



THE
LAW SOCIETY
OF HONG KONG

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SG/FA/1688

5th September 2003

The Hon. Ms. Margaret Ng,
c/o 10/F., New Henry House,
10 Ice House Street, Central,
Hong Kong.

Dear *Margaret,*

Re : Risk Management Education Rules

I refer to our discussion at the meeting today and enclose for your information copy of a letter sent to the Administrative Assistant to the Chief Justice in July setting out the reasons for the request for suspension of the above rules which came into effect on 14th March 2003. I believe that the letter is itself explanatory.

Attached to the letter is a draft of the amended rules provided by the Law Society to the Chief Justice. These have been slightly amended in discussions with the Law Draftsman following the approval given by the Chief Justice. In particular Rule 3 deletes the specific time table for implementation for application of the rules to different parts of the profession and provides for the rules to take effect on dates to be appointed by the Council and published in the Gazette. A new special clause has been provided by the Department of Justice setting out that position as a new transitional provision at the end of the rules. Similarly a transitional provision relating to the first tranche of solicitors admitted on or after 15th September 1990 has been inserted so as to provide for an extension of the practice year for that category of solicitors to a date to be fixed by the Council and gazetted.

Our discussions with the Department of Justice are continuing and as soon as a final version of the amended rules is available, I will provide the Panel with a copy but hope that the enclosures will at least give you an idea of what is being proposed.

Yours sincerely,

Patrick
Patrick Moss
Secretary General

Encl

President	Vice-Presidents	Council Members		Secretary General
Ip Shing Hing	Anson K.C. Kan Michael J. Lintern-Smith	Denis G. Brock Anthony W.K. Chow Junius K.Y. Ho Lester G. Huang Andrew Jeffries	Alex T.H. Lai Vincent W.S. Liang Amy Y.K. Liu Peter C.L. Lo Billy W.Y. Ma	Kenneth S.Y. Ng Timothy C. Parkes Sylvia W.Y. Siu Herbert H.K. Tsoi Wong Kwai Huen
				Cecilia K.W. Wang Patrick R. Moss

cc Margaret Hill

cdones



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Our Ref
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HC/sp/SG194

2846 0503

18 July 2003

Ms. Vega Wong
for Administrative Assistant
to the Chief Justice
LG254, High Court Building
38 Queensway
Hong Kong

Dear Ms Wong,

Re: **Legal Practitioners (Risk Management Education) Rules**

The Legal Practitioners (Risk Management Education) Rules, which were approved in principle by the Chief Justice, came into effect on 14 March 2003. The Society proposes to amend the application provisions in the Rules and seeks the approval in principle of the Chief Justice for the proposed amendments.

Reasons

Rule 3 of the Rules provides for the respective dates when the Rules will apply to solicitors, trainee solicitors and foreign lawyers. They are summarized as follows:

Participants	Apply as from
(1) Principals	
(a) admitted on or after 15/9/90	14 March 2003
(b) admitted before 15/9/90	1 January 2004
(2) Non-principal solicitors	
(a) admitted on or after 9/5/90 ⁹⁸	1 November 2004
(b) admitted before 9/5/90 ⁹⁸	1 November 2005
(3) Trainees and foreign lawyers	1 November 2006

All participants are required to complete a compulsory core course in the first practice year and thereafter to undertake at least 3 hours of risk management education each succeeding practice year or 6 hours within 2 succeeding years.

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The Law Society of Hong Kong

The first tranche of principals are required to complete the compulsory core course by 31 March 2004, under rule 12(2)(a)(i) of the Rules.

Joint providers from Australia were selected by the Council through a tender process to develop and deliver the core course. This requires the providers to attend Hong Kong to conduct an analysis of claims under the Professional Indemnity Scheme in order to provide localised programme. This analysis involves examination of claim files and statistics and meetings with several Committees within the Society. The delivery of the programme is a significant logistical exercise involving approximately 925 principal solicitors in each of the first 2 years of the programme. However, owing to the outbreak of Severe Acute Respiratory Syndrome ("SARS") in Hong Kong between March and June, the providers declined to travel to Hong Kong. The timetable on the development and delivery of the core courses has therefore been disrupted and it is no longer feasible to have the core courses in place to accommodate the first tranche of principals before 31 March 2004.

The provisions relating to the specific dates of application of the Rules, rules 1(2), 3 and 12 will therefore have to be amended.

Proposed amendments

The proposed amendments to the Rules are marked up in Annexure 1. They are not of a substantive nature in that they only relate to the time when the practitioners will start participating in the risk management education programme.

Rule 3

Rule 3 of the Rules provides for the respective dates when the Rules will apply to solicitors, trainee solicitors and foreign lawyers.

To allow flexibility in reacting to any unforeseen eventuality in the administration of the risk management education programme and to avoid having to amend the Rules again just for the application dates, it is proposed that instead of specifying the exact application dates in the Rules, a provision be added to allow the dates to be appointed by the Council of the Society.

Rule 1(2)

Rule 1(2) specifies the commencement date of a consequential amendment to the Foreign Lawyers Registration Rules. It is related to the date when the foreign lawyers will come under the ambit of the Legal Practitioners (Risk Management Education) Rules, which is 1 November 2006.

If the timetable is to be readjusted, the commencement date will have to be changed.

As explained, it is proposed that the commencement date be deferred to a date to be fixed by the President of the Society by notice published in the Gazette.

Rule 12

A practice year is provided in the Rules to be 12 months ending on 31 October each year. Since the Rules commenced in March, a transitional provision in rule 12 is added to allow an "extension" of the practice year beyond the end of October to allow sufficient time for the participants to complete the compulsory core course.

If rule 3 is to be amended as proposed, the transitional provision in rule 12 will not be applicable. It is proposed that rule 12 be repealed.

Admission and Registration Rules

Consequential amendments, which will come into operation on 1 November 2006, have been made to the Admission and Registration Rules to provide for the requirement on completion of core course and elective courses by trainee solicitors.

If the application of the Rules to trainee solicitors is to be deferred, the consequential amendment to the Admission and Registration Rules will have to be changed accordingly.

The Admission and Registration (Amendment) (No.2) Rules 2002 marked up with the proposed changes are attached at Annexure 2.

Revised timetable

The practice year for the purposes of the Rules ends on 31 October every year. The aim is to tie in with the Continuing Professional Development ("CPD") Rules which provide for CPD requirements based on the same period as a CPD practice year. Attendance of the courses in the risk management education programme will carry CPD points. This enables the participants to use the CPD points gained to satisfy their CPD requirements.

It is therefore highly desirable that the application of the Rules will as far as possible fit into the commencement of the practice year, 1 November. However, owing to the summer recess of LegCo, it will not be possible for the amendments to the Rules to be effective in time for them to apply to the first tranche of principals on 1 November 2003.

Nevertheless, if the Rules can apply to the first tranche of principals on 1 January 2004, the participants will have 10 months until the normal expiry date of a practice year on 31 October 2004 to complete the compulsory core course without the need to "extend" the practice year beyond the end of October and the application of the Rules to other participants may be readjusted as follows to tie in neatly with commencement of the practice year:

Participants	Apply as from
(1) Principals	
(a) admitted on or after 15/9/90	1 January 2004
(b) admitted before 15/9/90	1 November 2004
(2) Non-principal solicitors	
(a) admitted on or after 9/5/90 ⁹⁸	1 November 2005
(b) admitted before 9/5/90 ⁹⁸	1 November 2006
(3) Trainees and foreign lawyers	1 November 2007

Urgency

Taking into account the time required for negative vetting by LegCo (including any extension thereto), the date for publication of the amendment rules in the Gazette is targeted on 26 September 2003 with a view to effecting the amendments by 1 January 2004.

I would be grateful if you could consider the application as a matter of urgency to allow time for the drafting of the amendment rules by the Department of Justice to meet the target publication date. I look forward to hearing from you soon.

Yours sincerely,



Heidi Chu
Assistant Director
Regulation and Guidance
69437