

LAW 06/011/002 v48

2 May 2014

Mr Lok Vi Ming, SC  
President  
The Law Society of Singapore  
39 South Bridge Road  
Singapore 058673

Dear *Vi Ming,*

**PUBLIC CONSULTATION ON THE LEGAL PROFESSION (AMENDMENT) BILL 2014**

1. Thank you for your letter of 14 April 2014 providing feedback on the draft Legal Profession (Amendment) Bill 2014 (the "Bill").
2. The Society has sought clarification on various aspects of the Bill, which we seek to address in this note.

**a. Mandatory reporting of pro bono hours.**

i. The Bill reflects the broad requirement for mandatory reporting, while details of this requirement will be drafted in the subsidiary legislation. We will keep the Society apprised of the draft subsidiary legislation. The details will reflect the recommendations of the Committee to Study Community Legal Services Initiatives, and will include the following:

- The requirement for mandatory reporting on the time spent on pro bono work in the preceding year;
- The categories of Singapore-qualified lawyers to which mandatory reporting applies (i.e. those holding practising certificates);
- What constitutes pro bono work (this includes legal advisory / representation work for legal organisations and societies and other law-related work e.g. committee work for the Society, the Singapore Academy of Law, the Singapore Mediation Centre, the Singapore Institute of Legal Education, any Ministry in a law reform project and sitting as a member of a Disciplinary Committee); and
- There will be no sanctions or adverse consequences for a report of zero pro bono hours clocked.

- ii. It is currently not intended that mandatory reporting will apply to foreign lawyers.

**b. Professional Conduct Council (“PCC”).**

- i. The Society has asked if Section 71(8) of the Bill (where the PCC may appoint committees to carry out its functions) is meant to cover the Advisory Committee and Working Group contemplated in the final Report of the Committee to Review the Regulatory Framework of the Singapore Legal Services Sector (the “Regulatory Committee”). We confirm that this is the policy intent. However, to retain operational flexibility to form these new bodies in consultation with the Supreme Court and Law Society, the operational functions of these bodies will be dealt with administratively and are not detailed in the main Act.
- ii. As mentioned in our letter of 6 November 2013, the Ministry is supportive of the Ethics Committee undertaking the role of the Advisory Committee. We also note the Society’s suggestions with regard to the composition of the Working Group to review the new Legal Profession (Professional Conduct) Rules. We would be happy to work closely with the Society on the composition and functions of these two bodies. With regard to the Society’s concern of having non-practitioner members on the PCC, the Regulatory Committee had intended to provide the flexibility to include non-practising lawyers such as academics in the field of professional ethics whose expertise and views would add value to the work of the PCC.
- iii. In the weeks ahead, MinLaw will facilitate a meeting involving all stakeholders (the Society, the Supreme Court, etc) involved in the setting up of the PCC to discuss its operationalisation and the committees to be set up under its oversight.
- iv. We agree that it is important for the Society to retain the ability to issue relevant practice directions and guidance notes in relation to professional practice and etiquette matters even though the PCC will now oversee the rules for this, and will make provision for this in the Bill. We will also work with the draftsman to ensure that transitional provisions are included in the Bill to ensure that existing practice directions, guidance notes and rulings issued by Council continue to apply, until such time as new ones are issued after the new Legal Profession Act comes into force.

**c. Alternative Business Structures (“ABS”) / Legal Disciplinary Practices (“LDPs”).**

- i. We have noted the Society’s views on the safeguards that should be provided when the LDP is introduced. The details and processes relating to such safeguards can be worked out in discussion with the Society and included in subsidiary legislation thereafter. We will consult the Society when the draft subsidiary legislation is ready.

**d. Director of Legal Services (“DLS”).**

- i. We will work closely with the Society on the workflow and procedures relating to the functions which will be transferred from the Society to the DLS. The Society had asked whether the power of the DLS to require documents and information would be subject to legal professional privilege. The Evidence Act provides for situations whereby legal professional privilege would apply, and this will also apply to the DLS in the exercise of his powers. With regard to the power of the DLS to enter the premises of a law firm under warrant, we would like to clarify that as the warrant is issued pursuant to a court order, the court to which an application for a warrant is made to will be able to provide the necessary oversight.
- ii. The Society had also asked whether there would be charges envisaged for the registration of business and whether it would be consulted in the approval process. MinLaw is in the process of working on the details of the IT system that will implement the one-stop licensing portal envisaged by the Regulatory Committee and will work in consultation with the Society and other agencies (Supreme Court, the Society, ACRA etc) on detailing the necessary inter-agency processes / SOPs, including the relevant charges and fees (if any) which would arise from the streamlined process.

**e. Disciplinary regime for foreign lawyers.**

We note the Society’s feedback that members have queried the rationale for a foreign lawyer to substitute a prescribed member at every stage of the disciplinary process. This seeks to implement the recommendation by the Regulatory Committee and is premised on the principle that lawyers should be assessed by their peers. This position aligns with the practice in Hong Kong.

**f. Legal Practice Management Course (“LPMC”).**

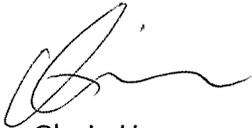
We have no objection to the Society’s suggestion to require foreign lawyers who are applying to become partners / directors of Singapore law practices to attend the LPMC and propose for the DLS to impose this requirement as a condition of the approval, and issue a guidance note on this as well.

**Conclusion**

3. We thank the Society for the feedback you have given on the Bill. The Society has proposed for a dialogue session to be arranged for your members to brief them on the impact of the amendments. MinLaw would be happy to work with the Society to organise such a session. As the Bill contains the broad framework which has been the subject of two previous town halls, and many of the clarifications sought at this point pertain to details which will be set out in the rules and operationalisation plans for the Legal Services Regulatory Authority, we would like to propose that the session be held

in the second half of this year, when the draft professional conduct rules and details about the new one-stop IT system, are available for consultation and discussion.

Yours faithfully,



Gloria Lim  
Director, Legal Industry Division  
For Permanent Secretary  
Ministry of Law

