

立法會

Legislative Council

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**Paper for the Subcommittee on Official Languages
(Alteration of Text under Section 4D) (Miscellaneous) Order 2007**

Chinese equivalents for "advocate(s)" and "advocacy"

At the House Committee's meeting on 6 July 2007, a Member requested the Legal Service Division to prepare a list of the Chinese equivalents for "advocate(s)" and "advocacy" in the Laws of Hong Kong.

The Chinese rendition of "advocate(s)" as "出庭代訟人" - Annex 1

Order 62, rule 1(1) of the Rules of the High Court (Cap. 4 sub. leg. A)

Order 75, rule 30(3)(d) of the Rules of the High Court (Cap. 4 sub. leg. A)

Section 2(1) of the Legal Practitioners Ordinance (Cap. 159)

Section 31(1)(c) of the Legal Practitioners Ordinance (Cap. 159)

Section 31A(2)(c) of the Legal Practitioners Ordinance (Cap. 159)

Section 31A(3)(b) of the Legal Practitioners Ordinance (Cap. 159)

Section 31A(5) of the Legal Practitioners Ordinance (Cap. 159)

Section 74C(i) of the Legal Practitioners Ordinance (Cap. 159)

Form 3 of the Schedule to the Admission and Registration Rules (Cap. 159 sub. leg. B)

Form 5 of the Schedule to the Admission and Registration Rules (Cap. 159 sub. leg. B)

Rule 2(1) of the Barristers (Qualification) Rules (Cap. 159 sub. leg. E)

Rule 2(2)(a) of the Barristers (Qualification) Rules (Cap. 159 sub. leg. E)

Rule 2(2)(b) of the Barristers (Qualification) Rules (Cap. 159 sub. leg. E)

Rule 2(2)(c) of the Barristers (Qualification) Rules (Cap. 159 sub. leg. E)

Rule 2(3) of the Barristers (Qualification) Rules (Cap. 159 sub. leg. E)

Rule 2A of the Barristers (Qualification) Rules (Cap. 159 sub. leg. E)

Rule 9(4) of the Barristers (Qualification) Rules (Cap. 159 sub. leg. E)

Rule 20(1)(b) of the Trainee Solicitors Rules (Cap. 159 sub. leg. J)

Section 54(1), in paragraph (f)(ii) of the proviso, of the Criminal Procedure Ordinance (Cap. 221)

Rule 21(1)(c) of the Legal Aid in Criminal Cases Rules (Cap. 221 sub. leg. D)

Rule 21(1)(l) of the Legal Aid in Criminal Cases Rules (Cap. 221 sub. leg. D)

Rule 21(1)(n) of the Legal Aid in Criminal Cases Rules (Cap. 221 sub. leg. D)

Section 15(1)(c) of the District Court Ordinance (Cap. 336)

Order 62, rule 1(1) of the Rules of the District Court (Cap. 336 sub. leg. H)

Section 2(1)(b) of Schedule 2 to the Legal Services Legislation (Miscellaneous Amendments) Ordinance 1997 (94 of 1997)

The Chinese rendition of "advocate(s)" as "代 言 人" - Annex 2

Section 4(5) of the Landlord and Tenant (Consolidation) Ordinance (Cap. 7)

Section 2 of the Magistrates Ordinance (Cap. 227)

The Chinese rendition of "advocate(s)" as "代 訟 人" - Annex 3

Section 4(1) of the International Organizations and Diplomatic Privileges Ordinance (Cap. 190)

Article 15 of The United Nations (Cap. 190 sub. leg. H)

The Chinese rendition of "advocate(s)" as "出 庭 代 言 人" - Annex 4

Section 1 of the Supply of Services (Implied Terms) (Exclusion) Order 1995 (Cap. 457 sub. leg. A)*

The Chinese rendition of "advocacy" as "代 訟" - Annex 5

Section 27(4)(b) of the Legal Practitioners Ordinance (Cap. 159)

Rule 10 of the Barristers (Qualification) Rules (Cap. 159 sub. leg. E)

Rule 12(1) of the Barristers (Qualification) Rules (Cap. 159 sub. leg. E)

* The Order has not included the modification of "出庭代 言 人". Upon our enquiries, the Administration has agreed to substitute "出庭代 言 人" by "訟 辯 人" in the next order to be made under section 4D of the Official Languages Ordinance (Cap. 5).

The Chinese rendition of "advocacy" as "出庭代訟" - Annex 6

Paragraph 7(7) in part (a) of the declaration in Form 4 in the Schedule to the Admission and Registration Rules (Cap. 159 sub. leg. B)

Rule 21(3)(a) of the Legal Aid in Criminal Cases Rules (Cap. 221 sub. leg. D)

Rule 21(5)(b)(i) of the Legal Aid in Criminal Cases Rules (Cap. 221 sub. leg. D)

The Chinese rendition of "advocate(s)" as "訟辯人" - Annex 7

Section 9(1) of the High Court Ordinance (Cap. 4)

Section 9(2)(a) of the High Court Ordinance (Cap. 4)

Section 9(2A)(c)(i) of the High Court Ordinance (Cap. 4)

Section 9(3) of the High Court Ordinance (Cap. 4)

Section 37AA(1)(a) of the High Court Ordinance (Cap. 4)

Section 37AA(1)(b)(i) of the High Court Ordinance (Cap. 4)

Section 37AA(2)(a) of the High Court Ordinance (Cap. 4)

Section 37AA(2)(b)(i) of the High Court Ordinance (Cap. 4)

Section 37AA(3)(a) of the High Court Ordinance (Cap. 4)

Section 37AA(3)(b)(i) of the High Court Ordinance (Cap. 4)

Section 37AA(4)(a) of the High Court Ordinance (Cap. 4)

Section 37AA(4)(b)(i) of the High Court Ordinance (Cap. 4)

Section 4(3)(a) of the Lands Tribunal Ordinance (Cap. 17)

Section 4(3)(b)(i) of the Lands Tribunal Ordinance (Cap. 17)

Section 4A(1)(a) of the Labour Tribunal Ordinance (Cap. 25)

Section 4A(1)(b)(i) of the Labour Tribunal Ordinance (Cap. 25)

Section 5AA(1)(a) of the Magistrates Ordinance (Cap. 227)

Section 5AA(1)(b)(i) of the Magistrates Ordinance (Cap. 227)

Section 5AA(2)(a) of the Magistrates Ordinance (Cap. 227)

Section 5AB(1)(a) of the Magistrates Ordinance (Cap. 227)

Section 5AB(b)(i) of the Magistrates Ordinance (Cap. 227)

Section 5AB(2)(a) of the Magistrates Ordinance (Cap. 227)

Section 5(1)(a) of the District Court Ordinance (Cap. 336)

Section 5(1)(b)(i) of the District Court Ordinance (Cap. 336)

Section 14AA(1)(a) of the District Court Ordinance (Cap. 336)

Section 14AA(1)(b)(i) of the District Court Ordinance (Cap. 336)

Section 4AA(1)(a) of the Small Claims Tribunal Ordinance (Cap. 338)

Section 4AA(1)(b)(i) of the Small Claims Tribunal Ordinance (Cap. 338)

Section 3AA(1)(a) of the Coroners Ordinance (Cap. 504)
Section 3AA(1)(b)(i) of the Coroners Ordinance (Cap. 504)

The Chinese rendition of "advocacy" as "訟辯" - Annex 8

Section 5(2)(e)(iii) of the Barristers (Qualification for Admission and Pupillage) Rules
(Cap. 159 sub. leg. AC)

Section 16(1) of the Barristers (Qualification for Admission and Pupillage) Rules (Cap.
159 sub. leg. AC)

Section 87(d) of the District Court Ordinance (Cap. 336)

Encl

Prepared by

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《高等法院規則》(第 4 章, 附屬法例 A), 第 62 號命令第 1(1)條規則
Order 62, rule 1(1) of the Rules of the High Court (Cap. 4 sub. leg. A)

A 252 第 4 章 高等法院規則——第 62 號命令

CAP. 4 The Rules of the High Court—Order 62

[附屬法例]

[Subsidiary]

- (a) 將該案件的文本一份, 連同列出他對有關法律問題的爭議的通知書, 送達在審裁處席前進行的有關法律程序的其他每一方, 及
- (b) 將通知書的文本一份, 送達審裁處的書記主任或審裁處的司法常務官或司法常務主任。 (2000 年第 28 號第 47 條)
- (2) 在通知書送達後 2 天內, 該一方必須向司法常務官遞交該案件以及通知書的文本兩份, 司法常務官須將該案件登錄於上訴審訊表內, 而該案件在登錄日期起計 21 天屆滿之前不得進行聆訊。
- (3) 凡該案件是根據某成文法則呈述而該成文法則規定某政府部門有權在就該案件進行的法律程序中獲得聆聽, 則該案件的文本, 及根據第 (1) 款送達的通知書的文本, 必須送達該部門和律政司司長。 (1997 年第 362 號法律公告)
- (4) 在聆訊該案件時, 上訴法庭可修改該案件, 或命令將其發還審裁處以作修改。 (1998 年第 25 號第 2 條)
- (5) 第 59 號命令第 10 條規則, 在可予適用的範圍內, 適用於由本命令所適用的審裁處呈述的案件。
- (6) 司法常務官須將上訴法庭就該案件作出的決定以及上訴法庭就該決定作出的任何指示, 通知審裁處的書記主任或審裁處的司法常務官或司法常務主任。 (1998 年第 25 號第 2 條; 2000 年第 28 號第 47 條)

- (a) serve on every other party to the proceedings before the tribunal a copy of the case, together with a notice setting out his contentions on the question of law, and
- (b) serve a copy of the notice on the clerk or registrar of the tribunal.
- (2) Within 2 days after service of the notice, the said party must lodge the case and two copies of the notice with the Registrar who shall enter the case in the list of appeals, and the case shall not be heard until after the expiration of 21 days from the date of entry.
- (3) Where any enactment under which the case is stated provides that a government department shall have a right to be heard in the proceedings on the case, a copy of the case and of the notice served under paragraph (1) must be served on that department and on the Secretary for Justice. (L.N. 362 of 1997)
- (4) On the hearing of the case, the Court of Appeal may amend the case or order it to be sent back to the tribunal for amendment.
- (5) Order 59, rule 10, shall, so far as applicable, apply in relation to a case stated by a tribunal to which this Order applies.
- (6) The Registrar shall notify the clerk or registrar of the tribunal of the decision of the Court of Appeal on the case and of any directions given by that Court thereon.

訟費

COSTS

第 62 號命令

ORDER 62

訟費

COSTS

導言

PRELIMINARY

1. 釋義 (第 62 號命令第 1 條規則)

- (1) 在本命令中——
- (香港)“區域法院”(District Court)指根據《區域法院條例》(第 336 章)的條文設立的區域法院, 以及該法院的任何法官; (1998 年第 25 號第 2 條)
- (香港)“非爭議事務”(non-contentious business)指由律師以律師身分辦理的任何非屬爭議事務的事務;
- “法院”、“法庭”(the Court)指高等法院或任何一名或多於一名的高等法院法官, 不論其是在法庭或內庭進行聆訊, 並指司法常務官或助理司法常務官或聆案官; (1998 年第 25 號第 2 條)

1. Interpretation (O. 62, r. 1)

- (1) In this Order—
- “certificate” (證明書) includes allocatur;
- (HK) “contentious business” (爭議事務) means business done, whether as a barrister, solicitor or advocate, in or for the purpose of proceedings begun before the Court or before an arbitrator appointed under the Arbitration Ordinance (Cap. 341) not being common form probate business; (10 of 2005 s. 166)
- “costs” (訟費) include fees, charges, disbursements, expenses and remuneration;
- “the Court” (法院、法庭) means the High Court or any one or more judges thereof, whether sitting in Court or in chambers, the Registrar or assistant registrar or master; (25 of 1998 s. 2)

(香港)“爭議事務”(contentious business)指不論以大律師、律師或出庭代訟人身分辦理的事務,而該事務是在法院或一名根據《仲裁條例》(第341章)委任的仲裁員席前開展的法律程序中辦理者,或是為該等法律程序辦理者,但普通形式的遺囑認證事務除外;(2005年第10號第166條)

“訟費”(costs)包括費用、收費、代墊付費用、開支及酬金;

(香港)“訟費評定官”(taxing master)指作為訟費評定官的司法常務官;

“經評定的訟費”(taxed costs)指按照本命令評定的訟費;

(香港)“精神紊亂的人”(mentally disordered person)指以下的人,即其精神失能的嚴重程度或其因心智發展停止或不完全而致的精神上有病或弱智狀況,令為其本身或公眾利益將其置於及保持在控制情況之下是有需要或合宜的;

“證明書”(certificate)包括訟費評定證明書。

(2) 在本命令中,凡提述任何基金或一筆款項,而訟費是從該基金或該筆款項中撥付或該基金或該筆款項是由一名受託人或遺產代理人持有,即包括提述為任何人或任何類別的人的利益而持有的任何遺產或財產,不論其為動產或不動產;又凡提述由一名受託人或遺產代理人持有的基金或一筆款項,即包括提述該人以該身分(不論單獨或聯同任何其他人士)有權持有的基金或一筆款項,不論該基金或款項當其時是否由他管有。

2. 適用範圍(第62號命令第2條規則)

(香港)(1) 本命令適用於所有在法院進行的法律程序,但無爭議或普通形式的遺囑認證程序以及海上擄獲事宜中的法律程序除外。

(2) 凡憑藉任何條例,在一名仲裁員或公斷人席前或在一個由任何條例或根據任何條例設立的審裁處或其他團體席前的法律程序(非屬在高等法院的法律程序)的訟費或附帶費用,是在原訟法庭予以評定時,本命令的以下條文,即第7(4)及(5)條規則,第8(6)條規則,第14至16條規則,第17(1)條規則,第18條規則,第21條規則(第(3)款除外),第22至26條規則及第33至35條規則,對評定該等訟費的法律程序具有效力,一如其對評定在高等法院的法律程序的訟費或其所引致的費用的法律程序具有效力。

(3) 在《區域法院條例》(第336章)的條文、任何根據該條例訂立的規則以及任何其他成文法則的規限下,本命令具有效力。

(4) 法庭根據本條例第52A條(該條規定在高等法院的法律程序的訟費及附帶費用須由法庭酌情決定,以及法庭有全權決定該等訟費須由何人支付及須支付至何程度)

(HK) “District Court” (地方法院) means the District Court established under the provisions of the District Court Ordinance (Cap. 336), and any judge of that court;

(HK) “mentally disordered person” (精神紊亂的人) means a person who is so far disabled in mind or who is so mentally ill or subnormal due to arrested or incomplete development of mind as to render it either necessary or expedient that he, either for his own sake or in the public interest, should be placed and kept under control;

(HK) “non-contentious business” (非爭議事務) means any business done by and as a solicitor which is not contentious business;

“taxed costs” (經評定的訟費) means costs taxed in accordance with this Order;

(HK) “taxing master” (訟費評定官) means the Registrar as taxing master.

(2) In this Order, references to a fund, being a fund out of which costs are to be paid or which is held by a trustee or personal representative, include references to any estate or property whether immovable or personal held for the benefit of any person or class of persons; and references to a fund held by a trustee or personal representative include references to any fund to which he is entitled (whether alone or together with any other person) in that capacity, whether the fund is for the time being in his possession or not.

2. Application (O. 62, r. 2)

(HK)(1) This Order shall apply to all proceedings in the Court, except non-contentious or common form probate proceedings and proceedings in matters of prize.

(2) Where by virtue of any Ordinance the costs of or incidental to any proceedings before an arbitrator or umpire or before a tribunal or other body constituted by or under any Ordinance, not being proceedings in the High Court, are taxable in the Court of First Instance, the following provisions of this Order, that is to say, rule 7(4) and (5), rule 8(6), rules 14 to 16, rule 17(1), rule 18, rule 21 (except paragraph (3)), rules 22 to 26 and rules 33 to 35, shall have effect in relation to proceedings for taxation of those costs as they have effect in relation to proceedings for taxation of the costs of or arising out of proceedings in the High Court.

(3) This Order shall have effect subject to the provisions of the District Court Ordinance (Cap. 336) and to any rules made thereunder and to any other enactment.

(4) The powers and discretion of the Court as to costs under section 52A of the Ordinance (which provides that the costs of and incidental to proceedings in the High Court shall be in the discretion of the Court and that the Court shall have full power to determine by whom and to what extent the costs are to be paid) and under the enactments relating to the costs of criminal

《高等法院規則》(第 4 章, 附屬法例 A), 第 75 號命令第 30(3)(d)條規則

Order 75, rule 30(3)(d) of the Rules of the High Court (Cap. 4 sub. leg. A)

第 4 章 高等法院規則——第 75 號命令

[附屬法例]

(2) 上述第 1 條規則所賦予的權力, 亦須擴及於作出命令, 在各方同意下, 規定證人的證據須猶如在訊問員席前錄取一樣, 而實際上並無委任訊問員, 亦無須訊問員在場。

(3) 凡有命令根據第 (2) 款作出, 該命令可為任何相應事項作出規定, 而除任何如此作出的規定另有規定外, 以下規定須具效力——

- (a) 其證人會被訊問的一方須提供一名速記員以記錄該證人的證據;
- (b) 雙方的其中一方的任何身為大律師或律師的代表, 具有權力為證人監誓;
- (c) 該名速記員本身無須宣誓, 但須以書面核證其所錄取的證據紀錄的謄本屬於正確, 並將該謄本交付其證人被訊問的一方的律師, 而該律師必須將該謄本送交登記處存檔;
- (d) 除非各方另有協議或法庭另有命令, 否則在該謄本送交存檔前, 該謄本或其一份文本須可為有關大律師或在訊問進行時擔任出庭代訴人的其他人所取用, 而如該等人中的任何人認為該謄本並非準確反映有關證據, 該人須擬備一份證明書指明他認為應在該謄本上作出的改正, 該份證明書並必須與該謄本一併送交存檔。

(4) 在預備文件須根據第 18 條規則送交存檔的訴訟中, 除非法庭認為有特別理由適合作此指示, 否則不得根據第 39 號命令第 1 條規則作出命令, 授權在預備文件送交存檔前訊問證人。

31. 在無狀書的情況下進行審訊
(第 75 號命令第 31 條規則)

第 18 號命令第 21 條規則適用於海事訴訟, 一如其適用於其他訴訟, 但傳票必須在傳票所指明的訴訟聆訊日期前 7 天或之前送達每一另一方。

32. 關於證據的進一步條文 (第 75 號命令第 32 條規則)

(3) (由 1999 年第 2 號第 6 條廢除)

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[Subsidiary]

(2) The power conferred by the said rule 1 shall also extend to the making of an order, with the consent of the parties, providing for the evidence of a witness being taken as if before an examiner, but without an examiner actually being appointed or being present.

(3) Where an order is made under paragraph (2), it may make provision for any consequential matters and, subject to any provision so made, the following provisions shall have effect—

- (a) the party whose witness is to be examined shall provide a shorthand writer to take down the evidence of the witness;
- (b) any representative, being counsel or solicitor, of either of the parties shall have authority to administer the oath to the witness;
- (c) the shorthand writer need not himself be sworn but shall certify in writing as correct a transcript of his notes of the evidence and deliver it to the solicitor for the party whose witness was examined, and that solicitor must file it in the Registry;
- (d) unless the parties otherwise agree or the Court otherwise orders, the transcript or a copy thereof shall, before the transcript is filed, be made available to the counsel or other persons who acted as advocates at the examination, and if any of those persons is of opinion that the transcript does not accurately represent the evidence he shall make a certificate specifying the corrections which in his opinion should be made therein, and that certificate must be filed with the transcript.

(4) In actions in which preliminary acts fall to be filed under rule 18, an order shall not be made under Order 39, rule 1, authorizing any examination of a witness before the preliminary acts have been filed, unless for special reasons the Court thinks fit so to direct.

31. Trial without pleadings (O. 75, r. 31)

Order 18, rule 21 shall apply to Admiralty as it applies to other actions except that the summons must be served on every other party not less than 7 days before the day specified in the summons for the hearing thereof.

32. Further provisions with respect to evidence (O. 75, r. 32)

(3) (*Repealed 2 of 1999 s. 6*)

“公證人協會理事會”(Council of the Society of Notaries)指按照該協會的組織章程細則的條文委出的執理事會；(由 1998 年第 27 號第 5 條增補)

“公證人註冊紀錄冊”(register of notaries public)指司法常務官按照第 40C 條條文備存的註冊紀錄冊；(由 1998 年第 27 號第 5 條修訂)

“司法常務官”(Registrar)指高等法院司法常務官以及高等法院的任何高級副司法常務官、副司法常務官或助理司法常務官；(由 1998 年第 25 號第 2 條修訂；由 2005 年第 10 號第 175 條修訂)

“外地司法管轄區”(foreign jurisdiction)指香港以外的司法管轄區；(由 1994 年第 60 號第 2 條增補。由 1998 年第 23 號第 2 條修訂)

“外地法律”(foreign law)指外地司法管轄區的法律；(由 1994 年第 60 號第 2 條增補。由 1998 年第 23 號第 2 條修訂)

“外地律師”(foreign lawyer)指根據第 IIIA 部註冊為外地律師的人；(由 1994 年第 60 號第 2 條增補。由 1998 年第 23 號第 2 條修訂)

“外地律師行”(foreign firm)指根據第 IIIA 部註冊為外地律師行的律師行或獨營執業者；(由 1994 年第 60 號第 2 條增補。由 1998 年第 23 號第 2 條修訂)

“合資格人士”(qualified person)指合資格獲認許為律師的人；(由 1982 年第 50 號第 2 條增補)

“非爭訟事務”(non-contentious business)包括任何與售賣、購買、租賃、按揭及其他物業轉易事宜有關連的事務；

“法院”(Court)指原訟法庭；(由 1975 年第 92 號第 59 條修訂；由 1998 年第 25 號第 2 條修訂)

“法學專業證書”(Postgraduate Certificate in Laws)指香港大學、香港城市大學或香港城市理工學院所頒授的法學專業證書；(由 1992 年第 1 號第 2 條增補。由 1994 年第 100 號第 5 條修訂)

“爭訟事務”(contentious business)包括由律師(不論作為律師或作為出庭代訟人)在任何法院辦理的任何事務；

“事務費委員會”(Costs Committee)指根據第 74 條委任的事務費委員會；

“律師”(solicitor)指在律師登記冊上登記，並在關鍵時沒有被暫時吊銷執業資格的人；

“律師登記冊”(roll of solicitors)指司法常務官按照第 5 條條文備存的登記冊；

“律師會”(Society, Law Society)指香港律師會；(由 1970 年第 14 號第 2 條代替。由 1998 年第 27 號第 5 條修訂)

“香港律師行”(Hong Kong firm)指符合以下說明的律師行——

(a) 律師行的所有合夥人均為律師；或

(b) 律師行的獨資經營者是律師；(由 2000 年第 42 號第 2 條代替)

“contentious business”(爭訟事務) includes any business done by a solicitor in any court, whether as a solicitor or as an advocate;

“costs”(訟費、事務費) includes fees, charges, disbursements, expenses and remuneration;

“Costs Committee”(事務費委員會) means the Costs Committee appointed under section 74;

“Council”(理事會) means, in relation to the Law Society, the council of the Society elected in accordance with the provisions of its articles of association; (Added 52 of 1980 s. 2. Amended 27 of 1998 s. 5)

“Council of the Society of Notaries”(公證人協會理事會) means the Council of Management of that society appointed in accordance with the provisions of its articles of association; (Added 27 of 1998 s. 5)

“Court”(法院) means the Court of First Instance; (Amended 92 of 1975 s. 59; 25 of 1998 s. 2)

“employee”(僱員) includes a former employee; (Added 25 of 1968 s. 2)

“foreign firm”(外地律師行) means a law firm or sole practitioner that is registered as a foreign firm under Part IIIA; (Added 60 of 1994 s. 2. Amended 23 of 1998 s. 2)

“foreign jurisdiction”(外地司法管轄區) means a jurisdiction other than Hong Kong; (Added 60 of 1994 s. 2. Amended 23 of 1998 s. 2)

“foreign law”(外地法律) means the law of a foreign jurisdiction; (Added 60 of 1994 s. 2. Amended 23 of 1998 s. 2)

“foreign lawyer”(外地律師) means a person registered as a foreign lawyer under Part IIIA; (Added 60 of 1994 s. 2. Amended 23 of 1998 s. 2)

“Hong Kong firm”(香港律師行) means a law firm in which—

(a) all of the partners are solicitors; or

(b) the sole practitioner of which is a solicitor; (Added 60 of 1994 s. 2. Amended 42 of 2000 s. 2)

“non-contentious business”(非爭訟事務) includes any business connected with sales, purchases, leases, mortgages and other matters of conveyancing;

“notary public”(公證人) means a person who is registered on the register of notaries public and who, at the material time, is not suspended from practice;

“Postgraduate Certificate in Laws”(法學專業證書) means a Postgraduate Certificate in Laws awarded by the University of Hong Kong, the City University of Hong Kong or the City Polytechnic of Hong Kong; (Added 1 of 1992 s. 2. Amended 100 of 1994 s. 5)

“practising certificate”(執業證書) means—

(a) a certificate issued by the Society under section 6; (Amended 27 of 1998 s. 5)

(b) a certificate issued by the Bar Council under section 30; and (Replaced 58 of 1976 s. 2. Amended 70 of 1991 s. 2; 27 of 1998 s. 5)

(3) 為某期間發出的執業證書只可發給已就該期間向香港大律師公會繳付以下費用的申請人——

- (a) 會員費(但如該申請人獲執委會豁免繳付會員費,則無需繳付此項費用);及
- (b) 根據香港大律師公會所投保的專業彌償保險的現行總保單而就該申請人的保險訂明的保費(但如該申請人是根據第 27(4) 條獲認為大律師且獲執委會豁免繳付該項保費的,則無需繳付此項費用)。 (由 2000 年第 42 號第 11 條代替)

(3A) 執委會可應根據第 27(4) 條獲認許的大律師的申請,免收部分會員費。
(由 2000 年第 42 號第 11 條增補)

(4) (由 2000 年第 42 號第 11 條廢除)

(由 1991 年第 70 號第 6 條修訂)

31. 執業為大律師的資格

(1) 任何大律師並無資格執業為大律師——

- (a) 除非他已完成訂明的實際執業的資格檢定期,但第(2)款所述的情況除外;
- (b) 除非他持有有效的執業證書;
- (c) 除非他在憑藉第 27(1)(a)(i) 或 (ii) 條(按該條緊接在被《2000 年法律執業者(修訂)條例》(2000 年第 42 號)廢除前的規定)合資格獲認許為大律師後,繼續在英格蘭或北愛爾蘭作為大律師,或在蘇格蘭作為出庭代訟人,而並沒有在當地被暫時吊銷執業資格; (由 2000 年第 42 號第 12 條修訂)
- (d) 如他根據第 37 條被暫時吊銷執業資格; (由 1992 年第 61 號第 16 條修訂)
- (e) 如他名列在律師登記冊; (由 1991 年第 70 號第 7 條代替。由 1992 年第 61 號第 16 條修訂;由 2000 年第 42 號第 12 條修訂)
- (f) 如他屬第 31C(1) 條所指的受僱大律師。 (由 2000 年第 42 號第 12 條增補)

(2) 在訂明的實際執業的資格檢定期的首 6 個月屆滿後,大律師即合資格在執委會所決定的限定範圍內執業為大律師。

(由 1976 年第 58 號第 10 條代替。由 1991 年第 70 號第 7 條修訂)

(3) A practising certificate may only be issued to an applicant who has paid to the Hong Kong Bar Association—

- (a) except where the Bar Council has exempted the applicant therefrom, the membership subscription; and
- (b) except where the applicant has been admitted as a barrister under section 27(4) and the Bar Council has exempted him therefrom, the premium prescribed for insurance of the applicant under the current master policy for professional indemnity insurance effected by the Hong Kong Bar Association,

in respect of the period for which the practising certificate is to be issued.
(Replaced 42 of 2000 s. 11)

(3A) On application by a barrister admitted under section 27(4), the Bar Council may waive part of the membership subscription. (Added 42 of 2000 s. 11)

(4) (Repealed 42 of 2000 s. 11)

(Amended 70 of 1991 s. 6)

31. Qualifications for practising as a barrister

(1) A barrister shall not be qualified to practise as such—

- (a) subject to subsection (2), unless he has completed the prescribed qualifying period of active practice;
- (b) unless he holds a valid practising certificate;
- (c) having qualified for admission as a barrister by virtue of section 27(1)(a)(i) or (ii) (as that section existed before its repeal by the Legal Practitioners (Amendment) Ordinance 2000 (42 of 2000)), unless he continues to be a barrister in England or Northern Ireland or an advocate in Scotland and is not there suspended from practice as such; (Amended 42 of 2000 s. 12)
- (d) if he is suspended from practice under section 37; (Amended 61 of 1992 s. 16)
- (e) if he is on the roll of solicitors; (Replaced 70 of 1991 s. 7. Amended 61 of 1992 s. 16; 42 of 2000 s. 12)
- (f) if he is an employed barrister within the meaning of section 31C(1). (Added 42 of 2000 s. 12)

(2) After the expiry of the first 6 months of the prescribed qualifying period of active practice, a barrister shall be qualified to practise as a barrister to such limited extent as the Bar Council may determine.

(Replaced 58 of 1976 s. 10. Amended 70 of 1991 s. 7)

*31A. 資深大律師的委任

(1) 終審法院首席法官可在諮詢大律師公會執行委員會主席及律師會會長後, 委任符合第(2)款的資格規定的大律師為資深大律師。

(2) 如任何大律師——

- (a) 獲終審法院首席法官認為具有作為大律師的足夠能力及聲望和對法律有足夠的認識使該大律師獲給予資深大律師的地位; 及
- (b) 具有所需的經驗; 及
- (c) 在香港的大律師專業中執業或任職《律政人員條例》(第 87 章) 所指的律政人員而同時執業為出庭代訟人,

則該大律師即具資格獲委任為資深大律師。

(3) 就第(2)(b)款而言, 如任何大律師已有合計不少於 10 年時間從事下列事宜或其中一項, 該大律師即具有獲委任為資深大律師的所需經驗——

- (a) 在香港的大律師專業中執業; 或
- (b) 任職《律政人員條例》(第 87 章) 所指的律政人員而同時執業為出庭代訟人。

(4) 終審法院首席法官可在諮詢大律師公會執行委員會主席及律師會會長之後, 委任符合下列資格規定而曾對香港法律作出傑出貢獻的大律師為名譽身分的資深大律師——

- (a) 屬香港任何大學的法律學院或學系的教學人員; 或
- (b) 任職法律援助署署長或法律援助署副署長或助理署長者; 或
- (c) 任職破產管理署署長或出任《破產條例》(第 6 章) 附表 2 第 1 部所指明的職位者; 或
- (d) 任職知識產權署署長或擔任《知識產權署署長(設立)條例》(第 412 章) 附表 1 第 1 部所指明的職位者。

(5) 委任任何人為名譽身分的資深大律師並不賦予該人在香港的法院進行的法律程序中作為另一人的出庭代訟人的權利, 亦不使該人在香港的法院進行的法律程序中獲給予優先的排名。

(由 1997 年第 94 號第 7 條增補。由 1998 年第 25 號第 2 條修訂)

*31A. Appointment of Senior Counsel

(1) The Chief Justice may, after consultation with the chairman of the Bar Council and the president of the Society, appoint as Senior Counsel barristers who satisfy the eligibility requirements of subsection (2).

(2) A barrister is eligible for appointment as a Senior Counsel if he—

- (a) has, in the opinion of the Chief Justice, sufficient ability and standing as a barrister, and sufficient knowledge of the law, to be accorded that status; and
- (b) has the requisite experience; and
- (c) is practising at the bar in Hong Kong or is practising as an advocate while he holds office as a legal officer within the meaning of the Legal Officers Ordinance (Cap. 87).

(3) For the purposes of subsection (2)(b), a barrister has the requisite experience for appointment as a Senior Counsel if he has, for not less than 10 years in aggregate, done one or both of the following—

- (a) practised at the bar in Hong Kong; or
- (b) practised as an advocate while he holds office as a legal officer within the meaning of the Legal Officers Ordinance (Cap. 87).

(4) The Chief Justice may, after consultation with the chairman of the Bar Council and the president of the Society, appoint a barrister as honorary Senior Counsel if he—

- (a) is a member of the academic staff of a faculty or school of law of a university in Hong Kong; or
- (b) holds office as Director of Legal Aid or as a Deputy Director or Assistant Director of Legal Aid; or
- (c) holds office as Official Receiver or an office specified in Part I of Schedule 2 to the Bankruptcy Ordinance (Cap. 6); or
- (d) holds office as Director of Intellectual Property or an office specified in Part I of Schedule 1 to the Director of Intellectual Property (Establishment) Ordinance (Cap. 412),

and who has, in the Chief Justice's opinion, provided distinguished service to the law of Hong Kong.

(5) The appointment of a person as a Senior Counsel in an honorary capacity does not confer on the person a right to act as an advocate in proceedings before the courts of Hong Kong and will not accord precedence before the courts.

(Added 94 of 1997 s. 7)

* 請參閱載於 1997 年第 94 號附表 2 第 2 條的保留及過渡性條文。該條轉錄於緊接本條例之後。

* Please see the savings and transitional provisions contained in s. 2 of Schedule 2 to 94 of 1997, which section is reproduced immediately after the Ordinance.

則該人如符合下述條件, 即可選擇根據第 27 條 (按該條緊接在被《修訂條例》廢除前的規定) 獲認許為大律師, 以代替符合第 27 條所訂的規定——

- (i) 該人已在英格蘭或北愛爾蘭獲認許為大律師, 或已在蘇格蘭獲認許為出庭代訟人;
- (ii) 根據已廢除的第 27(1)(b)、(c) 及 (e) 及 (1A) 條所訂的其他準則, 該人具有資格獲認許; 及
- (iii) 該人在 2004 年 12 月 31 日或之前申請認許。

(由 2000 年第 42 號第 19 條增補)

74D. 受僱於律政司的律師

(1) 儘管《2000 年法律執業者 (修訂) 條例》(2000 年第 42 號) (“《修訂條例》”) 第 8 條廢除第 27A 條, 凡任何人在律政司司長為實施《修訂條例》第 8(2) 條而以憲報公告指定的日期當日或之前, 符合第 27A(1)(a) 至 (d) 條 (按該條緊接在被廢除前的規定) 的規定, 則法院可隨時按照上述的第 27A(1) 條認許該人為香港高等法院的大律師。

(2) 法院在任何 12 個月的期間內, 不得根據第 (1) 款認許超過 4 人為大律師。

(3) 為免生疑問, 第 27A(1)(e) 及 (3) 條並不適用於根據本條認許大律師。

(由 2000 年第 42 號第 19 條增補)

75. 保留條文

(1) 本條例並無任何條文——

- (a) 損害或影響《律政人員條例》(第 87 章) 第 2 條所指的任何律政人員、根據《法律援助條例》(第 91 章) 第 3(1) 條獲委任的任何人士, 或憑藉《知識產權署署長 (設立) 條例》(第 412 章) 第 3(3) 條或《破產條例》(第 6 章) 第 75(3) 條而被當作是就《律政人員條例》(第 87 章) 而言屬律政人員的任何人士的任何權利或特權, 亦無任何條文規定任何該等人士或任何獲委任代他行事的文員、實習律師或人員在任何情況下須獲認許 (如情況為假若本條例並無制定時, 他本無須獲認許者); 或 (由 1981 年第 1 號第 6 條修訂; 由 1982 年第 50 號第 7 條修訂; 由 1990 年第 35 號第 13 條修訂; 由 1991 年第 70 號第 13 條修訂; 由 1992 年第 39 號第 12 條修訂; 由 1993 年第 8 號第 22 條修訂; 由 1999 年第 11 號第 3 條修訂)

the person may, instead of complying with the requirements established under section 27 for admission as a barrister, elect to be admitted under section 27 as that section existed before its repeal by the amending Ordinance, provided he—

- (i) has been called to the Bar in England or Northern Ireland or admitted as an advocate in Scotland;
- (ii) qualifies for admission under the other criteria established under the repealed section 27(1)(b), (c) and (e) and (1A); and
- (iii) applies for admission not later than 31 December 2004.

(Added 42 of 2000 s. 19)

74D. Lawyers employed in Department of Justice

(1) Notwithstanding the repeal of section 27A by section 8 of the Legal Practitioners (Amendment) Ordinance 2000 (42 of 2000) (“the amending Ordinance”), where a person, on or before the date appointed by the Secretary for Justice by notice in the Gazette for the coming into operation of section 8(2) of the amending Ordinance, meets the requirements in section 27A(1)(a) to (d), as that section existed before its repeal, the Court may at any time admit such person as a barrister of the High Court of Hong Kong in accordance with the said section 27A(1).

(2) The Court shall not admit as a barrister, under subsection (1), more than 4 persons in any period of 12 months.

(3) For the avoidance of doubt, section 27A(1)(e) and (3) does not apply to admission as a barrister under this section.

(Added 42 of 2000 s. 19)

75. Saving

(1) Nothing in this Ordinance shall—

- (a) prejudice or affect any rights or privileges of any legal officer within the meaning of section 2 of the Legal Officers Ordinance (Cap. 87), any person holding an appointment under section 3(1) of the Legal Aid Ordinance (Cap. 91) or any person deemed to be a legal officer for the purpose of the Legal Officers Ordinance (Cap. 87) by virtue of section 3(3) of the Director of Intellectual Property (Establishment) Ordinance (Cap. 412) or section 75(3) of the Bankruptcy Ordinance (Cap. 6) or require any such person or any clerk, trainee solicitor or officer appointed to act for him to be admitted in any case where it would not have been necessary for him to be admitted if this Ordinance had not been enacted; or (Amended 1 of 1981 s. 6; 50 of 1982 s. 7; 35 of 1990 s. 13; 70 of 1991 s. 13; 39 of 1992 s. 12; 8 of 1993 s. 22; 11 of 1999 s. 3)

《認許及註冊規則》(Cap. 159, 附屬法例 B), 附表表格 3

Form 3 of the Schedule to the Admission and Registration Rules (Cap. 159 sub. leg. B)

B 10 第 159 章 認許及註冊規則

[附屬法例]

- (1) 曾於.....年.....月.....日基於遵從《法律執業者條例》(第 159 章)第 4(1)(a)條而根據《認許及註冊規則》(第 159 章, 附屬法例 B)第 3(1)條申請一張符合資格獲認許為律師證明書; 及
- (2) 已令律師會信納他——
- (a) 已累積《專業進修規則》(第 159 章, 附屬法例 W)第 5 條所規定需在他受僱為實習律師期間終結前累積的數目的評審學分;
- (b) 已在《實習律師規則》(第 159 章, 附屬法例 J)第 7 條所規定的考試中考取合格, 或取得或獲得完全豁免, 無須參加該等考試;
- (c) 已按照《實習律師規則》(第 159 章, 附屬法例 J)曾受僱為實習律師為期.....年, 並得律師會認為滿意/獲批准豁免, 無須受僱為實習律師*;
- (d) 在緊接獲認許前已在香港居住至少 3 個月/有意在緊接獲認許後在香港居住至少 3 個月/已至少有 7 年通常居於香港/已在至少 7 年中每年至少有 180 天在香港*; 及
- (e) 在其他方面適合作為律師。

日期:.....年.....月.....日

(簽署).....
香港律師會
代行

* 刪去不適用者。

(1994 年第 466 號法律公告; 1997 年第 627 號法律公告; 2000 年第 114 號法律公告;
2002 年第 247 號法律公告)

表格 3

[第 3(5)條]

認許及註冊規則

符合資格獲認許為律師證明書

茲證明

地址為.....

- (1) 曾於.....年.....月.....日基於遵從《法律執業者條例》(第 159 章)第 4(1)(b)條而根據《認許及註冊規則》(第 159 章, 附屬法例 B)第 3(1)條申請一張符合資格獲認許為律師證明書; 及
- (2) 已令律師會信納——
- (a) 他已在.....#
獲認許為.....#;
- (b) 他的姓名仍列於律師/出庭代訟人/代辯人*登記冊上, 而他並沒有在該司法管轄區內被暫時吊銷執業資格;

CAP. 159 Admission and Registration Rules

[Subsidiary]

- (1) on the..... day of..... applied under rule 3(1) of the Admission and Registration Rules (Cap. 159 sub. leg. B) for a certificate of eligibility for admission as a solicitor on the basis of compliance with section 4(1)(a) of the Legal Practitioners Ordinance (Cap. 159); and
- (2) has satisfied the Society that he—
- (a) has accumulated the number of CPD accreditation points that is required by section 5 of the Continuing Professional Development Rules (Cap. 159 sub. leg. W) to be accumulated by the end of his period of employment as a trainee solicitor;
- (b) has passed or obtained or been granted total exemption from the examinations required by rule 7 of the Trainee Solicitors Rules (Cap. 159 sub. leg. J);
- (c) has been employed as a trainee solicitor for a period of..... years to the satisfaction of the Society/has been granted exemption from employment as a trainee solicitor* in accordance with the Trainee Solicitors Rules (Cap. 159 sub. leg. J);
- (d) has resided in Hong Kong for at least 3 months immediately before his admission/intends to reside in Hong Kong for at least 3 months immediately after his admission/has been ordinarily resident in Hong Kong for at least 7 years/has been present in Hong Kong for at least 180 days of each of at least 7 years*; and
- (e) is in other respects fit to be a solicitor.

Dated this..... day of.....

(Sgd.).....
for The Law Society of Hong Kong.

* Delete whichever is inapplicable.

(L.N. 466 of 1994; L.N. 627 of 1997; L.N. 114 of 2000; L.N. 247 of 2002)

FORM 3

[rule 3(5)]

ADMISSION AND REGISTRATION RULES

CERTIFICATE OF ELIGIBILITY FOR ADMISSION AS A SOLICITOR

THIS IS TO CERTIFY THAT

of.....

- (1) on the..... day of..... applied under rule 3(1) of the Admission and Registration Rules (Cap. 159 sub. leg. B) for a certificate of eligibility for admission as a solicitor on the basis of compliance with section 4(1)(b) of the Legal Practitioners Ordinance (Cap. 159); and
- (2) has satisfied the Society that—
- (a) he has been admitted as a.....#
in.....#;
- (b) his name remains on the roll of solicitors/advocates/attorneys* and he is not suspended from practising in that jurisdiction;

《認許及註冊規則》(Cap. 159, 附屬法例 B), 附表表格 3

Form 3 of the Schedule to the Admission and Registration Rules (Cap. 159 sub. leg. B)

第 159 章 認許及註冊規則

CAP. 159 Admission and Registration Rules

B 11

[附屬法例]

[Subsidiary]

- (c) 他在緊接獲認許前已在香港居住至少 3 個月/有意在緊接獲認許後在香港居住至少 3 個月/已至少有 7 年通常居於香港/已在至少 7 年中每年至少有 180 天在香港* ; 及
- (d) 在其他方面適合作為律師。

- (c) he has resided in Hong Kong for at least 3 months immediately before his admission/ intends to reside in Hong Kong for at least 3 months immediately after his admission/has been ordinarily resident in Hong Kong for at least 7 years/has been present in Hong Kong for at least 180 days of each of at least 7 years*; and
- (d) is in other respects fit to be a solicitor.

日期: 年 月 日

Dated this day of

(簽署)

(Sgd.)

香港律師會

for The Law Society of Hong Kong.

(代行)

請填寫有關專業(例如律師/出庭代理人/代辦人等)及有關司法管轄區。
* 刪去不適用者。

Please insert relevant profession (e.g. solicitor/advocate/attorney etc.) and the relevant jurisdiction.
* Delete whichever is inapplicable.

(1994 年第 466 號法律公告; 2000 年第 114 號法律公告)

(L.N. 466 of 1994; L.N. 114 of 2000)

表格 4

[第 3(2)(b) 條]

FORM 4

[rule 3(2)(b)]

認許及註冊規則

ADMISSION AND REGISTRATION RULES

基於遵從條例第 4(1)(a) 條就符合資格獲認許
為律師證明書的申請表——實習律師

APPLICATION FOR A CERTIFICATE OF ELIGIBILITY FOR ADMISSION
AS A SOLICITOR ON THE BASIS OF COMPLIANCE WITH
SECTION 4(1)(a)—TRAINEE SOLICITORS

致: 香港律師會

To: The Law Society of Hong Kong,

本人

I,

[英文及中文全名(如適用的話)]

[full name in English and, if applicable, Chinese]

地址為
申請按照《認許及註冊規則》(第 159 章, 附屬法例 B) 第 3(4) 條發出一張符合資格證明書予本人。

of
apply for the issue to me of a certificate of eligibility in accordance with rule 3(4) of the Admission and Registration Rules (Cap. 159 sub. leg. B).

我們

We,

地址為

of

(“實習律師”)

(the “Trainee Solicitor”)

及

and

(“導師”)

(the “Principal”),

地址為

of

謹以至誠鄭重聲明如下——

do solemnly and sincerely declare as follows—

(a) 本人是實習律師, 為自己作出以下陳述——

(a) I, the Trainee Solicitor for myself say as follows—

- 1. 本人在緊接獲認許前已在香港居住至少 3 個月。
或*
本人有意在緊接獲認許後在香港居住至少 3 個月。
或*
本人已至少有 7 年通常居於香港。
或*

- 1. I have resided in Hong Kong for at least 3 months immediately before my admission.
OR*
I intend to reside in Hong Kong for at least 3 months immediately after my admission.
OR*
I have been ordinarily resident in Hong Kong for at least 7 years.
OR*

《認許及註冊規則》(Cap. 159, 附屬法例 B), 附表表格 5

Form 5 of the Schedule to the Admission and Registration Rules (Cap. 159 sub. leg. B)

B 16 第 159 章 認許及註冊規則

CAP. 159 Admission and Registration Rules

[附屬法例]

[Subsidiary]

2. 本人已審核上述...的[香港身分證號碼...][護照號碼...]#，而據上述審核，本人信納他是本身分誓章所夾附的照片中所示的人，並且是此等程序中的申請人。
此項宣誓/聲明於...年...月...日
在香港...作出
在本人面前作出

2. I have examined [Hong Kong Identity Card No. ...][passport No. ...] # of the said ... and I am satisfied that from such examination that he is the person shown in the photograph attached hereto and that he is the applicant in these proceedings.
SWORN/DECLARED at ... Hong Kong
this ... day of ...
Before me

監督員/律師

Commissioner for Oaths/Solicitors.

* 請填寫有關專業(例如 大律師/律師/出庭代辦人/公證人等)及有關法院/辦事處。
刪去不適用者。
(1976 年第 212 號法律公告; 1981 年第 41 號法律公告; 1981 年第 198 號法律公告;
1992 年第 28 號法律公告; 1994 年第 466 號法律公告; 2000 年第 114 號法律公告;
2003 年第 5 號法律公告)

* Please insert relevant profession (eg. barrister/solicitor/advocate/notary etc.) and the relevant court/bar/chamber.
Delete whichever is inapplicable.
(L.N. 212 of 1976; L.N. 41 of 1981; L.N. 198 of 1981; L.N. 28 of 1992; L.N. 466 of 1994;
L.N. 114 of 2000; L.N. 5 of 2003)

表格 6

FORM 6

(由 1988 年第 312 號法律公告廢除)

(Repealed L.N. 312 of 1988)

表格 7

[第 7 條]

FORM 7

[rule 7]

認許及註冊規則

ADMISSION AND REGISTRATION RULES

律師登記冊

ROLL OF SOLICITORS

於...年
...月...日獲妥為認許以執業為香港高等法院的律師。

... was duly
admitted to practise as a Solicitor of the High Court of Hong Kong on the
day of ...

香港高等法院
司法常務官

(1976 年第 212 號法律公告; 1981 年第 41 號法律公告; 1998 年第 25 號第 2 條;
2000 年第 114 號法律公告)

Registrar,
High Court,
Hong Kong.

(L.N. 212 of 1976; L.N. 41 of 1981; 25 of 1998 s. 2; L.N. 114 of 2000)

《大律師(資格)規則》(Cap. 159, 附屬法例 E), 第 2 及 2A 條

Rules 2 and 2A of the Barristers (Qualification) Rules (Cap. 159 sub. leg. E)

E 2 第 159 章 大律師(資格)規則

[附屬法例]

大律師(資格)規則

(第 159 章第 72 及 72A 條)

[1973 年 1 月 19 日]

1. 引稱

本規則可引稱為《大律師(資格)規則》。

1A. 適用範圍

本規則適用於——

- (a) 根據經《2000 年法律執業者(修訂)條例》(2000 年第 42 號)(“《修訂條例》”)修訂的本條例第 74C 條,選擇根據本條例第 27 條(按該條緊接在被《修訂條例》廢除前的規定)獲認許的人;或
- (b) 謀求根據經《修訂條例》修訂的本條例第 74D 條獲認許的人。

(2003 年第 9 號法律公告)

2. 1986 年 6 月 1 日前的全面認許:

實際執業的資格檢定期

(1) 凡任何人在 1986 年 6 月 1 日前根據本條例第 27(1)(a)(i) 或 (ii) 條獲全面認許為大律師,則就本條例第 31 條而言,實際執業的資格檢定期,須為該人在英格蘭或北愛爾蘭獲認許為大律師或在蘇格蘭獲認許為出庭代訟人的日期後,在英聯邦的任何部分作為大律師或出庭代訟人的不少於 12 個月的實際執業期,或如任何人在英格蘭或北愛爾蘭獲認許為大律師前或在蘇格蘭獲認許為出庭代訟人前,已在英聯邦的任何部分獲認許為大律師或出庭代訟人,則實際執業的資格檢定期,為該人獲如此認許的日期後不少於 12 個月的實際執業期;上述實際執業期可包括以下期間——

CAP. 159 Barristers (Qualification) Rules

[Subsidiary]

BARRISTERS (QUALIFICATION) RULES

(Cap. 159, sections 72 and 72A)

[19 January 1973]

1. Citation

These rules may be cited as the Barristers (Qualification) Rules.

1A. Application

These rules shall apply to—

- (a) persons who elect under section 74C of the Ordinance as amended by the Legal Practitioners (Amendment) Ordinance 2000 (42 of 2000) (“the amending Ordinance”) to be admitted under section 27 of the Ordinance as that section existed before its repeal by the amending Ordinance; or
- (b) persons who seek admission under section 74D of the Ordinance as amended by the amending Ordinance.

(L.N. 9 of 2003)

2. General admission before 1 June 1986:
qualifying period of active practice

(1) Where a person is admitted as a barrister generally under section 27(1)(a)(i) or (ii) of the Ordinance before 1 June 1986, the qualifying period of active practice for the purposes of section 31 of the Ordinance shall be a period of not less than 12 months of active practice as a barrister or advocate in any part of the Commonwealth after the date of that person's call to the Bar in England or Northern Ireland or his admission as an advocate in Scotland or, in the case of a person who, prior to his call to the Bar in England or Northern Ireland or admission as an advocate in Scotland, had been admitted as a barrister or advocate in any part of the Commonwealth, after the date of his being so admitted, which period may include—

《大律師(資格)規則》(Cap. 159, 附屬法例 E), 第 2 及 2A 條
Rules 2 and 2A of the Barristers (Qualification) Rules (Cap. 159 sub. leg. E)

第 159 章 大律師(資格)規則

CAP. 159 Barristers (Qualification) Rules

E 2.1

[附屬法例]

[Subsidiary]

- (a) 如該人已取得由法律教育理事會 * 發出的證明書, 證明他已圓滿修畢該理事會的深造實習課程 #, 則包括該課程的期間;
- (b) 在一名在英格蘭或北愛爾蘭的執業大律師或在蘇格蘭的出庭代訟人學院† 的執業會員的辦事處任實習大律師的任何期間;
- (c) 在一名在香港的執業大律師的辦事處任實習大律師的任何期間;
- (d) 在律政司任實習大律師的任何不超過 9 個月的期間, 而該段期間可包括借調法律援助處的不超過 3 個月的期間。 (1997 年第 362 號法律公告)

- (a) if the person has obtained a certificate issued by the Council of Legal Education that he has satisfactorily completed the Council's Post Final Practical Course, the period of such course;
- (b) any period spent as a pupil in the chambers of a practising barrister in England or Northern Ireland or of a practising member of the Faculty of Advocates in Scotland;
- (c) any period spent as a pupil in the chambers of a practising barrister in Hong Kong;
- (d) any period not exceeding 9 months spent as a pupil in the Department of Justice, which period may include a period not exceeding 3 months on secondment to the Legal Aid Department. (11 of 1999 s. 3)

* “法律教育理事會”乃“Council of Legal Education”之譯名。

“深造實習課程”乃“Post Final Practical Course”之譯名。

† “出庭代訟人學院”乃“Faculty of Advocates”之譯名。

[附屬法例]

[Subsidiary]

(2) 第(1)款所指明的 12 個月期間須扣減以下期間——

- (a) 在英格蘭或北愛爾蘭獲認許為大律師或在蘇格蘭獲認許為出庭代訟人的日期前已修畢的該款(a)段所提述的任何課程的期間；
- (b) 如實習大律師在所有有關的考試中考取合格，取得在英格蘭或北愛爾蘭獲認許為大律師或在蘇格蘭獲認許為出庭代訟人的資格，並於緊接實習大律師實習期開始日期後的下一屆獲認許為大律師或出庭代訟人(視屬何情況而定)，則扣減在一名在英格蘭或北愛爾蘭的執業大律師或在蘇格蘭的出庭代訟人學院的執業會員的辦事處任實習大律師的任何期間；
- (c) 在英格蘭或北愛爾蘭獲認許為大律師或在蘇格蘭獲認許為出庭代訟人的日期後任何不超過 1 個月任大法官的執行官的期間。

(3) 凡任何人在 1986 年 6 月 1 日前根據本條例第 27(1)(a)(iii) 或 (iv) 條獲全面認許為大律師，則就本條例第 31 條而言，實際執業的資格檢定期，須為本規則所訂的認可實習大律師實習期，而實際執業的資格檢定期可包括在一名在英格蘭或北愛爾蘭的執業大律師或在蘇格蘭出庭代訟人學院的執業會員的辦事處任實習大律師的任何期間。

(1986 年第 136 號法律公告)

2A. 為個別個案而認許：實際執業的資格檢定期

凡任何人根據本條例第 27 條為任何一個或多於一個個別個案而獲認許為大律師，則就本條例第 31 條而言，實際執業的資格檢定期，須為該人在英格蘭或北愛爾蘭獲認許為大律師或在蘇格蘭獲認許為出庭代訟人的日期後，在英聯邦的任何部分作為大律師或出庭代訟人的不少於 12 個月的實際執業期，或如任何人在英格蘭或北愛爾蘭獲認許為大律師前或在蘇格蘭獲認許為出庭代訟人前，已在英聯邦的任何部分獲認許為大律師或出庭代訟人，則實際執業的資格檢定期，須為該人獲如此認許的日期後不少於 12 個月的實際執業期。

(1986 年第 136 號法律公告)

(2) The period of 12 months specified in paragraph (1) shall be reduced—
(a) by the period of any course referred to in sub-paragraph (a) of that paragraph completed before the date of call to the Bar in England or Northern Ireland or admission as an advocate in Scotland;

(b) by any period spent as a pupil in the chambers of a practising barrister in England or Northern Ireland or of a practising member of the Faculty of Advocates in Scotland after taking all the examinations the passing of which qualifies a person for call to the Bar in England or Northern Ireland or for admission as an advocate in Scotland if the pupil passes those examinations and is called to the Bar or is admitted, as the case may be, on the next occasion immediately following the commencement of the pupillage;

(c) by any period not exceeding one month spent as a judge's marshall after the date of call to the Bar in England or Northern Ireland or admission as an advocate in Scotland.

(3) Where a person is admitted as a barrister generally under section 27(1)(a)(iii) or (iv) of the Ordinance before 1 June 1986, the qualifying period of active practice for the purposes of section 31 of the Ordinance shall be the period of approved pupillage under these rules, which period may include any period spent as a pupil in the chambers of a practising barrister in England or Northern Ireland or of a practising member of the Faculty of Advocates in Scotland.

(L.N. 136 of 1986)

2A. Admission for particular cases: qualifying period of active practice

Where a person is admitted as a barrister for the purpose of any particular case or cases under section 27 of the Ordinance, the qualifying period of active practice for the purposes of section 31 of the Ordinance shall be a period of not less than 12 months of active practice as a barrister or advocate in any part of the Commonwealth after the date of that person's call to the Bar in England or Northern Ireland or his admission as an advocate in Scotland or, in the case of a person who, prior to his call to the Bar of England or Northern Ireland or admission as an advocate in Scotland, had been admitted as a barrister or advocate in any part of the Commonwealth, after the date of his being so admitted.

(L.N. 136 of 1986)

《大律師(資格)規則》(Cap. 159, 附屬法例 E), 第 9(4)條

Rule 9(4) of the Barristers (Qualification) Rules (Cap. 159 sub. leg. E)

E 6 第 159 章 大律師(資格)規則

[附屬法例]

(4) 為施行本條, “不當行為”(misconduct) 指如由一名執業大律師所犯即會被視為專業方面的不當行為的任何行為。

(1991 年第 387 號法律公告)

8. 上訴

(1) 任何人因高等法院首席法官或執委會根據本規則作出的命令或決定而感到受屈, 可針對該命令或決定而藉動議通知書向上訴法庭提出上訴。 (1986 年第 136 號法律公告; 2002 年第 23 號第 115 條)

(2) 動議通知書須述明上訴理由, 並須送達作為答辯人的執委會以及送達律政司司長。 (1997 年第 362 號法律公告)

(3) 在上訴法庭席前進行的聆訊中, 申請人、執委會及律政司司長均可由大律師作代表, 並可提出證據。 (1997 年第 362 號法律公告)

(4) 上訴法庭可確認、更改或推翻該命令或決定, 並可就訟費而作出其認為適當的命令。

(1975 年第 92 號第 59 條; 1991 年第 387 號法律公告; 1998 年第 25 號第 2 條)

9. 任實習大律師的規定

(1) 本規則所訂的認可實習大律師實習期為——

(a) 在一名在香港的執業大律師(具有不少於 5 年大律師資歷者)的辦事處不少於 1 年的期間; 或

(b) 在律政司不少於 9 個月的期間, 而該段期間可包括借調法律援助署的不超過 3 個月的期間, 只要他亦已在 (a) 段所述的辦事處服務不少於 3 個月的期間。 (1997 年第 362 號法律公告)

(2) 第 (1) 款所述的認可實習大律師實習期, 須扣減在香港獲認許為大律師的日期後任何不超過 1 個月在香港任法官的執行官的期間。 (1998 年第 25 號第 2 條)

(3) 任何人不得被視為已經歷本規則所訂的認可實習大律師實習期, 除非他已從收納他為實習大律師的各人取得證明書, 述明他已於該段期間努力任實習大律師, 並且是一名適合在香港執業為大律師的人。

(4) 如任何人在英格蘭或北愛爾蘭獲認許為執業大律師, 或在蘇格蘭獲認許為出庭代訟人, 或在所有使人有資格在香港獲認許為大律師的考試中考取合格, 則該人如此獲認許或如此考試合格後在律政司或在一名在香港的執業大律師(具有不少於 5 年

CAP. 159 Barristers (Qualification) Rules

[Subsidiary]

(4) For the purposes of this rule “misconduct” (不當行為) means any conduct which would be regarded as professional misconduct if committed by a practising barrister.

(L.N. 387 of 1991)

8. Appeals

(1) Any person who is aggrieved by an order or decision of the Chief Judge or the Bar Council under these rules may, by notice of motion, appeal to the Court of Appeal against the order or decision. (L.N. 136 of 1986; 23 of 2002 s. 115)

(2) The notice of motion shall state the grounds of the appeal and shall be served on the Bar Council as Respondents and on the Secretary for Justice. (L.N. 362 of 1997)

(3) At the hearing before the Court of Appeal the applicant, the Bar Council and the Secretary for Justice may be represented by counsel and adduce evidence. (L.N. 362 of 1997)

(4) The Court of Appeal may confirm, vary or quash the order or decision and make such order as it thinks fit.

(92 of 1975 s. 59; L.N. 387 of 1991)

9. Requirements of pupillage

(1) The period of approved pupillage under these rules shall be—

(a) a period of not less than 1 year in the chambers of a practising barrister (of not less than 5 years standing as a barrister) in Hong Kong; or

(b) a period of not less than 9 months in the Department of Justice, which may include a period not exceeding 3 months on secondment to the Legal Aid Department, so long as he has also spent a period of not less than 3 months in such service as is described in sub-paragraph (a). (11 of 1999 s. 3)

(2) The period of approved pupillage mentioned in paragraph (1) shall be reduced by any period not exceeding one month spent as a judge's marshal in Hong Kong after the date of admission as a barrister in Hong Kong.

(3) A person shall not be regarded as having undertaken the period of approved pupillage under these rules unless he has obtained from those of whom he has been a pupil certificates stating he has served his period of pupillage with diligence and that he is a suitable person to practise as a barrister in Hong Kong.

(4) Any period of work in the nature of pupillage undertaken in the Department of Justice or in the chambers of a practising barrister (of not less than 5 years standing as a barrister) in Hong Kong after being called to

《大律師(資格)規則》(Cap. 159, 附屬法例 E), 第 9(4)條

Rule 9(4) of the Barristers (Qualification) Rules (Cap. 159 sub. leg. E)

第 159 章 大律師(資格)規則

CAP. 159 Barristers (Qualification) Rules

E 7

[附屬法例]

[Subsidiary]

大律師資歷者)的辦事處所經歷的屬實習大律師性質的工作的任何期間,可由執委會酌情接納為本規則所規定的認可實習大律師實習期或其中部分。(1990年第101號法律公告;1997年第362號法律公告)

the Bar in England or Northern Ireland, being admitted as an advocate in Scotland or taking all the examinations the passing of which qualifies a person for admission as a barrister in Hong Kong may at the discretion of the Bar Council be accepted, if he is so called or admitted or if he passes those examinations, as a period of approved pupillage, or part thereof, as required by these rules. (L.N. 101 of 1990; 11 of 1999 s. 3)

(1986年第136號法律公告)

(L.N. 136 of 1986)

10. 實習大律師實習期的扣減

10. Reduction of pupillage

凡高等法院首席法官信納一名根據本條例第 27 條獲認許的大律師已有豐富的出庭代訟經驗,則可在諮詢執委會後,扣減第 9 條所述的認可實習大律師實習期:

The Chief Judge may, after consulting the Bar Council, reduce the period of approved pupillage mentioned in rule 9 where he is satisfied that a barrister admitted under section 27 of the Ordinance has substantial experience in advocacy in court:

但所規定的實習大律師實習期不得少於 3 個月。

Provided that the period of pupillage required to be served shall not be less than 3 months.

(1986年第136號法律公告;1990年第101號法律公告;1991年第387號法律公告;1998年第25號第2條;2002年第23號第116條)

(L.N. 136 of 1986; L.N. 101 of 1990; L.N. 387 of 1991; 23 of 2002 s. 116)

11. (由 1990 年第 101 號法律公告廢除)

11. (Repealed L.N. 101 of 1990)

12. 扣減或免除根據本條例第 27A 條獲認許的大律師的實習大律師實習期

12. Reduction of or dispensation with pupillage of a barrister admitted under section 27A

(1) 凡高等法院首席法官信納一名根據本條例第 27A 條獲認許的大律師已有豐富的出庭代訟經驗,則可在諮詢執委會及律政司司長後,扣減或免除第 9 條所述的認可實習大律師實習期。(1997年第362號法律公告)

(1) The Chief Judge may, after consulting the Bar Council and the Secretary for Justice, reduce or dispense with the period of approved pupillage mentioned in rule 9 where he is satisfied that a barrister admitted under section 27A of the Ordinance has substantial experience in advocacy in court. (L.N. 362 of 1997)

(2) 高等法院首席法官可使對認可實習大律師實習期的扣減或免除,受他所指明的條件所規限。

(2) The Chief Judge may make the reduction or dispensation of the period of approved pupillage subject to conditions that he may specify.

(1990年第101號法律公告;1990年第220號法律公告;1991年第387號法律公告;1998年第25號第2條;2002年第23號第117條)

(L.N. 101 of 1990; L.N. 220 of 1990; L.N. 387 of 1991; 23 of 2002 s. 117)

[附屬法例]

[Subsidiary]

第 V 部

PART V

一般條文

GENERAL

20. 豁免取消大律師資格的大律師
根據實習律師合約受僱

20. Exemption of disbarred barrister from
employment under a trainee
solicitor contract

(1) 任何人——

(1) Any person who has—

(a) 已在香港獲認許為大律師；

(a) been called to the Bar in Hong Kong;

(b) 自完成就本條例第 31 條而言的訂明實際執業的資格檢定期後(如適用的話), 在香港或(如律師會批准的話)其他地方從事大律師或出庭代訟人的執業(包括在政府的律政司、地政總署的法律諮詢及田土轉易處、破產管理署、公司註冊處、土地註冊處、法律援助署或知識產權署的上述執業)不少於 5 年的期間; (1992 年第 29 號法律公告; 1993 年第 8 號第 30 條; 1993 年第 291 號法律公告; 1994 年第 182 條法律公告; 1997 年第 362 號法律公告)

(b) been since the date of his completion of the prescribed qualifying period of active practice for the purposes of section 31 of the Ordinance, if applicable, engaged in the practice of a barrister or advocate (including such practice in the Department of Justice, Legal Advisory and Conveyancing Office of the Lands Department, Official Receiver's Office, Companies Registry, Land Registry, Legal Aid Department or Intellectual Property Department of the Government) in Hong Kong, or, if the Society approves, elsewhere for a period of not less than 5 years; (L.N. 29 of 1992; 8 of 1993 s. 30; L.N. 291 of 1993; L.N. 182 of 1994; L.N. 362 of 1997)

(c) 從執委會取得一份透明執委會並不知悉有任何理由為何他不應獲認許執業為律師的證明書; 及 (1995 年第 100 號法律公告)

(c) obtained from the Bar Council a certificate stating that it knows of no reason why he should not be admitted to practise as a solicitor; and (L.N. 100 of 1995)

(d) 為成為律師而已促使他本人取消大律師資格,

(d) procured himself to be disbarred with a view to becoming a solicitor,

須獲豁免, 無須根據實習律師合約而受僱。 (1968 年第 130 號法律公告; 1981 年第 44 號法律公告; 1992 年第 29 號法律公告; 1995 年第 100 號法律公告)

shall be exempted from employment under a trainee solicitor contract. (L.N. 130 of 1968; L.N. 44 of 1981; L.N. 29 of 1992; L.N. 100 of 1995)

(2) 任何第 (1) 款所提述的人在遵從本規則中適用於他的部分後, 並在律師會不時所決定的一項或多於一項考試中考取合格後, 即為合資格按照本條例第 (4)(1)(a) 條的條文獲認許。 (1981 年第 44 號法律公告; 1994 年第 182 號法律公告; 1994 年第 469 號法律公告)

(2) Any such person as is referred to in paragraph (1) upon complying with such part of these rules as is applicable to him and upon passing such examination or examinations as may from time to time be determined by the Society shall be qualified for admission in accordance with the provisions of section 4(1)(a) of the Ordinance. (L.N. 44 of 1981; L.N. 182 of 1994; L.N. 469 of 1994)

21. (由 1994 年第 182 號法律公告廢除)

21. (Repealed L.N. 182 of 1994)

22. 寬免的權力

22. Power of waiver

理事會可在個別情況下以書面寬免遵從本規則的任何條文(第 6 及 7 條條文除外), 但該寬免須受其施加的條件的規限。

The Council may, in a particular case, waive in writing any provision of these rules other than those of rules 6 and 7, subject to such conditions as it may impose.

(1994 年第 618 號法律公告)

(L.N. 618 of 1994)

S. 54(1), in paragraph (f)(ii) of the proviso, of the Criminal Procedure Ordinance (Cap. 221)

(4) 如公訴書被撤銷, 法庭可指示將被控人羈留扣押某段期間或直至某時間為止, 期間或時間按法庭所命令者而定, 或可指示准予被控人保釋外出, 並可命令被控人在同一時間或在該段期間內(視屬何情況而定)當被傳召時就另一公訴書作出答辯。(由 1911 年第 50 號修訂; 由 1912 年第 1 號附表修訂; 由 1990 年第 6 號第 4 條修訂)

(4) If the indictment is quashed, the court may direct the accused person to be detained in custody until such time or for such period as the court may order or to be released on bail, and may order him to plead to another indictment when called on at the same time or during that period, as the case may be. (Amended 50 of 1911; 1 of 1912 Schedule; 6 of 1990 s. 4)

證據

Evidence

54. 刑事案件中被控告的人的作證資格

54. Competence of person charged in criminal cases

(1) 每一名被控告(不論是單獨被控告或是與任何其他一人同被控告)某罪行的人, 均有資格在法律程序的每一階段作辯方的證人: (由 2003 年第 23 號第 3 條修訂)

(1) Every person charged with an offence, whether charged solely or jointly with any other person, shall be a competent witness for the defence at every stage of the proceedings: (Amended 23 of 2003 s. 3)

但須符合下列情況——

Provided as follows—

- (a) 除非被如此控告的人自己申請, 否則不得依據本條傳召他為證人;
- (b) 控方不得就被控告某罪行的人沒有提供證據一事作出任何評論; (由 2003 年第 23 號第 3 條修訂)
- (c)-(d) (由 2003 年第 23 號第 3 條廢除)
- (e) 被控告的人而同時依據本條為證人者, 在盤問中可被問及任何問題, 即使該問題可能會傾向於導致他就被控告的罪行入罪;
- (f) 被控告的人而同時依據本條被傳召為證人者, 不可被問及下述問題, 即傾向於顯示他已犯或已被控告當他被控告罪行以外的任何罪行或已就該罪行被定罪的問題, 或傾向於顯示其品格不良的問題, 如被問及, 亦不必回答, 除非——
 - (i) 證明他已犯該另一罪行或已就該另一罪行被定罪是可接納的證據, 以顯示他就當前所被控告的罪行是有罪的; 或
 - (ii) 他已親自或透過他的出庭代訟人向控方證人提問, 目的是證明他自己品格良好, 或已就他的良好品格提供證據, 或抗辯的性質或進行抗辯時涉及貶損檢控人或控方證人的品格; 或
 - (iii) 他已在同一法律程序中針對被控告的任何其他人而提供證據; (由 1981 年第 50 號第 2 條修訂)

- (a) a person so charged shall not be called as a witness in pursuance of this section except upon his own application;
- (b) the failure of any person charged with an offence to give evidence shall not be made the subject of any comment by the prosecution; (Amended 23 of 2003 s. 3)
- (c)-(d) (Repealed 23 of 2003 s. 3)
- (e) a person charged and being a witness in pursuance of this section may be asked any question in cross-examination notwithstanding that it would tend to criminate him as to the offence charged;
- (f) a person charged and called as a witness in pursuance of this section shall not be asked, and if asked shall not be required to answer, any question tending to show that he has committed or been convicted of or been charged with any offence other than that wherewith he is then charged, or is of bad character, unless—
 - (i) the proof that he has committed or been convicted of such other offence is admissible evidence to show that he is guilty of the offence wherewith he is then charged; or
 - (ii) he has personally or by his advocate asked questions of the witnesses for the prosecution with a view to establish his own good character, or has given evidence of his good character, or the nature or conduct of the defence is such as to involve imputations on the character of the prosecutor or the witnesses for the prosecution; or
 - (iii) he has given evidence against any other person charged in the same proceedings; (Amended 50 of 1981 s. 2)

《刑事案件法律援助規則》(第 221 章, 附屬法例 D), 第 21(1)(c)條

Rule 21(1)(c) of the Legal Aid in Criminal Cases Rules (Cap. 221 sub. leg. D)

第 221 章 刑事案件法律援助規則

CAP. 221 Legal Aid in Criminal Cases Rules

D 15

[附屬法例]

[Subsidiary]

- (ab) 根據上訴援助證書就來自區域法院向上訴法庭提出的上訴所指派的律師, 費用為 \$7,330, 如上訴沒有在開始聆訊的當天完結, 則就第二天及其後每天另收不少於 \$910 但不超過 \$4,760 的每日費用; (1991 年第 101 號法律公告; 1995 年第 119 號法律公告; 1997 年第 235 號法律公告; 1998 年第 25 號第 2 條; 2003 年第 174 號法律公告)
- (b) 根據法律援助證書就區域法院的法律程序所指派的律師, 費用為 \$4,840, 如審訊沒有在開始審訊的當天完結, 則就第二天及其後每天另收不少於 \$1,160 但不超過 \$2,900 的每日費用; (1973 年第 70 號法律公告; 1979 年第 289 號法律公告; 1987 年第 83 號法律公告; 1990 年第 87 號法律公告; 1991 年第 101 號法律公告; 1992 年第 351 號法律公告; 1994 年第 154 號法律公告; 1995 年第 119 號法律公告; 1997 年第 235 號法律公告; 1998 年第 25 號第 2 條; 2003 年第 174 號法律公告)
- (c) 根據法律援助證書就區域法院的法律程序, 被指派以出庭代訟人兼發出指示的律師的身分行事的律師, 費用不超過 \$16,800, 如審訊沒有在開始審訊的當天完結, 則就第二天及其後每天另收不超過 \$9,310 的每日費用; (1991 年第 101 號法律公告; 1992 年第 351 號法律公告; 1994 年第 154 號法律公告; 1995 年第 119 號法律公告; 1997 年第 235 號法律公告; 1998 年第 25 號第 2 條; 2003 年第 174 號法律公告)
- (d) 根據法律援助證書就原訟法庭的法律程序所指派的大律師, 費用不超過 \$20,410, 或如屬資深大律師, 則費用為署長覺得在有關情況下屬恰當的費用, 如審訊沒有在開始審訊的當天完結, 則就第二天及其後每天另收在有關情況下看來屬恰當的每日費用, 但每日費用不得超過根據本段准予的費用的一半; (1991 年第 101 號法律公告; 1992 年第 351 號法律公告; 1994 年第 154 號法律公告; 1995 年第 119 號法律公告; 1997 年第 235 號法律公告; 1997 年第 94 號第 20 條; 1998 年第 25 號第 2 條; 2003 年第 174 號法律公告)
- (da) 根據上訴援助證書就來自原訟法庭的向上訴法庭提出的上訴所指派的大律師, 費用不超過 \$27,210, 或如屬資深大律師, 則費用為署長覺得在有關情況下屬恰當的費用, 如上訴沒有在開始聆訊的當天完結, 則就第二天及其後每天另收在有關情況下看來屬恰當的每日費用, 但每日費用不得超過根據本段准予的費用的一半; (1991 年第 101 號法律公告; 1995 年第 119 號法律公告; 1997 年第 235 號法律公告; 1997 年第 94 號第 20 條; 1998 年第 25 號第 2 條; 2003 年第 174 號法律公告)

- (ab) to a solicitor assigned under an appeal aid certificate in respect of an appeal from the District Court to the Court of Appeal a fee of \$7,330 and additionally if the appeal is not concluded on the day on which it started, a daily fee of not less than \$910 and not exceeding \$4,760 in respect of the second and every subsequent day; (L.N. 101 of 1991; L.N. 119 of 1995; L.N. 235 of 1997; L.N. 174 of 2003)
- (b) to a solicitor assigned under a legal aid certificate in respect of proceedings in the District Court a fee of \$4,840; and additionally, if the trial is not concluded on the day on which it started, a daily fee of not less than \$1,160 and not exceeding \$2,900 in respect of the second and every subsequent day; (L.N. 70 of 1973; L.N. 289 of 1979; L.N. 83 of 1987; L.N. 87 of 1990; L.N. 101 of 1991; L.N. 351 of 1992; L.N. 154 of 1994; L.N. 119 of 1995; L.N. 235 of 1997; L.N. 174 of 2003)
- (c) to a solicitor assigned under a legal aid certificate to act as advocate as well as instructing solicitor in respect of proceedings in the District Court a fee not exceeding \$16,800 and additionally if the trial is not concluded on the day on which it started, a daily fee not exceeding \$9,310 in respect of the second and every subsequent day; (L.N. 101 of 1991; L.N. 351 of 1992; L.N. 154 of 1994; L.N. 119 of 1995; L.N. 235 of 1997; L.N. 174 of 2003)
- (d) to counsel assigned under a legal aid certificate in respect of proceedings in the Court of First Instance a fee not exceeding \$20,410 or in the case of Senior Counsel, such fee as appears to the Director to be proper in the circumstances and additionally if the trial is not concluded on the day on which it started, such daily fee not exceeding one half of the fee allowed under this sub-paragraph in respect of the second and every subsequent day as appears to be proper in the circumstances; (L.N. 101 of 1991; L.N. 351 of 1992; L.N. 154 of 1994; L.N. 119 of 1995; L.N. 235 of 1997; 94 of 1997 s. 20; 25 of 1998 s. 2; L.N. 174 of 2003)
- (da) to counsel assigned under an appeal aid certificate in respect of an appeal from the Court of First Instance to the Court of Appeal a fee not exceeding \$27,210 or in the case of Senior Counsel, such fee as appears to the Director to be proper in the circumstances and additionally if the appeal is not concluded on the day on which it started, such daily fee not exceeding one half of the fee allowed under this sub-paragraph in respect of the second and every subsequent day as appears to be proper in the circumstances; (L.N. 101 of 1991; L.N. 119 of 1995; L.N. 235 of 1997; 94 of 1997 s. 20; 25 of 1998 s. 2; L.N. 174 of 2003)

[附屬法例]

[Subsidiary]

- (j) (由 1993 年第 182 號法律公告廢除)
- (k) 根據第 13A 條獲轉交任何申請或事宜的大律師及律師, 費用為署長覺得在有關情況下屬恰當的費用; (1982 年第 122 號法律公告)
- (l) 根據法律援助證書就初級偵訊所指派以出庭代訟人身分行事的大律師及律師, 費用不超過 \$8,160, 如該偵訊沒有在開始偵訊的當天完結, 則就第二天及其後每天另收在有關情況下看來屬恰當的每日費用, 但每日費用不得超過根據本段准予的費用的一半; (1983 年第 48 號第 5 條; 1987 年第 83 號法律公告; 1992 年第 351 號法律公告; 1994 年第 154 號法律公告; 1995 年第 119 號法律公告; 1997 年第 235 號法律公告; 2003 年第 174 號法律公告)
- (m) 根據法律援助證書被指派就交付審判程序 (包括初級偵訊) 而向大律師發出指示的律師, 費用為 \$2,210, 如該等程序沒有在開始程序的當天完結, 則就第二天及其後每天另收在有關情況下看來屬恰當的每日費用, 但每日費用不得超過 \$1,810; (1983 年第 48 號第 5 條; 1987 年第 83 號法律公告; 1992 年第 351 號法律公告; 1994 年第 154 號法律公告; 1995 年第 119 號法律公告; 1997 年第 235 號法律公告; 2003 年第 174 號法律公告)
- (n) 根據法律援助證書被指派在交付審判程序 (非以初級偵訊的形式) 中以出庭代訟人身分行事的大律師或律師, 費用不超過 \$8,160, 如該等程序沒有在開始程序的當天完結, 則就第二天及其後每天另收在有關情況下看來屬恰當的每日費用, 但每日費用不得超過 \$4,080; (1983 年第 48 號第 5 條; 1987 年第 83 號法律公告; 1990 年第 87 號法律公告; 1992 年第 351 號法律公告; 1994 年第 154 號法律公告; 1995 年第 119 號法律公告; 1997 年第 235 號法律公告; 2003 年第 174 號法律公告)
- (o) 擬定上訴通知 (根據第 9(a) 條擬定的上訴理由除外) 的大律師或律師, 費用為署長覺得在有關情況下屬恰當的費用, 但費用不得超過 \$2,710; (1984 年第 204 號法律公告; 1987 年第 83 號法律公告; 1992 年第 351 號法律公告; 1994 年第 154 號法律公告; 1995 年第 119 號法律公告; 1997 年第 235 號法律公告; 2003 年第 174 號法律公告)
- (p) 對根據第 7(1A) 條聘用的律師, 費用為署長覺得在有關情況下屬恰當的費用。 (1986 年第 157 號法律公告)
- (2) 如審訊案件或聆訊上訴的法官, 認為案件或上訴異常費時或異常複雜, 則法官可核證情況如此, 而—— (1998 年第 25 號第 2 條)

- (j) (*Repealed L.N. 182 of 1993*)
- (k) to counsel and solicitors to whom an application or matter has been referred under rule 13A, such fees as appear to the Director to be proper in the circumstances; (*L.N. 122 of 1982*)
- (l) to counsel or a solicitor assigned under a legal aid certificate to act as advocate in respect of a preliminary inquiry, a fee not exceeding \$8,160 and additionally, if the inquiry is not concluded on the day on which it started, a daily fee not exceeding one half of the fee allowed under this sub-paragraph in respect of the second and every subsequent day as appears to be proper in the circumstances; (*48 of 1983 s. 5; L.N. 83 of 1987; L.N. 351 of 1992; L.N. 154 of 1994; L.N. 119 of 1995; L.N. 235 of 1997; L.N. 174 of 2003*)
- (m) to a solicitor assigned under a legal aid certificate to instruct counsel in respect of committal proceedings (including a preliminary inquiry), a fee of \$2,210 and additionally, if such proceedings are not concluded on the day on which they started, a daily fee not exceeding \$1,810 in respect of the second and every subsequent day as appears to be proper in the circumstances; (*48 of 1983 s. 5; L.N. 83 of 1987; L.N. 351 of 1992; L.N. 154 of 1994; L.N. 119 of 1995; L.N. 235 of 1997; L.N. 174 of 2003*)
- (n) to counsel or a solicitor assigned under a legal aid certificate to act as advocate in committal proceedings otherwise than by way of a preliminary inquiry, a fee not exceeding \$8,160 and additionally, if such proceedings are not concluded on the day on which they started, a daily fee not exceeding \$4,080 in respect of the second and every subsequent day as appears to be proper in the circumstances; (*48 of 1983 s. 5; L.N. 83 of 1987; L.N. 87 of 1990; L.N. 351 of 1992; L.N. 154 of 1994; L.N. 119 of 1995; L.N. 235 of 1997; L.N. 174 of 2003*)
- (o) to counsel or a solicitor settling a notice of appeal, other than grounds of appeal settled under rule 9(a), such fee not exceeding \$2,710 as appears to the Director to be proper in the circumstances; (*L.N. 204 of 1984; L.N. 83 of 1987; L.N. 351 of 1992; L.N. 154 of 1994; L.N. 119 of 1995; L.N. 235 of 1997; L.N. 174 of 2003*)
- (p) to any lawyer engaged under rule 7(1A), such fees as appear to the Director to be proper in the circumstances. (*L.N. 157 of 1986*)

(2) If in the opinion of a judge before whom a trial or appeal is heard the case is of exceptional length or complexity, the judge may so certify and thereupon—

14C. 暫委司法常務官等於委任終止時在已進行部分聆訊的案件中的權力

(1) 如在暫委司法常務官席前進行的任何法律程序的聆訊被押後, 或如暫委司法常務官在任何法律程序中押後宣告判決, 則即使該暫委司法常務官的委任期已屆滿或其委任已終止, 他仍有權恢復聆訊, 並就該等法律程序作出裁定或宣告判決。

(2) 第(1)款適用於暫委副司法常務官或暫委助理司法常務官, 一如其適用於暫委司法常務官。

(由 2000 年第 28 號第 10 條增補。由 2005 年第 10 號第 150 條修訂)

15. 出庭發言權

(1) 在區域法院的任何法律程序中, 以下的人可向法庭陳詞——

- (a) 法律程序的任何一方;
- (b) 有資格在高等法院執業並由任何一方聘用或代表任何一方而聘用的大律師; (由 1998 年第 25 號第 2 條修訂)
- (c) 有資格在高等法院執業並且是法律程序的任何一方在法律程序中一般性地代表該一方的律師, 但他須不是由作如此代表的律師聘用為出庭代訟人的律師; (由 1998 年第 25 號第 2 條修訂)
- (d) 稱區域法院的許可獲准代替法律程序的任何一方出庭的其他人。 (由 2000 年第 28 號第 11 條修訂)

(1A) 律師向法庭陳詞的權利不得僅因他受其他律師以常設職位獨家僱用而被摒除。 (由 2000 年第 28 號第 11 條增補)

(2) 除律師外, 任何人無權由於代表任何其他一方在區域法院的法律程序中出庭或作代表而獲得或追討任何費用或酬賞。 (由 2000 年第 28 號第 11 條修訂)

(2A) 大律師在區域法院出庭或作代表的權利, 或律師就聘用大律師出庭或作代表而追討費用的權利, 並不受本條例影響。 (由 2000 年第 28 號第 11 條增補)

(3) 在區域法院的刑事法律程序中, 獲律政司司長委任為公職檢控官的任何公職人員或任何類別的公職人員可全面代表律政司司長在區域法院席前進行任何檢控或指明類別的檢控, 或就任何個別案件進行檢控, 而經如此委任的公職檢控官可無須書面授權而就其負責的任何案件的任何法律程序在法官席前出庭。 (由 1997 年第 362 號法律公告修訂)

(由 1962 年第 21 號第 10 條代替。由 2000 年第 28 號第 48 條修訂)

14C. Powers of temporary registrars, etc. in case which is part-heard on termination of appointment

(1) If the hearing of any proceedings before a temporary registrar is adjourned or if he reserves judgment in any proceedings, the temporary registrar shall have power to resume the hearing and determine the proceedings or deliver judgment, notwithstanding that his appointment as a temporary registrar has expired or has been terminated.

(2) Subsection (1) shall apply to a temporary deputy registrar or temporary assistant registrar as it applies to a temporary registrar.

(Added 28 of 2000 s. 10. Amended 10 of 2005 s. 150)

15. Right of audience

(1) In any proceedings in the Court, any of the following persons may address the Court, namely—

- (a) any party to the proceedings;
- (b) a barrister qualified to practise in the High Court and retained by or on behalf of any party; (Amended 25 of 1998 s. 2)
- (c) a solicitor qualified to practise in the High Court and acting generally in the proceedings for a party thereto, but not a solicitor retained as an advocate by a solicitor so acting; (Amended 25 of 1998 s. 2)
- (d) any other person allowed by leave of the Court to appear instead of a party to the proceedings. (Amended 28 of 2000 s. 11)

(1A) The right of a solicitor to address the Court is not excluded by reason only of the fact that he is in the permanent and exclusive employment of any other solicitor. (Added 28 of 2000 s. 11)

(2) No person other than a solicitor shall be entitled to have or to recover any fee or reward for appearing or acting on behalf of any other party in any proceedings in the Court. (Amended 28 of 2000 s. 11)

(2A) The right of a barrister to appear or to act in the Court or of a solicitor to recover costs for the employment of a barrister to appear or to act is not affected by anything in this Ordinance. (Added 28 of 2000 s. 11)

(3) In criminal proceedings in the Court, any public officer or member of a class of public officers appointed by the Secretary for Justice to act as public prosecutor may conduct generally on behalf of the Secretary for Justice any prosecution or specified class of prosecutions or any particular case before the Court and any public prosecutor so appointed may, without any written authority, appear before a judge upon any proceedings in any case of which he is in charge. (Amended L.N. 362 of 1997)

(Replaced 21 of 1962 s. 10)

《區域法院規則》(第 336 章，附屬法例 H)，第 62 號命令第 1(1)條規則
Order 62, rule 1(1) of the Rules of the District Court (Cap. 336 sub. leg. H)

H 214 第 336 章 區域法院規則

[附屬法例]

- (5) 凡尋求提出的上訴是針對某法官或聆案官所作出的判決、命令或裁定，則在切實可行範圍內，要求批予上訴許可的申請，必須向該法官或聆案官提出。
- (6) 在上訴法庭所容許的個案中，要求批予上訴許可的申請，可直接向上訴法庭提出。
- (7) 在要求批予上訴許可的申請中，區域法院或上訴法庭(視屬何情況而定)可按其認為適合的關於訟費、繳存法院的款項、為繼續進行上訴須提供的保證或其他方面的條款而酌情批予上訴許可。
- (8) 凡有上訴許可根據第(4)款批予，上訴通知書必須在批予許可的日期後 7 天內，根據《高等法院規則》(第 4 章，附屬法例 A) 第 59 號命令第 3(5) 條規則送達。
- (9) 如屬來自本條例第 63(3) 條指明的命令的上訴，上訴通知書必須在區域法院的有關命令加蓋印章或以其他方式成為完備的日期起計的 14 天內，根據《高等法院規則》(第 4 章，附屬法例 A) 第 59 號命令第 3(5) 條規則送達。
- (10) 區域法院或上訴法庭可於任何時間將提出要求批予上訴許可的申請時限延展，即使提出要求批予上訴許可的申請時限已屆滿亦然。

3. 上訴不具有擱置法律程序的作用
(第 58 號命令第 3 條規則)

除區域法院另有指示外，在任何法律程序中根據本命令提出的上訴並不具有擱置該法律程序的作用。

第 62 號命令

訟費

導言

1. 釋義(第 62 號命令第 1 條規則)

- (1) 在本命令中——
- “非爭議事務”(non-contentious business) 指由律師以律師身分辦理的任何非屬爭議事務的事務；
- “爭議事務”(contentious business) 指不論以大律師、律師或出庭代訟人身分辦理的事務，而該事務是在區域法院席前開展的法律程序中辦理者，或是為該等法律程序辦理者；(2005 年第 10 號第 180 條)
- “區域法院”(the Court) 指區域法院或任何一名或多於一名區域法院法官，不論其是在法庭或內庭進行聆訊，並指司法常務官或聆案官；

CAP. 336 The Rules of the District Court

[Subsidiary]

- (5) So far as is practicable, every application for leave to appeal made to a judge or a master shall be made to the judge or the master against whose judgment, order or determination the appeal is sought.
- (6) In any case in which the Court of Appeal may so allow, any such application may be made direct to the Court of Appeal.
- (7) On any such application, the Court or the Court of Appeal, as the case may be, may in its discretion grant leave to appeal on such terms as to costs, payment of money into court, giving security for the prosecution of the appeal or otherwise as it may think fit.
- (8) Where leave to appeal is granted under paragraph (4), the notice of appeal must be served under Order 59, rule 3(5) of the Rules of the High Court (Cap. 4 sub. leg. A), not later than 7 days after the date when leave is granted.
- (9) In the case of an appeal from an order specified in section 63(3) of the Ordinance, the notice of appeal must be served under Order 59, rule 3(5) of the Rules of the High Court (Cap. 4 sub. leg. A), not later than 14 days from the date on which the order of the Court was sealed or otherwise perfected.
- (10) The Court or the Court of Appeal may, at any time, and notwithstanding that the time for an appeal or an application for leave to appeal may have already expired, extend the time for the appeal or for applying for leave to appeal.

3. Appeal not to operate as stay of proceedings (O. 58, r. 3)

Except so far as the Court may otherwise direct, an appeal under this Order shall not operate as a stay of the proceedings in which the appeal is brought.

ORDER 62

COSTS

PRELIMINARY

1. Interpretation (O. 62, r. 1)

- (1) In this Order—
- “certificate” (證明書) includes allocatur;
- “contentious business” (爭議事務) means any business done, whether as a barrister, solicitor or advocate, in or for the purpose of proceedings begun before the Court; (10 of 2005 s. 180)
- “costs” (訟費) includes fees, charges, disbursements, expenses and remuneration;
- “the Court” (區域法院) means the District Court or any one or more judges thereof, whether sitting in court or in chambers, the Registrar or master;

《1997 年法律服務立法(雜項修訂)條例》(1997 年第 94 號), 附表 2 第 2(1)(b)條

S. 2(1)(b) of Schedule 2 to the Legal Services Legislation (Miscellaneous Amendments) Ordinance 1997 (94 of 1997)

A3704	Ord. No. 94 of 1997	LEGAL SERVICES LEGISLATION (MISCELLANEOUS AMENDMENTS)	法律服務立法(雜項修訂)條例	1997 年第 94 號條例	A3705
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Item	Provision affected	Amendment	項	受影響的條文	修訂
124.	Schedule 2, section 11	Repeal.	124.	附表 2, 第 11 條	廢除。

SCHEDULE 2 [ss. 1 & 2]
SAVINGS AND TRANSITIONAL PROVISIONS

附表 2 [第 1 及 21 條]
保留及過渡性條文

1. Constitution of Costs Committee

(1) The amendments made by section 9 of this Ordinance do not affect the approval or nomination of a person in accordance with section 74 of the Legal Practitioners Ordinance (Cap. 159) (as in force immediately before the commencement of those amendments).

(2) The Costs Committee (as reconstituted after the commencement of section 9 of this Ordinance) may, subject to and in accordance with the Legal Practitioners Ordinance (Cap. 159) continue with any matter that was pending before the Committee immediately before that commencement.

2. Status of existing Queen's Counsel

(1) This section applies to—

(a) a barrister of the Supreme Court of Hong Kong who, immediately before the commencement of this section, is holding an appointment as a Queen's Counsel in Hong Kong; and

(b) a barrister called to the bar in England or Northern Ireland, or an advocate admitted in Scotland, who, immediately before that commencement—

(i) is holding an appointment as a Queen's Counsel in the United Kingdom; and

(ii) is admitted as a barrister of the Supreme Court of Hong Kong otherwise than for the purpose of appearing in a specific legal proceeding.

(2) A barrister to whom this section applies is, on the commencement of this section, taken to have been appointed as a Senior Counsel under section 31A of the Legal Practitioners Ordinance (Cap. 159) with the same precedence as the barrister would have had if—

(a) the barrister had been appointed under that section as a Senior Counsel on the date when the barrister was appointed as a Queen's Counsel; and

(b) that section had been in force on that date.

(3) Nothing in this section or section 31A of the Legal Practitioners Ordinance (Cap. 159)—

(a) affects the appointment, before the commencement of this section, of a barrister as a Queen's Counsel in Hong Kong; or

(b) precludes a barrister from being appointed as a Queen's Counsel in Hong Kong after that commencement but before 1 July 1997.

3. Barristers Disciplinary Tribunal Panel

The substitution of section 34(1) of the Legal Practitioners Ordinance (Cap. 159) by section 8 of this Ordinance does not affect the appointment of any person who was, immediately before the commencement of the last-mentioned section, holding office as a member of the Barristers Disciplinary Tribunal Panel.

4. Vendors' costs in respect of agreements for sale and purchase of certain interests in land

Section 34A of the Conveyancing and Property Ordinance (Cap. 219) does not apply to an agreement for the sale and purchase of undivided shares in land if the agreement was entered into before the commencement of that section.

1. 事務費委員會的組成

(1) 本條例第 9 條作出的修訂並不影響按照(在緊接該等修訂生效前有效的)《法律執業者條例》(第 159 章)第 74 條就任何人作出的批准或提名。

(2) 在本條例第 9 條生效之後重組的事務費委員會, 在符合和按照《法律執業者條例》(第 159 章)的規定下, 可繼續處理在緊接該條生效前在該委員會屆前待決的任何事宜。

2. 現有御用大律師的地位

(1) 本條適用於——

(a) 在緊接本條生效前已在香港獲委任為御用大律師的香港最高法院的大律師; 及

(b) 在英格蘭或北愛爾蘭獲認許為大律師的大律師或在蘇格蘭獲認許的出庭代訟人, 而該大律師或出庭代訟人在緊接本條生效前——

(i) 已在聯合王國獲委任為御用大律師; 及

(ii) 已獲認許為香港最高法院的大律師(但如為了在特定法律程序中代表出庭而獲認許為香港最高法院的大律師則屬例外)。

(2) 在本條生效後, 本條適用的任何大律師被視為已根據《法律執業者條例》(第 159 章)第 31A 條獲委任為資深大律師, 並保有相同的排名次序, 猶如——

(a) 該大律師已根據該條在其獲委任為御用大律師的日期獲委任為資深大律師; 及

(b) 該條在該日期已生效。

(3) 本條或《法律執業者條例》(第 159 章)第 31A 條並不——

(a) 影響在本條生效日期前在香港委任大律師為御用大律師; 或

(b) 阻止大律師在該生效日期後但在 1997 年 7 月 1 日前在香港獲委任為御用大律師。

3. 大律師紀律審裁團

本條例第 8 條對《法律執業者條例》(第 159 章)第 34(1)條作出的取代並不影響在緊接本條例第 8 條生效前正在擔任大律師紀律審裁團成員的任何人的委任。

4. 賣方就某些土地權益的買賣協議而須付的費用

如土地的不分割份數的買賣協議是在《物業轉易及財產條例》(第 219 章)第 34A 條生效前訂立的, 則該條不適用於該協議。

《業主與租客(綜合)條例》(第 7 章), 第 4(5)條

S.4(5) of the Landlord and Tenant (Consolidation) Ordinance (Cap. 7)

第 7 章 業主與租客(綜合)條例

CAP. 7 Landlord and Tenant (Consolidation)

13

(2) 審裁處可按照本條作出命令, 豁除某一處所使其不再屬本部適用範圍。
(由 1981 年第 76 號第 4 條代替)

(3) 根據第 (1) 款作出的命令, 須在憲報公布, 而有關處所的租客, 須當作按緊接命令公布之前的應繳租金租用, 並享有原租賃合約所規定須給予的遷出通知的權利, 或如已獲給予遷出通知, 而該通知已期滿, 則享有須給予 1 個月通知的權利, 在命令公布月份的下一個公曆月終結時期滿: (由 1981 年第 76 號第 4 條修訂)

但即使在命令公布之前已給予通知, 此處所載一切, 均不使業主有權在通知期滿前收回管有。(由 1968 年第 40 號第 3 條增補)

(3A) 根據第 (2) 款作出命令時, 有關處所的租客, 須當作按緊接命令作出之前的應繳租金租用, 並享有原租賃合約所規定須給予的遷出通知的權利, 或如已獲給予遷出通知, 而該通知已期滿, 則享有須給予的 1 個月通知的權利, 在命令作出月份的下一個公曆月的終結時期滿:

但即使在命令作出之前已給予通知, 此處所載一切, 均不使業主有權在通知期滿前收回管有。(由 1983 年第 29 號第 3 條增補)

(4) 任何業主或租客, 如意欲根據第 (2) 款取得審裁處命令, 須將有關申請的訂明格式的通知書送達其直接租客或業主(即對方), 並須將通知書張貼在與申請有關的處所的入口顯眼處。通知書的送達與張貼事項, 須以訂明格式的誓章證明, 而誓章須提交審裁處登記處。(由 1955 年第 30 號第 5 條修訂; 由 1961 年第 56 號第 2 條修訂; 由 1968 年第 40 號第 3 條修訂; 由 1981 年第 76 號第 4 條修訂)

(5) 根據第 (4) 款獲送達通知書的人以外, 任何人反對該項申請, 須在該項申請的通知書如上述張貼後的 14 天內, 將訂明格式的書面通知交給審裁處司法常務官, 述明其所涉的利害關係, 並述明擬向審裁處作出書面陳述抑或擬親自出席或由他的代理人出席該項申請的聆訊。(由 1981 年第 76 號第 4 條修訂)

(6) (由 1981 年第 76 號第 4 條廢除)

(2) The Tribunal may, in accordance with this section, make an order excluding any particular premises from the further application of this Part.
(Replaced 76 of 1981 s. 4)

(3) Every order made under subsection (1) shall be published in the Gazette whereupon the tenant of any such premises shall be deemed to be holding at the rent payable immediately before the publication of such order and shall be entitled to such notice to quit as would have been required under the original contract of tenancy, or, if such notice has already been given and has expired, then to 1 month's notice expiring at the end of the calendar month next after the month in which such order was published: (Amended 76 of 1981 s. 4)

Provided that in the event of any notice having been given prior to such order being published nothing herein contained shall entitle a landlord to recover possession prior to the expiration of such notice. (Added 40 of 1968 s. 3)

(3A) Upon the making of an order under subsection (2) the tenant of any such premises shall be deemed to be holding at the rent payable immediately before the making of the order and shall be entitled to such notice to quit as would have been required under the original contract of tenancy or, if such notice has already been given and has expired, then to 1 month's notice expiring at the end of the calendar month next after the month in which such order was made:

Provided that in the event of any notice having been given prior to such order being made nothing herein contained shall entitle a landlord to recover possession prior to the expiration of such notice. (Added 29 of 1983 s. 3)

(4) Any landlord or tenant desiring to obtain an order of the Tribunal under subsection (2) shall serve notice thereof on his immediate tenant or landlord as the case may be in the prescribed form and shall also post such notice in a conspicuous place at the entrance to the premises to which the application relates. Such service and posting shall be verified by affidavit in the prescribed form which shall be lodged in the registry of the Tribunal. (Amended 30 of 1955 s. 5; 56 of 1961 s. 2; 40 of 1968 s. 3; 76 of 1981 s. 4)

(5) Any party other than the person served under subsection (4) who opposes the application shall within 14 days of such notice having been posted as aforesaid give notice in writing to the registrar of the Tribunal in the prescribed form stating his interest in the matter and whether he wishes to make written representations to the Tribunal or whether he wishes to appear by himself or by his advocate on the hearing of the application. (Amended 76 of 1981 s. 4)

(6) (Repealed 76 of 1981 s. 4)

〈裁判官條例〉(第 227 章), 第 2 條
S. 2 of the Magistrates Ordinance (Cap. 227)

8 第 227 章 裁判官條例

CAP. 227 Magistrates

第 227 章

CHAPTER 227

裁判官條例

MAGISTRATES

本條例旨在就裁判官處理可循簡易程序定罪而判罰的罪行、移交控罪至區域法院審理及被控可公訴罪行的被控人的交付審判的司法管轄權及程序和常規, 以及為其他目的而訂定條文。

(由 1998 年第 25 號第 2 條修訂)

[1933 年 1 月 1 日]

To provide for the jurisdiction of magistrates and the procedure and practice before magistrates in relation to offences punishable on summary conviction, the transfer of charges to the District Court and the committal of persons charged with indictable offences and for other purposes.

[1 January 1933]

1. 簡稱

本條例可引稱為《裁判官條例》。

1. Short title

This Ordinance may be cited as the Magistrates Ordinance.

導言

PRELIMINARY

2. 釋義

在本條例中, 除文意另有所指外——

“一方”(party) 包括特區以及第 105 或 113 條所指的受屈的人; (由 1998 年第 25 號第 2 條修訂; 由 1999 年第 59 號第 3 條修訂)

“上訴人”(appellant) 指根據第 VII 部對裁判官的決定提出上訴的一方;

“公訴”(indictment) 包括在法院或法庭上的告發; (由 1998 年第 25 號第 2 條修訂)

“可公訴罪行”(indictable offence) 指裁判官獲授權或有權力或必須將被控人押交監獄以待法院或法庭審訊的刑事罪或罪行; (由 1998 年第 25 號第 2 條修訂)

“代表律師”(counsel) 指在香港任何法院或法庭有出庭發言權的大律師、代理人或律師; (由 1994 年第 59 號第 6 條修訂; 由 1998 年第 25 號第 2 條修訂)

“司法常務官”(Registrar) 指高等法院司法常務官; (由 1998 年第 25 號第 2 條修訂)

“民事債項”(civil debt) 指在裁判官席前循告發以外途徑可予追討的任何聲稱須付的款項; (由 1969 年第 35 號附表代替)

2. Interpretation

In this Ordinance, unless the context otherwise requires—

“appellant”(上訴人) means the party appealing under Part VII from a decision of a magistrate;

“civil debt”(民事債項) means any sum of money claimed to be due which is recoverable before a magistrate otherwise than on information; (Replaced 35 of 1969 Schedule)

“counsel”(代表律師) means any barrister, advocate or solicitor having the right of audience before any court in Hong Kong; (Amended 59 of 1994 s. 6)

“deputy magistrate”(暫委裁判官) means a deputy magistrate appointed under section 5A; (Added 21 of 1999 s. 12)

“District Court”(區域法院) means the District Court of Hong Kong established by the District Court Ordinance (Cap. 336); (Added 2 of 1953 s. 2. Amended 25 of 1998 s. 2)

《國際組織及外交特權條例》(第 190 章)，第 4(1)條

S. 4(1) of the International Organizations and Diplomatic Privileges Ordinance (Cap. 190)

第 190 章 國際組織及外交特權條例

CAP. 190 International Organizations and Diplomatic Privileges

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(b) 每當覺得有任何人停止或開始有資格享有上述豁免權時，可修訂該名單，並安排將一份修訂公告，或如行政長官認為適當，安排將一份修訂名單，以前述方式刊登，

而為施行與委派往中華人民共和國政府的外國公使及其隨員的豁免權有關的任何成文法則及法律規則或慣例，當其時包括在名單內的每名外國代表，均須視為猶如他是上述公使一樣，而為施行上述成文法則及法律規則或慣例，當其時包括在名單內的外國代表的官方職員，亦須視為猶如他們是其隨員一樣。(由 1999 年第 81 號第 3 條修訂)

(2) 根據第(1)款就任何會議刊登的每份名單或公告，須述明該名單或修訂生效或已生效的日期；而某人在某時間是否包括或已包括在作為參加會議的代表或作為上述代表的官方職員而有資格享有外交豁免權的人當中的事實，如上述的人的名單已如此刊登，則可藉交出載有該名單的憲報，或(視屬何情況而定)交出在該時間前已生效的最後一份名單，連同載有在該時間前已生效的修訂公告的憲報(如有的話)，並藉指出該人的姓名在該時間是否包括或已包括在該名單內，而獲不可推翻地證明。

4. 聯合國國際法院的法官及
訴訟人的豁免權及特權

(1) 行政長官可藉憲報公告，向國際法院的法官及書記官長，及向該法院的訴訟人、其代理人、代表律師及代訟人授予豁免權、特權及方便，以執行聯合國大會的決議或聯合國大會所批准的公約。(由 1999 年第 81 號第 3 條修訂)

(2) 在本條中，“國際法院”(the International Court)一詞指根據聯合國憲章成立的聯合國國際法院。

(由 1951 年第 3 號第 3 條代替)

5. 對等待遇

前述條文不得解釋為阻止行政長官以某國沒有給予中國國民或代表相應的豁免權或特權為理由，拒絕給予該國國民或代表豁免權或特權，或撤回他們的豁免權或特權。

(由 1999 年第 81 號第 3 條修訂)

(b) whenever it appears to the Chief Executive that any person ceases or begins to be entitled to such immunities, amend the list and cause a notification of amendment or, if he thinks fit, an amended list, to be published as aforesaid,

and every representative of a foreign power who is for the time being included in the list shall, for the purposes of any enactment and rule of law or custom relating to the immunities of an envoy of a foreign power accredited to the Government of the People's Republic of China, and of the retinue of such an envoy, be treated as if he were such an envoy, and such of the members of his official staff as are for the time being included in the list shall be treated for the purpose aforesaid as if they were his retinue. (Amended 81 of 1999 s. 3)

(2) Every list or notification published under subsection (1) in relation to any conference shall include a statement of the date from which the list or amendment takes or took effect; and the fact that any person is or was included or not included at any time among the persons entitled to diplomatic immunities as representatives attending the conference or as members of the official staff of any such representative may, if a list of those persons has been so published, be conclusively proved by producing the Gazette containing the list or, as the case may be, the last list taking effect before that time, together with the Gazette (if any) containing notices of the amendments taking effect before that time, and by showing that the name of that person is or was at that time included or not included in the said list.

4. Immunities and privileges of judges of and suitors
to, the International Court of Justice

(1) The Chief Executive may, by notification in the Gazette, confer on judges and registrars of the International Court, and on suitors to that Court, and their agents, counsel and advocates, such immunities, privileges and facilities as may be required to give effect to any resolution of, or convention approved by, the General Assembly of the United Nations. (Amended 81 of 1999 s. 3)

(2) In this section, the expression "the International Court" (國際法院) means the International Court of Justice set up under the Charter of the United Nations.

(Replaced 3 of 1951 s. 3)

5. Reciprocal treatment

Nothing in the foregoing provisions shall be construed as precluding the Chief Executive from declining to accord immunities or privileges to, or from withdrawing immunities or privileges from, nationals or representatives of any power on the ground that that power is failing to accord corresponding immunities or privileges to Chinese nationals or representatives.

(Amended 81 of 1999 s. 3)

[附屬法例]

[Subsidiary]

院進行與該事務相關的聆訊地點的旅途中, 享有被起訴及法律程序的豁免權、住所的不容侵犯權及(除非他們是中國公民而其慣常居所是在香港)稅項的免繳權或寬免, 與給予外地主權國委派往中華人民共和國政府的公使的相似。

(1982 年第 80 號第 3 條; 1999 年第 81 號第 3 條)

Justice (including any officer of the Court acting as Registrar) shall, when engaged on the business of the Court and during any journey to and from the place where the Court is sitting in connexion with such business, enjoy the like immunity from suit and legal process, the like inviolability of residence and also unless they are Chinese nationals whose usual place of abode is in Hong Kong, the like exemption or relief from taxes as is accorded to an envoy of a foreign sovereign power accredited to the Government of the People's Republic of China.

(80 of 1982 s. 3; 81 of 1999 s. 3)

14. 聯合國國際法院的法官及書記官長享有就其作為法官或書記官長而收取的薪酬方面的入息稅免繳權。

14. The judges and Registrar of the International Court of Justice shall enjoy exemption from income tax in respect of all emoluments received by them as judges or Registrar.

15. 除在法院席前各方的代理人、代表律師及代訟人在法院席前所代表的政府在個別個案中放棄其特權或豁免權外, 該等代理人、代表律師及代訟人——

15. Except in so far as in any particular case any privilege or immunity is waived by the government whom they represent before the Court, the agents, counsel and advocates of parties before the Court shall enjoy—

- (a) 在法院席前從事其任務時, 以及在其往返法院進行與該任務相關的聆訊地點的旅途中, 享有個人被逮捕或扣留及其私人行李被檢取的豁免權, 以及一切文牘及文件的不容侵犯權;
- (b) 享有就其以上述身分所說的話或所寫的文字及所作出的一切作為方面的各種法律程序的豁免權;
- (c) 在法院席前從事其任務時, 以及在其往返法院進行與該任務相關的聆訊地點的旅途中, 享有稅項的免繳權或寬免, 與給予外地主權國委派往中華人民共和國政府的公使的相似, 但所容許的寬免不包括海關關稅的寬免(就作為其私人行李輸入的貨品方面的海關關稅除外)。凡某形式的稅項的負擔取決於居住地時, 該等代理人、代表律師及代訟人於身在香港的任何期間, 如正在行使其職能或在往返會議地點的旅途中, 均不當作在香港居住。本段的條文不適用於慣常居所是在香港的中國公民。
(1982 年第 80 號第 3 條; 1999 年第 81 號第 3 條)

- (a) when engaged on their missions before the Court and during their journeys to and from the place where the Court is sitting in connexion with such missions, immunity from personal arrest or detention and from seizure of their personal baggage and inviolability for all papers and documents;
- (b) immunity from legal process of every kind in respect of words spoken or written and all acts done by them in this capacity;
- (c) when engaged on their missions before the Court and during their journeys to and from the place where the Court is sitting in connexion with such mission, the like exemption or relief from taxes as is accorded to an envoy of a foreign sovereign power accredited to the Government of the People's Republic of China, save that the relief allowed shall not include relief from customs or excise duties except in respect of goods imported as part of their personal baggage. They shall not, where incidence of any form of tax depends upon residence, be deemed to be resident in Hong Kong during any period when they are present in Hong Kong while exercising these functions or during their journey to and from the place of meeting. The provisions of this paragraph shall not apply to a Chinese national whose usual place of abode is in Hong Kong. (80 of 1982 s. 3)

本條的條文不適用於代表在香港的中央人民政府行事的任何代理人、代表律師或代訟人, 或代表任何其他政府行事的中國公民。(1982 年第 80 號第 3 條; 1999 年第 81 號第 3 條)

The provisions of this Article do not apply to any agents, counsel or advocates acting on behalf of the Central People's Government in Hong Kong or to any Chinese nationals acting on behalf of any other Government. (80 of 1982 s. 3; 81 of 1999 s. 3)

《1995 年服務提供(隱含條款)(豁免)令》(第 457 章, 附屬法例 A), 第 1 條

S. 1 of the Supply of Services (Implied Terms) (Exclusion) Order 1995 (Cap. 457 sub. leg. A)

第 457 章 1995 年服務提供(隱含條款)(豁免)令

CAP. 457 *Supply of Services (Implied Terms)*
(Exclusion) Order 1995

A 1

[附屬法例]

[Subsidiary]

1995 年服務提供(隱含條款)(豁免)令

**SUPPLY OF SERVICES (IMPLIED TERMS)
(EXCLUSION) ORDER 1995**

(第 457 章第 3(3) 條)

(Cap. 457, section 3(3))

[1995 年 6 月 16 日]

[16 June 1995]

1. 豁免

本條例第 5 條不適用於——

- (a) 任何出庭代有人在法庭或在任何審裁處、研訊或仲裁人席前及在執行直接影響有關聆訊的進行的任何初步工作時所作的服務；
- (b) 任何公司的董事以其董事身分向該公司所提供的服務。

1. Exclusion

Section 5 of the Ordinance shall not apply to—

- (a) the services of an advocate in court or before any tribunal, inquiry or arbitrator and in carrying out any preliminary work directly affecting the conduct of the hearing;
- (b) the services rendered to a company by a director of the company in his capacity as such.

《法律執業者條例》(第 159 章), 第 27(4)(b)條

S. 27(4)(b) of the Legal Practitioners Ordinance (Cap. 159)

第 159 章 法律執業者條例

CAP. 159 Legal Practitioners

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(3) 如有關的人在根據第(1)款獲認許時是一名律師,則司法常務官須將該人的姓名從律師登記冊上刪除。

(4) 即使某人並不全部符合第(1)及(2)(b)款指明的規定,但如法院認為該人是適當作為大律師的人,且信納該人——

(a) 具有在香港以外地方取得從事某些工作的資格,而該等工作假若是在香港承辦,會與一名大律師作為高等法院或終審法院的大律師的日常執業過程中所承辦的工作類似;以及

(b) 具有豐富的出庭代訟的經驗,

則法院可根據本條就任何一宗或多於一宗個別案件而認許該人為大律師,並可對該人施加法院認為適合的限制及條件。

(5) 法院在認許大律師時,可在內庭開庭。

(由 2000 年第 42 號第 7 條代替)

27A. (由 2000 年第 42 號第 8 條廢除)

28. 認許大律師的正式手續

除終審法院首席法官另有訂明者外,任何人除非已將文件證據連同一份顯示他以何種方式符合第 27(1)及(2)條指明的規定的誓章交予司法常務官存放,否則不得獲認許為大律師。

(由 2000 年第 42 號第 9 條代替)

29. 大律師登記冊

(1) 司法常務官須備存一份獲法院根據第 27 及 27A 條認許的所有大律師的登記冊,須保管該份大律師登記冊及與之有關的所有文件,並須容許任何人在辦公時間內免費查閱該份大律師登記冊。(由 1992 年第 61 號第 15 條修訂)

(2) 由一名法官所簽署的認許證書一經出示,以及在由終審法院首席法官所訂明的費用繳付予司法常務官後,司法常務官須將該名經登記的人的姓名列入大律師登記冊。(由 1994 年第 60 號第 31 條修訂;由 1998 年第 25 號第 2 條修訂)

(2A) 依據第 27(1)或 27A 條獲認許的大律師——

(a) 可藉動議提出申請,要求將其姓名從大律師登記冊上刪除;及

(3) If at the time of his admission under subsection (1) the person is a solicitor, the Registrar shall remove the person's name from the roll of solicitors.

(4) Notwithstanding that a person does not satisfy all the requirements specified in subsections (1) and (2)(b), where the Court considers that he is a fit and proper person to be a barrister and is satisfied that he has—

(a) the qualification acquired outside Hong Kong to engage in work that would, if undertaken in Hong Kong, be similar to that undertaken by a barrister in the course of ordinary practice as a barrister in the High Court or Court of Final Appeal; and

(b) substantial experience in advocacy in a court,

the Court may admit such person as a barrister under this section for the purpose of any particular case or cases and may impose such restrictions and conditions on him as it may see fit.

(5) The Court may, when admitting a person as a barrister, sit in chambers.

(Replaced 42 of 2000 s. 7)

27A. (Repealed 42 of 2000 s. 8)

28. Formalities for admission as a barrister

Except as may be prescribed by the Chief Justice, no person shall be admitted as a barrister unless he has deposited with the Registrar documentary evidence together with an affidavit showing the manner in which he satisfies the requirements specified in section 27(1) and (2).

(Replaced 42 of 2000 s. 9)

29. Roll of barristers

(1) The Registrar shall keep a roll of all barristers admitted by the Court under sections 27 and 27A and shall have custody of the roll of barristers and of all documents relating thereto and shall allow any person to inspect the roll of barristers during office hours without payment. (Amended 61 of 1992 s. 15)

(2) The Registrar, upon production of a certificate of admission signed by a judge and upon payment to the Registrar of such fee as may be prescribed by the Chief Justice, shall enter upon the roll of barristers the name of the person enrolled. (Amended 60 of 1994 s. 31)

(2A) A barrister who was admitted pursuant to section 27(1) or section 27A may—

(a) apply by motion to have his name removed from the roll of barristers; and

《大律師(資格)規則》(第 159 章, 附屬法例 E), 第 10 及 12(1)條

Rules 10 and 12(1) of the Barristers (Qualification) Rules (Cap. 159 sub. leg. E)

第 159 章 大律師(資格)規則

CAP. 159 Barristers (Qualification) Rules

E 7

[附屬法例]

[Subsidiary]

大律師(資歷者)的辦事處所經歷的屬實習大律師性質的工作的任何期間,可由執委會酌情接納為本規則所規定的認可實習大律師實習期或其中部分。(1990 年第 101 號法律公告; 1997 年第 362 號法律公告)

(1986 年第 136 號法律公告)

the Bar in England or Northern Ireland, being admitted as an advocate in Scotland or taking all the examinations the passing of which qualifies a person for admission as a barrister in Hong Kong may at the discretion of the Bar Council be accepted, if he is so called or admitted or if he passes those examinations, as a period of approved pupillage, or part thereof, as required by these rules. (L.N. 101 of 1990; 11 of 1999 s. 3)

(L.N. 136 of 1986)

10. 實習大律師實習期的扣減

10. Reduction of pupillage

凡高等法院首席法官信納一名根據本條例第 27 條獲認許的大律師已有豐富的出庭代訟經驗,則可在諮詢執委會後,扣減第 9 條所述的認可實習大律師實習期:

但所規定的實習大律師實習期不得少於 3 個月。

(1986 年第 136 號法律公告; 1990 年第 101 號法律公告; 1991 年第 387 號法律公告; 1998 年第 25 號第 2 條; 2002 年第 23 號第 116 條)

The Chief Judge may, after consulting the Bar Council, reduce the period of approved pupillage mentioned in rule 9 where he is satisfied that a barrister admitted under section 27 of the Ordinance has substantial experience in advocacy in court:

Provided that the period of pupillage required to be served shall not be less than 3 months.

(L.N. 136 of 1986; L.N. 101 of 1990; L.N. 387 of 1991; 23 of 2002 s. 116)

11. (由 1990 年第 101 號法律公告廢除)

11. (Repealed L.N. 101 of 1990)

12. 扣減或免除根據本條例第 27A 條獲認許的大律師的實習大律師實習期

12. Reduction of or dispensation with pupillage of a barrister admitted under section 27A

(1) 凡高等法院首席法官信納一名根據本條例第 27A 條獲認許的大律師已有豐富的出庭代訟經驗,則可在諮詢執委會及律政司司長後,扣減或免除第 9 條所述的認可實習大律師實習期。(1997 年第 362 號法律公告)

(2) 高等法院首席法官可使對認可實習大律師實習期的扣減或免除,受他所指明的條件所規限。

(1990 年第 101 號法律公告; 1990 年第 220 號法律公告; 1991 年第 387 號法律公告; 1998 年第 25 號第 2 條; 2002 年第 23 號第 117 條)

(1) The Chief Judge may, after consulting the Bar Council and the Secretary for Justice, reduce or dispense with the period of approved pupillage mentioned in rule 9 where he is satisfied that a barrister admitted under section 27A of the Ordinance has substantial experience in advocacy in court. (L.N. 362 of 1997)

(2) The Chief Judge may make the reduction or dispensation of the period of approved pupillage subject to conditions that he may specify.

(L.N. 101 of 1990; L.N. 220 of 1990; L.N. 387 of 1991; 23 of 2002 s. 117)

《認許及註冊規則》(Cap. 159, 附屬法例 B), 附表, 表格 4 的聲明的(a)部第 7(7)段

Paragraph 7(7) in part (a) of the declaration in Form 4 in the Schedule to the Admission and Registration Rules (Cap. 159 sub. leg. B)

B 12 第 159 章 認許及註冊規則

CAP. 159 Admission and Registration Rules

[附屬法例]

[Subsidiary]

本人已在至少 7 年中每年至少有 180 天在香港。
本人各段居住期間的詳細資料在附載於本申請表的“附表 1”內列出。
以“ ”為標記所夾附的文件是本人護照的經核證副本。

2. 本人根據一份實習律師合約從 至 的期間由導師僱用(即“實習律師合約”)。
3. 除第 4 及 5 段所示者外 * / 本人曾實際上、完全而真誠地由導師僱用為實習律師。
4. 除附載於本申請表的“附表 2”所述者外 * / 本人除受僱於導師外並沒有出任任何職位或從事任何受僱工作。
5. 本人曾於附載於本申請表的“附表 3”的第 1 欄所述的一段或多於一段的期間內, 為了在第 3 欄所列出的理由而在導師的辦事處缺勤*。
6. 本人已遵從《實習律師規則》(第 159 章, 附屬法例 J) 第 7 條關於在考試中考取合格的規定。
7. 本人確認本人最近的實習律師合約是在 1998 年 9 月 1 日之前訂立的, 而在受僱為實習律師期間, 本人在導師的辦事處曾學習與律師的執業及專業有關的基本技能及特有工作, 即在下列適當方格上有“X”標記者——

- (1) 草擬文件
- (2) 與當事人及其他人溝通
- (3) 研究工作
- (4) 辦事處日常業務、處事程序及訟費

或*

本人確認本人最近的實習律師合約是在 1998 年 9 月 1 日或之後訂立的, 而在受僱為實習律師期間, 本人在導師的辦事處曾學習專業操守的原則和下列與律師的執業及專業有關的基本技能, 即在下列適當方格上有“X”標記者——

- (1) 溝通
- (2) 執業支援
- (3) 法律研究工作
- (4) 草擬工作
- (5) 會見
- (6) 商議
- (7) 出庭代訟

I have been present in Hong Kong for at least 180 days of each of at least 7 years.
Details of my periods of residence are set out in the “First Schedule” annexed to this application.

- The attached document marked “ ” is a certified copy of my passport.
2. I was employed under a trainee solicitor contract by the Principal for the period to (the “Trainee Solicitor Contract”).
 3. Except as indicated in paragraph(s) 4 and 5*/I have actually exclusively and bona fide been employed as a trainee solicitor by the Principal.
 4. Except as mentioned in the “Second Schedule” annexed to this application*/I have not held any office or engaged in any employment other than the employment of the Principal.
 5. I have been absent from the office of the Principal for the period or periods mentioned in the first column of the “Third Schedule” annexed to this application for the reasons set out in the third column*.
 6. I have complied with the requirements of rule 7 of the Trainee Solicitors Rules (Cap. 159 sub. leg. J) as to the passing of examinations.
 7. I confirm that my most recent trainee solicitor contract was entered into before 1 September 1998, and that during the period of my employment as a trainee solicitor I have learned in the office of the Principal the following basic skills and characteristics associated with the practice and profession of a solicitor marked “X” in the appropriate box—

- (1) Drafting documents
- (2) Communication with clients and others
- (3) Research
- (4) Office routines, procedures and costs

OR*

I confirm that my most recent trainee solicitor contract was entered into on or after 1 September 1998, and that during the period of my employment as a trainee solicitor I have learned in the office of the Principal the principles of professional conduct and the following basic skills associated with the practice and profession of a solicitor marked “X” in the appropriate box—

- (1) Communication
- (2) Practice support
- (3) Legal research
- (4) Drafting
- (5) Interviewing
- (6) Negotiation
- (7) Advocacy

《刑事案件法律援助規則》(第 221 章，附屬法例 D)，第 21(3)(a)及(5)(b)(i)條

Rules 21(3)(a) and (5)(b)(i) of the Legal Aid in Criminal Cases Rules (Cap. 221 sub. leg. D)

D 18 第 221 章 刑事案件法律援助規則

[附屬法例]

- (a) 根據第(1)(d)款須付予大律師的費用；及
- (b) 根據第(1)(a)款須付予律師的費用，
- 可隨即按署長覺得在有關情況下屬恰當的款額增加，而第(1)(a)或(d)款(視屬何情況而定)所規定的每日費用，亦可按比例增加。(1985年第115號法律公告)
- (3) 如審訊案件的區域法院法官認為案件異常費時或異常複雜，則法官可核證情況如此，而就此——(1998年第25號第2條)
- (a) 根據第(1)(e)款須付予大律師的費用，或根據第(1)(c)款就律師出庭代訟而須付予律師的費用；及
- (b) 根據第(1)(b)款須付予律師的費用，
- 可按署長覺得在有關情況下屬恰當的款額增加，而第(1)(b)、(c)或(e)款(視屬何情況而定)所規定的每日費用，亦可按比例增加。(1985年第115號法律公告)
- (4) 除根據第(1)款須付的費用外，另須付予律師以下費用——
- (a) 律師本人及其文員，為準備或進行審訊或上訴，前往法庭或從法庭返回以及往返任何地方，而實際及合理地招致的開支；及
- (b) 實際及合理地招致的任何其他現金付款開支。
- (5) 如任何律師或大律師(資深大律師除外)被署長指派代表2名或多於2名的被控人或2名或多於2名的上訴人，而該等人士是一併審訊或其上訴是一併聆訊的，則——(1997年第94號第20條)
- (a) 根據第(1)(a)或(b)款須付予律師的費用，包括每日費用，可按署長覺得在有關情況下屬恰當的款額增加；
- (b) 須付予——
- (i) 根據第(1)(c)款就律師出庭代訟而須付予律師的費用，包括每日費用；
- (ii) 根據第(1)(d)或(e)款須付予大律師(資深大律師除外)的費用，包括每日費用。(1997年第94號第20條)
- 就獲如此代表的每一名額外被控人或上訴人可增加10%，而凡有6名或多於6名的被控人或上訴人獲如此代表，則最多可增加50%。(1981年第414號法律公告)
- (6) 凡署長指派某大律師在原訟法庭代表2名或多於2名的上訴人，而該等人士的上訴是在同日聆訊，則就所有該等上訴而須付予該大律師的費用，為署長覺得在有關情況下屬恰當的按照第(1)(d)款釐定的費用。(1987年第83號法律公告；1990年第87號法律公告；1998年第25號第2條)

CAP. 221 Legal Aid in Criminal Cases Rules

[Subsidiary]

- (a) the fee payable to counsel under paragraph (1)(d); and
- (b) the fee payable to a solicitor under paragraph (1)(a),
- may be increased by such amount as appears to the Director to be proper in the circumstances, and the daily fee provided for in paragraph (1)(a) or (d), as the case may be, may be increased proportionately. (L.N. 115 of 1985)
- (3) If in the opinion of a District Judge before whom a trial is heard the case is of exceptional length or complexity, the judge may so certify and thereupon—
- (a) the fee payable to counsel under paragraph (1)(e) or to a solicitor in respect of his advocacy under paragraph (1)(c); and
- (b) the fee payable to a solicitor under paragraph (1)(b),
- may be increased by such amount as appears to the Director to be proper in the circumstances, and the daily fee provided for in paragraph (1)(b), (c) or (e), as the case may be, may be increased proportionately. (L.N. 115 of 1985)
- (4) In addition to the fees payable under paragraph (1), there shall be payable to a solicitor—
- (a) expenses actually and reasonably incurred by himself and his clerk in travelling to or from the court and to and from any place visited for the purpose of preparing or conducting any trial or appeal; and
- (b) any other out-of-pocket expenses actually and reasonably incurred.
- (5) Where a solicitor or counsel (other than Senior Counsel) represents 2 or more accused persons or 2 or more appellants to whom he has been assigned by the Director and who are tried together or whose appeals are heard together—(94 of 1997 s. 20)
- (a) the fee, including the daily fee, payable to a solicitor under paragraph (1)(a) or (b), may be increased by such amount as appears to the Director to be proper in the circumstances;
- (b) the fee, including the daily fee, payable to—
- (i) a solicitor under paragraph (1)(c) in respect of his advocacy;
- (ii) counsel (other than Senior Counsel) under paragraph (1)(d) or (e), (94 of 1997 s. 20)
- may be increased by 10% for each additional accused person or appellant so represented up to a maximum of 50% where 6 or more accused persons or appellants are so represented. (L.N. 414 of 1981)
- (6) Where in the Court of First Instance counsel represents 2 or more appellants to whom he has been assigned by the Director and whose appeals are heard on the same day, there shall be payable to counsel, in respect of all the appeals, such fee in accordance with paragraph (1)(d) as appears to the Director to be proper in the circumstances. (L.N. 83 of 1987; L.N. 87 of 1990; 25 of 1998 s. 2)

《高等法院條例》(第 4 章)，第 9(1)及(2)(a)條

S. 9(1) and (2)(a) of the High Court Ordinance (Cap. 4)

第 4 章 高等法院條例

CAP. 4 High Court

11

(2) 儘管第(1)(b)及(c)款已有規定，國務大臣如認為有足夠理由如此行事，仍可不理會上訴法庭法官或原訟法庭法官(視屬何情況而定)的委任日期先後而決定他們的排名。

(由 1998 年第 25 號第 2 條修訂)

8. 審理職位的委任

(1) 如高等法院首席法官或任何上訴法庭法官的職位因該法官死亡或其他原因而懸空，總督可委任另一名根據第 9 條有資格獲委任為高等法院法官的人署理該職位，直至空缺獲得填補為止。

(2) 如高等法院首席法官或任何上訴法庭法官暫時患病或缺席，總督可委任另一名根據第 9 條有資格獲委任為高等法院法官的人，署理首席法官或該名上訴法庭法官的職位，直至首席法官或該名上訴法庭法官恢復執行職責為止。

(3) 任何根據第(1)或(2)款作出的委任，可在藉以作出該委任的文書的日期前某一日期開始生效。

*(由 1994 年第 80 號第 7 條增補)
(由 1987 年第 52 號第 7 條修訂；由 1995 年第 79 號第 50 條修訂；由 1998 年第 25 號第 2 條修訂)*

9. 法官的專業資格

(1) 任何人如符合以下條件，即有資格獲委任為高等法院法官——

(由 1998 年第 25 號第 2 條修訂)

(a) 該人在香港或任何其他普通法適用地區的任何法院有資格執業為大律師或訟辯人，而該法院是在民事或刑事事宜上具有無限司法管轄權的；或

(由 1997 年第 14 號第 2 條修訂)

(b) 該人具有(a)段所述的資格，而在此之前則有資格在上述法院之一執業為律師，

而在上述任何一種情況中，該人在上述法院之一執業為大律師、律師或訟辯人最少已有 10 年。

(1A) 任何人如有資格執業為高等法院律師，並如此執業最少已有 10 年，亦有資格獲委任為高等法院法官。

(由 1995 年第 52 號第 2 條增補。由 1998 年第 25 號第 2 條修訂)

(2) 任何人如符合以下條件，亦有資格獲委任為高等法院法官——

(由 1998 年第 25 號第 2 條修訂)

(a) 該人在香港或任何其他普通法適用地區的任何法院有資格執業為大律師或訟辯人，而該法院是在民事或刑事事宜上具有無限司法管轄權的；或

(由 1997 年第 14 號第 2 條修訂)

(2) Notwithstanding subsection (1)(b) and (c), where the Secretary of State is of the opinion that there are sufficient reasons for so doing, he may determine the precedence of the Justices of Appeal or the judges of the Court of First Instance, as the case may be, irrespective of the priority of their appointments.

(Amended 25 of 1998 s. 2)

8. Acting appointments

(1) If the office of Chief Judge of the High Court or any Justice of Appeal becomes vacant, by death or otherwise, the Governor may appoint another person, who is eligible to be appointed to be a judge of the High Court under section 9, to act in such office until the vacancy therein is filled.

(2) If the Chief Judge of the High Court or a Justice of Appeal is temporarily ill or absent, the Governor may appoint another person, who is eligible to be appointed to be a judge of the High Court under section 9, to act in his office until he resumes the duties thereof.

(3) Any appointment made under subsection (1) or (2) may be given effect from a date anterior to that of the instrument by which it is made.

*(Added 80 of 1994 s. 7)
(Amended 52 of 1987 s. 7; 79 of 1995 s. 50; 25 of 1998 s. 2)*

9. Professional qualifications of judges

(1) A person shall be eligible to be appointed to be a judge of the High Court if—

(Amended 25 of 1998 s. 2)

(a) he is qualified to practise as a barrister or advocate in a court in Hong Kong or any other common law jurisdiction having unlimited jurisdiction either in civil or criminal matters; or

(Amended 14 of 1997 s. 2)

(b) he is qualified as mentioned in paragraph (a) and prior thereto was qualified to practise as a solicitor in such a court,

and, in either case, he has for at least 10 years practised as a barrister, solicitor or advocate in such a court.

(1A) A person shall also be eligible to be appointed to be a judge of the High Court if he is qualified to practise as a solicitor of the High Court and has for at least 10 years practised as such.

(Added 52 of 1995 s. 2. Amended 25 of 1998 s. 2)

(2) A person shall also be eligible to be appointed to be a judge of the High Court if—

(Amended 25 of 1998 s. 2)

(a) he is qualified to practise as a barrister or advocate in a court in Hong Kong or any other common law jurisdiction having unlimited jurisdiction either in civil or criminal matters; or

(Amended 14 of 1997 s. 2)

《高等法院條例》(第4章), 第9(2A)(c)(i)及(3)條

S. 9(2A)(c)(i) and (3) of the High Court Ordinance (Cap. 4)

第4章 高等法院條例

CAP. 4 High Court

12.1

- (x) 按照《知識產權署署長(設立)條例》(第412章)第3條委任的知識產權署署長、知識產權署副署長、知識產權署助理署長、高級律師或律師。
(由1992年第60號第3條增補)
- (2A) 任何人如符合以下條件, 亦有資格獲委任為高等法院法官—— (由1998年第25號第2條修訂)
- (a) 該人是香港或任何其他普通法適用地區的任何法院的律師, 而該法院是在民事或刑事事宜上具有無限司法管轄權的; (由1997年第14號第2條修訂)
- (b) 該人最少在過去2年內及在現時(而總計最少有5年)受僱於香港官方從事司法或法律工作; 及
- (c) 在符合第(4)款的規定下, 該人最少曾有10年是——
- (i) 在該等法院之一執業為大律師、律師或訟辯人; 或
- (ii) 受僱從事(b)段所描述的服務。 (由1982年第44號第2條增補)
- (3) 為計算第(2)款所提述的10年期間, 可將在該款第(iv)至(x)段其中任何一段範圍以內各段不足10年的期間合併計算, 並可將在第(2)(a)款所提述的任何一所法院執業為大律師、律師或訟辯人的期間計算在內。 (由1976年第50號第2條修訂; 由1992年第39號第8條修訂; 由1992年第60號第3條修訂; 由1997年第14號第2條修訂)
- (4) 為計算第(2A)(c)款所提述的10年期間, 可將在第(2)款第(iv)至(x)段其中任何一段範圍以內各段不足10年的期間計算在內, 並可將在第(2A)(c)款第(i)及(ii)節範圍以內的各段不足10年的期間合併計算。 (由1982年第44號第2條增補。由1992年第39號第8條修訂; 由1992年第60號第3條修訂; 由1997年第14號第2條修訂)
- (5) 為計算第(2)款所指的10年期間, 儘管《註冊總署署長(人事編制)條例》(第100章)已被廢除、擔任該已被廢除條例附表1第I部所指明的職位的期間仍可計算在內。 (由1993年第8號第6條增補)
- (由2005年第10號第132條修訂)

10. 暫委法官的委任

(1) 如有以下情況, 終審法院首席法官可委任一名根據第9條有資格獲委任為高等法院法官的人為原訟法庭暫委法官—— (由1982年第44號第3條修訂)

- (x) been the Director of Intellectual Property or a Deputy Director of Intellectual Property, Assistant Director of Intellectual Property, Senior Solicitor or Solicitor, appointed in accordance with section 3 of the Director of Intellectual Property (Establishment) Ordinance (Cap. 412). (Added 60 of 1992 s. 3)
- (2A) A person shall also be eligible to be appointed to be a judge of the High Court if— (Amended 25 of 1998 s. 2)
- (a) he is a solicitor of a court in Hong Kong or any other common law jurisdiction having unlimited jurisdiction either in civil or criminal matters; (Amended 14 of 1997 s. 2)
- (b) he is and has been for the previous 2 years at least, and in aggregate for at least 5 years, employed in the service of the Crown in Hong Kong on judicial or legal work; and
- (c) he has, subject to subsection (4), for at least 10 years either—
- (i) practised as a barrister, solicitor or advocate in such a court; or
- (ii) been employed in such service as is described in paragraph (b). (Added 44 of 1982 s. 2)
- (3) For the purposes of calculating the period of 10 years referred to in subsection (2), periods of less than 10 years falling within any of paragraphs (iv) to (x) of that subsection may be combined, and there may be included in such period, any period of practice as a barrister, solicitor or advocate in any of the courts referred to in subsection (2)(a). (Amended 50 of 1976 s. 2; 39 of 1992 s. 8; 60 of 1992 s. 3; 14 of 1997 s. 2)
- (4) For the purposes of calculating the period of 10 years referred to in subsection (2A)(c) there may be included any period of less than 10 years falling within any of paragraphs (iv) to (x) of subsection (2), and periods of less than 10 years falling within subparagraphs (i) and (ii) of subsection (2A)(c) may be combined. (Added 44 of 1982 s. 2. Amended 39 of 1992 s. 8; 60 of 1992 s. 3; 14 of 1997 s. 2)
- (5) For the purposes of calculating the period of 10 years under subsection (2), periods served in an office specified in Part I of the First Schedule to the repealed Registrar General (Establishment) Ordinance (Cap. 100) may be taken into account notwithstanding the repeal of that Ordinance. (Added 8 of 1993 s. 6)
- (Amended 10 of 2005 s. 132)

10. Appointment of deputy judges

(1) The Chief Justice may appoint a person, who is eligible to be appointed to be a judge of the High Court under section 9, to be a deputy judge of the Court of First Instance if— (Amended 44 of 1982 s. 3; 25 of 1998 s. 2)

(2) 高級副司法常務官、副司法常務官及助理司法常務官可稱為聆案官。(由 1987 年第 52 號第 29 條增補)

(由 2005 年第 10 號第 133 條修訂)

(2) The senior deputy registrars, deputy registrars and assistant registrars may be called Masters. (Added 52 of 1987 s. 29)

(Amended 10 of 2005 s. 133)

37AA. 司法常務官、高級副司法常務官、
副司法常務官及助理司法常務官
的專業資格

- (1) 任何人如符合以下條件，即有資格獲委任為司法常務官——
- (a) 該人有資格在香港或任何其他普通法適用地區的任何法院執業為大律師、律師或訟辯人，而該法院是在民事或刑事事宜上具有無限司法管轄權的；及
 - (b) 自具有上述資格後，該人已在一段不少於 5 年的期間或在不同期間而合共不少於 5 年的期間是——
 - (i) 在任何上述法院執業為大律師、律師或訟辯人；
 - (ii) 按照第 37 條委任的高級副司法常務官、副司法常務官或助理司法常務官；
 - (iii) 按照《區域法院條例》(第 336 章)第 4 或 7 條委任的區域法院法官；
 - (iv) 按照《區域法院條例》(第 336 章)第 14 條委任的區域法院司法常務官、區域法院副司法常務官或區域法院助理司法常務官；
 - (v) 按照《裁判官條例》(第 227 章)第 5 條委任的常任裁判官；
 - (vi) 按照《死囚裁判官條例》(第 504 章)第 3 條委任的死囚裁判官；
 - (vii) 按照《小額錢債審裁處條例》(第 338 章)第 4 條委任的審裁官；
 - (viii) 按照《勞資審裁處條例》(第 25 章)第 4 條委任的審裁官；
 - (ix) 《律政人員條例》(第 87 章)第 2 條所界定的律政人員；
 - (x) 按照《法律援助條例》(第 91 章)第 3 條委任的法律援助署署長、法律援助署副署長、法律援助署助理署長或法律援助主任；

37AA. Professional qualifications of Registrar,
senior deputy registrars, deputy
registrars and assistant registrars

- (1) A person shall be eligible to be appointed as the Registrar if—
- (a) he is qualified to practise as a barrister, solicitor or advocate in a court in Hong Kong or any other common law jurisdiction having unlimited jurisdiction either in civil or criminal matters; and
 - (b) since becoming so qualified, he has for a period of or periods totalling not less than 5 years—
 - (i) practised as a barrister, solicitor or advocate in such a court;
 - (ii) been a senior deputy registrar, deputy registrar or assistant registrar appointed in accordance with section 37;
 - (iii) been a District Judge appointed in accordance with section 4 or 7 of the District Court Ordinance (Cap. 336);
 - (iv) been the Registrar of the District Court or a deputy registrar or assistant registrar of the District Court, appointed in accordance with section 14 of the District Court Ordinance (Cap. 336);
 - (v) been a permanent magistrate appointed in accordance with section 5 of the Magistrates Ordinance (Cap. 227);
 - (vi) been a coroner appointed in accordance with section 3 of the Coroners Ordinance (Cap. 504);
 - (vii) been an adjudicator appointed in accordance with section 4 of the Small Claims Tribunal Ordinance (Cap. 338);
 - (viii) been a presiding officer appointed in accordance with section 4 of the Labour Tribunal Ordinance (Cap. 25);
 - (ix) been a legal officer as defined in section 2 of the Legal Officers Ordinance (Cap. 87);
 - (x) been the Director of Legal Aid or a Deputy Director of Legal Aid, Assistant Director of Legal Aid or Legal Aid Officer, appointed in accordance with section 3 of the Legal Aid Ordinance (Cap. 91);

S. 37AA(2)(a) and (b)(i) of the High Court Ordinance (Cap. 4)

- (xi) 按照《破產條例》(第6章)第75條委任的破產管理署署長、助理破產管理署署長(法律)、助理首席律師、高級律師或律師;或
- (xii) 按照《知識產權署署長(設立)條例》(第412章)第3條委任的知識產權署署長、知識產權署副署長、知識產權署助理署長、高級律師或律師。
- (2) 任何人如符合以下條件,即有資格獲委任為高級副司法常務官——
- (a) 該人有資格在香港或任何其他普通法適用地區的任何法院執業為大律師、律師或訟辯人,而該法院是在民事或刑事事宜上具有無限司法管轄權的;及
- (b) 自具有上述資格後,該人已在一段不少於5年的期間或在不同期間而合共不少於5年的期間是——
- (i) 在任何上述法院執業為大律師、律師或訟辯人;
- (ii) 按照第37條委任的副司法常務官或助理司法常務官;
- (iii) 按照《區域法院條例》(第336章)第4或7條委任的區域法院法官;
- (iv) 按照《區域法院條例》(第336章)第14條委任的區域法院司法常務官、區域法院副司法常務官或區域法院助理司法常務官;
- (v) 按照《裁判官條例》(第227章)第5條委任的常任裁判官;
- (vi) 按照《死因裁判官條例》(第504章)第3條委任的死因裁判官;
- (vii) 按照《小額錢債審裁處條例》(第338章)第4條委任的審裁官;
- (viii) 按照《勞資審裁處條例》(第25章)第4條委任的審裁官;
- (ix) 《律政人員條例》(第87章)第2條所界定的律政人員;
- (x) 按照《法律援助條例》(第91章)第3條委任的法律援助署署長、法律援助署副署長、法律援助署助理署長或法律援助主任;

- (xi) been the Official Receiver or an Assistant Official Receiver (Legal), Assistant Principal Solicitor, Senior Solicitor or Solicitor, appointed in accordance with section 75 of the Bankruptcy Ordinance (Cap. 6); or
- (xii) been the Director of Intellectual Property or a Deputy Director of Intellectual Property, Assistant Director of Intellectual Property, Senior Solicitor or Solicitor, appointed in accordance with section 3 of the Director of Intellectual Property (Establishment) Ordinance (Cap. 412).
- (2) A person shall be eligible to be appointed as a senior deputy registrar if—
- (a) he is qualified to practise as a barrister, solicitor or advocate in a court in Hong Kong or any other common law jurisdiction having unlimited jurisdiction either in civil or criminal matters; and
- (b) since becoming so qualified, he has for a period of or periods totalling not less than 5 years—
- (i) practised as a barrister, solicitor or advocate in such a court;
- (ii) been a deputy registrar or assistant registrar appointed in accordance with section 37;
- (iii) been a District Judge appointed in accordance with section 4 or 7 of the District Court Ordinance (Cap. 336);
- (iv) been the Registrar of the District Court or a deputy registrar or assistant registrar of the District Court, appointed in accordance with section 14 of the District Court Ordinance (Cap. 336);
- (v) been a permanent magistrate appointed in accordance with section 5 of the Magistrates Ordinance (Cap. 227);
- (vi) been a coroner appointed in accordance with section 3 of the Coroners Ordinance (Cap. 504);
- (vii) been an adjudicator appointed in accordance with section 4 of the Small Claims Tribunal Ordinance (Cap. 338);
- (viii) been a presiding officer appointed in accordance with section 4 of the Labour Tribunal Ordinance (Cap. 25);
- (ix) been a legal officer as defined in section 2 of the Legal Officers Ordinance (Cap. 87);
- (x) been the Director of Legal Aid or a Deputy Director of Legal Aid, Assistant Director of Legal Aid or Legal Aid Officer, appointed in accordance with section 3 of the Legal Aid Ordinance (Cap. 91);

S. 37AA(3)(a) and (b)(i) of the High Court Ordinance (Cap. 4)

- (xi) 按照《破產條例》(第 6 章) 第 75 條委任的破產管理署署長、助理破產管理署署長(法律)、助理首席律師、高級律師或律師; 或
- (xii) 按照《知識產權署署長(設立)條例》(第 412 章) 第 3 條委任的知識產權署署長、知識產權署副署長、知識產權署助理署長、高級律師或律師。
- (3) 任何人如符合以下條件, 即有資格獲委任為副司法常務官——
- (a) 該人有資格在香港或任何其他普通法適用地區的任何法院執業為大律師、律師或訟辯人, 而該法院是在民事或刑事事宜上具有無限司法管轄權的; 及
- (b) 自具有上述資格後, 該人已有一段不少於 5 年的期間或在不同期間而合共不少於 5 年的期間是——
- (i) 在任何上述法院執業為大律師、律師或訟辯人;
- (ii) 按照第 37 條委任的助理司法常務官;
- (iii) 按照《區域法院條例》(第 336 章) 第 4 或 7 條委任的區域法院法官;
- (iv) 按照《區域法院條例》(第 336 章) 第 14 條委任的區域法院司法常務官、區域法院副司法常務官或區域法院助理司法常務官;
- (v) 按照《裁判官條例》(第 227 章) 第 5 條委任的常任裁判官;
- (vi) 按照《死因裁判官條例》(第 504 章) 第 3 條委任的死因裁判官;
- (vii) 按照《小額錢債審裁處條例》(第 338 章) 第 4 條委任的審裁官;
- (viii) 按照《勞資審裁處條例》(第 25 章) 第 4 條委任的審裁官;
- (ix) 《律政人員條例》(第 87 章) 第 2 條所界定的律政人員;
- (x) 按照《法律援助條例》(第 91 章) 第 3 條委任的法律援助署署長、法律援助署副署長、法律援助署助理署長或法律援助主任;

- (xi) been the Official Receiver or an Assistant Official Receiver (Legal), Assistant Principal Solicitor, Senior Solicitor or Solicitor, appointed in accordance with section 75 of the Bankruptcy Ordinance (Cap. 6); or
- (xii) been the Director of Intellectual Property or a Deputy Director of Intellectual Property, Assistant Director of Intellectual Property, Senior Solicitor or Solicitor, appointed in accordance with section 3 of the Director of Intellectual Property (Establishment) Ordinance (Cap. 412).
- (3) A person shall be eligible to be appointed as a deputy registrar if—
- (a) he is qualified to practise as a barrister, solicitor or advocate in a court in Hong Kong or any other common law jurisdiction having unlimited jurisdiction either in civil or criminal matters; and
- (b) since becoming so qualified, he has for a period of or periods totalling not less than 5 years—
- (i) practised as a barrister, solicitor or advocate in such a court;
- (ii) been an assistant registrar appointed in accordance with section 37;
- (iii) been a District Judge appointed in accordance with section 4 or 7 of the District Court Ordinance (Cap. 336);
- (iv) been the Registrar of the District Court or a deputy registrar or assistant registrar of the District Court, appointed in accordance with section 14 of the District Court Ordinance (Cap. 336);
- (v) been a permanent magistrate appointed in accordance with section 5 of the Magistrates Ordinance (Cap. 227);
- (vi) been a coroner appointed in accordance with section 3 of the Coroners Ordinance (Cap. 504);
- (vii) been an adjudicator appointed in accordance with section 4 of the Small Claims Tribunal Ordinance (Cap. 338);
- (viii) been a presiding officer appointed in accordance with section 4 of the Labour Tribunal Ordinance (Cap. 25);
- (ix) been a legal officer as defined in section 2 of the Legal Officers Ordinance (Cap. 87);
- (x) been the Director of Legal Aid or a Deputy Director of Legal Aid, Assistant Director of Legal Aid or Legal Aid Officer, appointed in accordance with section 3 of the Legal Aid Ordinance (Cap. 91);

S. 37AA(4)(a) and (b)(i) of the High Court Ordinance (Cap. 4)

- (xi) 按照《破產條例》(第6章)第75條委任的破產管理署署長、助理破產管理署署長(法律)、助理首席律師、高級律師或律師;或
- (xii) 按照《知識產權署署長(設立)條例》(第412章)第3條委任的知識產權署署長、知識產權署副署長、知識產權署助理署長、高級律師或律師。
- (4) 任何人如符合以下條件, 即有資格獲委任為助理司法常務官——
- (a) 該人有資格在香港或任何其他普通法適用地區的任何法院執業為大律師、律師或訟辯人, 而該法院是在民事或刑事事宜上具有無限司法管轄權的; 及
- (b) 自具有上述資格後, 該人已在一不少於5年的期間或在不同期間而合共不少於5年的期間是——
- (i) 在任何上述法院執業為大律師、律師或訟辯人;
- (ii) 按照《區域法院條例》(第336章)第4或7條委任的區域法院法官;
- (iii) 按照《區域法院條例》(第336章)第14條委任的區域法院司法常務官、區域法院副司法常務官或區域法院助理司法常務官;
- (iv) 按照《裁判官條例》(第227章)第5條委任的常任裁判官;
- (v) 按照《死因裁判官條例》(第504章)第3條委任的死因裁判官;
- (vi) 按照《小額錢債審裁處條例》(第338章)第4條委任的審裁官;
- (vii) 按照《勞資審裁處條例》(第25章)第4條委任的審裁官;
- (viii) 《律政人員條例》(第87章)第2條所界定的律政人員;
- (ix) 按照《法律援助條例》(第91章)第3條委任的法律援助署署長、法律援助署副署長、法律援助署助理署長或法律援助主任;
- (x) 按照《破產條例》(第6章)第75條委任的破產管理署署長、助理破產管理署署長(法律)、助理首席律師、高級律師或律師;或

- (xi) been the Official Receiver or an Assistant Official Receiver (Legal), Assistant Principal Solicitor, Senior Solicitor or Solicitor, appointed in accordance with section 75 of the Bankruptcy Ordinance (Cap. 6); or
- (xii) been the Director of Intellectual Property or a Deputy Director of Intellectual Property, Assistant Director of Intellectual Property, Senior Solicitor or Solicitor, appointed in accordance with section 3 of the Director of Intellectual Property (Establishment) Ordinance (Cap. 412).
- (4) A person shall be eligible to be appointed as an assistant registrar if—
- (a) he is qualified to practise as a barrister, solicitor or advocate in a court in Hong Kong or any other common law jurisdiction having unlimited jurisdiction either in civil or criminal matters; and
- (b) since becoming so qualified, he has for a period of or periods totalling not less than 5 years—
- (i) practised as a barrister, solicitor or advocate in such a court;
- (ii) been a District Judge appointed in accordance with section 4 or 7 of the District Court Ordinance (Cap. 336);
- (iii) been the Registrar of the District Court or a deputy registrar or assistant registrar of the District Court, appointed in accordance with section 14 of the District Court Ordinance (Cap. 336);
- (iv) been a permanent magistrate appointed in accordance with section 5 of the Magistrates Ordinance (Cap. 227);
- (v) been a coroner appointed in accordance with section 3 of the Coroners Ordinance (Cap. 504);
- (vi) been an adjudicator appointed in accordance with section 4 of the Small Claims Tribunal Ordinance (Cap. 338);
- (vii) been a presiding officer appointed in accordance with section 4 of the Labour Tribunal Ordinance (Cap. 25);
- (viii) been a legal officer as defined in section 2 of the Legal Officers Ordinance (Cap. 87);
- (ix) been the Director of Legal Aid or a Deputy Director of Legal Aid, Assistant Director of Legal Aid or Legal Aid Officer, appointed in accordance with section 3 of the Legal Aid Ordinance (Cap. 91);
- (x) been the Official Receiver or an Assistant Official Receiver (Legal), Assistant Principal Solicitor, Senior Solicitor or Solicitor, appointed in accordance with section 75 of the Bankruptcy Ordinance (Cap. 6); or

4. 審裁處的組成

- (1) 審裁處由以下的成員組成——
- (a) 一名庭長, 他須由其中一名高等法院法官出任, 並須由行政長官委任;
 - (b) 第(2)款提述的各法官;
 - (c) 行政長官委任的其他成員, 而該等成員是有資格根據第(3)或(4)款獲委任的; 及
 - (d) 暫委成員。

(2) 各區域法院法官及區域法院暫委法官, 均憑藉其所任職位出任法官。

(3) 任何人如符合以下條件, 即有資格根據第(1)(c)款獲委任為審裁處成員——

- (a) 該人有資格在香港或任何其他普通法適用地區的任何法院執業為大律師、律師或訟辯人, 而該法院是在民事或刑事事宜上具有無限司法管轄權的; 及
- (b) 自具有上述資格後, 該人已在一不少於 5 年的期間或在不同期間而合共不少於 5 年的期間是——
 - (i) 在任何上述法院執業為大律師、律師或訟辯人;
 - (ii) 按照《區域法院條例》(第 336 章)第 14 條委任的司法常務官、區域法院副司法常務官或區域法院助理司法常務官;
 - (iii) 按照《裁判官條例》(第 227 章)第 5 條委任的常任裁判官;
 - (iv) 按照《死因裁判官條例》(第 504 章)第 3 條委任的死因裁判官;
 - (v) 按照《小額錢債審裁處條例》(第 338 章)第 4 條委任的審裁官;
 - (vi) 按照《勞資審裁處條例》(第 25 章)第 4 條委任的審裁官;
 - (vii) 《律政人員條例》(第 87 章)第 2 條所界定的律政人員;
 - (viii) 按照《法律援助條例》(第 91 章)第 3 條委任的法律援助署署長、法律援助署副署長、法律援助署助理署長或法律援助主任;
 - (ix) 按照《破產條例》(第 6 章)第 75 條委任的破產管理署署長、助理破產管理署署長(法律)、助理首席律師、高級律師或律師; 或

4. Constitution of Tribunal

(1) The Tribunal shall consist of the following members—

- (a) the President, who shall be one of the Judges of the High Court and shall be appointed by the Chief Executive;
- (b) the presiding officers referred to in subsection (2);
- (c) such members as may be appointed by the Chief Executive and who are eligible under subsection (3) or (4) for appointment; and
- (d) the temporary members.

(2) Every District Judge and deputy District Judge shall by virtue of his office be a presiding officer.

(3) A person shall be eligible to be appointed under subsection (1)(c) as a member of the Tribunal if—

- (a) he is qualified to practise as a barrister, solicitor or advocate in a court in Hong Kong or any other common law jurisdiction having unlimited jurisdiction either in civil or criminal matters; and
- (b) since becoming so qualified, he has for a period of or periods totalling not less than 5 years—
 - (i) practised as a barrister, solicitor or advocate in such a court;
 - (ii) been the registrar or a deputy registrar or assistant registrar of the District Court appointed in accordance with section 14 of the District Court Ordinance (Cap. 336);
 - (iii) been a permanent magistrate appointed in accordance with section 5 of the Magistrates Ordinance (Cap. 227);
 - (iv) been a coroner appointed in accordance with section 3 of the Coroners Ordinance (Cap. 504);
 - (v) been an adjudicator appointed in accordance with section 4 of the Small Claims Tribunal Ordinance (Cap. 338);
 - (vi) been a presiding officer appointed in accordance with section 4 of the Labour Tribunal Ordinance (Cap. 25);
 - (vii) been a legal officer as defined in section 2 of the Legal Officers Ordinance (Cap. 87);
 - (viii) been the Director of Legal Aid or a Deputy Director of Legal Aid, Assistant Director of Legal Aid or Legal Aid Officer, appointed in accordance with section 3 of the Legal Aid Ordinance (Cap. 91);
 - (ix) been the Official Receiver or an Assistant Official Receiver (Legal), Assistant Principal Solicitor, Senior Solicitor or Solicitor, appointed in accordance with section 75 of the Bankruptcy Ordinance (Cap. 6); or

(3) 審裁處須備有印章, 印章式樣須由終審法院首席法官批准, 審裁處一切裁斷書、傳票及其他法律程序文件, 均須蓋上印章。 (由 1998 年第 25 號第 2 條修訂)

4. 審裁官的委任

(1) 行政長官可委任一名或多名審裁官。 (由 1998 年第 25 號第 2 條修訂; 由 1999 年第 21 號第 9 條修訂)

(2) 在符合第 (3) 款的規定下, 根據第 (1) 款作出的委任, 可有追溯效力。

(3) 受委任為審裁官的人, 在其委任文書上所註日期前, 或在履行《宣誓及聲明條例》(第 11 章) 第 17 條的規定前, 不得履行任何司法職能。 (由 1973 年第 22 號第 2 條修訂) [比照第 336 章第 4 條]

4A. 審裁官的專業資格

(1) 任何人如符合以下條件, 即有資格獲委任為審裁官——

- (a) 該人有資格在香港或任何其他普通法適用地區的任何法院執業為大律師、律師或訟辯人, 而該法院是在民事或刑事事宜上具有無限司法管轄權的; 及
- (b) 自具有上述資格後, 該人已有一段不少於 5 年的期間或在不同期間而合共不少於 5 年的期間是——
 - (i) 在任何上述法院執業為大律師、律師或訟辯人;
 - (ii) 《律政人員條例》(第 87 章) 第 2 條所界定的律政人員;
 - (iii) 按照《法律援助條例》(第 91 章) 第 3 條委任的法律援助署署長、法律援助署副署長、法律援助署助理署長或法律援助主任;
 - (iv) 按照《破產條例》(第 6 章) 第 75 條委任的破產管理署署長、助理破產管理署署長(法律)、助理首席律師、高級律師或律師; 或
 - (v) 按照《知識產權署署長(設立)條例》(第 412 章) 第 3 條委任的知識產權署署長、知識產權署副署長、知識產權署助理署長、高級律師或律師。

(3) The tribunal shall have a seal of a design approved by the Chief Justice, and all awards, summonses, and other processes of the tribunal shall be sealed therewith.

4. Appointment of presiding officers

(1) The Chief Executive may appoint one or more presiding officers. (Amended 25 of 1998 s. 2; 21 of 1999 s. 9)

(2) Subject to subsection (3), an appointment made under subsection (1) may be given retrospective effect.

(3) No person appointed as presiding officer shall discharge any judicial function before the date of the instrument by which he is appointed or before the requirements of section 17 of the Oaths and Declarations Ordinance (Cap. 11) have been fulfilled. (Amended 22 of 1973 s. 2) [cf. Cap. 336 s. 4]

4A. Professional qualifications of presiding officers

- (1) A person shall be eligible to be appointed as a presiding officer if—
- (a) he is qualified to practise as a barrister, solicitor or advocate in a court in Hong Kong or any other common law jurisdiction having unlimited jurisdiction either in civil or criminal matters; and
 - (b) since becoming so qualified, he has for a period of or periods totalling not less than 5 years—
 - (i) practised as a barrister, solicitor or advocate in such a court;
 - (ii) been a legal officer as defined in section 2 of the Legal Officers Ordinance (Cap. 87);
 - (iii) been the Director of Legal Aid or a Deputy Director of Legal Aid, Assistant Director of Legal Aid or Legal Aid Officer, appointed in accordance with section 3 of the Legal Aid Ordinance (Cap. 91);
 - (iv) been the Official Receiver or an Assistant Official Receiver (Legal), Assistant Principal Solicitor, Senior Solicitor or Solicitor, appointed in accordance with section 75 of the Bankruptcy Ordinance (Cap. 6); or
 - (v) been the Director of Intellectual Property or a Deputy Director of Intellectual Property, Assistant Director of Intellectual Property, Senior Solicitor or Solicitor, appointed in accordance with section 3 of the Director of Intellectual Property (Establishment) Ordinance (Cap. 412).

《裁判官條例》(第 227 章), 第 5AA(1)(a)及(b)(i)及(2)(a)條

S. 5AA(1)(a) and (b)(i) and (2)(a) of the Magistrates Ordinance (Cap. 227)

第 227 章 裁判官條例

CAP. 227 Magistrates

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但本款不得當作授權獲委任的人, 在委任狀日期之前或在《宣誓及聲明條例》(第 11 章)第 17 條所規定的手續未辦妥之前, 行使裁判官的職能。(由 1958 年第 30 號第 2 條增補。由 1972 年第 20 號第 24 條修訂)

(由 1949 年第 24 號第 3 條增補)

Provided that nothing herein contained shall be deemed to authorize the discharge of any magisterial functions by any person so appointed before the date of the warrant or before the requirements of section 17 of the Oaths and Declarations Ordinance (Cap. 11) have been fulfilled. (Added 30 of 1958 s. 2. Amended 20 of 1972 s. 24)

(Added 24 of 1949 s. 3)

5AA. 常任裁判官的專業資格

- (1) 任何人如符合以下條件, 即有資格獲委任為常任裁判官——
- (a) 該人有資格在香港或任何其他普通法適用地區的任何法院執業為大律師、律師或訟辯人, 而該法院是在民事或刑事事宜上具有無限司法管轄權的; 及
 - (b) 自具有上述資格後, 該人已有一段不少於 5 年的期間或在不同期間而合共不少於 5 年的期間是——
 - (i) 在任何上述法院執業為大律師、律師或訟辯人;
 - (ii) 律政人員;
 - (iii) 按照《法律援助條例》(第 91 章)第 3 條委任的法律援助署署長、法律援助署副署長、法律援助署助理署長或法律援助主任;
 - (iv) 按照《破產條例》(第 6 章)第 75 條委任的破產管理署署長、助理破產管理署署長(法律)、助理首席律師、高級律師或律師; 或
 - (v) 按照《知識產權署署長(設立)條例》(第 412 章)第 3 條委任的知識產權署署長、知識產權署副署長、知識產權署助理署長、高級律師或律師。
- (2) 儘管有第(1)款的規定, 任何人如符合以下條件, 亦有資格獲委任為常任裁判官——
- (a) 該人有資格在香港或任何其他普通法適用地區的任何法院執業為大律師、律師或訟辯人, 而該法院是在民事或刑事事宜上具有無限司法管轄權的; 及
 - (b) 不論是在具有上述資格之前或之後, 該人已有一段不少於 5 年的期間或在不同期間而合共不少於 5 年的期間是按照第 5 條委任的特委裁判官。

5AA. Professional qualifications of permanent magistrates

- (1) A person shall be eligible to be appointed as a permanent magistrate if—
- (a) he is qualified to practise as a barrister, solicitor or advocate in a court in Hong Kong or any other common law jurisdiction having unlimited jurisdiction either in civil or criminal matters; and
 - (b) since becoming so qualified, he has for a period of or periods totalling not less than 5 years—
 - (i) practised as a barrister, solicitor or advocate in such a court;
 - (ii) been a legal officer;
 - (iii) been the Director of Legal Aid or a Deputy Director of Legal Aid, Assistant Director of Legal Aid or Legal Aid Officer, appointed in accordance with section 3 of the Legal Aid Ordinance (Cap. 91);
 - (iv) been the Official Receiver or an Assistant Official Receiver (Legal), Assistant Principal Solicitor, Senior Solicitor or Solicitor, appointed in accordance with section 75 of the Bankruptcy Ordinance (Cap. 6); or
 - (v) been the Director of Intellectual Property or a Deputy Director of Intellectual Property, Assistant Director of Intellectual Property, Senior Solicitor or Solicitor, appointed in accordance with section 3 of the Director of Intellectual Property (Establishment) Ordinance (Cap. 412).
- (2) Notwithstanding subsection (1), a person shall also be eligible to be appointed as a permanent magistrate if—
- (a) he is qualified to practise as a barrister, solicitor or advocate in a court in Hong Kong or any other common law jurisdiction having unlimited jurisdiction either in civil or criminal matters; and
 - (b) whether before or since becoming so qualified, he has for a period of or periods totalling not less than 5 years been a special magistrate appointed in accordance with section 5.

- (3) 為計算第(1)(b)款提述的5年期間——
- (a) 在該款任何節範圍以內各段不足5年的期間可合併計算；
- (b) 儘管《註冊總署署長(人事編制)條例》(第100章)已被廢除，擔任該已被廢除條例附表1第I部所指明的職位的期間仍可計算在內。

(由2005年第10號第142條增補)

5AB. 特委裁判官的專業資格

- (1) 任何人如符合以下條件，即有資格獲委任為特委裁判官——
- (a) 該人有資格在香港或任何其他普通法適用地區的任何法院執業為大律師、律師或訟辯人，而該法院是在民事或刑事事宜上具有無限司法管轄權的；及
- (b) 自具有上述資格後，該人已有一段不少於5年的期間或在不同期間而合共不少於5年的期間是——
- (i) 在任何上述法院執業為大律師、律師或訟辯人；
- (ii) 律政人員；
- (iii) 按照《法律援助條例》(第91章)第3條委任的法律援助署署長、法律援助署副署長、法律援助署助理署長或法律援助主任；
- (iv) 按照《破產條例》(第6章)第75條委任的破產管理署署長、助理破產管理署署長(法律)、助理首席律師、高級律師或律師；或
- (v) 按照《知識產權署署長(設立)條例》(第412章)第3條委任的知識產權署署長、知識產權署副署長、知識產權署助理署長、高級律師或律師。
- (2) 儘管有第(1)款的規定，任何人如符合以下條件，亦有資格獲委任為特委裁判官——
- (a) 該人有資格在香港或任何其他普通法適用地區的任何法院執業為大律師、律師或訟辯人，而該法院是在民事或刑事事宜上具有無限司法管轄權的；及

- (3) For the purposes of calculating the period of 5 years referred to in subsection (1)(b)—

- (a) periods of less than 5 years falling within any of the subparagraphs of that subsection may be combined;
- (b) periods served in an office specified in Part I of the First Schedule to the repealed Registrar General (Establishment) Ordinance (Cap. 100) may be taken into account notwithstanding the repeal of that Ordinance.

(Added 10 of 2005 s. 142)

5AB. Professional qualifications of special magistrates

- (1) A person shall be eligible to be appointed as a special magistrate if—
- (a) he is qualified to practise as a barrister, solicitor or advocate in a court in Hong Kong or any other common law jurisdiction having unlimited jurisdiction either in civil or criminal matters; and
- (b) since becoming so qualified, he has for a period of or periods totalling not less than 5 years—
- (i) practised as a barrister, solicitor or advocate in such a court;
- (ii) been a legal officer;
- (iii) been the Director of Legal Aid or a Deputy Director of Legal Aid, Assistant Director of Legal Aid or Legal Aid Officer, appointed in accordance with section 3 of the Legal Aid Ordinance (Cap. 91);
- (iv) been the Official Receiver or an Assistant Official Receiver (Legal), Assistant Principal Solicitor, Senior Solicitor or Solicitor, appointed in accordance with section 75 of the Bankruptcy Ordinance (Cap. 6); or
- (v) been the Director of Intellectual Property or a Deputy Director of Intellectual Property, Assistant Director of Intellectual Property, Senior Solicitor or Solicitor, appointed in accordance with section 3 of the Director of Intellectual Property (Establishment) Ordinance (Cap. 412).
- (2) Notwithstanding subsection (1), a person shall also be eligible to be appointed as a special magistrate if—
- (a) he is qualified to practise as a barrister, solicitor or advocate in a court in Hong Kong or any other common law jurisdiction having unlimited jurisdiction either in civil or criminal matters; and

第 II 部

地方法院

PART II

THE DISTRICT COURT

3. 區域法院的設立及其一般司法管轄權

(1) 現設立一所稱為區域法院的法院。(由 2000 年第 28 號第 4 條代替)

(2) 區域法院為紀錄法院, 具有本條例及當其時有效的任何其他成文法則賦予區域法院的民事及刑事司法管轄權及權力。(由 1962 年第 21 號第 3 條修訂; 由 2000 年第 28 號第 48 條修訂)

(3) 當其時有效的任何其他成文法則所賦予的司法管轄權及權力只受該等成文法則所訂定的限制所規限。(由 1963 年第 20 號第 3 條增補)

(將 1953 年第 1 號第 3 條編入)

4. 區域法院的組成

(1) 區域法院由 2 名或多於 2 名法官組成, 稱之為區域法院法官。(由 2000 年第 28 號第 48 條修訂)

(2) 區域法院法官須由行政長官以蓋有公印的文書委任。

(3) 任何根據第 (2) 款的條文作出的委任, 可在藉以作出該委任的文書的日期前的某一日期開始生效。(由 1958 年第 18 號第 2 條增補。由 1972 年第 20 號第 24 條修訂; 由 2000 年第 28 號第 5 條修訂)

(4) 本條並不授權任何人在委任文書的日期之前或在《宣誓及聲明條例》(第 11 章) 第 17 條的規定獲遵守之前, 履行任何司法職能。(由 2000 年第 28 號第 5 條增補)

(將 1953 年第 1 號第 4 條編入。由 1998 年第 25 號第 2 條修訂)

5. 區域法院法官的專業資格

(1) 除下述的人外, 任何人不得根據第 4 條獲委任為區域法院法官——(由 1998 年第 25 號第 2 條修訂)

(a) 該人在香港或任何其他普通法適用地區的任何法院有資格執業為大律師、律師或訟辯人, 而該法院是在民事或刑事方面具有無限司法管轄權的; 及 (由 1962 年第 21 號第 4 條修訂; 由 1997 年第 14 號第 3 條修訂)

3. Establishment of the District Court, and its general jurisdiction

(1) A court known as the District Court is established. (Replaced 28 of 2000 s. 4)

(2) The Court shall be a court of record and shall have such civil and criminal jurisdiction and powers as are conferred upon it by this Ordinance and by any other enactment for the time being in force. (Amended 21 of 1962 s. 3)

(3) The jurisdiction and powers conferred by any other enactment for the time being in force shall be subject only to such limitations as such enactment may provide or may have provided. (Added 20 of 1963 s. 3)

(1 of 1953 s. 3 incorporated)

4. Constitution of the District Court

(1) The Court shall consist of 2 or more judges, to be known as District Judges.

(2) District Judges shall be appointed by the Chief Executive by instrument under the Public Seal. (Amended 25 of 1998 s. 2)

(3) Any appointment made under the provisions of subsection (2) may be given effect from a date anterior to that of the instrument by which it is made. (Added 18 of 1958 s. 2. Amended 20 of 1972 s. 24; 28 of 2000 s. 5)

(4) This section does not authorize the discharge of any judicial functions by any person before the date of the instrument of appointment or before the requirements of section 17 of the Oaths and Declarations Ordinance (Cap. 11) have been fulfilled. (Added 28 of 2000 s. 5)

(1 of 1953 s. 4 incorporated)

5. Professional qualifications of District Judges

(1) No person shall be appointed to be a District Judge under section 4 unless—

(a) he is qualified to practise as a barrister, solicitor or advocate in a court in Hong Kong or any other common law jurisdiction having unlimited jurisdiction either in civil or criminal matters; and (Amended 21 of 1962 s. 4, 14 of 1997 s. 3)

- (b) 自具有如此的資格後, 該人已在一段不少於 5 年的期間或在不同期間而合共不少於 5 年的期間是——
- (i) 在該等法院之一執業為大律師、律師或訟辯人; 或
 - (ia) 按照《高等法院條例》(第 4 章) 第 37 條委任的高等法院司法常務官、高等法院高級副司法常務官、高等法院副司法常務官或高等法院助理司法常務官; 或 (由 2005 年第 10 號第 144 條增補)
 - (ib) 按照第 14 條委任的司法常務官、副司法常務官或助理司法常務官; 或 (由 2005 年第 10 號第 144 條增補)
 - (ii)-(iv) (由 1997 年第 14 號第 3 條廢除)
 - (v) 按照《裁判官條例》(第 227 章) 第 5 條委任的常任裁判官; 或
 - (va) 按照《死因裁判官條例》(第 504 章) 第 3 條委任的死因裁判官; 或 (由 2005 年第 10 號第 144 條增補)
 - (vb) 按照《小額錢債審裁處條例》(第 338 章) 第 4 條委任的審裁官; 或 (由 2005 年第 10 號第 144 條增補)
 - (vc) 按照《勞資審裁處條例》(第 25 章) 第 4 條委任的審裁官; 或 (由 2005 年第 10 號第 144 條增補)
 - (vi) 《律政人員條例》(第 87 章) 第 2 條所界定的律政人員; 或
 - (vii) (由 1993 年第 8 號第 26 條廢除)
 - (viii) 按照《法律援助條例》(第 91 章) 第 3 條委任的法律援助署署長、法律援助署副署長、法律援助署助理署長或法律援助主任; 或 (由 1976 年第 66 號第 2 條增補。由 1983 年第 24 號第 7 條修訂; 由 1992 年第 39 號第 13 條修訂)
 - (ix) 按照《破產條例》(第 6 章) 第 75 條委任的破產管理署署長、助理破產管理署署長(法律)、助理首席律師、高級律師或律師; 或 (由 1992 年第 39 號第 13 條增補。由 1992 年第 60 號第 7 條修訂; 由 1995 年第 68 號第 18 條修訂)
 - (x) 按照《知識產權署署長(設立)條例》(第 412 章) 第 3 條委任的知識產權署署長、知識產權署副署長、知識產權署助理署長、高級律師或律師。 (由 1992 年第 60 號第 7 條增補)

- (b) since becoming so qualified he has for a period of or periods totalling not less than 5 years—
- (i) practised as a barrister, solicitor or advocate in such a court; or
 - (ia) been the Registrar of the High Court or a senior deputy registrar, deputy registrar or assistant registrar of the High Court, appointed in accordance with section 37 of the High Court Ordinance (Cap. 4); or (Added 10 of 2005 s. 144)
 - (ib) been the Registrar or a deputy registrar or assistant registrar appointed in accordance with section 14; or (Added 10 of 2005 s. 144)
 - (ii)-(iv) (Repealed 14 of 1997 s. 3)
 - (v) been a permanent magistrate appointed in accordance with section 5 of the Magistrates Ordinance (Cap. 227); or
 - (va) been a coroner appointed in accordance with section 3 of the Coroners Ordinance (Cap. 504); or (Added 10 of 2005 s. 144)
 - (vb) been an adjudicator appointed in accordance with section 4 of the Small Claims Tribunal Ordinance (Cap. 338); or (Added 10 of 2005 s. 144)
 - (vc) been a presiding officer appointed in accordance with section 4 of the Labour Tribunal Ordinance (Cap. 25); or (Added 10 of 2005 s. 144)
 - (vi) been a legal officer as defined in section 2 of the Legal Officers Ordinance (Cap. 87); or
 - (vii) (Repealed 8 of 1993 s. 26)
 - (viii) been the Director of Legal Aid or a Deputy Director of Legal Aid, Assistant Director of Legal Aid or Legal Aid Officer, appointed in accordance with section 3 of the Legal Aid Ordinance (Cap. 91); or (Added 66 of 1976 s. 2. Amended 24 of 1983 s. 7; 39 of 1992 s. 13)
 - (ix) been the Official Receiver or an Assistant Official Receiver (Legal), Assistant Principal Solicitor, Senior Solicitor or Solicitor, appointed in accordance with section 75 of the Bankruptcy Ordinance (Cap. 6); or (Added 39 of 1992 s. 13. Amended 60 of 1992 s. 7; 68 of 1995 s. 18)
 - (x) been the Director of Intellectual Property or a Deputy Director of Intellectual Property, Assistant Director of Intellectual Property, Senior Solicitor or Solicitor, appointed in accordance with section 3 of the Director of Intellectual Property (Establishment) Ordinance (Cap. 412). (Added 60 of 1992 s. 7)

S. 14AA(1)(a) and (b)(i) of the District Court Ordinance (Cap. 336)

常務官、副司法常務官、暫委副司法常務官、助理司法常務官、暫委助理司法常務官或執達主任行使該等權力或執行該等職責，乃屬合法。(由 2000 年第 28 號第 9 條代替。由 2005 年第 10 號第 146 條修訂)

(5) 任何本條適用的人，根據本條例行使其權力或執行其職責所負有的法律責任及所受的罰則規限以及所享有的保障，與憑藉《高等法院條例》(第 4 章)的條文而對根據該條例行使類似權力或執行類似職責的人所附加的法律責任、罰則規限以及其所享有的保障相同。(由 1962 年第 21 號第 9 條修訂)

(由 1958 年第 18 號第 3 條代替。由 1998 年第 25 號第 2 條修訂)

**14AA. 司法常務官、副司法常務官及
助理司法常務官的專業資格**

(1) 任何人如符合以下條件，即有資格獲委任為司法常務官、副司法常務官或助理司法常務官——

- (a) 該人有資格在香港或任何其他普通法適用地區的任何法院執業為大律師、律師或訟辯人，而該法院是在民事或刑事事宜上具有無限司法管轄權的；及
- (b) 自具有上述資格後，該人已在一段不少於 5 年的期間或在不同期間而合共不少於 5 年的期間是——
 - (i) 在任何上述法院執業為大律師、律師或訟辯人；
 - (ii) 按照《裁判官條例》(第 227 章)第 5 條委任的常任裁判官；
 - (iii) 按照《死因裁判官條例》(第 504 章)第 3 條委任的死因裁判官；
 - (iv) 按照《小額錢債審裁處條例》(第 338 章)第 4 條委任的審裁官；
 - (v) 按照《勞資審裁處條例》(第 25 章)第 4 條委任的審裁官；
 - (vi) 《律政人員條例》(第 87 章)第 2 條所界定的律政人員；
 - (vii) 按照《法律援助條例》(第 91 章)第 3 條委任的法律援助署署長、法律援助署副署長、法律援助署助理署長或法律援助主任；

duty which such Registrar, temporary registrar, senior deputy registrar, temporary senior deputy registrar, deputy registrar, temporary deputy registrar, assistant registrar, temporary assistant registrar or bailiff might respectively have exercised or discharged under subsections (2) and (3) if he had been appointed or attached to the Court under subsection (1). (Replaced 28 of 2000 s. 9. Amended 10 of 2005 s. 146)

(5) In the exercise of his powers and discharge of his duties under this Ordinance, any person to whom this section applies shall be subject to the same liabilities and penalties and have the benefit of the same protection as attach by virtue of the provisions of the High Court Ordinance (Cap. 4) to a person exercising or discharging similar powers or duties under that Ordinance. (Amended 21 of 1962 s. 9; 28 of 2000 s. 9)

(Replaced 18 of 1958 s. 3. Amended 25 of 1998 s. 2)

**14AA. Professional qualifications of
Registrar, deputy registrars
and assistant registrars**

(1) A person shall be eligible to be appointed as the Registrar, a deputy registrar or an assistant registrar if—

- (a) he is qualified to practise as a barrister, solicitor or advocate in a court in Hong Kong or any other common law jurisdiction having unlimited jurisdiction either in civil or criminal matters; and
- (b) since becoming so qualified, he has for a period of or periods totalling not less than 5 years—
 - (i) practised as a barrister, solicitor or advocate in such a court;
 - (ii) been a permanent magistrate appointed in accordance with section 5 of the Magistrates Ordinance (Cap. 227);
 - (iii) been a coroner appointed in accordance with section 3 of the Coroners Ordinance (Cap. 504);
 - (iv) been an adjudicator appointed in accordance with section 4 of the Small Claims Tribunal Ordinance (Cap. 338);
 - (v) been a presiding officer appointed in accordance with section 4 of the Labour Tribunal Ordinance (Cap. 25);
 - (vi) been a legal officer as defined in section 2 of the Legal Officers Ordinance (Cap. 87);
 - (vii) been the Director of Legal Aid or a Deputy Director of Legal Aid, Assistant Director of Legal Aid or Legal Aid Officer, appointed in accordance with section 3 of the Legal Aid Ordinance (Cap. 91);

4. 審裁官的委任

- (1) 行政長官須按他認為所需的數目, 委出審裁官。 (由 1998 年第 25 號第 2 條修訂)
- (2) (由 2005 年第 10 號第 151 條廢除)
- (3) 審裁官的中文名稱為“審裁官”。
- (4) 在符合第(5)款的規定下, 根據第(1)款作出的委任, 可有追溯效力。
- (5) 受委任為審裁官的人, 在其委任文書上所註日期前, 或在履行《宣誓及聲明條例》(第 11 章) 第 17 條的規定前, 不得履行任何司法職能。

4AA. 審裁官的專業資格

- (1) 任何人如符合以下條件, 即有資格獲委任為審裁官——
 - (a) 該人有資格在香港或任何其他普通法適用地區的任何法院執業為大律師、律師或訟辯人, 而該法院是在民事或刑事事宜上具有無限司法管轄權的; 及
 - (b) 自具有上述資格後, 該人已有一段不少於 5 年的期間或在不同期間而合共不少於 5 年的期間是——
 - (i) 在任何上述法院執業為大律師、律師或訟辯人;
 - (ii) 《律政人員條例》(第 87 章) 第 2 條所界定的律政人員;
 - (iii) 按照《法律援助條例》(第 91 章) 第 3 條委任的法律援助署署長、法律援助署副署長、法律援助署助理署長或法律援助主任;
 - (iv) 按照《破產條例》(第 6 章) 第 75 條委任的破產管理署署長、助理破產管理署署長(法律)、助理首席律師、高級律師或律師; 或
 - (v) 按照《知識產權署署長(設立)條例》(第 412 章) 第 3 條委任的知識產權署署長、知識產權署副署長、知識產權署助理署長、高級律師或律師。
- (2) 為計算第(1)(b)款提述的 5 年期間——

4. Appointment of adjudicators

- (1) The Chief Executive shall appoint such number of adjudicators as he considers necessary. (Amended 25 of 1998 s. 2)
- (2) (Repealed 10 of 2005 s. 151)
- (3) An adjudicator shall be known in the Chinese language as “審裁官”.
- (4) Subject to subsection (5), an appointment made under subsection (1) may be given retrospective effect.
- (5) No person appointed as an adjudicator shall discharge any judicial function before the date of the instrument by which he is appointed or before the requirements of section 17 of the Oaths and Declarations Ordinance (Cap. 11) have been fulfilled.

4AA. Professional qualifications of adjudicators

- (1) A person shall be eligible to be appointed as an adjudicator if—
 - (a) he is qualified to practise as a barrister, solicitor or advocate in a court in Hong Kong or any other common law jurisdiction having unlimited jurisdiction either in civil or criminal matters; and
 - (b) since becoming so qualified, he has for a period of or periods totalling not less than 5 years—
 - (i) practised as a barrister, solicitor or advocate in such a court;
 - (ii) been a legal officer as defined in section 2 of the Legal Officers Ordinance (Cap. 87);
 - (iii) been the Director of Legal Aid or a Deputy Director of Legal Aid, Assistant Director of Legal Aid or Legal Aid Officer, appointed in accordance with section 3 of the Legal Aid Ordinance (Cap. 91);
 - (iv) been the Official Receiver or an Assistant Official Receiver (Legal), Assistant Principal Solicitor, Senior Solicitor or Solicitor, appointed in accordance with section 75 of the Bankruptcy Ordinance (Cap. 6); or
 - (v) been the Director of Intellectual Property or a Deputy Director of Intellectual Property, Assistant Director of Intellectual Property, Senior Solicitor or Solicitor, appointed in accordance with section 3 of the Director of Intellectual Property (Establishment) Ordinance (Cap. 412).
- (2) For the purposes of calculating the period of 5 years referred to in subsection (1)(b)—

《死因裁判官條例》(第 504 章), 第 3AA(1)(a) and (b)(i)條

S. 3AA(1)(a) and (b)(i) of the Coroners Ordinance (Cap. 504)

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第 504 章 死因裁判官條例

3. 死因裁判官的委任

- (1) 行政長官可委任任何人為死因裁判官。 (由 2005 年第 10 號第 158 條修訂)
- (2) (由 2005 年第 10 號第 158 條廢除)
- (3) 根據第 (1) 款所作的委任須在憲報公布。
(由 1998 年第 25 號第 2 條修訂)

3AA. 死因裁判官的專業資格

- (1) 任何人如符合以下條件, 即有資格獲委任為死因裁判官——
 - (a) 該人有資格在香港或任何其他普通法適用地區的任何法院執業為大律師、律師或訟辯人, 而該法院是在民事或刑事事宜上具有無限司法管轄權的; 及
 - (b) 自具有上述資格後, 該人已有一段不少於 5 年的期間或在不同期間而合共不少於 5 年的期間是——
 - (i) 在任何上述法院執業為大律師、律師或訟辯人;
 - (ii) 《律政人員條例》(第 87 章) 第 2 條所界定的律政人員;
 - (iii) 按照《法律援助條例》(第 91 章) 第 3 條委任的法律援助署署長、法律援助署副署長、法律援助署助理署長或法律援助主任;
 - (iv) 按照《破產條例》(第 6 章) 第 75 條委任的破產管理署署長、助理破產管理署署長(法律)、助理首席律師、高級律師或律師; 或
 - (v) 按照《知識產權署署長(設立)條例》(第 412 章) 第 3 條委任的知識產權署署長、知識產權署副署長、知識產權署助理署長、高級律師或律師。
- (2) 為計算第 (1)(b) 款提述的 5 年期間——
 - (a) 在該款任何節範圍以內各段不足 5 年的期間可合併計算;
 - (b) 儘管《註冊總署署長(人事編制)條例》(第 100 章) 已被廢除, 擔任該已被廢除條例附表 1 第 I 部所指明的職位的期間仍可計算在內。
(由 2005 年第 10 號第 159 條增補)

CAP. 504 Coroners

3. Appointment of coroners

- (1) The Chief Executive may appoint a person to be a coroner.
(Amended 10 of 2005 s. 158)
- (2) (Repealed 10 of 2005 s. 158)
- (3) An appointment under subsection (1) shall be notified in the Gazette.
(Amended 25 of 1998 s. 2)

3AA. Professional qualifications of coroners

- (1) A person shall be eligible to be appointed as a coroner if—
 - (a) he is qualified to practise as a barrister, solicitor or advocate in a court in Hong Kong or any other common law jurisdiction having unlimited jurisdiction either in civil or criminal matters; and
 - (b) since becoming so qualified, he has for a period of or periods totalling not less than 5 years—
 - (i) practised as a barrister, solicitor or advocate in such a court;
 - (ii) been a legal officer as defined in section 2 of the Legal Officers Ordinance (Cap. 87);
 - (iii) been the Director of Legal Aid or a Deputy Director of Legal Aid, Assistant Director of Legal Aid or Legal Aid Officer, appointed in accordance with section 3 of the Legal Aid Ordinance (Cap. 91);
 - (iv) been the Official Receiver or an Assistant Official Receiver (Legal), Assistant Principal Solicitor, Senior Solicitor or Solicitor, appointed in accordance with section 75 of the Bankruptcy Ordinance (Cap. 6); or
 - (v) been the Director of Intellectual Property or a Deputy Director of Intellectual Property, Assistant Director of Intellectual Property, Senior Solicitor or Solicitor, appointed in accordance with section 3 of the Director of Intellectual Property (Establishment) Ordinance (Cap. 412).
- (2) For the purposes of calculating the period of 5 years referred to in subsection (1)(b)—
 - (a) periods of less than 5 years falling within any of the subparagraphs of that subsection may be combined;
 - (b) periods served in an office specified in Part I of the First Schedule to the repealed Registrar General (Establishment) Ordinance (Cap. 100) may be taken into account notwithstanding the repeal of that Ordinance.
(Added 10 of 2005 s. 159)

《大律師(認許資格及實習)規則》(第 159 章, 附屬法例 AC) · 第 5(2)(e)(iii)條

S. 5(2)(e)(iii) of the Barristers (Qualification for Admission and Pupillage) Rules (Cap. 159 sub. leg. AC)

第 159 章 大律師(認許資格及實習)規則

[附屬法例]

(d) 已在考試(不包括該人依據第(4)及(5)款已獲豁免應考的任何試卷)中合格,

聯合資格根據本條例第 27(1) 條獲認許為大律師。

(1) 任何人在謀求獲認許為大律師之前, 必須已完成至少 6 個月第 10 條所指明的認可實習大律師實習期, 或如認可實習大律師實習期已根據第 16 條被扣減至少於 6 個月, 則必須已完成該項經扣減後的認可實習大律師實習期。

(4) 凡執委會信納由於某人作為執業律師而在考試所涵蓋的一個或多於一個法律範圍方面具有豐富的經驗, 應獲豁免該人應考考試的一張或多於一張試卷, 則執委會可豁免該人使他須應考該等試卷。

(5) 在不損害第(4)款的一般性的原則下, 除執委會在個別個案中另作決定外, 如任何人獲認許所在的司法管轄區屬普通法司法管轄區, 則該人須獲豁免應考考試的卷 I。

5. 考試

(1) 考試由 5 張試卷組成, 分別稱為卷 I、II、III、IV 及 V。

(2) 考試須涵蓋以下科目——

(a) 就卷 I 而言——

(i) 合約法; 及

(ii) 侵權法;

(b) 就卷 II 而言——

(i) 財產法(包括土地財產及非土地財產);

(ii) 物業轉易; 及

(iii) 衡平法(包括信託法);

(c) 就卷 III 而言——

(i) 刑事法; 及

(ii) 刑事法律程序及刑事證據;

(d) 就卷 IV 而言——

(i) 香港法律制度及憲制與行政法; 及

(ii) 公司法; 及

(e) 就卷 V 而言——

(i) 民事法律程序及民事證據;

(ii) 專業操守; 及

(iii) 聲譽。

(3) 執委會須按它運用其絕對酌情決定權認為是適當的方式主辦考試。

(4) 考試須每年至少舉行一次, 時間由執委會決定。

CAP. 159 *Barristers (Qualification for Admission and Pupillage) Rules*

AC 5

[Subsidiary]

(d) has passed the Examination (excluding any examination paper which such person has been exempted from sitting pursuant to subsections (4) and (5)).

(3) A person must have completed not less than 6 months of the period of approved pupillage specified in section 10 or, if the period of approved pupillage has been reduced to less than 6 months under section 16, such reduced period of approved pupillage, before he seeks admission as a barrister.

(4) Where the Bar Council is satisfied that, by reason of his substantial experience as a practising lawyer in one or more of the areas of law covered by the Examination, a person should be exempted from sitting one or more examination papers of the Examination, it may exempt such person from sitting such examination paper or papers.

(5) Without prejudice to the generality of subsection (4), unless the Bar Council otherwise determines in a particular case, a person whose jurisdiction of admission is a common law jurisdiction shall be exempted from sitting Paper I of the Examination.

5. Examination

(1) The Examination shall consist of 5 examination papers known as Papers I, II, III, IV and V respectively.

(2) The Examination shall cover the following subjects—

(a) Paper I—

(i) Contract; and

(ii) Tort;

(b) Paper II—

(i) Property Law (including real and personal property);

(ii) Conveyancing; and

(iii) Equity (including the Law of Trusts);

(c) Paper III—

(i) Criminal Law; and

(ii) Criminal Procedure and Criminal Evidence;

(d) Paper IV—

(i) Hong Kong Legal System and Constitutional and Administrative Law; and

(ii) Company Law; and

(e) Paper V—

(i) Civil Procedure and Civil Evidence;

(ii) Professional Conduct; and

(iii) Advocacy.

(3) The Bar Council shall administer the Examination in the manner as it may in its absolute discretion deem fit.

(4) The Examination shall be held at least once every year at such time as the Bar Council may determine.

《大律師(認許資格及實習)規則》(第 159 章, 附屬法例 AC), 第 16(1)條

S. 16(1) of the Barristers (Qualification for Admission and Pupillage) Rules (Cap. 159 sub. leg. AC)

第 159 章 大律師(認許資格及實習)規則

CAP. 159 Barristers (Qualification for Admission and Pupillage) Rules

AC 11

[附屬法例]

[Subsidiary]

- (c) 違反任何執委會作出的與根據第 11 條提出的申請有關的任何聲明及承諾而從事任何工作、受僱或登記，須隨即以書面通知執委會。
- (2) 執委會如——
 - (a) 信納——
 - (i) 某實習大律師犯失當行為；或
 - (ii) 某實習大律師已將第 (1) 款所述之任何事宜的發生通知執委會，或沒有將該事宜的發生通知執委會；或
 - (b) 已撤回它對實習大律師實習事宜的批准，則可命令終止或暫時停止有關的實習大律師實習。
 - (3) 如執委會根據第 (2) 款作出命令終止或暫時停止某實習大律師的實習大律師實習，它應該在作出該命令後 28 天內，將該命令及作出該命令的理由通知有關實習大律師。
 - (4) 就本條而言，“失當行為”(misconduct) 指如由一名執業大律師作出的即會被視為在專業上的失當行為的任何行為。

- (c) engaged, employed or enrolled in contravention of any declaration and undertaking given to the Bar Council in connection with an application made under section 11, shall forthwith inform the Bar Council in writing.
- (2) The Bar Council may order the termination or suspension of a pupillage if—
 - (a) it is satisfied that—
 - (i) the pupil is guilty of misconduct; or
 - (ii) the pupil has notified, or fails to notify, the Bar Council of the occurrence of any of the matters referred to in subsection (1); or
 - (b) it has revoked its approval of a pupillage.
 - (3) If the Bar Council has made an order to terminate or suspend a pupillage under subsection (2), it should notify the pupil of its order and the reasons for the order within 28 days of the order.
 - (4) For the purposes of this section, "misconduct" (失當行為) means any conduct which would be regarded as professional misconduct if committed by a practising barrister.

16. 削減認可實習大律師實習期

16. Reduction of period of approved pupillage

- (1) 凡高等法院首席法官信納某名尋求根據本條例第 27(1) 條獲認許為大律師的人已具有豐富的庭辯經驗，他可在諮詢執委會後，削減第 10 條所述的認可實習大律師實習期，但經削減後的實習大律師實習期不得少於 3 個月。
- (2) 高等法院首席法官可使對認可實習大律師實習期的削減，受他運用其絕對的裁量權所規限。

- (1) The Chief Judge may, after consulting the Bar Council, reduce the period of approved pupillage mentioned in section 10 where he is satisfied that a person seeking admission under section 27(1) of the Ordinance has substantial experience of court advocacy, but the period of a reduced pupillage shall not be less than 3 months.
- (2) The Chief Judge may make the reduction of the period of approved pupillage subject to such conditions as he may in his absolute discretion specify.

第 4 部

PART 4

一般規定

GENERAL

17. 證明書的更改或撤銷

17. Variation or revocation of certificates

- (1) 執委會可隨時基於好的理由更改或撤銷根據第 6、8 或 12 條發出的證明書。
- (2) 執委會應在根據第 (1) 款作出的更改或撤銷後 28 天內，將該項更改或撤銷連同有關的理由通知受該項更改或撤銷影響的人。

- (1) The Bar Council may at any time vary or revoke a certificate issued under section 6, 8 or 12 for good cause.
- (2) The Bar Council should notify with reasons the person affected by the variation or revocation made under subsection (1) within 28 days of such variation or revocation.

《區域法院條例》(第 336 章), 第 87(d)條
S. 87(d) of the District Court Ordinance (Cap. 336)

第 336 章 區域法院條例

CAP. 336 District Court

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85. 協助者及教唆者

《刑事訴訟程序條例》(第 221 章)第 89、90 及 91 條須為方便適用而在語句上作出
出不影響其本質的必要修改或變通後,適用於區域法院的法律程序。

(由 1971 年第 5 號第 13 條代替,由 2000 年第 28 號第 48 條修訂)

85. Aiders and abettors

Sections 89, 90 and 91 of the Criminal Procedure Ordinance (Cap. 221) shall apply to proceedings in the Court with such verbal alterations and modifications not affecting the substance thereof as may be necessary to render the same conveniently applicable.

(Replaced 5 of 1971 s. 13)

86. 財產的檢取

區域法院具有《刑事訴訟程序條例》(第 221 章)第 102 至 106 條(首尾兩條包括在內)
賦予原訟法庭的所有權力。

(將 1953 年第 1 號第 34 條插入,由 1962 年第 21 號第 13 條修訂;由 1998 年第 25 號第 2 條修訂;由 2000 年第 28 號第 48 條修訂)

86. Seizure of property

The Court shall have all the powers conferred upon the Court of First Instance by sections 102 to 106 inclusive of the Criminal Procedure Ordinance (Cap. 221).

(1 of 1953 s. 34 incorporated. Amended 21 of 1962 s. 13; 25 of 1998 s. 2)

87. 刑事訴訟程序規則

規則委員會可訂立涉及區域法院在行使其刑事司法管轄權時的程序及常規的規則,
而該等規則可就以下事宜訂定條文——(由 1962 年第 21 號第 18 條修訂;由 2000 年第 28 號第 48 條修訂)

- (a) 在區域法院使用的表格,包括與控罪有關的一切事宜所使用的表格,而該等事宜均是根據《刑事訴訟程序條例》(第 221 章)第 9 條訂立的規則或公訴書可訂明的;
- (b) 須將文件送交區域法院存檔的時限或期間,或須將通知交付或送達區域法院或任何人的時間或期間;
- (c) 區域法院各人員或區域法院的刑事法律程序所具有的功能;
- (d) 享有和行使出庭發言權的方式,開庭的先後次序,以及在區域法院作證的方式及常規;
- (e) 指派大律師及律師為貧民辯護,以及為此所准予的費用及訟費;及
- (f) 概括而言,更有效施行本節的條文。

(將 1953 年第 1 號第 36 條插入,由 2000 年第 28 號第 48 條修訂)

87. Criminal Procedure Rules

The Rules Committee may make rules touching the procedure and practice of the Court in the exercise of its criminal jurisdiction and such rules may provide for— (Amended 21 of 1962 s. 18)

- (a) forms to be used in the Court, including in relation to charge sheets all such matters as may be prescribed in relation to indictments by rules made under section 9 of the Criminal Procedure Ordinance (Cap. 221);
- (b) the times at or within which documents must be filed in the Court or notices delivered to or served on the Court or any person;
- (c) the functions in relation to criminal proceedings in the Court of the various officers of the Court;
- (d) the manner in which the right of audience shall be enjoyed and used, the order of addresses, and the form and practice of advocacy in the Court;
- (e) the assigning of counsel and solicitors for the defence of paupers, and the fees and costs to be allowed therefor; and
- (f) generally, the better carrying into effect of the provisions of this Part.

(1 of 1953 s. 36 incorporated)

88. 特赦權的保留

本條例並不影響關於行政長官赦免罪行或改判刑罰的權力。

(將 1953 年第 1 號第 37 條插入,由 1998 年第 25 號第 2 條修訂)

88. Saving of prerogative of mercy

Nothing in this Ordinance shall affect any power vested in the Chief Executive to pardon offences or commute penalties.

(1 of 1953 s. 37 incorporated. Amended 25 of 1998 s. 2)