

GUIDELINES

APPLICATIONS TO REMOVE CONDITIONS IMPOSED ON PRACTISING CERTIFICATES

Sections 6(6) and 6(6A) Of the Legal Practitioners Ordinance

**(Please note that these guidelines are not applicable to applications
for exemption or waiver of CPD conditions)**

These guidelines set out the general principles that will be followed by the Consents Committee when considering applications. They are not intended to be rigid rules. The Committee has discretion to depart from the guidelines according to the view it forms of each individual application.

Section 6(6) of the Ordinance requires the Council to be satisfied that a solicitor has been bona fide employed in the practice of a solicitor in Hong Kong for at least two years prior to his application for a practising certificate not subject to the conditions specified in that section. No solicitor can practise on his own account or in partnership until a practising certificate without the conditions specified in section 6(6) of the Legal Practitioners Ordinance has been obtained. The Council has received advice from senior counsel that the two-year period must be a **continuous** period of two years, but that this period need not be immediately prior to the application of the condition.

Section 6(6A) provides that:

“If the Council considers that an applicant has acquired substantial experience in the law either in Hong Kong or elsewhere, the Council may waive the 2 year employment requirement in subsection (6) or it may reduce the period of 2 years to a period it considers appropriate.”

The following guidelines are now applicable to those applicants who seek a waiver under section 6(6A) of the Legal Practitioners Ordinance because they have not completed the two years' bona fide employment in the practice of a solicitor in Hong Kong (i.e. in a Hong Kong firm of solicitors) required under section 6(6) of the Ordinance.

GUIDELINES FOR APPLICATIONS UNDER SECTION 6(6A)

- (A) Solicitors who have acquired substantial experience in the law in Hong Kong, being:
- (i) continuous services as an in-house solicitor in commerce or industry in Hong Kong (subject to the supervision of a solicitor holding a practising certificate without the condition specified in section 6(6) of the Legal Practitioners Ordinance or otherwise entitled to such a certificate); or

- (ii) continuous experience as a lawyer in the service of the Hong Kong government;
 - (a) will be eligible for a reduction in the period of two years required by section 6(6) to a period of one year, if they have three years of such continuous experience; or
 - (b) will be eligible for a waiver of the entire period required by section 6(6), if they have five years of such continuous experience.
- (B) Solicitors who were previously overseas lawyers from common law jurisdictions:
- (i)* with five years' substantial experience in Hong Kong will be eligible for a waiver of the entire period required by section 6(6);
 - (ii) with either five years' cumulative substantial experience in the practice of law both in Hong Kong and overseas or five years' substantial experience in the practice of law overseas will be eligible for a reduction in the period of two years required by section 6(6) to a period of one year;
 - (iii) with eight years' substantial experience in the practice of law overseas, but with no experience in Hong Kong, will be eligible for a waiver of the entire period required by section 6(6).
- (C) Solicitors who were previously overseas lawyers from non-common law jurisdictions:
- with not less than eight years' substantial experience (whether or not partly in Hong Kong) will be eligible for a reduction in the period of two years required by section 6(6) to a period of one year.

When considering whether or not an applicant has “substantial experience” (by which is meant post-qualification experience) the Council will take into account any relevant factors brought to its attention by the applicant including (but not limited to):

- (a) the type of practice, including the breadth and complexity of work undertaken;
- (b) partnership experience;
- (c) experience in the control of, and responsibility for, client's funds;
- (d) the jurisdictions in which the applicant has practised (including whether or not those jurisdictions were fused professions); and
- (e) whether or not there have been any substantial gaps in employment.

* *Registered foreign lawyers meeting this requirement should apply under this category.*