



BERMUDA BAR ASSOCIATION

Bar Council Guidelines on Requirements for In-House Counsel Status

June, 2012

All In-House Counsel whose day-to-day responsibilities require the practice of Bermuda law are required to maintain a current and valid Practicing Certificate. However, In-House Counsel, as opposed to attorneys working within a law firm providing legal advice to members of the public, are entitled to claim certain exemptions if they satisfy certain mandatory requirements. The exemptions and the requirements necessary to claim those exemptions are set forth below.

Firstly as long as an attorney only acts as In-House Counsel he is exempt from obtaining professional indemnity insurance, under section 13A of the Bermuda Bar Act 1974. Section 13A(c) states that the attorney is only exempt from the requirement to maintain indemnity insurance if the attorney "is an employee of a person (other than a firm of barristers or a professional company) and practices as a barrister exclusively for that person". In other words, In-House Counsel may only advise the attorney's employer or a subsidiary of their employer that is wholly owned by the employer. In-House Counsel may claim this exemption in paragraph 4(d) of the Application for a Practicing Certificate contained in the Bermuda Bar (Practicing Certificate) Rules 1984.

Secondly the Barristers (Accounts & Records) Rules 1976 section 8(1) exempts individuals from the requirement to submit an accountant's report to Bar Council for review and approval each year, if "he satisfies the Council that owing to the circumstances of this case it is unnecessary for him to do so". In-House Counsel may claim this exemption in paragraph 8(d) of the Application for a Practicing Certificate contained in the Bermuda Bar (Practicing Certificate) Rules 1984.

Thirdly In-House Counsel are exempt from paying the annual AML/ATF fees. By unanimous vote of the members present at the Special General Meeting held on February 4, 2010 only members of law firms are required to pay those fees.

If "In-House Counsel" wish to advise anyone other than their employer or a wholly owned subsidiary of their employer, then they are considered to be in private practice and must satisfy the same requirements as any other attorney in private practice. They must 1) establish themselves as a law firm and provide all of the firm's contact details and address to the Bar Association; 2) establish their fiscal year and inform the Bar Association of the same; 3) submit accountant's reports; 4) maintain the requisite indemnity insurance; and 5) pay the Bar Association the annual AML/ATF fees.

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