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Solicitors

CIRCULAR 11-904 (COM)

5 December 2011

SOLICITORS' PRACTICE RULES

Rule 5: Form 1 - "Particulars Relating to Solicitors' Firms"

1. Pursuant to Rule 5(3) of the Solicitors' Practice Rules, a principal who is in practice at any time during a calendar year shall, not later than 31 January in the next calendar year, furnish to the Secretary General a declaration in respect of the relevant calendar year in accordance with Form 1 – "Particulars Relating to Solicitors' Firms" in the Schedule to the Solicitors' Practice Rules.
2. Over the years, it has been observed that some firms have omitted to put down any information under the column marked "Monthly Salary" in Schedules 3 and 4 of Form 1. Other firms have merely stated under the above column that no salary has been paid to the unqualified persons without giving any reasonable cause.
3. "Unqualified person" is defined under Section 2 of the Legal Practitioners Ordinance, (Cap.159) as a person who is not a solicitor. Trainee solicitors, registered foreign lawyers and non-professional staff (full-time and part-time) are regarded as unqualified persons for the purpose of Rule 5(3) of the Solicitors' Practice Rules.
4. Information obtained from Form 1 is crucial to the Law Society as a regulatory body to ensure compliance with the Solicitors' Practice Rules and Practice Directions. Failure to provide any information in relation to the monthly salary of the unqualified persons and/or any reason for non-payment of any monthly salary to the unqualified persons may give rise to reasonable suspicion that a solicitor is sharing his profit costs with the unqualified persons in contravention of Rule 4 of the Solicitors' Practice Rules.
5. Principals are reminded of the importance of completing Form 1 properly and accurately as it is a statutory declaration. When completing Schedules 3 and 4 of Form 1, they shall include the following information where appropriate:
 - (a) salary paid to a part-time/temporary unqualified person should be reported in the "Monthly Salary" column of Form 1 and a note should be made to that effect;

- (b) salary not paid monthly should be reported in the “Monthly Salary” column of Form 1 and a note should be made to that effect;
- (c) allowance and/or year-end bonus paid should be reported in the corresponding column of Form 1 and attention should be paid to the Note to Form 1;
- (d) salary payment made through a consultancy firm/service, contractor/employment agent engaged by the firm should be reported in the “Monthly Salary” column of Form 1 and a note should be made to that effect as persons employed otherwise by a firm (such as by a service company set up by the principal of the firm) but for the purposes of the firm shall be deemed to be persons employed by that firm; and
- (e) if no salary had actually been paid to an unqualified person, reason(s) should be given for the non-payment.

Circular 06-543 (COM) is superseded.