

LEGAL PRACTITIONERS (RISK MANAGEMENT EDUCATION) RULES

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1. Commencement

- (1) These Rules (other than section 11) shall come into operation on 14 March 2003.
- (2) Section 11 shall come into operation on a day to be appointed by the President of The Law Society of Hong Kong by notice published in the Gazette..

2. Interpretation

- (1) In these Rules, unless the context otherwise requires —

“elective course” (選修課程) means an RME course specified as such under section 4(3)(c)(iii);

“exempted practice year” (獲豁免執業年度) has the meaning assigned to it in section 8(1);

“first practice year” (首個執業年度), in relation to a person to whom these Rules apply, means the practice year in which these Rules first apply to him;

“foreign lawyer” (外地律師) means a person registered as a foreign lawyer under Part IIIA of the Ordinance and is practising as such in a Hong Kong firm;

“general core course” (一般必修課程) means an RME course specified as such under section 4(3)(c)(i);

“practice year” (執業年度) means the period of 12 months ending on 31 October each year;

“principal” (主管) means —

- (a) a solicitor who is carrying on a business of practising as such in his own name in Hong Kong;
- (b) a solicitor who is practising as the sole practitioner or a partner of a Hong Kong firm; or
- (c) any other solicitor who is held out or holds himself out to be a person referred to in paragraph (a) or (b);

“principal’s core course” (主管必修課程) means an RME course specified as such under section 4(3)(c)(ii);

“Programme” (計劃) means the Risk Management Education Programme described in section 4(1) and (2);

“risk management” (風險管理) means any action or plan of action the objective of which is to minimize the risk of a person’s exposure to claims against him in the course of his professional practice and to reduce the extent of loss which may arise from such claims;

“RME course” (風險管理課程) means any workshop, lecture, seminar, course or any other programme of instruction conducted —

- (a) under section 4(3)(a);
- (b) with an authorization given under section 4(3)(b)(i); or
- (c) with an approval given under section 4(3)(b)(ii);

“solicitor” (律師) means a person who is qualified to practise as a solicitor under section 7 of the Ordinance and is carrying on the business of practising as such in his own name in Hong Kong or practising as such in a Hong Kong firm;

“trainee solicitor” (實習律師) has the meaning assigned to it in rule 2 of the Trainee Solicitors Rules (Cap. 159 sub. leg.).

- (2) In sections 5, 6 and 7, a requirement to attend any RME course shall be construed as a requirement to attend the RME course to the satisfaction of the Society.

3. Application

These Rules apply to any solicitor, trainee solicitor and foreign lawyer.

4. Risk Management Education Programme

- (1) The Society shall implement a programme of training on risk management known as the Risk Management Education Programme.
- (2) The Programme shall consist of general core courses, principal’s core courses and elective courses.
- (3) The Society may, for the purposes of the Programme —
 - (a) conduct any course on risk management;
 - (b) subject to such conditions as it considers necessary —
 - (i) authorize another person or organization to conduct any course on risk management; or
 - (ii) approve any course on risk management conducted by another person or organization;
 - (c) specify any RME course to be —
 - (i) a general core course;
 - (ii) a principal’s core course; or
 - (iii) an elective course;

- (d) provide guidelines from time to time as to the implementation of the Programme and compliance with these Rules, including guidelines setting out matters it proposes to have regard to in determining whether a person has attended an RME course to the satisfaction of the Society.

5. Attendance requirement in respect of general core course

- (1) A person who becomes a solicitor, a trainee solicitor or a foreign lawyer shall, within the practice year specified in subsection (2), attend all general core courses.
- (2) The practice year specified for the purposes of subsection (1) is —
 - (a) the first practice year of the solicitor, trainee solicitor or foreign lawyer; or
 - (b) if the practice year referred to in paragraph (a) is an exempted practice year, the first succeeding practice year which is not an exempted practice year.
- (3) Subsection (1) does not apply to any person who, during the practice year within which he would otherwise be required under that subsection to attend all general core courses, is also required under section 6 to attend all principal's core courses.
- (4) Subsection (1) does not apply to any person who has previously attended all general core courses or all principal's core courses.

6. Attendance requirement in respect of principal's core course

- (1) A solicitor who becomes a principal shall, within the practice year specified in subsection (2), attend all principal's core courses.
- (2) The practice year specified for the purposes of subsection (1) is —
 - (a) the principal's first practice year;
 - (b) the practice year in which he first becomes a principal; or
 - (c) if the practice year referred to in paragraph (a) or (b) is —
 - (i) an exempted practice year; or
 - (ii) a practice year during which he is a principal for less than 100 days,

the first succeeding practice year which is not an exempted practice year and during which he is a principal for 100 days or more.

7. Attendance requirement in respect of elective course

- (1) A person to whom these Rules apply shall, within each practice year other than a practice year specified in subsection (3), attend at least 3 hours of elective courses.

- (2) Where a solicitor or a foreign lawyer fails to comply with subsection (1) in any practice year, he shall, within that practice year and the first succeeding practice year which is not a practice year specified in subsection (3), attend at least 6 hours of elective courses.
- (3) The practice year specified for the purposes of subsections (1) and (2) is —
 - (a) an exempted practice year. or
 - (b) a practice year within which the person concerned is required under these Rules to attend all general core courses or all principal's core courses.

8. Exempted practice year

- (1) For the purposes of these Rules, an exempted practice year, in relation to any person to whom these Rules apply, is any practice year in which —
 - (a) the total period for which these Rules apply to him consists of less than 100 days; or
 - (b) he has been —
 - (i) out of Hong Kong; or
 - (ii) absent from work due to illness,for a continuous period which constitutes 75% or more of the total period for which these Rules apply to him.
- (2) Where a person to whom these Rules apply asserts that any practice year is an exempted practice year in relation to him, he shall, if so requested by the Society, make a statutory declaration of the facts upon which he makes the assertion.

9. Record of attendance

- (1) A person to whom these Rules apply shall —
 - (a) keep and retain a record of his attendance at any RME course in a form specified by the Society; and
 - (b) at the request of the Society —
 - (i) produce to the Society the record referred to in paragraph (a);
 - (ii) furnish the Society with such information relating to his attendance at any RME course within such time and in such manner as may be specified by it; and
 - (iii) attend before the Council and furnish the Council with such additional information relating to his attendance at any RME course as the Council considers necessary.

- (2) Any person or organization (other than the Society) conducting an RME course shall keep and retain a record of attendance in respect of the RME course in accordance with the guidelines provided by the Society under section 4(3)(d) concerning the keeping and retaining of such record.
- (3) The Society may require the person or organization concerned to produce the record of attendance referred to in subsection (2) within 7 days from the completion of the RME course concerned.

10. Review

- (1) Any person aggrieved by a decision made by or on behalf of the Society in respect of the Programme may apply in writing to the Council, or to such committee formed under the Council as may be appointed by the Council for the purposes of this section, for a review of the decision within 1 month after he is informed of the decision.
- (2) The Council, or the committee referred to in subsection (1), shall consider an application made under that subsection and may confirm or vary the decision to which the application relates.

Related Amendment

Foreign Lawyers Registration Rules

11. Section added

The Foreign Lawyers Registration Rules (Cap. 159 sub.leg.) are amended by adding —

“6A. Compliance with Legal Practitioners (Risk Management Education) Rules

A certificate of registration as a foreign lawyer is subject to the condition that during any period for which the foreign lawyer is employed by a Hong Kong firm to practise foreign law, he shall comply with the Legal Practitioners (Risk Management Education) Rules (L.N. 248 of 2002).”

12. Transitional

- (1) Despite the definition of “first practice year” in section 2(1), the first practice year of a solicitor who was admitted as a solicitor of the High Court on or after 15 September 1990 and who is a principal immediately before the commencement of the Legal Practitioners (Risk Management Education) (Amendment) Rules 2003 (L.N. 238 of 2003) shall end on a date to be appointed by the Council by notice published in the Gazette.
- (2) In relation to any solicitor other than a solicitor mentioned in subsection (1), or to any trainee solicitor or foreign lawyer, these Rules shall not take effect until such date as the Council may appoint by notice published in the Gazette.
- (3) A notice published under subsection (2) may appoint different dates for different classes of persons.