-time practice of foreign law.
- (3) Notwithstanding subsection (2), the Society may, in respect of any person to whom this section applies, specify -
 - (a) a lesser period of practice to be completed by the person for the purpose of that subsection; or
 - (b) conditions as to supervision under which that person may practise foreign law as an employee of a foreign firm or a Hong Kong firm, and in such case any period of such supervised practice completed by the person shall be taken into account for the purpose of calculating the period of post-qualification experience under subsection (2).
- (4) Any period specified for the purpose of subsection (3)(a), when aggregated with the period of experience of the person at the time of the issue of the certificate, shall not exceed 2 years.
- (5) Experience which the Society considers in a particular case to be equivalent to a period of post-qualification experience in full-time practice of foreign law shall, for the purpose of this section, be treated as such period of post-qualification experience.
- (6) A principal of a foreign firm or a Hong Kong firm shall not permit a foreign lawyer to practise foreign law as an employee of the firm otherwise than in accordance with any condition applying under this section and endorsed on the foreign lawyer's certificate of registration.
- (7) If the Society specifies under subsection (3)(b) a condition as to supervision under which a person to whom this section applies may practise foreign law, the supervision is to be provided by -
 - (a) a solicitor who -
 - (i) is admitted to practise the foreign law to which the application relates, in the foreign jurisdiction concerned; and
 - (ii) satisfies the Society that the solicitor is competent to provide supervision to that person in the practice of that foreign law; or
 - (b) a foreign lawyer who -
 - (i) is admitted to practise the foreign law to which the application relates, in the foreign jurisdiction concerned; and
 - (ii) satisfies the Society that the foreign lawyer is competent to provide supervision to that person in the practice of that foreign law.

6. Requirement for professional indemnity insurance

- (1) A certificate of registration as a foreign lawyer is subject to the condition that there shall be in existence at all times a policy of insurance under which the foreign lawyer is entitled to be indemnified, in respect of services rendered by him while acting or practising as a foreign lawyer, in a manner and to the extent similar to the indemnity provided to a solicitor under the fund established under section 3 of the Solicitors (Professional Indemnity) Rules (Cap. 159 sub. leg. M), and if at any time there is not in existence such a policy the person's registration as a foreign lawyer shall be deemed to have been suspended.
- (2) A foreign lawyer shall notify the Society in writing within 14 days of such occurrence if at any time there is not in existence a policy of insurance as is required for the purpose of subsection (1).
- (3) Where a person's registration has been suspended in accordance with subsection (1) his registration shall not be revived until such time as -
 - (a) there is in existence a policy of insurance as is required for the purpose of subsection (1); and
 - (b) the person has notified the Society in writing of the existence of such a policy.

6A. Compliance with Legal Practitioners (Risk Management Education) Rules

A certificate of registration as a foreign lawyer is subject to the condition that during any period for which the foreign lawyer is employed by a Hong Kong firm to practise foreign law, he shall comply with the Legal Practitioners (Risk Management Education) Rules (Cap. 159 sub. leg. Z).

7. Qualification for registration as a foreign firm

- (1) Subject to subsection (2), a firm to which section 39B of the Ordinance applies is qualified to be registered as a foreign firm if -
 - (a) in the case of a firm that is a branch of an overseas firm -
 - (i) the overseas firm lawfully carries on the practice of law in its foreign jurisdiction;
 - (ii) the overseas firm has satisfied the Society that it is of good standing in every jurisdiction in which it has at any time within the past 5 years carried on the practice of law; and
 - (iii) at least one of the partners of the firm who intends to practise in Hong Kong -
 - (A) is a partner in the overseas firm;
 - (B) has, at the date of the application for registration, been associated on a full-time basis with the overseas firm for the immediately preceding period of 12 months and had, during the 4 years immediately preceding the commencement of that period, been so associated with the overseas firm for an additional period of not less than

12 months; and

(C) has been in the practice of the law for not less than 5 years; or

(b) in any other case -

(i) each of the partners of the firm who intends to practise in Hong Kong has satisfied the Society that he is of good standing in the foreign jurisdiction in which he is qualified to practise the law and in every jurisdiction in which he has at any time within the past 5 years practised the law;

(ii) one of the partners who intends to practise in Hong Kong is of substantial reputation in the foreign jurisdiction the law of which he is qualified to practise, or in a jurisdiction in which he has practised that law during the preceding 5 years; and

(iii) each of the partners who intends to practise in Hong Kong has been in practice of the law of a foreign jurisdiction in which he is qualified to practise for not less than 3 years.

(2) The Council may waive any of the requirements of subsection (1) where it considers it appropriate in the particular case.

8. Registration as an Association

A foreign firm that is a party to an Association with a Hong Kong firm shall not, without the consent of the Council, be eligible to be registered with any other Hong Kong firm as an Association.

9. Fee for registration

Where the Council has made rules specifying a fee to be paid in respect of any registration pursuant to Part IIIA of the Ordinance, such fee shall be payable prior to the registration.

10. Certificate of registration

A certificate of registration issued by the Society pursuant to Part IIIA of the Ordinance -

(a) shall be valid as from the date shown on the certificate as the date of issue;

(b) shall be valid until 30 June next following the date of issue or, where the date of issue is a date between 15 May and 30 June in any year, until 30 June in the year following;

(c) may be renewed by lodging with the Society on or before 15 May in the year in which the certificate expires -

(i) an application in the form approved by the Society;

(ii) the fee fixed by the Society for such renewal; and

(iii) documents showing that the applicant has complied with the requirements for registration under Part IIIA of the Ordinance.

11. Appeal procedure

A person or firm seeking registration under Part IIIA of the Ordinance may -

- (a) within one month of receiving notification from the Society of any decision of the Society under these Rules in respect of his or its application for registration, ask for the application to be reviewed; and
- (b) within 3 months of receiving notification from the Society of its decision on a request for review under paragraph (a), apply to the Court of First Instance which may -
 - (i) affirm the decision of the Society; or
 - (ii) make such other order as the Court thinks fit.

12. Prohibition on the practice of Hong Kong law

- (1) Except as provided in subsection (2), a foreign lawyer shall not provide or offer any legal service which, having regard to all the circumstances of the case, can properly be regarded as a service customarily provided by a solicitor in his capacity as such.
- (2) A foreign lawyer may give advice on or handle any matter which -
 - (a) is expected to be subject to the law of a jurisdiction other than Hong Kong; or
 - (b) involves private or public international law or conflict of laws.

13. Disciplinary matters

- (1) A principal of a Hong Kong firm shall not permit the number of foreign lawyers associated with the firm to exceed the number of resident principals and solicitors employed in the firm or such greater number as the Council may approve in any particular case where it considers there are special circumstances.
- (2) A principal of a foreign firm shall not -
 - (a) offer, or permit to be offered, to the public the services of any employee as a practitioner of foreign law unless that employee is a foreign lawyer or a solicitor who does not hold a practising certificate;
 - (b) in relation to any employee whose services are offered to the public as a practitioner of foreign law, hold out such employee, or permit such employee to be held out, to the public as being qualified or entitled to practise as a solicitor, whether at that or any other time.
- (3) A principal of the Hong Kong firm or any foreign firm in an Association shall ensure that the number of foreign lawyers associated with the Hong Kong firm or foreign firm or firms in the Association does not exceed the number of solicitors associated with the Hong Kong firm or such greater number as the Council may approve in any particular case where it considers there are special circumstances.

- (4) Where a foreign firm is a member of more than one Association, a foreign lawyer associated with that firm shall not be counted, for the purpose of subsection (3), in respect of more than one Association.
- (5) Where a Hong Kong firm is a member of more than one Association, a solicitor associated with that firm shall not be counted, for the purpose of subsection (3), in respect of more than one Association.

14. (Omitted as spent)

15. Transitional provision

Section 5 of the Foreign Lawyers Registration Rules (Cap. 159 sub. leg. S), as amended by the Foreign Lawyers Registration (Amendment) Rules 2009, applies to any application –

- (a) for a certificate of registration as a foreign lawyer;
- (b) made before the commencement of the Amendment Rules by a person to whom that section applies; and
- (c) in respect of which the certificate has not been issued as at that commencement.