

RETHINKING THE
LEGAL PROFESSION (GROUP LAW
PRACTICE)
RULES 2018:
A REPORT

KUALA LUMPUR BAR COMMITTEE

On 19 October 2019, the Kuala Lumpur Bar Committee Practice Reform Committee's ("PRC") published a consultation paper which sets out PRC's proposed changes to the Legal Profession (Group Law Practice) Rules 2018 ("GLPR"). In that paper, we proposed amendments to the GLPR, primarily to remove the limit on the number of law firms in a Group Law Practice ("GLP") and the number of lawyers in member firms of the GLP. The consultation period ended on 15 January 2020. In this report, we consider the responses and state our recommendations.

PART A

1. THE CONSULTATION

- 1.1 In our consultation paper, we proposed an amendment to the GLPR and asked the following three questions:
- (a) Are you satisfied with the restrictions in the GLPR as it stands; and
 - (b) Would the consultees form a GLP if: first, the limit to the number of firms in a GLP is removed; second, the limit to the number of lawyers in a member firm of a GLP is removed; third, if firms with branches are allowed to join a GLP; and fourth, if member firms of a GLP are allowed to have branches.
 - (c) Consultees are asked whether they agree to the proposed amendments as reflected in Annexure A to the Consultation Paper and for comments on the same.
- 1.2 We received 6 responses, from firms of varying sizes. Of these, 3 have agreed that the GLPR should be amended in the manner proposed. 1 disagreed with the proposed amendments and opined that the GLPR should be maintained as it is with the exception that law firms with branches should be allowed to join. 1 merely agreed that the GLPR should allow for firm with branches. 1 suggested that provisions be included for a total Professional Indemnity Insurance in the GLP firms and for the dissolution of the GLP. A detailed account of the responses received is given in **Appendix A** of this report.
- 1.3 We would like to thank all those who responded to our consultation paper.

2. BRIEF DESCRIPTION OF THE GLPR

- 2.1 The Malaysian legal market consists predominantly of firms with five or fewer lawyers. In the 2018/19 Annual Report of the Bar Council of Malaysia, the Chief Executive Officer of the Bar Council stated that “single-lawyer establishments account for about 40% of law firms. Another 36% of firms have two or three lawyers. Small law firms are the norm – the percentage of firms that have five or fewer lawyers has held steady at about 88%”¹
- 2.2 The idea behind the GLP is to “essentially allow small law firms to practice and operate as a group by sharing premises and facilities while remaining as separate entities. This is a cost-effective alternative mode of practice that is intended to reduce operating costs for small law firms and to increase their efficiency and competitiveness.”²
- 2.3 Currently, GLP is governed by the GLPR³ which were passed pursuant to Section 77 of the Legal Profession Act 1976. The Rules were gazetted on 25th June 2018 and came into operation on 30th June 2018.⁴
- 2.4 In the special report by the President of the Malaysian Bar for the 2018/19 term, it was made known that “seven applications to set up a [GLP] have been approved.”⁵

¹ Bar Council Malaysia 2018/19 Annual Report, pages 114-115

² Bar Council Malaysia 2018/19 Annual Report, page 106. For further benefits, see Chapter 2 of the Group Practice Manual by the Law Society of Hong Kong

³ [http://www.federalgazette.agc.gov.my/output/pua_20180625_P.U.%20\(A\)%20142.pdf](http://www.federalgazette.agc.gov.my/output/pua_20180625_P.U.%20(A)%20142.pdf)

⁴ Rule 1(2) of the Legal Profession (Group Law Practice) Rules 2018

⁵ Bar Council Malaysia 2018/19 Annual Report, page 106. The same figure was cited by the Chief Executive Officer at page 115

3. CURRENT LEGAL REGIME

- 3.1 The GLPR is similar in most aspects to the rules governing GLP in Hong Kong and Singapore. The key differences being the:
- (a) limit on the number of firms in a GLP;
 - (b) limit on the number of lawyers in a member firm of a GLP;
 - (c) prohibition on firms with branches from joining a GLP; and
 - (d) prohibition on GLPs having branches.
- 3.2 The GLPR define a GLP as “a practice which comprises two to five firms as its members –
- (a) where each firm has not more than five advocates and solicitors;
 - (b) where all the firms share a premises at a common address and facilities under a group law practice name; and
 - (c) where each firm cooperates with each other without being partners.”⁶
- 3.3 Further, “a firm that has branches shall not be permitted to join a group law practice.”⁷
- 3.4 Also, under the GLPR, a GLP “shall not have a branch.”⁸

4. ARGUMENTS FOR THE PROPOSED AMENDMENTS

- 4.1 The underlying rationale to the proposed amendments is to bring the GLPR in line with its counterparts in Singapore and Hong Kong and to address the following weaknesses:
- (a) preventing GLPs from expanding and stifling the growth of member firms of a GLP;
 - (b) discouraging advocates and solicitors from embracing a GLP structure;
 - (c) imposing geographical boundaries on GLPs;
 - (d) irrationally restricting freedom of association; and
 - (e) unjustifiably and arbitrarily placing a restraint on business.

PART B

PROPOSED AMENDMENT TO THE GLPR

5. THE AMENDMENTS

- 5.1 The Malaysian model restricts:
- (a) the number of member firms in a GLP to 5;

⁶ Rule 3(1) of the Legal Profession (Group Law Practice) Rules 2018

⁷ Rule 4(3) of the Legal Profession (Group Law Practice) Rules 2018

⁸ Rule 6 of the Legal Profession (Group Law Practice) Rules 2018

- (b) the number of advocates and solicitors in a member firm of a GLP to a maximum of 5;
- (c) firms with branches from joining a GLP; and
- (d) GLPs from having branch offices.

5.2 As seen above, the restrictions in (a) and (b) above are not found in the Singapore or Hong Kong models, both of which introduced GLP before Malaysia. We are of the view that the restriction on firms in a GLP and the restriction on the number of advocates and solicitors in a member firm of a GLP cannot be justified. It irrationally prevents a GLP as well as its member firms from growing.

5.3 The restrictions in 26.3 and 26.4 are unique to Malaysia. There is little justification in restricting law firms with branch offices in other States from benefiting from a GLP structure. The restriction on having branch offices also prevents GLPs from having branch offices as it will enable them to better meet the needs of their clients from other states thereby putting them at a disadvantage as compared to a law firm.

5.4 Having evaluated GLP models in other jurisdictions and having compared them to their Malaysian counterpart, the Committee has the following provisional recommendations:

- (a) There should not be a limit to the number of firms in a GLP;
- (b) There should not be a limit to the number of lawyers in a member firm of a GLP;
- (c) Firms with branches should be allowed to join a GLP; and
- (d) GLPs should be allowed to have branches.

6. OTHER JURISDICTIONS

6.1 Singapore

- (a) GLP is governed by the Legal Profession (Law Practice Etiquette) Rules 2015⁹ which were made by the Professional Conduct Council pursuant to Section 71(2) of the Legal Profession Act 1966.
- (b) A Singapore Group Practice is made up of “two or more Singapore Law Practices” while a Foreign Group Practice is made up of “two or more Foreign Law Practices.”¹⁰
- (c) As at 24th May 2019, Singapore has 7 GLPs.¹¹ It is worth noting that Essex Court Chambers Duxton (Singapore Group Practice) has six advocates¹² and that Raffles Group Law Practice consists of 7 Singapore Law Firms¹³
- (d) Unique to the Singapore model, there may be a manager to handle the affairs of the GLP.¹⁴

⁹ <https://sso.agc.gov.sg/SL/LPA1966-S706-2015>

¹⁰ Sections 184A(1)-(2) of the Legal Profession Act 1966

¹¹ This is based on a search at <https://www.mlaw.gov.sg/eservices/lra/search-lawyer-or-law-firm/>

¹² <https://essexcourtduxton.com/advocates/>

¹³ Namely, Continental Law LLP, Lee Brothers, S Nabham, Tan Partnership, Trinity Law Corporation, Wong Kin Meng & Co, Wu LLC

¹⁴ Rules 44(1) and 65(1) of the Legal Profession (Law Practice Etiquette) Rules 2015

- (e) Other rules pertaining to GLPs, e.g. the name and style of the GLP, the GLP’s letterhead, are similar to those found in the Malaysian model.
- (f) Unlike Malaysia, there are no restrictions on the number of member firms in a GLP, and the number of advocates and solicitors in a member firm.

6.2 Hong Kong

- (a) GLP is governed by the Solicitors (Group Practice) Rules which were made by the Council of the Law Society of Hong Kong pursuant to Section 73 of the Legal Practitioners Ordinance (Cap. 159).
- (b) Where “... 2 or more solicitors or firms conduct their businesses ... (or any part of their businesses) from the same address, separately but in mutual cooperation,”¹⁵ they constitute a “group practice.”
- (c) Unique to Hong Kong, every GLP has to “maintain an incorporated company with limited liability registered under the Companies Ordinance (Cap. 622), or under the Companies Ordinance (Cap. 32) ...”¹⁶ as the group practice’s management company responsible for “matters relating to the management of the affairs of the group practice or members of the group practice as such.”¹⁷
- (d) Other rules pertaining to GLPs in Hong Kong, e.g. the name and style of the GLP, the GLP’s letterhead, are similar to those found in the Malaysian model.
- (e) Unlike Malaysia, there are no restrictions on the number of member firms in a GLP, and the number of solicitors in a member firm.

PART C

7. ARGUMENTS AGAINST THE PROPOSED AMENDMENTS

- 7.1 The arguments against the proposed amendments as articulated by one of the consultees is that it might be detrimental to the underlying structure and purpose of the GLPR to assist small firms.
- 7.2 The concern raised was that medium and big sized firms might utilize the GLP model and that small firms would inevitably face competition detrimental to them.
- 7.3 We have considered these arguments and we opine that the proposed amendments adequately addresses these concerns.
 - (a) Imposing a limit on the number of firms and number of lawyers in member firms will restrict the capability of small firms to grow in a GLP. This in itself could be detrimental to small firms.
 - (b) As to the possible competition with medium and big sized law firms, we feel that such competition would exist regardless of whether they operate as a GLP or using other models such as partnerships or limited liability partnerships.

¹⁵ Rule 3(1) of the Solicitors (Group Practice) Rules

¹⁶ Rule 7(1) of the Solicitors (Group Practice) Rules

¹⁷ Rule 7(2) of the Solicitors (Group Practice) Rules

- (c) Ultimately, we opine that freedom of association and trade must take priority. Small firms should be allowed to grow using the GLP model without restraints.

PART D

8. CONCLUSION

- 8.1 In summary, we have arrived at the conclusion that the proposed amendments in its current form adequately covers the views, concerns and suggestions of the consultees.
- 8.2 Accordingly, we see no reason to alter the proposed amendments as expressed in the consultation paper.

OUR RECOMMENDATION

- 9. We recommend that the GLPR be replaced with the proposed amendments in Schedule 1 of this report.

SCHEDULE 1

LEGAL PROFESSION ACT 1976

LEGAL PROFESSION (GROUP LAW PRACTICE) RULES 2018

ARRANGEMENT OF RULES

Rule

1. Citation and commencement
2. Interpretation
3. Group law practice
4. Application to practice as group law practice
5. Name of group law practice
6. Group law practice cannot have a branch
7. Notification of change of number of firms in a group law practice
8. Holding out as a group law practice
9. Register of group law practice
10. Client of firm in a group law practice
11. Separate liability
12. Bank account
13. Incapacity or death of sole proprietor

LEGAL PROFESSION ACT 1976

LEGAL PROFESSION (GROUP LAW PRACTICE) RULES 2018

IN exercise of the powers conferred by section 77 of the Legal Profession Act 1976 [Act 166], the Bar Council, with the approval of the Attorney General, makes the following rules:

Citation and commencement

1. (1) These rules may be cited as the Legal Profession (Group Law Practice) Rules 2018.

- (2) These Rules come into operation on 30 June 2018.

Interpretation

2. In these Rules—

“group law practice” means the practice described in rule 3;

“firm” means a sole proprietorship or a partnership of advocates and solicitors.

Group law practice

3. (1) A group law practice is a practice which comprises two ~~to five or more~~ firms as its members—
 - (a) ~~where each firm has not more than five advocates and solicitors;~~

 - (b) where all of the firms may share a premises at a common address and

 - (c) where all of the firms share facilities under a group law practice name; and

 - ~~(e)~~ (d) where each firm cooperates with each other without being partners.

- (2) Any firm in a group law practice shall not be a member of another group law practice.

Application to practice as group law practice

4. (1) All firms who wish to practice as a group law practice shall apply in writing to the Bar Council for an approval of—

(a) practising as a group law practice;

(b) the proposed name of the group law practice; and

(c) the manner in which the name of the group law practice will be used together with the name of the firm of each firm in the group law practice.

(2) The Bar Council shall not approve any proposed name of a group law practice if the name—

(a) is or may reasonably be regarded as being ostentatious, misleading, exploitative, deceptive, sensational, offensive or in any other way unbecoming the dignity of the legal profession; or

(b) is so similar to other existing group law practices as to likely to be confused with.

(3) A firm that has branches shall ~~not~~ be permitted to join a group law practice.

(4) The Bar Council may, within thirty working days from the date of receiving the application under subrule (1), notify the firms who wish to practice as a group law practice in writing of the approval or refusal of such application.

Name of group law practice

5. (1) No firm shall practice as a group law practice unless the name of the group law practice has been approved in accordance with subrule 4(4).

(2) A group law practice shall use the words “group law practice” as part of its name.

(3) A group law practice shall display the names of all firms in the group law practice on the group law practice nameplate outside the premises of the group law practice.

(4) The nameplate of the group law practice shall be in such form as determined by the Bar Council.

(5) If the Bar Council believes on reasonable grounds that the name of a group law practice should be changed, the Bar Council shall serve a written notice with the said grounds to the group law practice to change its name.

(6) The group law practice shall comply with the written notice under subrule (5) within six weeks from the date of receipt of the written notice or any longer period as the Bar Council allows.

(7) If the group law practice fails to comply with the written notice under subrule (5), the group law practice shall immediately cease to practice under the name of the group law practice.

Group law practice ~~cannot~~ can have a branch

6. A group law practice ~~shall not~~ may have ~~any~~ a branch.

Notification of change of number of firms in a group law practice

7. A group law practice shall notify the Bar Council in writing of any change in the number of firms in the group law practice within fourteen days from the date of such change.

Holding out as a group law practice

8. (1) No firm which is not a member of a group law practice shall describe itself as a group law practice.

(2) A firm in a group law practice shall—

(a) use the name of the group law practice together with the name of the firm provided that the name of the firm shall be more prominent than the name of the group law practice; and

- (b) use the name of the group law practice in documents in which its name appears including its letterheads and business cards.

Register of group law practice

- 9. (1) The Bar Council shall maintain a register of group law practice.
- (2) Any firm which joins or withdraws from a group law practice shall, within fourteen days of such joining or withdrawal, notify the Bar Council of the same in writing.

Client of firm in a group law practice

- 10.(1) A firm in a group law practice may—
 - (a) request another firm in the same group law practice to undertake work instructed by a client of the firm provided that the client has given his or its consent in writing; and
 - (b) act for a party in a matter where another firm in the same group law practice is acting for the other party in the same matter provided that both parties have given their consent in writing.
- (2) A notice incorporating the matters in paragraphs (1)(a) and (b) in such form as determined by the Bar Council shall be displayed prominently within the office of the group law practice.
- (3) An advocate and solicitor of any firm in a group law practice who is a commissioner for oaths or a notary public may attest to any document requiring attestation of clients of another firm in the group law practice.

Separate liability

- 11.(1) A group law practice does not have a juridical entity and a notice to this effect shall be displayed prominently within the office of the group law practice.
- (2) A group law practice shall not operate as a partnership and a notice to this effect shall be given to clients of the respective firm.
- (3) Each firm in a group law practice—

(a) shall be liable to pay and discharge its own debts and liabilities; and

(b) shall keep the other firms in the group law practice and their respective estates indemnified against such debts and liabilities and against all actions, proceedings, costs, claims and demands in respect of the said debts and liabilities.

(4) Each firm in a group law practice shall bear its own professional indemnity insurance premium, accountancy and audit costs, professional and similar subscriptions, and levies payable to the Bar Council.

Bank account

12.(1) Any firm in a group law practice may open and operate a common bank account for the purpose of meeting common expenses of the group law practice.

(2) Notwithstanding subrule (1), each firm in a group law practice shall maintain, separately from the other firms in the group law practice, its own office account and its client accounts.

(3) In this rule,—

(a) “client account” has the meaning assigned to it in the Solicitors’ Account Rules 1990 [P.U. (A) 301/1990]; and

(b) “office account” means an account maintained by an advocate and solicitor for his practice, other than a client account.

Incapacity or death of sole proprietor

13.(1) In relation to a firm in a group law practice which is a sole proprietorship, the sole proprietor shall appoint in writing another firm in the same group law practice to act in his stead in the event of his incapacity or death.

(2) The appointment made under subrule (1) is subject to the permission of the Bar Council.

APPENDIX

A

Chapter VI – FEEDBACK	Messrs Chris Lim Su Heng (Lee Yoke Shan)	Fahri & Co (Fahri Azzat)	KC LIM & CO	Haziq A Subhi & Co	K.Chandra & Co.	Putra Gill
Question 1: Are you satisfied with the restrictions in the GLP Rules as it stands?	No	No, I am not satisfied.	No, absolutely not satisfied		Yes. I am fairly satisfied as I am of the view that there should be some restrictions on for example, the number of firms in a GLP as well as the number of lawyers in a member firm of a GLP. I understand that the purpose of the GLP structure is essentially to allow small firms to operate as a group primarily in order to reduce costs and increase efficiency and competitiveness.	
Question 2:					If there is a view to open the scheme to law firms with higher number of lawyers then I don't see how it would benefit small law firms. Perhaps then the overall purpose of the GLP structure should be amended to reflect that it is to support all law firms regardless of size. If that is the case then my concern is that medium or large firms may use this platform to group together and sadly, small law firms may inevitably face a losing battle in terms of then having to compete with groups of medium or large firms.	
Will you consider forming a GLP if:						
i) the limit to the number of firms in a GLP is removed;	Yes	I am more likely to consider doing so	Yes		No. I am of the view that there could be a number of reasons for the low number of GLPs which in my view are not related to the limit imposed. Perhaps it may be useful to consult small law firms on why they are not choosing to make use of this scheme. It could be that some firms feel that there may be privacy issues or difficulty in management of the GLP. As a sole proprietor, my concern is maintaining confidentiality and the independence of the firm.	
ii) the limit to the number of lawyers in a member firm of a GLP is removed;	Yes	I am more likely to consider doing so	Yes		No. Again, if the primary purpose is to enable small firms to reduce costs and increase efficiency, increasing the limit to the number of lawyers in a member firm could have a negative impact on small firms. The result could be less small firms being able to compete with medium or large firms that group together.	
iii) firms with branches were allowed to join a GLP; and/or	Yes	I am more likely to consider doing so	Yes		I am of the view that firms with branches may be allowed to join a GLP provided that there are 5 or fewer lawyers in each branch. Again, this should be in line with the overall purpose of the scheme to support small law firms.	
iv) GLPs are allowed to have branches.	Yes	I am more likely to consider doing so	Yes		Being allowed to have a branch or not would not sway my decision to form a GLP however again, restrictions should be put in place to ensure that small law firms in smaller cities or states that are not part of a GLP are not at a disadvantage or face further competition from firms that group together and set up in these areas.	
Question 3: What are your comments on the provisional recommendations?	In my opinion, the comments are well considered and suggested. I agree to the recommended amendments as contained in the provisional recommendations (Annexure A).	I think they are an improvement on the present ones and more encouraging for GLPs to form.	The provisional recommendations have farsightedness features and attributes and it is and should be the way forward			
Additional comments			Obiter Dictum: In past years, I have enquired with the BC whether: 1. GLP is permissible? 2. Legal Firm's letterhead can carry the phrase "Company Secretary" as in Registered Trade Mark Agents, Registered Patent Agents, Notary Public, etc.? 3. Legal Firm can have websites-> To each of these enquiries, the answers from the BC is a vehement 'NO'. To my question and further enquiries of why 'No' I was just quoted 'please refer to the LPA'.	1) Does forming up a GLP will give an advantage that the GLP shall have a total sum of all Professional Indemnity Insurance of all the firms? - 1 Firm might be cover up to 500k while some other have it 2 million. Does forming a GLP will make it a total of 2.5k PII coverage? 2) With regard to Dissolving the GLP, is there any highlight requirements for dissolving GLP? - 3 Firm forms GLP, if 1 is to be removed, will there be certain requirement? Does the dissolution will dissolve the GLP as well? On the part of letters, which dept of the Bar will be in charge? - As per my opinion, if the Committee is able to cater the above question, we might be able to see an interest from a lot of small firm to form GLP. - If forming GLP is able to increase the total PII of the group, we might be able to see changes of market and more fair market competition. i.e: helps small firms to survive & sustain.		Instead of the amendment proposed, I think that Rule 6 should read as follows- Group law practice can have branches 6. A group law practice may have branches