



From the President

13 April 2017

Dear Fellow Members,

**No-objection Letters in support of Employment Visa Applications
by Overseas Personnel**

From time to time, the Law Society receives requests for no-objection letters in support of applications to the Immigration Department for employment visa for overseas personnel to work in law firms in Hong Kong.

Among the applications for no-objection letters, it is common that the overseas applicants are qualified legal practitioners in a foreign jurisdiction, but the job that they are being employed for, e.g. Legal Assistant or Paralegal, is not a job that entitles them to provide legal services to the public as a practitioner of foreign law because they are not registered as foreign lawyers.

The usual reason given by the employer to support such an application is that the firm has dealings with clients from a foreign jurisdiction and the applicant who is legally qualified in that foreign jurisdiction will be able to understand and assist those clients better than someone who is not so qualified.

Under the Legal Practitioners Ordinance, other than practising Hong Kong solicitors and barristers, one must be registered with the Law Society as a foreign lawyer before he or she is permitted to provide legal services as a foreign legal practitioner to the public.

The intention of engaging overseas qualified lawyers to assist clients from the same overseas jurisdiction is understandable, but the fact that these overseas qualified lawyers are not registered as foreign lawyers raises serious concern about the protection of clients' interests.

In the course of assisting overseas clients, there is a significant risk that the communication of the applicant (who is qualified overseas) contains legal advice in the foreign law. However, without being registered as a foreign lawyer, the applicant is not entitled to practise foreign law in Hong Kong. This substantially increases the risk exposure of our Professional Indemnity Scheme. These applicants with overseas professional qualifications should properly register as a foreign lawyer and comply with the applicable regulatory requirements.

Another concern this phenomenon has raised is the adverse effect on employment opportunities available to the local workforce to fill these supporting roles, which do not normally require overseas legal professional qualifications.

The Law Society is consulting the Immigration Department expressing these concerns and noting that we are generally not in a position to issue a no-objection letter in cases where these concerns exist.

The Law Society of Hong Kong

From the President

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Thomas So', written in a cursive style.

Thomas So
President

[This President's Letter is in bilingual text.]



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From the President

各位同業：

為海外僱員申請僱傭簽證的不反對信

律師會不時收到發出不反對信的申請，作為申請人向入境處申請海外僱員簽證的支持文件。

申請不反對信的申請人普遍都是已在海外司法管轄區獲認許的律師，不過他們在港受聘的職位（例如法律助理或律師助理）並非香港註冊外地律師，則不允許他們以一名外地法律執業者的身分向公眾提供法律服務。

僱主作出這類申請的原因，多是指律師行與來自外地司法管轄區的客戶有業務來往，而申請人由於在該外地司法管轄區有資格執業，較一名沒有相關資格的律師，能為客戶提供更佳服務。

根據《法律執業者條例》，除了在香港執業的律師和大律師外，一名律師必須先在律師會註冊為外地律師，方可以外地法律執業者的身分向公眾提供法律服務。

聘用海外合資格的律師，協助來自同一個司法管轄區的客戶，本是無可厚非，但這些海外合資格律師，在香港並沒有註冊為外地律師，這令我們關注到對客戶利益的保障。

當本身在海外有執業資格的申請人協助海外客戶時，與客戶的溝通可能包含有關外地法律的法律意見。由於申請人並非註冊外地律師，無權在香港提供外地法律服務，這會增加專業彌償計劃的風險。這些擁有海外專業資格的申請人，應按規定註冊成為外地律師，並遵守適用的監管規定。

律師行所聘請的這些支援職位，通常不需要申請人擁有海外法律專業資格，但僱主仍聘請外地僱員，這做法將減低本地業界的就業機會。

律師會現正與入境處商討此事，表達上述關注，並指出在這些關注未能釐清的情況下，我們一般不會發出不反對信。

蘇紹聰
會長

2017年4月13日

[本《會長的信》以雙語發放。]