



THE

LAW SOCIETY
OF HONG KONG

香港律師會

3/F WING ON HOUSE · 71 DES VOEUX ROAD
CENTRAL · HONG KONG DX-009100 Central 1
香港中環德輔道中71號
永安集團大廈3字樓

Index Reference:

**Legal Practitioners Ordinance,
Practice Directions & Rules**

TELEPHONE (電話) : (852) 2846 0500
FACSIMILE (傳真) : (852) 2845 0387
E-MAIL (電子郵件) : sg@hklawsoc.org.hk
HOME PAGE (網頁) : <http://www.hklawsoc.org.hk>

CIRCULAR 00-128 (SD)

2 May 2000

ARRANGEMENTS ON DEATH OF SOLE PRINCIPAL

Forthcoming Amendments to Solicitors' Practice Rules and Foreign Lawyers' Practice Rules

1. Principle 2.06 of Volume 1 of "The Hong Kong Solicitors' Guide to Professional Conduct" provides as follows:

"2.06 Arrangements on death of sole principal

A sole principal must make a will containing provisions for the running of his practice after his death.

Commentary

1. Although it is not essential for him to appoint a solicitor as an executor, if he does, this will greatly facilitate the conduct of his practice after his death.
 2. In any event, clear instructions should be left by the sole practitioner to ensure that his executors are able to make arrangements immediately after his death for the continuance of his practice by a solicitor of sufficient seniority, pending the disposal of the practice.
 3. A personal representative of a deceased solicitor has no power to sign cheques on the client accounts of the deceased sole practitioner. This power is vested in the Council under section 4, Schedule 2 of the Legal Practitioners Ordinance.
 4. The Council has power to control a deceased solicitor's practice in certain circumstances: see section 26B of the Legal Practitioners Ordinance."
2. Amendments to the Solicitors' Practice Rules and the Foreign Lawyers Practice Rules are anticipated to come into effect on 1 September 2000. The amendments will, respectively, require "sole practitioner solicitors" and "sole practitioner foreign lawyers" (see paragraphs 4 and 5 below) to provide information to the Law Society regarding the location of their wills and the identity and contact details of their executors and the solicitors or foreign lawyers appointed to manage their practices.
 3. The purpose of the amendments is to avoid a situation where a sole practitioner dies without having appointed a solicitor (or foreign lawyer, as the case may be) to run his practice until its disposal, so that the Council is faced with the prospect of have to intervene into that practice. Interventions are costly and the costs would have to be met by the beneficiaries of the estate.

4. New rule 5AA of the Solicitors' Practice Rules will apply to "sole practitioners", defined as solicitors practising in their own name or under a firm name, as the sole proprietor of the firm. The following categories of solicitors will come within the ambit of the new rule:
 - (a) sole practitioners practising on their own account;
 - (b) sole principals who employ assistant solicitors and/or engage consultants; and
 - (c) solicitors who practise in a partnership in which they have one or more non-equity partners, but in which they are the sole principal, because in the event of death of the sole principal, there would be no other surviving equity partner/s of the firm with full financial and supervisory control of the practice.
5. New rule 9A of the Foreign Lawyers Practice Rules will apply to "sole practitioner foreign lawyers", defined as foreign lawyers practising in their own name or under a firm name, as the sole proprietor of the foreign firm. The rule will not apply to a sole practitioner foreign lawyer of a foreign firm which is registered with the Law Society as a branch office of an overseas firm.
6. Every sole practitioner, or sole practitioner foreign lawyer, to whom the new rules will apply will be required to advise the Law Society, and inform the Society of any changes within 14 days, of the following particulars:
 - (a) the name, address, telephone number, fax number, telex number and DX number, where appropriate, of:
 - (i) the solicitor who holds an unconditional practising certificate, or the foreign lawyer who holds an unconditional certificate of registration, who has given his consent to his appointment to manage the practice of the sole practitioner, or the sole practitioner foreign lawyer, after his death, pending the disposal or cessation of that practice; and
 - (ii) the executors of the will containing the testamentary provision which provides for the management of his practice after his death; and
 - (b) if the will has been lodged with a third party, the name and address of that party.
7. The records of the Law Society are maintained on a confidential basis.
8. When the new rules come into effect the Law Society will issue a form to enable the necessary particulars to be provided to the Society within 14 days. Sole practitioners and sole practitioner foreign lawyers who will be affected by the new rules should therefore ensure that they are able to provide the necessary particulars to the Law Society within 14 days of the commencement of the new rules.

Any enquiries can be directed to the Assistant Director, Regulation and Guidance on 2846-0503.



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CIRCULAR 00-307 (SD)

25 September 2000

ARRANGEMENTS ON DEATH OF SOLE PRINCIPAL

Amendments to Solicitors' Practice Rules and Foreign Lawyers Practice Rules

1. Reference is made to Circulars 00-128(SD) and 00-285(SD) which announced forthcoming amendments to the Solicitors' Practice Rules and the Foreign Lawyers Practice Rules. The amendments will require sole principals to provide information to the Law Society regarding the location of their wills and the identity and contact details of their executors and the solicitor or foreign lawyer appointed to manage their practices.
2. New rule 5AA of the Solicitors' Practice Rules and new rule 9A of the Foreign Lawyers Practice Rules will come into effect on 29 September 2000.
3. The Law Society has issued a form to each firm to enable the necessary particulars to be provided to the Society by those solicitors and foreign lawyers who fall within the ambit of the new rules by 17 October 2000.
4. The new rules are attached to Circular 00-309.

Any member or associate member who requires advice on the above amendments may telephone the Assistant Director of Regulation and Guidance on 2846 0503.

PARTICULARS RELATING TO SOLE PRACTITIONER — LOCAL FIRM

[Please put all information as required or put "not applicable"]

1. Name of sole practitioner

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2. Name of firm

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3. Details of the executor(s) of the will which contains the testamentary provision which provides for the management of my practice as a sole practitioner after my death.

Full Name (English & Chinese, if applicable)	Address	Telephone No	Fax No	Telex No	DX No

Personal Information Collection Statement

1. Your personal data collected using this form ("the data") will be used by the Law Society for the purposes of exercising its powers under the Legal Practitioners Ordinance and its subsidiary legislation (Chapter 159) and administering or enforcing the relevant provisions of the said Ordinance and its subsidiary legislation, and for any other legitimate purposes as may be required, authorized or permitted by law.
2. The data may be disclosed to relevant government departments and related organizations and to persons in the Law Society with responsibility for carrying out the purposes mentioned in paragraph 1 above.
3. You have a right to request access to and correction of the data. Any such request should be addressed to the Secretary General, the Law Society of Hong Kong, 3/F, Wing On House, 71 Des Voeux Road Central, Hong Kong.