

A BILL

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An Act to amend the Legal Profession (Amendment) Act 2012.

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ENACTED by the Parliament of Malaysia as follows:

Short title and commencement

1. (1) This Act may be cited as the Legal Profession (Amendment) Act 2012 (Amendment) Act 2013.

(2) This Act comes into operation on a date to be appointed by the Minister by notification in the *Gazette*, and the Minister may appoint different dates for the coming into operation of—

- (a) different provisions of this Act; or
- (b) all or different provisions of this Act in respect of different classes or categories of persons.

Amendment of section 1

2. The Legal Profession (Amendment) Act 2012 [Act A1444], which is referred to as the “principal Act” in this Act, is amended by substituting for subsection 1(2) the following subsection:

“(2) This Act comes into operation on a date to be appointed by the Minister by notification in the *Gazette*, and the Minister may appoint different dates for the coming into operation of—

- (a) different provisions of this Act; or
- (b) all or different provisions of this Act in respect of different classes or categories of persons.”.

Substitution of section 3

3. The principal Act is amended by substituting for section 3 the following section:

“Amendment of section 37

3. Section 37 of the principal Act is amended—

- (a) by inserting after subsection (2) the following subsection:

“(2A) Any unauthorized person who does or solicits the right to do any act which is customarily within the function or responsibility of an advocate and solicitor, including but not limited to advising on law, whether Malaysian or otherwise, unless he proves that the act was not done for or in expectation of any fee, gain or reward, shall be guilty of an offence under this subsection.

(2B) Subsection (2A) shall not apply to a foreign lawyer who—

- (a) is duly authorized or registered to practice law in a state or territory other than Malaysia; and

(b) enters Malaysia to advise or consult with a client on matters pertaining to law not involving any aspect of Malaysian law, provided always that the accumulated period of stay of that foreign lawyer shall not exceed sixty days in total in any one calendar year and that immigration authorization for each period of stay shall have first been obtained.”; and

(b) in subsection (4), by inserting after the words “subsection (2)” the words “, (2A)”.”.

Amendment of section 4

4. Section 4 of the principal Act is amended by substituting for section 40M in the new Part IVA the following section:

“Disciplinary authority

s40M. A registered foreign lawyer and a foreign lawyer falling within the exception provided under subsection 37(2B) shall adhere to all the rules and rulings of the Bar Council and shall be subject to, for the purposes of all disciplinary actions, the control of the Disciplinary Board.”.

EXPLANATORY STATEMENT

This Bill seeks to amend the Legal Profession (Amendment) Act 2012 (“Act A1444”).

2. *Clause 1* provides for the short title and commencement of the proposed Act.

3. *Clause 2* seeks to amend subsection 1(2) of Act A1444 by providing for staggered dates for the commencement of different provisions in Act A1444. This is in view of the fact that apart from the liberalisation of the legal profession, Act A1444 also provides for amendments to the disciplinary provisions in the Legal Profession Act 1976 [*Act 166*]. The proposed amendment seeks to facilitate the implementation of the different provisions of Act A1444.

4. *Clause 3* seeks to amend section 3 of Act A1444 to make it clear that an unauthorized person could not do or solicit the right to do any act which is customarily within the function or responsibility of an advocate and solicitor.

This provision also provides that it shall be an offence where a foreign lawyer who does not purport to practise in an international partnership, qualified foreign law firm or Malaysian law firm but who may be flying in and out of this Country and does or solicits the right to do any act relating to Malaysian law, or a combination of Malaysian law and any foreign law. However, the fly-in fly-out prohibition is exempted under the conditions provided for in the new subsection 37(2B).

5. *Clause 4* seeks to amend section 4 of Act A1444 in relation to section 40M in the new Part IVA to make clear that a foreign lawyer falling within the exception provided under the new subsection 37(2B) shall also be obliged to adhere to all the rules and rulings of the Bar Council and shall be subject to, for the purposes of all disciplinary actions, the control of the Disciplinary Board.

FINANCIAL IMPLICATIONS

This Bill will not involve the Government in any extra financial expenditure.

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