

FOREIGN LAWYERS REGISTRATION RULES CAP. 159S (“FLRR”)

I. Rule 12 of FLRR

It is proposed to amend rule 12 as follows:

- 12 (1) Except as provided in subsection (2), a foreign lawyer shall ~~not only be permitted to 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.~~
- ~~(a) involves relates to the law(s) of the jurisdiction(s) stated on the certificate of registration issued by the Society in relation to his registration as a foreign lawyer; and/or~~
- ~~(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.
- (2) A foreign lawyer may advise on the effect of a Hong Kong law only if the advice on the Hong Kong law is expressly based on advice given by a Hong Kong practising solicitor and the foreign lawyer is doing so under the supervision of the Hong Kong solicitor practising in the same firm as the foreign lawyer.

II. Rule 5 of FLRR

It is proposed to amend rule 5 as follows:

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 of a jurisdiction as stated on his certificate of registration 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 the law of that jurisdiction.

- (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~~ **the law of a jurisdiction as stated on his certificate of registration** shall, for the purpose of this section, be treated as such period of post-qualification experience.

III. Rule 9 of FLRR

It is proposed to amend rule 9 as follows:

9. **Application Fee for registration**

Where the Council has made rules specifying a **an application** 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~~ **on application and shall not be refundable.**

IV. Rule 13 of FLRR

It is proposed to amend rule 13 of the FLRR as follows:

- 13 (1) A principal of a Hong Kong firm shall not permit the number of foreign lawyers associated with the firm to exceed **half** 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 ***half*** 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.

FOREIGN LAWYERS REGISTRATION (FEES) RULES CAP. 159U (“FLRF”)

I. Name

It is proposed to rename the FLRF as “***Application For*** Foreign Lawyers Registration (Fees) Rules”.

II. Rule 1 of FLRF

It is proposed to amend rule 1 as follows:

- 1. The fees set forth in the Schedule are prescribed for payment in connection with ***application for*** registration under Part IIIA of the Ordinance and the Foreign Lawyers Registration Rules (Cap. 159, sub. leg. U).

III. Schedule

It is proposed to amend the Schedule to the FLRF as follows:

SCHEDULE

[s.1]

FEES PAYABLE UNDER PART IIIA OF THE ORDINANCE

Item	Section	Description	Fee \$
1.	39A	<i>Application for Reregistration</i> as a foreign lawyer – (a) First registration that is valid from a date that falls within the period –	

<u>Fee <i>per jurisdiction to be stated on the certificate of registration as a foreign lawyer</i></u>			
	(i)	from 1 July to 31 March inclusive	9,000
	(ii)	from 1 April to 14 May inclusive	4,500
	(iii)	from 15 May to 30 June inclusive	13,500
	(b)	Renewal of registration	9,000
2.	39B	<u><i>Application for Rregistration</i></u> as a foreign firm –	
	(a)	First Registration –	
	(i)	for a new firm <u>52,500</u>	35,000
	(ii)	for an existing firm	20,000
	(b)	Renewal of registration <u>18,000</u>	12,000
3.	39C	Registration as an Association <u>22,500</u>	15,000

SOLICITORS’ PRACTICE RULES CAP. 159H (“SPR”)

I. Rule 2A(2) of the SPR

It is proposed to amend rule 2A(2) of the SPR as follows:

- 2A (1) Subject to subrule (2), the name of a firm shall consist solely of the name or names of one or more solicitors who are principals of the firm.
- (2) Subrule (1) shall not preclude –
- (a) the use of the name of a predecessor or former partner in that practice;
- (b) in the case of a firm (“Hong Kong firm”) that is established as a branch of a firm that is carrying on the business of practising the law in a foreign jurisdiction (“overseas firm”), the use of the name of the overseas firm if –
- (i) for the period of ~~3~~ **5** years immediately preceding the establishing of the Hong Kong firm, there had been a foreign firm of the same name practising or advising on the law of a foreign jurisdiction;

- (ii) at least one of the principals of the Hong Kong firm is a partner in the overseas firm; and
- (iii) one of the principals of the Hong Kong firm had, for not less than 3 years during the 5 years immediately preceding the establishing of the firm, been a partner in, or a consultant to, or employed by, the foreign firm referred to in subparagraph (i) or the overseas firm; or