

LEGAL PROFESSION (AMENDMENT) BILL 2012

MINISTRY OF LAW'S RESPONSES TO PUBLIC FEEDBACK RECEIVED

Section	Feedback received	Ministry of Law's response
<p>15 Ad hoc admission of Queen's Counsel</p>	<p>Some practitioners suggested that it would be desirable to make explicit the factors which the Courts may take into consideration when deciding whether to admit a person under section 15.</p>	<p>A new subsection (6A) has been included to empower the Chief Justice after consulting the Judges of the Supreme Court to specify by way of notification published in the Gazette, the matters that the court may consider in admitting a person under section 15.</p>
	<p>Some practitioners suggested that it would be desirable to allow for appeals under section 15 to be made to the Court of Appeal without the need to apply for leave to do so.</p>	<p>Provision has been made to allow for appeals to the Court of Appeal without needing to apply for leave from the High Court to do so.</p> <p>To ensure expeditious handling of such appeals, a new clause 15 has been inserted to make a related amendment to the Supreme Court of Judicature Act to allow appeals made under section 15 to be heard by a 2-Judge Court of Appeal. Currently, such appeals to the Court of Appeal are heard by a 3-Judge Court of Appeal.</p>
	<p>Most practitioners supported the higher threshold for admission for cases involving domestic areas of law such as criminal law, constitutional law and administrative law, while a minority of practitioners</p>	<p>The proposed amendments primarily seek to address market feedback that there is a gap in the availability of top-tier counsel in complex commercial and financial disputes.</p>

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	<p>suggested that the threshold should be the same as that required for commercial cases.</p>	<p>Although cases involving domestic areas would require a higher threshold to be satisfied, the Courts still has the discretion to decide whether to admit Queen's Counsel (and counsel of equivalent high standing of other Commonwealth jurisdictions) for such cases on a case-by-case basis. In other words, such Counsel can still be admitted in cases involving domestic areas. The factors taken into consideration in such an application would be a matter for the court to decide.</p>
<p>35 Arbitration proceedings</p>	<p>Practitioners felt that the proposed amendment to clarify that only persons who are qualified to practise law can act as arbitration counsel was unduly restrictive.</p> <p>There was unanimous preference for party autonomy ie the freedom for parties to choose whomever they believe was suited to represent them in arbitration proceedings, and to retain the current section 35 as drafted.</p>	<p>The Ministry has accepted this feedback and deleted the amendment from the final Bill.</p>