
THE HONG KONG SOLICITORS' GUIDE TO PROFESSIONAL CONDUCT VOLUME 2

THE LAW SOCIETY OF HONG KONG

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PART I

SHORT TITLE AND INTERPRETATION

1. Short title

This Ordinance may be cited as the Legal Practitioners Ordinance.

2. Interpretation

(1) In this Ordinance, unless the context otherwise requires-

"accountant's report" (會計師報告) means a report delivered in accordance with the provisions of section 8;

"Association" (聯營組織) means an Association registered under Part IIIA;

"Bar Council" (執委會) means the Council of the Hong Kong Bar Association;

"barrister" (大律師) means a person who is enrolled as a barrister on the roll of barristers and who, at the material time, is not suspended from practice;

"client" (當事人), except in relation to non-contentious business, includes any person who as principal or on behalf of another person retains or employs, or is about to retain or employ, a solicitor, and any person who is or may be liable to pay a solicitor's costs

"contentious business" (爭訟事務) includes any business done by a solicitor in any court, whether as a solicitor or as an advocate;

"costs" (訟費、事務費) includes fees, charges, disbursements, expenses and remuneration;

"Costs Committee" (事務費委員會) means the Costs Committee appointed under section 74;

"Council" (理事會) means the council of the Society elected in accordance with the provisions of its articles of association;

"Court" (法院) means the Court of First Instance;

"employee" (僱員) includes a former employee;

"foreign firm" (外地律師行) means a law firm or sole practitioner that is registered as a foreign firm under Part IIIA;

"foreign jurisdiction" (外地司法管轄區) means a jurisdiction other than Hong Kong;

"foreign law" (外地法律) means the law of a foreign jurisdiction;

"foreign lawyer" (外地律師) means a person registered as a foreign lawyer under Part IIIA;

"Hong Kong firm" (香港律師行) means a law firm in which -

- (a) all of the partners are solicitors; or
- (b) the sole practitioner of which is a solicitor;

"non-contentious business" (非爭訟事務) includes any business connected with sales,

purchases, leases, mortgages and other matters of conveyancing;

"notary public" (公證人) means a person who is registered on the register of notaries public and who, at the material time, is not suspended from practice;

"Postgraduate Certificate in Laws" (法學專業證書) means a Postgraduate Certificate in Laws awarded by the University of Hong Kong, the City University of Hong Kong or the City Polytechnic of Hong Kong;

"practising certificate" (執業證書) means-

- (a) a certificate issued by the Society under section 6; and
- (b) a certificate issued by the Bar Council under section 30;

"qualified person" (合資格人士) means a person qualified for admission as a solicitor;

"register of notaries public" (公證人註冊紀錄冊) means the register kept by the Registrar in accordance with the provisions of section 41;

"Registrar" (司法常務官) means the Registrar of the High Court and any deputy registrar or assistant registrar of the High Court;

"roll of barristers" (大律師登記冊) means the roll kept by the Registrar in accordance with the provisions of section 29;

"roll of solicitors" (律師登記冊) means the roll kept by the Registrar in accordance with the provisions of section 5;

"Society" (律師會) means The Law Society of Hong Kong;

"solicitor" (律師) means a person who is enrolled on the roll of solicitors and who, at the material time, is not suspended from practice;

"trainee solicitor contract" (實習律師合約) means a contract in writing, whether entered into before or after the commencement of this Ordinance, under which a person is employed as an articulated clerk or trainee solicitor for the purpose of being admitted as a solicitor;

"unqualified person" (不合資格人士) means a person who is not a solicitor.

- (1A) In this Ordinance, a reference to the Department of Justice shall, in relation to any period of time before 1 July 1997, be deemed to be a reference to the then Legal Department.
- (2) For the avoidance of doubt, it is hereby declared that any conduct of a trainee solicitor or employee of a solicitor which would reasonably be regarded as disgraceful, dishonourable or discreditable by a solicitor of good repute shall be deemed misconduct.
- (3) Any rules made under section 73(1)(d) or (f) shall, subject to section 73(3) and unless the context otherwise requires, apply to a qualified person as they apply to a solicitor.

PART II
SOLICITORS

3. Power of Court to admit solicitors

- (1) (Repealed)
- (1A) (Repealed)
- (1AA) (Repealed)
- (1AB) (Repealed)
- (1AC) (Repealed)
- (1AD) (Repealed)
- (1AE) (Repealed)
- (1AF) (Repealed)
- (1B) (Repealed)
- (2) Every solicitor shall be an officer of the Court and shall be subject to the jurisdiction thereof in accordance with the provisions of the High Court Ordinance (Cap. 4) and of this Ordinance.
- (3) Subject to the provisions of this Ordinance, the Court or any judge thereof may, in so far as it is not inconsistent with the Basic Law, exercise the same jurisdiction in respect of any person admitted to practise as a solicitor in the Court as was exercisable immediately before 1 July 1997 by the then High Court or any judge thereof, as the case may be, in respect of any person admitted to practise as a solicitor in the then High Court.

4. Qualifications for admission

- (1) The Court may, in such manner as may be prescribed by the Chief Justice, admit as a solicitor of the High Court a person who the Court considers is a fit and proper person to be a solicitor and who -
 - (a) has complied with requirements prescribed by the Council with respect to employment as a trainee solicitor, the passing of examinations and the completion of courses; or
 - (b) in the case of a person who seeks admission on the basis of qualifications acquired outside Hong Kong, qualifies for admission under requirements prescribed by the Council.
- (1A) The Court shall not admit a person under this section unless it has received from the Society a certificate to the effect that the Society is satisfied that the person -
 - (a) has resided in Hong Kong for at least 3 months immediately before his admission;
 - (b) intends to reside in Hong Kong for at least 3 months immediately after his admission;
 - (c) has been ordinarily resident in Hong Kong for at least 7 years; or
 - (d) has been present in Hong Kong for at least 180 days of each of at least 7 years.
- (1B) The Court may, when admitting a person as a solicitor, sit in chambers.

- (2) A person shall not be disqualified from admission as a solicitor by reason only that-
 - (a) a solicitor who employed him or acted as his principal for the whole term or such part of a term of a trainee solicitor contract as may be prescribed by the Council has neglected or omitted to take out a practising certificate; or
 - (b) the name of the solicitor who employed him as a trainee solicitor or acted as his principal for any period has after the termination of that period been removed from or struck off the roll of solicitors.
- (3) Where a person who was admitted as a solicitor on the basis of an intention referred to in subsection (1A)(b) fails to reside in Hong Kong for at least 3 months immediately after his admission, the Court may, on the application of the Society, order that the person's name be removed from or struck off the roll of solicitors.

5. Roll of solicitors

- (1) The Registrar shall keep a roll of all solicitors admitted by the Court under section 4 and shall have the custody of the roll of solicitors and of all documents relating thereto and shall allow any person to inspect the roll during office hours without payment.
- (2) The Registrar, upon production of a certificate of admission signed by a judge and upon payment to the Registrar and to the Society of such fees as may be prescribed by the Chief Justice, shall enter on the roll of solicitors the name of the person admitted.
- (3) The Chief Judge may, if he thinks fit, at any time order the Registrar to replace on the roll of solicitors the name of a solicitor whose name has been removed or struck off the roll of solicitors.

6. Practising certificates - solicitors

- (1) The Society, on application in writing by a solicitor in the month of November in any year in a form approved by the Council and on payment of such fee as may be so prescribed, shall, subject to subsection (3), issue to the applicant a practising certificate as a solicitor for the period of one calendar year from 1 January next following the date of the application.
- (1A) A practising certificate issued to a solicitor admitted under section 3(1AD) before the repeal of that provision by the Legal Practitioners (Amendment) Ordinance 1994 (60 of 1994) is subject to the condition that the solicitor shall not practise on his own account or in partnership.
- (2) A practising certificate issued under subsection (1) shall be in such form as may be prescribed by the Council.
- (3) A practising certificate shall not be issued under subsection (1) unless the applicant has, where necessary, delivered to the Council an accountant's report under section 8, complied with any indemnity rules made by the Council under section 73A or is exempt from them and has paid to the Society the membership subscription in respect of the year for which the practising certificate is to be issued.
- (4) Notwithstanding subsection (1), the Society may, upon such conditions as it thinks fit, permit an application for a practising certificate to be made under this subsection at any time and upon such application may issue to the applicant a practising certificate for any period not exceeding one calendar year and ending on 31 December in the year in which it is issued.

- (5) Notwithstanding subsection (1), the Society may-
- (a) refuse to issue a practising certificate on such grounds as may be prescribed by the Council;
 - (b) issue a practising certificate to an applicant subject to such conditions as may be prescribed by the Council.
 - (c) issue a practising certificate to an applicant subject to the condition that he shall comply with any continuing legal education rules made under section 73;
 - (d) refuse to issue a practising certificate if the applicant has not complied with any continuing legal education rules made under section 73; or
 - (e) amend an already issued certificate by adding such conditions as may be prescribed by the Council.
- (5A) Where the Society considers that a solicitor has not complied with conditions imposed under subsection (5) or (6) it may, after affording the solicitor the opportunity to make representations, suspend or cancel the solicitor's practising certificate with or without refunding the certificate fee.
- (6) It shall be a condition of a practising certificate issued for the first time on or after 1 August 1976 to any solicitor who does not satisfy the Council that since being admitted as a solicitor he has been bona fide employed in the practice of a solicitor in Hong Kong for at least 2 years prior to his application for such practising certificate, that he shall not practise as a solicitor on his own account or in partnership until he satisfies the Council that since being admitted as a solicitor he has been bona fide employed in the practice of a solicitor in Hong Kong for at least 2 years.
- (6A) If the Council considers that an applicant has acquired substantial experience in the law either in Hong Kong or elsewhere, the Council may waive the 2 year employment requirement in subsection (6) or it may reduce the period of 2 years to a period it considers appropriate.
- (7) Where the name of a solicitor is removed from or struck off the roll of solicitors or where a solicitor becomes bankrupt, the practising certificate of that solicitor shall automatically determine and in any such case no part of the fee paid in respect thereof shall be repayable.
- (8) The publication in the Gazette by the Society of a list of the names and addresses of those solicitors who have obtained practising certificates for the period stated therein shall, until the contrary is proved, be evidence that each person named therein is a person qualified under section 7 to act as a solicitor and to whom a practising certificate for the period stated in such list has been issued under this section; and the absence from any such list of the name of any person shall, until the contrary is proved, be evidence that such person is an unqualified person.
- (9) Where the Society, in the exercise of the powers conferred on it under subsection (5) or (5A), refuses to issue a practising certificate, issues a certificate subject to conditions, amends a certificate by adding conditions or suspends or cancels a certificate, the solicitor may appeal to the Chief Judge against the decision of the Society within 1 month of being notified of it.
- (10) Where the Council refuses to disapply subsection (6) in the case of an applicant who claims to have acquired substantial experience in the law, either in Hong Kong or elsewhere, the applicant may appeal to the Chief Judge against the decision of the Council within 1 month of being informed of that decision.

- (11) On an appeal to the Chief Judge under subsection (9) or (10) he may-
 - (a) affirm the decision of the Society or Council;
 - (b) direct the Society to issue a practising certificate to the appellant free from conditions or subject to such conditions as he thinks fit; or
 - (c) remit the matter to the Society or Council for reconsideration with such directions as he thinks fit.
- (12) Where the Chief Judge affirms a decision of the Society or Council under paragraph (a) of subsection (11) or directs the Society to issue a practising certificate under paragraph (b) of that subsection; the decision of the Chief Judge shall be final.

7. Qualifications for practising as solicitor

No person shall be qualified to act as a solicitor unless-

- (a) his name is for the time being on the roll of solicitors;
- (b) he is not suspended from practice;
- (c) he has in force a current practising certificate; and
- (d) he is complying with any indemnity rules made by the Council under section 73A that apply to him or is exempt from them.

7A. Solicitors may exercise functions of commissioner for oaths

- (1) For the purpose of administering and receiving an oath, affidavit or affirmation any solicitor who holds a current practising certificate shall possess and may exercise all the powers of a commissioner for oaths that are conferred by or under any law.
- (2) A document containing an oath, affidavit or affirmation administered and received under subsection (1) and purporting to be signed by a solicitor shall be admitted in evidence without proof of the signature of the solicitor, and without proof that he is a solicitor who holds a current practising certificate.

8. Accountant's reports

- (1) Every solicitor and foreign lawyer shall once in each period of 12 months ending with 31 October or such other date as may be prescribed by the Council, unless he satisfies the Council that owing to the circumstances of his case it is unnecessary so to do, deliver by post or otherwise to the Council a report signed by an accountant (hereinafter referred to as "an accountant's report") and containing such information as may be prescribed by rules made by the Council under section 73(1)(b):

Provided that an accountant's report shall be delivered to the Council not more than 6 months (or such other period as any rules made under section 73(1)(b) may prescribe) after the end of the accounting period specified in that report.

- (2) Subject as may be prescribed by the Council, the accounting period for the purposes of an accountant's report shall-
 - (a) begin at the expiry of the last preceding accounting period for which an accountant's report has been delivered;

- (b) cover not less than 12 months;
 - (c) terminate not more than 6 months, or such lesser period as may be prescribed by the Council, before the date of the delivery of the report to the Council; and
 - (d) where possible, consistently with paragraphs (a), (b) and (c), correspond to a period or consecutive periods for which the accounts of the solicitor, or foreign lawyer, or his firm, are ordinarily made up.
- (3) If a solicitor or foreign lawyer fails to comply with the provisions of this section or any requirements relating to accounts which may be prescribed by the Council any person may make a complaint in respect of that failure to the Council.

8A. Council may examine documents if solicitor is unfit

- (1) Where the Council considers that a solicitor or foreign lawyer may be unfit to practise the Council may, if it considers it necessary for the purpose of investigating the matter, require the solicitor, the foreign lawyer or his firm to produce or deliver to a person appointed by the Council, at a time and place fixed by the Council, all documents in the possession of the solicitor, the foreign lawyer or his firm that the Council specifies either particularly or generally.
- (2) Without limiting subsection (1), the Council may take the following factors into account in deciding whether to act under subsection (1) -
 - (a) the solicitor's or foreign lawyer's mental and physical health;
 - (b) the solicitor's or foreign lawyer's ability to supervise his practice;
 - (c) the nature and frequency of complaints made against the solicitor or foreign lawyer;
 - (d) the solicitor's or foreign lawyer's financial position;
 - (e) conviction of the solicitor or foreign lawyer for an offence for which a sentence of imprisonment is possible; and
 - (f) the number of successful claims made against the solicitor or foreign lawyer for negligence or breach of duty.
- (3) After considering a report of the person appointed under subsection (1) and any written representations made by or on behalf of the solicitor or foreign lawyer, if the Council considers that the solicitor or foreign lawyer is unfit to practise, the Council shall submit the matter to the Tribunal Convenor of the Solicitors Disciplinary Tribunal Panel and may suspend the solicitor from practice or suspend the foreign lawyer's registration pending a decision of the Solicitors Disciplinary Tribunal constituted to deal with the matter.

8AA. Appointment and powers of inspector

- (1) The Council may appoint a person as an inspector to assist the Council -
 - (a) in verifying compliance by a solicitor, a foreign lawyer, a trainee solicitor or an employee of a solicitor or foreign lawyer with the provisions of this Ordinance or any practice direction issued by the Society;
 - (b) in determining for the purpose of section 9A whether the conduct of any-solicitor, foreign lawyer, trainee solicitor or employee of a solicitor or foreign lawyer should be inquired into or investigated; or
 - (c) in relation to an inquiry or investigation under section 9B.

- (2) For the purposes of subsection (1), an inspector may -
 - (a) in relation to any person who acts or purports to act as an employee of a solicitor in the premises of any court or place of lawful detention -
 - (i) question there and then the person as to his name, identity card number, the identity of any client for whom he acts or purports to act on that occasion and the name of the firm of which he acts or purports to act as the employee; and
 - (ii) require the person to produce for inspection there and then all documents in his possession that the inspector reasonably suspects to be relevant to any matter referred to in subsection (1)(a), (b) or (c) and copy or seize any of the documents; and
 - (b)
 - (i) subject to subsection (3), require a solicitor, a foreign lawyer, or an employee of a solicitor or foreign lawyer to produce or deliver to him for inspection, at a time and place specified by him, all documents in the possession of the solicitor, foreign lawyer or employee of a solicitor or foreign lawyer that the inspector reasonably suspects to be relevant to any matter referred to in subsection (1)(a), (b) or (c) and specifies particularly or generally; and
 - (ii) copy or seize any of the documents produced or delivered under subparagraph (i).
- (3) An inspector shall not exercise his power under subsection (2)(b)(i) except under a direction of the Council to do so.
- (4) No liability shall be incurred by any person in respect of anything done or omitted to be done by him in good faith in the exercise of any power under this section.
- (5) In this section, "identity card" means an identity card issued under the Registration of Persons Ordinance (Cap. 177).

8AAA. Additional powers of an inspector

- (1) In this section "inspector" (調查員) means an inspector appointed under section 8AA.
- (2) The Council may direct an inspector to assist it in gathering evidence in respect of a matter the Council is considering for the purpose of deciding whether or not it should be submitted to the Tribunal Convenor of the Solicitors Disciplinary Tribunal Panel.
- (3) For the purposes of this section, an inspector may question -
 - (a) persons who are, or were at the material time, members or employees of any law firm; or
 - (b) where authorized by the Council, any other persons whom the inspector considers may be able to assist the Council.

8B. Document production and privilege

- (1) For the purpose of enforcing the production of documents required by the Council under section 8A, section 11 applies and references in section 11 to the Solicitors Disciplinary Tribunal and to the Chairman of the Solicitors Disciplinary Tribunal shall be deemed to be references respectively to the Council and to the President of the Society.
- (2) Documents required by the Council under section 8A or by an inspector under section 8AA shall be produced or delivered notwithstanding any claim of solicitor-client privilege but documents that are subject to a solicitor-client privilege may only be used for the purposes of an inquiry or investigation under this Ordinance.

9. Solicitors Disciplinary Tribunal Panel

- (1) The Chief Justice shall appoint a Solicitors Disciplinary Tribunal Panel consisting of not more than 120 practising solicitors of at least 10 years' standing, not more than 10 foreign lawyers and not more than 60 lay persons who are not, in the opinion of the Chief Justice, connected in any way with the practice of law.
- (2) A member of the Council is not eligible to be appointed to or remain on the Panel.
- (3) A person appointed to the Panel shall be appointed for a term specified by the Chief Justice not to exceed 5 years but may be reappointed for a further term or terms.
- (4) The Chief Justice shall appoint a solicitor as the Tribunal Convenor for a 3 year term and he may appoint one or more solicitors on the Panel and one or more foreign lawyers on the Panel as Deputy Tribunal Convenors for 3 year terms.
- (5) If the Tribunal Convenor is precluded by illness, absence from Hong Kong or any other cause from exercising his functions under this Ordinance, a Deputy Tribunal Convenor may act in his place.
- (6) The Tribunal Convenor and a Deputy Tribunal Convenor who acts in the place of the Tribunal Convenor in circumstances mentioned in subsection (5) may be remunerated by the Society.

9A. Complaint about solicitor's conduct

- (1) Where the Council considers that the conduct of a person who is, or was at the relevant time, a solicitor, a foreign lawyer, a trainee solicitor or an employee of a solicitor or foreign lawyer should be inquired into or investigated as a result of a complaint being made to it or otherwise, the Council shall submit the matter to the Tribunal Convenor of the Solicitors Disciplinary Tribunal Panel.
- (2) Where a complaint is made to the Council and the Council does not submit a matter to the Tribunal Convenor under subsection (1) within 6 months after receiving the complaint the Chief Judge may, on application by any person or on his own initiative, submit the matter to the Tribunal Convenor if he considers that the Council ought to have done so.

9B. Solicitors Disciplinary Tribunal

- (1) On receipt of a submission under section 8A(3) or 9A in respect of a person who is, or was at the relevant time, a solicitor, a trainee solicitor or an employee of a solicitor the Tribunal Convenor of the Solicitors Disciplinary Tribunal Panel shall appoint from the Panel 2 solicitors and one lay person to constitute a Solicitors Disciplinary Tribunal to inquire into and investigate the matter.

- (1A) On receipt of a submission under section 8A(3) or 9A in respect of a person who is, or was at the relevant time, a foreign lawyer or an employee of a foreign lawyer the Tribunal Convenor of the Solicitors Disciplinary Tribunal Panel shall appoint from the Panel 2 solicitors, one foreign lawyer and one lay person to constitute a Solicitors Disciplinary Tribunal to inquire into and investigate the matter.
- (2) The Tribunal members shall elect as chairman one of its members who is a solicitor.
- (3) The Council may be represented at proceedings before the Tribunal.
- (4) The Tribunal shall sit in camera in the places and at the times it directs.
- (5) A member of the Tribunal who becomes a member of the Council may continue as a member of the Tribunal notwithstanding section 9(2).

10. Powers of a Solicitors Disciplinary Tribunal

- (1) A Solicitors Disciplinary Tribunal shall have power to inquire into and investigate the conduct of any person in respect of which it was appointed.
- (2) Subject to the provisions of this Ordinance, on completion of its inquiry and investigation, a Solicitors Disciplinary Tribunal shall have power to make such order as it thinks fit and any such order may, in particular, include provision for all or any of the following matters-
 - (a) striking off the roll of solicitors the name of the solicitor to whom the inquiry or investigation relates;
 - (b) suspending that solicitor from practice for such period as the Solicitors Disciplinary Tribunal shall think fit;
 - (ba) permitting the solicitor to continue practice, but subject to conditions which may be imposed for up to 3 years;
 - (bb) payment by that solicitor or foreign lawyer to the complainant of an amount not exceeding the amount paid to the solicitor or foreign lawyer by way of fees and disbursements in relation to the complainant's matters in dispute;
 - (bc) payment by that solicitor to a fund established under section 73A of an amount not greater than an amount paid out of the fund in respect of that solicitor;
 - (c) payment by that solicitor of a penalty not exceeding \$500,000 which shall be paid into the general revenue;
 - (d) censure of that solicitor or, if the inquiry or investigation relates to a solicitor's employee or trainee solicitor, of such employee or trainee solicitor;
 - (e) payment by any party of the costs of and incidental to the proceedings of the Tribunal and the costs of any prior inquiry or investigation in relation to the matters before the Tribunal, to be taxed by a Master of the High Court on a full indemnity basis, or payment of an amount that the Tribunal considers is a reasonable contribution towards those costs;
 - (f) cancellation or suspension of the trainee solicitor contract of the trainee solicitor to whom the inquiry or investigation relates;
 - (g) prohibition of employment by any solicitor or foreign lawyer of any solicitor's employee or trainee solicitor or foreign lawyer's employee, to whom the inquiry or investigation relates, for such period as the Solicitors Disciplinary Tribunal may decide;

- (h) cancelling the registration of the foreign lawyer to whom the inquiry or investigation relates;
 - (i) suspending the registration of the foreign lawyer for a period that the Solicitors Disciplinary Tribunal considers appropriate;
 - (j) imposing conditions for the continued registration of the foreign lawyer for up to 3 years;
 - (k) payment by the foreign lawyer to the complainant of an amount not exceeding the amount paid to the foreign lawyer by way of fees and disbursements in relation to the complainant's matters in dispute;
 - (l) payment by the foreign lawyer of a penalty not exceeding \$500,000 which shall be paid into the general revenue; and
 - (m) censure of the foreign lawyer or, if the complaint or investigation relates to a foreign lawyer's employee, censure of that employee.
- (3) Every order made under subsection (2) shall be filed with the secretary of the Society and shall be available for inspection by any person affected during such hours as the Council may prescribe.
- (4) An order that may be made under subsection (2) may also be made in respect of a person who was, at the relevant time, a solicitor, a foreign lawyer, a trainee solicitor or an employee of a solicitor or foreign lawyer.

11. Ancillary powers of a Solicitors Disciplinary Tribunal

- (1) For the purpose of conducting any such inquiry or investigation, a Solicitors Disciplinary Tribunal shall have all such powers as are vested in the Court or in any judge in the course of any action or suit in respect of the following matters-
- (a) enforcing the attendance of witnesses and examining them upon oath or otherwise;
 - (b) compelling the production of documents;
 - (c) punishing persons guilty of contempt;
 - (d) ordering an inspection of any property;
 - (e) conducting the examination of witnesses; and
 - (f) adjourning any meeting from time to time and from one place to another,
- and a summons under the hand of the Chairman of a Solicitors Disciplinary Tribunal may be substituted for and shall be equivalent to any form of process capable of being issued in any action or suit for compelling the attendance of witnesses or the production of documents and any warrant of committal to prison issued for the purpose of enforcing any such powers as aforesaid shall be under the hand of such Chairman and shall not authorize the imprisonment of any offender for a period exceeding 1 month.
- (2) The Commissioner of Police and all police officers, officers of the court, gaolers and bailiffs of the court are required to give their utmost assistance to every Solicitors Disciplinary Tribunal and to every chairman thereof, in the enforcement of documents, warrants and orders issued in accordance with subsection (1) or otherwise.

- (3) Every member of a Solicitors Disciplinary Tribunal shall have the like protection and privileges, in relation to any action or suit brought against him for any act done or omitted to be done in the execution of his duties as such member, as is given by any law to a magistrate acting in the execution of his office.
- (4) All proceedings of a Solicitors Disciplinary Tribunal and any order made in accordance with the provisions of section 10 shall be privileged.

12. Findings of Solicitors Disciplinary Tribunal

- (1) An order made by a Solicitors Disciplinary Tribunal shall include a statement of its findings in relation to the facts of the case and shall be signed by the chairman or by a member authorized by the Tribunal.
- (2) A signed copy of an order of a Tribunal in relation to a solicitor shall be filed with the Registrar who shall enter a note of the order on the roll of solicitors in connection with the name of the solicitor and, where the order so directs, the Registrar shall strike off the name and shall publish an order for suspension or striking off in the Gazette within 14 days after receiving a copy of the order.
- (2A) A signed copy of an order of a Tribunal in relation to a foreign lawyer shall be filed with the Secretary General of the Society and, where the order so directs, the Secretary General shall publish an order for suspension or cancellation of the registration in the Gazette within 14 days after receiving a copy of the order.
- (3) The Tribunal that heard the matter or a Tribunal constituted for the purpose by the Tribunal Convenor may, on the application of a party against whom an order for payment is made, order that payment may be paid by instalments or be deferred for a period the Tribunal considers appropriate.
- (4) An application for an order for payment by instalments, or for the deferring of payment, may be made at the hearing or, within 14 days after the date of the order for payment, by notice in writing to the Tribunal Convenor and to all parties who were represented at the Tribunal hearing.
- (5) On receipt of a notice under subsection (4), the Tribunal Convenor shall, within 14 days, notify the applicant and the other parties of the date on which the application will be heard by a Tribunal.
- (6) There is no right of appeal from the decision of the Tribunal on an application under subsection (4).
- (7) Payment of an amount ordered to be paid by the Tribunal may be enforced as if it were an order issued out of the Court on the production of a copy of the order signed by the chairman or other authorized member of the Tribunal and the rules of the Court, so far as applicable, apply to the order.
- (8) No order under subsection (7) shall be enforced until after the 14 days referred to in subsection (4) has elapsed or until after the Tribunal has made its decision under subsection (3).

13. Appeal and saving

- (1) Subject to section 12(6), an appeal against any order made by a Solicitors Disciplinary Tribunal shall lie to the Court of Appeal and the provisions of Order 59 of the Rules of the High Court (Cap. 4 sub. leg.) shall apply to every such appeal save that the time for serving notice of motion of appeal shall be 21 days from the date of the decision and not 6 weeks as provided in the said Order and the decision of the Court of Appeal on any such appeal shall be final.

- (2) Subject to subsection (2A), in any appeal under subsection (1) the Society shall be the respondent.
- (2A) The Council may, with leave of the Court of Appeal, appeal an order of a Solicitors Disciplinary Tribunal under subsection (1), in which case the Society shall be the appellant and the person whose conduct was the subject of the inquiry by the Solicitors Disciplinary Tribunal shall be the respondent.
- (3) Nothing herein contained shall affect the jurisdiction of the Court under sections 3(2) and 45.
- (4) The hearing of every appeal under this section shall be in open court unless, and to the extent to which, the Court of Appeal may otherwise direct.

13A. Publication of findings of Solicitors Disciplinary Tribunal

Unless, on application by the solicitor, the Solicitors Disciplinary Tribunal or the Court of Appeal, on an appeal under section 13, otherwise orders, the Society may, after the expiry of the time for filing an appeal under section 13 or after completion of such an appeal, as the case may be, publish a summary of the finding and order of a Solicitors Disciplinary Tribunal and the name of the solicitor who was the subject of the finding and order in any publication produced by, or at the direction of, the Society.

14. (Repealed)

15. (Repealed)

16. Restrictions on powers to strike names off roll

- (1) No solicitor shall be liable to have his name struck off the roll of solicitors on account of any failure to comply with such requirements with respect to employment as a trainee solicitor as may be prescribed by the Chief Justice or on account of any defect in his admission and enrolment, unless the application to strike his name off the roll of solicitors is made within 12 months after the date of his enrolment:

Provided that this subsection shall not apply in any case where fraud is proved to have been committed in connection with the failure or defect.

- (2) No solicitor shall be liable to have his name struck off the roll of solicitors by reason only that-
 - (a) a solicitor who employed him or acted as his principal for the whole term or such part of a term of a trainee solicitor contract as may be prescribed by the Chief Justice has neglected or omitted to take out a practising certificate in accordance with the provisions of section 6; or
 - (b) the name of a solicitor who employed him as a trainee solicitor or acted as his principal for any period has after the termination of that period been struck off the roll of solicitors.

17. Council may inspect proceedings in bankruptcy

The Council shall be entitled, without payment of any fee, to inspect the file of proceedings in bankruptcy relating to any solicitor or foreign lawyer against whom proceedings in bankruptcy have been taken, and to be supplied with office copies of the proceedings on payment of the usual charges for such copies.

18. Winding-up, etc. of business of solicitors struck off or suspended

- (1) The Court may make an order for the winding-up of the business of any solicitor who is struck off the roll of solicitors or of any foreign lawyer whose registration is cancelled in such terms and appointing such solicitor or firm of solicitors or the Official Receiver under the Bankruptcy Ordinance (Cap. 6) or both as it thinks fit for that purpose.
- (2) The Court may make an order appointing any solicitor or firm of solicitors or the Official Receiver or both to manage the business of any solicitor, whose practising certificate is suspended, for the duration of such suspension.
- (3) The Court may make an order appointing a solicitor, firm, foreign lawyer, foreign firm, the Officer Receiver or any combination of them to manage the business of a foreign lawyer whose registration is suspended, for the duration of the suspension.

19. Removal from roll

- (1) Upon reasonable cause being shown to the Council by a solicitor the Council may direct the Registrar to remove the name of such solicitor from the roll of solicitors and the Registrar shall thereupon remove such name from the roll of solicitors.
- (1A) Upon reasonable cause being shown to the Council by a foreign lawyer or foreign firm, the Council may direct the Secretary General of the Society to cancel the registration of the foreign lawyer or foreign firm and the Secretary General shall then cancel the registration.
- (2) With effect from the date of removal of a name under this section the person whose name is so removed shall cease to be a solicitor.
- (3) Upon application being made for removal or cancellation as aforesaid the Council may advertise or require the solicitor, foreign lawyer or foreign firm to advertise the application inviting any person who objects thereto to make objection to the Council.
- (4) Where the Registrar is satisfied that a person who was admitted as a solicitor under section 3(1AD) before the repeal of that provision by the Legal Practitioners (Amendment) Ordinance 1994 (60 of 1994) would no longer be qualified under paragraph (a) of that provision if it were still in force, he shall, unless the person has become qualified otherwise under this Ordinance, remove his name from the roll of solicitors.
- (5) Without prejudice to the generality of subsection (1), where a person admitted under section 3(1AB) before that and related provisions ceased to have effect by virtue of section 75(2) does not commence practice as a solicitor within a period of 12 months after his admission, it shall be a cause for the removal of his name from the roll of solicitors under this section.

20. Restrictions on employing trainee solicitors

- (1) No person who has not at some time been in continuous practice as a solicitor in Hong Kong for a period of 5 years shall, without the special leave in writing of the Society, employ a trainee solicitor or act as his principal.
- (2) No person shall employ or act as principal for more than 2 trainee solicitors at the same time.
- (3) No person shall employ a trainee solicitor or act as his principal unless he is practising as a solicitor on his own account or in partnership, without the special leave in writing of the Society.

- (4) If any solicitor employs or acts as principal for a trainee solicitor in contravention of any of the provisions of subsection (1), (2) or (3), the Council may terminate the trainee solicitor's contract upon such terms as it thinks fit.
- (4A) It is not a contravention of subsection (1), (2) or (3) for a person other than a solicitor to employ a trainee solicitor so long as -
 - (a) the trainee solicitor is assigned to a solicitor who acts as his principal;
 - (b) the solicitor who acts as principal is qualified under and complies with subsections (1), (2) and (3); and
 - (c) the solicitor is employed by the same person as the trainee solicitor.
- (5) Any-
 - (a) solicitor; or
 - (b) qualified person,serving in the-
 - (i) Department of Justice; or
 - (ii) the Legal Advisory and Conveyancing Office of the Buildings and Lands Department; or
 - (jia) the Land Registry; or
 - (jib) the Companies Registry; or
 - (iii) Legal Aid Department; or
 - (iv) Official Receiver's Office; or
 - (v) Intellectual Property Department

of the Government shall, for the purpose of this section, be deemed to be practising as a solicitor on his own account; and this subsection shall apply in relation to periods before as well as periods after the commencement of the Legal Practitioners (Amendment) Ordinance 1982.

- (6) (Repealed)
- (7) (Repealed)

21. Power to prohibit employing trainee solicitors

- (1) Where the Society refuses to issue a practising certificate to a solicitor under section 6, the Council may by notice in writing to that solicitor prohibit him from employing a trainee solicitor or acting as the principal of a trainee solicitor.
- (2) (Repealed)

22. Power to discharge trainee solicitor contracts in certain cases

If either-

- (a) during the term of a trainee solicitor contract a trainee solicitor has been continuously absent from the place of business of his principal for a period of 3 months or such longer period as may be prescribed by the Council except for such reason as may be prescribed by the Council; or
- (b) the Council is for any other reason of the opinion that a trainee solicitor contract ought to be terminated,

the Council may, on application of the solicitor, the trainee solicitor or any other person, terminate the trainee solicitor contract on such terms as it shall think fit and may determine what, if any, of the period of employment of the trainee solicitor shall be effective for the purposes of this Ordinance.

23. Termination of trainee solicitor contracts in cases of bankruptcy, etc.

If a solicitor who employs a trainee solicitor or acts as his principal becomes bankrupt before the expiration of the trainee solicitor contract or is imprisoned for debt and remains in prison for more than 21 days, the Court, on the application of any person, may order the trainee solicitor contract to be terminated or to be assigned to another solicitor on such terms and in such manner as the Court thinks fit.

24. Society's general right of audience

The Society shall have a general right of audience by any member of the Society appointed for that purpose by the Society or by any counsel, before-

- (a) a Solicitors Disciplinary Tribunal; and
- (b) the Court on the hearing of any matter under this Ordinance that does not solely affect barristers,

and in any such case, whether the Society has or is seeking audience or not, the Society shall be served with a copy of every necessary document filed with the Registrar.

25. Expenses of Solicitors Disciplinary Tribunal and of Society

- (1) The expenses incurred by-

- (a) a Solicitors Disciplinary Tribunal; and
- (b) the Society, in connection with proceedings before a Solicitors Disciplinary Tribunal and any appeal under section 13,

may be paid to the Society out of general revenue upon a certificate issued by the Secretary for Justice.

- (2) The Secretary for Justice shall only issue a certificate under subsection (1) if he is satisfied that-

- (a) the expenses were necessarily incurred by the Solicitors Disciplinary Tribunal or the Society, as the case may be, in exercise of the powers or duties conferred or imposed by this Ordinance;
- (b) the amount of such expenses is reasonable; and

- (c) the expenses could not reasonably be recovered from the person whose conduct is the subject of the proceedings before the Solicitors Disciplinary Tribunal or the Court of Appeal, as the case may be.
- (3) In this section, "expenses" includes witnesses' expenses and fees, counsel's fees, solicitor's fees, auditor's fees and other charges and disbursements.

26. Statutory provisions to prevail over Society's articles

In the case of any inconsistency between the provisions of this Ordinance and the Memorandum and Articles of Association of the Society the provisions of this Ordinance shall prevail.

PART IIA

CIRCUMSTANCES IN WHICH LAW SOCIETY MAY INTERVENE

26A. Circumstances in which powers conferred by Schedule 2 exercisable

- (1) Subject to subsection (2), the powers conferred by Schedule 2 shall be exercisable where -
- (a) the Council has reason to suspect dishonesty on the part of -
 - (i) a solicitor or foreign lawyer; or
 - (ii) an employee or a trainee solicitor of a solicitor or a foreign lawyer; or
 - (iii) the personal representatives of a deceased solicitor or foreign lawyer, in connection with that solicitor's or foreign lawyer's practice or in connection with any trust of which that solicitor or foreign lawyer immediately before the date of his death or formerly was a trustee,and the Council considers the exercise of those powers is in the interests of the public or the clients of the solicitor or foreign lawyer;
 - (b) the Council considers that there has been undue delay on the part of the personal representatives of a deceased solicitor or foreign lawyer who immediately before his death was practising as a solicitor in his own name or as a sole solicitor or foreign lawyer under a firm name in connection with that solicitor's or foreign lawyer's practice or in connection with any controlled trust;
 - (c) the Council is satisfied that a solicitor or foreign lawyer has failed to comply with rules made by virtue of section 73(1)(b) or 73A;
 - (d) a solicitor or foreign lawyer has become bankrupt or has entered into a voluntary arrangement with his creditors within the meaning of the Bankruptcy Ordinance (Cap. 6);
 - (e) a solicitor or foreign lawyer has been committed to prison in any civil or criminal proceedings;
 - (f) the Council is satisfied that a solicitor or foreign lawyer who practises as a solicitor in his own name or as a sole solicitor or foreign lawyer under a firm name is incapacitated by illness or accident to such an extent as to be unable to attend to his practice;
 - (g) the powers conferred by section 10D of the Mental Health Ordinance (Cap. 136) (emergency powers) or section 11 of that Ordinance (appointment of committee) have been exercised in respect of a solicitor or foreign lawyer;
 - (h) the name of a solicitor has been removed from or struck off the roll or a solicitor has been suspended from practice or the registration of a foreign lawyer is cancelled or suspended;
 - (i) the Council is satisfied that a solicitor or foreign lawyer who practises as a solicitor in his own name or as a sole solicitor or foreign lawyer under a firm name has abandoned his practice;
 - (j) the Council is satisfied that a solicitor or foreign lawyer who practises as a solicitor in his own name or as a sole solicitor or foreign lawyer under a firm name is incapacitated by age to such an extent as to be unable to attend to his practice;

- (k) any power conferred by this Part and Schedule 2 has been exercised by virtue of paragraph (a) in relation to a solicitor or foreign lawyer who practises as a solicitor in his own name or as a sole solicitor or foreign lawyer under a firm name and he has acted as a solicitor or foreign lawyer who practises as a solicitor in his own name or as a sole solicitor or foreign lawyer under a firm name within the period of 18 months beginning with the date on which it was so exercised;
 - (l) the Council is satisfied that a person has acted as a solicitor at a time when he did not have a practising certificate which was in force;
 - (m) the Council is satisfied that a solicitor has failed to comply with any condition, subject to which his practising certificate was granted or otherwise has effect, to the effect that he may act as a solicitor only -
 - (i) in employment which is approved by the Council in connection with the imposition of that condition;
 - (ii) as a member of a partnership which is so approved; or
 - (iii) in any specified combination of those ways;
 - (n) the Council is satisfied that a solicitor or foreign lawyer has failed to make satisfactory arrangements within 21 days from the date of the closure of his practice.
- (2) The powers conferred by Schedule 2 shall only be exercisable under subsection (1)(c), (j), (k), (l) and (m) if the Council has given the solicitor notice in writing that the Council is satisfied that he has failed to comply with rules specified in the notice and also (at the same or any later time) notice that the powers conferred by Schedule 2 are accordingly exercisable in his case.
- (3) In this Part and Schedule 2 -
- "controlled trust", in relation to a solicitor or foreign lawyer, means a trust of which he is a sole trustee or co-trustee only with one or more of his partners, employees or trainee solicitors;
- "trust" includes an implied or constructive trust and a trust where the trustee has a beneficial interest in the trust property, and also includes the duties incidental to the office of a personal representative, and "trustee" shall be construed accordingly.

26AA. (Repealed)

26B. Death of sole solicitor or foreign lawyer

On the death of a solicitor or foreign lawyer who practises as a solicitor in his own name or as a sole solicitor or foreign lawyer under a firm name sections 2, 3 and 4 of Schedule 2 shall apply to the client accounts of his practice.

26C. Undue delay by solicitors or foreign lawyers in connection with clients' instructions

The powers conferred by Schedule 2 shall also be exercisable, subject to sections 1(4) and 8(3) of that Schedule, where -

- (a) a complaint is made to the Council that there has been undue delay on the part of a solicitor or foreign lawyer in connection with any matter in which the solicitor or his firm or the foreign lawyer or his firm was instructed on behalf of a client or with any controlled trust; and
- (b) the Council by notice in writing invites the solicitor or foreign lawyer to give an

explanation within a period of not less than 8 days specified in the notice; and

- (c) the solicitor or foreign lawyer fails within that period to give an explanation which the Council regards as satisfactory; and
- (d) the Council gives notice of the failure to the solicitor or foreign lawyer and (at the same or any later time) notice that the powers conferred by Schedule 2 are accordingly exercisable.

26D. Powers conferred by Schedule 2 exercisable after death of solicitor

- (1) Where the powers conferred by Schedule 2 are exercisable in relation to a solicitor or foreign lawyer, they shall continue to be exercisable after his death or after his name has been removed from or struck off the roll (in the case of a solicitor) or his registration is cancelled or suspended (in the case of a foreign lawyer).
- (2) The references to the solicitor or his firm or the foreign lawyer or his firm in sections 1(1), 2(2) and (3), 3, 7(1) and (5) and 8(1) of Schedule 2 include, in any case where the solicitor or foreign lawyer has died, references to his personal representatives.

PART III

BARRISTERS

27. Power of Court to admit barristers

- (1) Subject to subsection(2), the Court may, in such manner as may be prescribed by the Chief Justice, admit as a barrister of the High Court in Hong Kong, a person whom it considers a fit and proper person to be a barrister, provided such person has —

- (a) complied with the requirements;
- (b) passed the examinations; and
- (c) paid the fees,

prescribed by the Bar Council.

- (2) The Court shall not admit a person under subsection (1) unless it is satisfied that that person —

- (a) is not in practice as a solicitor either on his own account or as a partner or salaried employee in a firm of solicitors practising in Hong Kong; and
- (b) satisfies one of the following requirements —

- (i) has resided in Hong Kong for at least 3 consecutive months immediately before the date of his application for admission;
- (ii) has been ordinarily resident in Hong Kong for at least 7 years;
- (iii) has been physically present in Hong Kong for at least 180 days of each of at least 7 years within the 10 years immediately preceding the date of his application for admission.

- (3) If at the time of his admission under subsection (1) the person is a solicitor, the Registrar shall remove the person's name from the roll of solicitors.

- (4) Notwithstanding that a person does not satisfy all the requirements specified in subsections (1) and (2)(b), where the Court considers that he is a fit and proper person to be a barrister and is satisfied that he has —

- (a) the qualification acquired outside Hong Kong to engage in work that would, if undertaken in Hong Kong, be similar to that undertaken by a barrister in the course of ordinary practice as a barrister in the High Court or Court of Final Appeal; and
- (b) substantial experience in advocacy in a court,

the Court may admit such person as a barrister under this section for the purpose of any particular case or cases and may impose such restrictions and conditions on him as it may see fit.

- (5) The Court may, when admitting a person as a barrister, sit in chambers.

27A. (Repealed)

28. Formalities for admission as a barrister

Except as may be prescribed by the Chief Justice, no person shall be admitted as a barrister unless he has deposited with the Registrar documentary evidence together with an affidavit showing the manner in which he satisfies the requirements specified in section 27(1) and (2).

29. Roll of barristers

- (1) The Registrar shall keep a roll of all barristers admitted by the Court under sections 27 and 27A and shall have custody of the roll of barristers and of all documents relating thereto and shall allow any person to inspect the roll of barristers during office hours without payment.
- (2) The registrar, upon production of a certificate of admission signed by a Judge and upon payment to the Registrar of such fee as may be prescribed by the Chief Justice, shall enter upon the roll of barristers the name of the person enrolled.
- (2A) A barrister who was admitted pursuant to section 27(1) or section 27A may —
 - (a) apply by motion to have his name removed from the roll of barristers; and
 - (b) where he has had his name removed under paragraph (a), on giving at least 7 days' notice to the Bar Council, apply by motion to have his name restored to the roll of barristers.
- (2B) A barrister who was admitted pursuant to section 27(4) for a particular case or cases shall, on completion of such case or cases including any appeal relating thereto, be deemed to have had his name removed from the roll of barristers.
- (2C) Where a barrister has had his name removed from the roll of barristers under subsection (2A) or (2B), he shall forthwith surrender to the Bar Council any current practising certificate.
- (3) (Repealed)

30. Practising certificates - barristers

- (1) The Bar Council, upon application in writing by a barrister and upon payment of such fee as may be prescribed by the Bar Council and upon being satisfied in such manner as may be prescribed by the Bar Council that the person to whom the application relates is qualified to practise as a barrister or is qualified to practise to a limited extent under section 31 (2), shall issue to the applicant a practising certificate as a barrister in such form as may be prescribed by the Bar Council for the period of one calendar year from 1 January next following the date of the application:

Provided that-

- (a) the Bar Council, in its absolute discretion and upon such condition as it may consider necessary, may permit the application for a practising certificate to be made under this subsection at any time and upon such application may issue to the applicant a practising certificate for any period not exceeding one calendar year and ending on 31 December in any year; and
- (b) where the name of a barrister is removed from or struck off the roll of barristers, the practising certificate of that barrister shall automatically determine without any entitlement to any refund of the prescribed fee or of any part thereof.

- (2) The publication in the Gazette by the Bar Council of a list of the names and addresses of those barristers who have obtained practising certificates for the period therein stated shall be prima facie evidence that each person named therein is a person qualified under section 31 to practise as a barrister and to whom a practising certificate for the period specified in such list has been issued under this section and the absence from any such list of the name of any person shall be prima facie evidence that such person is not so qualified.
- (3) A practising certificate may only be issued to an applicant who has paid to the Hong Kong Bar Association —
 - (a) except where the Bar Council has exempted the applicant therefrom, the membership subscription; and
 - (b) except where the applicant has been admitted as a barrister under section 27(4) and the Bar Council has exempted him therefrom, the premium prescribed for insurance of the applicant under the current master policy for professional indemnity insurance effected by the Hong Kong Bar Association,in respect of the period for which the practising certificate is to be issued.
- (3A) On application by a barrister admitted under section 27(4), the Bar Council may waive part of the membership subscription.
- (4) (Repealed)

31. Qualifications for practising as a barrister

- (1) A barrister shall not be qualified to practise as such—
 - (a) subject to subsection (2), unless he has completed the prescribed qualifying period of active practice;
 - (b) unless he holds a valid practising certificate;
 - (c) having qualified for admission as a barrister by virtue of section 27(1)(a)(i) or (ii) (as that section existed before its repeal by the Legal Practitioners (Amendment) Ordinance 2000 (42 of 2000)), unless he continues to be a barrister in England or Northern Ireland or an advocate in Scotland and is not there suspended from practice as such;
 - (d) if he is suspended from practice under section 37;
 - (e) if he is on the roll of solicitors;
 - (f) if he is an employed barrister within the meaning of section 31C(1).
- (2) After the expiry of the first 6 months of the prescribed qualifying period of active practice, a barrister shall be qualified to practise as a barrister to such limited extent as the Bar Council may determine.

***31A. Appointment of Senior Counsel**

- (1) The Chief Justice may, after consultation with the chairman of the Bar Council and the president of the Society, appoint as Senior Counsel barristers who satisfy the eligibility requirements of subsection (2).
- (2) A barrister is eligible for appointment as a Senior Counsel if he -
 - (a) has, in the opinion of the Chief Justice, sufficient ability and standing as a barrister, and sufficient knowledge of the law, to be accorded that status; and
 - (b) has the requisite experience; and
 - (c) is practising at the bar in Hong Kong or is practising as an advocate while he holds office as a legal officer within the meaning of the Legal Officers Ordinance (Cap. 87).
- (3) For the purposes of subsection (2)(b), a barrister has the requisite experience for appointment as a Senior Counsel if he has, for not less than 10 years in aggregate, done one or both of the following -
 - (a) practised at the bar in Hong Kong; or
 - (b) practised as an advocate while he holds office as a legal officer within the meaning of the Legal Officers Ordinance (Cap. 87).
- (4) The Chief Justice may, after consultation with the chairman of the Bar Council and the president of the Society, appoint a barrister as an honorary Senior Counsel if he -
 - (a) is a member of the academic staff of a faculty or school of law of a university in Hong Kong; or
 - (b) holds office as a Director of Legal Aid or as a Deputy Director or Assistant Director of Legal Aid; or
 - (c) holds office as Official Receiver or an office specified in Part I of Schedule 2 to the Bankruptcy Ordinance (Cap. 6); or
 - (d) holds office as Director of Intellectual Property or an office specified in Part I of Schedule 1 to the Director of Intellectual Property (Establishment) Ordinance (Cap. 412),and who has, in the Chief Justice's opinion, provided distinguished service to the law of Hong Kong.
- (5) The appointment of a person as a Senior Counsel in an honorary capacity does not confer on the person a right to act as an advocate in proceedings before the courts of Hong Kong and will not accord precedence before the courts.

31B. Status of visiting Queen's Counsel

A Queen's Counsel of another jurisdiction who is appearing in legal proceedings before a court in Hong Kong is entitled to use the title, and to be accorded the status, of Senior Counsel for the purposes of those proceedings.

* Please see the savings and transitional provisions contained in s.3 of Schedule 2 to 94 of 1997, which section is reproduced immediately after s.75.

31C. Employed barristers

- (1) In this section “employed barrister” (受僱大律師) means a barrister who, under a contract of employment, provides legal services exclusively to his employer.
- (2) An employed barrister may apply to the Bar Council for an employed barrister’s certificate if—
 - (a) at any time, he has been issued a practising certificate under section 30; or
 - (b) he has completed the prescribed qualifying period of active practice; or
 - (c) he has been an employed barrister in Hong Kong for at least 12 months immediately preceding the date of his application.
- (3) An employed barrister may be issued an employed barrister’s certificate and the provisions of sections 29(2C) and 30 respecting practising certificates apply to employed barrister’s certificates issued under this section and, for the purposes of this section, references in those sections to a barrister or a practising certificate shall be deemed to be references to an employed barrister and an employed barrister’s certificate respectively.
- (4) The publication in the Gazette by the Bar Council of a list of the names and addresses of those barristers who have obtained employed barrister’s certificates for the period therein stated shall be prima facie evidence that each person named therein is the holder of such a certificate for the period specified in such list, and the absence from any such list of the name of any person shall be prima facie evidence that the person does not hold such a certificate.
- (5) An employed barrister who holds a current employed barrister’s certificate may, on behalf of his employer but for the purpose of obtaining a legal opinion only, instruct a barrister who holds a current practising certificate, without retaining a solicitor.

32. (Repealed)

33. Bar Council - general right of audience

The Bar Council shall have a general right of audience, by any member of the Bar Council appointed for that purpose by the Bar Council or by any other counsel-

- (a) before a Barristers Disciplinary Tribunal; and
- (b) before the Court on the hearing of-
 - (i) any application to the Court for admission and enrolment as a barrister; and
 - (ii) any proceedings in the Court relating to, affecting or touching any matter affecting the qualification or examination of a person seeking to be a barrister or affecting the privileges, restrictions or offences in connection with the professional practice, conduct and discipline of a barrister,

and in any such case, whether the Bar Council has or is seeking audience or not, the Bar Council shall be served with a copy of every necessary document filed with the Registrar.

***34. Barristers Disciplinary Tribunal Panel**

- (1) The Chief Justice is required to appoint a Barristers Disciplinary Tribunal Panel consisting of -
 - (a) no fewer than 6 and no more than 15 practising Senior Counsel of Hong Kong; and
 - (b) no fewer than 6 and no more than 20 other practising barristers of at least 7 years' standing; and
 - (c) no fewer than 5 and no more than 25 lay persons who are not, in the opinion of the Chief Justice, in any way connected with the practice of the law.
- (2) A member of the Bar Council is not eligible to be appointed to or remain on the Panel.
- (3) A person appointed to the Panel shall be appointed for a term specified by the Chief Justice not to exceed 5 years but may be reappointed for a further term or terms.
- (4) The Chief Justice shall appoint one of the barristers on the Panel as the Tribunal Convenor for a 3 year term and he may appoint one or more other barristers on the Panel as Deputy Tribunal Convenors for 3 year terms.
- (5) A Deputy Tribunal Convenor designated by the Tribunal Convenor may act in place of the Tribunal Convenor whenever the Tribunal Convenor is prevented from exercising the Tribunal Convenor's functions because of illness, absence from Hong Kong or any other cause.

35. Complaint about barrister's conduct

- (1) Where the Bar Council considers that the conduct of a barrister should be inquired into as a result of a complaint being made to it or otherwise, the Bar Council shall submit the matter to the Tribunal Convenor of the Barristers Disciplinary Tribunal Panel.
- (2) Where a complaint is made to the Bar Council and the Bar Council does not submit a matter to the Tribunal Convenor under subsection (1) within 6 months after receiving the complaint the Chief Judge may, on application by any person or on his own initiative, submit the matter to the Tribunal Convenor if he considers that the Bar Council ought to have done so.
- (3) A matter submitted to the Tribunal Convenor must include or be accompanied by particulars of the conduct that is to be inquired into and by particulars of any associated allegations of misconduct.

35A. Barristers Disciplinary Tribunal

- (1) On receiving a submission under section 35, the Tribunal Convenor of the Barristers Disciplinary Tribunal Panel is required to appoint from the Panel -
 - (a) a Senior Counsel; and
 - (b) a barrister who is not a Senior Counsel; and
 - (c) a lay person.
- (2) The persons so appointed constitute a Barristers Disciplinary Tribunal to inquire into the conduct of the barrister concerned.
- (3) When constituting a Barristers Disciplinary Tribunal, the Tribunal Convenor is also required to appoint one of its members as chairman of the Tribunal.

* Please see the savings and transitional provisions contained in s.3 of Schedule 2 to 94 of 1997, which section is reproduced immediately after s.75.

- (4) A Barristers Disciplinary Tribunal may be constituted by the chairman and by one other member designated by the chairman for the purposes only of -
 - (a) giving directions or making orders for the conduct of an inquiry under section 36; and
 - (b) announcing the findings of the Tribunal with respect to the inquiry.
- (5) A member of a Barristers Disciplinary Tribunal who becomes a member of the Bar Council ceases to be a member of the Tribunal.

35B. Sittings of Barristers Disciplinary Tribunal

- (1) A Barristers Disciplinary Tribunal is required to sit at such places and at such times as the chairman of the Tribunal directs.
- (2) A Barristers Disciplinary Tribunal is required to hold its proceedings in camera, except when the barrister whose conduct is being inquired into requests that the proceedings be open to the public.

36. Powers of Barristers Disciplinary Tribunal

- (1A) A Barristers Disciplinary Tribunal may inquire into the conduct of any person in respect of which it was constituted.
- (1) For the purpose of conducting an inquiry, a Barristers Disciplinary Tribunal shall have all such powers as are vested in the Court or in any judge in the course of any action or suit in respect of the following matters-
 - (a) enforcing the attendance of witnesses and examining them upon oath or otherwise;
 - (b) compelling the production of documents;
 - (c) punishing persons guilty of contempt;
 - (d) ordering an inspection of any property;
 - (e) conducting every examination of witnesses; and
 - (f) adjourning any meeting from time to time and from one place to another,

and a summons under the hand of the chairman of a Barristers Disciplinary Tribunal may be substituted for and shall be equivalent to any form of process capable of being issued in any action or suit for compelling the attendance of witnesses or the production of documents and any warrant of committal to prison issued for the purpose of enforcing any such powers must be signed by the chairman but must not authorize the imprisonment of any offender for a period exceeding 1 month.

- (2) The Commissioner of Police and all police officers, officers of the court, gaolers and bailiffs of the court are required to give their utmost assistance to every Barristers Disciplinary Tribunal and to every chairman thereof, in the enforcement of documents, warrants and orders issued in accordance with subsection (1) or otherwise.
- (3) Every member of a Barristers Disciplinary Tribunal shall have the like protection and privileges, in relation to any action or suit brought against him for any act done or omitted to be done in the execution of his duties as such member, as is given by any law to a magistrate acting in the execution of his office.
- (4) All proceedings of a Barristers Disciplinary Tribunal are privileged.

- (5) A Barristers Disciplinary Tribunal constituted to inquire into the conduct of a person may inquire into the conduct of the person, but only if -
 - (a) the person has been given reasonable notice and adequate particulars of that other conduct; and
 - (b) the Tribunal is satisfied that that other conduct is related to the first-mentioned conduct.
- (6) The power conferred by subsection (5) is exercisable only on the application of -
 - (a) the Bar Council in the case of a matter submitted to the Tribunal Convenor under section 35(1); or
 - (b) the Chief Judge in the case of a matter submitted to the Tribunal Convenor under section 35(2).
- (7) Notice is not reasonable for the purposes of subsection (5) if it is less than 7 days.
- (8) A Barristers Disciplinary Tribunal may make such order as to the payment by a party to an inquiry of the costs incurred in conducting the inquiry as it thinks just. Such an order may direct that the costs are to be taxed by a Master of the High Court on a full indemnity basis.

37. Disciplinary powers of Barristers Disciplinary Tribunal

On completion of its inquiry, the Barristers Disciplinary Tribunal may do one or more of the following -

- (a) censure the barrister;
- (b) suspend the barrister from practising for a period it specifies;
- (c) order that the barrister's name be struck off the roll of barristers;
- (d) order the barrister to pay to the complainant an amount not exceeding the amount or amounts paid or payable to the barrister in relation to the complainant's matters in dispute;
- (e) order the barrister to pay a penalty not exceeding \$500,000, which shall be paid into the general revenue;
- (f) order the barrister to pay the costs of and incidental to the proceedings of the Tribunal and the costs of any prior inquiry or investigation in relation to the matters before the Tribunal, to be taxed by a Master of the High Court on a full indemnity basis, or an amount that the Tribunal considers to be a reasonable contribution towards those costs;
- (g) make any other order it thinks fit.

37A. Findings of a Barristers Disciplinary Tribunal

- (1) An order made by a Barristers Disciplinary Tribunal shall include a statement of its findings in relation to the facts of the case and shall be signed by the chairman or by a member authorized by the Tribunal.
- (2) A signed copy of an order of a Tribunal shall be filed with the Registrar who shall enter a note of the order on the roll of barristers against the name of the barrister and, where the order so directs, the Registrar shall strike off the name and shall publish an order for suspension or striking off in the Gazette within 14 days after receiving a copy of the order.

- (3) The Tribunal that heard the matter or a Tribunal constituted for the purpose by the Tribunal Convenor may, on the application of a party against whom an order for payment is made, order that payment may be paid by instalments or be deferred for a period the Tribunal considers appropriate.
- (4) An application for an order for payment by instalments, or for the deferring of payment, may be made at the hearing or, within 14 days after the date of the order for payment, by notice in writing to the Tribunal Convenor and to all parties who were represented at the Tribunal hearing.
- (5) On receipt of a notice under subsection (4), the Tribunal Convenor shall, within 14 days, notify the applicant and the other parties of the date on which the application will be heard by a Tribunal.
- (6) There is no right of appeal from the decision of the Tribunal on an application under subsection (4).
- (7) Payment of an amount ordered to be paid by the Tribunal may be enforced as if it were an order issued out of the Court on the production of a copy of the order signed by the chairman or other authorized member of the Tribunal and the rules of the Court, so far as applicable, apply to the order.
- (8) No order under subsection (7) shall be enforced until after the 14 days referred to in subsection (4) has elapsed or until after the Tribunal has made its decision under subsection (3).

37B. Appeal to Court of Appeal

- (1) A person who is the subject of an order under section 37 or 38 may appeal to the Court of Appeal and Order 59 of the Rules of the High Court (Cap. 4 sub.leg.) applies to the appeal except that the time for serving the notice of appeal is 21 days from the date of the decision and not 6 weeks as provided in Order 59 and the decision of the Court of Appeal is final.
- (2) In an appeal under this section the Bar Council shall be the respondent.
- (3) The hearing of an appeal under this section shall be in open court unless, and to the extent to which, the Court of Appeal otherwise directs.

38. Variation of order of the Barristers Disciplinary Tribunal

- (1) Any barrister who has been suspended from practising or whose name has been struck off the roll may apply to the Tribunal Convenor of the Barristers Disciplinary Tribunal Panel to have a Barristers Disciplinary Tribunal constituted for the purpose of hearing his application to vary or discharge the order suspending him or striking his name off the roll.
- (2) No application shall be made under subsection (1)-
 - (a) in the case of an order of suspension, until the expiration of 2 years from the date of such order or of half the period of suspension, whichever is the less; or
 - (b) in the case of an order striking the name of the barrister off the roll, until the expiration of 2 years from the date of such order,

and in either case where such an application has been made and determined, no further application shall be made until the expiration of 2 years from the date of such determination:

Provided that the barrister may at any time apply on the grounds that new material facts have come to light since the making of the order which it is sought to vary or discharge, and where the Tribunal Convenor is of the opinion that such facts should be placed before a Barristers Disciplinary

Tribunal, he shall grant such application.

- (3) At the hearing of the application the Barristers Disciplinary Tribunal may-
 - (a) reduce the period of suspension; or
 - (b) discharge the order of suspension or the order striking the name of the barrister off the roll, as the case may be; or
 - (c) confirm the original order; and
 - (d) make such order as to costs as it shall see fit.

39. Expenses of Barristers Disciplinary Tribunal and of Bar Council

- (1) The expenses incurred by-
 - (a) a Barristers Disciplinary Tribunal; and
 - (b) the Bar Council, in connection with proceedings before a Barristers Disciplinary Tribunal and any proceedings under section 37B,may be paid to the Bar Council out of general revenue upon a certificate issued by the Secretary for Justice.
- (2) The Secretary for Justice shall only issue a certificate under subsection (1) if he is satisfied that-
 - (a) the expenses were necessarily incurred by the Barristers Disciplinary Tribunal or the Bar Council, as the case may be, in exercise of the powers or duties conferred or imposed by this Ordinance;
 - (b) the amount of such expenses is reasonable; and
 - (c) the expenses could not reasonably be recovered from the barrister whose conduct is the subject of the proceedings before the Barristers Disciplinary Tribunal or the Court of Appeal, as the case may be.
- (3) In this section, "expenses" includes witnesses' expenses and fees, counsel's fees, solicitor's fees, auditor's fees and other charges and disbursements.

PART IIIA

FOREIGN LAWYERS AND FOREIGN FIRMS

39A. Foreign lawyers

- (1) The Society may register as a foreign lawyer a person who, not being a solicitor who holds a practising certificate or a barrister who holds a practising certificate, is qualified to practise foreign law.
- (2) Solicitor-client privilege exists between a foreign lawyer and his client to the same extent as the privilege exists between a solicitor and his client.
- (3) Where a foreign lawyer becomes bankrupt the registration of the foreign lawyer is automatically cancelled.

39B. Foreign firms

- (1) The Society may register as a foreign firm a firm -
 - (a) in which all of the partners who intend to practise in Hong Kong are foreign lawyers or the sole practitioner of which is a foreign lawyer; and
 - (b) that intends to have within 2 months after registration, a place of business in Hong Kong for the purpose of practising or advising on foreign law.
- (2) Where a firm was registered as a foreign firm on the basis of an intention referred to in subsection (1)(b) but fails to establish a place of business in Hong Kong within 2 months after its registration, the Society may cancel the firm's registration.

39C. Associations

- (1) The Society may register as an Association a Hong Kong firm and one or more foreign firms if the Hong Kong firm and the foreign firm or firms have, or intend to have within 2 months after the registration, an agreement under which fees, profits, premises, management or employees are shared between the Hong Kong firm and the foreign firm or firms.
- (2) Where the Hong Kong firm and the foreign firm or firms fail to enter into an agreement referred to in subsection (1) within 2 months after registration of the Association, the Society may cancel the Association's registration.

39D. Hong Kong firms may employ foreign lawyers

Subject to rules made under section 73(1)(dc), a Hong Kong firm may employ a foreign lawyer.

PART IV

NOTARIES PUBLIC

40. Registration of notaries public

The Registrar shall register every notary public who, to the satisfaction of the Registrar, produces to the Registrar his notarial faculty and who files in the Court an affidavit of identity in such form and pays such enrolment fee as may be prescribed by the Chief Justice.

41. Register of notaries public

The Registrar shall keep a register of notaries public registered by him under section 40 and shall have custody of the register of notaries public and of all documents relating thereto and shall allow any person to inspect the register of notaries public during office hours without payment.

42. Power of Court to strike off or suspend a notary public

- (1) The Court, upon reasonable cause being shown, may remove from or strike off the register of notaries public or suspend from practice any notary public.
- (2) Upon the making of any order by the Court under subsection (1) the Registrar shall enter a note of the order on the register of notaries public in connection with the name of the notary public and, where the order so directs, shall remove or strike off the name.

43. Restoration of name of notary public

The Chief Judge may, if he thinks fit, at any time order the Registrar to replace on the register of notaries public the name of a notary public whose name has been removed or struck off therefrom.

PART V

**PRIVILEGES, RESTRICTIONS AND OFFENCES
IN CONNECTION WITH PRACTICE**

44. Penalty for unlawfully practising as a barrister or notary public

Any person who-

- (a) not being a qualified barrister, either directly or indirectly, practises or acts as a barrister;
- (b) not being a qualified notary public, either directly or indirectly, practises or acts as a notary public,

shall be guilty of an offence and shall be liable on summary conviction to a fine of \$500,000.

45. Unqualified person not to act as solicitor

- (1) A person who, by virtue of section 7, is not qualified to act as a solicitor shall not act as a solicitor, or as such sue out any writ or process, or commence, carry on or defend any action, suit or other proceeding, in the name of any other person or in his own name, in any court of civil or criminal jurisdiction or act as a solicitor in any cause or matter, civil or criminal, to be heard or determined before any court or magistrate.

- (2) Any person who contravenes the provisions of this section shall-

- (a) be guilty of contempt of the court in which the action, suit, cause, matter or proceeding in relation to which he so acts is brought or taken and may be punished accordingly;
- (b) be incapable of maintaining any action for any costs in respect of anything done by him in the course of so acting; and
- (c) be guilty of an offence and shall be liable on summary conviction to a fine of \$500,000 and to imprisonment for 2 years.
- (d) (Repealed)

- (3) (Repealed)

46. Penalty for pretending to be a solicitor, etc.

- (1) Any unqualified person who wilfully pretends to be, or takes or uses any name, title, addition or description implying that he is qualified or recognized by law as qualified to act as, a solicitor shall be guilty of an offence and shall be liable on summary conviction to a fine of \$500,000.

- (2) Any person who -

- (a) not being an employee of a solicitor, a barrister or a foreign lawyer, wilfully pretends to be, or takes or uses any title, addition or description implying that he is, such an employee;
- (b) without the authority of a solicitor, a barrister, a foreign lawyer or a trainee solicitor, purports to act with such authority,

shall be guilty of an offence and shall be liable on summary conviction to a fine of \$500,000.

47. Unqualified person not to prepare certain instruments, etc.

- (1) Any unqualified person, not being a barrister or a notary public, who, unless he proves that the act was not done for or in expectation of any fee, gain or reward, either directly or indirectly-
 - (a) draws or prepares any instrument relating to movable or immovable property or to any legal proceeding; or
 - (b) draws or prepares any memorial or other document for the purposes of the Land Registration Ordinance (Cap. 128) or the New Territories Ordinance (Cap. 97) or makes any application or lodges any testimony for registration under either of those Ordinances at the Land Registry or at any District Land Registry,

shall be guilty of an offence and shall be liable on summary conviction to a fine of \$500,000.

- (2) This section shall not extend to-
 - (a) any public officer drawing or preparing instruments in the course of his duty;
 - (b) any person employed merely to engross or copy any instrument or proceeding; or
 - (c) an unqualified person who, while acting in the course of bona fide employment and supervised by a qualified person, draws or prepares any instrument, memorial or other document in the name of the qualified person.
- (3) For the purposes of this section, "instrument" does not include-
 - (a) a will or other testamentary instrument; or
 - (b) an agreement under hand only; or
 - (c) a letter of power of attorney; or
 - (d) a transfer of stock containing no trust or limitation thereof.

48. Unqualified person not to act in preparation of papers for probate, etc.

- (1) Any unqualified person, not being a barrister or a notary public, who, either directly or as an agent of any person, whether or not that other person is a solicitor, barrister or notary public, takes instructions for or draws or prepares any paper on which to found or oppose a grant of probate or of letters of administration shall, unless he proves that the act was not done for or in expectation of any fee, gain or reward, be guilty of an offence and, without prejudice to any other liability or disability to which he may be subject under this Ordinance or any other enactment, shall be liable on summary conviction to a fine of \$500,000:
- (2) This section does not apply to -
 - (a) a public officer who in the course of his duty draws or prepares papers referred to in subsection (1); or
 - (b) an unqualified person who, while acting in the course of bona fide employment and supervised by a qualified person, draws or prepares papers referred to in subsection (1) in the name of the qualified person.

49. Solicitor not to act as agent for unqualified person

- (1) No solicitor shall wilfully and knowingly-
 - (a) act as agent in any action or in any matter in bankruptcy for any unqualified person; or
 - (b) permit his name to be made use of in any such action or matter upon the account or for the profit of any unqualified person; or
 - (c) (Repealed)
 - (d) do any other act enabling any unqualified person to appear, act or practise in any respect as a solicitor in any such action or matter.
- (2) Where it appears to a Solicitors Disciplinary Tribunal or to the Court that a solicitor has acted in contravention of this section, the Solicitors Disciplinary Tribunal or the Court shall order his name to be struck off the roll of solicitors.
- (3) Where the Court orders the name of a solicitor to be struck off the roll in respect of an offence under this section, it may further order that the unqualified person who was enabled by the conduct of the offender to act or practise as a solicitor shall be imprisoned for any period not exceeding 1 year.

50. No costs for unqualified person

No costs in respect of anything done by an unqualified person acting as a solicitor shall be recoverable in any action, suit or matter by any person whomsoever.

50A. Recovery of moneys in certain cases

Nothing in section 45(2)(b) or in section 50 shall prevent the recovery of moneys paid or to be paid by a solicitor on behalf of a client in respect of anything done by the solicitor while acting for the client without holding a practising certificate in force provided that such moneys would have been recoverable if that solicitor had held such a certificate in force when so acting.

50B. Offences in relation to foreign lawyers, foreign firms and Associations

- (1) A person who offers his services to the public as a practitioner of foreign law commits an offence unless he is a solicitor who satisfies all the requirements set forth in section 7, a barrister or a foreign lawyer.
- (2) A person who is qualified to practise foreign law and who
 - (a) from within a foreign firm but not as a foreign lawyer, or
 - (b) from within a Hong Kong firm but not as a solicitor or foreign lawyer,offers his services to the public as a practitioner of foreign law, does not commit an offence under subsection (1) so long as he does not so offer his services in any 12 month period for more than 3 continuous months or more than 90 days.
- (3) A foreign lawyer who offers his services to the public as a practitioner of foreign law in a capacity other than as a practitioner in a foreign firm or a Hong Kong firm commits an offence.

- (4) A foreign lawyer or foreign firm shall not take a solicitor into partnership or employ a solicitor who holds a practising certificate or a barrister who holds a practising certificate.
- (5) Where a Hong Kong firm and a foreign firm have an agreement as described in section 39C(1) and they are not registered as an Association, the partners or the sole practitioners of each firm commit an offence.
- (6) A person who commits an offence under this section is liable to a fine of \$500,000.

51. Application of penal provisions to body corporate

- (1) If any act is done by a body corporate, or by any director, officer or servant thereof, of such a nature or in such a manner as to be calculated to imply that the body corporate is qualified or recognized by law as qualified to act as a solicitor, the body corporate shall be guilty of an offence and shall be liable on summary conviction to a fine of \$500,000, and, in the case of an act done by a director, officer or servant of the body corporate, such person shall also be guilty of an offence and shall be liable on summary conviction to a fine of \$500,000.
- (2) For the avoidance of doubt, it is hereby declared that in sections 45, 46, 47, 48, 49, 50 and 50B, references to unqualified persons and to persons include references to a body corporate.

52. Solicitors not to commence or defend actions while in prison

- (1) No solicitor whilst a prisoner in any prison shall as a solicitor, in his own name or in the name of any other solicitor, sue out any writ or process, or commence, prosecute or defend any action or any matter in bankruptcy.
- (2) Any solicitor commencing, prosecuting or defending any such action or matter in contravention of this section shall be incapable of maintaining any action for the recovery of any costs in respect of any business done by him whilst so confined as aforesaid, and he and any solicitor permitting him to commence, prosecute or defend any such action or matter in his name shall be guilty of contempt of the court in which such action or matter was commenced or prosecuted and may be punished accordingly.

53. Employment by solicitor or foreign lawyer of persons struck off or suspended

- (1) No solicitor shall, in connection with his practice as a solicitor, without the written permission of the Society which may be given for such period and subject to such conditions as the Society thinks fit, employ or remunerate any person who, to his knowledge, -
 - (a) is disqualified from practising as a solicitor by reason of the fact that his name has been struck off the roll of solicitors or is suspended from practising as a solicitor or whose practising certificate has been determined by virtue of section 6(7) in consequence of having become bankrupt; or
 - (b) was a foreign lawyer whose registration was cancelled other than under section 19 and who has not been re-registered or is a foreign lawyer whose registration is suspended.
- (1A) No foreign lawyer shall, in connection with his practice as a foreign lawyer, without the written permission of the Society which may be given for such period and subject to such conditions as the Society thinks fit, employ or remunerate any person who, to his knowledge, was a foreign lawyer whose registration was cancelled other than under section 19 and who has not been re-registered or is a foreign lawyer whose registration is suspended.

- (2) No solicitor or foreign lawyer shall in connection with his practice as a solicitor or foreign lawyer employ or remunerate any person who, to his knowledge, is the subject of an order made by a Solicitors Disciplinary Tribunal under section 10(2)(g) whereby the employment of such person by any solicitor or foreign lawyer is prohibited, while such order is in force.
- (3) No solicitor or foreign lawyer shall, in connection with his practice as a solicitor or foreign lawyer, without written permission of the Society, which may be given for such period and subject to such conditions as the Society may think fit, employ or remunerate any person, who, to his knowledge, has been convicted of a criminal offence involving dishonesty.
- (4) A solicitor or foreign lawyer aggrieved by the refusal of the Society to grant any such permission as aforesaid, or by any conditions attached by the Society to the grant thereof, may appeal to the Chief Judge, in such manner as may be prescribed by the Chief Justice, and on any such appeal the Chief Judge may confirm the refusal or the conditions, as the case may be, or may, in lieu of the Society, grant such permission for such period and subject to such conditions as he thinks fit.
- (5) If any solicitor acts in contravention of the provisions of this section or of the conditions subject to which any permission has been given thereunder, his name shall be struck off the roll or he shall be suspended from practice for such period as a Solicitors Disciplinary Tribunal may think fit.
- (5A) If a foreign lawyer acts in contravention of the provisions of this section or of the conditions subject to which any permission has been given, his registration as a foreign lawyer shall be cancelled or shall be suspended for such period as a Solicitors Disciplinary Tribunal may think fit.
- (6) Any person who, while there is in force in respect of him an order made under section 10(2)(g) prohibiting his employment by any solicitor or foreign lawyer, seeks or accepts any employment by or remuneration from a solicitor or foreign lawyer in connection with his practice as a solicitor or foreign lawyer without previously informing the solicitor or foreign lawyer of that order shall be guilty of an offence and shall be liable on summary conviction to a fine of \$500,000.

54. Penalty on failure to disclose fact of having been struck off, etc.

- (1) Any person who, whilst he is disqualified from practising as a solicitor by reason of the fact that he has been struck off the roll or is suspended from practising as a solicitor, seeks or accepts employment by a solicitor in connection with that solicitor's practice without previously informing him that he is so disqualified shall be guilty of an offence and shall be liable on summary conviction to a fine of \$500,000.
- (1A) A person whose registration as a foreign lawyer has been cancelled other than under section 19 or suspended and who seeks or accepts employment by a solicitor or foreign lawyer without previously informing the solicitor or foreign lawyer that his registration has been cancelled or suspended commits an offence and is liable to a fine of \$500,000.
- (2) No proceedings under this section shall be commenced except by or with the consent of the Secretary for Justice.

55. Time limit for commencement of certain proceedings

Notwithstanding anything in the Magistrates Ordinance (Cap. 227), proceedings in respect of any offence against section 46, 47, 48, 50B or 54 may be brought at any time within 2 years next after the commission of the offence or within 6 months after the first discovery thereof by the prosecutor, whichever period expires first.

PART VI

REMUNERATION OF SOLICITORS

Non-contentious Business

56. Agreement for remuneration for non-contentious business

- (1) Whether or not any rules made under section 74 are in force, a solicitor and his client may, either before or after or in the course of the transaction of any non-contentious business by the solicitor, make an agreement as to the remuneration of the solicitor in respect thereof.
- (2) The agreement may provide for the remuneration of the solicitor by a gross sum, or by commission or percentage or by salary, or otherwise, and it may be made on the terms that the amount of the remuneration therein stipulated for either shall or shall not include all or any disbursements made by the solicitor in respect of searches, plans, travelling, stamps, fees or other matters.
- (3) The agreement shall be in writing and signed by the person to be bound thereby or his agent in that behalf.
- (4) The agreement may be sued and recovered on or set aside in the like manner and on the like grounds as an agreement not relating to the remuneration of a solicitor:

Provided that if on any taxation of costs the agreement is relied on by the solicitor and objected to by the client as unfair or unreasonable, the taxing officer may inquire into the facts and certify them to the Court, and if on that certificate it appears just to the Court that the agreement should be cancelled, or the amount payable thereunder reduced, the Court may order the agreement to be cancelled, or the amount payable thereunder to be reduced, and may give such consequential directions as it thinks fit.

57. Remuneration of a solicitor who is a mortgagee

- (1) If a mortgage is made to a solicitor, either alone or jointly with any other person, he, or the firm of which he is a member, shall be entitled to recover from the mortgagor in respect of all business transacted and acts done by him or them in negotiating the loan, deducing and investigating the title to the property, and preparing and completing the mortgage, such usual costs as he or they would have been entitled to receive if the mortgage had been made to a person who was not a solicitor and that person had retained and employed him or them to transact that business and do those acts.
- (2) If, whether before or after the commencement of this Ordinance, a mortgage has been made to, or has become vested by transfer or transmission in, a solicitor, either alone or jointly with any other person, and if any business is transacted or acts done by that solicitor, or by the firm of which he is a member, in relation to that mortgage, or the security thereby created or the property comprised thereunder, then he or they shall be entitled to recover from the person on whose behalf the business was transacted or the acts were done, and to charge against the security, such usual costs as he or they would have been entitled to receive if the mortgage had been made to and had remained vested in a person who was not a solicitor and that person had retained and employed him or them to transact that business and do those acts.
- (3) In this section, "mortgage" includes any charge on any property for securing money or money's worth.

Contentious Business

58. Power to make agreements

A solicitor may make with his client an agreement in writing as to his remuneration, in respect of any contentious business done or to be done by the solicitor for the client, which provides that the solicitor shall be remunerated either by a gross sum or by salary, or otherwise, and at either a greater or a less rate than that at which he would otherwise have been entitled to be remunerated.

59. Miscellaneous provisions

(1) An agreement such as is referred to in section 58-

- (a) shall not affect the amount of, or any rights or remedies for the recovery of, any costs payable by the client to, or to the client by, any person other than the solicitor, and that person may, unless he has otherwise agreed, require any such costs to be taxed according to the rules for the time being in force for the taxation thereof;

Provided that the client shall not be entitled to recover from any other person under any order for the payment of any costs to which the agreement relates more than the amount payable by him to his solicitor in respect thereof under the agreement;

- (b) shall be deemed to exclude any claim by the solicitor in respect of the business to which it relates other than -

- (i) a claim for the agreed costs; or
- (ii) a claim for such costs as are expressly excepted therefrom.

- (2) A provision in any such agreement that the solicitor shall not be liable for negligence, or that he shall be relieved from any responsibility to which he would otherwise be subject as a solicitor, shall be void.

60. Enforcement of agreements in respect of contentious business

- (1) No action shall be brought upon any such agreement as is referred to in section 58, but the court may, on the application of any person who is a party to, or the representative of a party to, the agreement, or who is, or who is alleged to be, liable to pay, or who is or claims to be entitled to be paid, the costs due or alleged to be due in respect of the business to which the agreement relates, enforce or set aside the agreement and determine every question as to the validity or effect thereof.

- (2) On any such application the court-

- (a) if it is of opinion that the agreement is in all respects fair and reasonable, may enforce it;
- (b) if it is of opinion that the agreement is in any respect unfair or unreasonable, may declare it void and may order it to be given up to be cancelled and may order the costs covered thereby to be taxed as if the agreement had never been made;
- (c) in any case, may make such order as to the costs of the application as it may think fit.

- (3) If the business covered by any such agreement is business done, or to be done, in any action, the amount payable under the agreement shall not be received by the solicitor until the agreement has been examined and allowed by a taxing officer of the court, and, if the taxing officer is of opinion that the agreement is unfair or unreasonable, he may require the opinion of the court to be taken thereon and the court may reduce the amount payable thereunder, or order the agreement to be cancelled and the costs covered thereby to be taxed as if the agreement had never been made.
- (4) When the amount agreed for under any such agreement has been paid by or on behalf of the client or by any person entitled so to do, the person making the payment may at any time within 12 months after payment apply to the court and the court, if it appears to it that the special circumstances of the case require the agreement to be reopened, may, on such terms as may be just, reopen the agreement and may order the costs covered thereby to be taxed and the whole or any part of the amount received by the solicitor to be repaid by him.
- (5) Where any such agreement is made by the client as the guardian or committee of, or as a trustee under a deed or will for, any person whose property will be chargeable with the whole or any part of the amount payable under the agreement, the agreement shall, before payment, be laid before the taxing officer of the court, and that officer shall examine the agreement and may disallow any part thereof, or may require the opinion of the court to be taken thereon.
- (6) Any such client as is mentioned in subsection (5), who pays the whole or any part of the amount payable under the agreement without the agreement having been allowed by the taxing officer or by the court, shall be liable at any time to account to the person whose property is charged with the whole or any part of the amount so paid for the sum so charged, and the solicitor who accepts the payment may be ordered by the court to refund the amount received by him.

61. Death, incapability, or change of solicitor, etc.

- (1) If, after some business has been done under an agreement made in pursuance of the provisions of section 58 but before the solicitor has wholly performed it, the solicitor dies or becomes incapable of acting, any party to, or the representative of any party to, the agreement may apply to the court and the court shall have the same jurisdiction as to enforcing the agreement so far as it has been performed, or setting it aside, as it would have had if the solicitor had not died or become incapable of acting:

Provided that the court may, notwithstanding that it is of opinion that the agreement is in all respects fair and reasonable, order the amount due in respect of the business done thereunder to be ascertained by taxation, and in that case -

- (a) the taxing officer, in ascertaining that amount, shall have regard so far as may be to the terms of the agreement; and
 - (b) payment of the amount found by him to be due may be enforced in the same manner as if the agreement had been completely performed.
- (2) The provisions of subsection (1) shall apply in the event of the client changing his solicitor (as, notwithstanding the agreement, he shall be entitled to do) before the conclusion of the business to which the agreement relates in the same manner as they apply when the solicitor dies or is incapacitated, with this modification, that if an order is made for the taxation of the amount due to the solicitor in respect of the business done under the agreement the court shall direct the taxing officer to have regard to the circumstances under which the change of solicitor has taken place, and the taxing officer, unless he is of opinion that there has been no default, negligence, improper delay or other conduct on the part of the solicitor affording to the client reasonable ground for changing his solicitor, shall not allow to the solicitor the full amount of the remuneration agreed to be paid to him.
- (3) In this section and in sections 60 and 63, "court" means-

- (a) in relation to an agreement under which any business has been done in any court having jurisdiction to enforce and set aside agreements, any such court in which any of that business has been done;
- (b) in relation to an agreement under which no business has been done in any such court, and under which more than the sum mentioned in section 32 of the District Court Ordinance (Cap. 336) is payable, the Court of First Instance;
- (c) in relation to an agreement under which no business has been done in any such court, and under which not more than the sum mentioned in section 32 of the District Court Ordinance (Cap. 336) is payable, the District Court.

62. Agreement excludes taxation

Subject to the provisions of sections 59, 60 and 61, the costs of a solicitor in any case where any agreement has been made in pursuance of the provisions of section 58 shall not be subject to taxation, nor to the provisions of section 66 with respect to the signing and delivery of a solicitor's bill.

63. Form of bill of costs for contentious business

Where the remuneration of a solicitor in respect of contentious business done by him is not the subject of such an agreement as is mentioned in section 58, the solicitor's bill of costs may at the option of the solicitor either contain detailed items or be for a gross sum:

Provided that-

- (a) at any time before service upon him of a writ or other originating process for the recovery of costs included in a gross sum bill and before the expiration of 3 months from the date of the delivery to him of the bill, the party chargeable therewith may require the solicitor to deliver to him in lieu thereof a bill containing detailed items, and the gross sum bill shall thereupon be of no effect;
- (b) where an action is commenced on a gross sum bill, the court shall, if so requested by the party chargeable therewith before the expiration of 1 month from the service on that party of the writ or other originating process, order that the bill shall be taxed;
- (c) if a gross sum bill is referred to taxation, whether under this section or otherwise, nothing in this section shall prejudice any rules of court with respect to taxation, and the solicitor shall furnish the taxing officer with such details of any of the costs covered by the bill as the taxing officer may require.

General Provisions Regarding Remuneration

64. General provisions as to remuneration

- (1) Nothing in section 58, 59, 60, 61 or 62 shall give validity to-
 - (a) any purchase by a solicitor of the interest, or any part of the interest, of his client in any action, suit or other contentious proceeding; or
 - (b) any agreement by which a solicitor retained or employed to prosecute any action, suit or other contentious proceeding stipulates for payment only in the event of success in that action, suit or proceeding; or

- (c) any disposition, contract, settlement, conveyance, delivery, dealing or transfer which is under the law relating to bankruptcy invalid against a trustee or creditor in any bankruptcy or voluntary arrangement with creditors within the meaning of the Bankruptcy Ordinance (Cap. 6).
- (2) A solicitor may take security from his client for his costs to be ascertained by taxation or otherwise.
- (3) Subject to the provisions of any rules of court, upon every taxation of costs with respect to any contentious business, the taxing officer may-
 - (a) allow interest at such rate and from such time as he thinks just on moneys disbursed by the solicitor for the client, and on moneys of the client in the hands of, and improperly retained by, the solicitor;
 - (b) in determining the remuneration of the solicitor, have regard to the skill, labour and responsibility involved in the business done by him, the general complexity of the matter and the amount or value of the matter in issue.

65. Power of Court to order delivery of bill, etc.

- (1) The jurisdiction of the Court to make orders for the delivery by a solicitor of a bill of costs and for the delivery up of, or otherwise in relation to, any deeds, documents or papers in his possession, custody or power is hereby declared to extend to cases in which no business has been done by him in the Court.
- (2) If a mortgage has been made to, or has become vested by transfer or transmission in, a solicitor, either alone or jointly with any other person, and any business is transacted or acts are done by that solicitor, or by the firm of which he is a member, in relation to that mortgage or the security thereby created or the property comprised thereunder, then he or they shall be entitled to recover from the person on whose behalf the business was transacted or the acts were done, and to charge against the security, such usual costs as he or they would have been entitled to receive if the mortgage had been made to and had remained vested in a person who was not a solicitor and that person had retained and employed him or them to transact that business and do those acts.
- (3) In this section and in sections 66, 67 and 68, "solicitor" includes the executors, administrators and assignees of the solicitor in question.

66. Action to recover costs

- (1) Subject to the provisions of this Ordinance, no action shall be brought to recover any costs due to a solicitor until 1 month after a bill thereof has been delivered in accordance with the requirements of this section:

Provided that, if there is probable cause for believing that the party chargeable with the costs is about to quit Hong Kong, or become a bankrupt, or to enter into a voluntary arrangement with his creditors within the meaning of the Bankruptcy Ordinance (Cap. 6), or to do any other act which would tend to prevent or delay the solicitor obtaining payment, the Court may, notwithstanding that 1 month has not expired from the delivery of the bill, order that the solicitor be at liberty to commence an action to recover his costs and may order those costs to be taxed.

- (2) The said requirements are as follows -
 - (a) the bill must be signed by the solicitor, or if the costs are due to a firm by one of the partners of that firm, either in his own name or in the name of the firm, or be enclosed in, or accompanied by, a letter which is so signed and refers to the bill; and

- (b) the bill must be delivered to the party to be charged therewith, either personally or by being sent to him by post to, or left for him at, his place of business, dwelling house or last known place of abode,

and where a bill is proved to have been delivered in compliance with those requirements, it shall not be necessary in the first instance for the solicitor to prove the contents of the bill and it shall be presumed, until the contrary is shown, to be a bill bona fide complying with this Ordinance.

67. Taxation of bills on application of party chargeable on solicitor or foreign lawyer

- (1) On the application, made within 1 month of the delivery of a solicitor's bill or a foreign lawyer's bill, of the party chargeable therewith the Court shall, without requiring any sum to be paid into court, order that the bill shall be taxed and that no action shall be commenced thereon until the taxation is completed.
- (2) If no such application is made within the period mentioned in subsection (1), then, on the application of the solicitor or the foreign lawyer or of the party chargeable with the bill, the Court may, upon such terms, if any, as it thinks fit (not being terms as to the costs of the taxation), order-

- (a) that the bill shall be taxed;
- (b) that, until the taxation is completed, no action shall be commenced on the bill, and any action already commenced be stayed:

Provided that-

- (i) if 12 months have expired from the delivery of the bill, or if the bill has been paid, or if a verdict has been obtained or a writ of inquiry executed in an action for the recovery of the costs covered thereby, no order shall be made on the application of the party chargeable with the bill except in special circumstances and, if an order is made, it may contain such terms as regards the costs of the taxation as the Court may think fit;
 - (ii) if the bill has been paid, no order under this subsection shall be made where the application for the order is made after the expiration of 12 months from the date of payment of the bill.
- (3) Every order for the taxation of a bill shall require the taxing officer to tax not only the bill but also the costs of taxation and to certify what is due to or by the solicitor in respect of the bill and in respect of the costs of the taxation.
 - (4) If after due notice of any taxation either party thereto fails to attend, the taxing officer may proceed with the taxation ex parte.
 - (5) Unless -
 - (a) the order for taxation was made on the application of the solicitor or the foreign lawyer and the party chargeable does not attend the taxation; or
 - (b) the order for taxation otherwise provides,

the costs of the taxation shall be paid according to the event of the taxation, that is to say, if one-sixth or more of the amount of the bill is taxed off, the solicitor or the foreign lawyer shall pay the costs, but otherwise the party chargeable shall pay the costs:

Provided that-

- (i) if, in the case of a bill for non-contentious business, not less than half of the amount of the bill before taxation consists of costs for which no scale charge is prescribed, for the reference in this subsection to one-sixth of the amount of the bill there shall be deemed to be substituted a reference to one-fifth thereof;
- (ii) the taxing officer may certify any special circumstances relating to the bill or the taxation thereof to the Court, and the Court may make thereon any such order as it thinks fit respecting the payment of the costs of the taxation.

68. Taxation application of third parties

- (1) Where a person other than the person who is the party chargeable with the bill for the purposes of section 67 has paid, or is or was liable to pay, the bill to the solicitor or the foreign lawyer or to the party chargeable with the bill, that person or his executors, administrators or assignees may apply to the Court for an order for the taxation of the bill as if he were the party chargeable therewith, and the Court may make thereon the same order, if any, as it might have made if the application had been made by that party:

Provided that, in cases where the Court has no power to make an order except in special circumstances, the Court may, in considering whether there are special circumstances sufficient to justify it in making an order, take into account circumstances affecting the applicant but which do not affect the party chargeable with the bill.

- (2) If a trustee, executor or administrator has become liable to pay a bill of a solicitor or of a foreign lawyer the Court may, upon the application of any person interested in any property out of which the trustee, executor or administrator has paid, or is entitled to pay, the bill, and upon such terms, if any, as it thinks fit, order the bill to be taxed, and may order such payments, in respect of the amount found due to or by the solicitor or the foreign lawyer and in respect of the costs of the taxation, to be made to or by the applicant, or to or by the solicitor or the foreign lawyer, or to the executor, administrator or trustee as it thinks fit:

Provided that in considering any such application the Court shall have regard to-

- (a) the provisions of section 67 as to applications by the party chargeable with a solicitor's bill or a foreign lawyer's bill so far as they are capable of being applied to an application made under this subsection;
 - (b) the extent and nature of the interest of the applicant.
- (3) If an applicant under subsection (2) pays any money to the solicitor or the foreign lawyer, he shall have the same right to be paid that money by the trustee, executor or administrator chargeable with the bill as the solicitor or the foreign lawyer had.
 - (4) On an application made under this section-
 - (a) except in special circumstances, no order shall be made for the taxation of a bill which has already been taxed;
 - (b) the Court may, if it orders taxation of the bill, order the solicitor or the foreign lawyer to deliver to the applicant a copy of the bill upon payment of the costs of that copy.

69. General provisions as to taxations

- (1) Every application for an order for the taxation of a solicitor's bill or a foreign lawyer's bill or for the delivery of such a bill and the delivering up of any deeds, documents and papers by a solicitor or by a foreign lawyer shall be made in the matter of that solicitor or that foreign lawyer.

- (2) The certificate of the taxing officer by whom any bill has been taxed shall, unless it is set aside or altered by the Court, be final as to the amount of the costs covered thereby, and the Court may make such order in relation thereto as it thinks fit, including, in a case where the retainer is not disputed, an order that judgment be entered for the sum certified to be due with costs.

70. Charging orders

Any court in which a solicitor has been employed to prosecute or defend any suit, matter or proceeding may at any time declare the solicitor entitled to a charge on the property recovered or preserved through his instrumentality for his taxed costs in reference to that suit, matter or proceeding and may make such orders for the taxation of the said costs and for raising money to pay, or for paying, the said costs out of the said property, as it thinks fit, and all conveyances and acts done to defeat, or operating to defeat, that charge shall, except in the case of a conveyance to a bona fide purchaser for value without notice, be void as against the solicitor:

Provided that no order shall be made if the right to recover the costs is barred by any statute of limitations.

71. Revival of order for payment of costs

Whenever any judgment or order has been made for payment of costs in any action and such action afterwards becomes abated, it shall be lawful for any person interested under such judgment or order to revive such action, and thereupon to prosecute and enforce such judgment or order, and so from time to time as often as any such abatement may happen.

PART VII

RULES

72. Power of Chief Justice to make rules

The Chief Justice may make rules-

- (a) in relation to the admission of solicitors and of barristers and the registration of notaries public-
 - (i) regulating the manner in which applications for admission under sections 4, 27 and 27A shall be made and the forms to be employed in respect thereof;
 - (ii) regulating the procedure and constitution of the Court at the hearing of applications under sections 4, 27 and 27A;
 - (iii) regulating the manner in which applications for registration under section 40 shall be made and the forms to be employed in respect thereof;
 - (iv) exempting, in any particular case, a person seeking admission under section 4 or 27 or registration under section 40 from compliance with all or any of the conditions prescribed for such admission or registration by this Ordinance, subject to such conditions as may appear necessary;
 - (v) providing for the duties of the Registrar in connection with such admissions and registrations;
 - (vi) providing for the forms of the roll of solicitors, the roll of barristers and the register of notaries public, the mode in which they shall be kept and the contents thereof;
 - (vii) prescribing any fees payable in connection with such admissions and registrations;
 - (viii) (Repealed)
 - (ix) (Repealed)
 - (x) regulating the granting of exemption from the provisions of any of such rules and of the compliance with any terms imposed upon the grantees of such exemption and prescribing the form of any statutory declaration evidencing such compliance;
- (b) in relation to the conduct of barristers, to provide for -
 - (i) the making of a complaint to the Tribunal Convenor of the Barristers Disciplinary Tribunal Panel;
 - (ii) the conduct of proceedings before a Barristers Disciplinary Tribunal; and
 - (iii) the procedure for making and hearing an application under section 38; and
- (c) generally to prescribe or provide for-
 - (i) any other certificate, form or other document required under this Ordinance;
 - (ii) any other fee which is required to be prescribed under this Ordinance;
 - (iii) the better carrying into effect of the provisions of this Ordinance; and
 - (iv) anything which under this Ordinance is to be or may be prescribed by the Chief Justice.

72A. Rules for barristers in Hong Kong

The Chief Justice may make rules in relation to the admission of persons who seek to qualify or have qualified as barristers in Hong Kong-

- (a) regulating the enrolment of students seeking to become barristers in Hong Kong;
- (b) regulating the manner in which pupillage may be served, including applications for pupillage, disqualifications in respect of pupillage, approval and termination of pupillage and the period and requirements of pupillage;
- (ba) regulating the examinations to be passed by students seeking to become barristers in Hong Kong;
- (bb) prescribing the qualifying period of active practice for the purposes of section 31;
- (c) generally for the better control of such students.

72AA. Power of Bar Council to make rules

Subject to the prior approval of the Chief Justice, the Bar Council may make rules -

- (a) in respect of the professional practice, conduct and discipline of barristers and pupils;
- (b) for the purpose of harmonizing the relationship of barristers inter se and, with the prior approval of the Council, governing the relationship of solicitors and barristers;
- (c) regulating the issuing of practising certificates to barristers and employed barrister's certificates to employed barristers including, without limiting the foregoing, the fees payable for, the conditions of issue of, the manner of applying for, the period and form of and the publication of the issue and suspension of, such certificates;
- (d) providing for any continuing legal education or training that must be undertaken by barristers and pupils and the consequences of failing to do so;
- (e) providing for the conduct of an inquiry and investigation by a Barristers Disciplinary Tribunal;
- (f) requiring a barrister or pupil whose conduct has been established to the satisfaction of the Bar Council to amount to a breach of proper professional standards to pay the Bar Council's costs of investigating the conduct which resulted in the order;
- (g) regulating the serving of pupillage and the manner in which any person shall qualify for admission under section 27, including, without limiting the foregoing, the period of pupillage and the examinations to be passed;
- (h) respecting the admission of persons on the basis of qualifications acquired outside Hong Kong including, without limiting the foregoing, the qualifications for admission, the examinations to be passed and the fees to be paid;
- (i) respecting the exemption by it of any person from compliance with the provisions of any rules made under this section and the conditions upon which such exemption may be granted in any particular case; and
- (j) prescribing anything which, under this Ordinance, is to be or may be prescribed by the Bar Council.

72AB. Conflict between rules made by Chief Justice and Bar Council

Where power is given to -

- (a) the Chief Justice; and
- (b) the Bar Council,

to make rules in respect of the same matter, rules made by either or both of them in respect of such a matter shall be valid unless there is a conflict between such rules, in which case the rules made by the Chief Justice shall be given precedence to the extent of such conflict.

72B. (Repealed)

73. Power of the Council to make rules

- (1) The Council may make rules-
 - (a) providing for-
 - (i) the professional practice, conduct and discipline of solicitors, foreign lawyers, employees of solicitors and foreign lawyers and trainee solicitors;
 - (ii) the restriction of payment of commission to unqualified persons; and
 - (iii) for the purpose of harmonizing the relationship of solicitors inter se and, with the prior approval of the Bar Council, governing the relationship of solicitors and barristers;
 - (aa) regulating the issue to solicitors of practising certificates and the fees payable for, the conditions of issue of, the manner of applying for, the period and form of, the publication of the issue and the suspension of such practising certificates and generally in relation thereto;
 - (ab) providing for any continuing legal education or training that must be undertaken by solicitors;
 - (b) in relation to the keeping by solicitors of accounts, providing for-
 - (i) the opening and keeping by solicitors of accounts at banks of clients' money;
 - (ii) the keeping by solicitors of accounts containing particulars and information as to moneys received, held or paid both for or on account of their clients;
 - (iii) empowering the Council to take such action as may be necessary to enable them to ascertain whether or not such rules are being complied with;
 - (iv) regulating the manner in which solicitors shall deal with money held by them in a fiduciary capacity and the books of accounts to be kept in respect thereof and for the auditing of such accounts;
 - (v) the qualifications to be held by an accountant by whom an accountant's report may be given;
 - (vi) the nature and extent of the examination to be made by the accountant of the books and accounts of a solicitor or of his firm and of any other relevant documents with a view to the signing of a report to be delivered by the solicitor under section 8;

- (vii) the form of an accountant's report and the information to be contained therein in accordance with section 8(1);
 - (viii) the evidence, if any, which shall satisfy the Council that the delivery of an accountant's report is unnecessary and the cases in which such evidence is or is not required;
 - (ix) specifying in such circumstances as may be set forth in the rules a different accounting period from that specified in section 8(2); and
 - (x) regulating any matters of procedure or matters incidental, ancillary or supplemental to the provisions of section 8;
- (c) providing for the conduct of an inquiry and investigation by a Solicitors Disciplinary Tribunal;
- (caa) providing for the practice and procedure to be followed in connection with the submission of a matter by the Council to the Tribunal Convenor under section 9A(1A);
- (cab) providing for the practice and procedure to be followed in connection with the disposal of a matter by the Tribunal Convenor under section 9AB;
- (ca) respecting procedures for investigation by an inspector under section 8AA;
- (cb) requiring a solicitor, foreign lawyer, trainee solicitor or employee to whom a letter of disapproval is sent by the Council, to pay the Council's costs of investigating the conduct which resulted in the letter of disapproval;
- (d) regulating the employment of trainee solicitors and examinations, and in particular, without prejudice to the generality of the foregoing, providing for-
- (i) the manner in which any person shall qualify for admission under section 4(1)(a) including, in particular, the period of employment, if any, of a trainee solicitor in any particular case, the examination or examinations to be passed, the courses to be completed and notices and forms to be used in connection therewith; and
 - (ii) (Repealed)
- (da) respecting the admission of persons under section 4(1)(b), including the qualifications for admission, examinations and the fees to be paid for applications and examinations;
- (db) respecting the registration of foreign lawyers, foreign firms and Associations, including applications for registration, qualification for registration, fees for application and registration, period and form of registration, conditions of registration, suspension of registration and cancellation of registration;
- (dc) respecting the practice of Hong Kong firms, foreign firms and Associations;
- (dd) prohibiting the practice of Hong Kong law by foreign lawyers and for that purpose the Council may define, limit or expand the meaning of the practice of Hong Kong law;
- (e) enabling the Council to exempt any person from compliance with the provisions of any such rules and to impose and enforce conditions upon which such exemption may be granted in any particular case; and

- (f) prescribing any thing which, under this Ordinance, is to be or may be prescribed by the Council.
- (2) Every rule made by the Council under this section shall be subject to the prior approval of the Chief Justice.
- (3) No rule made under subsection (1)(b), (c) or (d) shall apply to a person to whom section 75(1) applies insofar as such person is acting in the course of the employment which gives rise to the application of that section.

73A. Indemnity rules

- (1) The Council may make rules (in this Ordinance referred to as "indemnity rules") concerning indemnity against loss arising from claims in respect of any description of civil liability incurred-
 - (a) by a solicitor or former solicitor in connection with his practice or with any trust or of which he is or formerly was a trustee;
 - (b) by an employee of a solicitor or former solicitor in connection with that solicitor's practice or with any trust of which that solicitor or the employee is or formerly was a trustee.
- (2) For the purpose of providing such indemnity, indemnity rules-
 - (a) may authorize or require the Society to establish and maintain a fund or funds;
 - (b) may authorize or require the Society to take out and maintain insurance with authorized insurers;
 - (c) may require solicitors or any specified class of solicitors to take out and maintain insurance with authorized insurers.
- (3) Without prejudice to the generality of subsections (1) and (2), indemnity rules-
 - (a) may specify the terms and conditions on which indemnity is to be available, and any circumstances in which the right to it is to be excluded or modified;
 - (b) may provide for the management, administration and protection of any fund maintained by virtue of subsection (2)(a) and require solicitors or any class of solicitors to make payments to any such fund;
 - (c) may require solicitors or any class of solicitors to make payments by way of premium on any insurance policy maintained by the Society by virtue of subsection (2)(b);
 - (d) may prescribe the conditions which an insurance policy must satisfy for the purposes of subsection (2)(c);
 - (e) may authorize the Society to determine the amount of any payments required by the rules, subject to such limits, or in accordance with such provisions, as may be prescribed by the rules;
 - (f) may specify circumstances in which, where a solicitor (not being a solicitor who is exempt from complying with the rules) for whom indemnity is provided has failed to comply with the rules, the Society or insurers may take proceedings against him in respect of sums paid by way of indemnity in connection with a matter in relation to which he has failed to comply;
 - (g) may specify circumstances in which solicitors are exempt from the rules;

- (h) may empower the Council to take such steps as they consider necessary or expedient to ascertain whether or not the rules are being complied with; and
- (i) may contain incidental, procedural or supplementary provisions.
- (4) If any solicitor (not being a solicitor who is exempt from complying with indemnity rules) fails to comply with the rules any person may make a complaint in respect of that failure to the Tribunal Convenor of the Solicitors Disciplinary Tribunal Panel.
- (5) The Society shall have power, without prejudice to any of its other powers, to carry into effect any arrangements which it considers necessary or expedient for the purpose of indemnity under this section.
- (6) Every rule made by the Council under this section shall be subject to the prior approval of the Chief Justice.
- (7) No rule made under this section shall apply to a person to whom section 75 applies in so far as such person is acting in the course of the employment which gives rise to the application of that section.

73B. Fees for continuing legal education courses

The Council may by resolution determine the fees that must be paid for continuing legal education courses.

73C. Council may delegate

The Council may delegate to any person or to a committee of the Council any of the powers or duties granted or imposed on the Council or the Society under this Ordinance, other than the power to make rules under sections 73 and 73A.

74. Costs Committee

- (1) There is hereby established a Costs Committee consisting of the following persons-
 - (a) a judge of the Court of First Instance appointed by the Chief Justice as Chairman;
 - (b) the Registrar or a deputy registrar of the High Court;
 - (c) for the purposes of the Solicitors (General) Costs Rules (Cap. 159 sub. leg.), the Director of Buildings and Lands, or his representative approved by the Chief Justice;
 - (ca) for the purposes of the Solicitors (Trade Marks and Patents) Costs Rules (Cap. 159 sub. leg.), the Director of Intellectual Property, or his representative approved by the Chief Justice; and
 - (d) the President and one of the Vice-Presidents of the Society and one member of the Society nominated by the Society and approved by the Chief Justice.
- (2) The quorum for the Costs Committee shall be the Chairman and 2 members under subsection (1)(d).

- (3) The Costs Committee may make rules-
 - (a) providing for the remuneration of solicitors in respect of non-contentious business;
 - (b) prescribing that, as regards the mode of remuneration, it shall be according to the scale of rates or percentage varying or not in different classes of business, or by a gross sum, or by a fixed sum for each document prepared or perused, without regard to length, or in any other mode, or partly in one mode and partly in another;
 - (c) regulating the amount of remuneration with reference to all or any of the following, among other, considerations, that is to say-
 - (i) the position of the party for whom the solicitor is concerned in the business, that is, whether as vendor or purchaser, lessor or lessee, mortgagor or mortgagee, and the like;
 - (ii) the place where, and the circumstances in which, the business or any part thereof is transacted;
 - (iii) the amount of the capital money or rent to which the business relates;
 - (iv) the skill, labour and responsibility involved therein on the part of the solicitor;
 - (v) the number and importance of the documents prepared or perused, without regard to length;
 - (d) authorizing and regulating the taking by a solicitor from his client of security for payment or otherwise, which may become due to him under any such rule; and
 - (e) authorizing and regulating the allowance of interest on costs and expenses.
- (4) Every rule made under this section shall be subject to the prior approval of the Chief Justice.
- (5) So long as any rules made under this section are in operation, taxation of bills of costs of solicitors in respect of non-contentious business shall, subject to the provisions of section 5, be regulated by such rules.

PART VIII

GENERAL

74A. Advisory Committee on Legal Education

- (1) There is established an Advisory Committee on Legal Education to advise the Chief Executive on-
 - (a) legal education and training in Hong Kong; and
 - (b) the future demand in Hong Kong for persons with legal education or training and the means by which that demand may be met.
- (2) The committee shall consist of-
 - (a) the Chief Justice or his representative, who shall be the chairman;
 - (b) the Secretary for Justice or his representative;
 - (c) the Secretary for Education and Manpower or his representative;
 - (d) 10 other members appointed by the Chief Executive, of whom-
 - (i) 3 shall be nominated by the Society;
 - (ii) 2 shall be nominated by the Bar Council;
 - (iii) 2 shall be nominated by the Vice-Chancellor of the University of Hong Kong; and
 - (iv) one shall be nominated by the Vice-Chancellor of the City University of Hong Kong; and
 - (e) other persons the committee may co-opt.
- (3) A member of the committee who is unable to attend a meeting of the committee may, on 7 days' notice to the chairman, send a substitute who shall be deemed to be a member of the committee.
- (4) A member of the committee appointed under-
 - (a) subsection (2)(d) shall hold office for a 3 year term; and
 - (b) subsection (2)(e) shall hold office for a term, not exceeding 2 years, specified by the committee.
- (5) A member appointed under-
 - (a) subsection (2)(d) may at any time resign from the committee by notice in writing to the Chief Executive; or
 - (b) subsection (2)(e) may at any time resign from the committee by notice in writing to the chairman.
- (6) Notice of the appointment or termination of membership of a member appointed under subsection (2)(d) may be published in the Gazette.
- (7) The Registrar of the High Court shall be secretary to the committee.

- (8) The committee shall report its advice at least annually to the Chief Executive or more often as the Chief Executive requests.
- (9) The committee may determine its own procedure.

74C. Students already enrolled in legal studies in the United Kingdom

Notwithstanding the repeal and replacement of section 27 by section 7 of the Legal Practitioners (Amendment) Ordinance 2000 (42 of 2000) ("the amending Ordinance"), where a person, on the day the amending Ordinance is published in the Gazette, is enrolled or registered in, or has been offered a place —

- (a) in a course of studies in the United Kingdom that, on completion, will qualify him for a vocational course leading to admission as a barrister in the United Kingdom;
- (b) in the Bar Vocational Course in the United Kingdom; or
- (c) in an external course of studies in Hong Kong offered by an institution in the United Kingdom that, on completion, will qualify him for a vocational course leading to admission as a barrister in the United Kingdom,

the person may, instead of complying with the requirements established under section 27 for admission as a barrister, elect to be admitted under section 27 as that section existed before its repeal by the amending Ordinance, provided he —

- (i) has been called to the Bar in England or Northern Ireland or admitted as an advocate in Scotland;
- (ii) qualifies for admission under the other criteria established under the repealed section 27(1)(b), (c) and (e) and (1A); and
- (iii) applies for admission not later than 31 December 2004.

74D. Lawyers employed in Department of Justice

- (1) Notwithstanding the repeal of section 27A by section 8 of the Legal Practitioners (Amendment) Ordinance 2000 (42 of 2000) ("the amending Ordinance"), where a person, on or before the date appointed by the Secretary for Justice by notice in the Gazette for the coming into operation of section 8(2) of the amending Ordinance, meets the requirements in section 27A (1)(a) to (d), as that section existed before its repeal, the Court may at any time admit such person as a barrister of the High Court of Hong Kong in accordance with the said section 27A(1).
- (2) The Court shall not admit as a barrister, under subsection (1), more than 4 persons in any period of 12 months.
- (3) For the avoidance of doubt, section 27A (1)(e) and (3) does not apply to admission as a barrister under this section.

75. Saving

- (1) Nothing in this Ordinance shall-
 - (a) prejudice or affect any rights or privileges of any legal officer within the meaning of section 2 of the Legal Officers Ordinance (Cap. 87), any person holding an appointment under section 3(1) of the Legal Aid Ordinance (Cap. 91) or any person deemed to be a legal officer for the purpose of the Legal Officers Ordinance (Cap.

87) by virtue of section 3(3) of the Director of Intellectual Property (Establishment) Ordinance (Cap. 412) or section 75(3) of the Bankruptcy Ordinance (Cap. 6) or require any such person or any clerk, trainee solicitor or officer appointed to act for him to be admitted in any case where it would not have been necessary for him to be admitted if this Ordinance had not been enacted; or

- (b) affect any enactment empowering any person, whether or not a solicitor or a barrister, to conduct, convene or otherwise act in relation to any legal proceedings.

(2) (Omitted as spent)

NOTES:

* section 31A Appointment of Senior Counsel

Note 1-S of Schedule 2 to 94 of 1997 reads as follows -

"2. Status of existing Queen's Counsel

- (1) This section applies to -
 - (a) a barrister of the Supreme Court of Hong Kong who, immediately before the commencement of this section, is holding an appointment as a Queen's Counsel in Hong Kong; and
 - (b) a barrister called to the bar in England or Northern Ireland, or an advocate admitted in Scotland, who, immediately before that commencement -
 - (i) is holding an appointment as a Queen's Counsel in the United Kingdom; and
 - (ii) is admitted as a barrister of the Supreme Court of Hong Kong otherwise than for the purpose of appearing in a specific legal proceeding.
- (2) A barrister to whom this section applies is, on the commencement of this section, taken to have been appointed as a Senior Counsel under section 31A of the Legal Practitioners Ordinance (Cap. 159) with the same precedence as the barrister would have if -
 - (a) the barrister had been appointed under that section as a Senior Counsel on the date when the barrister was appointed as a Queen's Counsel; and
 - (b) that section had been in force on that date.
- (3) Nothing in this section or section 31A of the Legal Practitioners Ordinance (Cap. 159) -
 - (a) affects the appointment, before the commencement of this section, of a barrister as a Queen's Counsel in Hong Kong; or
 - (b) precludes a barrister from being appointed as a Queen's Counsel in Hong Kong after that commencement but before 1 July 1997."

* section 34 Barristers Disciplinary Tribunal Panel

Note 2-S. 3 of Schedule 2 to 94 of 1997 reads as follows -

"3. Barristers Disciplinary Tribunal Panel

The substitution of section 34(1) of the Legal Practitioners Ordinance (Cap. 159) by section 8 of this Ordinance does not affect the appointment of any person who was, immediately before the commencement of the last-mentioned section, holding office as a member of the Barristers Disciplinary Tribunal Panel."

SCHEDULE 1

[ss.3 & 27A]

(Repealed)

SCHEDULE 2

[ss. 26A, 26B, 26C & 26D]

MONEY

1. (1) The Court of First Instance, on the application of the Council, may order that no payment shall be made without the leave of the court by any person (whether or not named in the order) of any money held by him (in whatever manner and whether it was received before or after the making of the order) on behalf of the solicitor or his firm or the foreign lawyer or his firm.
- (2) No order under this section shall take effect in relation to any person to whom it applies unless the Council has served a copy of the order on him (whether or not he is named in it) and, in the case of a bank or other financial institution, has indicated at which of its branches the Council believes that the money to which the order relates is held.
- (3) A person shall not be treated as having disobeyed an order under this section by making a payment of money if he satisfies the Court that he exercised due diligence to ascertain whether it was money to which the order related but nevertheless failed to ascertain that the order related to it.
- (4) This section does not apply where the powers conferred by this Schedule are exercisable by virtue of section 26C of this Ordinance.
2. (1) Without prejudice to section 1 if the Council passes a resolution to the effect that any sums of money to which this section applies, and the right to recover or receive them, shall vest in the Council, all such sums shall vest accordingly (whether they were received by the person holding them before or after the Council's resolution) and shall be held by the Council on trust to exercise in relation to them the powers conferred by this Schedule and subject thereto upon trust for the persons beneficially entitled to them.
- (2) This section applies -
 - (a) where the powers conferred by this section are exercisable by virtue of section 26A of this Ordinance, to all sums of money held by or on behalf of the solicitor or his firm or the foreign lawyer or his firm in connection with his practice or with any trust of which he is or formerly was a trustee;
 - (b) where they are exercisable by virtue of section 26B of this Ordinance, to all sums of money in any client account; and
 - (c) where they are exercisable by virtue of section 26C of this Ordinance, to all sums of money held by or on behalf of the solicitor or his firm or the foreign lawyer or his firm in connection with the trust or other matter to which the complaint relates.
- (3) Except where section 4 applies, the Council shall serve on the solicitor or his firm or the foreign lawyer or his firm and on any other person having possession of sums of money to which this section applies a certified copy of the Council's resolution and a notice prohibiting the payment out of any such sums of money.
- (4) Within 8 days of the service of a notice under subsection (3), the person on whom it was served, on giving not less than 48 hours' notice in writing to the Council and (if the notice under subsection (3) gives the name of the solicitor instructed by the Council) to that solicitor, may apply to the Court of First Instance for an order directing the Council to withdraw the notice.

- (5) If the Court makes such an order, it shall have power also to make such other order with respect to the matter as it may think fit.
- (6) If any person on whom a notice has been served under subsection (3) pays out sums of money at a time when such payment is prohibited by the notice -
- (a) he shall be guilty of an offence and liable on summary conviction to a fine of \$50,000; and
 - (b) the Court of First Instance may, on the application of the Council, order that person to comply with the requirements of the notice within such time as may be specified in the order.
3. Without prejudice to sections 1 and 2, if the Court of First Instance is satisfied, on an application by the Council, that there is reason to suspect that any person holds money on behalf of the solicitor or his firm or the foreign lawyer or his firm, the Court may require that person to give the Council information as to any such money and the accounts in which it is held.
4. On the death of a solicitor or foreign lawyer who immediately before his death was practising as a solicitor in his own name or as a sole solicitor or foreign lawyer under a firm name, the right to operate on or otherwise deal with any banking account in the name of the solicitor or his firm or the foreign lawyer or his firm, being an account in the title of which the word "client" appears, shall, notwithstanding anything in this Ordinance or otherwise to the contrary, vest in the Council to the exclusion of any personal representatives of such solicitor or foreign lawyer and shall be exercisable as from the death of the solicitor or foreign lawyer.
5. Subject to the service of any notice under section 2(3), and to any application that may be made under section 2(4), the Council or any person in that behalf appointed by the Council may withdraw the moneys, or from time to time any part of the moneys, in any banking account in the name of the solicitor or his firm or the foreign lawyer or his firm, and any moneys in the office of the solicitor or his firm or the foreign lawyer or his firm due to or held on behalf of his clients, and pay them into a special account or special accounts in the name of the Council or such person appointed as aforesaid and may operate on, and otherwise deal with, such special account or accounts as the solicitor or his firm or the foreign lawyer or his firm might have operated on, or otherwise dealt with, that banking account:
- Provided that a banker with whom such special account or accounts is or are kept shall be under no obligation to ascertain whether that account or those accounts is or are being so operated on or otherwise dealt with.
6. In any case where the Council is unable to ascertain the person to whom any moneys referred to in a notice served under section 2(3) belong or where the Council otherwise thinks it expedient so to do, the Council may apply to the Court of First Instance for directions as to the transfer of such moneys.

DOCUMENTS

7. (1) The Council may give notice to the solicitor or his firm or the foreign lawyer or his firm requiring the production or delivery to any person appointed by the Council at a time and place to be fixed by the Council -
- (a) where the powers conferred by this Schedule are exercisable by virtue of section 26A of this Ordinance, of all documents in the possession of the solicitor or his firm or the foreign lawyer or his firm in connection with his practice or with any controlled trust; and
 - (b) where they are exercisable by virtue of section 26C of this Ordinance, of all documents in the possession of the solicitor or his firm or the foreign lawyer or his firm in connection with the trust or other matters to which the complaint relates (whether or not they relate also to other matters).

- (2) The person appointed by the Council may take possession of any such documents on behalf of the Council.
- (3) Except in a case where an application has been made to the Court of First Instance under subsection (4), if any person having possession of any such documents refuses, neglects or otherwise fails to comply with a requirement under subsection (1), he shall be guilty of an offence and liable on summary conviction to a fine of \$50,000.
- (4) The Court of First Instance, on an application of the Council, may order a person required to produce or deliver documents under subsection (1) to produce or deliver them to any person appointed by the Council at such time and place as may be specified in the order, and authorize him to take possession of them on behalf of the Council.
- (5) If on an application by the Council the Court of First Instance is satisfied that there is reason to suspect that documents in relation to which the powers conferred by subsection (1) are exercisable have come into the possession of some person other than the solicitor or his firm or the foreign lawyer or his firm, the Court may order that person to produce or deliver the documents to any person appointed by the Council at such time and place as may be specified in the order and authorise him to take possession of them on behalf of the Council.
- (6) On making an order under this section, or at any later time, the Court, on the application of the Council, may authorise a person appointed by the Council to enter any premises (using such force as is reasonably necessary) to search for and take possession of any documents to which the order relates.
- (7) Upon taking possession of any such documents, the Council shall serve upon the solicitor or foreign lawyer and every person from whom those documents were received, or from whose premises they were taken by virtue of an order made under this section, a notice giving particulars and the date of taking possession thereof.
- (8) Subject to subsection (9), a person upon whom a notice under subsection (7) is served, on giving not less than 48 hours' notice to the Council and (if the notice under subsection (7) gives the name of the solicitor instructed by the Council) to that solicitor, may apply to the Court of First Instance for an order directing the Council to deliver the documents to such person as the applicant may require.
- (9) A notice under subsection (8) shall be given within 8 days of the service of the Council's notice under subsection (7).
- (10) If no application is made under subsection (8), or if the judge to whom any such application is made directs that the documents shall remain in the custody or control of the Council, the Council may make inquiries to ascertain the person to whom those documents belong and may deal with those documents in accordance with the directions of that person:

Provided that, before dealing with such documents, the Council may take copies of, or extracts from, any such documents.

- (11) Without prejudice to the provisions of Part IIA of this Ordinance and this Schedule, the Council may apply to the Court of First Instance for an order as to the disposal or destruction of any documents in its possession by virtue of this section or section 8.
- (12) On an application under subsection (8) or (11), the Court may make such order as it thinks fit.
- (13) Except so far as its right to do so may be restricted by an order on an application under subsection (8) or (11), the Council may take copies of or extracts from any documents in its possession by virtue of this section or section (8) and require any person to whom it is proposed that such documents shall be delivered, as a condition precedent to delivery, to give a reasonable undertaking to supply copies or extracts to the Council.

MAIL

8. (1) The Court of First Instance, on the application of the Council, may from time to time order that for such time not exceeding 18 months as the Court thinks fit postal packets (as defined in section 2 of the Post Office Ordinance (Cap. 98)) addressed to the solicitor or his firm or the foreign lawyer or his firm at any place or places mentioned in the order shall be directed to the Council or any person appointed by the Council at any other address therein mentioned; and the Council, or that person on its behalf, may take possession of any such packets received at that address.
- (2) Where such an order is made the Council shall pay to the Postmaster General the like charges (if any), as would have been payable for the redirection of the packets by virtue of any scheme made under regulation 32 of the Post Office Regulations (Cap. 98 sub. leg.), if the addressee had permanently ceased to occupy the premises to which they were addressed and had applied to the Postmaster General to redirect them to him at the address mentioned in the order.
- (3) This section does not apply where the powers conferred by this Schedule are exercisable by virtue of section 26C of this Ordinance.

GENERAL

9. The powers in relation to sums of money and documents conferred by this Schedule shall be exercisable notwithstanding any lien on them or right to their possession.
10. Subject to any order for the payment of costs that may be made on an application to the Court under this Schedule, any costs incurred by the Council for the purposes of this Schedule, including, without prejudice to the generality of this section, the costs of any person exercising powers under this Schedule on behalf of the Council, shall be paid by the solicitor or foreign lawyer or his personal representatives and shall be recoverable from him or them as a debt owing to the Council.
11. Where an offence under this Schedule committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or similar officer of the body corporate or any person who was purporting to act in any such capacity, he, as well as the body corporate, shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.
12. Any application to the Court of First Instance under this Schedule may be disposed of in chambers.
13. The Council may do all things which are reasonably necessary for the purpose of facilitating the exercise of its powers under this Schedule.
14. Any requirement of notice under this Schedule shall be made in writing under the hand of such person as may be appointed by the Council for the purpose and may be served on any person either by personal service or by being sent by registered post addressed to his last known place of business or residence.

3. Admission and Registration Rules

ARRANGEMENT OF RULES

Rule

PART I

CITATION AND INTERPRETATION

1. Citation
2. Interpretation

PART II

SOLICITORS

3. Application for certificate of eligibility for admission as solicitor on basis of compliance with section 4
- 3A. [Repealed]
4. Application for admission as a solicitor
5. Admission as solicitor
6. Oath on admission as solicitor
7. Form of roll of solicitors

PART III

BARRISTERS

(Repealed)

PART IV

NOTARIES PUBLIC

11. Registration
12. Form of register of notaries public

PART V

GENERAL

13. Exemption
- Schedule. Forms

PART I

CITATION AND INTERPRETATION

1. Citation

These rules may be cited as the Admission and Registration Rules.

2. Interpretation

In these rules, unless the context otherwise requires-

"certificate" (證書、證明書) includes a copy certificate and a duplicate certificate;

"prescribed fee" (訂明費用) means the fee prescribed by rules made under section 72 of the Ordinance.

"trainee solicitor contract" (實習律師合約) includes an original trainee solicitor contract, new trainee solicitor contract and further trainee solicitor contract;

PART II

SOLICITORS

3. Application for certificate of eligibility for admission as solicitor on the basis of compliance with section 4

- (1) A person seeking to be admitted as a solicitor on the basis of compliance with section 4(1)(a) or (b) of the Ordinance shall apply to the Society for the issue of a certificate in accordance with subrule (4) or (5) and shall pay to the Society the prescribed fee.
- (2) An application made under subrule (1) shall be -
 - (a) in the case of a person seeking admission on the basis of compliance with section 4(1)(a) of the Ordinance and of rule 20 of the Trainee Solicitors Rules (Cap. 159 sub. leg.) -
 - (i) in accordance with Form 1B in the Schedule; and
 - (ii) accompanied by such documents as the Society may reasonably require;
 - (b) in the case of a person seeking admission on the basis of compliance with section 4(1)(a) of the Ordinance and not of rule 20 of the Trainee Solicitors Rules (Cap. 159 sub. leg.) -
 - (i) in accordance with Form 4 in the Schedule; and
 - (ii) accompanied by such documents as the Society may reasonably require; and
 - (c) in the case of a person seeking admission on the basis of compliance with section 4(1)(b) of the Ordinance -
 - (i) in accordance with Form 1C in the Schedule; and

- (ii) accompanied by an affidavit of identity in accordance with Form 5 in the Schedule completed by an officer of the Court and such other documents as the Society may reasonably require.
- (3) A trainee solicitor shall apply for a certificate in accordance with subrule (1) within 12 months after the completion of his most recent trainee solicitor contract, or within a further period that the Council may in exceptional circumstances allow.
- (4) The Society, if it is satisfied that a person making an application under subrule (1) is eligible for admission as a solicitor on the basis of compliance with section 4(1)(a) of the Ordinance and has satisfied the requirements of section 4(1A) of the Ordinance, shall issue to him a certificate in accordance with Form 2 in the Schedule.
- (5) The Society, if it is satisfied that a person making an application under subrule (1) is eligible for admission as a solicitor on the basis of compliance with section 4(1)(b) of the Ordinance and has satisfied the requirements of section 4(1A) of the Ordinance, shall issue to him a certificate in accordance with Form 3 in the Schedule.

3A. [Repealed]

4. Application for admission as solicitor

- (1) The person seeking to be admitted as a solicitor shall file with the Registrar a motion paper to move the Court on such date as shall be fixed by the Registrar, which shall not be less than 14 days after the filing of such motion paper, and shall pay to the Registrar the prescribed fee.
- (1A) A person seeking to be admitted as a solicitor on the basis of compliance with section 4(1)(a) or (b) of the Ordinance shall file a motion paper under subrule (1) within 2 months after the certificate was issued to him in accordance with rule 3(4) or (5).
- (1B) A person seeking to be admitted as a solicitor on the basis of compliance with section 4(1)(a) or (b) of the Ordinance who fails to file a motion paper within the 2 months' limit set out in subrule (1A) shall apply under rule 3 for another certificate to be issued to him in accordance with rule 3(4) or (5).
- (2) A motion paper filed by a person seeking admission on the basis of compliance with section 4(1)(a) or (b) of the Ordinance shall be accompanied by -
 - (a) the certificate issued to him in accordance with rule 3(4) or (5); and
 - (b) in the case of a person seeking admission on the basis of compliance with section 4(1)(a) of the Ordinance, such other proof as the Court may require of compliance by that person with section 4(1A) of the Ordinance.
- (2A) [Repealed]
- (2B) [Repealed]
- (3) A copy of the motion paper referred to in subrule (1) and of every document accompanying the motion paper in accordance with subrule (2) shall be served on the Attorney General and on the Society by the person seeking to be admitted at the time that such motion paper is filed with the Registrar.

5. Admission as solicitor

- (1) On the date of hearing of the motion under rule 4 or any adjournment thereof by the Court, the Attorney General, or a member of the Society or Counsel shall move the Court that the person concerned be admitted and enrolled as a solicitor.
- (2) The Court, upon hearing the Attorney General, such member of the Society or Counsel and upon hearing any representation which may be made by or on behalf of the Society or of the Attorney General and upon being satisfied that the applicant is eligible for admission as a solicitor, may order that the applicant be admitted as a solicitor or, if the Court is not so satisfied, may dismiss the application upon such terms as regards costs or otherwise as the Court may deem appropriate.
- (3) The Registrar shall deliver to every person who is admitted as a solicitor, as soon as is practicable after the admission of such person, a certificate of such admission.

6. Oath on admission as solicitor

Before a person who has been ordered to be admitted as a solicitor in accordance with rule 5(2) is so admitted, he shall subscribe the oath following-

"I, A.B., do swear (or solemnly, sincerely and truly declare and affirm) that I will truly and honestly conduct myself in the practice of solicitor, according to the best of my knowledge and ability. So help me God."

Provided that in the case of a declaration or affirmation the last 4 words of such oath shall be omitted.

7. Form of roll of solicitors

The roll of solicitors shall be in accordance with Form 7 in the Schedule.

PART III

BARRISTERS

8. (Repealed)

9. (Repealed)

10. (Repealed)

PART IV

NOTARIES PUBLIC

11. Registration

- (1) Any person seeking to be registered as a notary public shall produce to the Registrar for registration his notarial faculty and shall file with the Registrar an affidavit of identity in accordance with Form 5 in the Schedule completed by an officer of the Court.
- (2) The Registrar, on payment to him by the applicant of the prescribed fee and upon being satisfied that the applicant is entitled to registration, shall register the applicant as a notary public.

12. Form of register of notaries public

The register of notaries public shall be in accordance with Form 9 in the Schedule.

PART V

GENERAL

13. Exemption

The Chief Judge on special grounds and upon such conditions as he may consider necessary may exempt any person from any of the formalities prescribed by these rules, either absolutely or for any specified period, and may reduce or abridge any of the periods of notice prescribed by these rules upon any such conditions:

Provided that no order shall be made by the Chief Judge under this rule in respect of a person applying to be admitted as a solicitor unless the Society shall have been given such notice thereof and of the date of hearing as the Chief Judge may consider appropriate in the case and shall have been given an opportunity of being heard thereon.

Admission and Registration (Amendment) (No.2) Rules 1994 **Transitional**

- (1) Subject to subsection (2), where a person seeking admission on the basis of compliance with section 4(1)(a) or (b) of the Ordinance has, before the commencement of these Rules, given notice in accordance with rule 3(1) of the Old Rules, the Old Rules shall continue to apply as if they had not been amended by these Rules.
- (2) A person seeking admission under the Old Rules on the basis of subsection (1) shall file a motion paper in accordance with rule 4 of the Old Rules -
 - (a) if a certificate has not been issued to him in accordance with rule 3(2) or (3) of the Old Rules before the commencement of these Rules, within 2 months after the certificate was issued to him;
 - (b) if a certificate has been issued to him in accordance with rule 3(2) or (3) of the Old Rules before the commencement of these Rules, within 2 months after the certificate was issued to him, or within such further period as the Council may in exceptional circumstances allow,

and if he fails to do so, the certificate shall cease to have effect and the Admission and Registration Rules (Cap. 159 sub. leg.) as amended by these Rules shall apply to him.

(3) In this section -

"Old Rules" means the Admission and Registration Rules (Cap. 159 sub. leg.) which were in force immediately before the commencement of these Rules.

SCHEDULE

FORMS

FORM 1

[rule 3(1)]

(Repealed)

FORM 1A

[rule 3A]

(Repealed)

FORM 1B

[rule 3(2)(a)]

ADMISSION AND REGISTRATION RULES

APPLICATION FOR A CERTIFICATE OF ELIGIBILITY FOR ADMISSION
AS A SOLICITOR ON THE BASIS OF COMPLIANCE
WITH SECTION 4(1)(a) - BARRISTERS

To: The Law Society of Hong Kong,

I,

[name in English and, if applicable, Chinese]

of
.....
.....

apply for the issue to me of a certificate of eligibility in accordance with rule 3(4) of the Admission and Registration Rules (Cap. 159 sub. leg.).

Telephone contact number

I do solemnly and sincerely declare as follows:

(1) I have resided in Hong Kong for at least 3 months immediately before my admission

OR*

I intend to reside in Hong Kong for at least 3 months immediately after my admission

OR*

I have been ordinarily resident in Hong Kong for at least 7 years

OR*

I have been present in Hong Kong for at least 180 days of each of at least 7 years.

Details of my periods of residence are set out below -

Address

Period of Residence

The attached document marked " " is a certified copy of my passport.

(2) I was admitted as a barrister in Hong Kong on the day of and the attached document marked " " is a certified copy of my admission certificate.

- (3) The attached document marked " " is a certificate from the Bar Council stating that it knows of no reason why I should not be admitted as a solicitor.
- (4) My name was removed from the roll of barristers in Hong Kong on the day of and the attached document marked " " is a certificate to that effect from the Registrar of the High Court.
- (5) The Law Society of Hong Kong granted me exemption from employment as a trainee solicitor on the day of
- (6) I was not required to pass any examinations prior to applying for admission as a solicitor.

OR*

I was required to pass an examination / examinations* in prior to applying for admission as a solicitor. I passed the examination / examinations* on the day of The attached document marked " " is a certified copy of a certificate from the authority administering the examination.

AND I make this solemn declaration conscientiously believing it to be true and by virtue of the Oaths and Declarations Ordinance (Cap. 11).

DECLARED at)
HONG KONG this day of)
.....)

Before me,

Commissioner for Oaths / Solicitor.

* Delete whichever is inapplicable.

FORM 1C

[rule 3(2)(c)]

ADMISSION AND REGISTRATION RULES

APPLICATION FOR A CERTIFICATE OF ELIGIBILITY FOR ADMISSION
AS A SOLICITOR UNDER SECTION 4(1)(b)

To: The Law Society of Hong Kong,

I,
[full name in English and, if applicable, Chinese]

of

.....
apply for the issue to me of a certificate of eligibility in accordance with rule 3(5) of the Admission and Registration Rules (Cap. 159 sub. leg.).

Telephone contact number:

I do solemnly and sincerely declare as follows-

(1) I have resided in Hong Kong for at least 3 months immediately before my admission

OR*

I intend to reside in Hong Kong for at least 3 months immediately after my admission

OR*

I have ordinarily been a resident in Hong Kong for at least 7 years

OR*

I have been present in Hong Kong for at least 180 days of each of at least 7 years

Details of my periods of residence are set out below-

Address

Period of residence

The attached document marked " " is a certified copy of my passport.

(2) I was admitted as an attorney / solicitor / barrister* ofonday..... The
attached document marked "....." is a certified copy of my admission certificate.

(3) I was not required to pass any examinations prior to applying for admission as a solicitor. The
attached document marked "....." is the Hong Kong Law Society certificate to this effect.

OR*

I was required to pass an examination / examinations* in prior to applying for admission as a solicitor. I passed the examination / examinations* on.....day
The attached document marked "....." is a certified copy of a certificate from the authority administering the examination.

AND I make this solemn declaration conscientiously believing it to be true and by virtue of the Oaths and Declarations Ordinance (Cap. 11).

DECLARED at)
HONG KONG this day of)
.....)

Before me,

Commissioner for Oaths / Solicitor.

* Delete whichever is inapplicable.

FORM 2

[rule 3(4)]

ADMISSION AND REGISTRATION RULES

CERTIFICATE OF ELIGIBILITY FOR ADMISSION AS A SOLICITOR

THIS IS TO CERTIFY THAT

.....
.....

of.....

- (1) on the day of applied under rule 3(1) of the Admission and Registration Rules (Cap. 159 sub. leg.) for a certificate of eligibility for admission as a solicitor on the basis of compliance with section 4(1)(a) of the Legal Practitioners Ordinance (Cap. 159); and
- (2) has satisfied the Society that he -
- (a) has accumulated the number of CPD accreditation points that is required by section 5 of the Continuing Professional Development Rules (Cap. 159 sub. leg.) to be accumulated by the end of his period of employment as a trainee solicitor;
 - (b) has passed or obtained or been granted total exemption from the examinations required by rule 7 of the Trainee Solicitors Rules (Cap. 159 sub. leg.);
 - (c) has been employed as a trainee solicitor for a period of years to the satisfaction of the Society/has been granted exemption from employment as a trainee solicitor* in accordance with the Trainee Solicitors Rules (Cap. 159 sub. leg.);
 - (d) has resided in Hong Kong for at least 3 months immediately before his admission/intends to reside in Hong Kong for at least 3 months immediately after his admission/has been ordinarily resident in Hong Kong for at least 7 years/has been present in Hong Kong for at least 180 days of each of at least 7 years *; and
 - (e) is in other respects fit to be a solicitor.

Dated this day of

(Sgd.)
for The Law Society of Hong Kong.

* Delete whichever is inapplicable.

FORM 3

[rule 3(5)]

ADMISSION AND REGISTRATION RULES

CERTIFICATE OF ELIGIBILITY FOR ADMISSION AS A SOLICITOR

THIS IS TO CERTIFY THAT

.....
of
.....

- (1) on the day of applied under rule 3(1) of the Admission and Registration Rules (Cap. 159 sub. leg.) for a certificate of eligibility for admission as a solicitor on the basis of compliance with section 4(1)(b) of the Legal Practitioners Ordinance (Cap. 159); and
- (2) has satisfied the Society that -
- (a) he has been admitted as a** in
.....**
 - (b) his name remains on the roll of solicitors/advocates/attorneys* and he is not suspended from practising in that jurisdiction;
 - (c) he has resided in Hong Kong for at least 3 months immediately before his admission/intends to reside in Hong Kong for at least 3 months immediately after his admission/has been ordinarily resident in Hong Kong for at least 7 years/has been present in Hong Kong for at least 180 days of each of at least 7 years *; and
 - (d) is in other respects fit to be a solicitor.

Dated this day of

(Sgd.)
for The Law Society of Hong Kong

** Please insert relevant profession (e.g. solicitor / advocate / attorney etc) and the relevant jurisdiction.

* Delete whichever is inapplicable.

FORM 4

[rule 3(2)(b)]

ADMISSION AND REGISTRATION RULES

**APPLICATION FOR A CERTIFICATE OF ELIGIBILITY FOR ADMISSION
AS A SOLICITOR ON THE BASIS OF COMPLIANCE WITH
SECTION 4(1)(a) - TRAINEE SOLICITORS**

To: The Law Society of Hong Kong,

I,

of.....
apply for the issue to me of a certificate of eligibility in accordance with rule 3(4) of the Admission and Registration Rules (Cap. 159 sub. leg.).

We,

of(the "Trainee Solicitor")

and.....

of(the "Principal")
do solemnly and sincerely declare as follows-

(a) I, the Trainee Solicitor for myself say as follows-

1. I have resided in Hong Kong for at least 3 months immediately before my admission

OR*

I intend to reside in Hong Kong for at least 3 months immediately after my admission

OR*

I have been ordinarily resident in Hong Kong for at least 7 years

OR*

I have been present in Hong Kong for at least 180 days of each of at least 7 years

Details of my periods of residence are set out in the "First Schedule" annexed to this application.
(See Note 1)

The attached document marked " " is a certified copy of my passport.

2. I was employed under a trainee solicitor contract by the Principal for the period
.....to..... (the "Trainee Solicitor Contract").

3. *Except as indicated in paragraph(s) 4 and 5** / I have actually exclusively and bona fide been
employed as a trainee solicitor by the Principal.

4. *Except as mentioned in the "Second Schedule" annexed to this application ** / I have not held any
office or engaged in any employment other than the employment of the Principal.

5. I have been absent from the office of the Principal for the period or periods mentioned in the first
column of the "Third Schedule" annexed to this application for the reasons set out in the third
column*.

6. I have complied with the requirements of rule 7 of the Trainee Solicitors Rules (Cap. 159 sub. leg.) as to the passing of examinations.
7. I confirm that my most recent trainee solicitor contract was entered into before 1 September 1998, and that during the period of my employment as a trainee solicitor I have learned in the office of the Principal the following basic skills and characteristics associated with the practice and profession of a solicitor marked "X" in the appropriate box-

- | | | |
|-----|---------------------------------------|--------------------------|
| (1) | Drafting documents | <input type="checkbox"/> |
| (2) | Communication with clients and others | <input type="checkbox"/> |
| (3) | Research | <input type="checkbox"/> |
| (4) | Office routines, procedures and costs | <input type="checkbox"/> |

OR*

I confirm that my most recent trainee solicitor contract was entered into on or after 1 September 1998, and that during the period of my employment as a trainee solicitor I have learned in the office of the Principal the principles of professional conduct and the following basic skills associated with the practice and profession of a solicitor marked "X" in the appropriate box-

- | | | |
|-----|------------------|--------------------------|
| (1) | Communication | <input type="checkbox"/> |
| (2) | Practice support | <input type="checkbox"/> |
| (3) | Legal research | <input type="checkbox"/> |
| (4) | Drafting | <input type="checkbox"/> |
| (5) | Interviewing | <input type="checkbox"/> |
| (6) | Negotiation | <input type="checkbox"/> |
| (7) | Advocacy | <input type="checkbox"/> |

8. I confirm that my most recent trainee solicitor contract was entered into before 1 September 1998, and that during the period of my employment as a trainee solicitor I have gained reasonable experience in the office of the Principal in at least 3/2* of the following basic legal topics being those marked "X" in the appropriate box *(and in the office of, another person qualified under section 20 of the Legal Practitioners Ordinance (Cap. 159) to employ a trainee solicitor, in at least 1 of the following basic legal topics being that/those* marked "Z" in the appropriate box)** -

- | | | |
|-----|-----------------------------|--------------------------|
| (1) | Conveyancing | <input type="checkbox"/> |
| (2) | Commercial or corporate law | <input type="checkbox"/> |
| (3) | Family law | <input type="checkbox"/> |
| (4) | Civil litigation | <input type="checkbox"/> |
| (5) | Criminal litigation | <input type="checkbox"/> |

- (6) Wills, Probate and Trusts ☐
- (7) Trade Marks, Patents, Copyrights ☐
- (8) Such other legal topic as may be determined
from time to time by the Society ☐

OR*

I confirm that my most recent trainee solicitor contract was entered into on or after 1 September 1998, and that during the period of my employment as a trainee solicitor I have gained proper training and experience in the office of the Principal in at least 3/2* of the following basic legal topics being those marked "X" in the appropriate box (and in the office of , another person qualified under section 20 of the Legal Practitioners Ordinance (Cap. 159) to employ a trainee solicitor, in at least 1 of the following basic legal topics being that/those* marked "Z" in the appropriate box)* -

- (1) Banking ☐
- (2) Civil litigation ☐
- (3) Commercial ☐
- (4) Company ☐
- (5) Criminal litigation ☐
- (6) Family ☐
- (7) Insolvency ☐
- (8) Intellectual property ☐
- (9) Property ☐
- (10) Trusts, Wills and Probate ☐

9. I have accumulated the number of CPD accreditation points that is required by section 5 of the Continuing Professional Development Rules (Cap. 159 sub. leg.) to be accumulated by the end of my period of employment as a trainee solicitor.

(b) AND I, the Principal for myself say as follows-

1. At the time of execution of the Trainee Solicitor Contract, I was and have remained qualified under section 20 of the Legal Practitioners Ordinance (Cap. 159) to employ a trainee solicitor.
2. I have read paragraphs 2, 3, 4 and 5 of the declaration made by the Trainee Solicitor and the contents are true to the best of my knowledge, information and belief.
3. With regard to paragraph 7 of the declaration, I confirm that during the term of the Trainee Solicitor Contract, I have provided the Trainee Solicitor with the opportunity to learn in my office the basic skills and characteristics associated with the practice and profession of a solicitor as enumerated by the Trainee Solicitor.
4. With regard to paragraph 8 of the declaration, I confirm that during the term of the Trainee Solicitor Contract, I have provided the Trainee Solicitor with the opportunity to gain reasonable experience

in my office (*and in the office of another person qualified under section 20 of the Legal Practitioners Ordinance (Cap. 159) to employ a trainee solicitor*)* the basic legal topics as enumerated by the Trainee Solicitor.

5. I consider that the Trainee Solicitor is fit to be a solicitor.

AND we make this solemn declaration conscientiously believing it to be true and by virtue of the Oaths and Declarations Ordinance (Cap. 11).

DECLARED at)
HONG KONG this day of)
.....)

Before me,

Commissioner for Oaths / Solicitor.

FIRST SCHEDULE

Address	Period of residence
---------	---------------------

SECOND SCHEDULE

Details of other offices / employment

THIRD SCHEDULE

Period of absence	With / without consent of Principal	Reasons
-------------------	-------------------------------------	---------

- Note :
1. Where the Trainee Solicitor has been employed under two or more trainee solicitor contracts, each person employing him shall make a separate declaration.
 2. * Delete whichever is inapplicable.

FORM 5

[rules 4 & 11]

ADMISSION AND REGISTRATION RULES

AFFIDAVIT OF IDENTITY

I, of..... Hong Kong,
Solicitor, make oath and say (or solemnly and sincerely declare and affirm) as follows-

1. The photograph attached hereto and marked " " is a true
likeness
of of..... Hong Kong, a
.....*, the applicant herein.
2. I have examined [Hong Kong Identity Card No.] [passport No.
.....][#] of the said and I am satisfied that from such
examination that he is the person shown in the photograph attached hereto and that he is the
applicant in these proceedings.

SWORN / DECLARED at Hong Kong)
this day of)

Before me

Commissioner for Oaths / Solicitor.

* Please insert relevant profession (eg barrister / solicitor / advocate / notary etc) and the relevant
court / bar / chamber.

Delete whichever is inapplicable.

FORM 6

(Repealed)

FORM 7

[rule 7]

ADMISSION AND REGISTRATION RULES

ROLL OF SOLICITORS

.....
was duly admitted to practise as a Solicitor of the High Court of Hong Kong on the day of
.....,

.....
Registrar,
High Court,
Hong Kong.

FORM 8

(Repealed)

FORM 9

[rule 12]

ADMISSION AND REGISTRATION RULES

REGISTER OF NOTARIES PUBLIC

Name	Date of Production of Notarial Faculty	Date of Registry	Affidavit of When filed	Identity
------	--	------------------	----------------------------	----------

FORM 10

(Repealed)

4. Barristers (Qualifications) Rules

ARRANGEMENT OF RULES

Rule

1. Citation
- 1A. Application
2. General admission before 1 June 1986: qualifying period of active practice
- 2A. Admission for particular cases: qualifying period of active practice
- 2B. General admission on or after 1 June 1986: qualifying period of active practice
3. Application for pupillage in Hong Kong
4. Approval of Bar Council
5. Disqualification
6. Approval of pupillage
7. Termination of pupillage
8. Appeals
9. Requirements of pupillage
10. Reduction of pupillage
11. (Repealed)
12. Reduction of pupillage of a barrister admitted under section 27A

1. Citation

These rules may be cited as the Barristers (Qualification) Rules.

1A. Application

These rules shall apply to –

- (a) persons who elect under section 74C of the Ordinance as amended by the Legal Practitioners (Amendment) Ordinance 2000 (42 of 2000) ("the amending Ordinance") to be admitted under section 27 of the Ordinance as that section existed before its repeal by the amending Ordinance; or
- (b) persons who seek admission under section 74D of the Ordinance as amended by the amending Ordinance.

2. General admission before 1 June 1986: qualifying period of active practice

- (1) Where a person is admitted as a barrister generally under section 27(1)(a)(i) or (ii) of the Ordinance before 1 June 1986, the qualifying period of active practice for the purposes of section 31 of the Ordinance shall be a period of not less than 12 months of active practice as a barrister or advocate in any part of the Commonwealth after the date of that person's call to the Bar in England or Northern Ireland or his admission as an advocate in Scotland or, in the case of a person who, prior to his call to the Bar in England or Northern Ireland or admission as an advocate in Scotland, had been admitted as a barrister or advocate in any part of the Commonwealth, after the date of his being so admitted, which period may include-
 - (a) if the person has obtained a certificate issued by the Council of Legal Education that he has satisfactorily completed the Council's Post Final Practical Course, the period of such course;
 - (b) any period spent as a pupil in the chambers of a practising barrister in England or Northern Ireland or of a practising member of the Faculty of Advocates in Scotland;
 - (c) any period spent as a pupil in the chambers of a practising barrister in Hong Kong;
 - (d) any period not exceeding 9 months spent as a pupil in the Attorney General's Chambers, which period may include a period not exceeding 3 months on secondment to the Legal Aid Department.
- (2) The period of 12 months specified in paragraph (1) shall be reduced-
 - (a) by the period of any course referred to in sub-paragraph (a) of that paragraph completed before the date of call to the Bar in England or Northern Ireland or admission as an advocate in Scotland;
 - (b) by any period spent as a pupil in the chambers of a practising barrister in England or Northern Ireland or of a practising member of the Faculty of Advocates in Scotland after taking all the examinations the passing of which qualifies a person for call to the Bar in England or Northern Ireland or for admission as an advocate in Scotland if the pupil passes those examinations and is called to the Bar or is admitted, as the case may be, on the next occasion immediately following the commencement of the pupillage;
 - (c) by any period not exceeding one month spent as a judge's marshal after the date of call to the Bar in England or Northern Ireland or admission as an advocate in Scotland.

- (3) Where a person is admitted as a barrister generally under section 27(1)(a)(iii) or (iv) of the Ordinance before 1 June 1986, the qualifying period of active practice for the purposes of section 31 of the Ordinance shall be the period of approved pupillage under these rules, which period may include any period spent as a pupil in the chambers of a practising barrister in England or Northern Ireland or of a practising member of the Faculty of Advocates in Scotland.

2A. Admission for particular cases: qualifying period of active practice

Where a person is admitted as a barrister for the purpose of any particular case or cases under section 27 of the Ordinance, the qualifying period of active practice for the purposes of section 31 of the Ordinance shall be a period of not less than 12 months of active practice as a barrister or advocate in any part of the Commonwealth after the date of that person's call to the Bar in England or Northern Ireland or his admission as an advocate in Scotland or, in the case of a person who, prior to his call to the Bar of England or Northern Ireland or admission as an advocate in Scotland, had been admitted as a barrister or advocate in any part of the Commonwealth, after the date of his being so admitted.

2B. General admission on or after 1 June 1986: qualifying period of active practice

Where a person is admitted as a barrister generally under section 27 or 27A of the Ordinance on or after 1 June 1986, the qualifying period of active practice for the purposes of section 31 shall be the period of approved pupillage under these rules.

3. Application for pupillage in Hong Kong

A person desiring to become a pupil in Hong Kong shall-

- (a) give to the Secretary to the Bar Council not less than 3 weeks' notice in writing of his intention to serve a pupillage in Hong Kong, stating whether he wishes to serve his pupillage-
- (i) with a practising barrister; or
 - (ii) in the Attorney General's Chambers,
- and if with a practising barrister, stating the name and professional address of that barrister;
- (b) deposit with the Bar Council a certificate from the Registrar of the High Court that the applicant has been admitted as a barrister in Hong Kong and separate certificates of good character from two responsible persons who have known him for one year or more and have had opportunity of judging his character;
- (c) deposit with the Bar Council a written declaration and undertaking that-
- (i) he is not in practice as a solicitor either on his own account or as a partner or employee in any legal firm whether in Hong Kong or elsewhere and that he does not intend, so long as he remains a pupil, to practise as a solicitor either on his own account or as a partner or employee in any firm in Hong Kong or elsewhere;
 - (ii) he is not enrolled and, so long as he remains a pupil, will not be enrolled as a student, trainee solicitor or member of The Law Society of Hong Kong.

4. Approval of Bar Council

A practising barrister shall not receive a pupil into his chambers unless he has first obtained the approval of the Bar Council to the pupillage.

5. Disqualification

A person shall not be eligible to become a pupil for the purposes of these rules if he-

- (a) is an undischarged bankrupt;
- (b) has been convicted of a criminal offence of such a nature as, in the opinion of the Bar Council, makes his admission as a pupil undesirable;
- (c) is engaged in any occupation which, in the opinion of the Bar Council, is incompatible with pupillage; or
- (d) is for any other reason considered by the Bar Council to be unsuitable as a pupil.

6. Approval of pupillage

The Bar Council shall, if it is satisfied that the applicant has complied with the requirements of rule 3 that he is a fit and suitable person and is not ineligible by virtue of rule 5, and if he wishes to serve his pupillage with a practising barrister, that the practising barrister with whom he wishes to serve his pupillage has obtained the approval of the Bar Council to the pupillage under rule 4, approve him as a pupil.

7. Termination of pupillage

- (1) A pupil who, while serving pupillage, is-
 - (a) adjudicated bankrupt;
 - (b) convicted of a criminal offence; or
 - (c) engaged, employed or enrolled in contravention of his written declaration and undertaking,shall forthwith inform the Bar Council in writing.
- (2) The Bar Council may approve the transfer of pupillage from one practising barrister to another or from a practising barrister to the Attorney General's Chambers or from the Attorney General's Chambers to a practising barrister.
- (3) The Bar Council may order the termination or suspension of a pupillage if it is satisfied that-
 - (a) the pupil has been guilty of misconduct; or
 - (b) the pupil has notified, or failed to notify the Bar Council, of the occurrence of any of the matters referred to in paragraph (1).
- (4) For the purposes of this rule "misconduct" means any conduct which would be regarded as professional misconduct if committed by a practising barrister.

8. Appeals

- (1) Any person who is aggrieved by an order or decision of the Chief Judge or the Bar Council under these rules may, by notice of motion, appeal to the Court of Appeal against the order or decision.
- (2) The notice of motion shall state the grounds of the appeal and shall be served on the Bar Council as Respondents and on the Attorney General.
- (3) At the hearing before the Court of Appeal the applicant, the Bar Council and the Attorney

General may be represented by counsel and adduce evidence.

- (4) The Court of Appeal may confirm, vary or quash the order or decision and make such order as to costs as it thinks fit.

9. Requirements of pupillage

- (1) The period of approved pupillage under these rules shall be-
- (a) a period of not less than 1 year in the chambers of a practising barrister (of not less than 5 years standing as a barrister) in Hong Kong; or
 - (b) a period of not less than 9 months in the Attorney General's Chambers, which may include a period not exceeding 3 months on secondment to the Legal Aid Department, so long as he has also spent a period of not less than 3 months in such service as is described in sub-paragraph (a).
- (2) The period of approved pupillage mentioned in paragraph (1) shall be reduced by any period not exceeding one month spent as a judge's marshal in Hong Kong after the date of admission as a barrister in Hong Kong.
- (3) A person shall not be regarded as having undertaken the period of approved pupillage under these rules unless he has obtained from those of whom he has been a pupil certificates stating he has served his period of pupillage with diligence and that he is a suitable person to practise as a barrister in Hong Kong.
- (4) Any period of work in the nature of pupillage undertaken in the Attorney General's Chambers or in the chambers of a practising barrister (of not less than 5 years standing as a barrister) in Hong Kong after being called to the Bar in England or Northern Ireland, being admitted as an advocate in Scotland or taking all the examinations the passing of which qualifies a person for admission as a barrister in Hong Kong may at the discretion of the Bar Council be accepted, if he is so called or admitted or if he passes those examinations, as a period of approved pupillage, or part thereof, as required by these rules.

10. Reduction of pupillage

The Chief Judge may, after consulting the Bar Council, reduce the period of approved pupillage mentioned in rule 9 where he is satisfied that a barrister admitted under section 27 of the Ordinance has substantial experience in advocacy in court:

Provided that the period of pupillage required to be served shall not be less than 3 months.

11. (Repealed)

12. Reduction of pupillage of a barrister admitted under section 27A

- (1) The Chief Judge may, after consulting the Bar Council and the Attorney General, reduce or dispense with the period of approved pupillage mentioned in rule 9 where he is satisfied that a barrister admitted under section 27A of the Ordinance has substantial experience in advocacy in court.
- (2) The Chief Judge may make the reduction or dispensation of the period of approved pupillage subject to conditions that he may specify.

11. Legal Practitioners (Fees) Rules

ARRANGEMENT OF RULES

Rule

1. Citation
2. Fees
3. Payment of fees

Schedule 1

Schedule 2

Schedule 3

1. Citation

These rules may be cited as the Legal Practitioners (Fees) Rules.

2. Fees

- (1) The fees set forth in Schedule 1 are prescribed for payment under the Ordinance.
- (2) The fees set forth in Schedule 2 are prescribed for payment under the Trainee Solicitors Rules (Cap. 159, sub. leg.).
- (3) The fees set forth in Schedule 3 are prescribed for payment under the Admission and Registration Rules (Cap. 159, sub. leg.).

3. Payment of fees

- (1) The fees set forth in Schedules 1, 2 and 3 shall be paid to the persons named in the fourth column of such Schedules, opposite such fees.
- (2) The fees paid by a barrister under sections 30(1) and 31C of the Ordinance shall be paid to the Hong Kong Bar Association for the payment of the expenses of the Association.

SCHEDULE 1

[rule 2(1)]

FEES PAYABLE UNDER THE ORDINANCE

Item	Section	Description	Payee	Fee \$
1.	5(2)	Entry on the roll of solicitors of the name of a solicitor	Registrar	360
2.	(repealed)			
3.	29(2)	Entry on the roll of barristers of the name of a barrister	Registrar	360
4.	30(1)	Practising certificate-barrister	Hong Kong Bar Association	1,600
4A.	30(1)	Limited practising certificate - barrister	Hong Kong Bar Association	500
4B.	31C	Employed barrister's certificate	Hong Kong Bar Association	1,600
5.	40	Registration of notary public	Registrar	1,135

SCHEDULE 2

[rule 2(2)]

FEES PAYABLE UNDER THE TRAINEE SOLICITORS RULES

Item	Rule	Description	Payee	Fee \$
1.	8(1)	Registration of trainee solicitor contract (including new and further trainee solicitor contracts)	Society	1,400
2.	-	On the receipt by the Society of any notice or application under the rules where no fee is specifically provided	Society	1,400

SCHEDULE 3

[rule 2(3)]

FEES PAYABLE UNDER THE ADMISSION AND REGISTRATION RULES

Item	Rule	Description	Payee	Fee \$
1.	3(1) or 3A(1)	Application for a certificate of eligibility for admission as a solicitor	Society	1,500
2.	4(1)	Application for admission as a solicitor	Registrar	1,135
3.	(repealed)			
4.	(repealed)			
5.	(repealed)			

12. Practising Certificate (Barristers) Rules

ARRANGEMENT OF RULES

Rule

1. Citation
2. Application for a practising certificate
3. Barristers' practising certificates

Schedule Forms

1. Citation

These rules may be cited as the Practising Certificate (Barristers) Rules.

2. Application for a practising certificate

- (1) An application by a barrister under section 30(1) of the Ordinance for a practising certificate shall be in accordance with -
 - (a) Form 1 in the Schedule in the case of a barrister admitted and qualified to practise generally;
 - (b) Form 1A in the Schedule in the case of a barrister admitted and qualified to practise to a limited extent under section 31(2) of the Ordinance; and
 - (c) Form 1B in the Schedule in the case of a barrister admitted for the purpose of any particular case or cases under section 27(2) of the Ordinance.
- (1A) An application by an employed barrister under section 31C(2) of the Ordinance for an employed barrister's certificate shall be in accordance with Form 1C in the Schedule.
- (2) The Bar Council may be satisfied by an application under subrule (1) or (1A) without further investigation unless it is made to appear to it to be necessary.

3. Barristers' practising certificates

- (1) A practising certificate in the case of a barrister admitted and qualified to practise generally shall be in accordance with Form 2 in the Schedule.
- (2) A limited practising certificate as a barrister for the purposes of section 31(2) of the Ordinance shall be in accordance with Form 3 in the Schedule.
- (3) A practising certificate in the case of a barrister admitted for the purpose of any particular case or cases under section 27(2) of the Ordinance shall be in accordance with Form 4 in the Schedule.
- (4) An employed barrister's certificate shall be in accordance with Form 5 in the Schedule.

SCHEDULE

FORM 1

[rule 2.]

APPLICATION BY A BARRISTER FOR A PRACTISING CERTIFICATE

PRACTISING CERTIFICATE (BARRISTERS) RULES

To: The Bar Council.

I,

of
(chambers' address)

apply for the issue to me of a practising certificate in accordance with section 30(1) of the Legal Practitioners Ordinance.

I confirm that I am qualified to practise as a Barrister by virtue of section 31(1) of the Ordinance and that I am not disqualified by virtue of section 31(1)(d) or (e)*.

Dated this day of 19.....

.....
Applicant.

* The applicant is referred to the current Code of Conduct for the Bar of Hong Kong.

FORM 1A

[rule 2]

**APPLICATION BY A BARRISTER FOR A LIMITED
PRACTISING CERTIFICATE**

To: The Bar Council.

I,, of
(name)

.....
(chambers' address)

apply for the issue to me of a limited practising certificate in accordance with section 30(1) of the Legal Practitioners Ordinance.

I confirm that I am qualified to practise as a Barrister by virtue of section 31(2) of the Ordinance and that I am not disqualified by virtue of section 31(1)(d) or (e)*.

Dated thisday of, 19.....

.....
Applicant.

* The applicant is referred to the current Code of Conduct for the Bar of Hong Kong.

FORM 1B

[rule 2]

APPLICATION BY A BARRISTER ADMITTED FOR
PARTICULAR PURPOSES

To: The Bar Council.

I,....., of
(name)

.....
(chambers' address)

declare that I was admitted as a Barrister for the purpose of.....

.....by Order of
(matter)

.....made on
(name of Judge) (date)

and hereby apply for a practising certificate in respect of that matter under section 30(1) of the Legal Practitioners Ordinance.

I confirm that I am not disqualified by virtue of section 31(1)(d) or (e) of the Ordinance*.

Dated thisday of, 19.....

.....
Applicant.

* The applicant is referred to the current Code of Conduct for the Bar of Hong Kong.

FORM 1C

[rule 2]

**APPLICATION BY AN EMPLOYED BARRISTER FOR
AN EMPLOYED BARRISTER'S CERTIFICATE**

To: The Bar Council.

I,
(name)

of
(office's or chambers' address)

apply for the issue to me of an employed barrister's certificate in accordance with section 31C(2) of the Legal Practitioners Ordinance.

I confirm that I –

- * hold a valid practising certificate issued under section 30 of the Ordinance.
- * have completed the prescribed qualifying period of active practice.
- * have been an employed barrister for at least 12 months immediately preceding the date of this application.

Dated this day of

.....
Applicant

- * Delete whichever is inapplicable

FORM 2

[rule3(1)]

PRACTISING CERTIFICATE AS A BARRISTER

**LEGAL PRACTITIONERS ORDINANCE
(Chapter 159)**

It is hereby certified, in accordance with subsection (1) of section 30 of the Legal Practitioners Ordinance,
that.....
of

.....
a Barrister, has complied with that subsection and is therefore entitled to practise as a Barrister for the period
from 19..... to 31 December 19.....*.

Dated this day of 19.....

.....
for Bar Council.

* This certificate is not evidence that the holder, who is subject to the current Code of Conduct for the Bar of Hong Kong, is or has been in practice as a Barrister during the above period.

FORM 3

[rule 3(2).]

LIMITED PRACTISING CERTIFICATE AS A BARRISTER

**LEGAL PRACTITIONERS ORDINANCE
(Chapter 159)**

It is hereby certified, in accordance with subsection (1) of section 30 of the Legal Practitioners Ordinance, that
of
a Barrister, has complied with that subsection, is qualified to practise to a limited extent under section 31(2) of the Ordinance and is therefore entitled to practise as a Barrister to such limited extent as the Bar Council has determined and may from time to time determine for the period from the date of this certificate to*.

Dated this day of 19.....

.....
for Bar Council.

* This certificate is not evidence that the holder, who is subject to the current Code of Conduct for the Bar of Hong Kong, is or has been in practice as a Barrister during the above period.

FORM 4

[rule 3]

PRACTISING CERTIFICATE AS A BARRISTER

LEGAL PRACTITIONERS ORDINANCE
(Chapter 159)

It is hereby certified, in accordance with section 30(1) of the Legal Practitioners Ordinance, that
..... of, a Barrister, is by Order of
..... made on
(name of Judge) (date)
entitled to practise as a Barrister for the period from the date of this certificate to 31 December 19.....*.

Dated thisday of, 19.....

.....
for Bar Council.

* This certificate is not evidence that the holder, who is subject to the current Code of Conduct for the Bar of Hong Kong, is or has been in practice as a Barrister during the above period.

**FORM 5
3(4)]**

[rule

EMPLOYED BARRISTER'S CERTIFICATE

**LEGAL PRACTITIONERS ORDINANCE
(Chapter 159)**

It is hereby certified, in accordance with section 31C(3) of the Legal Practitioners Ordinance, that

..... of

(name)

.....

(office's or chambers' address)

is an employed barrister, has complied with section 31C(2) of the Ordinance and is therefore entitled to be issued this certificate which shall be valid from to

.....
for Bar Council

31. Barristers (Admission) Rules

ARRANGEMENT OF SECTIONS

Section

1. Commencement
2. Application for admission as a barrister
3. Admission
4. Certificate of admission
5. Roll of barristers
6. Exemption

Consequential Amendments Admission and Registration Rules

7. Part repealed
8. Forms
9. Savings

Legal Practitioners (Fees) Rules

10. Fees payable under the Admission and Registration Rules

Schedule 1 Fees
Schedule 2 Forms

1. Commencement

[Omitted as spent]

2. Application for admission as a barrister

- (1) Any person seeking to be admitted as a barrister shall file with the Registrar a notice of motion and pay to the Registrar the fee set out in Schedule 1.
- (2) On receipt of the notice of motion, the Registrar shall fix a date for the hearing of the motion, which shall not be less than –
 - (a) 30 days after the filing of the notice of motion, if the person concerned is seeking to be admitted generally; or
 - (b) 14 days after the filing of the notice of motion, if the person concerned is seeking to be admitted for the purpose of any particular case or cases.
- (3) Every notice of motion in respect of a person seeking to be admitted as a barrister under section 27(1) of the Ordinance shall be accompanied by –
 - (a) a certificate of qualification for admission issued by the Bar Council under section 8(3) of the Barristers (Qualification for Admission and Pupillage) Rules (L.N. 9 of 2003);
 - (b) an affidavit attesting to each of the matters which the person must establish as set out in section 27(2) of the Ordinance; and
 - (c) an affidavit of identity in Form 1 in Schedule 2.
- (4) Every notice of motion in respect of a person seeking to be admitted as a barrister under section 27(4) of the Ordinance shall be accompanied by –
 - (a) a certificate of admission as a legal practitioner from the appropriate authority in the jurisdiction in which he was admitted, together with evidence that the certificate of admission is currently valid and in force;
 - (b) an affidavit attesting to each of the matters which the person must establish as set out in section 27(2)(a) and (4) of the Ordinance; and
 - (c) an affidavit of identity in Form 1 in Schedule 2.
- (5) A copy of the notice of motion and of every document accompanying the notice of motion shall be served on the Secretary for Justice and the Bar Council at the time when such notice of motion is filed with the Registrar.

3. Admission

- (1) On the hearing of the motion filed under section 2 by the Court, counsel shall move the Court that the person concerned be admitted and enrolled as a barrister.
- (2) The Court, upon hearing such counsel and upon hearing any representation which may be made by or on behalf of the Secretary for Justice and the Bar Council, may –
 - (a) upon being satisfied that the person concerned is eligible for admission as a barrister, order that the person concerned be admitted as a barrister; or
 - (b) if the Court is not so satisfied, dismiss the application upon such terms as regards costs or otherwise as the Court may think appropriate.

4. Certificate of admission

The Registrar shall deliver a certificate of admission to every person who is admitted as a barrister as soon as practicable after the admission of that person.

5. Roll of barristers

The roll of barristers shall be in accordance with Form 2 in Schedule 2.

6. Exemption

The Court may, on special grounds and upon such conditions as it may consider necessary, exempt any person from any of the formalities prescribed by these Rules, either absolutely or for any specified period, and may on its own motion or upon application reduce or abridge any of the periods of notice prescribed by these Rules upon any such conditions.

Consequential Amendments

Admission and Registration Rules

7. Part repealed

Part III of the Admission and Registration Rules (Cap. 159 sub. leg.) is repealed.

8. Forms

The Schedule is amended –

- (a) in Form 5, within the square brackets, by repealing “,8”
- (b) by repealing Forms 8 and 10.

9. Savings

Notwithstanding the repeal of rules 8 and 9 of the Admission and Registration Rules (Cap. 159 Sub. leg.), such rules shall continue to govern the admission of persons who seek admission under section 74C or 74D of the Ordinance.

Legal Practitioners (Fees) Rules

10. Fees payable under the Admission and Registration Rules

Item 3 of Schedule 3 to the Legal Practitioners (Fees) Rules (Cap. 159 sub. leg.) is repealed.

SCHEDULE 1

[s. 2]

FEEs

Item	Section	Description	Payee	Fee \$
1.	2(1)	Filing of notice of motion for admission as a barrister	Registrar	1,135

SCHEDULE 2

[ss. 2 & 5]

FORMS

FORM 1

[s. 2(3) & (4)]

AFFIDAVIT OF IDENTITY

I, of
Hong Kong, Solicitor, make oath and say (or solemnly and sincerely declare and affirm) as follows –

1. The photograph attached hereto and marked “.....” is a true likeness of of
Hong Kong, the applicant herein.
2. I have examined [Hong Kong Identity Card No.] [passport No.]* of the said

and I am satisfied that he is the applicant in these proceedings.

SWORN/DECLARED at Hong Kong)
this day of

Before me

Oaths/Solicitors

Commissioner for

* Delete where inappropriate.

FORM 2

[s. 5]

ROLL OF BARRISTERS

..... was admitted as a barrister of the High Court
of the Hong Kong Special Administrative Region on the day of

.....
Registrar,
High Court,
HKSAR.

32. Barristers (Advanced Legal Education Requirement) Rules

ARRANGEMENT OF SECTIONS

Section

1. Commencement
2. Interpretation
3. Advanced Legal Education Programme
4. Requirements for completing Programme
5. Pupil to keep record and submit information
6. Accreditation of courses begun before pupillage
7. Consequence of failure to undertake and complete Programme
8. Exemptions
9. Attendance record
10. Review
11. Application

1. Commencement

[Omitted as spent]

2. Interpretation

In these Rules, unless the context otherwise requires –

“ALE course” (進修課程) means a course provided by –

- (a) the Bar Council under section 3(2)(a);
- (b) an authorized person pursuant to an authorization under section 3(2)(b);
- (c) any person in accordance with an approval under section 3(2)(c);

“ALE points” (進修學分) means the points awarded to a pupil for the satisfactory completion of any ALE course;

“authorized person” (獲授權人) means any person who is authorized under section 3(2)(b) to provide ALE courses;

“certificate of eligibility for pupillage” (符合資格為實習大律師證明書) means a certificate of eligibility for pupillage for the purpose of the Barristers (Qualification for Admission and Pupillage) Rules (L.N. 9 of 2003)

“course” (課程) means any workshop, lecture, seminar, course or other mode of instruction;

“limited practising certificate” (具限定範圍的執業證書) means a certificate issued by the Bar Council under section 30 of the Ordinance to a person who is qualified to practise as a barrister to a limited extent under section 31(2) of the Ordinance;

“period of approved pupillage” (認可實習大律師實習期) means the period of approved pupillage mentioned in rule 9 of the Barristers (Qualification) Rules (Cap. 159 sub. leg.) or section 9 of the Barristers (Qualification for Admission and Pupillage) Rules (L.N. 9 of 2003);

“Programme” (進修計劃) means the Advanced Legal Education Programme referred to in section 3;

“pupil” (實習大律師) means a person serving a period of approved pupillage.

3. Advanced Legal Education Programme

- (1) The Bar Council shall, in accordance with these Rules, institute and organize for pupils a programme of compulsory legal education to be known as the Advanced Legal Education Programme.
- (2) In instituting and organizing the Programme, the Bar Council shall have the power to –
 - (a) provide courses;
 - (b) authorize a person to provide courses, and revoke any such authorization;
 - (c) approve any course provided by any person, and revoke any such approval;
 - (d) determine the number of points to be accredited to any ALE course, and revoke, vary or amend any such determination;

- (e) specify what shall constitute attendance at any ALE course for the purposes of these Rules;
 - (f) specify the circumstances under which a pupil who attends an ALE course will not be entitled to be awarded the ALE points accredited to that course;
 - (g) require pupils to attend any ALE course,
- and in exercising any power conferred by paragraph (b), (c) or (d), the Bar Council may impose such conditions as it considers necessary.
- (3) The Bar Council shall inform every person applying for a certificate of eligibility for pupillage, and make available to all pupils undergoing a period of approved pupillage, of the requirement to complete the Programme and shall provide such person with information regarding –
- (a) the Programme as in force at that time, including the number of ALE points which a pupil must obtain and the ALE courses which a pupil must attend to complete the Programme, and the requirements under section 5; and
 - (b) the ALE courses being offered from time to time under the Programme, including the dates on which such courses are intended to be offered and the number of ALE points accredited to each such course.

4. Requirements for completing Programme

- (1) In order to complete the Programme, a pupil must –
- (a) attend such ALE courses as may be required under section 3(2)(g); and
 - (b) obtain a total of 14 ALE points by his attendance at ALE courses.
- (2) Except as provided in section 6, a pupil must both begin and complete the Programme within his period of approved pupillage.

5. Pupil to keep record and submit information

- (1) A pupil must keep a record in a form approved by the Bar Council of all the ALE courses he has attended.
- (2) A pupil shall submit to the Bar Council the record and such other information relating to his participation in the Programme in such manner and within such period as the Bar Council considers necessary.

6. Accreditation of courses begun before pupillage

- (1) If a pupil has before the commencement of his period of approved pupillage attended any course that is similar in nature to an ALE course he may, on application in writing to the Bar Council and at the discretion of the Bar Council, be awarded with an appropriate number of ALE points in respect of the course.
- (2) If after the commencement of his period of approved pupillage a pupil attends the remainder of any course that he had attended in part before commencing his period of approved pupillage, being a course that is similar in nature to an ALE course, he may, on application in writing to the Bar Council and at the discretion of the Bar Council, be awarded with an appropriate number of ALE points in respect of the course.

7. Consequence of failure to undertake and complete Programme

- (1) Where a pupil has failed to undertake and complete the Programme in accordance with these Rules, the Bar Council may –
 - (a) refuse to extend the validity of any limited practising certificate beyond the end of the pupil's period of approved pupillage;
 - (b) refuse to issue a new limited practising certificate; and
 - (c) defer issuing a practising certificate until such time as the pupil has completed the Programme.
- (2) Where a pupil has completed the Programme in accordance with these Rules, the Bar Council shall issue to the pupil a certificate to that effect.

8. Exemption

- (1) Where the period of approved pupillage of a pupil has been reduced under rule 10 or 12 of the Barristers (Qualification) Rules (Cap. 159 sub. leg). or section 16 of the Barristers (Qualification for Admission and Pupillage) Rules (L.N. 9 of 2003), the Bar Council may, on application by the pupil in writing, exempt the pupil from any or all of the requirements under section 4 or 5.
- (2) The Bar Council may, on application by a pupil in writing, exempt the pupil from any or all of the requirements under section 4 or 5 if it is satisfied that it is fair and reasonable to grant the exemption.
- (3) Where exemption is granted under subsection (1) or (2), the Bar Council may impose such conditions as it considers necessary.

9. Attendance record

- (1) An authorized person and any person who provides a course approved by the Bar Council under section 3(2)(c) shall, in accordance with guidelines issued by the Bar Council, retain an attendance record of each pupil who has attended the ALE course.
- (2) The Bar Council may require an authorized person and any person who provides a course approved by the Bar Council under section 3(2)(c) to produce the attendance record of a pupil to the Bar Council within a reasonable period after the pupil has attended the ALE course.

10. Review

- (1) A person aggrieved by a decision made by the Bar Council under section 3, 4, 5, 6, 7, 8 or 9 in respect of the operation of the Programme may apply in writing to the Bar Council for a review of the decision within 1 month after being informed of the decision.
- (2) The Bar Council shall consider the application and may confirm or vary its decision.

11. Application

These Rules apply to pupils who commence their period of approved pupillage on or after the date when these Rules enter into force.

33. Barristers (Qualification for Admission and Pupillage) Rules

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BARRISTERS (QUALIFICATION FOR ADMISSION AND PUPILLAGE) RULES

PART 1

COMMENCEMENT AND INTERPRETATION

1. Commencement

[Omitted as spent]

2. Interpretation

In these Rules, unless the context otherwise requires –

“Advanced Legal Education Programme” (高級法律進修計劃) means the Advanced Legal Education Programme referred to in the Barristers (Advanced Legal Education Requirement) Rules (L.N. 8 of 2003);

“approved pupillage” (認可實習大律師實習) means a pupillage approved in accordance with section 12;

“certificate of eligibility for admission” (符合資格獲認許證明書) means the certificate of eligibility for admission issued to an overseas lawyer under section 6 in respect of his eligibility to be admitted as an overseas lawyer;

“certificate of eligibility for pupillage” (符合資格為實習大律師證明書) means the certificate of eligibility for pupillage issued under section 12;

“certificate of qualification for admission” (具備認許資格證明書) means the certificate of qualification for admission issued to a person seeking to be admitted as a barrister under section 8;

“Code of Conduct” (行為守則) means the Code of Conduct of the Hong Kong Bar Association as in force from time to time;

“common law jurisdiction” (普通法司法管轄區) means a jurisdiction in which the law is substantially based on the common law;

“Examination” (考試) means the Barristers Qualification Examination which is an assessment of competence in the subjects specified, assessed in the manner specified, in these Rules;

“jurisdiction of admission” (獲認許所在的司法管轄區), in relation to an overseas lawyer, means the foreign jurisdiction the law of which the overseas lawyer is entitled to practise;

“overseas lawyer” (海外律師) means a person who is entitled to practise the law of a foreign jurisdiction.

3. Application

These Rules shall not apply to –

- (a) persons who elect under section 74C of the Ordinance as amended by the Legal Practitioners (Amendment) Ordinance 2000 (42 of 2000) (“the amending Ordinance”) to be admitted under section 27 of the Ordinance as that section existed before its repeal by the amending Ordinance; or
- (b) persons who seek admission under section 74D of the Ordinance as amended by the amending Ordinance.

PART 2

QUALIFICATION FOR ADMISSION

4. Qualification for admission under section 27(1) of the Ordinance

- (1) Subject to subsection (3), a person is qualified for admission as a barrister under section 27(1) of the Ordinance if he –
 - (a) has obtained a Postgraduate Certificate in Laws;
 - (b) has been admitted as a solicitor in Hong Kong for at least 3 years either immediately or in any case not more than 12 months before the date of his application for admission and during that time he was in practice as a solicitor in Hong Kong or was employed in the public service of the Government as a legal officer within the meaning of the Legal Officers Ordinance (Cap. 87); or
 - (c) is an overseas lawyer who satisfies the requirements specified in subsection (2).
- (2) For the purposes of subsection (1)(c), an overseas lawyer is qualified for admission as a barrister under section 27(1) of the Ordinance if he –
 - (a) holds a certificate of admission as a legal practitioner from the appropriate authority in his jurisdiction of admission and such certificate is currently valid and in force;
 - (b) has practised for at least 3 years in his jurisdiction of admission;
 - (c) is a person of good standing in his jurisdiction of admission; and
 - (d) has passed the Examination (excluding any examination paper which such person has been exempted from sitting pursuant to subsections (4) and (5)).
- (3) A person must have completed not less than 6 months of the period of approved pupillage specified in section 10 or, if the period of approved pupillage has been reduced to less than 6 months under section 16, such reduced period of approved pupillage, before he seeks admission as a barrister.
- (4) Where the Bar Council is satisfied that, by reason of his substantial experience as a practising lawyer in one or more of the areas of law covered by the Examination, a person should be exempted from sitting one or more examination papers of the Examination, it may exempt such person from sitting such examination paper or papers.
- (5) Without prejudice to the generality of subsection (4), unless the Bar Council otherwise determines in a particular case, a person whose jurisdiction of admission is a common law jurisdiction shall be exempted from sitting Paper I of the Examination.

5. Examination

- (1) the Examination shall consist of 5 examination papers known as Papers I, II, III, IV and V respectively.
- (2) The Examination shall cover the following subjects –

- (a) Paper I –
 - (i) Contract; and
 - (ii) Tort;
 - (b) Paper II –
 - (i) Property Law (including real and personal property);
 - (ii) Conveyancing; and
 - (iii) Equity (including the Law of Trusts);
 - (c) Paper III –
 - (i) Criminal Law; and
 - (ii) Criminal Procedure and Criminal Evidence;
 - (d) Paper IV –
 - (i) Hong Kong Legal System and Constitutional and Administrative Law; and
 - (ii) Company Law; and
 - (e) Paper V –
 - (i) Civil Procedure and Civil Evidence;
 - (ii) Professional Conduct; and
 - (iii) Advocacy.
- (3) The Bar Council shall administer the Examination in the manner as it may in its absolute discretion deem fit.
 - (4) The Examination shall be held at least once every year at such time as the Bar Council may determine.
 - (5) A person shall not be eligible to sit the Examination or any part of it unless he–
 - (a) holds a valid certificate of eligibility for admission; and
 - (b) has paid the relevant fee prescribed in Schedule 1.

6. Certificate of eligibility for admission

- (1) An overseas lawyer seeking to sit the Examination shall –
 - (a) apply to the Bar Council for a certificate of eligibility for admission in accordance with subsection (2); and
 - (b) pay the relevant fee prescribed in Schedule 1.
- (2) An application under subsection (1) shall be made in accordance with Form 1 in Schedule 2.
- (3) If the Bar Council is satisfied that an applicant –
 - (a) complies with the requirements in section 4(2)(a), (b) and (c); and

- (b) has paid the relevant fee prescribed in Schedule 1.

it shall issue to that applicant a certificate of eligibility for admission in accordance with Form 2 in Schedule 2.

- (4) Where a person is exempted from sitting all or any part of the Examination by virtue of section 4(4) or (5), the certificate of eligibility for admission issued to that person shall contain a statement to that effect.
- (5) A certificate of eligibility for admission shall remain valid for a period of 12 months from its date of issue, unless the Bar Council decides in its discretion to extend such period or the certificate is revoked under section 17 before its expiry.
- (6) A person may apply to the Bar Council in writing for extension of the validity of his certificate of eligibility for admission.
- (7) An application under subsection (6) shall be –
 - (a) made not later than 2 months before the expiry of the certificate or within such other period of time as the Bar Council may in its discretion allow; and
 - (b) accompanied by the relevant fee prescribed in Schedule 1.

7. Requirements for passing Examination

- (1) Subject to subsection (2) and section 4(4) and (5), a person must pass Papers I, II, III, IV and V at the same sitting in order to pass the Examination.
- (2) A person who has failed no more than 2 examination papers at any one sitting of the Examination need only resit the examination paper or papers which he has failed, but such person must pass the Examination (excluding any examination paper which he has been exempted from sitting) within a period of 3 years.
- (3) A person –
 - (a) who has failed more than 2 examination papers at any one sitting of the Examination; or
 - (b) who has failed to pass the Examination (excluding any examination paper which he has been exempted from sitting) within a period of 3 years as provided in subsection (2),

must present himself for examination afresh in respect of Papers I, II, III, IV and V or, where a person has been exempted from sitting any examination paper pursuant to section 4(4) or (5), all those papers for which he has not been exempted (as the case may be), in accordance with subsections (1) and (2).

8. Certificate of qualification for admission

- (1) A person seeking to be admitted as a barrister on the basis of compliance of section 4 shall –
 - (a) apply to the Bar Council for a certificate of qualification for admission in accordance with subsection (2); and
 - (b) pay the relevant fee prescribed in Schedule 1.
- (2) An application under subsection (1) shall be made in accordance with Form 3 in Schedule 2.
- (3) If the Bar Council is satisfied that an applicant –

- (a) complies with the requirements in section 4 and is qualified for admission as a barrister; and
 - (b) has paid the relevant fee prescribed in Schedule 1,
- it shall issue to that applicant a certificate of qualification for admission in accordance with Form 4 in Schedule 2.
- (4) A certificate of qualification for admission shall remain valid for a period of 12 months from its date of issue, unless the Bar Council decides in its discretion to extend such period or the certificate is revoked under section 17 before its expiry.
 - (5) A person may apply to the Bar Council in writing for extension of the validity of his certificate of qualification for admission.
 - (6) An application under subsection (5) shall be –
 - (a) made not later than 2 months before the expiry of the current certificate or within such other period of time as the Bar Council may in its discretion allow; and
 - (b) accompanied by the relevant fee prescribed in Schedule 1.

PART 3

PUPILLAGE

9. Qualifying period of active practice

Where a person seeks admission or is admitted as a barrister under section 27(1) of the Ordinance, the qualifying period of active practice for the purposes of section 31(1)(a) of the Ordinance shall be the period of approved pupillage under section 10.

10. Approved pupillage

- (1) The period of approved pupillage shall be –
 - (a) a period of not less than 1 year in the chambers of a practising barrister (of not less than 5 years standing as a barrister) in Hong Kong; or
 - (b) a period of not less than 9 months in the Department of Justice, which may include a period not exceeding 3 months on secondment to the Legal Aid Department, so long as he has also spent a period of not less than 3 months in such service as is described in paragraph (a).
- (2) The period of approved pupillage mentioned in subsection (1) may, with the Bar Council's approval, include any period not exceeding one month spent by a person as a judge's marshal in Hong Kong after the issue to that person of a certificate of eligibility for pupillage.
- (3) A person undertaking pupillage is subject to the Code of Conduct.
- (4) A person shall not be regarded as having completed the period of approved pupillage or any part of it unless he has –
 - (a) obtained a certificate from the practising barrister of whom he has been a pupil stating that –
 - (i) he has diligently served his period of pupillage with the practising barrister; and

- (ii) in the opinion of the practising barrister, he is a fit and suitable person to practise as a barrister in Hong Kong;
 - (b) (where he has spent a period as a judge's marshal) obtained a certificate from those for whom he has served as marshal stating that he has diligently served his period as marshal;
 - (c) (subject to such exemption as the Bar Council may grant under section 8 of the Barristers (Advanced Legal Education requirement) Rules (L.N. 8 of 2003) satisfactorily completed the Advanced Legal Education Programme and obtained a certificate from the Bar Council to that effect; and
 - (d) satisfied the Bar Council that he has complied with the requirements of pupillage stipulated in the Code of Conduct.
- (5) A person shall not commence the period of approved pupillage specified in subsection (1) unless he holds a valid certificate of eligibility for pupillage pursuant to section 12(1).
- (6) The Bar Council may in its absolute discretion accept any period of work in the nature of pupillage undertaken in Hong Kong in –
- (a) the chambers of a practising barrister (of not less than 5 years standing as a barrister); or
 - (b) the Department of Justice,
- by a person after obtaining a certificate of eligibility for pupillage, as a period of approved pupillage or part of it, as required by these Rules.

11. Application for pupillage in Hong Kong

- (1) A person seeking to become a pupil in Hong Kong shall apply to the Bar Council for a certificate of eligibility for pupillage in accordance with subsection (2) not less than 3 weeks before he proposes to commence pupillage.
- (2) An application under subsection (1) shall be made in accordance with Form 5 in Schedule 2.

12. Approval of pupillage and issue of certificate of eligibility for pupillage

- (1) The Bar Council, if it is satisfied that –
 - (a) the applicant –
 - (i) is a fit and suitable person to be a barrister;
 - (ii) would, but for the requirement to serve the period of approved pupillage or reduced period of approved pupillage under section 4(3), be qualified for admission as a barrister under section 4;
 - (iii) is not ineligible by virtue of section 14; and
 - (iv) has paid the relevant fee prescribed in Schedule 1; and
 - (b) the practising barrister with whom the applicant wishes to serve his pupillage has obtained the approval of the Bar Council to the pupillage under section 13,

shall approve the application for pupillage and issue to the applicant a certificate of eligibility for pupillage in accordance with Form 6 in Schedule 2.

- (2) A certificate of eligibility for pupillage shall remain valid for a period of 12 months from its date of issue, unless the Bar Council stipulates or determines otherwise or the certificate is revoked under section 17 before its expiry.
- (3) A person may apply to the Bar Council in writing for extension of the validity of his certificate of eligibility for pupillage.
- (4) An application under subsection (3) shall be –
 - (a) made not later than 2 months before the expiry of the current certificate or within such other period of time as the Bar Council may in its discretion allow; and
 - (b) accompanied by the relevant fee prescribed in Schedule 1.

13. Approval of Bar Council

- (1) A practising barrister shall not receive a pupil into his chambers unless he has first obtained the approval of the Bar Council to the pupillage.
- (2) The Bar Council may at any time –
 - (a) revoke its approval of a pupillage; or
 - (b) approve the transfer of pupillage from one practising barrister to another, or from a practising barrister to the Department of Justice, or from the Department of Justice to a practising barrister.

14. Ineligibility for pupillage

- (1) A person shall not be eligible to become a pupil for the purposes of these Rules if he –
 - (a) is an undischarged bankrupt within the meaning of the Bankruptcy Ordinance (Cap. 6);
 - (b) has been convicted of an offence of such a nature that, in the opinion of the Bar Council, he is unsuitable to be a pupil;
 - (c) is engaged in any occupation which, in the opinion of the Bar Council, is incompatible with pupillage; or
 - (d) is for any other reason considered by the Bar Council to be unsuitable as a pupil.
- (2) If the Bar Council has made a decision that a person is ineligible for pupillage under subsection (1), it should notify that person of its decision and the reasons for the decision within 28 days of the application made under section 11(1).

15. Termination or suspension of pupillage

- (1) A pupil who, while serving pupillage, is –
 - (a) adjudicated bankrupt;
 - (b) convicted of an offence; or
 - (c) engaged, employed or enrolled in contravention of any declaration and undertaking given to the Bar Council in connection with an application made under section 11,shall forthwith inform the Bar Council in writing.

- (2) The Bar Council may order the termination or suspension of a pupillage if –
 - (a) it is satisfied that –
 - (i) the pupil is guilty of misconduct; or
 - (ii) the pupil has notified, or fails to notify, the Bar Council of the occurrence of any of the matters referred to in subsection (1); or
 - (b) it has revoked its approval of a pupillage.
- (3) If the Bar Council has made an order to terminate or suspend a pupillage under subsection (2), it should notify the pupil of its order and the reasons for the order within 28 days of the order.
- (4) For the purposes of this section, “misconduct” (失當行為) means any conduct which would be regarded as professional misconduct if committed by a practising barrister.

16. Reduction of period of approved pupillage

- (1) The Chief Judge may, after consulting the Bar Council, reduce the period of approved pupillage mentioned in section 10 where he is satisfied that a person seeking admission under section 27(1) of the Ordinance has substantial experience of court advocacy, but the period of a reduced pupillage shall not be less than 3 months.
- (2) The Chief Judge may make the reduction of the period of approved pupillage subject to such conditions as he may in his absolute discretion specify.

PART 4

GENERAL

17. Variation or revocation of certificates

- (1) The Bar Council may at any time vary or revoke a certificate issued under section 6, 8 or 12 for good cause.
- (2) The Bar Council should notify with reasons the person affected by the variation or revocation made under subsection (1) within 28 days of such variation or revocation.

18. Review

- (1) Any person who is aggrieved by an order or decision of the Bar Council under these Rules may, within one month of the date of the order or decision and upon payment of the relevant fee prescribed in Schedule 1, apply in writing for the order or decision to be reviewed by the Bar Council.
- (2) Any person who is aggrieved by any decision of the Bar Council on a request for review under subsection (1) may, within one month of the date of the decision, appeal to the Court of Appeal against the decision by notice of motion.
- (3) The notice of motion shall state the grounds of the appeal and shall be served on the Bar Council and the Secretary for Justice as respondents.
- (4) On the hearing of the motion by the Court of Appeal, the appellant, the Bar Council and the Secretary for Justice may be represented by counsel and adduce evidence.
- (5) The Court of Appeal may confirm, vary or quash the decision or remit the same to the Bar Council for reconsideration and make such order as to costs as it thinks fit.

PART 5

CONSEQUENTIAL AMENDMENTS

Barristers (Qualification) Rules

19. Rule added

The Barristers (Qualification) Rules (Cap. 159 sub. leg.) are amended by adding –

“1A. Application

These rules shall apply to –

- (a) persons who elect under section 74C of the Ordinance as amended by the Legal Practitioners (Amendment) Ordinance 2000 (42 of 2000) (“the amending Ordinance”) to be admitted under section 27 of the Ordinance as that section existed before its repeal by the amending Ordinance; or
- (b) persons who seek admission under section 74D of the Ordinance as amended by the amending Ordinance.”

SCHEDULE 1

**[ss. 5, 6, 8, 12 &
18 & Sch. 2]**

**FEES PAYABLE UNDER BARRISTERS
(QUALIFICATION FOR ADMISSION AND PUPILLAGE) RULES**

Item	Section	Description	Payee	Fees
1.	5(5)	Application to sit Examination	Hong Kong Bar Association	\$2,000 per examin- ation paper
2.	6(1) & (3)	Application for certificate of eligibility for admission	Hong Kong Bar Association	\$3,500
3.	6(7)	Extension of validity of certificate of eligibility for admission	Hong Kong Bar Association	\$250
4.	8(1) & (3)	Application for certificate of qualification for admission	Hong Kong Bar Association	\$750
5.	8(6)	Extension of validity of certificate of qualification for admission	Hong Kong Bar Association	\$250
6.	12(1)	Application for certificate of eligibility for pupillage	Hong Kong Bar Association	\$250
7.	12(4)	Extension of validity of certificate of eligibility for pupillage	Hong Kong Bar Association	\$250
8.	18(1)	Application for review	Hong Kong Bar Association	\$3,000

SCHEDULE 2

[ss. 6, 8, 11 & 12]

FORMS

FORM 1

[s. 6(2)]

APPLICATION FOR CERTIFICATE OF ELIGIBILITY FOR ADMISSION

To: The Council of the Hong Kong Bar Association

I, [full name in English and, if applicable, Chinese] of [current residential address] apply for the issue to me of a certificate of eligibility for admission in accordance with section 6(3) of the Barristers (Qualification for Admission and Pupillage) Rules (L.N. 9 of 2003) ("Rules").

I am a [nationality], the holder of passport {OR* [name of other travel document]} no. [number]. My Hong Kong Identity Card No. is [HKID number].

Certified copies of the pages of my passport {OR* [name of other travel document]} giving particulars of myself and of my Hong Kong Identity Card are attached to this application as Attachment 1.

My telephone contact number is [telephone number]. I can also be reached by fax at [fax number] or e-mail at [e-mail address].

I do solemnly and sincerely declare as follows –

1. I hold a certificate of admission as a legal practitioner from the [name of authority issuing certificate] ("issuing authority") in [applicant's jurisdiction of admission] ("my jurisdiction of admission"). My certificate of admission is currently valid and in force.

A certified copy of my certificate of admission is attached to this application as Attachment 2.

2. My jurisdiction of admission is/is not* a common law jurisdiction, namely, a jurisdiction in which the law is substantially based on the common law.
3. I have practised for at least 3 years in my jurisdiction of admission. More specifically, I have been in full-time practice in my jurisdiction of admission during the following period(s) –
[Set out period(s) of practice.]

A certified copy/Certified copies* of certificate(s) from the issuing authority {OR* [name of the relevant institution]} evidencing my active practice during such period(s) is/are* attached to this application as Attachment 3.

4. I am currently a person of good standing in my jurisdiction of admission.

A letter from the [name of the relevant institution], which is the body having supervision over the conduct of legal practitioners in my jurisdiction of admission, certifying my good standing is attached to this application as Attachment 4.

5. I wish/do not wish* to apply to be exempted under section 4(4) {AND/OR* (5)} of the Rules from sitting the following examination paper(s) of the Barristers Qualification Examination –
[Identify any examination paper(s) for which exemption is sought.]

My ground(s) for seeking exemption is/are* –

[Set out ground(s) for seeking exemption. Where necessary, separate sheet(s) may be used.

The ground(s) should be supported by documentary evidence attached to this application as Attachment 5.]

AND I make this solemn declaration conscientiously believing it to be true and by virtue of the Oaths and Declaration Ordinance (Cap. 11).

DECLARED at
HONG KONG this day of
..... 20.....

Before me

Commissioner for Oaths/Solicitor

Note: The fees prescribed in Schedule 1 of the Rules for a certificate of eligibility for admission must be paid at the time of submission of this application.

* Delete whichever is inapplicable.

FORM 2

[s. 6(3)]

CERTIFICATE OF ELIGIBILITY FOR ADMISSION

THIS IS TO CERTIFY THAT [full name in English and, if applicable, Chinese] of [current residential address]

1. on the day of 20 applied under section 6(2) of the Barristers (Qualification for Admission and Pupillage) Rules (L.N. 9 of 2003) ("Rules") for the issue of a certificate of eligibility for admission;
2. has satisfied the Council of the Hong Kong Bar Association that he --
 - (1) holds a certificate of admission as a legal practitioner from the [name of authority issuing certificate] in [applicant's jurisdiction of admission] ("jurisdiction of admission") which is currently valid and in force;
 - (2) has practised for at least 3 years in the jurisdiction of admission; and
 - (3) is currently a person of good standing in the jurisdiction of admission;
3. has paid the fees prescribed in Schedule 1 of the Rules for this certificate; and
4. is exempted from sitting the following examination paper(s) of the Barristers Qualification Examination --

Dated this day of 20.....

(Sgd.)
 for the Council of the
 Hong Kong Bar Association

Notes:

- (a) This certificate is valid for a period of 12/[number]* months from the date of issue, unless the Bar Council decides in its discretion to extend such period or the certificate is revoked under section 17 of the Rules before its expiry.
 - (b) The holder of this certificate may apply for its extension by writing to the Bar Council and paying the fees prescribed in Schedule 1 of the Rules not later than 2 months before its expiry.
- * Delete whichever is inapplicable.

FORM 3

[s. 8(2)]

APPLICATION FOR CERTIFICATE OF QUALIFICATION FOR ADMISSION

To: The Council of the Hong Kong Bar Association

I, [full name in English and, if applicable, Chinese] of [current residential address] apply for the issue to me of a certificate of qualification for admission in accordance with section 8(3) of the Barristers (Qualification for Admission and Pupillage) Rules (L.N. 9 of 2003) ("Rules").

I am a [nationality] {[where the applicant is not a PRC citizen] the holder of passport {OR* [name of other travel document]} no. [number]}. My Hong Kong Identity Card No. is {HIID number}.

Certified copies of –

1. the front and reverse sides of my Hong Kong Identity Card {; and}*
- {2. [if relevant] the pages of my passport {OR* [name of other travel document]} giving particulars of myself,}*

are attached to this application as Attachment 1.

My telephone contact number is [telephone number]. I can also be reached by fax at [fax number] or e-mail at [e-mail address].

I do solemnly and sincerely declare as follows–

1. I have obtained a Postgraduate Certificate in Laws.

A certified copy of such a certificate is attached to this application as Attachment 2.

{OR*

I have been admitted as a solicitor in Hong Kong for at least 3 years either immediately or in any case not more than 12 months before the date of this application and during that time I was in practice as a solicitor in Hong Kong/I was employed in the public service of the Government as a legal officer within the meaning of the Legal Officers Ordinance (Cap. 87)*.

A certificate from the Registrar certifying the date of my admission as a solicitor in Hong Kong and the period(s) during which my name has been on the roll of solicitors is attached to this application as Attachment 2.

During the period(s) identified in the certificate, I was in practice as follows–
[Particulars of practice during the relevant period(s).]

{OR*

A certificate from the Secretary for Justice/Director of Legal Aid/[name of the relevant Government officer]* setting out the date(s) of my employment in the public service of the Government as a legal officer is attached to this application as Attachment 2A.}}

{OR*

I am an overseas lawyer as defined in section 2 of the Rules.

A copy of the certificate of eligibility for admission issued to me by the Bar Council on [date] is attached to this application as Attachment 2.

[I was exempted from sitting the following paper(s) of the Barristers Qualification Examination:
[Identify any examination paper(s) for which exemptions were obtained.]]*

I sat the Barristers Qualification Examination {(excluding any examination paper(s) which I was exempted from sitting)}* on [date(s)] and have passed that examination in accordance with section 7 of the Rules.

A letter from the Bar Council certifying that I have passed the Barristers Qualification Examination is attached to his application as Attachment 2A.}

2. I have completed at least 6 months of the period of approved pupillage specified in section 10 of the Rules. In particular, I have completed pupillage as follows--

Name of pupil master

Period of pupillage

A certificate/Certificates* from the above pupil master(s) confirming that I have served my period(s) of pupillage with him/them* diligently and that I am a fit and suitable person to practise as a barrister in Hong Kong is/are* attached to this application as Attachment 3.

{AND*

[where relevant] I have spent a period of [time not exceeding 1 month] as judge's marshal as follows--

Name of judge

Period spent as marshal

A certificate/Certificates* from [name(s) of judge] confirming that I have served my period(s) as marshal with him/them* diligently is/are* attached to this application as Attachment 3A.}

{OR*

My period of approved pupillage has been reduced to [number] months (being a period of less than 6 months) under section 16 of the Rules and I have completed such reduced period of approved pupillage. In particular, I have undertaken pupillage as follows--

Name of pupil master

Period of pupillage

A certificate/Certificates* from the above pupil master(s) confirming that I have served my period(s) of pupillage with him/them* diligently and that I am a fit and suitable person to practise as a barrister in Hong Kong is/are* attached to this application as Attachment 3.

{AND*

[where relevant] I have spent a period of [time not exceeding 1 month] as judge's marshal as follows --

Name of judge

Period spent as marshal

A certificate/Certificates* from [name(s) of judge] confirming that I have served my period(s) as marshal with him/them* diligently is/are* attached to this application as Attachment 3A.}}

3. I am not currently in practice as a solicitor either on my own account or as a partner or salaried employee in a firm of solicitors practising in Hong Kong.

4. I have resided in Hong Kong for [number] consecutive months immediately before the date of this application.

{OR*

I have been ordinarily resident in Hong Kong for at least 7 years.}

{OR*

I have been physically present in Hong Kong for [number] days of each of [number] years within 10 years immediately preceding the date of this application.

Details of my period(s) of residence in Hong Kong are set out below—

Address

Period of residence

A certified copy of the relevant pages from my passport {OR* [name of other travel document]} evidencing the above period(s) of residence in Hong Kong is attached to this application as Attachment 4.}

5. I am a fit and proper person to be called to the Hong Kong Bar and eligible to be admitted as a barrister under section 27(1) of the Legal Practitioners Ordinance (Cap. 159).

Two letters of reference attesting to my good character are attached to this application as Attachment 5.

AND I make this solemn declaration conscientiously believing it to be true and by virtue of the Oaths and Declarations Ordinance (Cap. 11).

DECLARED at
HONG KONG this day of
..... 20

Before me

Commissioner for Oaths/Solicitor

Note: The fees prescribed in Schedule 1 of the Rules for a certificate of qualification for admission must be paid at the time of submission of this application.

* Delete whichever is inapplicable.

FORM 4

[s. 8(3)]

CERTIFICATE OF QUALIFICATION FOR ADMISSION

THIS IS TO CERTIFY THAT [full name in English and, if applicable, Chinese] of [current residential address]—

1. on the day of 20 applied under section 8(2) of the Barristers (Qualification for Admission and Pupillage) Rules (L.N. 9 of 2003) (“Rules”) for the issue of a certificate of qualification for admission;
2. has satisfied the Council of the Hong Kong Bar Association that he—

has obtained a Postgraduate Certificate in Laws;

{OR*

has been admitted as a solicitor in Hong Kong for at least 3 years either immediately or in any case not more than 12 months before the date of his application for admission as a barrister and during that time he was in practice as a solicitor in Hong Kong/he was employed in the public service of the Government as a legal officer within the meaning of the Legal Officers Ordinance (Cap. 87)*;}

{OR*

is an overseas lawyer as defined in section 2 of the Rules and has met the requirements for admission to the Hong Kong Bar specified in section 4(2) of the Rules;}
3. has completed at least 6 months of the period of approved pupillage specified in section 10 of the Rules;

{OR*

has had his period of approved pupillage reduced to [number] months under section 16 of the Rules and has completed such reduced period of approved pupillage;}
4. is not currently in practice as a solicitor either on his own account or as a partner or salaried employee in a firm of solicitors practising in Hong Kong;
5. has resided in Hong Kong for [number] consecutive months immediately before the date of his application for admission as a barrister;

{OR*

has been ordinarily resident in Hong Kong for at least 7 years;}

{OR*

has been physically present in Hong Kong for [number] days of each of [number] years within the 10 years immediately preceding the date of his application for admission as a barrister;}
6. is a fit and proper person to be called to the Hong Kong Bar and eligible to be admitted as a barrister under section 27(1) of the Legal Practitioners Ordinance (Cap. 159); and
7. has paid the fees prescribed in Schedule 1 of the Rules for this certificate.

Dated thisday of 20

(Sgd.)
for the Council of the
Hong Kong Bar Association

Notes:

- (a) This certificate is valid for a period of 12/[number]* months from the date of issue, unless the Bar Council decides in its discretion to extend such period or the certificate is revoked under section 17 of the Rules before its expiry.
- (b) The holder of this certificate may apply for its extension by writing to the Bar Council and paying the fees prescribed in Schedule 1 of the Rules not later than 2 months before its expiry.

* Delete whichever is inapplicable.

FORM 5

[s. 11(2)]

APPLICATION FOR CERTIFICATE OF ELIGIBILITY FOR PUPILLAGE

To: The Council of the Hong Kong Bar Association

I, [full name in English and, if applicable, Chinese] of [current residential address] apply for the issue to me of a certificate of eligibility for pupillage in accordance with section 11(1) of the Barristers (Qualification for Admission and Pupillage) Rules (L.N. 9 of 2003) ("Rules").

My Hong Kong Identity Card No. is [HKID number].

My telephone contact number is [telephone number]. I can also be reached by fax at [fax number] or e-mail at [e-mail address].

I propose to undertake pupillage for the period from [date] to [date] with [name of pupil master] of [chambers address].

{OR*

I propose to serve as judge's marshall to the Honourable Mr/Mrs/Madam Justice [name] from [date] to [date].}

I do solemnly and sincerely declare and undertake as follows—

1. I am a fit and proper person to be a barrister. In particular—

- (1) I am not an undischarged bankrupt within the meaning of the Bankruptcy Ordinance (Cap 6.).
- (2) I have not had any previous criminal conviction.

{OR*

I have been previously convicted as follows—
[Details of previous criminal conviction(s).]

- (3) I am not currently engaged, and during my pupillage undertake not to engage, in any occupation which is incompatible with pupillage.

Two letters of reference attesting to my good character are attached to this application as Attachment 1.

2. I would, but for the service of the period of approved pupillage or reduced period of approved pupillage required under section 4(3) of the Rules, be qualified for admission as a barrister under section 27(1) of the Legal Practitioners Ordinance (Cap. 159). In particular—

I have obtained a Postgraduate Certificate in Laws.

A certified copy of such a certificate is attached to this application as Attachment 2.

{OR*

I have been admitted as a solicitor in Hong Kong for at least 3 years either immediately or in any case not more than 12 months before the date of this application and during that time I was in practice as a solicitor in Hong Kong/I was employed in the public service of the Government as a legal officer within the meaning of the Legal Officers Ordinance (Cap. 87)*

A certificate from the Registrar certifying the date of my admission as a solicitor in Hong Kong and the period(s) during which my name has been on the roll of solicitors is attached to this application as Attachment 2.

During the period(s) identified in the certificate, I was in practice as follows—
[Particulars of practice during the relevant period(s)].

{OR*

A certificate from the Secretary for Justice/Director of Legal Aid/[name of the relevant Government officer]* setting out the date(s) of my employment in the public service of the Government as a legal officer is attached to this application as Attachment 2A.}}

{OR*

I am an overseas lawyer as defined in section 2 of the Rules.

A copy of the certificate of eligibility for admission issued to me by the Bar Council on [date] is attached to this application as Attachment 2.

I sat the Barristers Qualification Examination {(excluding any examination paper(s) which I was exempted from sitting)}* on [date(s)] and have passed that examination in accordance with section 7 of the Rules.

A letter from the Bar Council certifying that I have passed the Barristers Qualification Examination is attached to this application as Attachment 2A.}

3. I am not currently in practice as a solicitor either on my own account or as a partner of salaried employee in a firm of solicitors practising in Hong Kong.
4. I have resided in Hong Kong for [number] consecutive months immediately before the date of this application.

{OR*

I have been ordinarily resident in Hong Kong for at least 7 years.}

{OR*

I have been physically present in Hong Kong for [number] days of each of [number] years within 10 years immediately preceding the date of this application.

Details of my period(s) of residence in Hong Kong are set out below—

Address

Period of residence

A certified copy of the relevant pages from my passport {OR* [name of other travel document]} evidencing the above period(s) of residence in Hong Kong is attached to this application as Attachment 3.}

AND I make this solemn declaration conscientiously believing it to be true and by virtue of the Oaths and Declarations Ordinance (Cap. 11).

DECLARED at
HONG KONG this day of
..... 20

Before me

Commissioner for Oaths/Solicitor

Note: The fees prescribed in Schedule 1 of the Rules for a certificate of eligibility for pupillage must be paid at the time of submission of this application.

* Delete whichever is inapplicable.

FORM 6

[s. 12(1)]

CERTIFICATE OF ELIGIBILITY FOR PUPILLAGE

THIS IS TO CERTIFY THAT [full name in English and, if applicable, Chinese] of [current residential address]—

1. on the day of 20 applied under section 11(2) of the Barristers (Qualification for Admission and Pupillage) Rules (L.N. 9 of 2003) (“Rules”) for the issue of a certificate of eligibility for pupillage;
2. has satisfied the Council of the Hong Kong Bar Association that he –
 - (1) is a fit and suitable person to be a barrister;
 - (2) would, but for the service of the period of approved pupillage {OR* reduced period of approved pupillage} required under section 4(3) of the Rules, be qualified for admission as a barrister under section 27(1) of the Legal Practitioners Ordinance (Cap. 159);
 - (3) is not ineligible for pupillage by virtue of section 14 of the Rules; and
 - (4) has paid the fees prescribed in Schedule 1 of the Rules for this certificate; and
3. is eligible for pupillage.

Dated this day of 20.....

(Sgd.)
for the Council of the
Hong Kong Bar Association

Notes:

- (a) This certificate is valid for a period of 12/[number]* months from the date of issue, unless the Bar Council decides in its discretion to extend such period or the certificate is revoked under section 17 of the Rules before its expiry.
- (b) The holder of this certificate may apply for its extension by writing to the Bar Council and paying the fees prescribed in Schedule 1 of the Rules not later than 2 months before its expiry.

* Delete whichever is inapplicable.