



JAWATANKUASA PEGUAM PULAU PINANG (PENANG BAR COMMITTEE)

Your ref :

Our ref :

Date :

CIRCULAR 11/10

31-05-2010

Below are a summary of current issues for members' information and further action:

REPORT OF BAR COUNCIL REPRESENTATIVE

1] **Sijil Annual & Practising Certificate 2010**

Injunction proceedings will be instituted against members who are still not in possession of their Sijil Annual and Practising Certificate for 2010. Members are required to check with the Penang Bar Committee or Bar Council regarding the status of the Sijil Annual & Practising Certificate on an urgent basis.

Criminal Law Practice Issues

2] **Approved Guidelines for Appointment and Responsibilities of Assigned Counsel in Capital cases.**

As members are aware, a revised remuneration rate for such appointments has come into force on 1-4-2010 vide Federal Court Practice Direction No. 3 of 2010. [See State Bar Committee Circulars Crim Law No. 1/10 and 2/10]

The revised fees are as follows:

- RM6,000.00 for High Court;
- RM3,000.00 for Court of Appeal; and
- RM3,500.00 for Federal Court.

Members who meet the requirements are encouraged to submit their names via Form 1A to enable the Bar Council to finalise the list, before sending the same to the respective Registrars of the Federal Court, Court of Appeal & High Court.

3] Criminal Procedure Code [Amendment] Act 2010

This Bill has been passed after its first reading in Parliament. Meanwhile the Working Committee consisting of the Managing Judge for Criminal Practice, YA Dato' Zulkefli Ahmad Makinudin FCJ, Members of the Attorney-General's Chambers and the Bar Council Criminal Law Committee met on 14/5/2010 to discuss some of the amendments in question i.e.

- a] Sec 172B[3] which provides trials to commence not later than ninety days from the date the accused is charged. This provision may delay older criminal trials to give preference to new cases within 90 days.
- b] Amendment to Sec. 173 and the introduction of Sec. 183A, which requires the Court to call on the victim of the offence or a member of the victim's family, if any, to make a statement as to the impact of the offence committed against the victim or his family.

The Working Committee has agreed to consider and forward the views raised by the Bar Council to the Minister in charge of Legal Affairs in the Prime Minister's Department for further consideration and members will be kept informed of any progress in this area.

- c] Members are encouraged to view the other amendments to the CPC which include pretrial conference, Case Management, plea bargaining, disposal of cases, etc. which are available on the Malaysian Bar website.

Court issues

- 4] Kindly forward any problems / issues to the State Bar Committee or the Bar Representative so we can raise the same with the Chief Judge or Managing Judge.

The Bar Council will be meeting the CJ next on 3-6-2010 to discuss Court-related issues.

5} 15th Malaysian Law Conference

The 15th MLC will be held from 29th to 31st July 2010 at the Kuala Lumpur Convention Centre.

The Penang Bar Committee will be sponsoring some members to attend the MLC. Those who are keen to attend may refer to Circular 9/10 for further information regarding the sponsorships available.

Alternatively, members may also refer to e-mails from the Bar Council as well as the Malaysian Bar website for further information regarding the Conference.

Conveyancing Practice Issues

- 6] Members names should appear in Land Office documents in accordance with the name appearing in his/her Practising Certificate / Sijil Annual and Membership Number to be included in the name stamp

It has been found that many advocates and solicitors are using abbreviations of their names in land office documents and in some cases the Bar Council is unable to provide verification as to their identities due to this.

It has therefore been decided by the Bar Council with agreement from the Department of Lands and Mines that all advocates and solicitors must include their Bar Council Membership Number as a parenthical after their name in the name stamp and further that their names should be spelt or stated in the same way as that appearing in their Practising Certificate and Sijil Annual.

- 7] AIBIM's request for Accreditation Course

The Bar Council is against AIBIM's requirement for an accreditation course for members wishing to do Islamic Finance work. The Bar Council is of the view that AIBIM or any third party should not impose additional requirements on lawyers to undergo any accreditation course before they can be appointed for such work.

The Bar Council's Islamic Finance Committee has met AIBIM and the Committee has been asked to conduct courses in all the states to educate members on documentation for Islamic Finance dealings. Members who wish to practice in this area are therefore advised to attend this courses and more information on this will be made available in the future.

- 8] Decision in Abdul Razak Bin Hashim v Badan Peguam Malaysia [KL High Court Originating Summons No. R2-17-5-06]

[see State Bar Committee's Circular No. 8/10]

The Bar Council has decided to appeal against the decision of the High Court.

General Issues

9] Members are not allowed to issue post dated cheques from their firms' clients' accounts.

10] Motor Insurance Claim: Bank Negara proposed scheme on TPBID.

The Bar Council has submitted a memorandum objecting to the proposal. The reasons for the objections are in the memorandum which is available on the Malaysian Bar Website.

The Sub-Committee has held meetings with various NGO and most of them are not in favour of the scheme [except for CAP who is supporting the NFL although the proposed scheme is not a 'No Fault Liability Scheme' BUT in fact fault based].

Bank Negara is supposed to study all feedback received from NGOs and members of the public and to forward the same to the Government but to date, there has been no confirmation from BNM.

The Bar Council vide the State Bar Representatives will have forums with members and/or NGOs regarding the proposed scheme and the memorandum.

The Bar Council is also in the midst of preparing draft contingency fee rules. Members are encouraged to give their views to the Bar Representative regarding this.

Thank you.

E. GNASEGARAN
BAR COUNCIL REPRESENTATIVE