

**立法會**  
**Legislative Council**

LC Paper No. LS 58/02-03

**Paper for the House Committee Meeting  
on 7 February 2003**

**Legal Service Division Further Report on  
Barristers (Admission) Rules (L.N. 5 of 2003)  
Legal Practitioners (Fees) (Amendment) Rules 2002 (L.N. 6 of 2003)  
Practising Certificate (Barristers) (Amendment) Rules 2002 (L.N. 7 of 2003)  
Barristers (Advanced Legal Education Requirement) Rules (L.N. 8 of 2003)  
Barristers (Qualification for Admission and Pupillage) Rules (L.N. 9 of 2003)  
gazetted on 17 January 2003**

At the House Committee meeting on 24 January 2003, members asked the Legal Service Division to make a further report to the House Committee on whether there were any differences between the draft version of the five sets of Rules (the draft Rules) as considered by the Panel on Administration of Justice and Legal Services on 24 June 2002 and their final version as gazetted on 17 January 2003 (the gazetted Rules) and whether there were any problems with the Chinese text of the Rules.

2. We have now completed the scrutiny of the Rules. No significant differences have been identified except that -

- (a) the Practising Certificate (Barristers) (Amendment) Rules 2002 (L.N. 7 of 2003) are now made by the Chief Justice under section 72 of the Legal Practitioners Ordinance (Cap.159) (the Ordinance) instead of by the Bar Council under section 72AA of the Ordinance with the approval of the Chief Justice as proposed in the draft Rules. It is noted that the principal Rules and their amendments have been made by the Chief Justice; and
- (b) under draft Rule 4(2)(d) of the Barristers (Qualification for Admission and Pupillage) Rules, an overseas lawyer is required to pass an examination paper known as "Constitutional and Administrative Law" but under the gazetted Rule 5(2)(d), the examination paper is now known as "Hong Kong Legal System and Constitutional and Administrative Law".

3. However, there are extensive changes between the gazetted Rules and the draft Rules in terms of drafting. In the Barristers (Qualification for Admission and Pupillage) Rules (L.N. 9 of 2003), in particular, it is noted that -

- (a) some definitions such as "approved pupillage", "certificate of eligibility for admission", "certificate of eligibility for pupillage", "certificate of qualification for admission" and "Examination" are added;
- (b) a new Rule 3 on the application of the Rules is added, which states that the Rules shall not apply to persons who elect to be admitted under section 74C of the Ordinance (i.e. students already enrolled in legal studies in the United Kingdom) and under section 74D of the Ordinance (i.e. lawyers employed by the Department of Justice) ;
- (c) some rules such as Rule 6 (on certificate of eligibility for admission) and Rule 8(3) (on certificate of qualification for admission) have been re-drafted;
- (d) some cross-references have been revised; and
- (e) instead of having the Barristers (Qualification) Rules (Cap. 159 sub. leg.) repealed as proposed under the draft Rules, those Rules are now retained and are made applicable only to persons who elect to be admitted under section 74C or 74D of the Ordinance.

### **Conclusion**

4. The differences between the draft Rules and the gazetted Rules mostly relate to their drafting and technical aspects and do not affect their substance. The new Rule 3 on the application of the Barristers (Qualification for Admission and Pupillage) Rules (L.N. 9 of 2003) are in accordance with the Legal Practitioners (Amendment) Ordinance (Ord. No. 42 of 2000). No legal and drafting difficulties with regard to the gazetted Rules have been identified.

Prepared by

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