



THE
LAW SOCIETY
OF HONG KONG
香港律師會

**MANDATORY
CONTINUING PROFESSIONAL DEVELOPMENT
INFORMATION PACKAGE**

**November 2004
to
October 2005**

The Law Society of Hong Kong
3rd Floor, Wing On House
71 Des Voeux Road
Central, Hong Kong
DX-009100 Central 1
Email: adpd@hklawsoc.org.hk
Tel: 2846-0500
Fax: 2845-0387

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INTRODUCTION

What is continuing professional development?

Continuing professional development is the systematic maintenance, improvement and broadening of relevant knowledge and skills to enable a professional to successfully carry out his or her professional duties and responsibilities throughout his or her career.

Whilst the Continuing Professional Development Scheme (“CPD Scheme”) may be seen by some as a burdensome requirement, our profession is self regulatory and the Council is obliged to ensure the establishment and promotion of high standards of work within the profession. This includes the encouragement of the continued study and acquisition of legal knowledge and skills by legal practitioners.

Moreover, in a changing legal environment with the profession subject to many external pressures, CPD provides a convenient framework for the profession to meet the changing demands of clients and society to continuously update knowledge and skills, to improve the efficiency and effectiveness of the profession and to enable some practitioners to redefine their careers by learning new professional skills and areas of practice.

The CPD Scheme has been designed to be as flexible as possible so that the relevant number of CPD points may be acquired in a time conscious and cost effective manner. The Law Society has taken into consideration the need for busy practitioners to have a variety of means by which they can comply with CPD requirements by permitting and encouraging methods of learning other than simply attendance at traditional lecture-based courses. For example, legal research, writing legal articles and books, long distance learning courses and the preparation and presentation of courses are provided as CPD activities.

This Information Package contains the current rules governing the scheme and the policies and guidelines of the Council in relation to the Scheme's practical application.

All trainee solicitors and solicitors covered by the CPD Scheme (hereinafter called “the practitioners”) should acquaint themselves with the information in this Package, in particular, the Continuing Professional Development Rules and the Guidelines for Compliance with CPD Requirements, and ensure that proper attention is given to their participation in CPD activities throughout each CPD practice year.

November 2004

MANDATORY CONTINUING PROFESSIONAL DEVELOPMENT REQUIREMENTS

Practitioners required to undertake CPD

From 1 January 2003 the CPD Scheme will apply to all trainee solicitors and to all solicitors with practising certificates.

Exemption from CPD for very senior solicitors may be available upon certain conditions. (Please refer to page 41 of this Package for details.)

The CPD requirement

A solicitor and a trainee solicitor must accumulate 15 CPD accreditation points in each CPD practice year.

However, a trainee solicitor must accumulate 30 CPD accreditation points by the end of his or her period of employment as a trainee solicitor and on a pro-rata basis in accordance with Table A.

The CPD practice year

A CPD practice year is a period of 12 months ending on 31 October each year in legal practice or in employment as a solicitor or in employment as a trainee solicitor (i.e. 1 November to 31 October).

Commencement of a trainee solicitor contract part way through the CPD practice year

A trainee solicitor is required to complete 15 CPD points during each CPD practice year (which commences on 1 November and expires on 31 October the following year). **A trainee solicitor is advised to note whether his trainee solicitor contract commences part way through a CPD practice year in which case, he will be required to complete his CPD requirement on a pro-rata basis.**

Where a trainee solicitor commences a trainee solicitor contract part way through the CPD practice year, the annual 15 CPD points requirement will be determined on a pro-rata basis in accordance with **Table A** on page 3 of this Package.

Commencement date stated on trainee solicitor contract	Number of CPD points to be accumulated
1 November to 15 November	15
16 November to 15 December	14
16 December to 15 January	12½
16 January to 15 February	11
16 February to 15 March	10
16 March to 15 April	9
16 April to 15 May	7½
16 May to 15 June	6
16 June to 15 July	0
16 July to 15 August	0
16 August to 31 August	0
1 September to 31 October	0

Table A - Pro-rata Requirements for Trainee Solicitors

There have been cases of misinterpretation of the CPD requirement where trainee solicitors completed 15 CPD points for the 12-month period from the commencement of their contract term, instead of in accordance with the pro-rata requirement on the basis of his contract period during a CPD practice year. Trainee solicitors are strongly advised to review Table A above to ascertain the number of points they are required to accumulate in each CPD practice year.

For trainee solicitors, the CPD obligations take effect from the commencement date of their trainee solicitor contract and not the date the contract is registered with the Society.

Commencement of practice part way through the CPD practice year

Where a solicitor is issued with a practising certificate part way through the CPD practice year, the annual 15 CPD points requirement will be pro-rated in accordance with **Table B** on page 4 of this Package.

For solicitors, the CPD obligations for a CPD practice year take effect from the commencement date, not the issue date, of their practising certificate.

Commencement date stated on practising certificate	Number of CPD points to be accumulated
1 November to 15 November	15
16 November to 15 December	14
16 December to 15 January	12½
16 January to 15 February	11
16 February to 15 March	10
16 March to 15 April	9
16 April to 15 May	7½
16 May to 15 June	6
16 June to 15 July	5
16 July to 15 August	4
16 August to 31 August	2½
1 September to 31 October	0

Table B - Pro-rata Requirements for Solicitors

Example : A trainee solicitor commenced his trainee solicitor contract on 1 April 2001. His 2 year trainee solicitor contract will expire on 31 March 2003. He will need to accumulate **30 CPD points** by 31 March 2003.

CPD Requirement: 1.4.2001 - 31.10.2001	— 9 CPD points (Table A)
1.11.2001 - 31.10.2002	— 15 CPD points
1.11.2002 - 31.3.2003	— <u>6 CPD points</u>
Total	— 30 CPD points by the end of trainee solicitor contract

Claiming CPD points before admission

Solicitors can receive a credit for the CPD points accumulated between the time of lodging a current application for admission (Form 4 or Form 1C) with the Society and admission provided that the details of the activities undertaken have been entered in the approved Mandatory CPD Training Record.

Carrying over excess CPD points from one CPD practice year to another

Practitioners will normally be permitted to carry over a maximum of 5 CPD points accumulated in excess of the requirement in one CPD practice year to the next immediately succeeding CPD practice year only.

For practitioners who obtained CPD points by attending the mandatory risk management education programme organised by the Society, they are permitted to carry over a maximum of 15 CPD points (accumulated from attendance at the programme) in excess of the requirement in one CPD practice year to the next immediately succeeding CPD practice year only.

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However, any excess CPD points accumulated during employment under the trainee solicitor contract cannot be carried over to the CPD practice year in which a trainee solicitor has been admitted as a solicitor.

Example 1: A partner completed the RME Programme in June 2005 and obtained a total of 24 CPD points. In addition, he accumulated 15 CPD points by attendance of a law course (not part of the RME Programme) during the CPD practice year 2004/2005. In total, the partner obtained 39 points for the CPD practice year 2004/2005. Assuming that the partner's CPD requirement for the CPD practice year 2004/2005 is 15 CPD points, after utilising 15 CPD points out of the 39 points to satisfy his CPD requirement for 2004/2005, he can carry forward a maximum of 15 CPD points (out of the balance of 24 CPD points) to the next CPD practice year of 2005/2006.

Example 2: A solicitor was required to accumulate 15 CPD points in the 2004/2005 CPD practice year. During 2004/2005, the solicitor did not undertake the mandatory Risk Management Education Programme, being not within the ambit of Legal Practitioners (Risk Management Education) Rules. He accumulated 22 CPD points (i.e. 7 excess CPD points) and is thus permitted to carry over 5 CPD points to the next CPD practice year, thereby reducing the minimum CPD points to be accumulated in the 2005/2006 CPD practice year ending 31 October 2006 to 10 CPD points.

WAYS IN WHICH THE CPD REQUIREMENT MAY BE MET

Individual training needs vary and the CPD Scheme has been designed to reflect this by offering flexibility in the training activities which qualify for CPD points. To meet the points requirement solicitors are free to choose activities relevant to their individual needs.

There are various methods of satisfying the CPD requirement other than simply attendance at traditional lecture-based courses. The methods and amount of CPD credit available for each type of training activity are set out in the Guidelines below.

Guidelines for compliance with continuing professional development requirements issued under Sections 2 and 5(3) of the Continuing Professional Development Rules

Preamble

Members have a general responsibility to keep up to date with developments in the law and practice relating to their work. Over and above that general professional responsibility there are compulsory requirements for continuing professional development (CPD) which are set out in the Continuing Professional Development Rules. Details of how these requirements may be satisfied are set out below.

The Society recognises certain activities as constituting formal continuing professional development. The Society encourages its members to undertake a wide range of activities and to regard formal acquisition of the prescribed 15 CPD points of formal continuing professional development each CPD practice year as only a minimum requirement.

Criteria for accreditation of CPD activities

1. To obtain the maximum advantage from CPD, activities shall:
 - (a) be relevant to the immediate or long term needs of trainee solicitors and/or solicitors;
 - (b) be of significant intellectual or practical content; and
 - (c) deal primarily with matters related to the practice of law.
2. Approval should be obtained from the Society as to the suitability for accreditation of other activities. In such cases, the Society may request that a specific application for accreditation of such activity be made.

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3. Except for applications made under Guidelines 10, 11, 14, 15 and 16 and in certain cases, Guideline 6, **all applications for CPD accreditation must be made before the date on which the course is held.** It is not possible to accredit CPD points after any course has taken place. (Please refer to page 45 of this Package.)

Course standards and requirements

4. Courses shall meet the following standards and requirements:
 - 4.1 “A course” means an education programme, seminar, workshop, lecture, conference, in-house group discussion, distance learning course, face-to-face training session held as part of a distance learning course (eg. summer schools, revision sessions), computer-based course, and course presented by means of videotape, motion picture, audiotape, simultaneous broadcast or such other system or device;
 - 4.2 course leaders and lecturers must have the necessary practical and/or academic skills to conduct the course effectively. Experienced lawyers or other professionals must contribute to the development and/or teaching of the course;
 - 4.3 the method of presentation used must be appropriate to meet the aims and objectives of the course and, wherever possible and appropriate, should be varied and include participatory elements in order to encourage learning;
 - 4.4 before or at the course, each participant must be provided with written course materials of a quality and quantity which indicate that adequate time has been devoted to the preparation of the course and that it will be of value to the participants in the course of their practice;
 - 4.5 the course must be presented in a suitable setting conducive to a good educational experience. The course must be scheduled at a time and location so as to be free from interruption from telephone calls and other office matters;
 - 4.6 the level of the course, the number of CPD points accredited to the course and whether the course is substantially a repeat of a previous course must be noted in all promotional material;
 - 4.7 all courses must be evaluated by the participants attending the course in a manner which is approved by the Society;
 - 4.8 subject to paragraph 4.9 and except where provided to the contrary in these guidelines, courses should be credited with the number of points corresponding to the number of hours of tuition scheduled, excluding tea, coffee, lunch and other breaks. Only full or half points may be credited to any course. Points should be rounded down to the nearest half point for courses which are not scheduled to last for an exact number of half or whole hours;

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and

4.9 for the development of practical skills, courses requiring delegates' active participation, for example through workshops, will be more effective than more traditional lecture based courses.

Where at least 1/3 of the tuition time is spent in such small group work, trainee solicitors and solicitors may add 25% to the actual time of the course. For example, a 4 hour workshop comprising 2 hours of small group work qualifies for 1 additional CPD point giving a total of 5 CPD points.

No specific application to the Society by the trainee solicitor, solicitor or the provider of the course is required.

4.10 subject to paragraph 4.11, a course must be of at least one hour in duration. Courses of only one hour must have no more than 10 minutes devoted to questions from the audience.

4.11 (a) a course of 30 minutes or more but less than 60 minutes is eligible for $\frac{1}{2}$ CPD point accreditation provided that for any course with a lecture format, at least 80% of the course must be devoted to the lecture presentation.

(b) a participant at a course referred to in sub-paragraph (a) hereof may claim $\frac{1}{2}$ CPD point provided that he attends the entire course. No lateness is permitted.

4.12 Participation in, or attendance at a course, means attendance at the complete course, or a designated segment of the course which is discrete from the rest of the course and has been accredited on a segmented basis.

Courses presented by videotape, motion picture etc.

5. 5.1 Up to 15 CPD points of the annual CPD requirement may be fulfilled by undertaking courses presented by means of videotape, motion picture, audiotape, simultaneous broadcast or other such systems and devices.

5.2 During courses referred to in paragraph 5.1, there must be an opportunity for participants to ask questions of the course instructor(s) and to engage in discussion. If the course instructor(s) is not available, either in person or via telephone, then a qualified commentator must be available to offer comments, answer questions and lead discussion.

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Overseas courses

6. Overseas courses will be accredited under the following conditions:

- (a) in the normal course, in approved jurisdictions only;
- (b) the overseas course provider being an academic institution or a professional body or any other body approved by the Continuing Professional Development Committee;
- (c) (i) upon the overseas course provider submitting an application for accreditation and paying the requisite accreditation fee; or
 - (ii) where it can be demonstrated that the overseas course provider will not, in the normal course, submit an application for accreditation of the course, upon an application for accreditation being made by the Hong Kong practitioner(s) seeking accreditation and upon payment by such Hong Kong practitioner(s) of the requisite accreditation fee;
- (d) (i) upon production of sufficient documentation by the overseas course provider to enable the Hong Kong practitioner to demonstrate compliance with the CPD Scheme in Hong Kong (i.e. a course attendance list setting out sign in/sign out at the course); or
 - (ii) upon any Hong Kong practitioner who attended the overseas course filing with the Law Society of Hong Kong by the end of the CPD practice year in which he attended the course, written confirmation that he attended the entire course, or, where he attended part of the course, written confirmation setting out which parts/sessions of the course he attended and the full attendance details for each part/session of his attendance; and
- (e) applications for accreditation under this Guideline should be made before the date of the course. However, where the Society is satisfied that exceptional circumstances exist, it may grant retrospective accreditation of an overseas course upon application being made by a practitioner (but not a course provider), provided that the applicant pays a late accreditation fee and submits the application to the Society not later than 30 days after the overseas course has been conducted. However, practitioners should hold no expectation that the submission of an application for retrospective accreditation will necessarily result in the course being accredited.

Computer-based courses

7. 7.1 Subject to paragraphs 7.2 and 7.3, up to 15 CPD points of the annual CPD requirement may be fulfilled by undertaking computer-based learning courses

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accredited by the Society.

- 7.2 The course provider must demonstrate to the satisfaction of the Society that procedures are in place, acceptable to the Society, which verify that the practitioner has completed the computer-based course in full and has done so with a demonstrable and satisfactory degree of comprehension.
- 7.3 In order for a practitioner to obtain CPD points for a course referred to in this guideline, the course provider must, in addition to the usual accreditation requirements, provide the following to the Society:
 - (i) a copy of the course material;
 - (ii) access to the course on-line in order that the Society can monitor the course;
 - (iii) evidence of the verification procedures referred to in paragraph 7.2;
 - (iv) access to the provider's on-line record verifying that a participant has satisfied the requirements set out in paragraph 7.2; and
 - (v) details of the technical support services available to participants.

Distance learning courses

8. 8.1 "Distance learning course" means a course delivered by correspondence, audio cassettes, video cassettes, television broadcasts or inter-active videos.
- 8.2 Up to 15 CPD points of the annual CPD requirement may be fulfilled by undertaking distance learning courses approved by the Society where the course involves an examination or a written assignment assessed by the course provider or leads to a qualification recognised by the Society.

Law courses

9. 9.1 "Law course" means a course approved by the Society which leads to a qualification recognised by the Society.
- 9.2 Up to 15 CPD points of the annual CPD requirement may be fulfilled by undertaking a law course on a part-time basis, such as, a master degree, post-graduate diploma or specialised bachelor degree (eg. Bachelor in Chinese Law).
- 9.3 Trainee solicitors and solicitors must apply to the Society for accreditation of any law course and must provide such materials and information in support of the application as required by the Society.
- 9.4 The Society may publish a list of approved law courses which will be reviewed from time to time. Any course may be removed from the approved

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list following such review.

9.5 CPD points under this paragraph may be counted in each CPD practice year during which the course is undertaken, provided that in each CPD practice year the trainee solicitor or solicitor complies with the course attendance requirements, attends lectures and/or tutorials totalling in duration not less than the number of hours of CPD points being claimed and provides evidence of such attendance as and if required by the Society.

Writing articles, books

10. 10.1 Up to 15 CPD points of the annual CPD requirement may be undertaken by writing law books, or articles in legal journals or such other journals as approved by the Society.

10.2 Subject to paragraph 10.3, any CPD points claimed under paragraph 10.1 must be claimed in the CPD practice year in which the law book or the article is published.

10.3 The Society may in its discretion allow CPD points to be claimed in the CPD practice year in which the article or law book was written, and prior to publication, provided that the Society is satisfied that there is sufficient written evidence that during that CPD practice year the publisher had approved that the article or law book be published in the next succeeding CPD practice year.

10.4 The legal or other journal, which may be in an electronic format, must be approved by the Society.

10.5 The book or article should be on an area of substantive law or practice and procedure.

10.6 Subject to paragraph 10.7, 1 CPD point may be allocated for every 1000 words (English or Chinese) published, or $\frac{1}{2}$ CPD point for such lesser number of words published as may be approved by the Society.

10.7 In the case of substantial revisions or updates of previous publications, the number of CPD points to be allocated shall be determined by the Society.

Legal research

11. 11.1 Subject to Society approval, up to 15 CPD points of the annual CPD requirement may be undertaken by conducting legal research which is of use beyond the particular case and results in the production of a precedent, practice note, other form of written guidance, or substantial written

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submissions on any public consultation document relevant to legal practice, that is generally available to the public or made available to solicitors and trainee solicitors in the researcher's firm.

11.2 The number of CPD points to be allocated, if any, in any case shall be determined by the Society having regard to the quality of the results of the research, its availability to the public or to solicitors and trainee solicitors within the researcher's firm or organisation and the contemporaneous records maintained by the trainee solicitor or solicitor engaged in the research.

Dissertations

12. 12.1 Up to 15 CPD points of the annual CPD requirement may be undertaken by production of a dissertation counting towards a qualification recognised by the Society.

12.2 1 CPD point may be allocated for every 1000 words (English or Chinese) of such dissertation.

Preparation, presentation and coaching of approved training courses

13. 13.1 Up to 15 CPD points of the annual CPD requirement may be undertaken by *preparation* of oral or written material forming part of the formal instruction within approved training courses by a trainee solicitor or solicitor whether or not he/she was involved in the presentation of the course. Contemporaneous working papers and the results achieved in relation to the preparation undertaken must be retained by the trainee solicitor or solicitor engaged in such preparation work.

13.2 Actual time spent in the preparation work (as rounded up or down to the nearest half hour*) may be counted provided that the number of CPD points claimed by a trainee solicitor or solicitor for preparation for any one course may not exceed twice the number of CPD points allowed to the presenter who presented that part of the course for which the preparation was undertaken.

13.3 Up to 15 CPD points of the annual CPD requirement may be undertaken by *presentation* of, *or assisting in the presentation as a coach* in approved training courses. Subject to paragraph 13.4, the actual time involved in presenting or coaching in a course or part of a course, as the case may be, may be counted (as rounded up or down to the nearest half hour*) provided that the number of CPD points allocated under this paragraph shall not exceed the number of CPD points allocated to participants for attendance at the course.

13.4 Where a trainee solicitor or solicitor remains in attendance for the whole of the course in which he/she is involved in presenting or coaching a part for which a CPD credit may be allocated under paragraph 13.3, that trainee

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solicitor or solicitor may be allocated the full number of CPD points available to participants attending that course.

13.5 “Approved training course” means a lecture or tutorial forming part of the LLB, PCLL, CPE or CPEC courses at a Hong Kong university, a lecture or tutorial forming part of a law course accredited by the Society, preparatory courses for the Overseas Lawyers Qualification Examination accredited by the Society and an accredited CPD course.

* blocks of 15 to 29 minutes may be rounded up to the nearest half hour

Participation in committees/working parties/associations

14. 14.1 Up to 5 CPD points of the annual CPD requirement may be fulfilled by –
(a) participation in the work of the Council of the Society; and
(b) subject to the approval of the Society, participation in the work of
(i) the committees or working parties of the Council of the Society;
and
(ii) such committees or associations as are approved (from time to time)
by the Society,
which deal with issues of substantial significance in the practice of law.

14.2 Solicitors and trainee solicitors may claim 1 CPD point for each hour engaged in such work.

Work as an external examiner/assessor

15. 15.1 Subject to approval by the Society, up to 5 CPD points of the annual CPD requirement may be fulfilled by undertaking work as an external examiner for the PCLL examination or for the Overseas Lawyers Qualification Examination, including work in preparing questions for such examination or by undertaking work as an assessor for the LL.B. (Honours) Programme provided by the City University of Hong Kong.

15.2 1 CPD point may be claimed for each period of 2 hours engaged in such work. Contemporaneous records in relation to the work undertaken must be retained as evidence in support of the number of CPD points claimed.

Participation in other legal training activities

16. 2 CPD points may be claimed for each completed Duty Lawyer Scheme orientation on the basis of a confirmation from the Duty Lawyer Service to the Society that a solicitor has successfully completed the orientation.

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Priority CPD areas

17. Trainee solicitors and solicitors should take note of those areas of law and practice which the Society indicates are of particular current importance. Statements will appear in the Society's Circulars from time to time indicating any additional credit which may be given to undertaking CPD in these priority areas.

Double counting

18. There shall be no double counting of CPD points in respect of activities specified in these guidelines.

Revocation or amendment of CPD accreditation points

19. The Society has a discretion to revoke or amend any determination or approval of accreditation points allocated in respect of an activity under these Guidelines.

Where the Society's approval is required, applications for CPD points should be made in writing and sent to the Assistant Director, Professional Development at 3/F., Wing On House, 71 Des Voeux Road Central, Hong Kong.

APPROVED LEGAL JOURNALS

(Reference: Guideline 10 on page 11)

The CPD Accreditation Sub-Committee has so far approved the following as legal journals for the purpose of obtaining CPD points pursuant to paragraph 10 of the CPD Guidelines:

1. Air Finance Annual
2. AmChat
3. Asia Insurance Review
4. Asia Pacific Forum News
5. Asia Pacific IP Focus
6. Asia Pacific Law Review
7. Asia Securitisation & Structured Finance Guide
8. Asian Counsel
9. Asian Dispute Review
10. Asian Financial Law Briefing
11. Asian IP
12. Asian Lawyer
13. Banking Today
14. Building and Enforcing Intellectual Property Value
15. Capital Markets
16. CIPIC Journal Japan
17. China Direct Investor
18. China Finance Manual
19. China Law & Practice
20. China Law For Business
21. China Law Reference Service
22. China Legal Watch
23. China Tax Review
24. China Staff
25. Columbia Journal of Asia Law
26. Company Secretary
27. Computer & Telecommunications Law Review
28. Copyright World
29. Corporate Counsel Asia Pacific
30. Corporate Governance
31. Derivatives Week
32. E-Commerce
33. Exporters Bulletin
34. Global Counsel Handbooks – Dispute Resolution
35. Global IP Rights Management
36. Global Turnaround
37. Hong Kong Economic Journal
38. Hong Kong Law Journal
39. Hong Kong Lawyer

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- 40. Intellectual Property Law in Asia
- 41. Intellectual Property Law Newsletter
- 42. International Arbitration
- 43. International Co & Commercial Law Review
- 44. International Energy Law & Taxation Review
- 45. International Financial Law Review
- 46. International Mergers & Acquisitions Review
- 47. Internet Gambling Report V
- 48. Journal of International Banking Law
- 49. IP Profiles
- 50. IPASIA
- 51. IPBA Journal
- 52. International Business Lawyer
- 53. International Internet Law Review
- 54. International Maritime Law
- 55. Insolvency & Restructuring
- 56. Legal Bulletin Corporate Finance
- 57. Legal Week
- 58. Managing Intellectual Property – The China IP Focus
- 59. Mediation
- 60. Mergers & Acquisitions
- 61. Official Guide to Telecommunications in HK
- 62. Perspective
- 63. Preston Gates Guide to Telecommunications in Asia
- 64. Project Finance
- 65. Project Finance International
- 66. Project Finance Models for Greater China
- 67. Seaview
- 68. Singapore Law Society Gazette
- 69. Starting a Hedge Fund – An Asian Perspective
- 70. Technical Bulletin
- 71. The Asia-Pacific Restructuring & Insolvency Guide
- 72. The Guide to Capital Markets in Asia
- 73. The China Business Review
- 74. The Computer Law and Security Report
- 75. The Global Counsel Mergers and Acquisition Handbook
- 76. The Expert
- 77. The Global Counsel Restructuring & Insolvency Handbook
- 78. The Hong Kong Accountant
- 79. The International Construction Law Review
- 80. The Journal of Business Law
- 81. The Patent Journal
- 82. The Tax Journal
- 83. Trademark World
- 84. Urban Planning & Environmental Law Quarterly
- 85. World Internet Law Report
- 86. World Leasing Yearbook

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- 87. World Online Gambling Law Report
- 88. World Securities Law Report
- 89. World Trademark Law Report
- 90. Worldwide Intellectual Property Law

ACCREDITATION OF LAW COURSES

(Reference: Guideline 9 on pages 10 and 11)

The CPD Accreditation Sub-Committee has approved certain LL.M. and other law courses undertaken on a part-time basis for the purposes of compliance with CPD requirements under the CPD Scheme.

The practitioner will receive the CPD points credit in the CPD practice year in which the approved law course is undertaken. This means that the practitioner is entitled to claim CPD points even though he or she has not completed the approved law course in that CPD practice year.

Evidence of attendance includes a certificate of attendance issued by the relevant University or a confirmation letter issued by the Department Head of the relevant University confirming the number of hours of the practitioner's attendance at the course.

The courses which have been approved are:

1. The University of Hong Kong

- Doctor of Legal Science
- The Master of Laws
- The Master of Social Sciences Degree in Criminology
- The Post-Graduate Diploma in Commercial Law
- The Post-Graduate Diploma in the Law of the People's Republic of China
- The Post-Graduate Diploma in Public Law
- The Post-Graduate Diploma in Information Technology Law
- Legal Aspects of IT & E-Commerce in the Master of Science Degree in Electronic Commerce
- E-Crimes: Prevention, Detection & Legal Sanctions, one of the electives in the Master of Science Degree in Electronic Commerce

2. SPACE, the University of Hong Kong

- Personal Data (Privacy Ordinance under Law) Public Sector Human Resource Management in the Postgraduate Certificate in Laws for Human Resource Managers
- The Post-Graduate Diploma in Family Mediation
- The Post-Graduate Diploma in Construction Law and Arbitration
- The Post-Graduate Diploma in Corruption Studies
- Diploma in Hong Kong Trade Mark Law and Practice

- 3. SPACE, the University of Hong Kong / Tsinghua University**
 - Second Bachelor Degree in Chinese Law (中國法學專業第二學士學位課程)
 - Professional Certificate in Chinese Civil and Commercial Law (中國民商法專業課程進修結業證書)
- 4. SPACE, the University of Hong Kong / The Manchester Metropolitan University**
 - Bachelor of Laws
- 5. Faculty of Social Sciences, the Centre of Urban Planning & Environmental Management, SPACE, the University of Hong Kong**
 - Property Laws in the Master of Housing Management
- 6. Built Environment Section of SPACE, the University of Hong Kong / The Accord Group, Australia**
 - Postgraduate Diploma in Construction Law, Mediation & Arbitration
- 7. The City University of Hong Kong**
 - The Postgraduate Certificate course in Professional Accounting
 - Taxation, one of the core courses of the Master of Arts in Professional Accounting and Information Systems
 - The Master of Laws in Chinese and Comparative Law (Regular mode)
 - The Master of Arts in Arbitration and Dispute Resolution
 - Law of Business Organisations, Corporate Insolvency, Meetings & Employment
 - Master of Arts in Language and Law
 - The Master of Laws (Chinese & comparative Law) (Fast-track mode)
 - The Master of Laws (International Business Law)
 - The Master of Laws (WTO and Law)
 - The Master of Laws (Common Law)
 - The Master of Laws (General)
- 8. The City University of Hong Kong / Renmin University of China**
 - The Master of Laws
- 9. The City University of Hong Kong / Taxation Institute of Hong Kong**
 - Continuing Education Certification in Advanced Taxation
 - Continuing Education Diploma in Advanced Taxation and Tax Planning

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10. The Hong Kong University of Science and Technology

- Construction Engineering Management and Law course which is part of the degree course of Bachelor of Engineering course

11. Hong Kong Polytechnic University

- Regulatory Framework & Compliance, a subject in the Master of / Postgraduate Diploma in Corporate Finance
- Postgraduate Diploma in Corporate Administration
- Mergers & Acquisition, a module of the Master of Corporate Finance

12. Li Ka Shing Institute of Professional and Continuing Education of the Open University of Hong Kong in collaboration with Nottingham Law School of The Nottingham Trent University, England

- Bachelor (Hons) of Laws (LLB)

13. Shue Yan College / Peking University

- The Master of Chinese Civil Law
- The Master of Chinese Economic Law
- The Master of International Law
- The Master of International Economic Law
- The Bachelor of Chinese Law

14. Peking University

- The Doctorate of Laws

15. The University of Bristol

- Diploma Course on Intellectual Property Law and Practice
- The Two-Week Residential Course in Intellectual Property Law (First part of the Diploma in Intellectual Property Law and Practice)

16. Monash University

- The Master of Laws in Intellectual Property

17. The University of Melbourne

- The Master of Laws

18. The College of Adult Education of Shenzhen University (深圳大學成人教育學院)

- Diploma in China (Commercial) Law (中國法律(商法)文憑)

19. The University of Aberdeen (Scotland)

- Ph.D. Degree in Law (part-time)

20. The University of Southampton

- Maritime Law Short Course

21. The University of Exeter

- LLM in International Business Law

22. The China University of Politics and Law

- The Doctorate of Laws

23. The University of Reading

- LLM in Construction Law

24. The Society of Trust & Estate Practitioners, MindTheme, The International Trust Companies Association and Central Law Training

- STEP Foundation Certificate in International Trust Management

25. The Chartered Institute of Arbitrators, London

- Diploma in International Commercial Arbitration

26. The Hong Kong Society of Accountants

- Diploma in Insolvency

27. Department of Computer Science & Information Systems, Faculty of Engineering, The University of Hong Kong

- Internet & E-Commerce Security (One of the elective modules in the programme of MSc in Electronic Commerce and Internet Computing)

28. Poon Kam Kai Institute of Management and Faculty of Business & Economics, The University of Hong Kong

- Graduate Diploma in China Business Law

29. Division of Business, Law and Information Science, University of Canberra

- Master of Laws
- Graduate Certificate of Legal Studies

This list of approved courses will be reviewed from time to time and any course may be removed from the approved list following such review. Members will be advised by Circular of any such decision.

Applications by members for approval of other courses should be forwarded for the consideration of the CPD Accreditation Sub-Committee together with supporting materials, and addressed to the Assistant Director, Professional Development.

APPROVED DISTANCE LEARNING COURSES

(Reference: Guideline 8 on page 10)

The CPD Accreditation Sub-Committee has approved certain distance learning courses for the purposes of compliance with CPD requirements under the CPD Scheme.

The courses which have been approved are:

1. (a) The University of London

- **LLM (External Programme)**

(b) The University of Wolverhampton

- **LLM (External Programme)**

Notes:

- (i) Practitioners undertaking the courses in item 1(a) and (b) above may claim 5 CPD points for every subject passed in the examination for the CPD practice year in which the examination result is released.
- (ii) Up to 15 points of the annual CPD requirement may be counted in each CPD practice year during which the preparatory courses for the University of London External LLM by SPACE, the University of Hong Kong are undertaken provided that in each CPD practice year the practitioner:
 - complies with the course attendance requirement;
 - attends lectures and / or tutorials totalling in duration not less than the number of hours of CPD points being claimed; and
 - provides evidence of such attendance as and if required by the Society.

On the basis that there shall be no double counting of CPD points, practitioners will only be allowed to claim under either (i) or (ii) above in respect of the same External Programme.

2. The University of Strathclyde, Scotland

- **LLM in IT and Telecommunications Law**

3. The University of Northumbria, Newcastle, United Kingdom

- **LLM in Commercial Law**
- **LLM in European Union Law**

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4. **The College of Estate Management at the University of Reading, United Kingdom**
 - **Postgraduate Diploma in Arbitration**
5. **Informa/IBC UK Global Conferences & the centre of European Laws School of Law, Kings College, University of London**
 - **Postgraduate Diploma in EC Competition Law**
6. **The University of Leicester**
 - **LLM in Law & Employment Relations**
7. **The Nottingham Law School**
 - **LLM in Intellectual Property Litigation**
8. **Massey University, New Zealand**
 - **Law of Business Organisation, one of the compulsory papers in the Bachelor of Accountancy**
9. **Curtin University of Technology, Perth, Australia**
 - **Taxation Law, one of the units in the Bachelor of Commerce (Commercial Law)**
10. **Open Polytechnic of New Zealand**
 - **Law of Business Organisation, one of the units in the Bachelor of Business**
11. **London Metropolitan University and Lloyd's Maritime Academy**
 - **Postgraduate Diploma in Maritime Law**
12. **The Deakin University**
 - **Master of Business Administration (MBA)**
 - **Master of Business Administration with CPA Australia Programme (CPA MBA)**

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13. The Chartered Alternative Investments Analyst Association, USA

- **The Chartered Alternative Investments Analyst (CAIA) Programme**
- **Level II Examination of the Chartered Alternative Investments Analyst (CAIA) Programme**

14. Open University of Hong Kong

- **Master of Laws in PRC Law**
- **Postgraduate Certificate in Commercial Law (PRC Law)**
- **Postgraduate Certificate in Legal Studies (PRC Law)**

15. The School of Law, University of the South Pacific, Emalus Campus

- **Master of Laws**

16. International Bar Association and The College of Law of England and Wales

- **International Practice Diploma**

17. Mainland State Judicial Examination

**(i) SPACE, the University of Hong Kong / Tsinghua University
Preparatory courses for Mainland State Judicial Examination
(subsequently known as “Training Course for Practising Law in China”)**

Up to 15 points of the annual CPD requirement may be counted in each CPD practice year during which the preparatory courses for the Mainland State Judicial Examination by SPACE, the University of Hong Kong are undertaken provided that the practitioner

- complies with the course attendance requirement;
- attends lectures and / or tutorials totalling in duration not less than the number of hours of CPD points being claimed; and
- provides evidence of such attendance as and if required by the Society.

(ii) Practitioners undertaking the Mainland State Judicial Examination (國家司法考試) may claim 5 CPD points for every paper passed in the examination for the CPD practice year in which the examination result is released.

There shall be no double counting of CPD points. Practitioners will only be allowed to claim under either (i) (or accredited preparatory courses by other providers) or (ii) above in respect of the same Examination.

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Practitioners undertaking the courses in items 2 to 16 above may:

- (i) claim up to 15 CPD points of the annual CPD requirement pursuant to paragraph 8.2 of the CPD Guidelines provided that supporting documents are provided upon request; and
- (ii) claim up to 15 CPD points of the annual CPD requirement pursuant to paragraph 12.1 of the CPD Guidelines.

This list of approved courses will be reviewed from time to time and any course may be removed from the approved list following such review. Members will be advised by Circular of any such decision.

Applications by members for approval of other courses should be forwarded for the consideration of the CPD Accreditation Sub-Committee together with supporting materials, and addressed to the Assistant Director, Professional Development.

APPROVED COMMITTEES/WORKING PARTIES/ASSOCIATIONS

(Reference: Guideline 14 on page 13)

1. Law Society Committees/Working Parties

Council

Practitioners Affairs

Standing Committee on Practitioners Affairs
ADR Committee
Bilingualism Committee
Civil Litigation Committee
Company & Financial Law Committee
Constitutional Affairs Committee
Criminal Law & Procedure Committee
Family Law Committee
Hong Kong Lawyer Editorial Board Committee
Hong Kong Solicitors Indemnity Fund Limited
Insolvency Law Committee
Intellectual Property Committee
Joint Standing Committee on Probate Practice
Joint Working Party on Review of Probate Forms
Land Registry Customer Liaison Group
Land Use Planning Committee
Law Society Convention Committee
Management & Technology Committee
PIS Claims Committee
PIS Panel Solicitors Selection Board
Probate Committee
Professional Indemnity Advisory Committee
Property Committee
Retirement Schemes Committee
Revenue Law Committee
Review of Proposed Legislation Committee
Securities Law Committee
Sub-Committee on New Territories Conveyancing Practice
Sub-Committee on Review of Conveyancing Practice
Sub-Committee to Appoint Solicitors to the Law Society's Panel of Mediators
Title Ordinance Reviewing Sub-committee
Title Registration Education Action Taskforce
Title Registration Implementation Committee
Website Committee
Working Party on Cessation of Practice
Working Party on Conditional Fees
Working Party on Higher Rights of Audience
Working Party on LACO's Revised Guidelines for DMC

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Working Party on Land Titles Bill
Working Party on PIS Accountant's Certificates & Contributions
Working Party on Reform of the Civil Process in Hong Kong
Working Party on Review of the Consent Scheme
Working Party on Standard Conveyancing Forms
Working Party on Voluntary Conveyancing Fee Guidelines
Young Solicitors' Group Committee

Standards & Development

Standing Committee on Standards and Development
CPD Accreditation Sub-Committee
Continuing Professional Development Committee
Employed Solicitors' Code Working Party
Foreign Lawyers Committee
Guidance Committee
Guide Working Party
Legal Education Committee
Mediator Accreditation Committee
Overseas Lawyers Qualification Examination Committee
Overseas Lawyers Examination Panel
Sub-Committee of the Guidance Committee on Code of Conduct for Solicitors Acting as Registrar of Marriages
Sub-Committee on Guidance to review rule 5AA of the Solicitors' Practice Rules
Trainee Solicitors Committee
Working Party on Legal Advice by Unqualified Persons
Working Party on Limitation of Solicitors' Liability
Working Party on Limited Liability Partnership
Working Party on Money Laundering
Working Party on Practice by Bankrupt Solicitors
Working Party to Review Subsidiary Legislation
Working Party on Solicitors' Accounts Rules

Compliance

Standing Committee on Compliance
Consents Committee
Investigation Committees

External Affairs

Standing Committee on External Affairs
Community Relations Committee
Law Week Organising Committee
Legco Liaison Group Committee
Mainland Legal Affairs Committee

Policy & Resources

Standing Committee on Policy and Resources
Legal Aid Committee

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The Steering Committee on Review of Professional Indemnity Scheme
Working Party on Incorporation of Solicitors' Practices
Working Party on Pro Bono Work
Working Party on WTO

2. Other Approved Committees/Associations

Asian Patent Attorneys Association (HK Group)

- Anti-Counterfeiting Committee
- Copyright Committee
- Designs Committee
- Patents Committee
- Trade Marks Committee

Council of the Licensing Executives Society of China Hong Kong Chapter

Government's Standing Committee on Company Law Reform

Hong Kong Admiralty Court Users' Committee

Hong Kong Maritime Law Association

- Executive Committee
- Working Party on Civil Justice Review
- ADR & Arbitration Sub-Committee

Hong Kong Society of Notaries

- Council
- Management Committee
- External Affairs Committee
- Standards and Development Committee

Law Reform Commission Sub-Committees

Legal and Complaints Committee of the Equal Opportunities Commission

The Hong Kong Federation of Women Lawyers

- Securities and Finance Committee

The Interest Group of Legal Aid Services Council on Scope of Legal Aid

EXAMPLES OF COMPLIANCE WITH THE CPD REQUIREMENT

The examples below give an indication of the types of training activities which qualify and the amount of credit that may be gained from each type.

Example 1:

- 15 CPD points by attendance at accredited courses

Example 2:

- 10 CPD points by writing legal articles
- 5 CPD points by preparation of accredited course materials

PLUS

Example 3:

- 8 CPD points by preparing course materials
- 7 CPD points by presentation of accredited training courses

PLUS

Example 4:

- 15 CPD points by undertaking a distance learning course (which involves an examination) leading to an LL.M.

Preparation and presentation of approved training courses

Example 5:

Presenter A presents a lecture of 50 minutes at a 4 hour CPD course accredited with 4 CPD points. Her actual preparation time was 3 hours supported by contemporaneous working papers and results achieved.

CPD points may be awarded to Presenter A as follows:

Presentation time : 50 minutes = 1 hour (rounded up) = 1 CPD point
PLUS

Preparation time : 3 hours = 3 CPD points but subject to a maximum of 2
CPD points = 2 CPD points

TOTAL : 3 CPD points

Example 6:

Presenter B presents a lecture of 1 hour 15 minutes at a 3 hour CPD course accredited with 3 CPD points. His actual preparation time was 5½ hours supported by contemporaneous working papers and results achieved.

CPD points may be awarded to Presenter B as follows:

Presentation time	:	1¼ hours = 1½ hours (rounded up) = 1½ CPD points
PLUS		
Preparation time	:	5½ hours = 5½ CPD points but subject to a maximum of 3 CPD points = 3 CPD points
TOTAL	:	4½ CPD points

Example 7:

(a) Presenter C presents a lecture of 2 hours at a 3 hour CPD course accredited with 3 CPD points. His actual preparation time was 10 hours supported by contemporaneous working papers and results achieved.

CPD points may be awarded to Presenter C as follows:

Presentation time	:	2 hours = 2 CPD points
PLUS		
Preparation time	:	10 hours = 10 CPD points but subject to a maximum of 4 CPD points = 4 CPD points
TOTAL	:	6 CPD points

(b) Presenter C remains in attendance for the entire 3 hours of the course (that is, one hour in addition to his actual presentation time). He is able to claim an additional 1 CPD point for his attendance bringing the number of CPD points which he may claim to 7 CPD points.

Example 8:

A trainee solicitor assisted Presenter C in the preparation for the course by spending 7 hours of actual preparation supported by contemporaneous working papers and results achieved. She will be able to claim up to 4 CPD points for such preparation (that is, 2 x the actual presentation time (2 hours) of Presenter C).

SUSPENSION OF THE CPD REQUIREMENT

What is a suspension of the requirement?

Solicitors who are not in practice as a solicitor and trainee solicitors who are employed as trainee solicitors outside Hong Kong for any period **not shorter than 70 days** may apply to suspend the CPD requirement for such period. During that period they are not required to undertake any CPD activities. Any CPD activity undertaken during the suspension period will not be counted for CPD purposes.

In order to apply for a suspension of the CPD requirement, the period of absence from practice in Hong Kong must relate to any one period running continuously for 70 days or more. An aggregate of various periods of absences during the year each lasting for less than 70 days but totaling 70 days or more will not entitle a solicitor or a trainee solicitor to a suspension.

Who can suspend the requirement?

Solicitors must make an application to the Society to suspend the requirement if they are:

1. **Not in practice as a solicitor.** This would apply, where, despite holding a current practising certificate, a solicitor:
 - (i) is unemployed
 - (ii) is on maternity leave, or
 - (iii) is not required to act as a solicitor.
2. **In practice outside Hong Kong.** This would apply where a solicitor is out of practice due to working abroad.
3. **Absent from work as a result of illness.** This would apply where the solicitor is absent from practice due to long term illness.

Trainee solicitors must make an application to the Society to suspend the requirement if they are:

1. **Employed as a trainee solicitor outside Hong Kong.** This would apply only if it is for a period permitted by the Law Society of Hong Kong.
2. **Absent from work as a result of illness.** This would apply where a trainee solicitor is absent from work due to long term illness.

What must practitioners do in order to obtain a suspension?

Practitioners must make an application to the Society for a suspension of their CPD requirement. Applications should be directed to the Assistant Director, Professional Development. The Society may require the practitioner to submit a statutory declaration in support of the application. When any suspension is granted, the Society will confirm the number of CPD points outstanding for that CPD practice year at the date of suspension.

It should be noted that if a practitioner:

- (a) Applies for and is granted a suspension, any training undertaken during the suspension **will not** be counted towards the CPD requirement on return to practice or employment.
- (b) Does **not** apply for a suspension, he or she **may be required** to meet the CPD requirement in full for that period.

Practitioners should enter in their Mandatory CPD Training Record the date that any suspension was granted by the Society, the dates the suspension commenced and concluded and the reason for the suspension.

The requirement for practitioners returning to work

A practitioner's CPD requirement on return to work will depend on how many CPD points he or she has accrued before the suspension began, how many CPD points will be required after the resumption of work and whether any excess points may be carried over.

Determination of a practitioner's CPD requirement on return to work

The practitioner's CPD requirement will be determined by adding together a pro-rata of the annual CPD points that were required to be undertaken up to the date of suspension (in accordance with **Table C** or **Table D** on page 33 as the case may be), with a pro-rata of the annual CPD points that will be required from the date of return to practice or employment to the end of the CPD practice year (in accordance with **Table E** on page 34), taking into account any excess points permissible.

Table C applies where a practitioner's CPD obligations arise from 1 November in the CPD practice year. However, where a practitioner comes within the ambit of the Scheme part way through the CPD practice year and is granted a suspension later in the same year, **Table D** applies.

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Any enquiries should be directed to the Assistant Director, Professional Development on 2846-0521 or e-mail to adpd@hklawsoc.org.hk

Date of suspension	Number of CPD points to be accumulated
1 November to 15 November	0
16 November to 15 December	1
16 December to 15 January	2½
16 January to 15 February	4
16 February to 15 March	5
16 March to 15 April	6
16 April to 15 May	7½
16 May to 15 June	9
16 June to 15 July	10
16 July to 15 August	11
16 August to 15 September	12½
16 September to 15 October	14
16 October to 31 October	15

Table C

Actual duration in practice or employment under a trainee solicitor contract prior to suspension	Number of CPD points to be accumulated
0 – 15 days	0
16 – 45 days	1
46 – 75 days	2½
76 – 105 days	4
106 – 135 days	5
136 – 165 days	6
166 – 195 days	7½
196 – 225 days	9
226 – 255 days	10
256 – 285 days	11
286 – 315 days	12½
316 – 345 days	14
346 – 365 days	15

Table D

Date of return to practice / resumption of training in Hong Kong under trainee solicitor contract	Number of CPD points to be accumulated
1 November to 15 November	15
16 November to 15 December	14
16 December to 15 January	12½
16 January to 15 February	11
16 February to 15 March	10
16 March to 15 April	9
16 April to 15 May	7½
16 May to 15 June	6
16 June to 15 July	5
16 July to 15 August	4
16 August to 15 September	2½
16 September to 15 October	1
16 October to 31 October	0

Table E

Example 1:

	CPD requirement
Date suspension began: 10 November 2001	0 CPD point
Date returned to work: 20 April 2002	+ 7½ CPD points
CPD REQUIREMENT – 20.4.2002 to 31.10.2002	= 7½ CPD POINTS

Making up a shortfall in the CPD requirement at the date of suspension

A practitioner who has not undertaken all of his or her CPD requirement in the CPD practice year in which the suspension began must make up any shortfall on return to work.

Example 2:

	CPD requirement	Actual CPD
accrued		
Date suspension began: 18 December 2001	2½ CPD points	1 CPD point
Date returned to work: 6 March 2002	10 CPD points	
Shortfall in CPD points at 18 December 2001:	1½ CPD points	
CPD REQUIREMENT - 6.3.2002 to 31.10.2002	= 12½ points less 1 accrued points = 11½ CPD points	

Carrying over excess CPD points

1. A practitioner who ceases practice/employment in one CPD practice year and resumes practice/employment in the same CPD practice year, on return to practice or employment, will be allowed to carry over any excess CPD points accumulated at the date of suspension.

Example 3:

	CPD requirement	Actual CPD
accrued		
Date of suspension: 10 December 2001	1 CPD points	4 CPD points
Date returned to work: 15 July 2002	5 CPD points	
Excess CPD points at 10.12.2001:	3 CPD points	
CPD REQUIREMENT - 15.7.2002 to 31.10.2002	= 6 points less 4 points accrued = 2 CPD points	

2. A practitioner who ceases practice/employment in one CPD practice year and resumes practice/employment in another CPD practice year, on return to practice/employment, will be allowed to carry over excess CPD points to a maximum of 5 CPD points from the CPD practice year in which suspension commenced (Year X) to the CPD practice year in which work resumed (Year Y) **only if Year Y is the next CPD practice year following Year X.**

Example 4:

	CPD requirement	Actual CPD
accrued		
Date of suspension: 16 July 1999	9 CPD points	12 CPD points
Date returned to work: 25 May 2001	6 CPD points	
Excess CPD points at 16.7.99:	3 CPD points	
(Not permitted to carry over)		
CPD REQUIREMENT - 25.05.2001 to 31.10.2001	= 6 CPD points	

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Example 5:

requirement	CPD
Date of commencement of first practising certificate:	1 January 2002
Date of suspension:	1 July 2002
Date returned to work:	12 September 2002
CPD REQUIREMENT for the CPD practice year ending 31 October 2002:	10 CPD points

MANDATORY CPD TRAINING RECORD

The Society does not keep records of individual practitioners' attendance at courses. All practitioners subject to the CPD Scheme are required to maintain their own record of their training activities in the approved form - which means - in the Mandatory CPD Training Record.

The Mandatory Training Record can be downloaded from the Society's website at www.hklawsoc.org.hk. Any practitioner who is not able to download a Training Record from the Society's website should immediately contact the Standards and Development Department (tel: 2846-0510 or fax: 2845-0387) to obtain one.

The Society can request production of the Training Record at any time.

Many firms keep duplicate training records. However, solicitors are reminded that the onus is on the individual to maintain the Training Record. Practitioners who are unable to produce the Training Record may be required to undertake the training again.

Practitioners should ensure that all the relevant details of all CPD courses or activities undertaken are entered onto the Mandatory CPD Training Record

NOTE: For auditing purposes, the Mandatory CPD Training Record should be retained for at least three (3) years after the period to which it relates. If any of the CPD points recorded in the Training Record involve CPD points carried over from the preceding CPD practice years, the Mandatory CPD Training Records for all relevant years should also be retained as supporting evidence for audit purposes.

ATTENDANCE AT ACCREDITED CPD COURSES

Attendance policy

A 10 minutes grace period for late arrivals at courses will be permitted (except for courses of less than 60 minutes in duration) and thereafter, apart from scheduled breaks, no CPD points shall be awarded to any participant who arrives late or is absent from a course. Any course participant who arrives after the expiration of the grace period or leaves before the end of the course shall not receive any CPD points for that course.

When attending courses, practitioners should notify the provider that they will claim CPD points and should make sure that their attendance at the entire course is noted (eg. by scanning membership cards where there is a computerised scanning system, or by signing in and signing out of the course where such a system is not implemented.)

Membership card

Practitioners must have their Law Society membership card with them at all times when attending all accredited CPD courses whether conducted by the The Law Society, in house by a law firm or by any other course provider.

It is the duty of each practitioner to whom the scheme applies to ensure that he or she has a valid Law Society membership card. The membership card can be obtained from the Registration Department.

Recording of attendance

As course providers are required to be equipped with a computerised scanning system, participants must present their Law Society membership card to be electronically scanned on the following occasions:

1. upon arriving at the course and upon departure from the course;
2. upon leaving at lunch break and upon re-entering the course after lunch- break; and
3. upon leaving the course at any other time for any reason and re-entering the course after having done so.

The exact time at which each participant performs the above listed actions will be recorded.

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Attendance records kept by course providers

Providers are required to indicate the CPD points that have been allocated to a course and to submit **original** attendance records to the Society for cross checking during audits of compliance by practitioners with CPD requirements carried out by the Society one or more times a year.

All external providers of CPD courses are required to keep records of attendance at such courses. Such records are to be kept for a period of 3 years after the end of the CPD practice year (31 October) in which the course was conducted and shall be kept in such form and furnished to the Society in such format as required by the Society and notified to the provider from time to time.

Monitoring of attendance by course providers

To ensure that the attendance policy is properly and fairly implemented, all CPD course providers are required to monitor the attendance at accredited courses of those participants subject to the CPD Scheme by such means as specified by the Society from time to time. A computerised scanning system was implemented from 1 November 2003, participants are required to present their membership cards for scanning whenever they arrive and depart and whenever they leave the course and return for whatever reason, including the break.

The reasons for late arrival, early departure or absence from the course are immaterial for the purposes of awarding CPD points. If any CPD participant makes objection to the enforcement of the attendance policy, they should be advised to put their objection in writing to the Law Society for the attention of the Assistant Director, Professional Development.

SEGMENTED ACCREDITATION OF CPD COURSES

In the application of the Society's attendance policy, members are advised that attendance at all segments and days (as the case may be) of a CPD course of one or more days duration is necessary in order to obtain CPD points. No CPD points will be awarded for partial attendance, except in the circumstances outlined hereunder.

Where the course provider has applied successfully to the CPD Accreditation Sub-Committee for accreditation of individual segments or days of a course of one or more days duration, solicitors and trainee solicitors attending an accredited segment(s) or day(s) of the course in full will be entitled to claim the CPD points accredited to that segment(s) or day(s).

Accreditation of a programme on a segmented basis will be granted by the CPD Accreditation Sub-Committee only where it is appropriate to do so, that is, where the various sessions/segments of the course are discrete, and where segmented accreditation will not be detract from the educational value of the course.

Members are reminded to check with the course provider about the number of CPD points that have been granted by the CPD Accreditation Sub-Committee to a course of one or more days duration.

Any enquiries should be directed to the Assistant Director, Professional Development on 2846-0521 or e-mail to adpd@hklawsoc.org.hk

EXEMPTIONS

As the CPD Scheme is an ongoing requirement for those practitioners coming within it, the system of exemptions that applied under the CLE Scheme (which had application to a limited category of practitioners and for only a limited period) has no relevance under the CPD Scheme.

The granting of exemptions from the operation of the CPD Scheme will be considered on a case-by-case basis only where exceptional circumstances exist. An exemption may be granted where it is fair and reasonable to do so.

From 1 January 2003, the following exemption policy has been in force:

Upon an application being made to the Law Society, an exemption from compliance with the annual CPD requirement may be provided to a solicitor who meets all of the following criteria:

- (a) he has been in practice as a solicitor for a period of 40 years or more, or he is over 70 years old;
- (b) he gives an undertaking to the Law Society that he is not in active practice; and
- (c) he undertakes to notify the Law Society immediately if circumstances in relation to (b) change.

For the purposes of this policy only, a solicitor will not be regarded as being in ‘active practice’ if the only activities that he engages in as a solicitor are:

- (1) administering oaths;
- (2) taking affidavits or declarations; and
- (3) certifying documents.

Applications should be directed to the Assistant Director, Professional Development.

MONITORING COMPLIANCE WITH MANDATORY CPD

1. A **solicitor** will be required, at the time of applying for renewal of his or her practising certificate (usually in November), to make a statement of compliance that he or she has complied with the CPD requirement for the preceding CPD practice year.

A **trainee solicitor** will be required to make a declaration in his or her Form 4 Application for a Certificate of Eligibility for Admission that he or she has complied with the requirements of the Continuing Professional Development Scheme.

A false or incorrect statement may constitute professional misconduct and may lead to disciplinary actions.

2. The Society will conduct one or more audits in each CPD practice year to monitor compliance with mandatory CPD.

The Society may:

- request sight of the practitioner's Mandatory CPD Training Record at any time;
- require from a practitioner the production of such information relating to his or her participation in the CPD Scheme as may be specified; and
- require a practitioner to attend the Society in person and furnish such additional evidence as to participation in the CPD Scheme as may be required.

FAILURE TO COMPLY WITH CPD

The Council has the power under section 6 of the Legal Practitioners Ordinance to refuse to issue a practising certificate to an applicant who has not complied with the CPD Rules, or to suspend or cancel the practising certificate of a solicitor who has not done so.

The Council policy in the event of failure to comply with the CPD requirement ascertained during:

General Audit:

In the absence of acceptable mitigating factors, solicitors who did not acquire the necessary CPD points for the preceding CPD practice year shall, unless the outstanding points were subsequently acquired, be subject to suspension or cancellation of their current practising certificates.

Practising Certificate Applications:

1. In the absence of acceptable mitigating factors, the Council shall refuse to issue a practising certificate to a solicitor who fails to acquire the necessary CPD points by 15 December pursuant to its powers under section 6 (5)(d) of the Legal Practitioners Ordinance.
2. Applications for renewal of practising certificates by solicitors who had not acquired the necessary CPD points by 31 October, but did acquire the necessary CPD points by 15 December, will be processed in the usual way.
3. Failure by a solicitor to acquire the necessary CPD points by the end of the CPD practice year will be referred to the Conduct Section for investigation.

Breaches of the CPD requirements

Breaches of the CPD requirements are regarded by the Council as professional misconduct. Mitigating factors will be taken into account in assessing individual cases. Serious cases will be referred to a Disciplinary Tribunal. Sanctions by the Tribunal may involve the imposition of a fine, censure, suspension or striking off of solicitors, and cancellation or suspension of a trainee solicitor contract.

Form 4 declaration of compliance by trainee solicitors

In addition to complying with the requirement to acquire 15 CPD points (or a pro-rata as applicable) during the CPD practice year, a trainee solicitor is required to have accumulated 30 CPD accreditation points by the end of his or her period of employment as a trainee solicitor. Trainee solicitors must declare in the Form 4 Application for a Certificate of Eligibility for Admission that they 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 their period of employment as a trainee solicitor.

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Any failure to comply with section 5 of the CPD Rules by trainee solicitors (including failure to comply with the pro-rata acquisition of points during each year of the trainee solicitor contract) will be referred to the Conduct Section of the Compliance Department for investigation.

COURSE AND PROVIDER ACCREDITATION

1. Application

In order for a course to be awarded with CPD points, a separate application for accreditation of each course must be made by the provider of the course to the Accreditation Sub-Committee. The application must be made on the Society's standard form and sent to the Assistant Director, Professional Development at least **4 weeks** before the scheduled date of the course. If the application is incomplete, accreditation may take 4 weeks from the date of submission of the complete application.

All changes to the information submitted to the Society in relation to an application for CPD course accreditation shall be notified to the Society as soon as the changes are made and in any event prior to the commencement of the course.

2. No Retrospective Accreditation

It is not possible to accredit CPD points after any course has taken place. However, in exceptional circumstances, the Society may accredit an overseas course on a retrospective basis, subject to certain conditions. (Please refer to Guideline 6 on page 9 of this Package for details.)

3. Documents and Information Required on Application for Course Accreditation

- a) a **detailed outline** of what will be covered in the course and by whom
- b) a **programme** showing the sequence of speakers, the method of teaching, eg. lecture, participatory case study, role-play, discussion, question and answer, and the amount of time which each person will spend on each area
- c) an outline of the **course materials** which will be provided to participants
- d) a brief up-to-date **resume** of each speaker's professional qualifications, legal background and any teaching experience which they each have.

4. Administrative Matters

- (a) All providers should note the attendance policy and policy on segmented accreditation of CPD courses contained in pages 38 to 40 of this Information Package.

All computerised attendance records generated from a computerised scanning system in respect of an accredited course must be forwarded to the Assistant Director, Professional Development within **7 days** of the course in order for

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the participants to gain their points.

- (b) All accredited courses must be evaluated by the participants attending the course in a manner approved by the Society.
- (c) All providers shall promptly submit a full set of the course materials to the Law Society upon request by the Law Society at any time after the application for accreditation has been submitted or within a reasonable period after the course is held.

A summary of the evaluation forms must be forwarded to the Assistant Director, Professional Development within 7 days of the course.

- (d) All providers must carefully monitor the delivery of the course. If the course finishes more than 30 minutes before its scheduled finish time, $\frac{1}{2}$ CPD point will be deducted for every half hour or part thereof.
- (e) The performance of the providers including any irregularities in the conduct of the accredited courses will be taken into account when their accredited provider status is reviewed annually.

5. Prescribed Fee

A fee will be charged on course-by-course accreditation of CPD courses. The rates vary for commercial and non-commercial providers. Providers may be requested to produce a copy of their constitutional document to confirm the applicable rate of prescribed fee.

6. Provider Accreditation

The Society is also implementing a permanent scheme of blanket accreditation for organisations. In order to be considered for Provider Accreditation, it will be necessary for the organisation to:

- a. have established a suitable track record of
 - i. obtaining individual course accreditation for CPD courses
 - ii. providing a reasonable number of accredited courses over a reasonable period (usually at least 10 courses over 6 months)
 - iii. compliance with course-by-course accreditation criteria and conditions
- b. have a suitable training infrastructure
- c. have a general favourable assessment of the accredited courses by the participants.

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7. Monitoring of Accredited Courses by the Law Society's Representatives

All providers shall permit any person nominated by the Society to attend any CPD course free of charge, for the purposes of monitoring the CPD course to ensure the Provider's compliance with the Guidelines and Rules as set out in this Information Package.

Any queries on course accreditation should be directed to the Assistant Director, Professional Development on 2846-0521 or e-mail to adpd@hklawsoc.org.hk.

CONTINUING PROFESSIONAL DEVELOPMENT RULES

[Made by the Council of the Law Society of Hong Kong under
section 73 of the Legal Practitioners Ordinance
(Cap. 159) with the prior approval
of the Chief Justice]

1. Omitted

2. Interpretation and definitions

In these Rules, unless the context otherwise requires -

"continuing professional development" means a course, lecture, seminar or other programme or method of study (whether requiring attendance or not) that is relevant to the needs and professional standards of solicitors, enhances professional competence and complies with guidance issued from time to time by the Society pursuant to section 5(3);

"CPD accreditation points" means the points credited to such a course, lecture, seminar or other programme or method of study under the Scheme;

"practice year" means a period of 12 months ending on 31 October each year in legal practice or in employment as a solicitor or in employment as a trainee solicitor;

"practising certificate" means a certificate issued by the Society under section 6 of the Ordinance;

"Scheme" means the Continuing Professional Development Scheme referred to in section 4;

"trainee solicitor" has the meaning assigned to it by rule 2 of the Trainee Solicitors Rules (Cap. 159 sub. leg.).

3. Application

(1) These Rules shall apply to all trainee solicitors and -

- (a) from 1 January 1998, to all solicitors holding a current practising certificate who were admitted after 31 December 1993;
- (b) from 1 January 1999, to all solicitors holding a current practising certificate who were admitted after 31 December 1991;
- (c) from 1 January 2000, to all solicitors holding a current practising certificate who were admitted after 31 December 1988;

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- (d) from 1 January 2001, to all solicitors holding a current practising certificate who were admitted after 31 December 1984;
- (e) from 1 January 2002, to all solicitors holding a current practising certificate who were admitted after 31 December 1979;
- (f) from 1 January 2003, to all solicitors holding a current practising certificate.

(2) Where a solicitor to whom these Rules apply has been admitted to practise law in any other jurisdiction prior to his admission in Hong Kong, his admission date for the purposes of the application of these Rules under subsection (1) shall be the date of his admission to practise law in the jurisdiction immediately preceding his admission as a solicitor in Hong Kong.

4. Continuing Professional Development Scheme

The Society shall institute and organise, in accordance with these Rules, a system of continuing professional development for trainee solicitors and solicitors to be known as the Continuing Professional Development Scheme, and, without limiting the generality of the foregoing, may -

- (a) provide courses, lectures, seminars or other programmes of instruction;
- (b) subject to any conditions -
 - (i) authorise other persons or organisations to provide courses, lectures, seminars or other programmes of instruction;
 - (ii) approve courses, lectures, seminars or other programmes of instruction provided by other persons or organisations;
 - (iii) determine or approve the number of CPD accreditation points to be credited to each course, lecture, seminar, other programme or other method of study provided for under the Scheme;
 - (iv) authorise other persons or organisations to accredit the number of CPD accreditation points for a course, lecture, seminar or other programme or method of study provided for under the Scheme in accordance with the criteria and guidelines issued from time to time by the Society;

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- (c) remove any authorisation or approval referred to in paragraph (b) (i), (ii) and (iv);
- (d) revoke or amend any CPD accreditation points accredited under paragraph (b) (iii); and
- (e) revoke any determination or approval referred to in paragraph (b) (iii).

5. Continuing professional development requirements

(1) Subject to subsection (2), a trainee solicitor and a solicitor to whom these Rules apply must accumulate 15 CPD accreditation points each practice year.

Provided that a trainee solicitor to whom these Rules apply must accumulate 30 CPD accreditation points by the end of his period of employment as a trainee solicitor.

(2) Where -

- (a) a trainee solicitor commences or resumes employment as a trainee solicitor; or
- (b) a solicitor commences or resumes legal practice or employment as a solicitor,

at any time after the commencement of a practice year, he must accumulate such CPD accreditation points as determined by the Society in accordance with guidance issued from time to time, but in any case, not more than 15 CPD accreditation points in relation to any practice year.

(3) The Society shall provide guidance from time to time as to -

- (a) the continuing professional development activities which may be undertaken by trainee solicitors and solicitors in order to comply with the continuing professional development requirements under subsections (1) and (2); and
- (b) the method of calculation of CPD accreditation points in relation to such activities.

6. Obligation to keep record and duty to submit information

(1) A trainee solicitor and a solicitor to whom these Rules apply must keep a record in a form approved by the Society of such continuing professional development undertaken to comply with these Rules and produce the record to the Society on demand.

(2) Subject to section 8, a trainee solicitor or a solicitor to whom these Rules apply shall submit to the Council such information relating to his participation in the Scheme (17/5/2005)

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within such period and in the manner as may be specified by the Council.

(3) The Council may, if it thinks fit, require a trainee solicitor or a solicitor to whom these Rules apply to attend before it and to furnish such additional evidence as to his participation in the Scheme as the Council may consider necessary.

7. Continuing professional development undertaken pre-admission

A solicitor who has undertaken continuing professional development prior to his admission shall be credited with the relevant number of CPD accreditation points for the purpose of section 5(1) or (2):

Provided that at the time of undertaking the continuing professional development an application for admission in accordance with the Admission and Registration Rules (Cap. 159 sub. leg.) current at that time had been lodged with the Society and a record kept in accordance with section 6.

8. Exemption

(1) The Society may, on the application in writing of a trainee solicitor or a solicitor, exempt the applicant from any or all of the requirements of the Scheme if the Society is satisfied that it is fair and reasonable to grant the exemption.

(2) Where exemption is granted under subsection (1), the Society may impose such conditions as it may consider necessary on the exemption.

9. Suspension

(1) The Society shall, on the application in writing of a trainee solicitor, suspend for the period described in subsection (3) the application of these Rules in relation to the applicant, if he is, for any period not shorter than 70 days -

- (a) employed as a trainee solicitor outside Hong Kong for a period permitted by the Society; or
- (b) absent from employment as a trainee solicitor as a result of illness.

(2) The Society shall, on the application in writing of a solicitor to whom these Rules apply, suspend for the period described in subsection (3) the application of these Rules in relation to the applicant, if he is, for any period not shorter than 70 days -

- (a) not in practice as a solicitor; or
- (b) in practice as a solicitor outside Hong Kong; or
- (c) absent from work as a result of illness.

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(3) The period of suspension referred to in subsections (1) and (2) shall be the period in respect of which the Society is satisfied under subsection (1) (a) or (b) or (2) (a), (b) or (c).

(4) The Society may require the applicant to make a statutory declaration of the facts upon which his application under subsection (1) or (2) is based.

10. Reporting

(1) Any person or organisation providing courses under the Scheme must keep an attendance record for each accredited course of persons who have completed the course.

(2) Such record shall be kept in accordance with the guidelines issued by the Society as amended from time to time.

(3) The Society may require any person or organisation referred to in subsection (1) to produce the record to the Society within 7 days of the completion of the course.

11. Review

(1) A person aggrieved by a decision made by or on behalf of the Society in respect of the operation of the Scheme may apply in writing to the Council for a review of the decision within 1 month after being informed of the decision.

(2) The Council may consider the application and may confirm or vary the decision made by or on behalf of the Society.

12. Omitted

13. Omitted

14. Transitional

(1) Notwithstanding the definition of "practice year" in section 2, the practice year for the period ending 31 October 2001 shall be the period between 1 January 2001 and 31 October 2001.

(2) Section 5 shall have effect in relation to the practice year in subsection (1) as if the reference in that section to 15 CPD accreditation points were a reference to 12½ CPD accreditation points.