

LEGISLATIVE COUNCIL BRIEF

Legal Practitioners Ordinance (Cap 159)

PRACTISING CERTIFICATE (BARRISTERS) (AMENDMENT) RULES 2011

INTRODUCTION

On 23 February 2011, the Chief Justice of the Hong Kong Court of Final Appeal, in exercise of the power under section 72 of the Legal Practitioners Ordinance (Cap 159) (LPO), made the Practising Certificate (Barristers) (Amendment) Rules 2011 (the Amendment Rules) at **Annex** to amend the forms for practising certificates for barristers, and the application forms for such certificates, as prescribed under the Practising Certificate (Barristers) Rules (Cap 159 sub. leg. K) (the Rules). The amendments aim to prescribe forms which are bilingual (in both English and Chinese), in substitution for existing forms which are in either English or in Chinese only.

JUSTIFICATION

2. Under section 31(1)(b) of the LPO, a barrister must hold a practising certificate before he is entitled to practise as a barrister. Such a barrister may be practising generally without limitation, or he may be practising to a limited extent as the Bar Council may determine (this applies in the case of pupil barristers who have completed six of the twelve months' required pupillage training), or he may be an overseas lawyer admitted under section 27(4) of the LPO for the purpose of a particular case or cases.

3. Further, an "employed barrister", as defined under section 31C(1) of the LPO, may, if he satisfies certain conditions, apply to the Bar Council for the issue of an employed barrister's certificate under section 31C(2) of the LPO.

4. There are therefore four different types of certificates:

- (1) a practising certificate for barristers in general practice;
- (2) a practising certificate for pupil barristers in limited practice;
- (3) a practising certificate for overseas lawyers admitted under section 27(4) of the LPO;
- (4) an employed barrister's certificate.

5. Rule 2 of the Rules provides that applications for the certificates shall be in Forms 1, 1A, 1B and 1C of the Schedule respectively.

6. Rule 3 of the Rules provides that the certificates shall be in Forms 2, 3, 4 and 5 of the Schedule respectively.

7. The forms in the Schedule to the English version of the Rules are in English only, whereas the forms in the Schedule to the Chinese version of the Rules are in Chinese only. There is no basis or mechanism for the Bar Council to issue a certificate in a bilingual form as that would not be in the statutory prescribed form. The practice is that only English certificates are issued. There is, however, a growing need for a practising certificate issued

in Chinese in certain circumstances, for example, where a barrister needs to prove that he is a Hong Kong practising barrister in Mainland China. The issue of certificates in both English and Chinese will address such a need without the barrister having to apply for, and for the Bar Council to issue, another certificate in Chinese after one has been issued in English.

8. The issue of certificates in both English and Chinese is also desirable as both are an official language in Hong Kong.

THE AMENDMENT RULES

9. The Amendment Rules replaces the monolingual forms in the Schedule to the Rules with bilingual ones.

10. The Amendment Rules also amend the references of “27(2)” in rules 2(1)(c) and 3(3) of the Rules, to “27(4)”, as the latter is the correct reference.

LEGISLATIVE TIMETABLE

11. The legislative timetable is as follows –

Publication in the Gazette	4 March 2011
Tabling at LegCo	9 March 2011
Commencement	6 May 2011

IMPLICATIONS

12. The Amendment Rules have no implications in any aspect.

ENQUIRIES

13. Enquiries on the Amendment Rules may be made to Mr Stewart Wong, the Honorary Secretary of the Hong Kong Bar Association, at honsecretary@hkba.org.

Hong Kong Bar Association
March 2011

Practising Certificate (Barristers) (Amendment) Rules 2011

(Made by the Chief Justice under section 72 of the Legal Practitioners Ordinance (Cap. 159))

1. Commencement

These Rules come into operation on 6 May 2011.

2. Practising Certificate (Barristers) Rules amended

Practising Certificate (Barristers) Rules (Cap. 159 sub. leg. K) are amended as set out in sections 3 to 5.

3. Rule 2 amended (Application for a practising certificate)

Rule 2(1)(c)—

Repeal

“27(2)”

Substitute

“27(4)”.

4. Rule 3 amended (Barristers’ practising certificates)

Rule 3(3)—

Repeal

“27(2)”

Substitute

“27(4)”.

5. Schedule substituted

The Schedule—

Repeal the Schedule

Substitute

“Schedule [rules 2 & 3]

Forms

FORM 1 [rule 2]

APPLICATION BY A BARRISTER FOR A PRACTISING CERTIFICATE
由大律師提出的執業證書申請

PRACTISING CERTIFICATE (BARRISTERS) RULES
(Cap. 159 sub. leg. K)
《執業證書(大律師)規則》
(第 159 章，附屬法例 K)

To : The Council of the Hong Kong Bar Association

致：香港大律師公會執行委員會

I, ,
(name)

本人 ,
(姓名)

of ,
(chambers address)

地址為
(大律師辦事處地址)

apply for the issue to me of a practising certificate in accordance with section 30(1) of the Legal Practitioners Ordinance (Cap. 159).

申請按照《法律執業者條例》(第 159 章)第 30(1)條發出執業證書予本人。

I confirm that I am qualified to practise as a Barrister by virtue of section 31(1) of the Ordinance and that I am not disqualified by virtue of section 31(1)(d) or (e) of the Ordinance.*

本人確認憑藉該條例第 31(1)條，本人合資格執業為大律師，而且本人並無因該條例第 31(1)(d)或(e)條喪失資格。*

Dated this day of 20

日期：20 年 月 日

.....
Applicant

申請人

* The applicant is referred to the current Code of Conduct of the Bar of the Hong Kong Special Administrative Region.

* 申請人請參閱現行的《香港大律師行為守則》。

FORM 1A

[rule 2]

APPLICATION BY A BARRISTER FOR A LIMITED PRACTISING
CERTIFICATE

由大律師提出的具限定範圍的執業證書申請

PRACTISING CERTIFICATE (BARRISTERS) RULES
(Cap. 159 sub. leg. K)

《執業證書(大律師)規則》
(第 159 章，附屬法例 K)

To: The Council of the Hong Kong Bar Association

致：香港大律師公會執行委員會

I,
(name)

本人
(姓名)

of
(chambers address)

地址為
(大律師辦事處地址)

apply for the issue to me of a limited practising certificate in accordance with section 30(1) of the Legal Practitioners Ordinance (Cap. 159).

申請按照《法律執業者條例》(第 159 章)第 30(1)條發出具限定範圍的執業證書予本人。

I confirm that I am qualified to practise as a Barrister by virtue of section 31(2) of the Ordinance and that I am not disqualified by virtue of section 31(1)(d) or (e) of the Ordinance.*

本人確認憑藉該條例第 31(2)條，本人合資格執業為大律師，而且本人並無因該條例第 31(1)(d)或(e)條喪失資格。*

Dated this day of 20

日期：20 年 月 日

.....
Applicant

申請人

* The applicant is referred to the current Code of Conduct of the Bar of the Hong Kong Special Administrative Region.

* 申請人請參閱現行的《香港大律師行為守則》。

FORM 1B

[rule 2]

APPLICATION BY A BARRISTER ADMITTED FOR THE PURPOSE OF
ANY PARTICULAR CASE OR CASES FOR A PRACTISING
CERTIFICATE

由就個別案件而獲認許的大律師提出的執業證書申請

PRACTISING CERTIFICATE (BARRISTERS) RULES
(Cap. 159 sub. leg. K)

《執業證書(大律師)規則》
(第 159 章，附屬法例 K)

To: The Council of the Hong Kong Bar Association

致：香港大律師公會執行委員會

I, ,
(name)

本人 ,
(姓名)

of ,
(chambers address)

地址為 ,
(大律師辦事處地址)

declare that I was admitted as a Barrister for the purpose of

.....
(case(s))

現聲明本人已就
(案件)

by Order of made on
(name of Judge) (date)

而藉 於 作出的命令，
(法官姓名) (日期)

獲認許為大律師；

and apply for a practising certificate in respect of that case/those cases[#] under section 30(1) of the Legal Practitioners Ordinance (Cap. 159).

本人現根據《法律執業者條例》(第 159 章)第 30(1)條，就該宗案件/該等案件[#]申請執業證書。

I confirm that I am not disqualified by virtue of section 31(1)(d) or (e) of the Ordinance.*

本人確認本人並無因該條例第 31(1)(d)或(e)條喪失資格。*

Dated this day of 20

日期：20 年 月 日

.....
Applicant
申請人

Delete whichever is inapplicable.

刪去不適用者。

* The applicant is referred to the current Code of Conduct of the Bar of the Hong Kong Special Administrative Region.

* 申請人請參閱現行的《香港大律師行為守則》。

FORM 1C

[rule 2]

APPLICATION BY AN EMPLOYED BARRISTER FOR AN EMPLOYED
BARRISTER'S CERTIFICATE

由受僱大律師提出的受僱
大律師證書申請

PRACTISING CERTIFICATE (BARRISTERS) RULES
(Cap. 159 sub. leg. K)

《執業證書(大律師)規則》
(第 159 章，附屬法例 K)

To: The Council of the Hong Kong Bar Association

致：香港大律師公會執行委員會

I,,
(name)

本人,
(姓名)

of,
(office or chambers address)

地址為,
(辦事處或大律師辦事處地址)

apply for an employed barrister's certificate under section 31C(2)
of the Legal Practitioners Ordinance (Cap. 159).#

根據《法律執業者條例》(第 159 章)第 31C(2)條，申請受僱大律師證書。#

I confirm that I—

本人確認本人—

* hold a valid practising certificate issued under section 30 of the Ordinance.

* 持有根據該條例第 30 條發給的有效執業證書。

* have completed the prescribed qualifying period of active practice.

* 已完成訂明的實際執業的資格檢定期。

- * have been an employed barrister in Hong Kong for at least 12 months immediately preceding the date of this application.
- * 在緊接提出本申請的日期前的 12 個月或更長的時間內，一直是一名在香港的受僱大律師。

Dated this day of 20

日期：20 年 月 日

.....
Applicant
申請人

- # The applicant is referred to the current Code of Conduct of the Bar of the Hong Kong Special Administrative Region.
- # 申請人請參閱現行的《香港大律師行為守則》。
- * Delete whichever is inapplicable.
- * 刪去不適用者。

FORM 2

[rule 3]

PRACTISING CERTIFICATE AS A BARRISTER
大律師執業證書

PRACTISING CERTIFICATE (BARRISTERS) RULES
(Cap. 159 sub. leg. K)

《執業證書(大律師)規則》
(第 159 章，附屬法例 K)

It is certified, in accordance with section 30(1) of the Legal Practitioners Ordinance (Cap. 159), that, a Barrister,
(name)

現按照《法律執業者條例》(第 159 章)第 30(1)條，證明大律師,
(姓名)

of,
(chambers address)

地址為,
(大律師辦事處地址)

has complied with that section and is therefore qualified to practise as a Barrister for the period from the date of this certificate to 31 December 20*

已符合該條的規定，因此在本證書的日期至 20 年 12 月 31 日的期間，合資格執業為大律師。*

Dated this day of 20

日期：20 年 月 日

.....
for the Council of the Hong Kong
Bar Association
香港大律師公會執行委員會
(代行)

- * This certificate is not evidence that the holder, who is subject to the current Code of Conduct of the Bar of the Hong Kong Special Administrative Region, is or has been in practice as a Barrister during the above period.
- * 本證書並非其持有人(該人須受現行的《香港大律師行為守則》所規限)於上述期間或曾在上述期間執業為大律師的證據。

FORM 3 [rule 3]

LIMITED PRACTISING CERTIFICATE AS A BARRISTER
大律師的具限定範圍的執業證書

PRACTISING CERTIFICATE (BARRISTERS) RULES
(Cap. 159 sub. leg. K)
《執業證書(大律師)規則》
(第 159 章，附屬法例 K)

It is certified, in accordance with section 30(1) of the Legal Practitioners Ordinance (Cap. 159), that, a Barrister,
(name)

現按照《法律執業者條例》(第 159 章)第 30(1)條，證明大律師,
(姓名)

of,
(chambers address)

地址為,
(大律師辦事處地址)

has complied with that section, is qualified to practise to a limited extent under section 31(2) of the Ordinance and is therefore qualified to practise as a Barrister to such limited extent as the Council of the Hong Kong Bar Association has determined and may from time to time determine, and is issued this certificate for the period from the date of this certificate to 20*

已符合該條的規定，並且合資格根據該條例第 31(2)條作限定範圍的執業，因此合資格在香港大律師公會執行委員會所決定和可不時決定的限定範圍內，執業為大律師，並在本證書的日期至 20 年 月 日的期間獲發給本證書。*

Dated this day of 20
日期：20 年 月 日

.....
for the Council of the Hong Kong
Bar Association
香港大律師公會執行委員會
(代行)

- * This certificate is not evidence that the holder, who is subject to the current Code of Conduct of the Bar of the Hong Kong Special Administrative Region, is or has been in practice as a Barrister during the above period.
- * 本證書並非其持有人(該人須受現行的《香港大律師行為守則》所規限)於上述期間或曾在上述期間執業為大律師的證據。

FORM 4

[rule 3]

PRACTISING CERTIFICATE AS A BARRISTER ADMITTED FOR THE
PURPOSE OF ANY PARTICULAR CASE OR CASES

就個別案件而獲認許的大律師執業證書

PRACTISING CERTIFICATE (BARRISTERS) RULES

(Cap. 159 sub. leg. K)

《執業證書(大律師)規則》

(第 159 章，附屬法例 K)

It is certified, in accordance with section 30(1) of the Legal Practitioners Ordinance (Cap. 159), that, a Barrister,
(name)

現按照《法律執業者條例》(第 159 章)第 30(1)條，證明大律師,
(姓名)

of,
(chambers address)

地址為,
(大律師辦事處地址)

is admitted for the purpose of,
(case(s))

已就,
(案件)

by Order of made on
(name of Judge) (date)

而藉 於 作出的命令，
(法官姓名) (日期)

and is therefore qualified to practise as a Barrister in respect of that case/those cases[#] for the period from the date of this certificate to 31 December 20*

獲認許執業為大律師，因此在本證書的日期至 20 年 12 月 31 日的期間，合資格就該宗案件/該等案件[#]執業為大律師。*

Dated this day of 20

日期：20 年 月 日

.....
for the Council of the Hong Kong
Bar Association

香港大律師公會執行委員會
(代行)

- # Delete whichever is inapplicable.
- # 刪去不適用者。
- * This certificate is not evidence that the holder, who is subject to the current Code of Conduct of the Bar of the Hong Kong Special Administrative Region, is or has been in practice as a Barrister during the above period.
- * 本證書並非其持有人(該人須受現行的《香港大律師行為守則》所規限)於上述期間或曾在上述期間執業為大律師的證據。

FORM 5

[rule 3]

EMPLOYED BARRISTER'S CERTIFICATE

受僱大律師證書

PRACTISING CERTIFICATE (BARRISTERS) RULES

(Cap. 159 sub. leg. K)

《執業證書(大律師)規則》

(第 159 章，附屬法例 K)

It is certified, in accordance with section 31C(3) of the Legal Practitioners Ordinance (Cap. 159), that,

(name)

現按照《法律執業者條例》(第 159 章)第 31C(3)條，證明,

(姓名)

of,

(office or chambers address)

地址為,

(辦事處或大律師辦事處地址)

is an employed barrister, has complied with section 31C(2) of the Ordinance and is therefore issued this certificate for the period from the date of this certificate to 31 December 20

是一名受僱大律師，並已符合該條例第 31C(2)條的規定，因此在本證書的日期至 20 年 12 月 31 日的期間獲發給本證書。*

Dated this day of 20

日期：20 年 月 日

.....

for the Council of the Hong Kong
Bar Association

香港大律師公會執行委員會
(..... 代行)

- * This certificate is not evidence that the holder, who is subject to the current Code of Conduct of the Bar of the Hong Kong Special Administrative Region, is or has been in practice as a Barrister during the above period.

- * 本證書並非其持有人(該人須受現行的《香港大律師行為守則》所規限)於上述期間或曾在上述期間執業為大律師的證據。*



Chief Justice

23 February 2011

Explanatory Note

These Rules amend the Practising Certificate (Barristers) Rules (Cap. 159 sub. leg. K) to rectify certain references to a provision of the Legal Practitioners Ordinance (Cap. 159), and to provide for application forms for applying for barristers' practising certificates and barristers' practising certificates in bilingual format. The references to year in the forms and certificates are updated as well.