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Barristers (Advanced Legal Education Requirement) Rules

(Made by the Council of the Hong Kong Bar Association under section 72AA of the Legal Practitioners Ordinance (Cap. 159) with the prior approval of the Chief Justice)

1. Commencement

These Rules shall come into operation on a day to be appointed by the Council of the Hong Kong Bar Association by notice published in the Gazette.

2. Interpretation

In these Rules, unless the context otherwise requires---

"ALE course" (進修課程) means a course provided by---

(a) the Bar Council under section 3(2)(a);

(b) an authorized person pursuant to an authorization under section 3(2)(b);

(c) any person in accordance with an approval under section 3(2)(c);

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

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

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

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

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

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

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

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

3. Advanced Legal Education Programme

(1) The Bar Council shall, in accordance with these Rules, institute and organize for pupils a programme of compulsory legal education to be known as the Advanced Legal Education Programme.

(2) In instituting and organizing the Programme, the Bar Council shall have the power to---

- (a) provide courses;
 - (b) authorize a person to provide courses, and revoke any such authorization;
 - (c) approve any course provided by any person, and revoke any such approval;
 - (d) determine the number of points to be accredited to any ALE course, and revoke, vary or amend any such determination;
 - (e) specify what shall constitute attendance at any ALE course for the purposes of these Rules;
 - (f) specify the circumstances under which a pupil who attends an ALE course will not be entitled to be awarded the ALE points accredited to that course;
 - (g) require pupils to attend any ALE course,
- and in exercising any power conferred by paragraph (b), (c) or (d), the Bar Council may impose such conditions as it considers necessary.

(3) The Bar Council shall inform every person applying for a certificate of eligibility for pupillage, and make available to all pupils undergoing a period of approved pupillage, of the requirement to complete the Programme and shall provide such person with information regarding---

- (a) the Programme as in force at that time, including the number of ALE points which a pupil must obtain and the ALE courses which a pupil must attend to complete the Programme, and the requirements under section 5; and
- (b) the ALE courses being offered from time to time under the Programme, including the dates on which such courses are intended to be offered and the number of ALE points accredited to each such course.

4. Requirements for completing Programme

(1) In order to complete the Programme, a pupil must---

- (a) attend such ALE courses as may be required under section 3(2)(g); and
- (b) obtain a total of 14 ALE points by his attendance at ALE courses.

(2) Except as provided in section 6, a pupil must both begin and complete the Programme within his period of approved pupillage.

5. Pupil to keep record and submit information

(1) A pupil must keep a record in a form approved by the Bar Council of all the ALE courses he has attended.

(2) A pupil shall submit to the Bar Council the record and such other information relating to his participation in the Programme in such manner and within such period

as the Bar Council considers necessary.

6. Accreditation of courses begun before pupillage

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

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

7. Consequence of failure to undertake and complete Programme

(1) Where a pupil has failed to undertake and complete the Programme in accordance with these Rules, the Bar Council may---

- (a) refuse to extend the validity of any limited practising certificate beyond the end of the pupil's period of approved pupillage;
- (b) refuse to issue a new limited practising certificate; and
- (c) defer issuing a practising certificate until such time as the pupil has completed the Programme.

(2) Where a pupil has completed the Programme in accordance with these Rules, the Bar Council shall issue to the pupil a certificate to that effect.

8. Exemptions

(1) Where the period of approved pupillage of a pupil has been reduced under rule 10 or 12 of the Barristers (Qualification) Rules (Cap. 159 sub. leg.) or section 16 of the Barristers (Qualification for Admission and Pupillage) Rules (L.N. 9 of 2003), the Bar Council may, on application by the pupil in writing, exempt the pupil from any or all of the requirements under section 4 or 5.

(2) The Bar Council may, on application by a pupil in writing, exempt the pupil from any or all of the requirements under section 4 or 5 if it is satisfied that it is fair and reasonable to grant the exemption.

(3) Where exemption is granted under subsection (1) or (2), the Bar Council may impose such conditions as it considers necessary.

9. Attendance record

(1) An authorized person and any person who provides a course approved by the Bar Council under section 3(2)(c) shall, in accordance with guidelines issued by the

Bar Council, retain an attendance record of each pupil who has attended the ALE course.

(2) The Bar Council may require an authorized person and any person who provides a course approved by the Bar Council under section 3(2)(c) to produce the attendance record of a pupil to the Bar Council within a reasonable period after the pupil has attended the ALE course.

10. Review

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

(2) The Bar Council shall consider the application and may confirm or vary its decision.

11. Application

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

Approved this 10th day of December 2002.

Andrew LI

Chief Justice

Made this 19th day of December 2002.

Alan LEONG, S.C. Edward CHAN, S.C. Michael LUNN, S.C.
Chairman Vice-Chairman Vice-Chairman

Jat Sew Tong, S.C. Andrew MACRAE, S.C. Robert WHITEHEAD,
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MAURELLET

Explanatory Note

The object of these Rules is to empower the Council of the Hong Kong Bar Association ("Bar Council") to set up a compulsory Advanced Legal Education ("ALE") Programme for pupil barristers and to provide for related matters.

2. Section 2 defines the terms used in the Rules.
3. Section 3 empowers the Bar Council to set up the ALE Programme and to authorize other persons to provide ALE courses under the Programme. The section also concerns the provision of information regarding the ALE Programme.
4. Section 4 provides that a pupil must complete the ALE Programme satisfactorily.
5. Section 5 provides that a pupil must keep a record of all the ALE courses he has completed and submit to the Bar Council the record and such other information as the Bar Council may consider necessary.
6. Section 6 sets out the conditions under which a pupil may obtain ALE points before the commencement of his pupillage.
7. Section 7 provides for the consequences of failure to complete the ALE Programme.
8. Section 8 empowers the Bar Council to grant exemption from any or all of the requirements under section 4(2) to a pupil whose period of approved pupillage has been reduced under rule 10 or 12 of the Barristers (Qualification) Rules (Cap. 159 sub. leg.) or section 16 of the Barristers (Qualification for Admission and Pupillage) Rules (L.N. 9 of 2003).
9. Section 9 requires an authorized person to retain an attendance record of each pupil who has completed the ALE course.
10. Section 10 provides a review procedure for review by persons aggrieved by a decision made by the Bar Council.
11. Section 11 makes it clear that the Rules do not have any retroactive effect and would not affect anyone who has commenced his pupillage before the commencement of the Rules.