

## **LEGISLATIVE COUNCIL BRIEF**

### **STATUTE LAW (MISCELLANEOUS PROVISIONS) BILL 2012**

#### **INTRODUCTION**

**A** At the meeting of the Executive Council on 17 April 2012, the Council ADVISED and the Acting Chief Executive ordered that the Statute Law (Miscellaneous Provisions) Bill 2012, at **Annex A**, should be introduced into the Legislative Council.

#### **JUSTIFICATIONS**

2. The proposed amendments in the Bill are set out below under different headings in accordance with the relative importance of the subject matters.

##### **(1) Crimes Ordinance (Cap. 200)**

3. Under the existing common law, there is an irrebuttable common law presumption of criminal law that a boy under 14 is incapable of sexual intercourse. After reviewing the presumption and its implications, the Law Reform Commission of Hong Kong (LRC) issued a report in December 2010 recommending that the common law presumption should be abolished. In order to implement the LRC's recommendation, it is proposed that a new provision be inserted in the Crimes Ordinance to abolish the common law presumption.

**(2) Legal Practitioners Ordinance (Cap. 159) and Legal Services Legislation (Miscellaneous Amendments) Ordinance 1997 (94 of 1997) (the 1997 Ordinance)**

4. The new Section 7L of Part IIAA of the Legal Practitioners Ordinance as enacted by the 1997 Ordinance provides that “[n]othing in this Part affects the operation of the Companies Ordinance (Cap. 32) in relation to its application to a company that is a solicitor corporation”. In the draft Solicitor Corporation Rules (draft SCR) proposed by the Council of the Law Society, there is a provision providing that only a solicitor who is a member or employee of a solicitor corporation can be appointed as a proxy for the purpose of attending and voting at any meeting of the solicitor corporation. This proposed provision in the draft SCR is arguably in breach of the *ultra vires* principle in its purported restriction or qualification of section 114C(1) of the Companies Ordinance which provides:

“.... any member of a company entitled to attend and vote at a meeting of the company shall be entitled to appoint another person (whether a member or not) as his proxy to attend and vote instead of him”.

5. The Law Society maintains that the proposed provision in the draft SCR is required to achieve the policy intent that control of solicitor corporations must remain with solicitors. It is proposed that the potential *ultra vires* issue be resolved by amending the new section 7L of the Legal Practitioners Ordinance.

6. We have been informed by the Law Society that it intends to bring into operation all the relevant provisions relating to solicitor corporations in the 1997 Ordinance at the same time when the Solicitor Corporation Rules prepared by the Law Society comes into operation.

7. Since the 1997 Ordinance was enacted quite some time ago, some of the amendments in the 1997 Ordinance have been overtaken

by subsequent amendments to the Legal Practitioners Ordinance made after 1997. As a result, some provisions in the Legal Practitioners Ordinance and in the 1997 Ordinance need to be further amended so as to enable the relevant provisions of the 1997 Ordinance and the Solicitor Corporation Rules to be brought into operation. The Bill will include a dedicated part to deal with these consequential amendments.

### **(3) Other major proposed amendments to the Legal Practitioners Ordinance**

8. The Hong Kong Bar Association takes the view that reading sections 30(3) and 31C(3) of the Legal Practitioners Ordinance together, an employed barrister is required to be insured before an employed barrister's certificate (EBC) can be issued to an employed barrister as a result of the deeming effect of section 31C(3) and that such effect in requiring an employed barrister to be insured before an EBC can be issued might have been an oversight at the time of the enactment of section 31C.

9. The Bar Association considers that there is no policy reason to justify the insurance requirement for employed barristers and proposes that an applicant for EBC should be exempted from the application of section 30(3)(b) of the Ordinance. The Bar Association explains that employed barristers only provide legal services to their respective employers, and not to the general public, and whether the employed barrister should or should not be insured is a matter between the employed barrister and the employed barrister's employer. Insofar as the solicitor branch of the legal profession is concerned, we note that an employed solicitor is generally not required to take out professional indemnity insurance.

10. In addition, it is necessary to repeal the finality provision in section 40M(1) of the Legal Practitioners Ordinance to allow an appeal to be lodged to the Court of Final Appeal (CFA) against any order made by a Notaries Public Disciplinary Tribunal. This provision is similar to the finality provision in section 13(1) of the Ordinance, which was

repealed by the Statute Law (Miscellaneous Provisions) Ordinance 2005 (10 of 2005) as a result of the CFA's judgment in *A Solicitor v The Law Society of Hong Kong & Secretary for Justice* [2004] 1 HKLRD 214 where the CFA held that the finality provision in section 13(1) was inconsistent with its power of final adjudication under Article 82 of the Basic Law. A number of related and consequential amendments to sections 25, 39, 40P and 40R of the Ordinance will also be proposed by the Bill.

11. It is proposed that amendments to section 50B(4) of the Legal Practitioners Ordinance be made to clarify that a foreign lawyer or firm must not take into partnership a solicitor or barrister who holds a practising certificate.

#### **(4) Customs and Excise Service Ordinance (Cap. 342)**

12. The Civil Service Bureau and the Customs and Excise Department propose to repeal section 12(6) of the Customs and Excise Service Ordinance as this provision may not be compatible with Article 31 of the Basic Law and Article 8(2) of the Hong Kong Bill of Rights concerning freedom to travel. The section requires an officer under interdiction to seek the permission of the Commissioner of Customs and Excise before leaving Hong Kong.

#### **(5) High Court Ordinance (Cap. 4), Lands Tribunal Ordinance (Cap. 17), Labour Tribunal Ordinance (Cap. 25), Magistrates Ordinance (Cap. 227), District Court Ordinance (Cap. 336), Small Claims Tribunal Ordinance (Cap. 338) and Coroners Ordinance (Cap. 504)**

13. As a result of the establishment of the legal office of Assistant Principal Solicitor (APS) in the Intellectual Property Department, it is proposed that APS be added to the relevant provisions in the above Ordinances so as to ensure that APSs are eligible to be appointed as certain judicial officers.

**(6) Legislation Publication Ordinance (Cap. 614) and the Laws (Loose-leaf Publication) Ordinance 1990 (51 of 1990)**

14. In order to facilitate the editorial work in preparing and updating the Laws of Hong Kong, it is beneficial for the Secretary for Justice to have wider editorial powers. These include making the ambit of editorial powers for the loose-leaf edition to be in line with the new legislation database regime under section 12 of the Legislation Publication Ordinance (Cap. 614), adding the power in relation to inserting after a reference to the title of an Ordinance the chapter number given under the Laws (Loose-leaf Publication) Ordinance 1990 (51 of 1990) (“Loose-leaf Ordinance”) or under the Legislation Publication Ordinance, and adding the power to insert after a definition its Chinese/English equivalent.

**(7) Miscellaneous minor and technical amendments and repeals**

15. It is also proposed that certain minor and technical amendments to various Ordinances or subsidiary legislation be made for miscellaneous purposes, for example, to correct or update references appearing in certain enactments and to achieve internal consistency in terminology and consistency between the Chinese and English texts of certain enactments; and various items of subsidiary legislation that have ceased to be in force be repealed.

16. An example of such amendments is the amendments to the Toys and Children’s Products Safety Ordinance (Cap. 424) to simplify the definitions of “children’s product standard” and “toy standard” and the format of Schedules 1 and 2 to the Ordinance to facilitate the updating of the applicable safety standards.

**OTHER OPTIONS**

17. The proposed changes can only be effected by legislative means. There is no other option.

## **THE BILL**

18. The Bill is divided into 12 Parts.
19. Part 1 contains the short title and commencement clauses.
20. Part 2 makes certain amendments to the Legal Practitioners Ordinance (Cap. 159) as described in paragraphs 8 to 11 above.
21. Part 3 amends the Administration of Estates by Consular Officers Ordinance (Cap. 191) to streamline the gazettal requirement of orders made under section 3 of that Ordinance.
22. Part 4 adds a new section 118O to the Crimes Ordinance (Cap. 200) to abolish the common law presumption that a boy under 14 is incapable of sexual intercourse.
23. Part 5 amends the Customs and Excise Service Ordinance (Cap. 342) to repeal a provision prohibiting an officer under interdiction to leave Hong Kong without permission.
24. Part 6 amends the Toys and Children's Products Safety Ordinance (Cap. 424) to simplify the formulation adopted in the definitions of "children's product standard" and "toy standard" and the format of Schedules 1 and 2 which set out the applicable safety standards. The proposals will facilitate further updating of the standards.
25. Part 7 amends the Legislation Publication Ordinance (Cap. 614) and the Loose-leaf Ordinance to facilitate the editorial work involved in preparing and updating the Laws of Hong Kong.

26. Part 8 amends the Legal Practitioners Ordinance (Cap. 159) and the 1997 Ordinance to address the issues stated in paragraphs 4 to 7 above.

27. Part 9 contains amendments to various Ordinances to reflect the addition of the office of Assistant Principal Solicitor in the Intellectual Property Department.

28. Part 10 to Part 12 contain minor and technical amendments to various Ordinances or subsidiary legislation, and repeals of various items of subsidiary legislation that have ceased to be in force.

**B**

29. The existing provisions being amended are at **Annex B**.

**LEGISLATIVE TIMETABLE**

30. The legislative timetable will be as follows –

Publication in the Gazette	20 April 2012
First Reading and commencement of Second Reading debate	2 May 2012
Resumption of Second Reading debate, committee stage and Third Reading	To be notified

**IMPLICATIONS OF THE PROPOSAL**

31. The above-mentioned legislative proposals are in conformity with the Basic Law, including the provisions concerning human rights. They have no economic, productivity, environmental, sustainability, financial or civil service implications. The Bill will not affect the current binding effect of the respective Ordinances and subsidiary legislation being amended.

## **PUBLIC CONSULTATION**

32. The Legislative Council's Panel on Administration of Justice and Legal Services (AJLS Panel) was consulted on the LRC's report recommending the abolition of the common law presumption that a boy under 14 is incapable of sexual intercourse at its meeting on 28 February 2011. Members generally supported this recommendation.

33. The AJLS Panel was further consulted on all the major proposals in the Bill at its meeting on 26 March 2012. Members did not have any objection to them.

34. We have consulted the Law Society on the proposed amendments relating to solicitor corporations as set out in paragraphs 4 to 7 of this paper. The Hong Kong Society of Notaries expressed no comment on the proposed repeal of the finality provision in section 40M(1) of the Legal Practitioners Ordinance as referred to in paragraph 10 above.

## **PUBLICITY**

35. A press release is to be issued on 18 April 2012. A spokesman will be available to answer enquiries.

## **ENQUIRY**

36. Any enquiry on this brief can be addressed to Ms Adeline Wan, Senior Assistant Solicitor General, at Tel. No. 2867 2847 or Miss Ida Chan, Senior Government Counsel, at Tel. No. 2867 4328.

Department of Justice  
18 April 2012

#370953 v.2B



**STATUTE LAW  
(MISCELLANEOUS PROVISIONS) BILL 2012**

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# A BILL

## To

Provide for miscellaneous amendments to various Ordinances, for the repeal of various items of subsidiary legislation that have ceased to be in force, and for connected purposes.

Enacted by the Legislative Council.

### Part 1

#### Preliminary

#### 1. Short title and commencement

- (1) This Ordinance may be cited as the Statute Law (Miscellaneous Provisions) Ordinance 2012.
- (2) Subject to subsection (3), this Ordinance comes into operation on the day on which it is published in the Gazette.
- (3) Division 1 of Part 8 comes into operation on the day on which section 2 of the Legal Services Legislation (Miscellaneous Amendments) Ordinance 1997 (94 of 1997) comes into operation.

#### 2. Enactments amended

The enactments specified in Parts 2, 3, 4, 5, 6, 7, 8, 9, 10, 11 and 12 (except Division 4 of Part 12) are amended as set out in those Parts.

### Part 2

#### Amendments to Legal Practitioners Ordinance (Cap. 159)

##### Division 1—To Clarify that Employed Barristers are not Required to be Insured

#### 3. Section 31C amended (employed barristers)

Section 31C(3), after “sections 29(2C) and 30”—

**Add**

“(except section 30(3)(b))”.

##### Division 2—To Repeal Provision Specifying that Decision of Court of Appeal is Final and Related Amendment

#### 4. Section 40M amended (appeal and saving)

Section 40M(1)—

**Repeal**

“and the decision of the Court of Appeal on any such appeal shall be final”.

#### 5. Section 40R amended (expenses of Notaries Public Disciplinary Tribunal and of Society of Notaries)

(1) Section 40R(1)(b)—

**Repeal**

“and any appeal under section 40M”

**Substitute**

“, the Court of Appeal and the Court of Final Appeal”.

(2) Section 40R(2)(c)—

**Repeal**

“or the Court of Appeal”

**Substitute**

“, the Court of Appeal or the Court of Final Appeal”.

**Division 3—Amendments Consequential to Repeal of  
Finality Provisions in Sections 13(1) and 37B(1)**

**6. Section 25 amended (expenses of Solicitors Disciplinary  
Tribunal and of Society)**

(1) Section 25(1)(b)—

**Repeal**

“and any appeal under section 13”

**Substitute**

“, the Court of Appeal and the Court of Final Appeal”.

(2) Section 25(2)(c)—

**Repeal**

“or the Court of Appeal”

**Substitute**

“, the Court of Appeal or the Court of Final Appeal”.

**7. Section 39 amended (expenses of Barristers Disciplinary  
Tribunal and of Bar Council)**

(1) Section 39(1)(b)—

**Repeal**

“and any proceedings under section 37B”

**Substitute**

“, the Court of Appeal and the Court of Final Appeal”.

(2) Section 39(2)(c)—

**Repeal**

“or the Court of Appeal”

**Substitute**

“, the Court of Appeal or the Court of Final Appeal”.

**8. Section 40P amended (automatic striking-off or suspension of  
notary public)**

(1) Section 40P(3)(a)—

**Repeal**

everything after “struck off the roll of solicitors”

**Substitute**

“under section 12(2), the striking off of the name of the solicitor from the roll of solicitors is set aside in the final determination of any appeal under section 13, then, subject to any order made in respect of the notary public under section 40J(2), the Registrar must, as soon as is practicable after that determination, restore the name of the notary public to the register of notaries public.”.

(2) Section 40P(3)(b)—

**Repeal**

“as provided in subsection (2), an order is made by the Court of Appeal in proceedings under section 13 that the suspension be set aside”

**Substitute**

“under section 10(2)(b), the solicitor’s suspension from practice as a solicitor is set aside in the final determination of any appeal under section 13”.



**Division 4—To Clarify that Foreign Lawyer or Firm must  
not Take Solicitor or Barrister into Partnership if They  
Hold Practising Certificate**

**9. Section 50B amended (offences in relation to foreign lawyers,  
foreign firms and Associations)**

Section 50B(4)—

**Repeal**

everything after “foreign firm”

**Substitute**

“must not—

- (a) employ or take into partnership a solicitor who holds a practising certificate; or
- (b) employ or take into partnership a barrister who holds a practising certificate.”.

**Division 5—Amendments Consequential to Repeal of  
Section 27A**

**10. Section 72 amended (power of Chief Justice to make rules)**

(1) Section 72(a)(i)—

**Repeal**

“, 27 and 27A”

**Substitute**

“and 27”.

(2) Section 72(a)(ii)—

**Repeal**

“, 27 and 27A”

**Substitute**

“and 27”.

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### Part 3

#### Amendment to Administration of Estates by Consular Officers Ordinance (Cap. 191)

11. Section 3 amended (variation of Schedule)

Section 3—

**Repeal**

“may by order notified in the Gazette under the hand of the Chief Secretary for Administration”

**Substitute**

“in Council may by order published in the Gazette”.

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### Part 4

#### Amendment to Crimes Ordinance (Cap. 200)

12. Section 118O added

After section 118N—

**Add**

**“118O. Abolition of presumption that boy under 14 incapable of sexual intercourse etc.**

- (1) The presumption of law that a boy under the age of 14 is incapable of sexual intercourse, buggery or bestiality is abolished.
  - (2) Subsection (1) does not apply in relation to any act done before the commencement date of this section.
  - (3) For the purposes of subsection (2), if an act is alleged to have been done between 2 dates, one before and one after the commencement date of this section, the act is alleged to have been done before that commencement date.”.
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**Part 5****Amendment to Customs and Excise Service Ordinance  
(Cap. 342)**

13. Section 12 amended (subordinate officers)  
Section 12—  
Repeal subsection (6).
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**Part 6****Amendments to Toys and Children's Products Safety  
Ordinance (Cap. 424)**

14. Section 2 amended (interpretation)  
(1) Section 2—  
Repeal the definition of *children's product standard*  
Substitute  
“*children's product standard* (兒童產品標準), in relation to a children's product, means a standard specified in column 2 of Schedule 2 opposite the children's product;”.  
(2) Section 2—  
Repeal the definition of *toy standard*  
Substitute  
“*toy standard* (玩具標準) means a standard specified in Schedule 1;”.  
15. Schedule 1 amended (toy standards)  
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Repeal  
“Column 1”.  
(2) Schedule 1—  
Repeal column 2.  
(3) Schedule 1, item 1(c)—  
Repeal  
“ISO 8124-3:1997”  
Substitute

**“ISO 8124-3:2010”.**

- (4) Schedule 1—

**Repeal item 1(d)**

**Substitute**

**“(d) IEC 62115 Edition 1.1**  
(2004-11) [IEC 62115 Edition 1:2003 consolidated  
with amendment 1:2004]  
(incorporating Amendment 2)  
“Electric Toys—Safety””.

- (5) Schedule 1, item 2(a)—

**Repeal**

**“BS EN 71-1:2005 + A8:2009”**

**Substitute**

**“BS EN 71-1:2011”.**

- (6) Schedule 1, item 2(b)—

**Repeal**

**“BS EN 71-2:2006 + A1:2007”**

**Substitute**

**“BS EN 71-2:2011”.**

- (7) Schedule 1, item 2(d)—

**Repeal**

**“BS EN 71-4:1998 + A3:2007”**

**Substitute**

**“BS EN 71-4:2009”.**

- (8) Schedule 1, item 2(e)—

**Repeal**

**“BS EN 71-5:1993**  
**BS 5665-5:1993**  
(incorporating Amendment No. 1)”

**Substitute**

**“BS EN 71-5:1993 + A2:2009**  
**BS 5665-5:1993”.**

- (9) Schedule 1, item 2(h)—

**Repeal**

**“BS EN 71-8:2003**  
(incorporating Amendment Nos. 1 and 2)”

**Substitute**

**“BS EN 71-8:2003 + A4:2009”.**

**16. Schedule 2 amended (children’s product standards)**

- (1) Schedule 2—

**Repeal column 3.**

- (2) Schedule 2, item 2, column 2—

**Repeal**

**“ASTM F977-07”**

**Substitute**

**“ASTM F977-11”.**

- (3) Schedule 2, item 4, column 2—

**Repeal**

**“AS/NZS 4220:2003**  
“Bunk beds””

**Substitute**

**“AS/NZS 4220:2010**  
“Bunk beds and other elevated beds””.

- (4) Schedule 2, item 6, column 2—

**Repeal**

**“ASTM F1004-07”**

**Substitute**

**“ASTM F1004-10”.**

- (5) Schedule 2, item 7, column 2—

**Repeal**

**“ASTM F1169-07**

**“Standard specification for full-size baby crib”**”

**Substitute**

**“ASTM F1169-10a**

**“Standard consumer safety specification for full-size baby cribs”**”.

- (6) Schedule 2, item 8, column 2—

**Repeal**

**“ASTM F404-08”**

**Substitute**

**“ASTM F404-10”.**

- (7) Schedule 2, item 9, column 2—

**Repeal**

**“AS/NZS ISO 8124.3:2003”**

**Substitute**

**“AS/NZS ISO 8124.3:2003**

**(incorporating Amendment No. 1)”.**

- (8) Schedule 2, item 9, column 2—

**Repeal**

**“ISO 8124-3:1997”**

**Substitute**

**“ISO 8124-3:2010”.**

- (9) Schedule 2, item 11, column 2—

**Repeal**

**“(a) BS EN 12227-1:1999**

**“Playpens for domestic use—Part 1: Safety**

**requirements”**

- (b) **BS EN 12227-2:1999**

**“Playpens for domestic use—Part 2: Test methods”**”

**Substitute**

**“BS EN 12227:2010**

**“Playpens for domestic use—Safety requirements and test methods”**”.

- (10) Schedule 2, item 11, column 2—

**Repeal**

**“ASTM F406-08a”**

**Substitute**

**“ASTM F406-11”.**

- (11) Schedule 2, item 12, column 2—

**Repeal**

**“ASTM F833-08”**

**Substitute**

**“ASTM F833-11”.**

- (12) Schedule 2, item 12, column 2—

**Repeal**

**“AS/NZS 2088:2000”**

**Substitute**

**“AS/NZS 2088:2009”.**

## Part 7

### Amendments Relating to Editorial Powers

#### Division 1—Legislation Publication Ordinance (Cap. 614)

**17. Section 11 amended (powers to give chapter numbers etc.)**

Section 11(a), after “alter the”—

**Add**

“title,”.

**18. Section 12 amended (powers to make editorial amendments)**

(1) Section 12(a), before “short title” (wherever appearing)—

**Add**

“title,”.

(2) After section 12(a)—

**Add**

“(ab) insert, after a reference to the title, short title or citation of another Ordinance, the chapter number given to that other Ordinance under section 11(a) and, if another reference of any other kind to that other Ordinance appears after the reference to the title, short title or citation, omit that other reference;”.

(3) After section 12(g)—

**Add**

“(ga) if a word or expression is defined, or the construction of a reference to a word or expression is provided for, in the text of one official language, insert after that word or expression its equivalent in the other official language;”.

**19. Section 17 amended (powers to make revisions)**

Section 17(h)(i), after “the”—

**Add**

“title,”.

#### Division 2—Laws (Loose-leaf Publication) Ordinance 1990 (51 of 1990)

**20. Section 2 amended (publication of Ordinances, etc. in a loose-leaf edition)**

Section 2(2)(a), after “alter the”—

**Add**

“title,”.

**21. Section 2A amended (power to make editorial amendments)**

(1) Section 2A(1)—

**Repeal**

“published in the loose-leaf edition”.

(2) Section 2A(1)(a), before “short title” (wherever appearing)—

**Add**

“title,”.

(3) After section 2A(1)(a)—

**Add**

“(ab) insert, after a reference to the title, short title or citation of another Ordinance, the chapter number given to that other Ordinance under section 2(2)(a) and, if another reference of any other kind to that other Ordinance appears after the reference to the title, short title or citation, omit that other reference;”.

(4) After section 2A(1)(g)—

**Add**

- “(ga) if a word or expression is defined, or the construction of a reference to a word or expression is provided for, in the text of one official language, insert after that word or expression its equivalent in the other official language;”.
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## Part 8

### Amendments Relating to Legal Practice Entities

#### Division 1—Legal Practitioners Ordinance (Cap. 159)

22. **Section 8AAA amended (additional powers of an inspector)**  
 Section 8AAA(3)(a)—  
**Repeal**  
 “law firm”  
**Substitute**  
 “legal practice entity”.
23. **Section 13A amended (publication of findings of Solicitors Disciplinary Tribunal)**  
 Section 13A(1)—  
**Repeal**  
 “solicitor” (wherever appearing)  
**Substitute**  
 “legal practice entity”.
24. **Section 27 amended (power of Court to admit barristers)**  
 Section 27(2)(a), after “Hong Kong”—  
**Add**  
 “or as a member or salaried employee of a solicitor corporation”.
25. **Section 40N amended (winding-up, etc. of business of notaries public struck off or suspended)**  
 (1) Section 40N(1)—

**Repeal**

“or firm of solicitors”

**Substitute**

“, firm of solicitors or solicitor corporation”.

(2) Section 40N(2)—

**Repeal**

“or firm of solicitors”

**Substitute**

“, firm of solicitors or solicitor corporation”.

**26. Section 50B amended (offences in relation to foreign lawyers, foreign firms and Associations)**

Section 50B(1)—

**Repeal**

“a barrister or a foreign lawyer”

**Substitute**

“a solicitor corporation, a barrister, a foreign lawyer or a foreign lawyer corporation”.

**27. Section 72AA amended (power of Bar Council to make rules)**

Section 72AA(b)—

**Repeal**

“solicitors and barristers”

**Substitute**

“barristers with solicitors and solicitor corporations”.

**28. Section 73 amended (power of the Council to make rules)**

Section 73(2A), after “Hong Kong firm”—

**Add**

“, as a member or an employee of a solicitor corporation,”.

**29. Section 73A amended (indemnity rules)**

Section 73A(8), after “Hong Kong firm”—

**Add**

“, as a member or an employee of a solicitor corporation,”.

**30. Section 73D amended (power of Council of Society of Notaries to make rules)**

Section 73D(1)(a)(iv)—

**Repeal**

“and solicitors and barristers respectively”

**Substitute**

“with solicitors, solicitor corporations and barristers”.

**Division 2—Legal Services Legislation (Miscellaneous Amendments) Ordinance 1997 (94 of 1997)**

**31. Section 2 amended (Part added)**

Section 2, new Part IIAA—

**Repeal new section 7L**

**Substitute**

**“7L. Companies Ordinance applies to solicitor corporations**

- (1) Except as provided in subsection (2), the Companies Ordinance (Cap. 32) applies in relation to a company that is a solicitor corporation.
- (2) For the purposes of section 114C(1) of the Companies Ordinance (Cap. 32), a member of a solicitor corporation is entitled to appoint as the member’s proxy only a solicitor who is a member or employee of the corporation.”.



**32. Section 5 amended (sections added)**

- (1) Section 5, new section 39BA(1)—

**Repeal**

“an overseas”

**Substitute**

“a non-Hong Kong”.

- (2) Section 5, new section 39BA(3)—

**Repeal**

“an overseas” (wherever appearing)

**Substitute**

“a non-Hong Kong”.

- (3) Section 5, new section 39BA(3)—

**Repeal**

“overseas companies”

**Substitute**

“non-Hong Kong companies”.

- (4) Section 5, new section 39BA(8), definition of
- overseas company*
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**Repeal**

““overseas company””

**Substitute**“*non-Hong Kong company* (非香港公司)”.**33. Schedule 1 amended (consequential amendments to Legal Practitioners Ordinance)**

- (1) Schedule 1, item 1—

**Repeal column 3****Substitute**

“Repeal everything after “admission” and substitute “, approval and registration of barristers and legal practice entities; for the employment of trainee solicitors and others by those entities; for the appointment and registration of notaries public; for regulating the practice of law, and for connected purposes.”.”.

- (2) Schedule 1, item 6, column 3, after paragraph (a)—

**Add**

“(ab) In the English text, repeal “unless he” and substitute “unless the entity”.”.

- (3) Schedule 1, after item 6—

**Add**

“6A.	Section 8(2)(d)	Repeal “solicitor, or foreign lawyer, or his firm” and substitute “legal practice entity”.”.
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- (4) Schedule 1, English text, item 8, column 3, new section 8A(5)—

**Repeal**

“practise”

**Substitute**

“practice”.

- (5) Schedule 1, after item 13—

**Add**

“13A.	Heading of section 9A	Repeal “solicitor, foreign lawyer” and substitute “legal practice entity”.”.
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- (6) Schedule 1, item 17, column 3, new section 10(2D), before “if the Tribunal”—

**Add**

“under section 39BA”.

- (7) Schedule 1, item 28, column 3, new section 26A(2A)(d)—

**Repeal**

“an overseas”.

**Substitute**

“a non-Hong Kong”.

- (8) Schedule 1, after item 29—

**Add**

“29A. Heading of section 26C Repeal “**solicitors or foreign lawyers**” and substitute “**legal practice entities**”.”.

- (9) Schedule 1—

**Repeal item 32.**

- (10) Schedule 1, item 33—

**Repeal column 3**

**Substitute**

“Repeal and substitute—

“(e) if the barrister is on the roll of solicitors or is a member of a solicitor corporation; or”.

- (11) Schedule 1, after item 37—

**Add**

“37A. Heading of section 45 Add “**or solicitor corporation**” after “**solicitor**”.”.

- (12) Schedule 1, item 42, column 2, after “50A”—

**Add**

“(1)”.

- (13) Schedule 1—

**Repeal item 43.**

- (14) Schedule 1, item 53, column 3, new section 53(1AA)—

**Repeal paragraphs (a), (b) and (c)**

**Substitute**

“(a) who is disqualified from practising as a solicitor because the person’s name has been struck off the roll of solicitors, or who is suspended from practising as a solicitor, or who is an undischarged bankrupt;

(b) who was a foreign lawyer whose registration was cancelled otherwise than under section 19 and who has not since been re-registered, or who is a foreign lawyer whose registration is suspended; or

(c) who is a person referred to in section 39A(1) who—

(i) has not been registered as a foreign lawyer under that section; and

(ii) is an undischarged bankrupt.”.

- (15) Schedule 1, English text, item 67, column 3, after ““solicitor””—

**Add**

“where it twice occurs”.

- (16) Schedule 1, item 97, column 3, paragraph (a), new section 73(1)(a)(i), after “such entities,”—

**Add**

“solicitor advocates,”.

- (17) Schedule 1, item 102, column 3, new section 73(1B)(c)—

**Repeal**

“overseas”

**Substitute**

“non-Hong Kong”.

- (18) Schedule 1, after item 103—

**Add**

“103A. Section 73A(2)(c) Repeal “solicitors or any specified class of solicitors” and substitute “solicitors or solicitor corporations, or any specified class

of solicitors or solicitor  
corporations.”.

- (19) Schedule 1, after item 105—

**Add**

“105A. Section        Add “or solicitor corporations”  
73A(3)(g)        after “solicitors”.

- (20) Schedule 1, after item 106—

**Add**

“106A. Section        Add “or solicitor corporations”  
74(3)(a)        after “solicitors”.

- (21) Schedule 1, English text, item 107, after ““solicitor””—

**Add**

“where it twice occurs”.

## Part 9

### Amendments to Ensure that Assistant Principal Solicitors in Intellectual Property Department are Eligible to be Appointed as Certain Judicial Officers

#### Division 1—High Court Ordinance (Cap. 4)

#### 34. Section 9 amended (professional qualifications of judges)

Section 9(2)(x), after “Assistant Director of Intellectual  
Property,”—

**Add**

“Assistant Principal Solicitor,”.

#### 35. Section 37AA amended (professional qualifications of Registrar, senior deputy registrars, deputy registrars and assistant registrars)

- (1) Section 37AA(1)(b)(xii), after “Assistant Director of  
Intellectual Property,”—

**Add**

“Assistant Principal Solicitor,”.

- (2) Section 37AA(2)(b)(xii), after “Assistant Director of  
Intellectual Property,”—

**Add**

“Assistant Principal Solicitor,”.

- (3) Section 37AA(3)(b)(xii), after “Assistant Director of  
Intellectual Property,”—

**Add**

“Assistant Principal Solicitor,”.

- (4) Section 37AA(4)(b)(xi), after “Assistant Director of  
Intellectual Property,”—

**Add**

“Assistant Principal Solicitor,”.

**Division 2—Lands Tribunal Ordinance (Cap. 17)****36. Section 4 amended (constitution of Tribunal)**

Section 4(3)(b)(x), after “Assistant Director of Intellectual Property,”—

**Add**

“Assistant Principal Solicitor,”.

**Division 3—Labour Tribunal Ordinance (Cap. 25)****37. Section 4A amended (professional qualifications of presiding officers)**

Section 4A(1)(b)(v), after “Assistant Director of Intellectual Property,”—

**Add**

“Assistant Principal Solicitor,”.

**Division 4—Magistrates Ordinance (Cap. 227)****38. Section 5AA amended (professional qualifications of permanent magistrates)**

Section 5AA(1)(b)(v), after “Assistant Director of Intellectual Property,”—

**Add**

“Assistant Principal Solicitor,”.

**39. Section 5AB amended (professional qualifications of special magistrates)**

Section 5AB(1)(b)(v), after “Assistant Director of Intellectual Property,”—

**Add**

“Assistant Principal Solicitor,”.

**Division 5—District Court Ordinance (Cap. 336)****40. Section 5 amended (professional qualifications of District Judges)**

Section 5(1)(b)(x), after “Assistant Director of Intellectual Property,”—

**Add**

“Assistant Principal Solicitor,”.

**41. Section 14AA amended (professional qualifications of Registrar, deputy registrars and assistant registrars)**

Section 14AA(1)(b)(ix), after “Assistant Director of Intellectual Property,”—

**Add**

“Assistant Principal Solicitor,”.

**Division 6—Small Claims Tribunal Ordinance (Cap. 338)****42. Section 4AA amended (professional qualifications of adjudicators)**

Section 4AA(1)(b)(v), after “Assistant Director of Intellectual Property,”—

**Add**

“Assistant Principal Solicitor,”.

**Division 7—Coroners Ordinance (Cap. 504)****43. Section 3AA amended (professional qualifications of coroners)**

Section 3AA(1)(b)(v), after “Assistant Director of Intellectual Property,”—

**Add**

“Assistant Principal Solicitor,”.

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## **Part 10**

### **Amendments to References to Acceptance of Advantages (Chief Executive’s Permission) Notice**

#### **Division 1—Fire Services Ordinance (Cap. 95)**

**44. Section 19B amended (what the Fund consists of)**

Section 19B(h)—

**Repeal**

“the Acceptance of Advantages (Chief Executive’s Permission) Notice 2004”

**Substitute**

“the notice from time to time given by the Chief Executive for the purposes of section 3 of the Prevention of Bribery Ordinance (Cap. 201)”.

#### **Division 2—Police Force Ordinance (Cap. 232)**

**45. Section 39C amended (what the Police Welfare Fund consists of)**

Section 39C(i)—

**Repeal**

“the Acceptance of Advantages (Chief Executive’s Permission) Notice 2004”

**Substitute**

“the notice from time to time given by the Chief Executive for the purposes of section 3 of the Prevention of Bribery Ordinance (Cap. 201)”.

### **Division 3—Prisons Ordinance (Cap. 234)**

**46. Section 24F amended (what the Fund consists of)**

Section 24F(g)—

**Repeal**

“the Acceptance of Advantages (Chief Executive’s Permission) Notice 2004”

**Substitute**

“the notice from time to time given by the Chief Executive for the purposes of section 3 of the Prevention of Bribery Ordinance (Cap. 201)”.

### **Division 4—Government Flying Service Ordinance (Cap. 322)**

**47. Section 15 amended (establishment of the fund)**

Section 15(c)—

**Repeal**

“paragraph 8(2)(c)(iii) of the Acceptance of Advantages (Chief Executive’s Permission) Notice 2004”

**Substitute**

“the notice from time to time given by the Chief Executive for the purposes of section 3 of the Prevention of Bribery Ordinance (Cap. 201)”.

### **Division 5—Immigration Service Ordinance (Cap. 331)**

**48. Section 16B amended (what the Fund consists of)**

Section 16B(f)—

**Repeal**

“the Acceptance of Advantages (Chief Executive’s Permission) Notice 2004”

**Substitute**

“the notice from time to time given by the Chief Executive for the purposes of section 3 of the Prevention of Bribery Ordinance (Cap. 201)”.

### **Division 6—Customs and Excise Service Ordinance (Cap. 342)**

**49. Section 19B amended (what the Fund consists of)**

Section 19B(h)—

**Repeal**

“the Acceptance of Advantages (Chief Executive’s Permission) Notice 2004”

**Substitute**

“the notice from time to time given by the Chief Executive for the purposes of section 3 of the Prevention of Bribery Ordinance (Cap. 201)”.

## Part 11

### Amendments to Provisions Containing References to “Coliform Organisms”

#### Division 1—Frozen Confections Regulation (Cap. 132 sub. leg. AC)

50. **Section 6 amended (bacteriological standard of frozen confections for sale)**

Section 6—

**Repeal**

“coliform organisms”

**Substitute**

“coliform bacteria”.

#### Division 2—Milk Regulation (Cap. 132 sub. leg. AQ)

51. **Section 6 amended (prohibition of sale of milk or milk beverage in certain cases)**

(1) Section 6(1)(b)—

**Repeal**

“coliform organisms”

**Substitute**

“coliform bacteria”.

(2) Section 6(1)(c)—

**Repeal**

“coliform organisms”

**Substitute**

“coliform bacteria”.

52. **Section 18 amended (prohibition of possession of contaminated or adulterated milk or milk beverage by licensees under this Part)**

(1) Section 18(1)(b)—

**Repeal**

“coliform organisms”

**Substitute**

“coliform bacteria”.

(2) Section 18(1)(c)—

**Repeal**

“coliform organisms”

**Substitute**

“coliform bacteria”.

#### Division 3—Dairies Regulations (Cap. 139 sub. leg. D)

53. **Regulation 2 amended (interpretation)**

Regulation 2, definition of *bacteriological examination*—

**Repeal**

“coliform organisms”

**Substitute**

“coliform bacteria”.

54. **Regulation 23 amended (restriction on use of milk from diseased animal)**

Regulation 23(2)—

**Repeal**

“coliform organisms”

**Substitute**

“coliform bacteria”.

**55. Schedule amended (form)**

The Schedule—

**Repeal**

“Coliform Organisms”

**Substitute**

“coliform bacteria”.

**Part 12****Miscellaneous Amendments and Repeals****Division 1—Amendments to Cross-references****Subdivision 1—Gas Safety (Installation and Use) Regulations  
(Cap. 51 sub. leg. C)****56. Regulation 27 amended (room-sealed gas water heaters)**

Regulation 27(4), Chinese text—

**Repeal**

“設計”

**Substitute**

“規劃”.

**Subdivision 2—Factories and Industrial Undertakings  
(Electricity) Regulations (Cap. 59 sub. leg. W)****57. Regulation 33 amended (saving)**

Regulation 33(a)—

**Repeal**

“Handling) Regulations (Cap. 59 sub. leg.)”

**Substitute**

“and Container Handling) Regulations (Cap. 59 sub. leg. K)”.

**Subdivision 3—Inland Revenue Ordinance (Cap. 112)****58. Section 23B amended (ascertainment of the assessable profits of  
a ship-owner carrying on business in Hong Kong)**

Section 23B(12), Chinese text, definition of 船舶—



**Repeal**

“管理”

**Substitute**

“管制”.

**Subdivision 4—Metrication Amendments (Dutiable Commodities Ordinance) Order (Cap. 214 sub. leg. D)**

**59. Paragraph 4 amended (continued use of “tonnage”)**

Paragraph 4—

**Repeal**

“Merchant Shipping (Tonnage) Regulations (Cap. 415 sub. leg.)”

**Substitute**

“Merchant Shipping (Registration) (Tonnage) Regulations (Cap. 415 sub. leg. C)”.

**Subdivision 5—Road Traffic (Multi-cycles) (Specification of Roads, Places, Traffic Signs and Road Markings) Notice (Cap. 374 sub. leg. R)**

**60. Schedule amended**

The Schedule, Part II, Figure No. B1—

**Repeal**

“SCHEDULE 1”

**Substitute**

“SCHEDULE 2”.

**Subdivision 6—Securities and Futures (Licensing and Registration) (Information) Rules (Cap. 571 sub. leg. S)**

**61. Section 2 amended (interpretation)**

Section 2(1), Chinese text, definition of ~~刑事調查機構~~—

**Repeal**

“《總督特派廉政專員公署條例》”

**Substitute**

“《廉政公署條例》”.

**Division 2—Amendments to Achieve Consistency in Terminology and Consistency between English and Chinese Texts**

**Subdivision 1—Merchant Shipping (Seafarers) (Fees) Regulation (Cap. 478 sub. leg. AB)**

**62. Section 2 amended (interpretation)**

Section 2, Chinese text, definition of ~~廠~~—

**Repeal**

“Merchant Shipping (Registration) (Tonnage) Regulations”

**Substitute**

“商船(註冊)(噸位)規例”.

**Subdivision 2—Mandatory Provident Fund Schemes Ordinance (Cap. 485)**

**63. Section 16 amended (protection of accrued benefits)**

(1) Section 16(1), Chinese text—

**Repeal**

“代表他”

**Substitute**

“代表計劃成員”。

- (2) Section 16(1), Chinese text—

**Repeal**

“在違反上述規定下作出的宣稱的上述處置”

**Substitute**

“看來是以上所述的處置，如違反上述規定”。

**Subdivision 3—Environmental Impact Assessment Ordinance  
(Cap. 499)**

64. **Section 9 amended (prohibition against carrying out designated project unless environmental permit has been issued, etc.)**

Section 9(2)(f), Chinese text—

**Repeal**

“Water Pollution Control (Sewerage) Regulation”

**Substitute**

“水污染管制(排污設備)規例”。

**Subdivision 4—Registered Designs Ordinance (Cap. 522)**

65. **Section 5 amended (new designs are registrable)**

Section 5(2)(b), Chinese text—

**Repeal**

“註冊”

**Substitute**

“發表”。

**Subdivision 5—Mutual Legal Assistance in Criminal Matters  
Ordinance (Cap. 525)**

66. **Schedule 2 amended (enforcement, etc. of external confiscation orders)**

Schedule 2, Chinese text, section 10(7)—

**Repeal**

“在第(6)(b)款所述的期間屆滿之前，律政司司長可應由或代指明的地方的政府就該款所述的任何餘款而提出的申請，”

**Substitute**

“如在第(6)(b)款提述的期間屆滿前，訂明地方的政府或其代表就該款所提述的任何餘款提出申請，律政司司長可應申請”。

**Division 3—Technical Amendments**

**Subdivision 1—Rules of the High Court (Cap. 4 sub. leg. A)**

67. **Order 54 amended (applications for writ of habeas corpus)**

Order 54, rule 2(2)—

**Repeal**

“or notice”。

**Subdivision 2—Pension Benefits Regulations (Cap. 99 sub. leg. A)**

68. **Regulation 15A amended (additional pension in respect of war service)**

Regulation 15A(9), Chinese text, definition of ~~附加報酬~~—

**Repeal**

“該何”

**Substitute**

“任何”.

**Subdivision 3—Frozen Confections Regulation (Cap. 132 sub. leg. AC)**

**69. Section 3 amended (interpretation)**

Section 3, English text, definition of *ingredient*—

**Repeal**

“of”

**Substitute**

“or”.

**Subdivision 4—Pawnbrokers Ordinance (Cap. 166)**

**70. Section 21 amended (prohibition on pawnbrokers when receiving goods in pawn)**

Section 21(1)(c), Chinese text—

**Repeal**

“國家”

**Substitute**

““國家””.

**Subdivision 5—Air Pollution Control (Amendment) Ordinance 1993 (13 of 1993)**

**71. Section 1 amended (short title and commencement)**

Section 1(2)—

**Repeal**

“Secretary for Planning, Environment and Lands”

**Substitute**

“Secretary for the Environment”.

**Division 4—Repeals**

**72. Enactments repealed**

The enactments specified in the Schedule are repealed.

**Schedule**

[s. 72]

**Enactments Repealed**

1. Television (Period of Validity of Licence) (Television Broadcasts Limited) Order (Cap. 52 sub. leg. C).
2. Television (Period of Validity of Licence) (Asia Television Limited) Order (Cap. 52 sub. leg. D).
3. Television (Period of Validity of Licence) (Wharf Cable Limited) Order (Cap. 52 sub. leg. E).
4. Television (Royalty, Licence Fees and Spectrum Utilization Fees) Regulation (Cap. 52 sub. leg. F).
5. Television (Date of Renewal of Licence) (Asia Television Limited) Order 1995 (Cap. 52 sub. leg. G).
6. Television (Date of Renewal of Licence) (Television Broadcasts Limited) Order 1995 (Cap. 52 sub. leg. H).
7. Television (Advertising) Regulation (Cap. 52 sub. leg. I).
8. Television (Programmes) Regulation (Cap. 52 sub. leg. J).
9. Television (Date of Renewal of Licence) (Hong Kong Cable Television Limited) Order 2000 (Cap. 52 sub. leg. K).
10. Watchmen Regulations (Cap. 299 sub. leg. A).
11. Hong Kong Sports Institute By-laws (Cap. 309 sub. leg. A).
12. Declaration of Number of Proposed Districts and Specification of District Names Order (Cap. 366 sub. leg. G).

13. Declaration of Districts Order 1994 (Cap. 366 sub. leg. H).
14. Distribution of Number of Members Among Designated Bodies (Election Committee) (Legislative Council) Order 2000 (Cap. 542 sub. leg. H).

### Explanatory Memorandum

The objects of this Bill are to make miscellaneous amendments to various Ordinances and to repeal various items of subsidiary legislation that have ceased to be in force.

2. The Bill is divided into 12 Parts.

#### Part 1

3. Clause 1 sets out the short title and provides for commencement.

#### Part 2

4. Part 2 (clauses 3 to 10) amends the Legal Practitioners Ordinance (Cap. 159).
5. Clause 3 amends section 31C of the Legal Practitioners Ordinance (Cap. 159) to clarify that employed barristers are not required to be insured.
6. Clause 4 amends section 40M of the Legal Practitioners Ordinance (Cap. 159) to allow an appeal to be lodged with the Court of Final Appeal against any order made by a Notaries Public Disciplinary Tribunal. Clause 5 contains related amendments to section 40R of the Legal Practitioners Ordinance (Cap. 159).
7. Clauses 6, 7 and 8 contain amendments to sections 25, 39 and 40P of the Legal Practitioners Ordinance (Cap. 159) which are consequential to amendments made to sections 13(1) and 37B(1) of the Legal Practitioners Ordinance (Cap. 159) under the Statute Law (Miscellaneous Provisions) Ordinance 2005 (10 of 2005).
8. Clause 9 amends section 50B of the Legal Practitioners Ordinance (Cap. 159) to clarify that a foreign lawyer or foreign firm must not employ or take a solicitor or barrister into partnership if the solicitor or barrister holds a practising certificate.
9. Clause 10 contains amendments to section 72 of the Legal Practitioners Ordinance (Cap. 159) which are consequential to the

repeal of section 27A of the Legal Practitioners Ordinance (Cap. 159) under the Legal Practitioners (Amendment) Ordinance 2000 (42 of 2000).

#### Part 3

10. Part 3 (clause 11) amends section 3 of the Administration of Estates by Consular Officers Ordinance (Cap. 191) to streamline the gazettal requirement of orders made under that section.

#### Part 4

11. Part 4 (clause 12) adds a new section 118O to the Crimes Ordinance (Cap. 200) to implement the recommendation of the report of the Law Reform Commission of Hong Kong published in December 2010 on the abolition of the common law presumption that a boy under the age of 14 is incapable of sexual intercourse.

#### Part 5

12. Section 12(6) of the Customs and Excise Service Ordinance (Cap. 342) requires an officer under interdiction to seek the permission of the Commissioner of Customs and Excise before leaving Hong Kong. Part 5 (clause 13) repeals that section which may not be compatible with Article 31 of the Basic Law and Article 8(2) of the Hong Kong Bill of Rights set out in Part II of the Hong Kong Bill of Rights Ordinance (Cap. 383).

#### Part 6

13. Part 6 (clauses 14, 15 and 16) amends the Toys and Children's Products Safety Ordinance (Cap. 424). Clause 14 amends the definitions of *children's product standard* and *toy standard* in section 2 of that Ordinance and clauses 15 and 16 amend Schedules 1 and 2 to that Ordinance. The amendments are to facilitate the updating of the applicable safety standards specified for toys and children's products.

**Part 7**

14. Part 7 (clauses 17 to 21) amends the Legislation Publication Ordinance (Cap. 614) and the Laws (Loose-leaf Publication) Ordinance 1990 (51 of 1990) to facilitate the editorial work involved in preparing and updating the Laws of Hong Kong.
15. Clauses 17, 19 and 20 contain certain technical amendments to the Legislation Publication Ordinance (Cap. 614) and the Laws (Loose-leaf Publication) Ordinance 1990 (51 of 1990).
16. Clauses 18 and 21 respectively amend section 12 of the Legislation Publication Ordinance (Cap. 614) and section 2A of the Laws (Loose-leaf Publication) Ordinance 1990 (51 of 1990) to empower the Secretary for Justice to, in an Ordinance—
  - (a) insert after a reference to the title of another Ordinance the chapter number given to that other Ordinance; and
  - (b) insert after a definition its English or Chinese equivalent.

**Part 8**

17. Part 8 (clauses 22 to 33) amends the Legal Practitioners Ordinance (Cap. 159) and the Legal Services Legislation (Miscellaneous Amendments) Ordinance 1997 (94 of 1997).
18. Division 1 of Part 8 and clause 33 contain amendments to the Legal Practitioners Ordinance (Cap. 159) and Schedule 1 to the Legal Services Legislation (Miscellaneous Amendments) Ordinance 1997 (94 of 1997). The amendments relate to legal practice entities and are required to be made so as to enable the relevant provisions of the Legal Services Legislation (Miscellaneous Amendments) Ordinance 1997 (94 of 1997) to be brought into operation.
19. Division 2 of Part 8 contains amendments to the Legal Services Legislation (Miscellaneous Amendments) Ordinance 1997 (94 of 1997). Clause 31 repeals and re-enacts the new section 7L of the Legal Practitioners Ordinance (Cap. 159) as enacted by the Legal Services Legislation (Miscellaneous Amendments) Ordinance 1997

- (94 of 1997) to clarify the extent to which the Companies Ordinance (Cap. 32) is to apply to a solicitor corporation.
20. Clause 32 amends the new section 39BA of the Legal Practitioners Ordinance (Cap. 159) as enacted by the Legal Services Legislation (Miscellaneous Amendments) Ordinance 1997 (94 of 1997) to update the reference to an overseas company.

**Part 9**

21. Part 9 (clauses 34 to 43) amends the following enactments by adding to the relevant provisions references to Assistant Principal Solicitors in the Intellectual Property Department so as to ensure that they are eligible to be appointed as certain judicial officers—
  - (a) the High Court Ordinance (Cap. 4) (clauses 34 and 35);
  - (b) the Lands Tribunal Ordinance (Cap. 17) (clause 36);
  - (c) the Labour Tribunal Ordinance (Cap. 25) (clause 37);
  - (d) the Magistrates Ordinance (Cap. 227) (clauses 38 and 39);
  - (e) the District Court Ordinance (Cap. 336) (clauses 40 and 41);
  - (f) the Small Claims Tribunal Ordinance (Cap. 338) (clause 42);
  - (g) the Coroners Ordinance (Cap. 504) (clause 43).

**Part 10**

22. Part 10 (clauses 44 to 49) amends the references in the following enactments to the title of a notice given by the Chief Executive for the purposes of section 3 of the Prevention of Bribery Ordinance (Cap. 201)—
  - (a) the Fire Services Ordinance (Cap. 95) (clause 44);
  - (b) the Police Force Ordinance (Cap. 232) (clause 45);
  - (c) the Prisons Ordinance (Cap. 234) (clause 46);

- (d) the Government Flying Service Ordinance (Cap. 322) (clause 47);
- (e) the Immigration Service Ordinance (Cap. 331) (clause 48);
- (f) the Customs and Excise Service Ordinance (Cap. 342) (clause 49).

### Part 11

23. Part 11 (clauses 50 to 55) rectifies errors in the references to “coliform organisms” appearing in the following enactments—
- (a) the Frozen Confections Regulation (Cap. 132 sub. leg. AC) (clause 50);
  - (b) the Milk Regulation (Cap. 132 sub. leg. AQ) (clauses 51 and 52);
  - (c) the Dairies Regulations (Cap. 139 sub. leg. D) (clauses 53 to 55).

### Part 12

24. Part 12 (clauses 56 to 72) makes miscellaneous amendments of a minor nature to various enactments and repeals various enactments that have ceased to be in force.
25. Division 1 of Part 12 amends the following enactments to rectify errors in the references in certain provisions to other provisions—
- (a) the Gas Safety (Installation and Use) Regulations (Cap. 51 sub. leg. C) (clause 56);
  - (b) the Factories and Industrial Undertakings (Electricity) Regulations (Cap. 59 sub. leg. W) (clause 57);
  - (c) the Inland Revenue Ordinance (Cap. 112) (clause 58);
  - (d) the Metrication Amendments (Dutiable Commodities Ordinance) Order (Cap. 214 sub. leg. D) (clause 59);

- (e) the Road Traffic (Multi-cycles) (Specification of Roads, Places, Traffic Signs and Road Markings) Notice (Cap. 374 sub. leg. R) (clause 60);
  - (f) the Securities and Futures (Licensing and Registration) (Information) Rules (Cap. 571 sub. leg. S) (clause 61).
26. Division 2 of Part 12 amends the following enactments to achieve consistency in terminology and consistency between the English and Chinese texts of those enactments—
- (a) the Merchant Shipping (Seafarers) (Fees) Regulation (Cap. 478 sub. leg. AB) (clause 62);
  - (b) the Mandatory Provident Fund Schemes Ordinance (Cap. 485) (clause 63);
  - (c) the Environmental Impact Assessment Ordinance (Cap. 499) (clause 64);
  - (d) the Registered Designs Ordinance (Cap. 522) (clause 65);
  - (e) the Mutual Legal Assistance in Criminal Matters Ordinance (Cap. 525) (clause 66).
27. Division 3 of Part 12 makes certain technical amendments to the following enactments—
- (a) the Rules of the High Court (Cap. 4 sub. leg. A) (clause 67);
  - (b) the Pension Benefits Regulations (Cap. 99 sub. leg. A) (clause 68);
  - (c) the Frozen Confections Regulation (Cap. 132 sub. leg. AC) (clause 69);
  - (d) the Pawnbrokers Ordinance (Cap. 166) (clause 70);
  - (e) the Air Pollution Control (Amendment) Ordinance 1993 (13 of 1993) (clause 71).
28. Division 4 of Part 12 (clause 72) repeals various items of subsidiary legislation set out in the Schedule that have ceased to be in force.

## Annex B

Chapter:	159	LEGAL PRACTITIONERS ORDINANCE	Gazette Number	Version Date
Section:	31C	Employed barristers	L.N. 87 of 2003	28/03/2003

(1) In this section "employed barrister" (受僱大律師) means a barrister who, under a contract of employment, provides legal services exclusively to his employer.

(2) An employed barrister may apply to the Bar Council for an employed barrister's certificate if-

- (a) at any time, he has been issued a practising certificate under section 30; or
- (b) he has completed the prescribed qualifying period of active practice; or
- (c) he has been an employed barrister in Hong Kong for at least 12 months immediately preceding the date of his application.

(3) An employed barrister may be issued an employed barrister's certificate and the provisions of sections 29(2C) and 30 respecting practising certificates apply to employed barrister's certificates issued under this section and, for the purposes of this section, references in those sections to a barrister or a practising certificate shall be deemed to be references to an employed barrister and an employed barrister's certificate respectively.

(4) The publication in the Gazette by the Bar Council of a list of the names and addresses of those barristers who have obtained employed barrister's certificates for the period therein stated shall be prima facie evidence that each person named therein is the holder of such a certificate for the period specified in such list, and the absence from any such list of the name of any person shall be prima facie evidence that the person does not hold such a certificate.

(5) An employed barrister who holds a current employed barrister's certificate may, on behalf of his employer but for the purpose of obtaining a legal opinion only, instruct a barrister who holds a current practising certificate, without retaining a solicitor.

(Added 42 of 2000 s.13)

Chapter:	159	LEGAL PRACTITIONERS ORDINANCE	Gazette Number	Version Date
Section:	40M	Appeal and saving	10 of 2008	09/05/2008

(1) Subject to subsection (2), an appeal shall lie to the Court of Appeal against any order made by a Notaries Public Disciplinary Tribunal and the provisions of Order 59 of the Rules of the High Court (Cap 4 sub. leg. A) shall apply to every such appeal save that the time for serving notice of motion of appeal shall be 21 days from the date of the decision and not 28 days as provided in that Order and the decision of the Court of Appeal on any such appeal shall be final. (Amended 11 of 1999 s. 3; 10 of 2008 s. 33)

(2) Subsection (1) does not apply in relation to any decision of the Tribunal on an application under section 40L(4).

(3) In any appeal under subsection (1) the Society of Notaries shall be the respondent.

(4) The hearing of every appeal under this section shall be in open court unless, and to the extent to which, the Court of Appeal may otherwise direct.

Chapter:	159	LEGAL PRACTITIONERS ORDINANCE	Gazette Number	Version Date
Section:	40R	Expenses of Notaries Public Disciplinary Tribunal and of Society of Notaries	L.N. 60 of 2005	30/06/2005

(1) The expenses incurred by-

- (a) a Notaries Public Disciplinary Tribunal; and
- (b) the Society of Notaries, in connection with proceedings before a Notaries Public Disciplinary Tribunal and any appeal under section 40M,

may be paid to the Society of Notaries out of general revenue upon a certificate issued by the Secretary for Justice.

(2) The Secretary for Justice shall only issue a certificate under subsection (1) if he is satisfied that-

- (a) the expenses were necessarily incurred by the Notaries Public Disciplinary Tribunal or the Society of Notaries, as the case may be, in exercise of the powers or duties conferred or imposed by this Ordinance;



- (b) the amount of such expenses is reasonable; and
- (c) the expenses could not reasonably be recovered from the person whose conduct is the subject of the proceedings before the Notaries Public Disciplinary Tribunal or the Court of Appeal, as the case may be.

(3) In this section, "expenses" (開支) includes witnesses' expenses and fees, counsel's fees, solicitor's fees, auditor's fees and other charges and disbursements.

Chapter:	159	LEGAL PRACTITIONERS ORDINANCE	Gazette Number	Version Date
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Section:	25	Expenses of Solicitors Disciplinary Tribunal and of Society	L.N. 362 of 1997	01/07/1997
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- (1) The expenses incurred by-
  - (a) a Solicitors Disciplinary Tribunal; and
  - (b) the Society, in connection with proceedings before a Solicitors Disciplinary Tribunal and any appeal under section 13,
 may be paid to the Society out of general revenue upon a certificate issued by the Secretary for Justice.
- (2) The Secretary for Justice shall only issue a certificate under subsection (1) if he is satisfied that-
  - (a) the expenses were necessarily incurred by the Solicitors Disciplinary Tribunal or the Society, as the case may be, in exercise of the powers or duties conferred or imposed by this Ordinance;
  - (b) the amount of such expenses is reasonable; and
  - (c) the expenses could not reasonably be recovered from the person whose conduct is the subject of the proceedings before the Solicitors Disciplinary Tribunal or the Court of Appeal, as the case may be.
 (Amended 92 of 1975 s. 59; 46 of 1989 s. 6)
- (3) In this section, "expenses" (開支) includes witnesses' expenses and fees, counsel's fees, solicitor's fees, auditor's fees and other charges and disbursements.

(Amended 61 of 1992 s. 6; L.N. 362 of 1997)

Chapter:	159	LEGAL PRACTITIONERS ORDINANCE	Gazette Number	Version Date
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Section:	39	Expenses of Barristers Disciplinary Tribunal and of Bar Council	L.N. 362 of 1997	01/07/1997
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- (1) The expenses incurred by-
  - (a) a Barristers Disciplinary Tribunal; and
  - (b) the Bar Council, in connection with proceedings before a Barristers Disciplinary Tribunal and any proceedings under section 37B,
 may be paid to the Bar Council out of general revenue upon a certificate issued by the Secretary for Justice.
- (2) The Secretary for Justice shall only issue a certificate under subsection (1) if he is satisfied that-
  - (a) the expenses were necessarily incurred by the Barristers Disciplinary Tribunal or the Bar Council, as the case may be, in exercise of the powers or duties conferred or imposed by this Ordinance;
  - (b) the amount of such expenses is reasonable; and
  - (c) the expenses could not reasonably be recovered from the barrister whose conduct is the subject of the proceedings before the Barristers Disciplinary Tribunal or the Court of Appeal, as the case may be.
- (3) In this section, "expenses" (開支) includes witnesses' expenses and fees, counsel's fees, solicitor's fees, auditor's fees and other charges and disbursements.

(Amended 70 of 1991 s. 8; 61 of 1992 s. 23; L.N. 362 of 1997)

Chapter:	159	LEGAL PRACTITIONERS ORDINANCE	Gazette Number	Version Date
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Section:	40P	Automatic striking-off or suspension of notary public	L.N. 60 of 2005	30/06/2005
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- (1) Where the name of a solicitor who is also a notary public is struck off the roll of solicitors by the Registrar under section 12(2) pursuant to an order made by the Solicitors Disciplinary Tribunal under section 10(2)(a), the

Registrar shall as soon as practicable after that strike off the register of notaries public the name of that person and shall publish a notice of this fact in the Gazette within 14 days after the striking off the register of notaries public.

- (2) (a) Where a solicitor who is also a notary public is suspended from practice as a solicitor for a period by order of a Solicitors Disciplinary Tribunal under section 10(2)(b), the notary public shall be deemed to be suspended from practice as a notary public for the same period.
- (b) Where in relation to such a solicitor who is also a notary public a signed copy of the order of the Solicitors Disciplinary Tribunal is filed with the Registrar under section 12(2), the Registrar shall as soon as is practicable after entering a note of the order on the roll of solicitors, enter a note on the register of notaries public of the period of suspension having effect by virtue of paragraph (a); and where the Registrar is directed by the order made by the Solicitors Disciplinary Tribunal to publish the order for suspension of the solicitor in the Gazette he shall also publish in the Gazette a notice of the suspension having effect by virtue of paragraph (a).
- (3) (a) If in relation to a solicitor who is also a notary public and whose name has been struck off the roll of solicitors as provided in subsection (1), an order is made by the Court of Appeal in proceedings under section 13 that the solicitor's name be restored to the roll of solicitors by the Registrar then, subject to any order made in respect of the notary public under section 40J(2), the Registrar shall as soon as is practicable after that restore the name of the notary public to the register of notaries public.
- (b) If in relation to a solicitor who is also a notary public and who has been suspended from practice as a solicitor as provided in subsection (2), an order is made by the Court of Appeal in proceedings under section 13 that the suspension be set aside, any suspension of that person from practice as a notary public having effect by virtue of subsection (2)(a) shall cease to have effect, and the Registrar shall enter an appropriate note on the register of notaries public accordingly.

Chapter:	159	LEGAL PRACTITIONERS ORDINANCE	Gazette Number	Version Date
Section:	50B	Offences in relation to foreign lawyers, foreign firms and Associations	L.N. 239 of 2000	07/07/2000

(1) A person who offers his services to the public as a practitioner of foreign law commits an offence unless he is a solicitor who satisfies all the requirements set forth in section 7, a barrister or a foreign lawyer. (Amended 42 of 2000 s. 14)

(2) A person who is qualified to practise foreign law and who-

- (a) from within a foreign firm but not as a foreign lawyer; or
- (b) from within a Hong Kong firm but not as a solicitor or foreign lawyer,

offers his services to the public as a practitioner of foreign law, does not commit an offence under subsection (1) so long as he does not so offer his services in any 12 month period for more than 3 continuous months or more than 90 days.

(3) A foreign lawyer who offers his services to the public as a practitioner of foreign law in a capacity other than as a practitioner in a foreign firm or a Hong Kong firm commits an offence.

(4) A foreign lawyer or foreign firm shall not take a solicitor into partnership or employ a solicitor who holds a practising certificate or a barrister who holds a practising certificate.

(5) Where a Hong Kong firm and a foreign firm have an agreement as described in section 39C(1) and they are not registered as an Association, the partners or the sole practitioners of each firm commit an offence.

(6) A person who commits an offence under this section is liable to a fine of \$500000.

(Added 60 of 1994 s. 39)

Chapter:	159	LEGAL PRACTITIONERS ORDINANCE	Gazette Number	Version Date
Section:	72	Power of Chief Justice to make rules	L.N. 60 of 2005	30/06/2005

The Chief Justice may make rules-

- (a) in relation to the admission of solicitors and of barristers and the appointment of notaries public- (Amended 27 of 1998 s. 5)
  - (i) regulating the manner in which applications for admission under sections 4, 27 and 27A shall be

- made and the forms to be employed in respect thereof; (Amended 46 of 1989 s. 15; 60 of 1994 s. 44)
- (ii) regulating the procedure and constitution of the Court at the hearing of applications under sections 4, 27 and 27A; (Amended 46 of 1989 s. 15; 60 of 1994 s. 44)
  - (iii) regulating the manner in which applications for appointment under section 40A shall be made and the forms to be employed in respect thereof; (Amended 27 of 1998 s. 5)
  - (iv) exempting, in any particular case, a person seeking admission under section 4 or 27 or appointment under section 40A from compliance with all or any of the conditions prescribed for such admission or appointment by this Ordinance, subject to such conditions as may appear necessary; (Amended 60 of 1994 s. 44; 27 of 1998 s. 5)
  - (v) providing for the duties of the Registrar in connection with such admissions and appointments; (Amended 27 of 1998 s. 5)
  - (vi) providing for the forms of the roll of solicitors, the roll of barristers and the register of notaries public, the mode in which they shall be kept and the contents thereof;
  - (vii) prescribing any fees payable in connection with such admissions and appointments; (Amended 27 of 1998 s. 5)
  - (viii) (Repealed 70 of 1991 s. 9)
  - (ix) (Repealed 58 of 1976 s. 11)
  - (x) regulating the granting of exemption from the provisions of any of such rules and of the compliance with any terms imposed upon the grantees of such exemption and prescribing the form of any statutory declaration evidencing such compliance;
- (b) in relation to the conduct of barristers, to provide for-
- (i) the making of a complaint to the Tribunal Convenor of the Barristers Disciplinary Tribunal Panel;
  - (ii) the conduct of proceedings before a Barristers Disciplinary Tribunal; and
  - (iii) the procedure for making and hearing an application under section 38; and (Replaced 61 of 1992 s. 25)
- (c) generally to prescribe or provide for-
- (i) any other certificate, form or other document required under this Ordinance;
  - (ii) any other fee which is required to be prescribed under this Ordinance;
  - (iii) the better carrying into effect of the provisions of this Ordinance; and
  - (iv) anything which under this Ordinance is to be or may be prescribed by the Chief Justice.

Chapter:	191	ADMINISTRATION OF ESTATES BY CONSULAR OFFICERS ORDINANCE	Gazette Number	Version Date
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Section:	3	Variation of Schedule	L.N. 362 of 1997; 81 of 1999	01/07/1997
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**Remarks:**

Adaptation amendments retroactively made - see 81 of 1999 s. 3

The Chief Executive may by order notified in the Gazette under the hand of the Chief Secretary for Administration vary the Schedule- (Amended L.N. 242 of 1994; L.N. 362 of 1997; 81 of 1999 s. 3)

- (a) by adding thereto any State with whom the Government of the People's Republic of China has entered into an agreement or arrangement which or any provision of which provides for the administration of estates by consular officers and which applies to Hong Kong; (Replaced 81 of 1999 s. 3)
- (b) by deleting therefrom any State when the provision of the agreement or arrangement with that State mentioned in the Schedule shall have ceased to have effect. (Replaced 81 of 1999 s. 3)

Chapter:	342	CUSTOMS AND EXCISE SERVICE ORDINANCE	Gazette Number	Version Date
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Section:	12	Subordinate officers	76 of 1999	01/07/1997
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Remarks:

Adaptation amendments retroactively made - see 76 of 1999 s. 3

- (1) Whenever a subordinate officer is charged with a disciplinary offence-
  - (a) the Commissioner may interdict him from duty;
  - (b) the matter shall be investigated and the officer concerned dealt with in the appropriate manner prescribed by rules made under section 16.
- (2) Whenever an investigation is being undertaken into any conduct which may amount to the commission of a disciplinary offence by a subordinate officer and the Commissioner considers that it is contrary to the public interest for the officer to continue to exercise the powers and functions of his office, the Commissioner may interdict him from duty but the officer shall be entitled, until such time as he is charged with a disciplinary offence to the full amount of the emoluments which he would have received if he had not been interdicted.
- (3) An officer interdicted under subsection (1), and an officer interdicted under subsection (2) who is charged with a disciplinary offence, shall receive such proportion of the emoluments of his office, not being less than one-half, as the Commissioner may direct.
- (4) If the proceedings against such officer do not result in the imposition of any punishment, he shall be entitled to the full amount of the emoluments which he would have received if he had not been interdicted.
- (5) If a punishment other than dismissal is imposed the officer may be paid such proportion of the emoluments withheld as a result of his interdiction as the Chief Executive may direct, where the punishment is imposed by the Chief Executive or, as the Commissioner may direct, in every other case. (Amended 76 of 1999 s. 3)
- (6) An officer interdicted under subsection (1) or (2) may not, without the permission of the Commissioner, leave Hong Kong while under interdiction.

Chapter:	424	TOYS AND CHILDREN'S PRODUCTS SAFETY ORDINANCE	Gazette Number	Version Date
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Section:	2	Interpretation	L.N. 29 of 2010	01/04/2010
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In this Ordinance, unless the context otherwise requires-

"advertise" (宣傳) includes issuing a catalogue, circular or price list that is intended for the general public;

"authorized officer" (獲授權人員) means an officer specified in Schedule 1 to the Customs and Excise Service Ordinance (Cap 342) or an officer appointed by the Commissioner under section 19 to be an authorized officer;

"children's product" (兒童產品) means a product specified in column 1 of Schedule 2, or the packaging of that product; (Replaced 5 of 2010 s. 3)

"children's product standard" (兒童產品標準), in relation to a children's product, means a standard specified in column 2 of Schedule 2 opposite the children's product—

- (a) as in force at the commencement\* of section 21 of the Toys and Children's Products Safety (Amendment) Ordinance 2010 (5 of 2010); or
- (b) if the standard is amended by any amendment specified in column 3 of Schedule 2 opposite the standard, as so amended; (Added 5 of 2010 s. 3)

"Commissioner" (關長) means the Commissioner of Customs and Excise, any Deputy or Assistant Commissioner of Customs and Excise and any public officer designated in writing by the Commissioner of Customs and Excise to exercise his powers under this Ordinance; (Amended 65 of 2000 s. 3)

"goods" (貨物) means toys or children's products;

"goods in transit" (過境貨物) means goods that are brought into Hong Kong solely for the purpose of taking them out of Hong Kong and that remain at all times on the vessel or aircraft that brought them into Hong Kong; (Amended 44 of 1996 s. 2)

"notice to warn" (警告通知) means a notice served under section 10(1);

"premises" (房產) includes any place and any stall, whether permanent or temporary in nature;

"prohibition notice" (禁制通知書) means a notice served under section 11(1);

"recall notice" (收回通知書) means a notice served under section 12(1);

"record" (紀錄) or "document" (文件) includes-

- (a) a book, voucher, receipt or data material, or information which is recorded in a non-legible form but is capable of being reproduced in a legible form; and
- (b) any document, disc, tape, sound track or other device in which sounds or other data (not being visual images) are embodied so as to be capable (with or without the aid of other equipment) of being reproduced and any film (including a microfilm), tape or other device in which visual images are embodied so as to be capable (as aforesaid) of being reproduced;

"regulation" (規例) means a regulation made under this Ordinance; (Added 5 of 2010 s. 3)

"Secretary" (局長) means the Secretary for Commerce and Economic Development; (Added 5 of 2010 s. 3)

"supply" (供應) means-

- (a) to sell or hire out;
- (b) to offer, have in possession, or expose for sale or for hiring out;
- (c) to exchange or dispose of for any consideration;
- (d) to transmit, convey or deliver in pursuance of-
  - (i) a sale;
  - (ii) a hiring out; or
  - (iii) an exchange or disposal for any consideration; or
- (e) for commercial purposes, to give goods as a prize or to make a gift of the goods;

"toy" (玩具) means—

- (a) a product or material that is designed or clearly intended for use in play by a child; or
- (b) the packaging of that product or material; (Replaced 5 of 2010 s. 3)

"toy standard" (玩具標準) means a standard specified in column 1 of Schedule 1—

- (a) as in force at the commencement\* of section 20 of the Toys and Children's Products Safety (Amendment) Ordinance 2010 (5 of 2010); or
- (b) if the standard is amended by any amendment specified in column 2 of Schedule 1 opposite the standard, as so amended; (Added 5 of 2010 s. 3)

"transhipment" (轉運) means the importation of an article that is consigned on a through bill of lading or a through air waybill from a place outside Hong Kong to another place outside Hong Kong and is or is to be removed from the vessel, vehicle or aircraft in which it was imported and either returned to the same vessel, vehicle or aircraft or transferred to another vessel, vehicle or aircraft before being exported, whether it is or is to be transferred directly between such vessels, vehicles or aircraft or whether it is to be landed in Hong Kong after its importation and stored, pending exportation.

(Enacted 1992. Amended 5 of 2010 s. 3)

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**Note:**

\* **Commencement : 1 April 2010**

Chapter:	424	TOYS AND CHILDREN'S PRODUCTS SAFETY ORDINANCE	Gazette Number	Version Date
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Schedule:	1	TOY STANDARDS	L.N. 29 of 2010	01/04/2010
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[sections 2 & 37]

Column 1

Column 2

Standards

Amendment to standards

## 1. International Standard

The International Standard is established by the International Organization for Standardization and the International Electrotechnical Commission, and the requirements contained in the Standard are specified in—

- (a) **ISO 8124-1:2009**  
"Safety of toys—Part 1: Safety aspects related to mechanical and physical properties"
- (b) **ISO 8124-2:2007**  
"Safety of toys—Part 2: Flammability"
- (c) **ISO 8124-3:1997**  
"Safety of toys—Part 3: Migration of certain elements"
- (d) **IEC 62115 Edition 1.1**  
(2004-11) [IEC 62115 Edition 1:2003 consolidated with amendment 1:2004] "Electric Toys—Safety"

## 2. European Standard

The European Standard is established by the European Committee for Standardization, and the requirements contained in the Standard are specified in—

- (a) **BS EN 71-1:2005 + A8:2009**  
"Safety of toys—Part 1: Mechanical and physical properties"
- (b) **BS EN 71-2:2006 + A1:2007**  
"Safety of toys—Part 2: Flammability"
- (c) **BS EN 71-3:1995**  
**BS 5665-3:1995**  
(incorporating Amendment No. 1 and Corrigendum No. 1)  
"Safety of toys—Part 3: Migration of certain elements"
- (d) **BS EN 71-4:1998 + A3:2007**  
"Safety of toys—Part 4: Experimental sets for chemistry and related activities"
- (e) **BS EN 71-5:1993**  
**BS 5665-5:1993**  
(incorporating Amendment No. 1)  
"Safety of toys—Part 5: Chemical toys (sets) other than experimental sets"
- (f) **BS EN 71-6:1995**  
**BS 5665:Part 6:1995**  
"Safety of toys—Part 6: Graphical symbol for age warning labelling"
- (g) **BS EN 71-7:2002**  
"Safety of toys—Part 7: Finger paints—Requirements and test methods"
- (h) **BS EN 71-8:2003**  
(incorporating Amendment Nos. 1 and 2)  
"Safety of toys—Part 8: Swings, slides and similar activity toys for indoor and outdoor family domestic use"
- (i) **BS EN 62115:2005**  
"Electric toys—Safety"

## 3. ASTM Standard

The ASTM Standard is established by ASTM International, and the requirements contained in the Standard are specified in—

**ASTM F963-08**

"Standard consumer safety specification for toy safety"

(Replaced 5 of 2010 s. 20)

Chapter:	424	TOYS AND CHILDREN'S PRODUCTS SAFETY ORDINANCE	Gazette Number	Version Date
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Schedule:	2	CHILDREN'S PRODUCT STANDARDS	L.N. 110 of 2010	01/12/2010
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[sections 2 & 37]

Column 1

Column 2

Column 3

Children's products

Standards

Amendments to standards

1. Babies' dummies

**European Standard**

The European Standard is established by the European Committee for Standardization, and the requirements contained in the Standard are specified in—

- (a) **BS EN 1400-1:2002**  
"Child use and care articles—Soothers for babies and young children—Part 1: General safety requirements and product information"
- (b) **BS EN 1400-2:2002**  
"Child use and care articles—Soothers for babies and young children—Part 2: Mechanical requirements and tests"
- (c) **BS EN 1400-3:2002**  
"Child use and care articles—Soothers for babies and young children—Part 3: Chemical requirements and tests"

**ASTM Standard**

The ASTM Standard is established by ASTM International, and the requirements contained in the Standard are specified in—

**ASTM F963-08**

"Standard consumer safety specification for toy safety"

**Australian Standard**

The Australian Standard is established by Standards Australia, and the requirements contained in the Standard are specified in—

**AS 2432:2009**  
"Babies' dummies"

2. Baby walking frames

**European Standard**

The European Standard is established by the European Committee for Standardization, and the requirements contained in the Standard are specified in—

**BS EN 1273:2005**  
"Child use and care articles—Baby walking frames—Safety requirements and test methods"

**ASTM Standard**

The ASTM Standard is established by ASTM International, and the requirements contained in the Standard are specified in—

**ASTM F977-07** **ASTM F977-09**  
"Standard consumer safety specification for infant walkers"

3. Bottle teats

**European Standard**

The European Standard is established by the European Committee for Standardization, and the requirements contained in the Standard are specified in—

- (a) **BS EN 14350-1:2004**  
"Child use and care articles—Drinking equipment—Part 1: General and mechanical requirements and tests"
- (b) **BS EN 14350-2:2004**  
"Child use and care articles—Drinking equipment—Part 2: Chemical requirements and tests"

4. Bunk beds for domestic use

**European Standard**

The European Standard is established by the European Committee for Standardization, and the requirements contained in the Standard are specified in—

- (a) **BS EN 747-1:2007**  
"Furniture—Bunk beds and high beds for domestic use—Part 1: Safety, strength and durability requirements"
- (b) **BS EN 747-2:2007**  
"Furniture—Bunk beds and high beds for domestic use—Part 2: Test methods"



### **ASTM Standard**

The ASTM Standard is established by ASTM International, and the requirements contained in the Standard are specified in—

#### **ASTM F1427-07**

"Standard consumer safety specification for bunk beds"

### **Joint Australian/New Zealand Standard**

The Joint Australian/New Zealand Standard is established by Standards Australia and Standards New Zealand, and the requirements contained in the Standard are specified in—

#### **AS/NZS 4220:2003**

"Bunk beds"

### **International Standard**

The International Standard is established by the International Organization for Standardization, and the requirements contained in the Standard are specified in—

#### **(a) ISO 9098-1:1994**

"Bunk beds for domestic use—Safety requirements and tests—Part 1: Safety requirements"

#### **(b) ISO 9098-2:1994**

"Bunk beds for domestic use—Safety requirements and tests—Part 2: Test methods"

5. Carry cots and similar handled products and stands

### **European Standard**

The European Standard is established by the European Committee for Standardization, and the requirements contained in the Standard are specified in—

#### **BS EN 1466:2004 + A1:2007**

"Child care articles—Carry cots and stands—Safety requirements and test methods"

6. Child safety barriers for domestic use

### **European Standard**

The European Standard is established by the European Committee for Standardization, and the requirements contained in the Standard are specified in—

**BS EN 1930:2000**

(incorporating Amendment No. 1)

"Child care articles—Safety barriers—Safety requirements and test methods"

**ASTM Standard**

The ASTM Standard is established by ASTM International, and the requirements contained in the Standard are specified in—

**ASTM F1004-07**

"Standard consumer safety specification for expansion gates and expandable enclosures"

**ASTM F1004-09**

7. Children's cots for domestic use

**European Standard**

The European Standard is established by the European Committee for Standardization, and the requirements contained in the Standard are specified in—

(a) **BS EN 716-1:2008**

"Furniture—Children's cots and folding cots for domestic use—Part 1: Safety requirements"

(b) **BS EN 716-2:2008**

"Furniture—Children's cots and folding cots for domestic use—Part 2: Test methods"

**ASTM Standard**

The ASTM Standard is established by ASTM International, and the requirements contained in the Standard are specified in—

**ASTM F1169-07**

"Standard specification for full-size baby crib"

**ASTM F1169-09**

**International Standard**

The International Standard is established by the International Organization for Standardization, and the requirements contained in the Standard are specified in—

(a) **ISO 7175-1:1997**

"Children's cots and folding cots for domestic use—Part 1: Safety requirements"

(b) **ISO 7175-2:1997**

"Children's cots and folding cots for domestic use—Part 2: Test methods"

8. Children's high

**European Standard**

chairs and multi-purpose high chairs for domestic use

The European Standard is established by the European Committee for Standardization, and the requirements contained in the Standard are specified in—

- (a) **BS EN 14988-1:2006**  
"Children's high chairs—Part 1: Safety requirements"
- (b) **BS EN 14988-2:2006**  
"Children's high chairs—Part 2: Test methods"

#### **ASTM Standard**

The ASTM Standard is established by ASTM International, and the requirements contained in the Standard are specified in—

#### **ASTM F404-08**

"Standard consumer safety specification for high chairs"

#### **International Standard**

The International Standard is established by the International Organization for Standardization, and the requirements contained in the Standard are specified in—

- (a) **ISO 9221-1:1992**  
"Furniture—Children's high chairs—Part 1: Safety requirements"
- (b) **ISO 9221-2:1992**  
"Furniture—Children's high chairs—Part 2: Test methods"

### 9. Children's paints

#### **European Standard**

The European Standard is established by the European Committee for Standardization, and the requirements contained in the Standard are specified in—

#### **BS EN 71-3:1995**

#### **BS 5665-3:1995**

(incorporating Amendment No.1 and Corrigendum No. 1)

"Safety of toys—Part 3: Migration of certain elements"

#### **ASTM Standard**

The ASTM Standard is established by ASTM International, and the requirements contained in

the Standard are specified in—

**ASTM F963-08**

"Standard consumer safety specification for toy safety"

**Joint Australian/New Zealand Standard**

The Joint Australian/New Zealand Standard is established by Standards Australia and Standards New Zealand, and the requirements contained in the Standard are specified in—

**AS/NZS ISO 8124.3:2003**

Amendment No. 1

"Safety of toys—Part 3: Migration of certain elements"

**International Standard**

The International Standard is established by the International Organization for Standardization, and the requirements contained in the Standard are specified in—

**ISO 8124-3:1997**

"Safety of toys—Part 3: Migration of certain elements"

10. Children's safety harnesses

**European Standard**

The European Standard is established by the European Committee for Standardization, and the requirements contained in the Standard are specified in—

**BS EN 13210:2004**

"Child use and care articles—Children's safety harnesses, reins and similar type articles—Safety requirements and test methods"

11. Playpens for domestic use

**European Standard**

The European Standard is established by the European Committee for Standardization, and the requirements contained in the Standard are specified in—

(a) **BS EN 12227-1:1999**

"Playpens for domestic use—Part 1: Safety requirements"

(b) **BS EN 12227-2:1999**

"Playpens for domestic use—Part 2: Test methods"

**ASTM Standard**

The ASTM Standard is established by ASTM International, and the requirements contained in the Standard are specified in—

**ASTM F406-08a**

**ASTM F406-09**

"Standard consumer safety specification for non-full-size baby cribs/play yards"

12. Wheeled child conveyances

**European Standard**

The European Standard is established by the European Committee for Standardization, and the requirements contained in the Standard are specified in—

**BS EN 1888:2003**

(incorporating Amendment No. 1 and Corrigenda Nos. 1, 2 and 3)

"Child care articles—Wheeled child conveyances—Safety requirements and test methods"

**ASTM Standard**

The ASTM Standard is established by ASTM International, and the requirements contained in the Standard are specified in—

**ASTM F833-08**

**ASTM F833-09**

"Standard consumer safety performance specification for carriages and strollers"

The Joint Australian/New Zealand Standard is established by Standards Australia and Standards New Zealand, and the requirements contained in the Standard are specified in—

**AS/NZS 2088:2000**

**AS/NZS 2088:2009**

"Prams and Strollers—Safety requirements"

(Schedule 2 added 5 of 2010 s. 21. Amended L.N. 110 of 2010)

Chapter:	614	Legislation Publication Ordinance	Gazette Number	Version Date
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Section:	11	Powers to give chapter numbers etc.		
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Remarks:

not yet in operation

The Secretary for Justice may—

- (a) give a chapter number to an Ordinance and alter the short title or citation of the Ordinance; and
- (b) in the database, arrange the grouping and sequence of database instruments.

Chapter:	614	Legislation Publication Ordinance	Gazette Number	Version Date
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Section:	12	Powers to make editorial amendments		
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Remarks:

not yet in operation

The Secretary for Justice may, in an Ordinance—

- (a) replace a reference to the short title or citation of another Ordinance that has been altered under section 11(a), by the altered short title or citation;
- (b) correct a grammatical, clerical or typographical error;
- (c) change the way of referring to or expressing a number, year, date, time, amount of money, quantity or measurement;
- (d) alter the text of a provision to reflect an amendment to the provision deemed to have been made by another provision;
- (e) omit any enacting, expired or spent provision;
- (f) change the sequence of definitions, or of unnumbered items in a list;
- (g) insert, after an item in a list appearing in the text of one official language, the equivalent of that item in the other official language;
- (h) change the format, layout, printing style or any other presentational aspect; and
- (i) make an amendment that is consequential on any amendment made under this section (other than this paragraph).

Chapter:	614	Legislation Publication Ordinance	Gazette Number	Version Date
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Section:	17	Powers to make revisions	13 of 2011	30/06/2011
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The Secretary for Justice may, by order in the Gazette—

- (a) make an alteration to an Ordinance for the purpose of securing uniformity in expression within the Ordinance or with another Ordinance;
- (b) alter the form or arrangement of a section of an Ordinance, by transferring words, by combining it in whole or in part with another section or other sections of the Ordinance or by dividing it into subsections;
- (c) transfer a saving or transitional provision in an Ordinance to another Ordinance to which that provision relates;
- (d) organize the provisions of an Ordinance into, and assign numbers and headings to, groups of provisions, without changing the sequence of those provisions;
- (e) amend the heading of a provision or a group of provisions in an Ordinance to reflect the contents of the provision or the group of provisions;
- (f) if the name, title, location or address of a department, office, officer or place has changed, make an alteration to that name, title, location or address appearing in an Ordinance to reflect the change;
- (g) amend an Ordinance to effect the replacement of a reference to a date in the form of a description by the actual calendar date;
- (h) amend an Ordinance to effect the replacement of a general reference to another Ordinance by—
  - (i) the short title or citation of that other Ordinance;
  - (ii) its number among the Ordinances of the year in which it was enacted or made; or
  - (iii) the chapter number given to it under section 11(a);
- (i) replace a word or expression in an Ordinance indicating gender or that could be taken to indicate gender by a gender-neutral word or expression;
- (j) amend an Ordinance to change the way of referring to a provision; and
- (k) make an amendment to an Ordinance that is consequential on any amendment made under this section (other than this paragraph).

Instrument:	A603	LAWS (LOOSE-LEAF PUBLICATION) ORDINANCE 1990	Gazette Number	Version Date
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Section:	2	Publication of Ordinances, etc. in a loose-leaf edition	L.N. 164 of 2011	16/01/2012
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- (1) The Secretary for Justice may cause to be published any Ordinance or other legislation which applies in Hong Kong in an edition in loose-leaf form (the "loose-leaf edition" (活頁版)) and may from time to time cause to be published new or replacement pages for the loose-leaf edition to keep it correct and up to date.
- (2) The Secretary for Justice may, in the loose-leaf edition—
  - (a) give a chapter number to an Ordinance and alter the short title or citation of the Ordinance; and
  - (b) arrange the grouping and sequence of legislation. (Replaced 13 of 2011 s. 20)
- (3) The Secretary for Justice may cause to be published any Ordinance, as published in the loose-leaf edition, in the form of a separate booklet.
- (4) The Secretary for Justice may include in the loose-leaf edition and in any booklet such notes, indexes and other information as he considers useful.
- (5) In the loose-leaf edition and in every booklet each page shall include the statement "Authorized Loose-leaf Edition, Printed and Published by the Director of Government Logistics, Hong Kong Special Administrative Region". (Amended 39 of 1999 s. 3; L.N. 164 of 2003)
- (6) Material included in the loose-leaf edition or in a booklet pursuant to subsection (4) and the statement included therein as required by subsection (5) are not part of any Ordinance or other legislation.
- (7) (Repealed 13 of 2011 s. 20)

(Amended L.N. 362 of 1997)

Instrument:	A603	LAWS (LOOSE-LEAF PUBLICATION) ORDINANCE 1990	Gazette Number	Version Date
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Section:	2A	Power to make editorial amendments	L.N. 164 of 2011	16/01/2012
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- (1) The Secretary for Justice may, in an Ordinance published in the loose-leaf edition—
  - (a) replace a reference to the short title or citation of another Ordinance that has been altered under section 2(2)(a), by the altered short title or citation;
  - (b) correct a grammatical, clerical or typographical error;
  - (c) change the way of referring to or expressing a number, year, date, time, amount of money, quantity or measurement;
  - (d) alter the text of a provision to reflect an amendment to the provision deemed to have been made by another provision;
  - (e) omit any enacting, expired or spent provision;
  - (f) change the sequence of definitions, or of unnumbered items in a list;
  - (g) insert, after an item in a list appearing in the text of one official language, the equivalent of that item in the other official language;
  - (h) change the format, layout, printing style or any other presentational aspect; and
  - (i) make an amendment that is consequential on any amendment made under this subsection (other than this paragraph).
- (2) Subsection (1) does not permit any amendment that would change the legal effect of any Ordinance.
- (3) An Ordinance amended under subsection (1), as published in the loose-leaf edition, must indicate in a suitable place the fact that it has been amended under subsection (1).

(Added 13 of 2011 s.21)

Chapter:	159	LEGAL PRACTITIONERS ORDINANCE	Gazette Number	Version Date
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Section:	8AAA	Additional powers of an inspector	L.N. 239 of 2000	07/07/2000
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- (1) In this section "inspector" (調查員) means an inspector appointed under section 8AA.
- (2) The Council may direct an inspector to assist it in gathering evidence in respect of a matter the Council is considering for the purpose of deciding whether or not it should be submitted to the Tribunal Convenor of the Solicitors Disciplinary Tribunal Panel.
- (3) For the purposes of this section, an inspector may question-

- (a) persons who are, or were at the material time, members or employees of any law firm; or
- (b) where authorized by the Council, any other persons whom the inspector considers may be able to assist the Council.

(Added 42 of 2000 s. 3)

Chapter:	159	LEGAL PRACTITIONERS ORDINANCE	Gazette Number	Version Date
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Section:	13A	Publication of findings of Solicitors Disciplinary Tribunal	10 of 2005	08/07/2005
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(1) Unless, on application by the solicitor, the Court of Final Appeal, the Court of Appeal or the Solicitors Disciplinary Tribunal otherwise orders, the Society may, after the expiry of the time for filing an appeal under section 13 or, if such an appeal has been made, after the appeal is finally determined, as the case may be, publish a summary of the finding and order of a Solicitors Disciplinary Tribunal and the name of the solicitor who was the subject of the finding and order in any publication produced by, or at the direction of, the Society. (Amended 10 of 2005 s. 59)

(2) For the purposes of subsection (1), an appeal to the Court of Appeal shall be deemed to be finally determined when the earliest of the following events occurs, whichever is applicable in the circumstances-

- (a) when the appeal to the Court of Appeal is withdrawn or abandoned;
- (b) when the specified period expires without an application for leave to appeal having been made to the Court of Appeal;
- (c) if, before the expiry of the specified period, an application for leave to appeal is made to the Court of Appeal-
  - (i) when the application is withdrawn or abandoned;
  - (ii) if the application is refused, when the specified period expires without an application for leave to appeal having been made to the Court of Final Appeal; or
  - (iii) if the application is granted, when the appeal to the Court of Final Appeal is withdrawn, abandoned or disposed of; or
- (d) if, before the expiry of the specified period, an application for leave to appeal is made to the Court of Final Appeal-
  - (i) when the application is withdrawn, abandoned or refused; or
  - (ii) if the application is granted, when the appeal to the Court of Final Appeal is withdrawn, abandoned or disposed of. (Added 10 of 2005 s. 59)

(3) In subsection (2)-

"application for leave to appeal" (上訴許可申請) means an application made to the Court of Appeal or the Court of Final Appeal under section 24 of the Hong Kong Court of Final Appeal Ordinance (Cap 484) for leave to appeal to the Court of Final Appeal from a judgment of the Court of Appeal;

"specified period" (指明限期)-

- (a) in the case of an application for leave to appeal made to the Court of Appeal, means-
  - (i) subject to subparagraph (ii), the period of 28 days within which the notice of motion referred to in section 24(2) of the Hong Kong Court of Final Appeal Ordinance (Cap 484) is required to be filed; or
  - (ii) if, on an application made within the 28-day period referred to in subparagraph (i), the Court of Appeal extends that period, the period as so extended; or
- (b) in the case of an application for leave to appeal made to the Court of Final Appeal, means-
  - (i) subject to subparagraph (ii), the period of 28 days within which the notice of motion referred to in section 24(4) of the Hong Kong Court of Final Appeal Ordinance (Cap 484) is required to be filed; or
  - (ii) if, on an application made within the 28-day period referred to in subparagraph (i), the Court of Final Appeal extends that period, the period as so extended. (Added 10 of 2005 s. 59)

(Added 42 of 2000 s. 6)

Chapter:	159	LEGAL PRACTITIONERS ORDINANCE	Gazette Number	Version Date
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Section:	27	Power of Court to admit barristers	L.N. 87 of 2003	28/03/2003
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(1) Subject to subsection (2), the Court may, in such manner as may be prescribed by the Chief Justice, admit as a barrister of the High Court in Hong Kong, a person whom it considers a fit and proper person to be a barrister, provided such person has-

- (a) complied with the requirements;
- (b) passed the examinations; and
- (c) paid the fees,

prescribed by the Bar Council.

(2) The Court shall not admit a person under subsection (1) unless it is satisfied that that person-

- (a) is not in practice as a solicitor either on his own account or as a partner or salaried employee in a firm of solicitors practising in Hong Kong; and
- (b) satisfies one of the following requirements-
  - (i) has resided in Hong Kong for at least 3 consecutive months immediately before the date of his application for admission;
  - (ii) has been ordinarily resident in Hong Kong for at least 7 years;
  - (iii) has been physically present in Hong Kong for at least 180 days of each of at least 7 years within the 10 years immediately preceding the date of his application for admission.

(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)

**Note:**

**Please see the savings provision contained in s. 17 of 42 of 2000, which section is reproduced as follows:**

**"17. Savings Provision**

**Notwithstanding the repeal of section 27(1)(a)(i), (ii) and (v) of the Legal Practitioners Ordinance (Cap 159) by section 7 of this Ordinance, a barrister who was admitted under that provision shall not have his name removed from the roll of barristers because of such repeal."**

Chapter:	159	LEGAL PRACTITIONERS ORDINANCE	Gazette Number	Version Date
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Section:	40N	Winding-up, etc. of business of notaries public struck off or suspended	L.N. 60 of 2005	30/06/2005
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(1) The Court may make an order for the winding-up of the business of any notary public who is struck off the register of notaries public in such terms and appointing such solicitor or firm of solicitors with notarial practice or the Official Receiver under the Bankruptcy Ordinance (Cap 6) or both as it thinks fit for that purpose.

(2) The Court may make an order appointing any solicitor or firm of solicitors with notarial practice or the Official Receiver or both to manage the business of any notary public whose practising certificate is suspended, for the duration of the suspension.

Chapter:	159	LEGAL PRACTITIONERS ORDINANCE	Gazette Number	Version Date
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Section:	50B	Offences in relation to foreign lawyers, foreign firms and Associations	L.N. 239 of 2000	07/07/2000
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(1) A person who offers his services to the public as a practitioner of foreign law commits an offence unless he is a solicitor who satisfies all the requirements set forth in section 7, a barrister or a foreign lawyer. (Amended 42 of 2000 s. 14)

(2) A person who is qualified to practise foreign law and who-

- (a) from within a foreign firm but not as a foreign lawyer; or
- (b) from within a Hong Kong firm but not as a solicitor or foreign lawyer,

offers his services to the public as a practitioner of foreign law, does not commit an offence under subsection (1) so long as he does not so offer his services in any 12 month period for more than 3 continuous months or more than 90 days.

(3) A foreign lawyer who offers his services to the public as a practitioner of foreign law in a capacity other than as a practitioner in a foreign firm or a Hong Kong firm commits an offence.

(4) A foreign lawyer or foreign firm shall not take a solicitor into partnership or employ a solicitor who holds a practising certificate or a barrister who holds a practising certificate.

(5) Where a Hong Kong firm and a foreign firm have an agreement as described in section 39C(1) and they are not registered as an Association, the partners or the sole practitioners of each firm commit an offence.

(6) A person who commits an offence under this section is liable to a fine of \$500000.

(Added 60 of 1994 s. 39)

Section:	72AA	Power of Bar Council to make rules	42 of 2000	30/06/2000
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Subject to the prior approval of the Chief Justice, the Bar Council may make rules-

- (a) in respect of the professional practice, conduct and discipline of barristers and pupils;
- (b) for the purpose of harmonizing the relationship of barristers inter se and, with the prior approval of the Council, governing the relationship of solicitors and barristers;
- (c) regulating the issuing of practising certificates to barristers and employed barrister's certificates to employed barristers including, without limiting the foregoing, the fees payable for, the conditions of issue of, the manner of applying for, the period and form of and the publication of the issue and suspension of, such certificates;
- (d) providing for any continuing legal education or training that must be undertaken by barristers and pupils and the consequences of failing to do so;
- (e) providing for the conduct of an inquiry and investigation by a Barristers Disciplinary Tribunal;
- (f) requiring a barrister or pupil whose conduct has been established to the satisfaction of the Bar Council to amount to a breach of proper professional standards to pay the Bar Council's costs of investigating the conduct which resulted in the order;
- (g) regulating the serving of pupillage and the manner in which any person shall qualify for admission under section 27, including, without limiting the foregoing, the period of pupillage and the examinations to be passed;
- (h) respecting the admission of persons on the basis of qualifications acquired outside Hong Kong including, without limiting the foregoing, the qualifications for admission, the examinations to be passed and the fees to be paid;
- (i) respecting the exemption by it of any person from compliance with the provisions of any rules made under this section and the conditions upon which such exemption may be granted in any particular case; and
- (j) prescribing anything which, under this Ordinance, is to be or may be prescribed by the Bar Council.

(Added 42 of 2000 s. 16)

Chapter:	159	LEGAL PRACTITIONERS ORDINANCE	Gazette Number	Version Date
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Section:	73	Power of the Council to make rules	L.N. 51 of 2010	02/07/2010
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(1) The Council may make rules-

- (a) providing for-
  - (i) the professional practice, conduct and discipline of solicitors, solicitor advocates, foreign lawyers, employees of solicitors and foreign lawyers and trainee solicitors; (Replaced 60 of 1994 s. 45. Amended 2 of 2010 s. 8)
  - (ii) the restriction of payment of commission to unqualified persons; and
  - (iii) for the purpose of harmonizing the relationship of solicitors inter se and, with the prior approval of the Bar Council, governing the relationship of solicitors and barristers; (Amended 70 of 1991 s. 8)
- (aa) regulating the issue to solicitors of practising certificates and the fees payable for, the conditions of issue of, the manner of applying for, the period and form of, the publication of the issue and the suspension of such practising certificates and generally in relation thereto; (Added 58 of 1976 s. 13)
- (ab) providing for any continuing legal education or training that must be undertaken by solicitors; (Added 70 of 1991 s. 10)
- (b) in relation to the keeping by solicitors of accounts, providing for-
  - (i) the opening and keeping by solicitors of accounts at banks of clients' money;
  - (ii) the keeping by solicitors of accounts containing particulars and information as to moneys received, held or paid both for or on account of their clients;
  - (iii) empowering the Council to take such action as may be necessary to enable them to ascertain whether or not such rules are being complied with;
  - (iv) regulating the manner in which solicitors shall deal with money held by them in a fiduciary capacity and the books of accounts to be kept in respect thereof and for the auditing of such accounts;
  - (v) the qualifications to be held by an accountant by whom an accountant's report may be given; (Amended 25 of 1968 s. 14)
  - (vi) the nature and extent of the examination to be made by the accountant of the books and accounts of a solicitor or of his firm and of any other relevant documents with a view to the signing of a report to be delivered by the solicitor under section 8; (Amended 25 of 1968 s. 14)
  - (vii) the form of an accountant's report and the information to be contained therein in accordance with section 8(1); (Replaced 25 of 1968 s. 14)
  - (viii) the evidence, if any, which shall satisfy the Council that the delivery of an accountant's report is unnecessary and the cases in which such evidence is or is not required; (Amended 25 of 1968 s. 14; L.N. 162 of 1993)
  - (ix) specifying in such circumstances as may be set forth in the rules a different accounting period from that specified in section 8(2); and
  - (x) regulating any matters of procedure or matters incidental, ancillary or supplemental to the provisions of section 8;
- (c) providing for the conduct of an inquiry and investigations by a Solicitors Disciplinary Tribunal under section 9; (Amended 61 of 1992 s. 26)
- (caa) providing for the practice and procedure to be followed in connection with the submission of a matter by the Council to the Tribunal Convenor under section 9A(1A); (Added 23 of 2002 s. 111)
- (cab) providing for the practice and procedure to be followed in connection with the disposal of a matter by the Tribunal Convenor under section 9AB; (Added 23 of 2002 s. 111)
- (ca) respecting procedures for investigations by an inspector under section 8AA; (Added 60 of 1994 s. 45)
- (cb) requiring a solicitor, foreign lawyer, trainee solicitor or employee to whom a letter of disapproval is sent by the Council, to pay the Council's costs of investigating the conduct which resulted in the letter of disapproval; (Added 60 of 1994 s. 45)
- (d) regulating the employment of trainee solicitors and examinations, and in particular, without prejudice to the generality of the foregoing, providing for- (Amended 32 of 1972 s. 4; 1 of 1981 s. 5; 70 of 1991 s. 13)
  - (i) the manner in which any person shall qualify for admission under section 4(1)(a) including, in particular, the period of employment, if any, of a trainee solicitor in any particular case, the examination or examinations to be passed, the courses to be completed and notices and forms to be used in connection therewith; and (Amended 1 of 1981 s. 5; 70 of 1991 ss. 10 & 13; 60 of 1994 s. 45)

- (ii) (Repealed 60 of 1994 s. 45)
- (da) respecting the admission of persons under section 4(1)(b), including the qualifications for admission, examinations and the fees to be paid for applications and examinations; (Added 60 of 1994 s. 45)
- (db) respecting the registration of foreign lawyers, foreign firms and Associations, including applications for registration, qualification for registration, fees for application and registration, period and form of registration, conditions of registration, suspension of registration and cancellation of registration; (Added 60 of 1994 s. 45)
- (dc) respecting the practice of Hong Kong firms, foreign firms and Associations; (Added 60 of 1994 s. 45)
- (dd) prohibiting the practice of Hong Kong law by foreign lawyers and for that purpose the Council may define, limit or expand the meaning of the practice of Hong Kong law; (Added 60 of 1994 s. 45)
- (de) regulating the issue to solicitor advocates of higher rights of audience certificates and the form of, and other matters relating to, the certificates; (Added 2 of 2010 s. 8)
- (e) enabling the Council to exempt any person from compliance with the provisions of any such rules and to impose and enforce conditions upon which such exemption may be granted in any particular case; and
- (f) prescribing any thing which, under this Ordinance, is to be or may be prescribed by the Council. (Amended 52 of 1980 s. 2)

(2) Every rule made by the Council under this section shall be subject to the prior approval of the Chief Justice. (Amended 52 of 1980 s. 2)

(2A) For the avoidance of doubt, it is declared that in subsection (1)(a)(i), "professional practice" (專業執業), in relation to a solicitor, means acting as a solicitor or the business of acting as a solicitor, whether as a partner, sole practitioner, assistant solicitor or consultant in a Hong Kong firm or as an employee of a non-solicitor employer. (Added 10 of 2005 s. 185)

(3) No rule made under subsection (1)(b), (c) or (d) shall apply to a person to whom section 75(1) applies insofar as such person is acting in the course of the employment which gives rise to the application of that section. (Amended 50 of 1982 s. 5; 60 of 1994 s. 45)

Chapter:	159	LEGAL PRACTITIONERS ORDINANCE	Gazette Number	Version Date
Section:	73A	Indemnity rules	10 of 2005	08/07/2005

(1) The Council may make rules (in this Ordinance referred to as "indemnity rules") concerning indemnity against loss arising from claims in respect of any description of civil liability incurred-

- (a) by a solicitor or former solicitor in connection with his practice or with any trust or of which he is or formerly was a trustee;
- (b) by an employee of a solicitor or former solicitor in connection with that solicitor's practice or with any trust of which that solicitor or the employee is or formerly was a trustee.
- (2) For the purpose of providing such indemnity, indemnity rules-
  - (a) may authorize or require the Society, by itself or jointly with the Society of Notaries, to establish and maintain a fund or funds;
  - (b) may authorize or require the Society, by itself or jointly with the Society of Notaries, to take out and maintain insurance with authorized insurers;
  - (c) may require solicitors or any specified class of solicitors to take out and maintain insurance with authorized insurers. (Amended 27 of 1998 s. 5)
- (3) Without prejudice to the generality of subsections (1) and (2), indemnity rules-
  - (a) may specify the terms and conditions on which indemnity is to be available, and any circumstances in which the right to it is to be excluded or modified;
  - (b) may provide for the management, administration and protection of any fund maintained by virtue of subsection (2)(a) and require solicitors or any class of solicitors to make payments to any such fund;
  - (c) may require solicitors or any class of solicitors to make payments by way of premium on any insurance policy maintained by the Society by virtue of subsection (2)(b);
  - (d) may prescribe the conditions which an insurance policy must satisfy for the purposes of subsection (2)(c);

- (e) may authorize the Society to determine the amount of any payments required by the rules, subject to such limits, or in accordance with such provisions, as may be prescribed by the rules;
- (f) may specify circumstances in which, where a solicitor (not being a solicitor who is exempt from complying with the rules) for whom indemnity is provided has failed to comply with the rules, the Society or insurers may take proceedings against him in respect of sums paid by way of indemnity in connection with a matter in relation to which he has failed to comply;
- (g) may specify circumstances in which solicitors are exempt from the rules;
- (h) may empower the Council to take such steps as they consider necessary or expedient to ascertain whether or not the rules are being complied with; and
- (i) may contain incidental, procedural or supplementary provisions.

(4) If any solicitor (not being a solicitor who is exempt from complying with indemnity rules) fails to comply with the rules any person may make a complaint in respect of that failure to the Tribunal Convenor of the Solicitors Disciplinary Tribunal Panel. (Amended 60 of 1994 s. 46)

(5) The Society shall have power, without prejudice to any of its other powers, to carry into effect any arrangements which it considers necessary or expedient for the purpose of indemnity under this section.

(6) Every rule made by the Council under this section shall be subject to the prior approval of the Chief Justice.

(7) No rule made under this section shall apply to a person to whom section 75 applies in so far as such person is acting in the course of the employment which gives rise to the application of that section. (Amended 50 of 1982 s. 6)

(8) For the avoidance of doubt, it is declared that in subsection (1)(a) and (b), "practice" (執業業務), in relation to a solicitor, means acting as a solicitor or the business of acting as a solicitor, whether as a partner, sole practitioner, assistant solicitor or consultant in a Hong Kong firm or as an employee of a non-solicitor employer. (Added 10 of 2005 s. 186)

(Added 75 of 1980 s. 4)

Chapter:	159	LEGAL PRACTITIONERS ORDINANCE	Gazette Number	Version Date
Section:	73D	Power of Council of Society of Notaries to make rules	L.N. 60 of 2005	30/06/2005

(1) The Council of the Society of Notaries may make rules-

- (a) providing for-
  - (i) the requirements to be complied with by persons applying for appointment as a notary public under section 40A;
  - (ii) the professional practice, conduct and discipline of notaries public and their employees;
  - (iii) the restriction of payment of commission to unqualified persons; and
  - (iv) for the purpose of harmonizing the relationship of notaries inter se and, with the prior approval of the Bar Council and the Council of the Law Society, as the case may be, governing the relationship of notaries public and solicitors and barristers respectively;
- (b) regulating the issue to notaries public of practising certificates and the fees payable for, the conditions of issue of, the manner of applying for, the period and form of, the publication of the issue and the suspension of such practising certificates and generally in relation to practising certificates;
- (c) providing for the conduct of any inquiry by a Notaries Public Disciplinary Tribunal;
- (d) respecting the examinations to be passed by persons applying for appointment as notaries public under section 40A and the fees payable to the Council of the Society of Notaries in connection with such examinations;
- (e) enabling the Council of the Society of Notaries to exempt any person from compliance with the provisions of any such rules and to impose and enforce conditions upon which such exemption may be granted in any particular case;
- (f) prescribing any thing which, under this Ordinance, is to be or may be prescribed by the Council of the Society of Notaries.

(2) Without limiting the effect of subsection (1)(a)(ii), rules made under that paragraph may provide-

- (a) for the circumstances in which employees of notaries public shall be liable to be disciplined;
- (b) for the bringing of disciplinary proceedings against employees of notaries public; and
- (c) for the sanctions that may be imposed in respect of breaches of discipline by employees of notaries

public,  
and such rules may provide that any provision of Part IV dealing with the discipline of notaries public (including the appointment of members of the Notaries Public Disciplinary Tribunal Panel to constitute a Notaries Public Disciplinary Tribunal to inquire into the conduct of a notary public) shall apply in relation to employees of notaries public.

(3) Every rule made by the Council of the Society of Notaries under this section shall be subject to the prior approval of the Chief Justice.

(Added 27 of 1998 s. 4)

**Note:**

**Please see the saving provision contained in s. 6 of 27 of 1998, which section reads as follows-**

**"6. Saving**

**(1) Nothing in this Ordinance affects the rights of any person who immediately before the commencement\* of sections 3 and 4 of this Ordinance was a notary public by virtue of registration on the register of notaries public under Part IV of the Ordinance as then in force to practise as a notary public on and after that commencement and, subject to any order or entry on the register as is referred to in subsection (2), such person may continue to practise as a notary public in the same manner as if he had been appointed as a notary public, and was registered on the register of notaries public, under Part IV of the Ordinance as in force on and after that commencement.**

**(2) Nothing in this Ordinance affects the force and effect of any order of the Chief Justice or the Court, or any entry on the register of notaries public, made under Part IV of the Ordinance as in force**

Chapter:	4	HIGH COURT ORDINANCE	Gazette Number	Version Date
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Section:	9	Professional qualifications of judges	10 of 2005	08/07/2005
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(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)
- (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, subject to subsection (3), for at least 10 years-

- (i)-(iii) (Repealed 14 of 1997 s. 2)
- (iv) been a District Judge appointed in accordance with section 4 or 7 of the District Court Ordinance (Cap 336);
- (iva) been the Registrar of the Hong Kong Court of Final Appeal appointed in accordance with section 42 of the Hong Kong Court of Final Appeal Ordinance (Cap 484); (Added 10 of 2005 s. 132)
- (ivb) been the Registrar or a senior deputy registrar, deputy registrar or assistant registrar appointed in accordance with section 37; (Added 10 of 2005 s. 132)
- (ivc) 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); (Added 10 of

2005 s. 132)

- (v) been a permanent magistrate appointed in accordance with section 5 of the Magistrates Ordinance (Cap 227);
- (va) been a coroner appointed in accordance with section 3 of the Coroners Ordinance (Cap 504); (Added 10 of 2005 s. 132)
- (vb) been an adjudicator appointed in accordance with section 4 of the Small Claims Tribunal Ordinance (Cap 338); (Added 10 of 2005 s. 132)
- (vc) been a presiding officer appointed in accordance with section 4 of the Labour Tribunal Ordinance (Cap 25); (Added 10 of 2005 s. 132)
- (vi) been a legal officer as defined in section 2 of the Legal Officers Ordinance (Cap 87);
- (vii) (Repealed 8 of 1993 s. 6)
- (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); (Added 50 of 1976 s. 2. Amended 24 of 1983 s. 7; 39 of 1992 s. 8; 60 of 1992 s. 3)
- (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. 8. Amended 60 of 1992 s. 3; 68 of 1995 s. 17)
- (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)

Chapter:	4	HIGH COURT ORDINANCE	Gazette Number	Version Date
Section:	37AA	Professional qualifications of Registrar, senior deputy registrars, deputy registrars and assistant registrars	10 of 2005	08/07/2005

(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);
  - (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);
    - (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);
  - (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
    - (xi) 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).
- (5) For the purposes of calculating the period of 5 years referred to in subsections (1)(b), (2)(b), (3)(b) and (4)(b)-
- (a) periods of less than 5 years falling within any of the subparagraphs of subsection (1)(b), (2)(b), (3)(b) or (4)(b), as the case may be, 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. 134)

Chapter:	17	LANDS TRIBUNAL ORDINANCE	Gazette Number	Version Date
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Section:	4	Constitution of Tribunal	10 of 2005	08/07/2005
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- (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
    - (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).
- (4) Notwithstanding subsection (3), a person shall also be eligible to be appointed under subsection (1)(c) as a member of the Tribunal if he is a Corporate Member in the General Practice Division of The Hong Kong Institute of Surveyors incorporated by The Hong Kong Institute of Surveyors Ordinance (Cap 1148), or a holder of an equivalent professional qualification, with at least 5 years' experience in the practice of land valuation.
- (5) For the purposes of calculating the period of 5 years referred to in subsection (3)(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.

(Replaced 10 of 2005 s. 138)

Chapter:	25	LABOUR TRIBUNAL ORDINANCE	Gazette Number	Version Date
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Section:	4A	Professional qualifications of presiding officers	10 of 2005	08/07/2005
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- (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).
- (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. 140)

Chapter:	227	MAGISTRATES ORDINANCE	Gazette Number	Version Date
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Section:	5AA	Professional qualifications of permanent magistrates	10 of 2005	08/07/2005
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- (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) 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)

Chapter:	227	MAGISTRATES ORDINANCE	Gazette Number	Version Date
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Section:	5AB	Professional qualifications of special magistrates	10 of 2005	08/07/2005
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- (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
  - (b) whether before or since becoming so qualified, he has for a period of or periods totalling not less than 5 years served in the grade of Court Prosecutor, Court Interpreter or Judicial Clerk in the Government.
- (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)

Chapter:	336	DISTRICT COURT ORDINANCE	Gazette Number	Version Date
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Section:	5	Professional qualifications of District Judges	10 of 2005	08/07/2005
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- (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) 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)

(2) For the purpose of calculating such period of 5 years, periods of less than 5 years falling within any of the sub-paragraphs of paragraph (b) of subsection (1) may be combined. (Amended 38 of 1965 s. 2)

(3) For the purposes of calculating the period of 5 years under subsection (1), 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. 26)

(1 of 1953 s. 5 incorporated. Amended 10 of 2005 s. 144)

Chapter:	336	DISTRICT COURT ORDINANCE	Gazette Number	Version Date
Section:	14AA	Professional qualifications of Registrar, deputy registrars and assistant registrars	10 of 2005	08/07/2005

- (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);
    - (viii) 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
    - (ix) 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. 147)

Chapter:	338	SMALL CLAIMS TRIBUNAL ORDINANCE	Gazette Number	Version Date
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Section:	4AA	Professional qualifications of adjudicators	10 of 2005	08/07/2005
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- (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)-
  - (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. 152)

Chapter:	504	CORONERS ORDINANCE	Gazette Number	Version Date
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Section:	3AA	Professional qualifications of coroners	10 of 2005	08/07/2005
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- (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)

Chapter:	95	FIRE SERVICES ORDINANCE	Gazette Number	Version Date
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Section:	19B	What the Fund consists of	10 of 2005	08/07/2005
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The Fund consists of the following-

- (a) all fees paid for the services of members detailed by the Director to perform special services under section 23 and for the use of equipment referred to in that section;
- (b) any donations made to the Fund;
- (c) if a Fire Services Staff Purchase Scheme is established under section 19E, proceeds derived from transactions under the Scheme;
- (d) proceeds from the sale of souvenirs and the disposal of other property held for the purposes of the Fund;
- (e) all fees collected from social, educational and recreational activities organized by or on behalf of the Director for the purposes of the Fund;
- (f) money derived from the investment of the Fund;
- (g) money accruing as interest on loans made from the Fund;
- (h) gifts of money required under the Acceptance of Advantages (Chief Executive's Permission) Notice 2004\* to be disposed of by being paid into the Fund; (Amended 10 of 2005 s. 214)
- (i) any money voted to the Fund by the Legislative Council;
- (j) money held in the Fund immediately before the commencement of Schedule 1 to the Disciplined Services Welfare Funds Legislation (Amendment) Ordinance 1999 (58 of 1999) and money which was, immediately before that commencement, recoverable for the Fund and which is subsequently paid to, or recovered for, the Fund after that commencement;
- (k) money paid or payable to the credit of the Fund from any other lawful source.

**Note:**

\* **The Acceptance of Advantages (Chief Executive's Permission) Notice 2004 has been cancelled. Please see the Acceptance of Advantages (Chief Executive's Permission) Notice 2007 which was published as [G.N. 1133](#) in the Government of the HKSAR Gazette (No. 7 Vol. 11) on 16 February 2007, and the Acceptance of Advantages (Chief Executive's Permission) Notice 2010 which was published as [G.N. 1967](#) in the Government of the HKSAR Gazette (No. 14 Vol. 14) on 9 April 2010.**

Chapter:	232	POLICE FORCE ORDINANCE	Gazette Number	Version Date
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Section:	39C	What the Police Welfare Fund consists of	10 of 2005	08/07/2005
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The Police Welfare Fund consists of the following-

- (a) all fees paid for the services of police officers detailed by the Commissioner to perform special services under section 66 or for services performed by auxiliary officers employed under section 18 of the Hong Kong Auxiliary Police Force Ordinance (Cap 233); (Amended 14 of 2002 s. 3)
- (b) any donations made to that Fund;
- (c) if a Police Staff Purchase Scheme is established under section 39F, proceeds derived from transactions under the Scheme;
- (d) proceeds from the sale of souvenirs and the disposal of other property held for the purposes of that Fund;
- (e) all money received from the letting of holiday premises, or the hire of recreational facilities, held for the purposes of that Fund;
- (f) all fees collected from social, educational and recreational activities organized by or on behalf of the Commissioner for the purposes of that Fund;
- (g) money derived from the investment of that Fund;
- (h) money accruing as interest on loans made from that Fund;
- (i) gifts of money required under the Acceptance of Advantages (Chief Executive's Permission) Notice 2004\* to be disposed of by being paid into that Fund; (Amended 10 of 2005 s. 215)
- (j) any money voted to that Fund by the Legislative Council;
- (k) money held in that Fund immediately before the commencement of Schedule 2 to the Disciplined

Services Welfare Funds Legislation (Amendment) Ordinance 1999 (58 of 1999) and money which was, immediately before that commencement, recoverable for that Fund and which is subsequently paid to, or recovered for, that Fund after that commencement;

- (l) money paid or payable to the credit of that Fund from any other lawful source.

(Part IV replaced 58 of 1999 s. 3)

**Note:**

\* **The Acceptance of Advantages (Chief Executive's Permission) Notice 2004 has been cancelled. Please see the Acceptance of Advantages (Chief Executive's Permission) Notice 2007 which was published as [G.N. 1133](#) in the Government of the HKSAR Gazette (No. 7 Vol. 11) on 16 February 2007, and the Acceptance of Advantages (Chief Executive's Permission) Notice 2010 which was published as [G.N. 1967](#) in the Government of the HKSAR Gazette (No. 14 Vol. 14) on 9 April 2010.**

Chapter:	234	PRISONS ORDINANCE	Gazette Number	Version Date
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Section:	24F	What the Fund consists of	10 of 2005	08/07/2005
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The Fund consists of the following-

- (a) any donations made to the Fund;
- (b) proceeds from the sale of souvenirs and the disposal of other property held for the purposes of the Fund;
- (c) all money received from the letting of holiday premises, or the hire of recreational facilities, held for the purposes of the Fund;
- (d) all fees collected from social, educational and recreational activities organized by or on behalf of the Commissioner for the purposes of the Fund;
- (e) money derived from the investment of the Fund;
- (f) money accruing as interest on loans made from the Fund;
- (g) gifts of money required under the Acceptance of Advantages (Chief Executive's Permission) Notice 2004\* to be disposed of by being paid into the Fund; (Amended 10 of 2005 s. 216)
- (h) any money voted to the Fund by the Legislative Council;
- (i) money held in the Fund immediately before the commencement of Schedule 3 to the Disciplined Services Welfare Funds Legislation (Amendment) Ordinance 1999 (58 of 1999) and money which was, immediately before that commencement, recoverable for the Fund and which is subsequently paid to, or recovered for, the Fund after that commencement;
- (j) money paid or payable to the credit of the Fund from any other lawful source.

(Part III added 58 of 1999 s. 4)

**Note:**

\* **The Acceptance of Advantages (Chief Executive's Permission) Notice 2004 has been cancelled. Please see the Acceptance of Advantages (Chief Executive's Permission) Notice 2007 which was published as [G.N. 1133](#) in the Government of the HKSAR Gazette (No. 7 Vol. 11) on 16 February 2007, and the Acceptance of Advantages (Chief Executive's Permission) Notice 2010 which was published as [G.N. 1967](#) in the Government of the HKSAR Gazette (No. 14 Vol. 14) on 9 April 2010.**

Chapter:	322	GOVERNMENT FLYING SERVICE ORDINANCE	Gazette Number	Version Date
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Section:	15	Establishment of the fund	10 of 2005	08/07/2005
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This section establishes a fund known as the "Government Flying Service Welfare Fund" which consists of-

- (a) any donation or voluntary contribution made to the fund;
- (b) such sums as may be voted by the Legislative Council;
- (c) gifts of money required under paragraph 8(2)(c)(iii) of the Acceptance of Advantages (Chief Executive's Permission) Notice 2004\* to be disposed of by being paid into the Government Flying Service Welfare Fund; and (Amended 10 of 2005 s. 217)
- (d) such sums as may accrue as dividends or as interest from the investment of the fund.



**Note:**

- \* **The Acceptance of Advantages (Chief Executive's Permission) Notice 2004 has been cancelled. Please see the Acceptance of Advantages (Chief Executive's Permission) Notice 2007 which was published as [G.N. 1133](#) in the Government of the HKSAR Gazette (No. 7 Vol. 11) on 16 February 2007, and the Acceptance of Advantages (Chief Executive's Permission) Notice 2010 which was published as [G.N. 1967](#) in the Government of the HKSAR Gazette (No. 14 Vol. 14) on 9 April 2010.**

Chapter:	331	IMMIGRATION SERVICE ORDINANCE	Gazette Number	Version Date
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Section:	16B	What the Fund consists of	10 of 2005	08/07/2005
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The Fund consists of the following-

- (a) any donations made to the Fund;
- (b) proceeds from the sale of souvenirs and the disposal of other property held for the purposes of the Fund;
- (c) all fees collected from social, educational and recreational activities organized by or on behalf of the Director for the purposes of the Fund;
- (d) money derived from the investment of the Fund;
- (e) money accruing as interest on loans made from the Fund;
- (f) gifts of money required under the Acceptance of Advantages (Chief Executive's Permission) Notice 2004\* to be disposed of by being paid into the Fund; (Amended 10 of 2005 s. 218)
- (g) any money voted to the Fund by the Legislative Council;
- (h) money held in the Fund immediately before the commencement of Schedule 4 to the Disciplined Services Welfare Funds Legislation (Amendment) Ordinance 1999 (58 of 1999) and money which was, immediately before that commencement, recoverable for the Fund and which is subsequently paid to, or recovered for, the Fund after that commencement;
- (i) money paid or payable to the credit of the Fund from any other lawful source.

(Part IV replaced 58 of 1999 s. 5)

**Note:**

- \* **The Acceptance of Advantages (Chief Executive's Permission) Notice 2004 has been cancelled. Please see the Acceptance of Advantages (Chief Executive's Permission) Notice 2007 which was published as [G.N. 1133](#) in the Government of the HKSAR Gazette (No. 7 Vol. 11) on 16 February 2007, and the Acceptance of Advantages (Chief Executive's Permission) Notice 2010 which was published as [G.N. 1967](#) in the Government of the HKSAR Gazette (No. 14 Vol. 14) on 9 April 2010.**

Chapter:	342	CUSTOMS AND EXCISE SERVICE ORDINANCE	Gazette Number	Version Date
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Section:	19B	What the Fund consists of	10 of 2005	08/07/2005
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The Fund consists of the following-

- (a) any donations made to the Fund;
- (b) if a Customs and Excise Staff Purchase Scheme is established under section 19E, proceeds derived from transactions under the Scheme;
- (c) proceeds from the sale of souvenirs and the disposal of other property held for the purposes of the Fund;
- (d) all money received from the letting of holiday premises, or the hire of recreational facilities, held for the purposes of the Fund;
- (e) all fees collected from social, educational and recreational activities organized by or on behalf of the Commissioner for the purposes of the Fund;
- (f) money derived from the investment of the Fund;
- (g) money accruing as interest on loans made from the Fund;
- (h) gifts of money required under the Acceptance of Advantages (Chief Executive's Permission) Notice

- 2004\* to be disposed of by being paid into the Fund; (Amended 10 of 2005 s. 219)
- (i) any money voted to the Fund by the Legislative Council;
  - (j) money held in the Fund immediately before the commencement of Schedule 5 to the Disciplined Services Welfare Funds Legislation (Amendment) Ordinance 1999 (58 of 1999) and money which was, immediately before that commencement, recoverable for the Fund and which is subsequently paid to, or recovered for, the Fund after that commencement;
  - (k) money paid or payable to the credit of the Fund from any other lawful source.

(Part IV replaced 58 of 1999 s. 6)

**Note:**

\* **The Acceptance of Advantages (Chief Executive's Permission) Notice 2004 has been cancelled. Please see the Acceptance of Advantages (Chief Executive's Permission) Notice 2007 which was published as [G.N. 1133](#) in the Government of the HKSAR Gazette (No. 7 Vol. 11) on 16 February 2007, and the Acceptance of Advantages (Chief Executive's Permission) Notice 2010 which was published as [G.N. 1967](#) in the Government of the HKSAR Gazette (No. 14 Vol. 14) on 9 April 2010.**

Chapter:	132AC	FROZEN CONFECTIONS REGULATION	Gazette Number	Version Date
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Section:	6	Bacteriological standard of frozen confections for sale	L.N. 320 of 1999	01/01/2000
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No person shall sell, or offer or expose for sale, any frozen confection which contains more than 50000 bacteria per gram or more than 100 coliform organisms per gram.

(L.N. 252 of 1986)

Chapter:	132AQ	MILK REGULATION	Gazette Number	Version Date
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Section:	6	Prohibition of sale of milk or milk beverage in certain cases	L.N. 320 of 1999	01/01/2000
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- (1) No person shall sell any milk or milk beverage for human consumption if-
  - (a) except in the case of imported frozen pasteurized whole milk, it has been heat-treated more than once; or
  - (b) it contains at any time before heat-treatment, more than 200000 bacteria per millilitre or any coliform organisms in 1/1000th (0.001) of a millilitre; or
  - (c) it contains at any time after heat-treatment by any of the methods of pasteurization described in Schedule 1 more than 30000 bacteria per millilitre or any coliform organisms in 1/10th (0.1) of a millilitre; or (L.N. 144 of 1987)
  - (d) it contains at any time after heat-treatment by any of the methods of sterilization described in Schedule 1 a colony count of 10 or more. (L.N. 101 of 1971; L.N. 144 of 1987)
- (2) For the purposes of this section, milk or a milk beverage shall be deemed to be possessed for the purpose of sale notwithstanding that it is intended that such milk or such milk beverage shall be subjected to heat-treatment before sale. (78 of 1999 s. 7)

(G.N.A. 37 of 1962; L.N. 259 of 1977)

Chapter:	132AQ	MILK REGULATION	Gazette Number	Version Date
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Section:	18	Prohibition of possession of contaminated or adulterated milk or milk beverage by licensees under this Part	L.N. 320 of 1999	01/01/2000
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- (1) No licensee under this Part shall distribute in the course of the business in respect of which such licence was granted, or shall have in his possession for the purpose of such distribution, any milk or any milk beverage which-
  - (a) except in the case of imported frozen pasteurized whole milk, has been heat-treated more than once;
  - (b) contains at any time before heat-treatment more than 200000 bacteria per millilitre or any coliform organisms in 1/1000th (0.001) of a millilitre;
  - (c) after having been subjected to heat-treatment by any of methods of pasteurization described in

Schedule 1 whether by him or any other person, contains at any time more than 30000 bacteria per millilitre or any coliform organisms in 1/10th (0.1) of a millilitre; (L.N. 144 of 1987)

- (d) after having been subjected to heat-treatment by any of the methods of sterilization described in Schedule 1 whether by him or any other person, has a colony count of 10 or more; or (L.N. 144 of 1987)
- (e) fails to comply with the standards of composition relating to milk or any milk beverage specified in the Food and Drugs (Composition and Labelling) Regulations (Cap. 132 sub. leg. W). (L.N. 101 of 1971)

(2) For the purpose of this section any milk or any milk beverage found upon any premises to which a licence under this Part relates shall be deemed to be in the possession of the licensee for the purpose of distribution in the course of the business in respect of which such licence was issued. (78 of 1999 s. 7)

(G.N.A. 37 of 1962; L.N. 259 of 1977)

Chapter:	139D	DAIRIES REGULATIONS	Gazette Number	Version Date
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Regulation:	2	Interpretation	L.N. 320 of 1999	01/01/2000
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In these regulations, unless the context otherwise requires-

"analysis" (分析) includes microbiological assay but no other form of biological assay; (L.N. 407 of 1990)

"bacteriological examination" (細菌化驗) means any examination other than microbiological assay by which a milk sample is examined for the presence of bacteria or coliform organisms; (L.N. 407 of 1990)

"dairyman" (奶場人員) includes any keeper of cows or buffaloes for the purpose of trade in milk, and any occupier of a dairy, and in cases where a dairy is owned by a corporation or company includes the secretary or other person actually managing such dairy;

"disease" (疾病) means any disease of an infectious or contagious nature, and includes, in the case of cattle, any disease of the udder which is liable to cause contamination of the milk;

"health officer" (生主任) has the meaning assigned to it by section 2 of the Ordinance and, in addition, includes any veterinary officer and any person for the time being performing the duties of a veterinary officer;

"licensee"(持牌人) means any person licensed under regulation 8 to maintain a dairy;

"milk factory" (奶品廠) means any food-manufacturing business which involves the processing or reconstitution of milk or any milk beverage, within the meaning of the Milk Regulation (Cap 132 sub. leg. AQ); (78 of 1999 s. 7)

"milk room" (奶室) means a place used for any of the purposes specified in regulation 19(2)(g) but shall not include any part of the dairy in which cattle are kept or milked; (L.N. 407 of 1990)

"public analyst" (政府分析員) means the Government Chemist, the Government Pathologist and any analyst appointed by the Chief Executive for the purpose of the Public Health and Municipal Services Ordinance (Cap 132); (10 of 1986 s. 32(1); 65 of 1999 s. 3)

"register" (登記冊) means the register of dairymen kept by the Director pursuant to the provisions of paragraph (1) of regulation 3;

"registered dairyman" (已登記奶場人員) means a dairyman whose name is, for the time being, entered in the register;

"sell" (出售) includes to sell, offer or expose for sale or possess for the purpose of sale. (L.N. 407 of 1990)

Chapter:	139D	DAIRIES REGULATIONS	Gazette Number	Version Date
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Regulation:	23	Restriction on use of milk from diseased animal		30/06/1997
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(1) The milk of a diseased animal or of any animal which has been in contact with or associated with a diseased animal and any milk which is in the opinion of a health officer likely to have become or to become contaminated-

- (a) shall not be mixed with other milk;

- (b) shall not be sold as human food; and
- (c) shall not be sold or used as food for animals save with the permission of a health officer.
- (2) Any milk which contains more than 200000 bacteria per millilitre or any coliform organisms in 1/1000th (0.001) of a millilitre shall not-
  - (a) be mixed with other milk in any part of a dairy which is a milk room;
  - (b) be sold for human consumption;
  - (c) be placed in any receptacle in any part of a dairy which is a milk room;
  - (d) be sold, sent or delivered to any milk factory. (L.N. 407 of 1990)

Chapter:	139D	DAIRIES REGULATIONS	Gazette Number	Version Date
Schedule:		SCHEDULE		30/06/1997

[regulations 32 & 33]

### CERTIFICATE OF \*ANALYSIS / BACTERIOLOGICAL EXAMINATION

I, the undersigned, being a public analyst, do hereby certify that-

- (a) on the ..... day of ....., 19 ....., a \*sealed/fastened up packet marked ..... said to contain a sample of milk, was delivered to ..... by ..... (name and description of person) in an insulated container, the temperature of which was .....
- (b) the seal(s) thereof \*was/were found to be intact;
- (c) the contents of the said \*sealed/fastened up packet have been \*analysed/examined \*by me/under my direction and the result of the \*analysis/examination is as follows-

The sample said to be a sample of milk-

\*\* (i) \*was/was not a genuine sample of milk; and

(ii) contained-

\*\*\* (A) the \*parts/foreign ingredients as specified hereunder-

Observations of analysis

.....  
 .....  
 .....  
 .....

or

\*\*\*\* (B) a total bacteria count of ..... ;  
 Coliform Organisms ..... ;

- (d) on ..... (date) after \*analysis/examination the said packet was \*retained in my custody/handed in a sealed ..... (or as the case may be) marked ..... to .....

(name and description of person).

Date .....

.....  
Public Analyst.

- \* Delete as appropriate.
- \*\* Delete where the sample was not analysed to verify whether or not a genuine sample of milk.
- \*\*\* To be completed in the case of analysis.
- \*\*\*\* To be completed in the case of bacteriological examination.

Note-All percentages given in definitions or standards prescribed are, unless otherwise specified, percentages by weight.

(L.N. 407 of 1990)

Chapter:	51C	GAS SAFETY (INSTALLATION AND USE) REGULATIONS	Gazette Number	Version Date
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Regulation:	27	Room-sealed gas water heaters		30/06/1997
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(1) Subject to subregulation (3), where suitable provision has been made for the installation of a room-sealed gas water heater to serve a bathroom in any premises, irrespective of whether such provision is made in the bathroom or in any other part of the premises, no person shall install a gas water heater in the premises to serve that bathroom unless the heater is a room-sealed gas water heater.

(2) Where suitable provision has been made for the installation of a room-sealed gas water heater to serve a bathroom in any premises, irrespective of whether such provision is made in the bathroom or in any other part of the premises, no person shall install a room-sealed gas water heater in the premises to serve that bathroom except by using that suitable provision.

(3) With effect on and from 1 January 1994, no person shall install a gas water heater other than a room-sealed gas water heater in any bathroom in any premises except that an open-flued (fanned draught) gas water heater may be installed to replace an open-flued (fanned draught) gas water heater which-

- (a) is in a bathroom in any premises; and
- (b) was installed-
  - (i) before that date; or
  - (ii) on or after that date in pursuance of this regulation.

(4) For the purposes of this regulation, "room-sealed gas water heater" (密封式氣體熱水爐) and "suitable provision" (適當設施) shall have the meanings respectively assigned to them by regulation 35A(4) of the Building (Planning) Regulations (Cap 123 sub. leg. F).

(Enacted 1990)

Chapter:	59W	FACTORIES AND INDUSTRIAL UNDERTAKINGS (ELECTRICITY) REGULATIONS	Gazette Number	Version Date
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Regulation:	33	Saving		30/06/1997
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The provisions of these regulations shall be in addition to and not in derogation of the provisions of-

- (a) regulation 6(1)(a), (b), (c) and (d) of the Factories and Industrial Undertakings (Cargo Handling) Regulations (Cap 59 sub. leg.);
- (b) regulation 47(1) of the Construction Sites (Safety) Regulations (Cap 59 sub. leg. I);
- (c) the Electricity Ordinance (Cap 406). (16 of 1990 s. 62)

Chapter:	112	Inland Revenue Ordinance	Gazette Number	Version Date
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Section:	23B	Ascertainment of the assessable profits of a ship-owner carrying on business in Hong Kong	E.R. 1 of 2012	09/02/2012
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- (1) Where a person carries on a business as an owner of ships and-
  - (a) the business is normally controlled or managed in Hong Kong; or
  - (b) the person is a company incorporated in Hong Kong,
 that person shall be deemed to be carrying on that business in Hong Kong.
- (2) Subject to subsection (6), where a person to whom subsection (1) does not apply carries on a business as an owner of ships, and any ship owned by that person calls at any location within the waters of Hong Kong, that person shall be deemed to be carrying on that business in Hong Kong.
- (3) Subject to subsections (4) and (5), where a person is deemed to be carrying on a business as an owner of ships in Hong Kong under subsection (1) or (2), as the case may be, the assessable profits of that person from that business for a year of assessment shall be the sum bearing the same ratio to the aggregate of the relevant sums earned by or accrued to that person during the basis period for that year of assessment as that person's total shipping profits for the basis period bear to the aggregate of the total shipping income earned by or accrued to that person during that basis period for that year of assessment.
- (4) Subject to subsection (5), where in the opinion of the assessor the provisions in subsection (3) for computing assessable profits cannot for any reason be satisfactorily applied in the case of a person to whom subsection (2) applies, the assessable profits of that person for any year of assessment may instead be computed on a fair percentage of the aggregate of the relevant sums earned by or accrued to that person during the basis period for that year of assessment.
- (4A) For the purposes of this section, where a person who is deemed to be carrying on a business as an owner of ships in Hong Kong under subsection (2) is resident in any territory outside Hong Kong, he shall be regarded as having a reciprocity status, if the Commissioner is satisfied that any profits earned by or accrued to a person to whom subsection (1) applies from a business carried on in the territory as an owner of ships are, under the laws of that territory, exempt from a tax which is of substantially the same nature as the tax chargeable under this Part. (Added 32 of 1998 s. 16)
- (5) Notwithstanding section 70, where the assessable profits of any person have been computed for any year of assessment in accordance with subsection (4), the person shall, upon the submission to the assessor of accounts computed in accordance with the provisions of this Part relating to the ascertainment of assessable profits, be entitled to elect at any time within 2 years from the end of the year of assessment that his assessable profits for that year be re-computed in accordance with subsection (3).
- (6) Where the Commissioner is satisfied that the call at any location within the waters of Hong Kong of any ship owned by a person to whom subsection (2) applies is of a casual nature, and that further calls at any location within those waters by that or any other ship in the same ownership are improbable, he may in his discretion direct that that person shall be deemed not to be carrying on a business as an owner of ships in Hong Kong under subsection (2) by reason of the casual call of that ship and accordingly, in the event of his making such a direction, that person shall be so deemed not to be carrying on that business.
- (7) For the purposes of this section, it is declared that where a ship is operated during the basis period for a year of assessment by a person deemed to be carrying on a business as an owner of ships in Hong Kong under subsection (1) or (2), as the case may be-
  - (a) if the ship is a registered ship (in respect of which paragraph (a) of the definition of *exempt sums* (豁免款項) applies) at any time during that basis period, only losses incurred by that person in respect of the operation of that ship while it is not such a registered ship shall be set off against the assessable profits of that person in accordance with section 19C; (Amended 32 of 1998 s. 16)
  - (b) sections 18F and 19E shall apply in respect of the operation of the ship (treated as machinery or plant for the purposes of Part 6) by that person, and-
    - (i) subject to subsections (8) or (9), in the case of any initial allowance or annual allowance, as the case may be, that may be made to that person under Part 6, that allowance shall only be made in respect of that portion of the basis period during which the ship is not a registered ship (in respect of which paragraph (a) of the definition of *exempt sums* (豁免款項) applies) to the extent that that ship is operated in that portion of that basis period for that year of assessment for the purpose

- of producing assessable profits; (Amended 32 of 1998 s. 16)
- (ii) in the case of any balancing allowance or balancing charge, as the case may be, that may be made to that person under Part 6, that allowance or charge shall be limited to a sum which is in the same proportion as the aggregate of the initial and annual allowances made to that person in computing his assessable profits since the acquisition of the ship bears to the aggregate of the initial and annual allowances that would have been made had the ship been operated by that person at all times since its acquisition for the purpose of producing assessable profits.
- (8) Where in the basis period for any year of assessment a registered ship (in respect of which paragraph (a) of the definition of **exempt sums** (豁免款項) applies) ceases to be a registered ship, any allowances that may be made under Part 6 in respect of the operation of that ship (treated as machinery or plant for the purposes of that Part) for that year of assessment and subsequent years, shall be computed on the reducing value of the ship after taking into account the amounts of- (Amended 32 of 1998 s. 16)
- (a) any initial allowance made under section 37(1), 37A(1) or 39B(1); and
- (b) subject to subsection (9), any annual allowance that would have been made under section 37(2), 37A(2) or 39B(2) had the ship, since its acquisition by a person deemed to be carrying on a business as an owner of ships in Hong Kong under subsection (1) or (2), as the case may be, been operated for the purpose of producing assessable profits.
- (9) For the purposes of subsections (7)(b)(i) and (8)(b)-
- (a) in the case of subsection (7)(b)(i), the reference to Part 6 (which Part contains sections 37(2) and 37A(2) amongst others); and
- (b) in the case of subsection (8)(b), the reference to sections 37(2) and 37A(2),
- shall, in both cases, be construed as if the words "at the end of the basis period" (在評稅基期結束時) (in the first place where they appear in section 37(2), and where they appear in section 37A(2)) read "during the basis period" (在該評稅基期內).
- (10) For the purposes of this section, any sums earned by or accrued to the owner of a ship under a charter-party that does not, or does not purport to, extend to the whole of that ship shall, to the extent that those sums are derived from, attributable to, or in respect of, any voyage or voyages of that ship commencing from any location within the waters of Hong Kong, be deemed to be derived from, attributable to, or in respect of, any relevant carriage shipped in Hong Kong.
- (11) A copy of, or extract from, the register of ships in legible form issued and certified under the Merchant Shipping (Registration) Ordinance (Cap 415) shall-
- (a) in relation to any year of assessment, be proof that a ship was a registered ship or was not a registered ship, or be proof that a ship had commenced to be a registered ship or had ceased to be a registered ship, as the case may be; and
- (b) in relation to the date of the provisional registration of that ship under that Ordinance, be proof that that registered ship was so registered from that date of provisional registration.
- (12) In this section-
- bill of lading** (提單) has the same meaning as in the Import and Export Ordinance (Cap 60), but does not include a bill of lading which describes any port or other location within the waters of Hong Kong as the port of origin or the port of destination;
- business as an owner of ships** (以船舶擁有人身分經營業務) means a business of chartering or operating ships, but does not include dealing in ships or agency business in connection with shipping;
- charter hire** (租船費) means any sums earned by or accrued to an owner of a ship under a charter-party in respect of the operation of the ship, but does not include any sums so earned or accrued where that charter-party does not, or does not purport to, extend to the whole of that ship;
- exempt sums** (豁免款項)-
- (a) means any sums derived from, attributable to, or in respect of-
- (i) any relevant carriage shipped aboard a registered ship at any location within the waters of Hong Kong and proceeding to sea from that location or any other location within those waters; or
- (ii) any towage operation undertaken by a registered ship proceeding to sea from any location within the waters of Hong Kong;
- (b) in relation to a person who has a reciprocity status, means any sums derived from, attributable to, or in

respect of-

- (i) any relevant carriage shipped aboard a ship at any location within the waters of Hong Kong and proceeding to sea from that location or any other location within those waters; or
- (ii) any towage operation undertaken by a ship proceeding to sea from any location within the waters of Hong Kong; (Replaced 32 of 1998 s. 16)

**goods** (貨品) includes livestock and mails;

**goods in transit** (過境貨品), in relation to the shipment of goods aboard a ship, means goods-

- (a) specified in a bill of lading;
- (b) brought to Hong Kong by sea solely for the purpose of the onward carriage of those goods; and
- (c) in respect of which any freight charges for that onward carriage are not paid or payable in Hong Kong;

**operation** (營運), in relation to a ship, includes the use or possession of the ship, and **operated** (運作) shall be construed accordingly;

**owner** (擁有人), in relation to a ship, includes a charterer of the ship under a charter-party;

**passengers** (乘客) does not include re-embarking passengers;

**re-embarking passengers** (重新登船的乘客), in relation to a voyage of a ship, means passengers whose passenger tickets in respect of the voyage do not specify Hong Kong as the place of departure or as the place of destination;

**registered ship** (註冊船舶) means a ship registered under the Merchant Shipping (Registration) Ordinance (Cap 415);

**relevant carriage** (有關運載), in relation to a ship, means the carriage by sea of passengers or goods, or both passengers and goods, as the case may be, but does not include the carriage of goods in transit;

**relevant limited partnership** (有關的有限責任合夥) means a limited partnership-

- (a) registered in accordance with the provisions of the Limited Partnerships Ordinance (Cap 37) on or before 2 December 1990 and continuing to be so registered after that date; and
- (b) whose principal assets include any ship, or any interest therein, acquired by or on behalf of that partnership on or before that date;

**relevant sums** (有關款項) means-

- (a) any sums derived from, attributable to, or in respect of-
  - (i) any relevant carriage shipped in Hong Kong;
  - (ii) any towage operation undertaken by a ship within the waters of Hong Kong, or any towage operation undertaken by that ship commencing from any location within those waters, as the case may be;
  - (iii) any dredging operation undertaken by a ship within the waters of Hong Kong;
  - (iv) any charter hire in respect of-
    - (A) the operation of a ship navigating solely or mainly within the waters of Hong Kong; or
    - (B) a charter-party where one of the parties thereto is a relevant limited partnership;
- (b) one half of any sums derived from, attributable to, or in respect of, any charter hire in respect of the operation of a ship navigating between any location within the waters of Hong Kong and any location within river trade waters,  
but does not include exempt sums;

**river trade waters** (內河貿易水域) means the waters contained within river trade limits other than the waters of Hong Kong contained within those limits;

**sea** (海), except in relation to relevant carriage, means the waters of the sea other than those contained within river trade limits;

**ship** (船舶) includes any dynamically supported craft within the meaning of the Shipping and Port Control Ordinance (Cap 313);

**shipped** (裝運), in the case of passengers, means embarked;

**shipped in Hong Kong** (在香港裝運的), in relation to the shipment of relevant carriage, means shipped aboard a ship at any location within the waters of Hong Kong;

**total shipping income** (總航運入息), in relation to any basis period, means the worldwide income of a person from



the person's business as an owner of ships, and indicated as such by that person's accounts for that period;  
**total shipping profits** (總航運利潤), in relation to any basis period, means the worldwide profits of a person from the  
 person's business as an owner of ships, and indicated as such by that person's accounts for that period.  
 (Replaced 47 of 1992 s. 3. Amended E.R. 1 of 2012)

**Note:**  
**As to the operation of this section, see 47 of 1992 s. 1(3).**

Chapter:	214D	METRICATION AMENDMENTS (DUTIABLE COMMODITIES ORDINANCE) ORDER	Gazette Number	Version Date
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Paragraph:	4	Continued use of "tonnage"		30/06/1997
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References to the gross tonnage or register tonnage of any ship determined in accordance with the Merchant Shipping (Tonnage) Regulations (Cap 415 sub. leg.) may continue to be used in documents submitted under the Dutiable Commodities Ordinance (Cap 109) on and after the commencement of this order.

Chapter:	374R	ROAD TRAFFIC (MULTI-CYCLES) (SPECIFICATION OF ROADS, PLACES, TRAFFIC SIGNS AND ROAD MARKINGS) NOTICE	Gazette Number	Version Date
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Schedule:		SCHEDULE		30/06/1997
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[sections 2 & 3]

## PART I

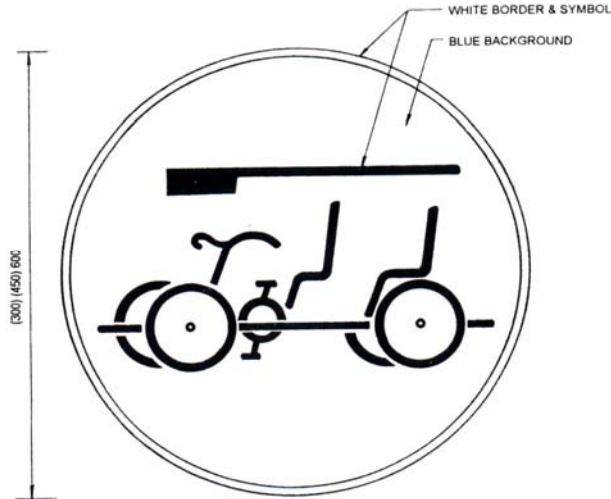
### ROADS AND PLACES WHERE MULTI-CYCLES MAY BE RIDDEN OR OTHERWISE USED

Item	Roads and places
1.	The bicycle park in Tai Wai bound in the north by the KCRC boundary fence, in the east by Mei Tin Road, in the south by Che Kung Miu Road and in the west by a footpath coming through a pedestrian railway underpass joining to Chik Wan Street.
2.	The cycle track along the northern side of Ting Kok Road from a point 220m to the east of Ting Kok Road/Sam Mun Tsai Road Junction to a point 70m to the west of Ting Kok Road/Access Road to Plover Cove Dam Crest Junction.
3-8.	(Repealed L.N. 21 of 1996)

## PART II

### TRAFFIC SIGNS AND ROAD MARKINGS

#### FIGURE No.A1

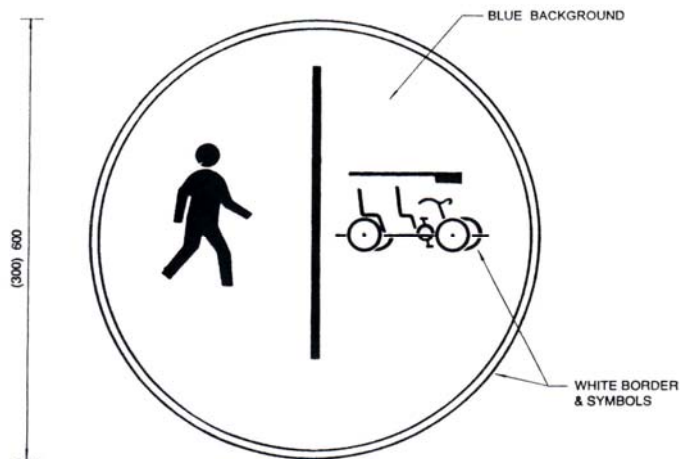


### CYCLEWAY AND CYCLEGROUND FOR MULTI-CYCLES

THIS SIGN INDICATES THAT THE CYCLEWAY OR CYCLEGROUND MAY BE USED BY RIDERS OF MULTI-CYCLES ONLY EXCEPT WHERE THE TRAFFIC SIGN No. 138 IN SCHEDULE 1 TO THE ROAD TRAFFIC (TRAFFIC CONTROL) REGULATIONS (CAP 374 SUB. LEG. G) IS ALSO ERECTED, IN WHICH CASE RIDING OF BICYCLES AND TRICYCLES IS ALSO PERMITTED.

THIS SIGN MAY BE USED IN CONJUNCTION WITH THE SUPPLEMENTARY PLATE IN FIGURE No. A3.

FIGURE No. A2



### FOOTWAY AND CYCLEWAY FOR MULTI-CYCLES

THIS SIGN INDICATES THAT A CYCLEWAY ADJOINS A FOOTWAY AND THAT THE CYCLEWAY MAY BE USED BY RIDERS OF MULTI-CYCLES ONLY EXCEPT WHERE TRAFFIC SIGN No. 137 IN SCHEDULE 1 TO THE ROAD TRAFFIC (TRAFFIC CONTROL) REGULATIONS (CAP 374 SUB. LEG. G) IS ALSO ERECTED, IN WHICH CASE RIDING OF BICYCLES AND TRICYCLES IS ALSO PERMITTED. THE FOOTWAY MAY BE USED BY PEDESTRIANS ONLY.

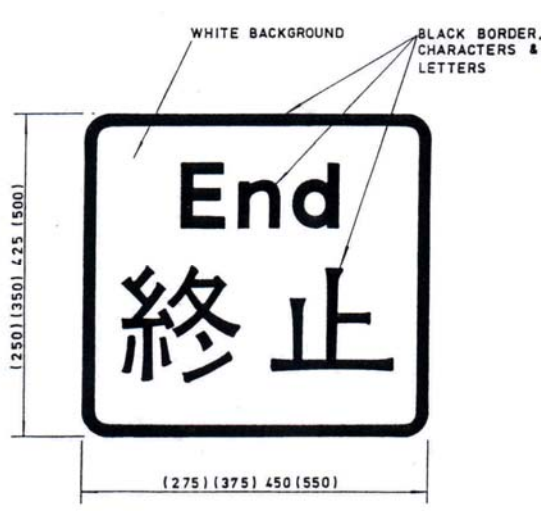
THE SYMBOLS MAY BE REVERSED TO SHOW THE FOOTWAY AND CYCLEWAY ON OPPOSITE SIDES.

WHERE THE CYCLEWAY IS PROVIDED ALONGSIDE A ROAD FOR OTHER VEHICULAR TRAFFIC, THE RIDER MUST USE THE FORMER.

THIS SIGN MAY BE USED IN CONJUNCTION WITH THE SUPPLEMENTARY PLATE IN FIGURE No. A3.

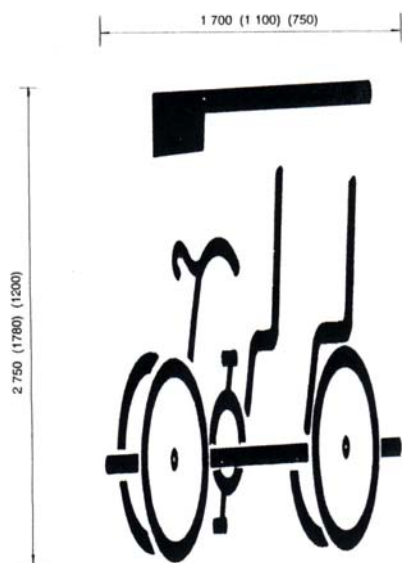
SUPPLEMENTARY  
PLATE

FIGURE No. A3



THIS PLATE WHEN USED IN CONJUNCTION WITH THE SIGN IN FIGURE Nos. A1, A2 INDICATES THE END OF THE CYCLEWAY OR CYCLEGROUND PRESCRIBED FOR USE OF MULTI-CYCLES.

FIGURE No. B1



ROAD MARKING  
MULTI-CYCLES

THIS MARKING INDICATES THAT THE SECTION OF CYCLEWAY ON WHICH IT IS PLACED IS RESERVED FOR MULTI-CYCLES ONLY EXCEPT WHERE THE ROAD MARKING SHOWN IN FIGURE No. 619 OF SCHEDULE 1 TO THE ROAD TRAFFIC (TRAFFIC CONTROL) REGULATIONS (CAP 374 SUB. LEG. G) IS ALSO PLACED, IN WHICH CASE BICYCLES AND TRICYCLES ARE ALSO PERMITTED ON THE CYCLEWAY.

Chapter:	571S	SECURITIES AND FUTURES (LICENSING AND REGISTRATION) (INFORMATION) RULES	Gazette Number	Version Date
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Section:	2	Interpretation	L.N. 214 of 2002; L.N. 12 of 2003	01/04/2003
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(1) In these Rules, unless the context otherwise requires-

"applicant" (申請人) means the person making an application under the Ordinance to the Commission;

"basic information" (基本資料) means the information referred to in Part 1 of Schedule 1;

"CE number" (中央編號) means the central entity identification number assigned by the Commission to an intermediary, a licensed representative or an associated entity of an intermediary;

"complaints officer" (投訴主任), in relation to an intermediary, means a person appointed by the intermediary to handle complaints made to the intermediary;

"controlling person" (控權人), in relation to a corporation, means each of the directors and substantial shareholders of the corporation;

"criminal investigatory body" (刑事調查機構) means the Hong Kong Police Force and the Independent Commission Against Corruption established under section 3 of the Independent Commission Against Corruption Ordinance (Cap 204), and public bodies in Hong Kong or elsewhere carrying out criminal investigations;

"minor offence" (輕微罪行) means an offence punishable by a fixed penalty under the Fixed Penalty (Traffic Contraventions) Ordinance (Cap 237), the Fixed Penalty (Criminal Proceedings) Ordinance (Cap 240) or the Fixed Penalty (Public Cleanliness Offences) Ordinance (Cap 570), or offence of similar nature committed in a place outside Hong Kong;

"permanent identity card" (永久性居民身分證) has the meaning assigned to it by section 1A of the Registration of Persons Ordinance (Cap 177);

"principal" (主事人) has the meaning assigned to it by section 113 of the Ordinance;

"regulatory body" (規管機構) includes the Commission, the Monetary Authority, a recognized exchange company, any professional body or association, an examination authority, an inspector appointed under any enactment, and other equivalent bodies or persons in Hong Kong or elsewhere;

"relevant information" (有關資料) means the information referred to in Part 2 of Schedule 1;

"reporting period" (申報期) means-

- (a) the period of one year to each anniversary of the date on which a person is licensed by the Commission as a licensed corporation or licensed representative; or
- (b) such other period as may be approved by the Commission by notice in writing;

"valid business registration certificate" (有效商業登記證) has the meaning assigned to it by section 2(1) of the Business Registration Ordinance (Cap 310).

(2) Where a person is a registered institution, a requirement in these Rules for a person to provide information or particulars (however described) to the Commission shall be construed as a requirement to provide information or particulars (however described) only in relation to the businesses which constitute any regulated activities for which it is registered.

(3) Where an associated entity is an authorized financial institution, a requirement in these Rules for a person to provide information or particulars (however described) to the Commission shall be construed as a requirement to provide information or particulars (however described) only in relation to its business of receiving or holding client assets in Hong Kong of any intermediary of which it is an associated entity.

Chapter:	478AB	MERCHANT SHIPPING (SEAFARERS) (FEES) REGULATION	Gazette Number	Version Date
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Section:	2	Interpretation	35 of 1998 s. 5	18/09/1998
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In this Regulation, unless the context otherwise requires-

"hourly rate" (按小時收費率) means the rate per hour calculated in accordance with section 8;

"office hours" (辦公時間) means the hours between 9 a.m. and 5 p.m., and 9 a.m. and noon on Saturday, excluding general holidays within the meaning of the General Holidays Ordinance (Cap 149); (35 of 1998 s. 5)

"surveyor" (驗船師) means a person appointed under section 5(1) of the Merchant Shipping (Safety) Ordinance (Cap 369) to be a Government surveyor;

"tons" (噸) means gross tons, and in the case of a ship having alternative gross tonnages, the larger of those gross tonnages, as calculated in accordance with the Merchant Shipping (Registration) (Tonnage) Regulations (Cap 415 sub. leg. C).

Chapter:	485	MANDATORY PROVIDENT FUND SCHEMES ORDINANCE	Gazette Number	Version Date
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Section:	16	Protection of accrued benefits	7 of 2011	13/05/2011
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(1) No part of any accrued benefits in a registered scheme in respect of a scheme member shall be taken in execution of a judgment debt or be the subject of any charge, pledge, lien, mortgage, transfer, assignment or alienation by or on behalf of the scheme member and any purported disposition to the contrary is void. (Amended 4 of 1998 s. 2)

(1A) To avoid doubt, if a scheme member is adjudicated bankrupt, the right or entitlement of the scheme member to any accrued benefits in a registered scheme is excluded from the property of the scheme member for the purposes of the Bankruptcy Ordinance (Cap 6). (Added 7 of 2011 s. 4)

(2) Subsections (1) and (1A) apply only to accrued benefits derived from mandatory contributions. (Added 4 of 1998 s. 2. Amended 7 of 2011 s. 4)

(Enacted 1995)

Chapter:	499	ENVIRONMENTAL IMPACT ASSESSMENT ORDINANCE	Gazette Number	Version Date
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Section:	9	Prohibition against carrying out designated project unless environmental permit has been issued, etc.	L.N. 70 of 1998	01/04/1998
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### PART III

#### ENVIRONMENTAL PERMITS

(1) A person shall not construct or operate a designated project listed in Part I of Schedule 2 or decommission a designated project listed in Part II of Schedule 2-

- (a) without an environmental permit for the project; or
- (b) contrary to the conditions, if any, set out in the permit.

(2) A project listed in Part I of Schedule 2 that has-

- (a) had planning permission granted by the Town Planning Board under section 16 of the Town Planning Ordinance (Cap 131);
- (b) had consent granted to commence building works by the Building Authority under the Buildings Ordinance (Cap 123);
- (c) had reclamation authorized under the Foreshore and Sea-bed (Reclamations) Ordinance (Cap 127);

- (d) had road works authorized under the Roads (Works, Use and Compensation) Ordinance (Cap 370);
- (e) been approved as a new development under the Country Parks Ordinance (Cap 208) or the Marine Parks Ordinance (Cap 476);
- (f) been authorized under the Water Pollution Control (Sewerage) Regulation (Cap 358 sub. leg. AL);
- (g) commenced construction, or been in operation,

before this Ordinance comes into operation is exempt from the provisions of this Ordinance so far as the construction and operation of the project is concerned.

(3) A project listed in Part II of Schedule 2 and the demolition plan of which has been approved by the Building Authority under the Buildings Ordinance (Cap 123) before this Ordinance comes into operation, is exempt from the provisions of this Ordinance so far as the decommissioning of the project is concerned.

(4) A material change to an exempted project is subject to this Ordinance and requires an environmental permit unless subsequently exempted under this Ordinance.

(5) The inclusion of a class of projects in Schedule 3 does not exempt the construction, operation or decommissioning of the whole or any part of the project from the need to have an environmental permit.

Chapter:	522	REGISTERED DESIGNS ORDINANCE	Gazette Number	Version Date
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Section:	5	New designs are registrable		30/06/1997
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## PART II

### REGISTRATION OF DESIGNS

#### Registrable designs

(1) Subject to this Ordinance, a design which is new may, upon application by the person claiming to be the owner, be registered in respect of any article or set of articles specified in the application.

(2) A design for which an application for registration is made shall not be regarded as new if it is the same as-

- (a) a design that has been registered in pursuance of a prior application, whether or not that design has been registered in respect of the same article for which the application is made or in respect of any other article; or
- (b) a design that has been published in Hong Kong or elsewhere before the filing date of the application, whether or not that design has been published in respect of the same article for which the application is made or in respect of any other article,

or if it differs from such a design only in immaterial details or in features which are variants commonly used in the trade.

(3) The Registrar may, in such cases as may be prescribed, direct that for the purpose of deciding whether a design is new an application for registration shall be treated as made on a date earlier or later than that on which it was in fact made.

Chapter:	525	MUTUAL LEGAL ASSISTANCE IN CRIMINAL MATTERS ORDINANCE	Gazette Number	Version Date
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Schedule:	2	ENFORCEMENT, ETC. OF EXTERNAL CONFISCATION ORDERS	L.N. 185 of 2007	10/12/2007
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Expanded Cross Reference:

7, 8, 9, 10

[sections 27, 28, 29,  
30 & 35]

## 1. Interpretation

(1) In this Schedule, unless the context otherwise requires-  
 "interest" (權益), in relation to property, includes right;  
 "property" (財產) includes both movable and immovable property within the meaning of section 3 of the Interpretation and General Clauses Ordinance (Cap 1);  
 "Registrar" (司法常務官) means the Registrar of the High Court; (Amended 25 of 1998 s. 2)  
 "relevant asset" (有關資產) means-

- (a) any land, within the meaning of section 2 of the High Court Ordinance (Cap 4), in Hong Kong; (Amended 25 of 1998 s. 2)
- (b) any Government stock within the meaning of section 2 of that Ordinance;
- (c) any stock, within the meaning of section 20A of that Ordinance, of any body incorporated in Hong Kong;
- (d) any stock, within the meaning of section 20A of that Ordinance, of any body incorporated outside Hong Kong or of any place outside Hong Kong, being stock registered in a register kept at any place within Hong Kong; or
- (e) any units of any unit trust, within the meaning of section 20A of that Ordinance, in respect of which a register of the unit holders is kept at any place within Hong Kong.

(2) The expressions listed in the left hand column below are respectively defined or (as the case may be) fall to be construed in accordance with the provisions of this Schedule listed in the right hand column in relation to those expressions.

Expression	Relevant provision
Charging order (押記令) .....	Section 8(2)
Defendant (被告人) .....	Section 3
Gift caught by this Schedule (受本附表圍制的饋贈) .....	Section 5(6)
Making a gift (作出饋贈) .....	Section 5(7)
Realisable property (可變現財產) .....	Section 5(1)
Restraint order (限制令) .....	Section 7(1)
Value of gift, payment or reward (饋贈、付款或酬賞的價值) .....	Section 5(4)
Value of property (財產的價值) .....	Section 5(3)

(3) This Schedule applies to property whether it is situated in Hong Kong or elsewhere.

(4) References in this Schedule to property received in connection with an external serious offence include a reference to property received both in that connection and in some other connection, and whether received before or after the commencement of this Schedule and whether received in connection with an external serious offence committed by the recipient or some other person.

(5) Subsections (6) to (11) shall have effect for the interpretation of this Schedule.

(6) Property is held by any person if he holds any interest in it.

(7) References to property held by a person include a reference to property vested in his trustee in bankruptcy or in a liquidator.

(8) References to an interest held by a person beneficially in property include, where the property is vested in his trustee in bankruptcy or in a liquidator, a reference to an interest which would be held by him beneficially if the property were not so vested.

(9) Property is transferred by one person to another if the first person transfers or grants to the other any interest in the property.

(10) Proceedings are concluded in a place outside Hong Kong-

- (a) when, disregarding any power of a court to grant leave to appeal out of time, there is no further possibility of an external confiscation order being made in the proceedings;
- (b) on the satisfaction of an external confiscation order made in the proceedings (whether by the recovery of all property liable to be recovered, or the payment of any amount due, or otherwise).

(11) An order is subject to appeal until (disregarding any power of a court to grant leave to appeal out of time)

there is no further possibility of an appeal on which the order could be varied or set aside.

## **2. Application**

This Schedule shall not apply to an external confiscation order except an external confiscation order-

- (a) the subject of a request under section 27 of this Ordinance; and
- (b) in relation to which the Secretary for Justice has decided to act, for the place which made the request, under the provisions of this Schedule. (Amended L.N. 362 of 1997)

## **3. Defendants under external confiscation orders**

A person (however described in the proceedings in the place outside Hong Kong concerned) against whom, or in relation to whose property, an external confiscation order has been, or may be, made is referred to in this Schedule as "the defendant" (被告人).

## **4. Interest on amounts to be recovered under external confiscation orders**

(1) Where a fixed amount is payable under an external confiscation order, that amount shall be treated as a judgment debt for the purposes of section 49 of the High Court Ordinance (Cap 4) and, for those purposes, the date on which the external confiscation order was registered under section 28 of this Ordinance shall be treated as the date of the judgment debt. (Amended 25 of 1998 s. 2)

(2) Where by virtue of subsection (1) any interest accrues on the amount payable under an external confiscation order, the defendant shall be liable to pay that interest and the amount of the interest shall for the purposes of enforcement be treated as part of the amount payable under the external confiscation order.

## **5. Definition of principal terms used**

(1) In this Schedule, "realisable property" (可變現財產) means, subject to subsection (2)-

- (a) in relation to an external confiscation order-
  - (i) made in respect of specified property, the property which is specified in the order;
  - (ii) which may be made as the result of proceedings which have been, or are to be, instituted in a place outside Hong Kong, the property which may be specified in the order; and
- (b) in any other case-
  - (i) any property held by the defendant;
  - (ii) any property held by a person to whom the defendant has directly or indirectly made a gift caught by this Schedule; and
  - (iii) any property that is subject to the effective control of the defendant.

(2) Property is not realisable property if-

- (a) an order under section 102 or 103 of the Criminal Procedure Ordinance (Cap 221); or
- (b) an order under section 38F or 56 of the Dangerous Drugs Ordinance (Cap 134),

is in force in respect of the property.

(3) Subject to the following subsections, for the purposes of this Schedule the value of property (other than cash) in relation to any person holding the property-

- (a) where any other person holds an interest in the property, is-
  - (i) the market value of the first-mentioned person's beneficial interest in the property, less
  - (ii) the amount required to discharge any incumbrance (other than a charging order) on that interest; and
- (b) in any other case, is its market value.

(4) Subject to subsection (7), references in this Schedule to the value at any time (referred to in subsection (5) as "the material time" (關鍵時間)) of a gift caught by this Schedule or of any payment or reward are references to-

- (a) the value of the gift, payment or reward to the recipient when he received it adjusted to take account of subsequent changes in the value of money; or
- (b) where subsection (5) applies, the value there mentioned,



whichever is the greater.

(5) Subject to subsection (7), if at the material time the recipient holds-

- (a) the property which he received (not being cash); or
- (b) property which, in whole or in part, directly or indirectly represents in his hands the property which he received,

the value referred to in subsection (4)(b) is the value to him at the material time of the property mentioned in paragraph (a) or, as the case may be, of the property mentioned in paragraph (b) so far as it so represents the property which he received, but disregarding in either case any charging order.

(6) A gift (including a gift made before the commencement of this Schedule) is caught by this Schedule if-

- (a) it was made by the defendant at any time since the beginning of the period of 6 years ending when the proceedings were instituted against him; or
- (b) it was made by the defendant at any time and was a gift of property-
  - (i) received by the defendant in connection with an external serious offence committed by him or another; or
  - (ii) which in whole or in part directly or indirectly represented in the defendant's hands property received by him in that connection.

(7) For the purposes of this Schedule-

- (a) the circumstances in which the defendant is to be treated as making a gift include those where he transfers property to another person directly or indirectly for a consideration the value of which is significantly less than the value of the consideration provided by the defendant; and
- (b) in those circumstances, the preceding provisions of this section shall apply as if the defendant had made a gift of such share in the property as bears to the whole property the same proportion as the difference between the values referred to in paragraph (a) bears to the value of the consideration provided by the defendant.

(8) For the purposes of subsection (1)-

- (a) property, or an interest in property, may be subject to the effective control of the defendant whether or not the defendant has-
  - (i) a legal or equitable estate or interest in the property; or
  - (ii) a right, power or privilege in connection with the property;
- (b) without limiting the generality of any other provision of this Schedule, in determining-
  - (i) whether or not property, or an interest in property, is subject to the effective control of the defendant; or
  - (ii) whether or not there are reasonable grounds to believe that property, or an interest in property, is subject to the effective control of the defendant, regard may be had to-
    - (A) shareholdings in, debentures over or directorships of a company that has an interest (whether direct or indirect) in the property;
    - (B) a trust that has a relationship to the property; and
    - (C) family, domestic and business relationships between persons having an interest in the property, or in companies of the kind referred to in subparagraph (A) or trusts of the kind referred to in subparagraph (B), and other persons.

## **6. Cases in which restraint orders and charging orders may be made**

(1) The powers conferred on the Court of First Instance by sections 7(1) and 8(1) are exercisable where-

- (a) proceedings have been instituted in a place outside Hong Kong;
- (b) the proceedings have not been concluded; and
- (c) either an external confiscation order has been made in the proceedings or it appears to the Court of First Instance that there are reasonable grounds for believing that an external confiscation order may be made in them.

(2) Those powers are also exercisable where the Court of First Instance is satisfied that proceedings are to be instituted in a place outside Hong Kong and it appears to the court that an external confiscation order may be made in them.

(3) Where the Court of First Instance has made an order under section 7(1) or 8(2) by virtue of subsection (2),

it shall discharge the order if the proposed proceedings are not instituted within such time as the Court of First Instance considers reasonable.

(Amended 25 of 1998 s. 2)

## 7. Restraint orders

(1) The Court of First Instance may by order (in this Schedule referred to as a "restraint order" (限制令)) prohibit any person from dealing with any realisable property, subject to such conditions and exceptions as may be specified in the order.

(2) A restraint order may apply to any realisable property, including property transferred to a person after the making of the order.

(3) This section shall not have effect in relation to any property for the time being subject to a charge under section 8.

(4) A restraint order-

(a) may be made only on an application by the Secretary for Justice or, in a case where an external confiscation order has been registered under section 28 of this Ordinance, by a receiver appointed under section 9 or the Secretary for Justice; (Amended L.N. 362 of 1997)

(b) may be made on an ex parte application to a judge in chambers; and

(c) may, notwithstanding anything in Order 11 of the Rules of the High Court (Cap 4 sub. leg. A), provide for service on, or the provision of notice to, persons affected by the order in such manner as the Court of First Instance may direct.

(5) A restraint order-

(a) may be discharged or varied in relation to any property; and

(b) shall be discharged when the proceedings in relation to which the order was made are concluded.

(6) An application for the discharge or variation of a restraint order may be made by any person affected by it.

(7) Where the Court of First Instance has made a restraint order, the Court of First Instance may at any time appoint a receiver-

(a) to take possession of any realisable property; and

(b) in accordance with the directions of the Court of First Instance, to manage or otherwise deal with any property in respect of which he is appointed,

subject to such conditions and exceptions as may be specified by the Court of First Instance; and may require any person having possession of property in respect of which a receiver is appointed under this section to give possession of it to the receiver.

(8) Where the Court of First Instance has made a restraint order, an authorized officer may, for the purpose of preventing any realisable property being removed from Hong Kong, seize the property.

(9) Property seized under subsection (8) shall be dealt with in accordance with the directions of the Court of First Instance. (Amended 71 of 1999 s. 3)

(10) Where any property specified in a restraint order is immovable property the order shall, for the purposes of the Land Registration Ordinance (Cap 128)-

(a) be deemed to be an instrument affecting land; and

(b) be registrable as such in the Land Registry under that Ordinance in such manner as the Land Registrar thinks fit.

(11) An authorized officer may, by notice in writing served on a person who holds any realisable property the subject of a restraint order, require the person to deliver to the authorized officer, to the extent that it is practicable to do so, documents, or copies of documents, or any other information (in whatever form), in his possession or control which may assist the authorized officer to determine the value of the property. (Added 26 of 2002 s. 5)

(12) A person who receives a notice under subsection (11) shall, as soon as is practicable after receipt of the notice, comply with the notice to the extent that it is practicable to do so taking into account the nature of the realisable property the subject of the restraint order concerned. (Added 26 of 2002 s. 5)

(13) A disclosure made in order to comply with a requirement under subsection (11)-

(a) shall not be treated as a breach of any restriction upon the disclosure of information imposed by contract or by any enactment, rule of conduct or other provision;

(b) shall not render the person who made it liable in damages for any loss arising out of-

(i) the disclosure;

- (ii) any act done or omitted to be done in relation to the property concerned in consequence of the disclosure. (Added 26 of 2002 s. 5)

(14) Any person who contravenes subsection (12) commits an offence and is liable on conviction to a fine at level 5 and to imprisonment for 1 year. (Added 26 of 2002 s. 5)

(15) A person who knowingly deals in any realisable property in contravention of a restraint order commits an offence. (Added 26 of 2002 s. 5)

(16) A person who commits an offence under subsection (15) is liable-

- (a) on conviction upon indictment to a fine of \$500000 or to the value of the realisable property the subject of the restraint order concerned which has been dealt with in contravention of that order, whichever is the greater, and to imprisonment for 5 years; or
- (b) on summary conviction to a fine of \$250000 and to imprisonment for 2 years. (Added 26 of 2002 s. 5)

(Amended 25 of 1998 s. 2)

## 8. Charging orders in respect of land, securities, etc.

(1) The Court of First Instance may make a charging order on realisable property for securing the payment to the Government-

- (a) where a fixed amount is payable under an external confiscation order, of an amount not exceeding the amount so payable; and
- (b) in any other case, of an amount equal to the value from time to time of the property charged.

(2) For the purposes of this Schedule, a charging order is an order made under this section imposing on any such realisable property as may be specified in the order a charge for securing the payment of money to the Government.

(3) A charging order-

- (a) may be made only on an application by the Secretary for Justice or, in a case where an external confiscation order has been registered under section 28 of this Ordinance, by a receiver appointed under section 9 or the Secretary for Justice; (Amended L.N. 362 of 1997)
- (b) may be made on an ex parte application to a judge in chambers;
- (c) may, notwithstanding anything in Order 11 of the Rules of the High Court (Cap 4 sub. leg. A), provide for service on, or the provision of notice to, persons affected by the order in such manner as the Court of First Instance may direct; and
- (d) may be made subject to such conditions as the Court of First Instance thinks fit and, without prejudice to the generality of this paragraph, such conditions as it thinks fit as to the time when the charge is to become effective.

(4) Subject to subsection (6), a charge may be imposed by a charging order only on-

- (a) any interest in realisable property, being an interest held beneficially by the defendant or by a person to whom the defendant has directly or indirectly made a gift caught by this Schedule-
  - (i) in any relevant asset; or
  - (ii) under any trust; or
- (b) any interest in realisable property held by a person as trustee of a trust if the interest is in such an asset or is an interest under another trust and a charge may by virtue of paragraph (a) be imposed by a charging order on the whole beneficial interest under the first-mentioned trust.

(5) In any case where a charge is imposed by a charging order on any interest in a relevant asset, the Court of First Instance may provide for the charge to extend to any interest, dividend or other distribution payable and any bonus issue in respect of the asset.

(6) The Court of First Instance may make an order discharging or varying the charging order and shall make an order discharging the charging order if the proceedings in the place outside Hong Kong are concluded or the amount payment of which is secured by the charge is paid into the Court of First Instance.

(7) An application for the discharge or variation of a charging order may be made by any person affected by it.

(8) Subject to the provisions of this Schedule, a charge imposed by a charging order shall have the like effect and shall be enforceable in the same manner as an equitable charge created by the person holding the beneficial interest or, as the case may be, the trustee, by writing under his hand.

(9) An authorized officer may, by notice in writing served on a person who holds any realisable property the subject of a charging order, require the person to deliver to the authorized officer, to the extent that it is practicable to

do so, documents, or copies of documents, or any other information (in whatever form), in his possession or control which may assist the authorized officer to determine the value of the property. (Added 26 of 2002 s. 5)

(10) A person who receives a notice under subsection (9) shall, as soon as is practicable after receipt of the notice, comply with the notice to the extent that it is practicable to do so taking into account the nature of the realisable property the subject of the charging order concerned. (Added 26 of 2002 s. 5)

(11) A disclosure made in order to comply with a requirement under subsection (9)-

- (a) shall not be treated as a breach of any restriction upon the disclosure of information imposed by contract or by any enactment, rule of conduct or other provision;
- (b) shall not render the person who made it liable in damages for any loss arising out of-
  - (i) the disclosure;
  - (ii) any act done or omitted to be done in relation to the property concerned in consequence of the disclosure. (Added 26 of 2002 s. 5)

(12) Any person who contravenes subsection (10) commits an offence and is liable on conviction to a fine at level 5 and to imprisonment for 1 year. (Added 26 of 2002 s. 5)

(13) A person who knowingly deals in any realisable property in contravention of a charging order commits an offence. (Added 26 of 2002 s. 5)

(14) A person who commits an offence under subsection (13) is liable-

- (a) on conviction upon indictment to a fine of \$500000 or to the value of the realisable property the subject of the charging order concerned which has been dealt with in contravention of that order, whichever is the greater, and to imprisonment for 5 years; or
- (b) on summary conviction to a fine of \$250000 and to imprisonment for 2 years. (Added 26 of 2002 s. 5)

(Amended 25 of 1998 s. 2)

## **9. Realisation of property**

(1) Where an external confiscation order has been registered under section 28 of this Ordinance, the Court of First Instance may, on an application by the Secretary for Justice, exercise the powers conferred by subsections (2) to (6). (Amended L.N. 362 of 1997)

(2) The Court of First Instance may appoint a receiver in respect of realisable property.

(3) The Court of First Instance may empower a receiver appointed under subsection (2), under section 7 or in pursuance of a charging order-

- (a) to enforce any charge imposed under section 8 on realisable property or on any interest, dividend or other distribution payable and any bonus issue in respect of such property; and
- (b) in relation to any realisable property other than property for the time being subject to a charge under section 8, to take possession of the property subject to such conditions or exceptions as may be specified by the Court of First Instance.

(4) The Court of First Instance may order any person having possession of realisable property to give possession of it to any such receiver.

(5) The Court of First Instance may empower any such receiver to realise any realisable property in such manner as the Court of First Instance may direct.

(6) The Court of First Instance may order any person holding an interest in realisable property to make such payment to the receiver in respect of any beneficial interest held by the defendant or, as the case may be, the recipient of a gift caught by this Schedule as the Court of First Instance may direct and the Court of First Instance may, on the payment being made, by order transfer, grant or extinguish any interest in the property.

(7) Subsections (4) to (6) do not apply to property for the time being subject to a charge under section 8.

(8) The Court of First Instance shall not in respect of any property exercise the powers conferred by subsection (3)(a), (5) or (6) unless a reasonable opportunity has been given for persons holding any interest in the property to make representations to the Court of First Instance.

(Amended 25 of 1998 s. 2)

## **10. Application of proceeds of realisation and other sums**

(1) Subject to subsection (2), the following sums in the hands of a receiver appointed under section 7 or 9 or pursuant to a charging order, that is-

- (a) the proceeds of the enforcement of any charge imposed under section 8;
- (b) the proceeds of the realisation, other than by the enforcement of such a charge, of any property under section 7 or 9; and
- (c) any other sums, being property held by the defendant,

shall first be applied in payment of such expenses incurred by a person acting as an insolvency officer as are payable under section 14(2) and then shall, after such payments, if any, as the Court of First Instance may direct have been made out of those sums be paid to the Registrar and applied for the purposes specified in subsections (3) to (5) and in the order so specified. (Amended 25 of 1998 s. 2)

(2) Where a fixed amount is payable under the external confiscation order and, after that amount has been fully paid, any such sums remain in the hands of such a receiver, the receiver shall distribute those sums-

- (a) among such of those who held property which has been realised under this Schedule; and
- (b) in such proportions,

as the Court of First Instance may direct after giving a reasonable opportunity for such persons to make representations to the Court of First Instance. (Amended 25 of 1998 s. 2)

(3) Any sums paid to the Registrar under subsection (1) or otherwise in satisfaction of an external confiscation order shall be first applied to pay any expenses incurred by a person acting as an insolvency officer and payable under section 14(2) but not already paid under subsection (1).

(4) If the sum was paid to the Registrar by a receiver appointed under section 7 or 9 or pursuant to a charging order the Registrar shall next pay the receiver's remuneration and expenses.

(5) After making-

- (a) any payment required by subsection (3); and
- (b) in a case to which subsection (4) applies, any payment required by that subsection,

the Registrar shall reimburse any amount paid under section 15(2).

(6) Subject to subsections (7) and (8)-

- (a) any balance in the hands of the Registrar after he has made all payments required by the foregoing subsections shall be deposited in an interest-bearing account;
- (b) upon the expiration of 5 years beginning with the day on which such balance was so deposited, the Registrar shall arrange for such balance, together with any interest earned thereon, to be paid into the general revenue.

(7) On an application made by or on behalf of the government of a prescribed place before the expiration of the period referred to in subsection (6)(b) in respect of any balance referred to in that subsection, the Secretary for Justice may direct the Registrar to pay to that government such proportion of that balance as is specified in the direction and the Registrar shall, as soon as is reasonably practicable after the receipt of that direction- (Amended L.N. 362 of 1997)

- (a) comply with the direction; and
- (b) pay any remainder of that balance, together with any interest earned on that balance, into the general revenue.

(8) The Registrar shall not comply with subsection (6)(b) in respect of any balance referred to in that subsection (including any interest earned thereon) until any application referred to in subsection (7) made in respect of that balance has been determined, whether by a direction under subsection (7) or otherwise.

(9) Where an application under subsection (8) of the relevant section has not been determined before the relevant day, then this section shall, with all necessary modifications, apply to and in relation to the application as if the application were an application under subsection (7), and the other provisions of this Ordinance shall be construed accordingly.

(10) In this section-

"relevant day" (有關日期) means the day on which section 14 of Schedule 3 comes into operation;

"relevant Order" (有關命令) means the Drug Trafficking (Recovery of Proceeds) (Designated Countries and Territories) Order (Cap 405 sub. leg. A) as in force immediately before the relevant day;

"relevant section" (有關條文) means section 13 of the Drug Trafficking (Recovery of Proceeds) Ordinance (Cap 405) as applied under paragraph 3(2) of the relevant Order.

## 11. Exercise of powers by Court of First Instance or receiver

(1) The following subsections apply to the powers conferred on the Court of First Instance by sections 7 to 10,

or on a receiver appointed under section 7 or 9 or pursuant to a charging order. <\* Note - Exp. X-Ref.: Sections 7, 8, 9, 10 \*> (Amended 25 of 1998 s. 2)

(2) Subject to subsections (3), (4), (5) and (6), the powers shall be exercised with a view to recovering property which is liable to be recovered under an external confiscation order registered under section 28 of this Ordinance or, as the case may be, with a view to making available for recovery property which may become liable to be recovered under an external confiscation order which may be made.

(3) In the case of realisable property held by a person to whom the defendant has directly or indirectly made a gift caught by this Schedule, the powers shall be exercised with a view to realising no more than the value for the time being of the gift.

(4) In the case of realisable property other than realisable property referred to in section 5(1)(a), the powers shall be exercised with a view to allowing any person other than the defendant or the recipient of any such gift to retain or recover the value of any property held by him.

(5) An order may be made or other action taken in respect of a debt owed by the Government.

(6) In exercising those powers, no account shall be taken of any obligations of the defendant or of the recipient of any such gift which conflict with the obligation to satisfy the external confiscation order.

## 12. **Bankruptcy of defendant, etc.**

(1) Where a person who holds realisable property is adjudged bankrupt-

- (a) property for the time being subject to a restraint order made before the order adjudging him bankrupt; and
- (b) any proceeds of property realised by virtue of section 7(7) or 9(5) or (6) for the time being in the hands of a receiver appointed under section 7 or 9,

are excluded from the property of the bankrupt for the purposes of the Bankruptcy Ordinance (Cap 6).

(2) Where a person has been adjudged bankrupt, the powers conferred on the Court of First Instance by sections 7 to 10 shall not be exercised in relation to- <\* Note - Exp. X-Ref.: Sections 7, 8, 9, 10 \*> (Amended 25 of 1998 s. 2)

- (a) property for the time being comprised in the property of the bankrupt for the purposes of the Bankruptcy Ordinance (Cap 6); and
- (b) property which is to be applied for the benefit of creditors of the bankrupt by virtue of a condition imposed under section 30(3) of the Bankruptcy Ordinance (Cap 6).

(3) Nothing in the Bankruptcy Ordinance (Cap 6) shall be taken as restricting, or enabling the restriction of, the exercise of the powers conferred on the Court of First Instance by sections 7 to 10. <\* Note - Exp. X-Ref.: Sections 7, 8, 9, 10 \*> (Amended 25 of 1998 s. 2)

(4) Subsection (2) does not affect the enforcement of a charging order-

- (a) made before the order adjudging the person bankrupt; or
- (b) on property which was subject to a restraint order when the order adjudging him bankrupt was made.

(5) Where, in the case of a debtor, an interim trustee stands appointed under section 13 of the Bankruptcy Ordinance (Cap 6) and any property of the debtor is subject to a restraint order, the powers conferred on the interim trustee by virtue of that Ordinance do not apply to property for the time being subject to the restraint order. (Amended 18 of 2005 s. 48)

(6) Where a person is adjudged bankrupt and had directly or indirectly made a gift caught by this Schedule-

- (a) a court shall not make an order under-
  - (i) section 31, 47 or 49 of the Bankruptcy Ordinance (Cap 6); or
  - (ii) section 60 of the Conveyancing and Property Ordinance (Cap 219),in respect of the making of the gift at any time when property of the person to whom the gift was made is subject to a restraint order or charging order; and
- (b) any order made under any of those sections after the discharge of the restraint order or charging order shall take into account any realisation under this Schedule of property held by the person to whom the gift was made.

(7) After the relevant day-

- (a) subsection (2)(b) shall be read as if "30(3)" were omitted and "30A(9)" were substituted therefor;
- (b) subsection (6)(a)(i) shall be read as if "31, 47 or 49" were omitted and "49 or 50" were substituted therefor.

(8) In this section, "relevant day" (有關日期) means the day on which section 87 of the Bankruptcy (Amendment) Ordinance 1996 (76 of 1996) comes into operation.

### **13. Winding up of company holding realisable property**

(1) Where realisable property is held by a company and an order for the winding up of the company has been made or a resolution has been passed by the company for the voluntary winding up, the functions of the liquidator (or any provisional liquidator) shall not be exercisable in relation to-

- (a) property for the time being subject to a restraint order made before the relevant time; and
- (b) any proceeds of property realised by virtue of section 7(7) or 9(5) or (6) for the time being in the hands of a receiver appointed under section 7 or 9.

(2) Where, in the case of a company, such an order has been made or such a resolution has been passed, the powers conferred on the Court of First Instance by sections 7 to 10 shall not be exercised in relation to any realisable property held by the company in relation to which the functions of the liquidator are exercisable- <\* Note - Exp. X-Ref.: Sections 7, 8, 9, 10 \*>

- (a) so as to inhibit him from exercising those functions for the purpose of distributing any property held by the company to the company's creditors; or
- (b) so as to prevent the payment out of any property of expenses (including the remuneration of the liquidator or any provisional liquidator) properly incurred in the winding up in respect of the property.

(3) Nothing in the Companies Ordinance (Cap 32) shall be taken as restricting, or enabling the restriction of, the exercise of the powers conferred on the Court of First Instance by sections 7 to 10. <\* Note - Exp. X-Ref.: Sections 7, 8, 9, 10 \*>

(4) Subsection (3) shall apply to any proceedings relating to an appeal, further appeal or review against any exercise of the powers referred to in that subsection as if the court hearing the appeal, further appeal or review, as the case may be, were the Court of First Instance.

(5) Subsection (2) does not affect the enforcement of a charging order made before the relevant time or on property which was subject to a restraint order at the relevant time.

(6) In this section-

"company" (公司) means any company which may be wound up under the Companies Ordinance (Cap 32);

"the relevant time" (有關時間) means-

- (a) where no order for the winding up of the company has been made, the time of the passing of the resolution for voluntary winding up;
- (b) where such an order has been made and, before the presentation of the petition for the winding up of the company by the Court of First Instance, such a resolution had been passed by the company, the time of the passing of the resolution; and
- (c) in any other case where such an order has been made, the time of the making of the order.

(Amended 25 of 1998 s. 2)

### **14. Insolvency officers dealing with property subject to restraint order**

(1) Without prejudice to the generality of any provision contained in the Bankruptcy Ordinance (Cap 6), the Companies Ordinance (Cap 32) or any other Ordinance, where-

- (a) any insolvency officer seizes or disposes of any property in relation to which his functions are not exercisable because it is for the time being subject to a restraint order; and
- (b) at the time of the seizure or disposal he believes, and has reasonable grounds for believing, that he is entitled (whether in pursuance of an order of a court or otherwise) to seize or dispose of that property,

he shall not be liable to any person in respect of any loss or damage resulting from the seizure or disposal except in so far as the loss or damage is caused by his negligence; and the insolvency officer shall have a lien on the property, or the proceeds of its sale, for such of his expenses as were incurred in connection with the liquidation, bankruptcy or other proceedings in relation to which the seizure or disposal purported to take place and for so much of his remuneration as may reasonably be assigned for his acting in connection with those proceedings.

(2) Any insolvency officer who incurs expenses-

- (a) in respect of such property as is mentioned in subsection (1)(a) and in so doing does not know and has

no reasonable grounds to believe that the property is for the time being subject to a restraint order; or  
 (b) other than in respect of such property as is so mentioned, being expenses which, but for the effect of a restraint order, might have been met by taking possession of and realising the property,  
 shall be entitled (whether or not he has seized or disposed of that property so as to have a lien under that subsection) to payment of those expenses under section 10(1).

(3) In this section "insolvency officer" (債務處理人) means-

- (a) the Official Receiver; or
- (b) any person acting as-
  - (i) a trustee (including provisional trustee), interim trustee or special manager appointed under the Bankruptcy Ordinance (Cap 6); or (Amended 18 of 2005 s. 48)
  - (ii) a liquidator, provisional liquidator or special manager appointed under the Companies Ordinance (Cap 32).

## 15. Receivers: supplementary provisions

- (1) Where a receiver appointed under section 7 or 9 or pursuant to a charging order takes any action-
  - (a) in relation to property which is not realisable property, being action which he would be entitled to take if it were such property;
  - (b) believing, and having reasonable grounds for believing, that he is entitled to take that action in relation to that property,

he shall not be liable to any person in respect of any loss or damage resulting from his action except in so far as the loss or damage is caused by his negligence.

(2) Any amount due in respect of the remuneration and expenses of a receiver so appointed shall, if no sum is available to be applied in payment of it under section 10(4), be paid by the person on whose application the receiver was appointed.

Chapter:	4A	THE RULES OF THE HIGH COURT	Gazette Number	Version Date
Order:	54	APPLICATIONS FOR WRIT OF HABEAS CORPUS	L.N. 152 of 2008; L.N. 18 of 2009	02/04/2009

### 1. Application for writ of habeas corpus ad subjiciendum (O. 54, r. 1)

(1) An application for a writ of habeas corpus ad subjiciendum shall be made to a single judge in court, except that-

- (b) at any time when no judge is sitting in court, it may be made to a judge otherwise than in court; and
- (c) any application on behalf of a minor must be made in the first instance to a judge otherwise than in court.

(2) An application for such writ may be made ex parte and, subject to paragraph (3), must be supported by an affidavit by the person restrained showing that it is made at his instance and setting out the nature of the restraint.

(3) Where the person restrained is unable for any reason to make the affidavit required by paragraph (2), the affidavit may be made by some other person on his behalf and that affidavit must state that the person restrained is unable to make the affidavit himself and for what reason.

### 2. Power of Court to whom ex parte application made (O. 54, r. 2)

(1) The judge to whom an application under rule 1 is made ex parte may make an order forthwith for the writ to issue, or may- (See App. A, Forms 87, 88)

- (a) where the application is made otherwise than in court, direct that an originating summons for the writ be issued, or that an application therefor be made by originating summons to a judge in court;
- (b) where the application is made to a judge in court, adjourn the application so that notice thereof may be



given, or direct that an application be made by originating summons.

(2) The summons must be served on the person against whom the issue of the writ is sought and on such other persons as the judge may direct, and, unless the judge otherwise directs, there must be at least 8 clear days between the service of the summons or notice and the date named therein for the hearing of the application.

(3) An originating summons under this rule must be in Form No. 87 in Appendix A. (L.N. 152 of 2008)  
(L.N. 152 of 2008)

### **3. Copies of affidavits to be supplied (O. 54, r. 3)**

Every party to an application under rule 1 must supply to every other party on demand copies of the affidavits which he proposes to use at the hearing of the application.

### **4. Power to order release of person restrained (O. 54, r. 4)**

Without prejudice to rule 2(1), the judge hearing an application for a writ of habeas corpus ad subjiciendum may in his discretion order that the person restrained be released, and such order shall be a sufficient warrant to any superintendent of a prison, constable or other person for the release of the person under restraint.

### **5. Directions as to return to writ (O. 54, r. 5)**

Where a writ of habeas corpus ad subjiciendum is ordered to issue, the judge by whom the order is made shall give directions as to the judge before whom, and the date on which, the writ is returnable.

### **6. Service of writ and notice (O. 54, r. 6)**

(1) Subject to paragraphs (2) and (3), a writ of habeas corpus ad subjiciendum must be served personally on the person to whom it is directed.

(2) If it is not possible to serve such writ personally, or if it is directed to a superintendent of a prison or other public official, it must be served by leaving it with a servant or agent of the person to whom the writ is directed at the place where the person restrained is confined or restrained.

(3) If the writ is directed to more than one person, the writ must be served in manner provided by this rule on the person first named in the writ, and copies must be served on each of the other persons in the same manner as the writ.

(4) There must be served with the writ a notice (in Form No. 90 in Appendix A) stating the judge before whom and the date on which the person restrained is to be brought and that in default of obedience proceedings for committal of the party disobeying will be taken.

### **7. Return to the writ (O. 54, r. 7)**

(1) The return to a writ of habeas corpus ad subjiciendum must be indorsed on or annexed to the writ and must state all the causes of the detainer of the person restrained.

(2) The return may be amended, or another return substituted therefor, by leave of the judge before whom the writ is returnable.

### **8. Procedure at hearing of writ (O. 54, r. 8)**

When a return to a writ of habeas corpus ad subjiciendum is made, the return shall first be read, and motion then made for discharging or remanding the person restrained or amending or quashing the return, and where that person is brought up in accordance with the writ, his counsel shall be heard first, then counsel for the Crown, and then one counsel for the person restrained in reply.

### **9. Bringing up prisoner to give evidence, etc. (O. 54, r. 9)**

(1) An application for a writ of habeas corpus ad testificandum or of habeas corpus ad respondendum must be

made on affidavit to a judge in chambers.

## 10. Form of writ (O. 54, r. 10)

A writ of habeas corpus must be in Form No. 89, 91 or 92 in Appendix A, whichever is appropriate.

(Enacted 1988)

Chapter:	99A	PENSION BENEFITS REGULATIONS	Gazette Number	Version Date
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Regulation:	15A	Additional pension in respect of war service		30/06/1997
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- (1) This regulation applies to any officer-
  - (a) who has at any time (whether before or after the commencement of the Pension Benefits (Amendment) Regulation 1992 (L.N. 374 of 1992)) been granted, or who is eligible for, a pension under the Ordinance;
  - (b) who performed war service or compulsory national service; and
  - (c) who is not entitled to an additional pension under the Colonial Service Officers Pensions Addition for War Service (United Kingdom) Scheme 1989.
- (2) An officer to whom this regulation applies shall be granted an additional pension in respect of his war service if-
  - (a) his war service was not preceded by a period of pensionable service, and his relevant Government service-
    - (i) began before 1 July 1950; or
    - (ii) began on or after 1 July 1950 on the completion of a course of training, or probationership which was regarded as training, after his provisional selection to service under the Government or under the Government of the United Kingdom, provided that such training or probationership began before 1 July 1950 and was, in the opinion of the Secretary for the Civil Service, necessary before he could be appointed to that service; or
    - (iii) began on or after 1 July 1950 following his selection before 1 July 1950, provided that he was available to take up the appointment before 1 July 1950 and took the first opportunity to travel to take up the appointment after selection; or
  - (b) his relevant Government service was interrupted by his war service because he was required to perform compulsory national service on or after 1 July 1947.
- (3) Subject to paragraphs (4), (5) and (6), the additional pension payable under this regulation shall be calculated as follows-
  - (a) in the case of an officer to whom paragraph (2)(a) applies, an annual amount equal to 1/675 of his pensionable emoluments for each complete period of 2 months of war service;
  - (b) in the case of an officer to whom paragraph (2)(b) applies, an annual amount equal to 1/675 of his pensionable emoluments for each complete month of war service,and in calculating any period of war service, service before the officer attained the age of 18 years shall be disregarded.
- (4) If there was a break other than a break caused by war service in an officer's relevant Government service that has not been condoned by the Government concerned, the reference in paragraph (3) to pensionable emoluments shall be treated as a reference to the officer's pensionable emoluments during the period of service before that break.
- (5) Any amount of pension in respect of war service payable to an officer at the date of his retirement-
  - (a) by the Government, otherwise than under this regulation; or
  - (b) by a Scheduled Government,shall be deducted from the additional pension payable under this regulation.
- (6) Any period of war service in respect of which an officer received non-effective pay or excess remuneration shall not count as war service for the purposes of paragraph (3).
- (7) An additional pension granted under this regulation shall be granted as from-
  - (a) the commencement of the Pension Benefits (Amendment) Regulation 1992 (L.N. 374 of 1992); or
  - (b) the retirement of the officer,whichever is the later, and shall be calculated and granted in Hong Kong dollars.

(8) An officer to whom an additional pension is granted under this regulation shall not have an option under regulation 24 of the Ordinance to be paid, in lieu of that additional pension, a gratuity and a reduced pension.

(9) In this regulation-

"excess remuneration" (附加報酬) means, in relation to a retired officer of the Armed Forces of the Crown who is re-employed in those forces, any service pension drawn in respect of such period of re-employment or any addition to the normal pay attaching to the post in which the officer was re-employed which is granted by reason of the officer's former employment in those forces;

"non-effective pay" (不再服務薪津) includes naval, military or air force pensions, retired pay or gratuities (other than war gratuities to which section 23 of the Finance (No. 2) Act 1945 (1945 c. 13 U.K.) applied);

"relevant Government service" (有關的政府服務期) means service under the Government or under the Government of the United Kingdom that may be taken into account in determining whether an officer is eligible by length of service for a pension;

"war service" (戰時服務) means service at any time between 3 September 1939 and 30 June 1950 in-

- (a) the Armed Forces of the Crown;
- (b) the merchant navy or mercantile marine;
- (c) any of the women's services listed in Schedule 2.

(L.N. 374 of 1992)

Chapter:	132AC	FROZEN CONFECTIONS REGULATION	Gazette Number	Version Date
Section:	3	Interpretation	L.N. 320 of 1999	01/01/2000

In this Regulation, unless the context otherwise requires- (78 of 1999 s. 7)

"Director" (署長) means the Director of Food and Environmental Hygiene; (78 of 1999 s. 7)

"disease" (疾病) means any disease of a communicable nature;

"food business" (食物業) has the meaning assigned thereto in the Food Business Regulation (Cap 132 sub. leg. X); (10 of 1986 s. 32(2); 78 of 1999 s. 7)

"frozen confection" (冰凍甜點) means any confection commonly sold for human consumption in a frozen or chilled state;

"full licence" (正式牌照) means a licence granted under section 19; (L.N. 357 of 1998; 78 of 1999 s. 7)

"heat-treatment" (熱處理) means the processing of frozen confections in the manner described in the First Schedule, and the expression "to heat-treat" (進行熱處理) shall be construed accordingly;

"ingredient" (配料), when used in relation to heat-treatment, includes sugar and dried egg, but does not include colouring of flavouring materials or fruit, nuts, chocolate and other similar substances;

"licence" (牌照) means a full licence or a provisional licence; (L.N. 357 of 1998)

"licensee" (持牌人) means a person to whom a licence has been granted; (L.N. 357 of 1998)

"manufacture" (製造), in relation to frozen confections, includes the mixing of any ingredients, any process of freezing and any process whereby any frozen or partly frozen substance is inserted into containers or is wrapped for sale;

"provisional licence" (暫准牌照) means a licence granted under section 19A. (L.N. 357 of 1998; 78 of 1999 s. 7)  
(78 of 1999 s. 7)

Chapter:	166	PAWNBROKERS ORDINANCE	Gazette Number	Version Date
Section:	21	Prohibition on pawnbrokers when receiving goods in pawn	71 of 1999	01/07/1997

Remarks:

Adaptation amendments retroactively made - see 71 of 1999 s. 3

- (1) No pawnbroker shall receive in pawn any goods-
  - (a) from any person unless he has first inspected proof of identity of the borrower; or
  - (b) from any person who is under the age of 17 years; or
  - (c) having upon them any mark or sign indicating them to be or to have been the property of the State, the Urban Council or any other statutory body or authority. (Amended 71 of 1999 s. 3)
- (2) No pawnbroker shall demand or accept as security any-
  - (a) identity card issued under the Registration of Persons Ordinance (Cap 177), passport, warrant card, or other document establishing the identity or nationality of the holder;
  - (b) bank savings or deposit account book; or
  - (c) photograph, whether developed or not, of the borrower or owner of the goods or of any member of the family of the borrower or owner of the goods.
- (3) Any pawnbroker who contravenes subsection (1) or (2) commits an offence and is liable to a fine of \$5000 and to imprisonment for 6 months.

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PART IX

ASBESTOS CONTROL WORK

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HONG KONG

ORDINANCE NO. 13 OF 1993

L.S.

I assent.

David FORD,  
Deputy to the Governor.  
11 February 1993

An Ordinance to amend the Air Pollution Control Ordinance.

Enacted by the Governor of Hong Kong, with the advice and consent of the Legislative Council thereof.

1. Short title and commencement

(1) This Ordinance may be cited as the Air Pollution Control (Amendment) Ordinance 1993.

(2) This Ordinance shall come into operation on a day to be appointed by the Secretary for Planning, Environment and Lands by notice in the Gazette.

(3) The Secretary may appoint different days for different provisions and may commence different provisions in different notices.

2. Interpretation

Section 2 of the Air Pollution Control Ordinance (Cap. 311) is amended—

- (a) in the definition of “air pollutant”, by adding “, objectionable odour” after “vapour”;
- (b) by repealing the definition of “air pollutant nuisance” and substituting—

“air pollution” means an emission of air pollutant which either alone or with another emission of air pollutant—

- (a) is prejudicial to health;
- (b) is a nuisance;
- (c) imperils or is likely to imperil the safety of or otherwise interferes with the normal operation of aircraft; or
- (d) is determined to be air pollution under a technical memorandum;”;

LEGAL SERVICES LEGISLATION  
(MISCELLANEOUS AMENDMENTS)

HONG KONG

ORDINANCE No. 94 OF 1997

L.S.

I assent.

Christopher PATTEN,  
Governor.  
29 June 1997

An Ordinance to amend the Legal Practitioners Ordinance and the Conveyancing and Property Ordinance.

[30 June 1997]

Enacted by the Governor of Hong Kong, with the advice and consent of the Legislative Council thereof.

PART I

PRELIMINARY

1. Short title and commencement

(1) This Ordinance may be cited as the Legal Services Legislation (Miscellaneous Amendments) Ordinance 1997.

(2) Sections 2 to 6, 13 to 15 and 21 (in respect of sections 1 and 4 to 6 of Schedule 2 only) of this Ordinance are to come into operation on a day to be appointed by the Attorney General by notice in the Gazette.

(3) Except as provided by subsection (2), this Ordinance comes into operation at the beginning of the day on which it is published in the Gazette.

PART II

SOLICITOR CORPORATIONS AND FOREIGN LAWYER CORPORATIONS

2. Part added

The Legal Practitioners Ordinance (Cap. 159) is amended by adding—

香 港

1997年第94號條例

公印位置

本人批准。

彭定康，  
總督  
1997年6月29日

本條例旨在修訂《法律執業者條例》及《物業轉易及財產條例》。

[1997年6月30日]

由香港總督參照立法局意見並得該局同意而制定。

第 I 部

導言

1. 簡稱及生效日期

(1) 本條例可引稱為《1997年法律服務立法(雜項修訂)條例》。

(2) 本條例第2至6、13至15及21條(只限於附表2第1及4至6條)自律政司以憲報公告指定的日期起實施。

(3) 除第(2)款另有規定外，本條例在其於憲報刊登當日開始實施。

第 II 部

律師法團及外國律師法團

2. 加入部分

《法律執業者條例》(第159章)現予修訂，加入——

## “PART IIAA

## SOLICITOR CORPORATIONS

## 7B. Definitions (Part IIAA)

In this Part—

“company” means a company formed and registered under the Companies Ordinance (Cap. 32);

“Council’s rules” means rules made under section 73;

“shares” has the same meaning as in the Companies Ordinance (Cap. 32).

## 7C. Society may approve companies as solicitor corporations

(1) A person who wishes to have a company or a proposed company approved as a solicitor corporation must apply to the Society for approval of the company as a solicitor corporation.

(2) An application must be made in accordance with the Council’s rules and be accompanied by such fee (if any) as may be prescribed by those rules.

(3) On receiving of an application in respect of a company or proposed company under this section, the Society may, in accordance with the Council’s rules, approve or refuse to approve the company or proposed company as a solicitor corporation.

(4) If the Society gives approval for a proposed company to be a solicitor corporation, the approval does not take effect until the company is formed and registered under the Companies Ordinance (Cap. 32).

## 7D. Effect of company becoming solicitor corporation

(1) A solicitor corporation is authorized to do anything that only a solicitor can lawfully do and is required to do anything that a solicitor is required to do by law.

(2) Subsection (1) does not apply to the doing of anything that can be done only by a solicitor as a natural person.

## 7E. Requirements as to alteration of memorandum or articles and change of name

(1) The approval in writing of the Society is required before—

(a) the memorandum or articles of association of a solicitor corporation are amended; or

## “第 IIAA 部

## 律師法團

## 7B. 定義 (第 IIAA 部)

在本部中——

“公司” (company) 指根據《公司條例》(第 32 章) 組成和註冊的公司；

“股份” (shares) 的涵義與《公司條例》(第 32 章) 中該詞的涵義相同；

“理事會規則” (Council’s rules) 指根據第 73 條訂立的規則。

## 7C. 律師會可批准公司為律師法團

(1) 任何人如欲使某公司或建議成立的公司獲批准為律師法團，必須向律師會申請，以取得該公司作為律師法團的批准。

(2) 任何申請必須按照理事會規則提出並須附同由該等規則訂明的費用 (如有的話)。

(3) 律師會收到根據本條就某公司或建議成立的公司提出的申請後，可按照理事會規則批准或拒絕批准該公司或建議成立的公司為律師法團。

(4) 如律師會批准某建議成立的公司為律師法團，則該批准在該公司根據《公司條例》(第 32 章) 組成和註冊之後才生效。

## 7D. 公司成為律師法團的效力

(1) 律師法團獲授權作出只有律師才能夠合法地作出的事宜，而律師法團須作出法律規定律師作出的事宜。

(2) 如任何事宜只有由身為自然人的律師才可作出，則第 (1) 款不適用於作出該事宜。

## 7E. 關於修改章程大綱或章程細則和更改名稱的規定

(1) 在——

(a) 修訂律師法團的組織章程大綱或組織章程細則之前；或

(b) the name of a solicitor corporation is changed.

(2) An application for approval under this section must be made in accordance with the Council's rules.

(3) The Society may refuse approval under this section but only as provided by the Council's rules.

#### 7F. Offers to public of shares in solicitor corporation prohibited

(1) Any person who offers or invites the public to subscribe for, or purchase, shares in, or debentures of, a solicitor corporation commits an offence and is liable on conviction to a fine at level 5.

(2) In this section, "debentures" has the same meaning as in the Companies Ordinance (Cap. 32).

#### 7G. Additional grounds for winding up solicitor corporation

(1) A solicitor corporation may be wound up under the Companies Ordinance (Cap. 32) on grounds specified in rules made by the Chief Justice under section 72.

(2) The grounds for winding up specified in rules referred to in subsection (1) are additional to those prescribed by the Companies Ordinance (Cap. 32).

(3) An application to wind up a solicitor corporation on a ground specified in subsection (1) can be made only by the Society.

#### 7H. Right of appeal against decisions of Society under this Part

(1) An applicant for approval by the Society of—

(a) a company or proposed company as a solicitor corporation; or

(b) an amendment to the memorandum or articles of association of a solicitor corporation; or

(c) a change in the name of a solicitor corporation, may appeal to the Court against a decision of the Society refusing approval.

(2) An appeal must comply with rules made under section 72 for the purposes of this section.

(3) On the hearing of an appeal, the Court may—

(a) confirm the decision of the Society; or

(b) 更改律師法團的名稱之前，須獲得律師會的書面批准。

(2) 根據本條提出的批准申請，必須按照理事會規則提出。

(3) 律師會可拒絕根據本條作出批准，但只可在按理事會規則規定的情況下拒絕。

#### 7F. 禁止向公眾作出律師法團的股份要約

(1) 任何人如要約或邀請公眾認購或購買律師法團的股份或債權證，即屬犯罪，一經定罪，可處第5級罰款。

(2) 在本條中，“債權證”(debentures)的涵義與《公司條例》(第32章)中該詞的涵義相同。

#### 7G. 將律師法團清盤的額外理由

(1) 律師法團可基於首席大法官根據第72條訂立的規則所指明的理由而根據《公司條例》(第32章)清盤。

(2) 第(1)款所提述的規則所指明的清盤理由是增補《公司條例》(第32章)訂明的清盤理由的。

(3) 基於第(1)款所指明的理由將律師法團清盤的申請，只可由律師會提出。

#### 7H. 針對律師會根據本部作出的決定提出上訴的權利

(1) 如申請人申請由律師會批准——

(a) 某公司或建議成立的公司為律師法團；或

(b) 修訂律師法團的組織章程大綱或組織章程細則；或

(c) 更改律師法團的名稱，

而律師會拒絕作出批准，則申請人可針對律師會拒絕作出批准的決定而向法院提出上訴。

(2) 上訴必須符合根據第72條為施行本條而訂立的規則。

(3) 法院在聆訊上訴後，可——

(a) 確認律師會的決定；或



- (b) direct the Society to grant the application for approval, either unconditionally or subject to conditions specified by the Court,  
and may make such order as to the payment of costs by the Society or by the applicant as it thinks fit.

#### 7I. Roll of solicitor corporations

- (1) The Secretary General of the Society is required—  
(a) to keep a roll of all solicitor corporations approved under section 7C and to have custody of the roll and all documents relating to it; and  
(b) to allow any person to inspect the roll during ordinary office hours without payment.
- (2) The Secretary General of the Society is, on payment to the Society of such fee as may be prescribed by the Chief Justice, required to enter on the roll of solicitor corporations the name of the corporation concerned.
- (3) The Chief Justice may, at any time, order the Secretary General of the Society to replace on the roll of solicitor corporations the name of a solicitor corporation whose name has been struck off or removed from that roll.

#### 7J. Legal professional privilege and solicitor corporations

Solicitor-client privilege exists between a solicitor corporation and a client of the corporation in the same way as it exists between a solicitor and a client of the solicitor.

#### 7K. This Part to prevail over inconsistent provisions of memorandum and articles

This Part, and rules made under sections 72 and 73 for the purposes of this Part, prevail over inconsistent provisions of the memorandum and articles of association of a solicitor corporation.

#### 7L. This Part not to affect operation of Companies Ordinance

Nothing in this Part affects the operation of the Companies Ordinance (Cap. 32) in relation to its application to a company that is a solicitor corporation.”.

- (b) 指示律師會無條件地或在受法院指明的條件規限下批准申請，並可就律師會或申請人所支付訟費作出法院認為適當的命令。

#### 7I. 律師法團登記冊

- (1) 律師會秘書長須——  
(a) 備存一份根據第 7C 條獲批准的所有律師法團的登記冊，並保管該登記冊及關乎該登記冊的所有文件；及  
(b) 容許任何人在日常辦公時間內免費查閱該登記冊。
- (2) 在首席大法官所訂明的費用已繳付予律師會後，律師會秘書長須將有關的法團的名稱列入律師法團登記冊。
- (3) 首席大法官可隨時命令律師會秘書長將已從律師法團登記冊上剔除或刪除的律師法團的名稱，重新列入律師法團登記冊。

#### 7J. 法律專業特權及律師法團

律師與當事人間特權存在於律師法團和該法團的當事人之間，其方式與該特權存在於律師和該律師的當事人之間的相同。

#### 7K. 本部凌駕章程大綱及章程細則中與本部抵觸的條文

本部以及為施行本部而根據第 72 及 73 條訂立的規則凌駕律師法團的組織章程大綱及組織章程細則中與本部及該等規則抵觸的條文。

#### 7L. 本部不影響《公司條例》的實施

就《公司條例》(第 32 章)對屬律師法團的公司的適用範圍而言，本部的任何條文並不影響該條例的實施。”。

## 3. Part heading added

The following is added before section 8—

**“PART IIAB**

**PROVISIONS APPLICABLE TO LEGAL PRACTICE ENTITIES GENERALLY”.**

## 4. Section added

The following is added—

**“9AA. Misconduct of member or employee of  
solicitor corporation or foreign  
lawyer corporation**

Conduct of a person who is a member of, or is employed by, a solicitor corporation or a foreign lawyer corporation may be the subject of a complaint, and may be investigated, inquired into and dealt with under this Part in the same way as the conduct of a solicitor or employee of a solicitor or foreign lawyer may be investigated, inquired into and dealt with, but only in so far as the conduct relates to the practice carried on by the corporation.”.

## 5. Sections added

The following are added—

**“39BA. Foreign lawyer corporations**

- (1) The Society may register as a foreign lawyer corporation a company or an overseas company if—
  - (a) all of the members or employees of the company who intend to practise in Hong Kong are foreign lawyers; and
  - (b) the company satisfies the Society that it has, or will within 2 months after registration have, a place of business in Hong Kong for the purpose of practising or advising on foreign law.
- (2) The Society may cancel the registration of a foreign lawyer corporation if—
  - (a) the corporation, having established a place of business in Hong Kong, ceases to have a place of business there; or

## 3. 加入部分的標題

在第 8 條之前加入——

**“第 IIAB 部**

**一般地適用於法律執業實體的條文”。**

## 4. 加入條文

現加入——

**“9AA. 律師法團或外國律師法團的  
成員或僱員的失當行為**

身為律師法團或外國律師法團的成員或受僱於律師法團或外國律師法團的人的行為可成為申訴的標的，並可根據本部予以調查、研訊和處理，其方式與律師或律師或外國律師的僱員的行為可予以調查、研訊和處理的方式相同，但只限於與該法團進行的執業業務有關的行為。”。

## 5. 加入條文

現加入——

**“39BA. 外國律師法團**

- (1) 如某公司或某海外公司——
  - (a) 所有擬在香港執業的成員或僱員均是外國律師；及
  - (b) 令律師會信納它在香港設有或在其註冊後的 2 個月內將在香港設有辦公地點，以就外國法律而執業或提供意見，
 則律師會可將該公司或海外公司註冊為外國律師法團。
- (2) 如某外國律師法團——
  - (a) 本已在香港設立辦公地點，而其後終止在香港設有辦公地點；或

(b) fails to establish a place of business in Hong Kong within 2 months after its registration.

(3) The registration of a company or an overseas company as a foreign lawyer corporation is automatically cancelled if the company (not being an overseas company) is dissolved or, in the case of an overseas company, the Registrar of Companies removes the name of the company from the register of overseas companies.

(4) The approval in writing of the Council is required before—

(a) the constitution of a foreign lawyer corporation is amended;

or

(b) the name of a foreign lawyer corporation is changed.

(5) Rules in force for the purposes of section 7G also apply to and in respect of a foreign lawyer corporation that is a company.

(6) Solicitor-client privilege exists between a foreign lawyer corporation and a client of the corporation in the same way as it exists between a solicitor and a client of the solicitor.

(7) This section, and rules made under sections 72 and 73 for the purposes of this section, prevail over inconsistent provisions of the constitution of a foreign lawyer corporation.

(8) In this section—

“company” means a company formed and approved under the Companies Ordinance (Cap. 32);

“constitution”, in relation to a foreign lawyer corporation that is a company, means the memorandum and articles of association of the company;

“overseas company” has the same meaning as in section 332 of the Companies Ordinance (Cap. 32).

### 39BB. Offer of shares in foreign lawyer corporation prohibited

(1) Any person who offers or invites the public to subscribe for, or purchase, shares in, or debentures of, a foreign lawyer corporation commits an offence and is liable on conviction to a fine at level 5.

(2) In this section, “debentures” has the same meaning as in the Companies Ordinance (Cap. 32).”.

### 6. Section added

The following is added—

(b) 在其註冊後的2個月內並沒有在香港設立辦公地點，則律師會可取消該外國律師法團的註冊。

(3) 如註冊為外國律師法團的公司(並非海外公司者)遭解散，或註冊為外國律師法團的海外公司的名稱被公司註冊處處長從海外公司登記冊上刪除，則該公司或海外公司的上述註冊即告自動取消。

(4) 在——

(a) 修訂外國律師法團的章程之前；或

(b) 更改外國律師法團的名稱之前，

須獲理事會的書面批准。

(5) 為施行第7G條而有效的規則亦適用於屬公司的外國律師法團，並就屬公司的外國律師法團而適用。

(6) 律師與當事人間特權存在於外國律師法團和該法團的當事人之間，其方式與該特權存在於律師和該律師的當事人之間的相同。

(7) 本條及為施行本條而根據第72及73條訂立的規則凌駕外國律師法團的章程中與本條及該等規則抵觸的條文。

(8) 在本條中——

“公司”(company)指根據《公司條例》(第32章)組成和獲批准的公司；

“海外公司”(overseas company)的涵義與《公司條例》(第32章)第332條中該詞的涵義相同；

“章程”(constitution)就屬公司的外國律師法團而言，指該公司的組織章程大綱及組織章程細則。

### 39BB. 禁止作出外國律師法團的股份要約

(1) 任何人如要約或邀請公眾認購或購買外國律師法團的股份或債權證，即屬犯罪，一經定罪，可處第5級罰款。

(2) 在本條中，“債權證”(debentures)的涵義與《公司條例》(第32章)中該詞的涵義相同。”。

### 6. 加入條文

現加入——

## 20. Amendment of Legal Aid in Criminal Cases Rules

(1) Rule 21 of the Legal Aid in Criminal Cases Rules (Cap. 221 sub. leg.) is amended by repealing "Queen's Counsel" wherever it occurs and substituting "Senior Counsel".

(2) The fact that the Legal Aid in Criminal Cases Rules (Cap. 221 sub. leg.) are amended by this Ordinance does not affect the power of the Criminal Procedure Rules Committee to amend those Rules as so amended.

## 21. Savings and transitional provisions

Schedule 2 (containing savings and transitional provisions) has effect.

## SCHEDULE 1

[s. 15]

## CONSEQUENTIAL AMENDMENTS TO LEGAL PRACTITIONERS ORDINANCE

Item	Provision affected	Amendment
1. Long title		Repeal "and registration of legal practitioners and their employees, and of notaries public," and substitute "approval and registration of barristers, legal practice entities and notaries public, for the employment of trainee solicitors and others by those entities, and for regulating the practice of law,".
2. Section 2(1), definition of "client"		Repeal "and any person who is or may be liable to pay a solicitor's costs" and substitute "or solicitor corporation, and any person who is or may be liable to pay the costs of a solicitor or solicitor corporation".
3. Section 2(1), definition of "unqualified person"		Add "or solicitor corporation" after "a solicitor".
4. Section 2(1)		Add— "foreign lawyer corporation" means a corporation that is registered as a foreign lawyer corporation under Part IIIA; "legal practice entity" means any of the following— (a) a solicitor; (b) a foreign lawyer; (c) in relation to a solicitor who is a member of a Hong Kong firm, the firm;

## 20. 《刑事案件法律援助規則》的修訂

(1) 《刑事案件法律援助規則》(第 221 章, 附屬法例) 第 21 條現予修訂, 廢除所有 "御用大律師" 而代以 "資深大律師".

(2) 《刑事案件法律援助規則》(第 221 章, 附屬法例) 經由本條例所修訂此一事實, 並不影響刑事訴訟程序規則委員會修訂經如此修訂的該規則的權力。

## 21. 保留及過渡性條文

附表 2 (載有保留及過渡性條文) 具有效力。

## 附表 1

[第 15 條]

## 對《法律執業者條例》作出的相應修訂

項	受影響的條文	修訂
1. 詳題		廢除 "法律執業者、其僱員及公證人的認許及註冊," 而代以 "大律師、法律執業實體及公證人的認許、認可及註冊、該等實體對實習律師及其他人士的僱用、法律執業的規管,"。
2. 第 2(1) 條, "當事人" 的定義		廢除 "的任何人, 或即將聘用或僱用律師的任何人, 以及有法律責任支付或可能有法律責任支付律師訟費的任何人" 而代以 "或律師法團的任何人, 或即將聘用或僱用律師或律師法團的任何人, 以及有法律責任支付或可能有法律責任支付律師或律師法團訟費的任何人"。
3. 第 2(1) 條, "不合資格人士" 的定義		在 "律師" 之後加入 "亦非律師法團"。
4. 第 2(1) 條		加入—— "外國律師法團" (foreign lawyer corporation) 指根據第 IIIA 部註冊為外國律師法團的法團; "成員" (member), 就屬律師行或法團的法律執業實體而言, 指該律師行的合夥人或獨營執業者, 或該法團的股東; "法律執業實體" (legal practice entity) 指任何屬以下者—— (a) 律師; (b) 外國律師; (c) 就一名屬某香港律師行成員的律師而言, 該律師行;

LEGAL SERVICES LEGISLATION  
(MISCELLANEOUS AMENDMENTS)

Item Provision affected

## Amendment

- (d) in relation to a foreign lawyer who is a member of a foreign firm, the firm;  
(e) on and after the commencement of Part IIAA, a solicitor corporation;  
(f) on and after the commencement of sections 39BA and 39BB, a foreign lawyer corporation;  
“member”, in relation to a legal practice entity that is a firm or corporation, means a partner, or the sole practitioner, of the firm or a shareholder of the corporation;  
“officer” of a corporation means a director, manager, executive or secretary of the corporation;  
“roll of solicitor corporations” means the roll kept by the Secretary General of the Society in accordance with section 71;  
“solicitor corporation” means a company that is approved by the Society under section 7C;.”
5. Section 2(2) Add “or solicitor corporation” after “employee of a solicitor”.
6. Section 8(1) (a) Repeal “solicitor and foreign lawyer” and substitute “legal practice entity”.  
(b) Repeal “owing to the circumstances of his” and substitute “because of the circumstances of the”.
7. Section 8(3) Repeal “solicitor or foreign lawyer” and substitute “legal practice entity”.
8. Section 8A Repeal and substitute—  
“8A. Council may examine documents if person is unfit to practise  
(1) If the Council considers that a legal practice entity may be unfit to practise, it may, in writing, appoint a person as an inspector to inquire into and report on the matter.  
(2) The Council may take the following factors into account in deciding whether or not to take action under subsection (1) in relation to a legal practice entity—  
(a) the ability of a solicitor or foreign lawyer to supervise the relevant practice;  
(b) the nature and frequency of complaints against the entity;  
(c) the financial position of the entity;  
(d) the conviction of the entity, or a member of the entity, for an offence that is punishable by imprisonment;  
(e) the number of successful claims against the entity for negligence or breach of duty;

項

受影響的條文

修訂

- (d) 就一名屬某外國律師行成員的外國律師而言，該律師行；  
(e) 在第 IIAA 部的生效日期當日及以後，律師法團；  
(f) 在第 39BA 及 39BB 條的生效日期當日及以後，外國律師法團；  
“律師法團” (solicitor corporation) 指律師會根據第 7C 條批准的公司；  
“律師法團登記冊” (roll of solicitor corporations) 指律師會秘書長按照第 71 條備存的登記冊；  
“高級人員” (officer)，就法團而言，指該法團的董事、經理、行政人員或秘書；”。
5. 第 2(2) 條 廢除“或律師僱員”而代以“、律師僱員或律師法團僱員”。
6. 第 8(1) 條 (a) 廢除“每名律師及外國律師”而代以“每個法律執業實體”。  
(b) 廢除“由於其”而代以“因為所涉”。
7. 第 8(3) 條 廢除“律師或外國律師”而代以“法律執業實體”。
8. 第 8A 條 廢除而代以——  
“8A. 如有人不適宜執業理事會可審核文件  
(1) 如理事會認為某個法律執業實體可能不適宜執業，可以書面委任某人為調查員，以就該事宜進行研訊並作出報告。  
(2) 理事會在決定是否根據第 (1) 款對某個法律執業實體採取行動時，可顧及以下因素——  
(a) 某律師或外國律師監管有關執業業務的能力；  
(b) 針對該實體的申訴的性質及頻密程度；  
(c) 該實體的財政狀況；  
(d) 該實體或實體的成員被裁定一項可判處監禁的罪行罪名成立；  
(e) 針對該實體疏忽或不履行責任而作出的成功申索的次數；

Item Provision affected

Amendment

- (f) the mental and physical health of any solicitor or foreign lawyer who comprises or is a member of the entity.
- (3) A legal practice entity must, on being required to do so by an inspector appointed under this section or by the Council, produce to the inspector all documents, or all documents of a specified kind, in the entity's possession.
- (4) The Council must refer the matter to the Tribunal Convenor of the Solicitors Disciplinary Tribunal Panel if, after considering the report of the inspector and any representations made by or on behalf of the legal practice entity, it considers that that entity is unfit to practise.
- (5) On referring the matter to the Tribunal Convenor, the Council may suspend the legal practice entity from practise pending the decision of the Solicitors Disciplinary Tribunal constituted to deal with the matter."
9. Section 8AA(1)(a) Repeal "a solicitor, a foreign lawyer, a trainee solicitor or an employee of a solicitor or foreign lawyer" and substitute "a legal practice entity, a member or employee of such an entity, or a trainee solicitor".
10. Section 8AA(1)(b) Repeal "any solicitor, foreign lawyer, trainee solicitor or employee of a solicitor or foreign lawyer" and substitute "a legal practice entity, a member or employee of such an entity, or a trainee solicitor".
11. Section 8AA(2)(a) Add "or solicitor corporation" after "a solicitor".
12. Section 8AA(2)(a)(i) Add "or corporation" after "firm".
13. Section 8AA(2)(b)(i) Repeal and substitute—  
"(i) subject to subsection (3), require a legal practice entity or a member or employee of such an entity to produce to the inspector for inspection at a specified time and place such documents in the possession of the entity, member or employee as the inspector specifies, either particularly or generally (being documents that the inspector reasonably suspects to be relevant to a matter referred to in subsection (1)(a), (b) or (c)); and".
14. Section 9A(1) Repeal "a solicitor, a foreign lawyer, a trainee solicitor or an employee of a solicitor or foreign lawyer" and substitute "a legal practice entity, a member or employee of such an entity, or a trainee solicitor".
15. Section 9B(1) Repeal "a solicitor, a trainee solicitor or an employee of a solicitor" and substitute "a solicitor or employee of a solicitor, a solicitor corporation or a member or employee of such a corporation, or a trainee solicitor,".

項

受影響的條文

修訂

- (f) 任何組成該實體或屬於該實體成員的律師或外國律師的精神及身體健康狀況。
- (3) 在理事會或根據本條獲委任的調查員要求下，法律執業實體必須向該名調查員出示其管有的所有文件或指明類別的所有文件。
- (4) 理事會經考慮調查員的報告以及由或代該法律執業實體作出的任何申述後，如認為該實體不適宜執業，則理事會須將該事宜轉介律師紀律審裁團的審裁組召集人。
- (5) 理事會將該事宜轉介審裁組召集人時，可暫時吊銷該法律執業實體的執業資格，以等候為處理該事宜而組成的律師紀律審裁組的決定。"
9. 第8AA(1)(a)條 廢除“律師、外國律師、實習律師，或律師或外國律師的僱員”而代以“法律執業實體、該法律執業實體的成員或僱員，或實習律師”。
10. 第8AA(1)(b)條 廢除“任何律師、外國律師、實習律師，或律師或外國律師的僱員”而代以“某法律執業實體、該法律執業實體的成員或僱員，或某實習律師”。
11. 第8AA(2)(a)條 在兩度出現的“律師的僱員”之後加入“或律師法團的僱員”。
12. 第8AA(2)(a)(i)條 在“律師行”之後加入“或律師法團”。
13. 第8AA(2)(b)(i)條 廢除而代以——  
“(i) 在符合第(3)款的規定下，要求法律執業實體或其成員或僱員在指明的時間及地點，向該調查員出示該實體或其成員或僱員所管有的該調查員特別地或一般地指明的文件(即該調查員合理地懷疑與第(1)(a)、(b)或(c)款所提述的事宜有關的文件)，以供查閱及”。
14. 第9A(1)條 廢除“律師、外國律師、實習律師、或律師或外國律師的僱員”而代以“法律執業實體、該法律執業實體的成員或僱員，或實習律師”。
15. 第9B(1)條 廢除“律師、實習律師、或律師的僱員”而代以“律師或律師的僱員、該律師法團或律師法團的成員或僱員，或實習律師”。

LEGAL SERVICES LEGISLATION  
(MISCELLANEOUS AMENDMENTS)

Item	Provision affected	Amendment
16.	Section 9B(1A)	Repeal "a foreign lawyer or an employee of a foreign lawyer" and substitute "a foreign lawyer or employee of such a lawyer, or a foreign firm or foreign lawyer corporation or a member or employee of such a firm or corporation,".
17.	Section 10(2)	<p>Repeal and substitute—</p> <p>"(2) On completing an inquiry and investigation into the conduct of a solicitor or solicitor corporation and on being satisfied that the conduct of the solicitor or corporation so warrants, a Solicitors Disciplinary Tribunal can make any of the following orders—</p> <ol style="list-style-type: none"> <li>an order striking the name of the solicitor from the roll of solicitors, or cancelling the approval of the corporation under section 7C;</li> <li>an order suspending the solicitor from practice, or suspending the approval of the corporation under section 7C, for such period as the Tribunal thinks fit;</li> <li>an order imposing conditions on the practice of the solicitor or corporation that are to have effect for a specified period of not more than 3 years;</li> <li>an order directing the solicitor or corporation to pay to the complainant an amount that is not more than the amount paid by the complainant to the solicitor or corporation as fees and disbursements in respect of the matter complained of;</li> <li>an order directing the solicitor or corporation to pay to a fund established under section 73A of an amount not more than the amount (if any) paid out of the fund in relation to the conduct in question;</li> <li>an order directing the solicitor or corporation to pay into the general revenue a penalty of not more than \$500,000;</li> <li>an order censuring the solicitor or corporation;</li> <li>an order prohibiting the solicitor or corporation from employing a trainee solicitor or other employee to whom the inquiry relates for such period as is specified in the order.</li> </ol>

項	受影響的條文	修訂
16.	第 9B(1A) 條	廢除“外國律師或外國律師的僱員”而代以“外國律師或外國律師的僱員、外國律師行或外國律師法團，或該外國律師行或外國律師法團的成員或僱員”。
17.	第 10(2) 條	<p>廢除而代以——</p> <p>“(2) 律師紀律審裁組在完成對某律師或律師法團的行為操守的研訊及調查後，並在信納該律師或律師法團的行為操守足以構成對其作出任何以下命令的理由的情況下，可作出任何以下命令——</p> <ol style="list-style-type: none"> <li>從律師登記冊上剔除該律師的姓名或取消該法團根據第 7C 條獲得的批准的命令；</li> <li>在一段審裁組認為適當的期間暫時吊銷該律師的執業資格或在一段審裁組認為適當的期間暫時吊銷該法團根據第 7C 條獲得的批准的命令；</li> <li>對該律師或法團的執業業務施加條件的命令，該等條件在一段指明的但不得超過 3 年的期間內有效；</li> <li>指示該律師或法團向申訴人支付一筆款項的命令，其款額不超過申訴人曾就申訴的事宜支付予該律師或法團的費用及代墊付費用的款額；</li> <li>指示該律師或法團向根據第 73A 條設立的基金支付一筆款項的命令，其款額不超過曾就受調查的行為操守從該基金支出的款額（如有的話）；</li> <li>指示該律師或法團支付一筆不超過 \$500,000 並須撥入政府一般收入內的罰款的命令；</li> <li>譴責該律師或法團的命令；</li> <li>禁止該律師或法團在命令所指明的段期間內僱用該研訊所關乎的實習律師或其他僱員的命令。</li> </ol>

LEGAL SERVICES LEGISLATION  
(MISCELLANEOUS AMENDMENTS)

Item Provision affected

## Amendment

(2A) On completing an inquiry and investigation into the conduct of a trainee solicitor and on being satisfied that the conduct of the trainee solicitor so warrants, a Solicitors Disciplinary Tribunal can make either of the following orders—

- (a) an order cancelling the trainee solicitor contract of the trainee solicitor; or
- (b) an order censuring the trainee solicitor.

(2B) On completing an inquiry and investigation into the conduct of a foreign lawyer, foreign firm or foreign lawyer corporation and on being satisfied that the conduct of the lawyer, firm or corporation so warrants, a Solicitors Disciplinary Tribunal can make any of the following orders—

- (a) an order cancelling the registration of the lawyer, firm or corporation;
- (b) an order suspending the registration of the lawyer, firm or corporation for such period as the Tribunal considers appropriate;
- (c) an order imposing conditions on the practice of the lawyer, firm or corporation that are to have effect for a specified period of not more than 3 years;
- (d) an order directing the lawyer, firm or corporation to pay to the complainant an amount that is not more than the amount paid by the complainant to the lawyer, firm or corporation as fees and disbursements in respect of the matter complained of;
- (e) an order directing the lawyer, firm or corporation to pay into the general revenue a penalty of not more than \$500,000;
- (f) an order censuring the lawyer, firm or corporation;
- (g) an order prohibiting the lawyer, firm or corporation from employing any employee to whom the investigation relates for such period as is specified in the order.

(2C) On completing an inquiry and investigation into the conduct of an employee of a legal practice entity and on being satisfied that the conduct of the employee so warrants, a Solicitors Disciplinary Tribunal can make an order censuring the employee.

項

受影響的條文

修訂

(2A) 律師紀律審裁組在完成對某實習律師的行為操守的研訊及調查後，並在信納該實習律師的行為操守足以構成對其作出以下兩項命令其中一項的理由的情況下，可作出該命令——

- (a) 取消該實習律師的實習律師合約的命令；或
- (b) 譴責該實習律師的命令。

(2B) 律師紀律審裁組在完成對某外國律師、外國律師行或外國律師法團的行為操守的研訊及調查後，並在信納該律師、律師行或律師法團的行為操守足以構成對其作出以下任何命令的理由的情況下，可作出以下命令——

- (a) 取消該律師、律師行或法團的註冊的命令；
- (b) 在一段審裁組認為適當的期間暫時吊銷該律師、律師行或法團的註冊的命令；
- (c) 對該律師、律師行或法團的執業業務施加條件的命令，該等條件在一段指明的但不得超過 3 年的期間內有效；
- (d) 指示該律師、律師行或法團向申訴人支付一筆款項的命令，其款額不超過申訴人曾就申訴的事宜支付予該律師、律師行或法團的費用及代墊付費用的款額；
- (e) 指示該律師、律師行或法團支付一筆不超過 \$500,000 並須撥入政府一般收入內的罰款的命令；
- (f) 譴責該律師、律師行或法團的命令；
- (g) 禁止該律師、律師行或法團在命令所指明的一段期間內僱用該研訊所關乎的僱員的命令。

(2C) 律師紀律審裁組在完成對某法律執業實體的僱員的行為操守的研訊及調查後，並在信納該僱員的行為操守足以構成譴責該僱員的理由的情況下，可作出譴責該僱員的命令。



Item	Provision affected	Amendment
		<p>(2D) On the application of the Council, a Solicitors Disciplinary Tribunal can also make an order cancelling the approval of a solicitor corporation under section 7C or cancelling the registration of a foreign lawyer corporation if the Tribunal—</p> <p>(a) makes an order under this section in respect of a solicitor or foreign lawyer who is an officer of the corporation; or</p> <p>(b) makes an order under this section in respect of an employee of the corporation (including a trainee solicitor of a solicitor corporation) and the conduct of the employee that gave rise to the order was instigated or connived at by a solicitor or foreign lawyer who is an officer of the corporation, or was carried on with the knowledge of the solicitor or foreign lawyer after the solicitor or foreign lawyer became aware of it.</p> <p>(2E) In subsection (2D), a reference to an officer of a solicitor corporation or a foreign lawyer corporation includes a reference to a person who was a director of the corporation at the time of the conduct that gave rise to the order referred to in paragraph (a) or (b) of that subsection.</p> <p>(2F) A Solicitors Disciplinary Tribunal can order any party to proceedings before it to pay the whole or a part of—</p> <p>(a) the costs of or incidental to the proceedings; and</p> <p>(b) the costs of any previous inquiry or investigation.</p> <p>(2G) Any such costs are to be taxed by a Master of the Supreme Court on a full indemnity basis.”</p>
18.	Section 10(3)	Repeal “subsection (2) shall be filed with the secretary of the Society and shall” and substitute “this section must be filed with the Secretary General of the Society and”.
19.	Section 10(4)	Repeal and substitute— “(4) An order under subsection (2) or (2B) may be made in respect of a person who is no longer a legal practice entity, a member or employee of such an entity, or a trainee solicitor, if the person was, at the relevant time, a legal practice entity, member or employee of such an entity, or a trainee solicitor.”
20.	Section 12(2A)	Repeal and substitute—

項	受影響的條文	修訂
		<p>(2D) 如有以下情況，律師紀律審裁組亦可應理事會的申請，作出命令以取消某律師法團根據第7C條獲得的批准，或取消某外國律師法團的註冊——</p> <p>(a) 審裁組根據本條就該法團高級人員的律師或外國律師作出命令；或</p> <p>(b) 審裁組根據本條就該法團的僱員（包括律師法團的實習律師）作出命令，而該僱員引致該項命令的行為操守是受屬該法團高級人員的律師或外國律師唆使或縱容的，或是在該律師或外國律師得悉該項行為操守後在其知情下持續的。</p> <p>(2E) 在第(2D)款中，對律師法團或外國律師法團的高級人員的提述，包括對在引起該款(a)或(b)段所提述的命令的行為操守出現時是該法團的董事的人的提述。</p> <p>(2F) 律師紀律審裁組可命令在其席前的法律程序的任何一方支付以下事務費的全部或部分——</p> <p>(a) 該等法律程序的事務費及附帶事務費；及</p> <p>(b) 任何過往的研訊或調查的事務費。</p> <p>(2G) 任何此等事務費須由最高法院聆案官按完全彌償基準評定。”。</p>
18.	第10(3)條	廢除“第(2)款作出的命令均須送交律師會秘書存檔，並須”而代以“本條作出的命令均必須送交律師會秘書長存檔，並”。
19.	第10(4)條	廢除而代以—— “(4) 如某人在有關時間是法律執業實體、法律執業實體的成員或僱員或實習律師而現時已不是法律執業實體、法律執業實體的成員或僱員或實習律師，則亦可就該人作出根據第(2)或(2B)款作出的命令。”。
20.	第12(2A)條	廢除而代以——

Item Provision affected

Amendment

項

受影響的條文

修訂

“(2A) A signed copy of an order of a Tribunal relating to a solicitor corporation must be filed with the Secretary General of the Society who must, on receipt, record particulars of the order in the roll of solicitor corporations. If the order directs the cancellation or suspension of the approval of the solicitor corporation and the order so provides, the Secretary General must publish the order in the Gazette within 14 days after receiving the copy of it.

(2B) A signed copy of an order of a Tribunal relating to a foreign lawyer, foreign firm or foreign lawyer corporation must be filed with the Secretary General of the Society who must, on receipt, record particulars of the order in the appropriate register. If the order directs the cancellation or suspension of the registration of the foreign lawyer, foreign firm or foreign lawyer corporation and the order so provides, the Secretary General must publish the order in the Gazette within 14 days after receiving the copy of it.”

21. Section 17

Renumber it as section 17(1) and add—

“(2) The Council is entitled, without payment of a fee, to inspect the file of proceedings relating to the winding up by the Court of a solicitor corporation under the Companies Ordinance (Cap. 32) and to be supplied with office copies of the proceedings on payment of the prescribed charges (if any) for those copies.”

22. Section 18(2) and (3)

Repeal and substitute—

“(2) If a solicitor's practising certificate is suspended, the Court may make an order appointing a solicitor, a firm of solicitors or a solicitor corporation or the Official Receiver, or any two of or more of them, to manage the business of the solicitor while the certificate is suspended.

(3) If the approval of a solicitor corporation under section 7C is suspended, the Court may make an order appointing a solicitor, firm of solicitors, solicitor corporation or the Official Receiver, or any two or more of them, to manage the business of the corporation while its approval is suspended.

(4) If the registration of a foreign lawyer, foreign firm or foreign lawyer corporation is suspended, the Court may make an order appointing a solicitor, firm of solicitors, solicitor corporation, foreign lawyer, foreign firm or foreign lawyer corporation or the Official Receiver, or any two or more of them, to manage the business of the foreign lawyer, foreign firm or foreign lawyer corporation while the registration is suspended.”

“(2A) 審裁組就一個律師法團而作出的命令的具簽署文本，須送交律師會秘書長存檔，而律師會秘書長須在接獲後將該命令的詳情記錄在律師法團登記冊上。如該命令指示取消或暫時吊銷對該律師法團的批准，並如此規定，則秘書長須在接獲該命令的文本後 14 天內，在憲報刊登該命令。

(2B) 審裁組就一名外國律師、一間外國律師行或一個外國律師法團而作出的命令的具簽署文本，須送交律師會秘書長存檔，而律師會秘書長須在接獲後將該命令的詳情記錄在適當的登記冊上。如該命令指示取消或暫時吊銷該外國律師、外國律師行或外國律師法團的註冊，並如此規定，則秘書長須在接獲該命令的文本後 14 天內，在憲報刊登該命令。”

21. 第 17 條

將第 17 條重編為第 17(1) 條，並加入——

“(2) 理事會有權無須繳付任何費用而查閱與法院根據《公司條例》(第 32 章) 將某律師法團清盤有關的法律程序的檔案，並有權在繳付提供正式文本的訂明收費 (如有的話) 後，獲提供該法律程序的正式文本。”

22. 第 18(2) 及(3) 條

廢除而代以——

“(2) 如某律師的執業證書被暫時吊銷，則法院可作出命令，委任一名律師、一間律師行或一個律師法團，或破產管理署署長，或上述其中任何兩者或多於兩者，在該律師被暫時吊銷證書的期間內，管理該律師的業務。

(3) 如某律師法團根據第 7C 條獲得的批准被暫時吊銷，則法院可作出命令，委任一名律師、一間律師行或一個律師法團，或破產管理署署長，或上述其中的任何兩者或多於兩者，在該法團被暫時吊銷批准的期間內，管理該法團的業務。

(4) 如某外國律師、外國律師行或外國律師法團的註冊被暫時吊銷，則法院可作出命令，委任一名律師、一間律師行、一個律師法團、一名外國律師、一間外國律師行或一個外國律師法團，或破產管理署署長，或上述其中任何兩者或多於兩者，在該外國律師、外國律師行或外國律師法團被暫時吊銷註冊的期間內，管理該外國律師、外國律師行或外國律師法團的業務。”

Item	Provision affected	Amendment	項	受影響的條文	修訂
23.	Section 19	Add after subsection (1)— “(1AA) On reasonable cause being shown to the Council by a solicitor corporation, the Council may cancel the approval of the corporation under section 7C. The Secretary General of the Society must record the cancellation in the roll of solicitor corporations as soon as practicable after becoming aware of the cancellation.”	23.	第 19 條	在第 (1) 款之後加入—— “(1AA) 在任何律師法團向理事會提出合理因由後，理事會可取消該法團根據第 7C 條獲得的批准。律師會秘書長在得悉該項取消後，須在切實可行的範圍內盡快將該項取消記錄於律師法團登記冊上。”
24.	Section 19(1A)	Repeal “or foreign firm” where it twice occurs and substitute “, foreign firm or foreign lawyer corporation”.	24.	第 19(1A) 條	廢除兩度出現的“或外國律師行”而代以“、外國律師行或外國律師法團”。
25.	Section 19(3)	Repeal and substitute— “(3) When an application is made to the Council to take action under subsection (1), (1AA) or (1A), the Council may advertise the application, or require the legal practice entity concerned to advertise the application, in a specified publication, together with a notice inviting any person who wishes to object to the application to lodge an objection in writing with the Council before a specified date.”	25.	第 19(3) 條	廢除而代以—— “(3) 當有人向理事會提出申請根據第 (1)、(1AA) 或 (1A) 款採取行動，理事會可將該項申請並連同一份邀請任何欲反對該項申請的人在指明的日期之前向理事會提出書面反對的通知書刊登在指明的刊物上，或要求有關的法律執業實體將該項申請連同該通知書刊登在指明的刊物上，以告周知。”
26.	Section 23	Add “or to a solicitor corporation” after “another solicitor”.	26.	第 23 條	在“另一名律師”之後加入“或一個律師法團”。
27.	Section 23	Renumber it as section 23(1) and add— “(2) If a solicitor corporation who employs a trainee solicitor, or acts as principal of a trainee solicitor, is or will be dissolved before the trainee solicitor contract expires, the Court may, on the application of any person, order the trainee solicitor contract to be terminated or to be assigned to a solicitor or another solicitor corporation on such terms and in such manner as the Court thinks fit.”	27.	第 23 條	將第 23 條重編為第 23(1) 條，並加入—— “(2) 如僱用一名實習律師或以實習律師的身分行事的律師法團在或將會在實習律師合約屆滿前解散，則法院在接獲任何人的申請後，可命令實習律師合約須予終止，或以該法院認為適當的條款及方式轉讓予一名律師或另一個律師法團。”
28.	Section 26A	Add— “(2A) Subject to subsection (2B), the powers conferred by Schedule 2 are also exercisable in relation to a solicitor corporation or foreign lawyer corporation where— (a) the Council has reason to suspect dishonesty on the part of the corporation, or any officer, employee or trainee solicitor of the corporation; or (b) the Council is satisfied that the corporation has failed to comply with rules made by virtue of section 73(1)(b) or 73A; or (c) a person is appointed as a receiver or manager of property of the corporation; or	28.	第 26A 條	加入—— “(2A) 除第 (2B) 款另有規定外，凡有以下情況，附表 2 所賦予的權力亦可就律師法團或外國律師法團而行使—— (a) 理事會有理由懷疑該法團或該法團的任何高級人員、僱員或實習律師不誠實；或 (b) 理事會信納該法團沒有遵從憑藉第 73(1)(b) 或 73A 條訂立的規則；或 (c) 某人已獲委任為該法團的財產接管人或財產管理人；或

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		<p>(d) the corporation is ordered to be wound up by the Court or a resolution is passed for the voluntary winding up of the corporation (other than a resolution passed only for reconstructing the corporation or amalgamating it with another body corporate) or, if the corporation is an oversea company, is the subject of liquidation proceedings in the country where it is incorporated; or</p> <p>(e) a solicitor or foreign lawyer who is a member of the corporation has been committed to prison in any civil or criminal proceedings and the Council is satisfied that there is no other solicitor or foreign lawyer who is a member of the corporation able to conduct the corporation's practice; or</p> <p>(f) the Council is satisfied that a solicitor or foreign lawyer who is a member of the corporation is incapacitated by illness or accident to such an extent as to be unable to conduct the practice and there is no other solicitor or foreign lawyer able to conduct the corporation's practice; or</p> <p>(g) the powers conferred by section 98 of the Mental Health Act 1983 (1983 c. 20 U.K.) (Emergency powers) or section 99 of that Act (Appointment of a receiver) have been exercised in respect of a solicitor or foreign lawyer who is a member of the corporation and the Council is satisfied that there is no other solicitor or foreign lawyer who is a member of the corporation able to conduct the corporation's practice; or</p> <p>(h) the name of a solicitor who is a member of the corporation has been removed from or struck off the roll of solicitors or such a solicitor has been suspended from practice, or the registration of a foreign lawyer who is a member of the corporation is cancelled or suspended, and the Council is satisfied that there is no other solicitor or foreign lawyer who is a</p>

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		<p>(d) 該法團被法院命令清盤或已通過該法團自動清盤的決議 (並非只為重整該法團或與另一法人團體合併而通過的決議), 如該法團是海外公司, 則該法團在其成立所在的國家是清盤法律程序的標的; 或</p> <p>(e) 一名屬該法團成員的律師或外國律師在任何民事或刑事法律程序中已交付監獄, 而理事會信納並無其他屬該法團成員的律師或外國律師能夠處理該法團的執業業務; 或</p> <p>(f) 理事會信納一名屬該法團成員的律師或外國律師因疾病或意外而喪失工作能力, 其程度致使他不能夠處理執業業務, 而亦無其他律師或外國律師能夠處理該法團的執業業務; 或</p> <p>(g) 藉《1983 年精神健康法令》(1983 c. 20 U.K.) 第 98 條 (緊急情況權力) 或該法令第 99 條 (接管人的委任) 所賦予的權力, 已就一名屬該法團成員的律師或外國律師而行使, 而理事會信納並無其他屬該法團成員的律師或外國律師能夠處理該法團的執業業務; 或</p> <p>(h) 一名屬該法團成員的律師的姓名已從律師登記冊上刪除或剔除, 或該名律師已被暫時吊銷執業資格, 或一名屬該法團成員的外國律師的註冊被取消或暫時吊銷, 而理事會信</p>

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		<p>member of the corporation able to conduct the corporation's practice; or</p> <p>(i) the Council is satisfied that a solicitor or foreign lawyer who is a member of the corporation has abandoned the corporation's practice and that there is no other solicitor or foreign lawyer who is a member of the corporation able to conduct that practice; or</p> <p>(j) the Council is satisfied that a solicitor or foreign lawyer who is a member of the corporation is incapacitated by age to such an extent as to be unable to conduct the corporation's practice and that there is no other solicitor or foreign lawyer who is a member of the corporation able to conduct that practice; or</p> <p>(k) the Council is satisfied that the corporation has carried on its practice when no member of the corporation was holding a solicitor's practising certificate or, as the case may be, was registered as a foreign lawyer; or</p> <p>(l) the Council is satisfied that the corporation has failed to comply with any condition that is a condition of its approval as a solicitor corporation or of its registration as a foreign lawyer corporation; or</p> <p>(m) the Council is satisfied that the corporation has failed to make satisfactory arrangements with respect to the corporation's clients within 21 days after the date of closure of the corporation's practice.</p> <p>(2B) The powers conferred by Schedule 2 are exercisable under subsection (2A)(b), (j), (k) and (l) only if the Council has given the solicitor corporation or foreign lawyer corporation notice in writing that the Council is satisfied that the corporation has failed to comply with rules specified in the notice and also (at the same or any later time) notice that those powers are accordingly exercisable in respect of the corporation."</p>			<p>納並無其他屬該法團成員的律師或外國律師能夠處理該法團的執業業務；或</p> <p>(i) 理事會信納一名屬該法團成員的律師或外國律師已放棄該法團的執業業務，而並無其他屬該法團成員的律師或外國律師能夠處理該執業業務；或</p> <p>(j) 理事會信納，一名屬該法團成員的律師或外國律師因年齡而喪失工作能力其程度致使他不能夠處理該法團的執業業務，而並無其他屬該法團成員的律師或外國律師能夠處理該執業業務；或</p> <p>(k) 理事會信納該法團在並無任何成員持有律師執業證書或(視屬何情況而定)已註冊為外國律師的情況下進行其執業業務；或</p> <p>(l) 理事會信納該法團沒有遵從任何獲批准為律師法團或註冊為外國律師法團的條件；或</p> <p>(m) 理事會信納該法團在結束執業業務的日期後 21 天內仍沒有就該法團的當事人作出滿意的安排。</p> <p>(2B) 除非理事會已經以書面通知有關律師法團或外國律師法團，表示理事會信納該法團沒有遵從該通知書內所指明的規則，並且(在同一時間或任何較後時間)通知該法團，附表 2 所賦予的權力可據此就該法團而行使，否則，附表 2 所賦予的權力不得根據第 (2A)(b)、(j)、(k) 及 (l) 款而行使。"</p>
29.	Section 26A(3)	<p>(a) Repeal "solicitor or foreign lawyer" and substitute "legal practice entity".</p> <p>(b) Repeal "his" and substitute "the entity's".</p>	29.	第 26A(3) 條	<p>(a) 廢除兩度出現的“律師或外國律師”而代以“法律執業實體”。</p> <p>(b) 廢除“他”而代以“該實體”。</p>

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30. Section 26C

- (a) Repeal paragraph (a) and substitute—  
“(a) a complaint is made to the Council that there has been undue delay on the part of a legal practice entity in connection with any matter in respect of which the entity was instructed on behalf of a client or in connection with any controlled trust; and”.
- (b) In paragraphs (b), (c) and (d), repeal “solicitor or foreign lawyer” and substitute “entity”.

31. Section 26D(2)

- Repeal and substitute—  
“(2) Where the powers conferred by Schedule 2 are exercisable in relation to a solicitor corporation or a foreign lawyer corporation, they continue to be exercisable after—  
(a) the approval of the solicitor corporation; or  
(b) the registration of the foreign lawyer corporation,  
has been cancelled or suspended.  
(3) In relation to a deceased person who was, immediately before death, a legal practice entity, the references to such an entity in sections 1(1), 2(2) and (3), 3, 7(1) and (5) of Schedule 2 include references to the entity's personal representatives.”.

32. Section 27(1)(c)

Add “or as a member or salaried employee of a solicitor corporation” at the end.

33. Section 31(1)(e)

- Repeal and substitute—  
“(e) if the barrister is enrolled as a solicitor or is a member of a solicitor corporation; or  
(f) if the barrister is a sole practitioner, or a member or salaried employee of a firm of solicitors, practising in the United Kingdom or is a member or salaried employee of a body corporate recognized under section 9 of the Administration of Justice Act 1985 (1985 c. 61 U.K.).”.

34. Heading to Part IIIA

Repeal “AND FOREIGN FIRMS” and substitute “, FOREIGN FIRMS AND FOREIGN LAWYER CORPORATIONS”.

35. Section 39C(1)

- Repeal and substitute—  
“(1) The Society may register as an Association a Hong Kong firm or solicitor corporation and one or more foreign firms or foreign lawyer corporations if the Hong Kong firm or solicitor corporation and the foreign firms or foreign lawyer corporations have, or intend to have within 2 months after registration, an agreement under which fees, profits, premises, management or employees are shared between

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30. 第 26C 條

- (a) 廢除 (a) 段而代以——  
“(a) 理事會接獲申訴表示一個法律執業實體在與該實體獲延聘代表一名當事人有關的事宜上或在任何受控制信託上，有不當延誤；及”。
- (b) 在 (b)、(c) 及 (d) 段中，廢除 “律師或外國律師” 而代以 “實體”。
- (c) 在 (d) 段中，刪去兩度出現的 “他” 而代以 “該實體”。

31. 第 26D(2) 條

- 廢除而代以——  
“(2) 凡附表 2 所賦予的權力可就某律師法團或外國律師法團而行使，則該等權力在——  
(a) 該律師法團獲得的批准；或  
(b) 該外國律師法團的註冊，  
被取消或暫時吊銷後，仍繼續可予行使。  
(3) 就一名在緊接去世前是法律執業實體的死者而言，附表 2 第 1(1)、2(2) 及 (3)、3、7(1) 及 (5) 條對該實體的提述，包括對該實體的遺產代理人的提述。”。

32. 第 27(1)(c) 條

在 “受薪僱員” 之後加入 “或在一個律師法團作為成員或受薪僱員”。

33. 第 31(1)(e) 條

- 廢除而代以——  
“(e) 如他已登記為律師或是律師法團的成員；或  
(f) 如他是在聯合王國執業的獨營執業者，或是在聯合王國執業的律師行的成員或受薪僱員，或是根據《1985 年司法法令》(1985 c. 61 U.K.) 第 9 條獲認許的法人團體的成員或受薪僱員。”。

34. 第 IIIA 部的標題

廢除 “及外國律師行” 而代以 “、外國律師行及外國律師法團”。

35. 第 39C(1) 條

- 廢除而代以——  
“(1) 如某香港律師行或律師法團及某間或多於一間外國律師行或某個或多於一個外國律師法團在註冊後 2 個月內訂立或擬訂立一項協議，而根據該項協議，該香港律師行或律師法團及該等外國律師行或外國律師法團會分擔或分享費用、

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		the Hong Kong firm or solicitor corporation and the foreign firms or foreign lawyer corporations.”.
36.	Section 39C(2)	Repeal “and the foreign firm or firms” and substitute “or solicitor corporation and the foreign firms or foreign lawyer corporations”.
37.	Section 39D	Add “or a solicitor corporation” after “Hong Kong firm”.
38.	Section 45	Repeal subsection (1) and substitute— “(1) An unqualified person must not— (a) act as a solicitor or solicitor corporation in a court of civil or criminal jurisdiction; or (b) as such, issue any writ or process, or commence, prosecute or defend any action, suit or other proceedings in such a court (either in the person's own name or in the name of any other person); or (c) act as a solicitor or solicitor corporation in any cause or matter (whether civil or criminal to be heard or determined by a court, magistrate or justice.”.
39.	Section 46	Repeal and substitute— “46. Offence to pretend to be solicitor or solicitor corporation (1) An unqualified person who— (a) pretends to be a solicitor or solicitor corporation; or (b) uses a name, title or description that implies that the person is qualified, or recognized by law as qualified, to act as a solicitor or solicitor corporation, commits an offence. (2) A person who— (a) pretends to be an employee of a barrister or legal practice entity; or (b) uses a title or description that implies that the person is such an employee when the person is not; or (c) purports to act with the authority of a barrister or legal practice entity when no such authority has been conferred, commits an offence.

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		利潤、處所、管理或僱員，則律師會可將該間香港律師行或律師法團及該等外國律師行或外國律師法團註冊為一個聯營組織。”。
36.	第 39C(2) 條	廢除“及該一間或多於一間外國律師行”而代以“或律師法團及該等外國律師行或外國律師法團”。
37.	第 39D 條	在“香港律師行”之後加入“或律師法團”。
38.	第 45 條	廢除第 (1) 款而代以—— “(1) 不合資格人士不得—— (a) 在任何具有民事或刑事司法管轄權的法院以律師或律師法團身分行事；或 (b) 以律師或律師法團身分 (不論以他個人的名義或以任何其他人的名義) 發出任何令狀或法律程序文件，或在該等法庭展開或進行任何訴訟、起訴或其他法律程序或在該等訴訟、起訴或法律程序中抗辯；或 (c) 在任何法庭、裁判官或太平紳士席前聆訊或裁定的任何民事或刑事訟案或事宜中以律師或律師法團身分行事。”。
39.	第 46 條	廢除而代以—— “46. 冒充律師或律師法團屬罪行 (1) 任何不合資格人士如—— (a) 冒充律師或律師法團；或 (b) 使用任何名字、名銜或說明以顯示他是合資格或獲法律認為合資格以律師或律師法團身分行事， 即屬犯罪。 (2) 任何人如—— (a) 冒充大律師或法律執業實體的僱員；或 (b) 並非上述僱員而使用顯示他是上述僱員的名銜或說明；或 (c) 沒有獲得一名大律師或一個法律執業實體授權而宣稱是在獲有關授權下行事， 即屬犯罪。

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(3) A person who is convicted of an offence against this section is liable to a fine of \$500,000.”.

40. Section 48(1)

Add “solicitor corporation,” after “solicitor,”.

41. Section 50

Repeal and substitute—

“50. Costs not recoverable for work done by unqualified person

A person cannot in any legal proceedings recover costs for anything done by an unqualified person who acts as a solicitor or solicitor corporation.”.

42. Section 50A

Repeal “(2)(b)”.

43. Section 50B(1)

Repeal “he is a solicitor, barrister or foreign lawyer” and substitute “the person is a barrister or a legal practice entity”.

44. Section 50B(2)(a)

Add “or foreign lawyer corporation” after “foreign firm”.

45. Section 50B(2)(b)

Add “or solicitor corporation” after “Hong Kong firm”.

46. Section 50B(3)

Repeal “foreign firm or a Hong Kong firm” and substitute “Hong Kong firm, solicitor corporation, foreign firm or foreign lawyer corporation”.

47. Section 50B

Add—

“(4A) A foreign lawyer corporation must not have as a member, or employ, a barrister or solicitor who holds a practising certificate.”.

48. Section 50B(5)

Repeal and substitute—

“(5) If—

(a) a Hong Kong firm or a solicitor corporation and a foreign firm or foreign lawyer corporation have entered into an agreement of the kind referred to in section 39C(1); and

(b) the entity established by the agreement is not registered as an Association,

any partner or sole practitioner of the firm, or officer of the corporation, who knowingly participated in the making of the agreement commits an offence.”.

49. Section 51

Repeal and substitute—

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(3) 任何人被裁定犯本條所訂的罪行，可處罰款 \$500,000。”。

40. 第 48(1) 條

在“律師、”之後加入“律師法團、”。

41. 第 50 條

廢除而代以——

“50. 不能就不合資格人士的工作追討訟費

任何人不能在任何法律程序中就不合資格人士以律師或律師法團身分行事而作出的任何事情追討訟費。”。

42. 第 50A 條

廢除“(2)(b)”。

43. 第 50B(1) 條

廢除“他是律師、大律師或外國律師”而代以“該人是法律執業實體”。

44. 第 50B(2)(a) 條

在“外國律師行”之後加入“或外國律師法團”。

45. 第 50B(2)(b) 條

在“香港律師行”之後加入“或律師法團”。

46. 第 50B(3) 條

廢除“一間外國律師行亦非在一間香港律師行”而代以“香港律師行、律師法團、外國律師行或外國律師法團”。

47. 第 50B 條

加入——

“(4A) 任何外國律師法團不得有任何持有執業證書的大律師或律師為成員，亦不得僱用持有執業證書的大律師或律師。”。

48. 第 50B(5) 條

廢除而代以——

“(5) 如——

(a) 某一香港律師行或律師法團與某一外國律師行或外國律師法團已訂立第 39C(1)條所述種類的協議；而

(b) 該協議所設立的實體並沒有註冊為聯營組織，

則該律師行的任何合夥人或獨營執業者，或該法團的任何高級人員如明知而參與訂立該協議，均屬犯罪。”。

49. 第 51 條

廢除而代以——



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**"51. Certain bodies corporate prohibited from practising as solicitors**

(1) A body corporate that is not a solicitor corporation commits an offence if the body, or any officer or employee of the body, does anything that implies that the body is qualified, or is recognized by law as being qualified, to act as a solicitor or to conduct business of a solicitor.

(2) An officer or employee of a body corporate who knowingly participates in anything referred to in subsection (1) in relation to the body also commits an offence.

(3) A person who is convicted of an offence against this section is liable to a fine of \$500,000."

50. New

Add—

**"51A. Offences by officers of bodies corporate**

(1) If an offence against this Ordinance committed by a body corporate is proved to have been committed with the consent or connivance or to be attributable to any neglect on the part of, an officer of the body or by a person who was purporting to act as such an officer, the officer or person also commits the offence and is liable to be proceeded against and punished accordingly.

(2) An officer or person may be proceeded against and punished under subsection (1) whether or not the body corporate has been proceeded against and punished for the offence.

(3) This section is subject to any other provision of this Ordinance that expressly provides for offences by bodies corporate."

51. Section 53

In the heading, delete "solicitor or foreign lawyer" and substitute "legal practice entity".

52. Section 53(1)

Repeal "which may be given for such period and subject to such conditions as the Society thinks fit".

53. Section 53

Add after subsection (1)—

"(1AA) A solicitor corporation must not, without the written permission of the Society, have as a member of the corporation, or employ, a person—

- (a) who is disqualified from practising as a solicitor because the person's name has been struck off the roll of solicitors, or the person is suspended from practising as a solicitor; or

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**"51. 某些法人團體禁止以律師身分執業**

(1) 任何並非律師法團的法人團體或其任何高級人員或僱員如作出任何事情以默示該法人團體是合資格或獲法律承認為合資格以律師身分分行的或經營律師業務的，即屬犯罪。

(2) 法人團體的任何高級人員或僱員如明知而參與與法團有關的第(1)款所述與法團有關的任何事情，亦屬犯罪。

(3) 任何人如被裁定犯違反本條所訂的罪行，可處罰款 \$500,000。"

50. 新條文

加入——

**"51A. 法人團體高級人員所犯的罪行**

(1) 如證明某法人團體是在該團體的高級人員或宣稱以此身分行事的人的同意或縱容下犯本條例所訂的罪行，或該團體犯該罪行可歸因於該高級人員或該人的疏忽，則該高級人員或該人亦屬犯罪，可被起訴，並可據此受罰。

(2) 不論該法人團體有否就該罪行而被起訴和受罰，該高級人員或該人仍可根據第(1)款被起訴和受罰。

(3) 本條受本條例中就法人團體所犯罪行而明文規定的任何其他條文規限。"

51. 第 53 條

在標題中，刪去“律師或外國律師”而代以“法律執業實體”。

52. 第 53(1) 條

廢除“(該許可的給予可受律師會認為適當的時段及條件規限)”。

53. 第 53 條

在第(1)款之後加入——

"(1AA) 任何律師法團未經律師會的書面許可，不得有以下人士為該法團的成員或僱用以下人士——

- (a) 因姓名已從律師登記冊上剔除，或執業為律師的資格正被暫時吊銷，而喪失執業為律師的資格的人；或

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- (b) whose practising certificate has been determined by the operation of section 6(7) because a receiving order in bankruptcy is in force in respect of the person; or
- (c) who was a foreign lawyer whose registration was cancelled otherwise than under section 19 and who has not since been re-registered, or who is a foreign lawyer whose registration is suspended.”
54. Section 53(1A) Repeal “which may be given for such period and subject to such conditions as the Society thinks fit”.
55. Section 53 Add—  
“(1B) A foreign lawyer corporation must not, without the written permission of the Society, have as a member of the corporation, or employ, a person—  
(a) who was a foreign lawyer whose registration was cancelled otherwise than under section 19 and who has not since been re-registered; or  
(b) who is a foreign lawyer whose registration is suspended.”
56. Section 53(2) Repeal and substitute—  
“(2) A solicitor or foreign lawyer must not, in connection with the legal practice of the solicitor or lawyer, employ or remunerate a person who is, to the knowledge of the solicitor or lawyer, the subject of an order made by a Solicitors Disciplinary Tribunal whereby the employment of the person by a legal practice entity is prohibited while the order is in force.”
57. Section 53 Add—  
“(2A) A solicitor corporation or foreign lawyer corporation must not, without the written permission of the Society, employ or remunerate a person who is, to the knowledge of any officer of the corporation, the subject of an order made by a Solicitors Disciplinary Tribunal whereby the employment of the person by a legal practice entity is prohibited while the order is in force.”
58. Section 53(3) Repeal and substitute—  
“(3) A solicitor or foreign lawyer must not, without the written permission of the Society, employ or remunerate a person who, to the knowledge of the solicitor or lawyer, has been convicted of a criminal offence involving dishonesty.”

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- (b) 因一項破產接管令正對其生效而令其執業證書在第 6(7) 條的實施下被終止的人；或
- (c) 已被取消註冊(但非根據第 19 條)而又並未重新註冊的外國律師，或正被暫時吊銷註冊的外國律師。”
54. 第 53(1A) 條 廢除“(該許可的給予可受律師會認為適當的時段及條件規限)”。
55. 第 53 條 加入——  
“(1B) 任何外國律師法團未經律師會的書面許可，不得有以下人士為該法團的成員或僱用以下人士——  
(a) 已被取消註冊(但非根據第 19 條)而又並未重新註冊的外國律師；或  
(b) 正被暫時吊銷註冊的外國律師。”
56. 第 53(2) 條 廢除而代以——  
“(2) 凡律師紀律審裁組作出命令禁止任何法律執業實體僱用某人，則在該命令生效期間，知道該人是該命令的標的之任何律師或外國律師，均不得就其法律執業業務而僱用或支付酬金予該人。”
57. 第 53 條 加入——  
“(2A) 凡律師紀律審裁組作出命令禁止任何法律執業實體僱用某人，則在該命令生效期間，任何律師法團或外國律師法團的高級人員如知道該人是該命令的標的，則該律師法團或外國律師法團未經律師會的書面許可，均不得僱用或支付酬金予該人。”
58. 第 53(3) 條 廢除而代以——  
“(3) 任何律師或外國律師未經律師會的書面許可，均不得僱用或支付酬金予他知道是被裁定犯涉及不誠實的刑事罪行的人。”

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59.	Section 53	<p>Add—</p> <p>“(3A) A solicitor corporation or foreign lawyer corporation must not, without the written permission of the Society, employ or remunerate a person who, to the knowledge of any officer of the corporation, has been convicted of a criminal offence involving dishonesty.</p> <p>(3B) The written permission of the Society under this section may be given for such period and subject to such conditions as the Society thinks fit.”</p>
60.	Section 53(4)	Repeal “solicitor or foreign lawyer” and substitute “person”.
61.	Section 53	<p>Add after subsection (5)—</p> <p>“(5AA) A Solicitors Disciplinary Tribunal can—</p> <p>(a) cancel the approval of a solicitor corporation under section 7C; or</p> <p>(b) suspend that approval for such period as the Tribunal thinks fit,</p> <p>if the corporation contravenes this section, or any condition subject to which the Society has granted permission under this section.”</p>
62.	Section 53(5A)	<p>Repeal and substitute—</p> <p>“(5A) A Solicitors Disciplinary Tribunal can—</p> <p>(a) cancel the registration of a foreign lawyer or a foreign lawyer corporation under Part IIIA; or</p> <p>(b) suspend that registration for such period as the Tribunal thinks fit,</p> <p>if the lawyer or corporation contravenes this section, or any condition subject to which the Society has granted permission under this section.”</p>
63.	Section 53(6)	<p>Repeal and substitute—</p> <p>“(6) A person who, while subject to an order made under section 10(2)(h) or (2B)(g) prohibiting the person from being employed by a legal practice entity, seeks or accepts employment by, or remuneration from, such an entity without having previously informed the entity of the order commits an offence and is liable on conviction to a fine of \$500,000.”</p>
64.	Section 54(1) and (1A)	<p>Repeal and substitute—</p> <p>“(1) A person who, while disqualified from practising as a solicitor by virtue of having been struck off the roll of solicitors or having been suspended from practising as a solicitor, seeks or accepts employment by a solicitor or solicitor</p>

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59.	第 53 條	<p>加入——</p> <p>“(3A) 任何律師法團或外國律師法團未經律師會的書面許可，均不得僱用或支付酬金予該法團的任何高級人員知道是被裁定犯涉及不誠實的刑事罪行的人。</p> <p>(3B) 律師會根據本條給予的書面許可，可在律師會認為適當的期間內有效，並可受其認為適當的條件規限。”</p>
60.	第 53(4) 條	廢除“律師或外國律師”而代以“人”。
61.	第 53 條	<p>在第 (5) 款之後加入——</p> <p>“(5AA) 如任何律師法團違反本條，或違反對律師會根據本條給予的許可加以規限的條件，則律師紀律審裁組可——</p> <p>(a) 取消該律師法團根據第 7C 條獲得的批准；或</p> <p>(b) 在審裁組認為適當的一段期間暫時吊銷該批准。”</p>
62.	第 53(5A) 條	<p>廢除而代以——</p> <p>“(5A) 如任何外國律師或外國律師法團違反本條，或違反對律師會根據本條給予的許可加以規限的條件，則律師紀律審裁組可——</p> <p>(a) 取消該外國律師或外國律師法團根據第 IIIA 部所作出的註冊；或</p> <p>(b) 在審裁組認為適當的一段期間暫時吊銷該項註冊。”</p>
63.	第 53(6) 條	<p>廢除而代以——</p> <p>“(6) 任何人在受一項根據第 10(2)(h) 或 (2B)(g) 條作出的禁止他受僱於法律執業實體的命令所規限時，向法律執業實體求職或接受法律執業實體的僱用，或向該實體求取酬金或接受該實體的酬金，而沒有事前將該命令通知該實體，即屬犯罪，一經定罪，可處罰款 \$500,000。”</p>
64.	第 54(1) 及 (1A) 條	<p>廢除而代以——</p> <p>“(1) 任何人在因他已從律師登記冊上被剔除姓名或他執業為律師的資格正被暫時吊銷而喪失執業為律師的資格時，就某名律師或某個律師法團的執業業務而向該律師或法團求職或接受該律師或法團的僱用，而沒有事前將他已喪失資格一</p>

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		corporation in connection with the practice of the solicitor or corporation without having previously informed the solicitor or corporation of the disqualification commits an offence and is liable on conviction to a fine of \$500,000. (1A) A person whose registration as a foreign lawyer has been cancelled (otherwise than under section 19) or is suspended commits an offence and is liable on conviction to a fine of \$500,000 if the person seeks or accepts employment by a legal practice entity without having previously informed the entity of the cancellation or suspension of registration.”			事通知該律師或法團，即屬犯罪，一經定罪，可處罰款 \$500,000。 (1A) 任何已被取消註冊(但非根據第19條)為外國律師的人，或已被暫時吊銷外國律師註冊的人，如向一個法律執業實體求職或接受該實體的僱用，而沒有事前將他的註冊已被取消或暫時吊銷一事通知該實體，即屬犯罪，一經定罪，可處罰款 \$500,000。”
65.	Section 56(1)	Repeal and substitute— “(1) A solicitor or solicitor corporation and a client of the solicitor or corporation may enter into an agreement as to the amount of remuneration payable to the solicitor or corporation for the performance by the solicitor or corporation of any non-contentious business. Such an agreement may be entered into either before, during or after the transaction of the business. (1A) Subsection (1) has effect irrespective of whether or not rules under section 74 are in force with respect to agreements for the remuneration of solicitors and solicitor corporations for non-contentious business.”	65.	第 56(1) 條	廢除而代以—— “(1) 律師或律師法團與其當事人可就該律師或法團處理任何非爭訟事務而須付予該律師或法團的酬金款額訂立協議。該項協議可在處理該事務的過程中或在處理該事務之前或之後訂立。 (1A) 不論根據第 74 條訂立關於律師及律師法團處理非爭訟事務的酬金協議的規則是否有效，第 (1) 款仍具效力。”
66.	Section 56(2)	Add “or solicitor corporation” after “solicitor” where it twice occurs.	66.	第 56(2) 條	在兩度出現的“律師”之後加入“或律師法團”。
67.	Section 56(4)	Add “or solicitor corporation” after “solicitor”.	67.	第 56(4) 條	在兩度出現的“律師”之後加入“或律師法團”。
68.	Section 57	Repeal and substitute— “57. Remuneration of solicitor or solicitor corporation who is mortgagee (1) If a mortgage is made to a solicitor or solicitor corporation, either alone or jointly with another person, the solicitor or firm of which the solicitor is a member, or the corporation, is entitled to recover from the mortgagor for all work done in connection with the mortgage the usual costs that would have been payable for the work if the mortgage had been made to a person who was not a solicitor or solicitor corporation and the person had employed the solicitor or firm, or the corporation, to do that work. (2) For the purposes of subsection (1), work done in connection with a mortgage includes business transacted and acts done in— (a) negotiating the mortgage loan; and (b) deducing and investigating the title to the mortgaged property; and	68.	第 57 條	廢除而代以—— “57. 身為承按人的律師或律師法團的酬金 (1) 如有按揭向某律師或律師法團作出(不論該律師或法團是單獨或是聯同其他人的)，則該律師或該律師屬其中一名成員的律師行，或該法團，有權就與該按揭有關的一切已進行的工作，向按揭人追討如該按揭是向一名並非律師或律師法團的人作出的而該人僱用該律師或律師行或法團進行該等工作時本須繳付的慣常事務費。 (2) 就第(1)款而言，與按揭有關的工作包括在進行以下事宜時所處理的事務和作出的作為—— (a) 洽商按揭貸款；及 (b) 追溯與調查按揭財產的所有權；及

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- (c) preparing and completing the mortgage.
- (3) If—
- (a) a mortgage is made, or is transferred or transmitted, to a solicitor or solicitor corporation, either alone or jointly with another person; and
- (b) the solicitor or the firm of which the solicitor is a member, or the corporation, transacts any business or does any act in relation to the mortgage or the mortgaged property,

the solicitor or firm, or the corporation, is entitled to recover from the person for whom the work was done, and to charge against the security created by the mortgage, the usual costs that would have been payable if the mortgage had been made to and had remained vested in a person who was not a solicitor or solicitor corporation and that person had employed the solicitor or firm, or the corporation, to do that work.

(4) In this section—  
“mortgage” includes a charge on property for securing money or money's worth and the security created by the mortgage.”

69. Section 58

Repeal and substitute—

**“58. Power to make agreement for remuneration for contentious business**

(1) A solicitor or solicitor corporation may enter into an agreement in writing with a client as to the remuneration that is to be payable for any contentious business undertaken or to be undertaken by the solicitor or corporation for the client.

(2) Such an agreement may provide for the solicitor or corporation to be remunerated—

- (a) by a fixed sum, by salary or other method of payment; and
- (b) at a greater or smaller rate than that at which the solicitor or corporation would have otherwise been remunerated.”

70. Section 59(1)(a)

- (a) Repeal “the solicitor” and substitute “the client's solicitor or solicitor corporation”.
- (b) Add “or solicitor corporation” after “his solicitor”.

Add “or solicitor corporation” after “the solicitor”.

Add “or solicitor corporation” after “solicitor”.

Repeal the proviso.

71. Section 59(1)(b) and (2)

72. Section 60(3), (4) and (6)

73. Section 61(1)

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- (c) 擬備與完成按揭。
- (3) 如——
- (a) 有按揭已向某律師或律師法團作出，或已轉讓或轉予某律師或律師法團（不論該律師或法團是單獨或是聯同其他人的）；而
- (b) 該律師或該律師屬其中一名成員的律師行或該法團就該按揭或該按揭所涉財產處理任何事務或作出任何作為，

而以上工作是為某人而進行的，則該律師或律師行或律師法團有權向該人追討以及從該按揭所設定的保證支取，如該按揭是向一名並非律師或律師法團的人作出並保持歸屬該人，而該人僱用該律師或律師行或法團進行該等工作時本須繳付的慣常事務費。

(4) 在本條中——  
“按揭”(mortgage) 包括作為金錢或金錢的等值的償還保證的任何財產上的押記，並包括該按揭所設定的保證。”

69. 第 58 條

廢除而代以——

**“58. 為爭訟事務的酬金  
訂立協議的權力**

(1) 律師或律師法團可就該律師或法團為其當事人承辦或將會承辦的任何爭訟事務，與該當事人以書面訂立關於須支付的酬金的協議。

(2) 上述協議可規定該律師或法團可獲支付——

- (a) 一筆定額款項的酬金，或以薪金或其他方式支付的酬金；及
- (b) 高於或低於若非有協議則該律師或法團本會獲支付的酬金。”

70. 第 59(1)(a) 條

(a) 廢除“該律師”而代以“該當事人的律師或律師法團”。

(b) 在“他的律師”之後加入“或律師法團”。

71. 第 59(1)(b) 及 (2) 條

在“律師”之後加入“或律師法團”。

72. 第 60(3)、(4) 及 (6) 條

在“律師”之後加入“或律師法團”。

73. 第 61(1) 條

廢除但書。

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74. Section 61(2)

Repeal and substitute—

“(2) If, after some business has been done under an agreement made in accordance with section 58 but before the solicitor or solicitor corporation has finished it, the client of the solicitor or corporation terminates the engagement of the solicitor or corporation and engages another solicitor or solicitor corporation to finish the business, any party to the agreement, or any representative of any such party, may apply to the court for an order under subsection (2A).”

(2A) On the hearing of an application under subsection (2), the court has the same jurisdiction as to enforcing the agreement so far as it has been performed, or setting it aside, as it would have had if the solicitor or solicitor corporation whose engagement was terminated had continued to be engaged by the client.

(2B) In exercising its jurisdiction under this section, the court may order the amount due for business performed under the agreement to be ascertained by taxation even though it is of the opinion that the relevant agreement is fair and reasonable.

(2C) Where the court has made an order under subsection (2B), the following provisions apply—

- (a) the taxing officer is, so far as possible, required to have regard to the terms of the agreement in ascertaining the amount due in respect of business done under it;
- (b) payment of the amount that the taxing officer finds to be due is enforceable in the same manner as if the agreement had been fully performed;
- (c) if subsection (2) applies, the taxing officer must have regard to the circumstances in which the change of solicitor or solicitor corporation took place and may allow the full amount of the remuneration agreed to be paid to the solicitor or corporation under the agreement only if that officer is of the opinion that there has been no default, negligence, improper delay or other misconduct on the part of the solicitor or corporation.

(2D) A client of a solicitor or solicitor corporation is entitled, with respect to the performance of any contentious business for the client, to replace the solicitor or corporation with another solicitor or solicitor corporation despite

74. 第 61(2) 條

廢除而代以——

“(2) 如在律師或律師法團根據一項按照第 58 條訂立的協議作出某些事務後但在其未完成該事務之前，其當事人終止聘用該律師或法團而聘用另一律師或律師法團以完成該事務，則該協議的任何一方或其任何代表，可根據第 (2A) 款向法院申請一項命令。

(2A) 法院在聆訊根據第 (2) 款提出的申請時，在強制執行該協議已履行的範圍方面或在擱置該協議方面，具有假若該被終止聘用的律師或律師法團繼續受聘於該當事人時該法院本應具有的相同的司法管轄權。

(2B) 法院在行使根據本條所具有的司法管轄權時，縱使認為有關協議為公正合理，亦可命令就根據該協議已予執行的事務而應支付的款額須藉評定而予以確定。

(2C) 凡法院已根據第 (2B) 款作出命令，則下列條文適用——

- (a) 訟費評定人員在確定根據該協議所作出的事務而應支付的款額時，須盡可能顧及該協議的條款；
- (b) 由訟費評定人員裁斷為應支付款額，可強制執行繳付，其方式猶如該協議已經完全履行一樣；
- (c) 如第 (2) 款適用，則訟費評定人員必須顧及是在何情況下更換律師或律師法團的，而訟費評定人員只有在認為該律師或法團並無失實行為、疏忽、不當延誤或其他失當行為的情況下，才可准許將已協定的酬金的全部款額根據該協議付予該律師或法團。

(2D) 即使按照第 58 條訂立的協議內有任何相反規定，律師或律師法團的當事人仍有權就

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		anything to the contrary in an agreement made in accordance with section 58.”			任何爭訟事務的執行而以另一律師或律師法團替換其律師或律師法團。”。
75.	Section 62	Repeal and substitute— “62. Agreement excludes taxation of costs Subject to sections 59, 60 and 61, the costs of a solicitor or solicitor corporation in relation to an agreement made in accordance with section 58 are not subject to taxation and are not subject to section 66 with respect to the signing and delivery of a bill of costs.”	75.	第 62 條	廢除而代以—— “62. 協議免除訟費或事務費的評定 除第 59、60 及 61 條另有規定外，按照第 58 條訂立的協議所定的律師或律師法團的訟費或事務費不須予以評定，亦不受第 66 條有關簽署及交付訟費單的條文的規限。”。
76.	Section 63	Repeal “in respect of contentious business done by him is not the subject of such an agreement as is mentioned in section 58, the solicitor’s bill of costs may at the option of the solicitor” and substitute “or solicitor corporation in respect of contentious business done by the solicitor or corporation is not the subject of an agreement of the kind referred to in section 58, the bill of costs of the solicitor or corporation may, at the option of the solicitor or corporation,”	76.	第 63 條	廢除“就他所作出的爭訟事務的酬金並非第 58 條所述協議之標的，該律師的訟費單可按他的選擇”而代以“或律師法團就該律師或法團所作出的爭訟事務的酬金並非第 58 條所述種類協議之標的，該律師或法團的訟費單可按該律師或法團的選擇”。
77.	Section 63, paragraph (a) of the proviso	Add “or corporation” after “solicitor”.	77.	第 63 條，但書的 (a) 段	在“律師”之後加入“或律師法團”。
78.	Section 63, paragraph (c) of the proviso	Repeal “shall furnish” and substitute “or corporation must provide”.	78.	第 63 條，但書的 (c) 段	廢除“須”而代以“或律師法團必須”。
79.	Section 64(1)(a)	(a) Add “or solicitor corporation” after “solicitor”. (b) Repeal “his client” and substitute “a client of the solicitor or corporation”.	79.	第 64(1)(a) 條	(a) 在“律師”之後加入“或律師法團”。 (b) 廢除“他的”而代以“其”。
80.	Section 64(1)(b)	Add “or solicitor corporation” after “solicitor”.	80.	第 64(1)(b) 條	在“律師”之後加入“或律師法團”。
81.	Section 64(2)	Repeal and substitute— “(2) A solicitor or solicitor corporation may take security from a client for the costs of the solicitor or corporation.”	81.	第 64(2) 條	廢除而代以—— “(2) 律師或律師法團可為其訟費或事務費而向當事人獲取保證。”。
82.	Section 64(3)(a)	Repeal and substitute— “(a) allow interest at such rate and from such time as the taxing officer thinks just on money disbursed by the solicitor or solicitor corporation for the client, and on money of the client improperly held by the solicitor or corporation; and”	82.	第 64(3)(a) 條	廢除而代以—— “(a) 就律師或律師法團為其當事人已墊付的金錢，並就律師或律師法團不適當地持有的當事人的金錢，准以該訟費評定人員認為公正的利率和由他認為公正的時間起計算利息；及”。
83.	Section 65(1)	Add “or solicitor corporation” after “solicitor”.	83.	第 65(1) 條	在兩度出現的“律師”之後加入“或律師法團”。
84.	Section 65(2)	Repeal.	84.	第 65(2) 條	廢除。
85.	Section 66(1)	(a) Add “or solicitor corporation” after “a solicitor”. (b) Add “or corporation” after “the solicitor” where it twice occurs. (c) Repeal “his costs” and substitute “the costs of the solicitor or corporation”.	85.	第 66(1) 條	(a) 在“一名律師”之後加入“或一個律師法團”。 (b) 在兩度出現的“該律師”之後加入“或法團”。

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86.	Section 66(2)	(a) In paragraph (a), add "or a member of the solicitor corporation" after "by the solicitor". (b) Add "or corporation" after "for the solicitor".
87.	Section 67(1)	Repeal "solicitor's bill" and substitute "bill of costs of a solicitor or solicitor corporation".
88.	Section 67(2) and (3)	Add "or solicitor corporation" after "the solicitor".
89.	Section 67(5)	Repeal.
90.	New	Add—  "67A. Costs of taxation (1) The solicitor or solicitor corporation concerned is liable to pay the costs of a taxation under section 67 if one-sixth or more of the bill of the solicitor or corporation is taxed off, but otherwise the party who is charged with the bill is liable to pay the costs of the taxation. (2) However, the solicitor or solicitor corporation concerned is liable to pay the costs of the taxation if, in the case of a bill of costs for non-contentious business— (a) not less than half of the amount of the bill before taxation consists of costs for which no scale charge is prescribed by rules of the Costs Committee; and (b) one-fifth or more of the bill is taxed off. (3) Subsections (1) and (2) do not apply if— (a) the order for taxation was made on the application of the solicitor or solicitor corporation and the party charged does not attend the taxation; or (b) the order for taxation or an order under subsection (4) otherwise provides. (4) The taxation officer may, if of the opinion that there are special circumstances relating to the bill of costs of a solicitor or solicitor corporation or to the taxation of the bill, refer the matter to the Court. The Court may make in respect of the reference such order as at it considers appropriate as to the payment of the costs of the taxation."
91.	Section 68(1).	Add "or solicitor corporation" after "the solicitor".
92.	Section 68(2)	(a) Add "or solicitor corporation" after "a solicitor". (b) Add "or corporation" after "the solicitor" where it twice occurs.

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86.	第 66(2) 條	(a) 在 (a) 段中，在“由律師”之後加入“或律師法團的一名成員”。 (b) 在“則該律師”之後加入“或法團”。
87.	第 67(1) 條	廢除“帳單的一方在獲交付律師”而代以“或律師法團的訟費或事務費帳單的一方在獲交付該”。
88.	第 67(2) 及 (3) 條	在“律師”之後加入“或律師法團”。
89.	第 67(5) 條	廢除。
90.	新條文	加入——  “67A. 評定費 (1) 如有關的律師或律師法團的帳單款額的六分之一或多於六分之一經評定而被削減，則該律師或法團須支付第 67 條所指的評定費，否則須由須支付帳單的一方支付該等評定費。 (2) 但如屬非爭訟事務的事務費帳單，有關的律師或律師法團在以下情況下須支付評定費—— (a) 在評定之前該帳單款額有不少於一半是由並無經事務費委員會規則訂明的按表收費的事務費組成的；而 (b) 該帳單款額的五分之一或多於五分之一經評定而被削減。 (3) 如有以下情況，則第 (1) 及 (2) 款並不適用—— (a) 評定的命令是應律師或律師法團提出的申請而作出的，且須支付的一方並無出席該次評定；或 (b) 評定的命令或根據第 (4) 款作出的命令另有規定。 (4) 訟費評定人員如認為有關乎律師或律師法團的訟費或事務費帳單或關乎該帳單的評定的特殊情況，則可將該事轉介法院，而法院則可就該轉介事項作出其認為適當的關於評定費的支付的命令。”。
91.	第 68(1) 條	在“律師”之後加入“或律師法團”。
92.	第 68(2) 條	(a) 在“支付律師”之後加入“或律師法團的”。 (b) 在第 2 至 5 次出現的“律師”之後加入“或律師法團”。



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		(c) In paragraph (a) of the proviso, repeal "solicitor's bill" and substitute "bill of costs of a solicitor or solicitor corporation".			(c) 在但書的 (a) 段中，在“律師”之後加入“或律師法團的訟費單”。
93.	Section 68(3)	Repeal and substitute— “(3) An applicant under this section who pays money to a solicitor or solicitor corporation has the same right to be paid the money by the trustee, executor or administrator chargeable with the bill of costs as the solicitor or corporation had.”.	93.	第 68(3) 條	廢除而代以—— “(3) 本條所指的申請人如向律師或律師法團支付款項，則該申請人一如該律師或法團般具有從須支付訟費或事務費帳單的受託人、遺囑執行人或遺產管理人處獲支付該款項的同樣權利。”。
94.	Section 68(4)(b)	Add “or solicitor corporation” after “the solicitor”.	94.	第 68(4)(b) 條	在“律師”之後加入“或律師法團”。
95.	Section 69(1)	Repeal and substitute— “(1) An application for an order for the taxation of a bill of costs of a solicitor or solicitor corporation, or for the delivery of such a bill, and for the delivering up of documents by a solicitor or solicitor corporation is to be made in the matter of the solicitor or corporation.”.	95.	第 69(1) 條	廢除而代以—— “(1) 為取得評定律師或律師法團訟費單的命令而提出的申請，或為取得由律師或律師法團交付該訟費單和交出文件的命令而提出的申請，均須在與該律師或法團有關的事宜中作出。”。
96.	Section 70	(a) Add “or solicitor corporation” after “a solicitor”. (b) Add “or corporation” after “the solicitor” where it twice occurs.	96.	第 70 條	(a) 在“有律師”之後加入“或律師法團”。 (b) 在兩度出現的“該律師”之後加入“或法團”。 (c) 廢除兩度出現的“他”而代以“該律師或法團”。
97.	Section 73(1)(a)	(a) Repeal subparagraph (i) and substitute— “(i) the professional practice, conduct and discipline of legal practice entities, members and employees of such entities, and trainee solicitors; and”. (b) Repeal subparagraph (iii) and substitute— “(iii) harmonizing the relationship of solicitors and solicitor corporations among themselves; and (iv) subject to the approval of the Bar Council, governing the relationship of barristers with solicitors and solicitor corporations;”.	97.	第 73(1)(a) 條	(a) 廢除第 (i) 節而代以—— “(i) 法律執業實體、該等實體的成員及僱員，以及實習律師的專業執業、行為操守及紀律；及”。 (b) 廢除第 (iii) 節而代以—— “(iii) 協調律師與律師法團相互之間的關係；及 (iv) 管限大律師與律師及律師法團之間的關係，但有關規則須經執委會批准；”。
98.	Section 73(1)(b)	Add “and solicitor corporations” after “solicitors” wherever it occurs.	98.	第 73(1)(b) 條	在所有“律師”之後加入“及律師法團”。
99.	Section 73(1)(b)(vi)	Repeal and substitute— “(vi) the nature and extent of the examination by the accountant of the accounting records of a solicitor or the solicitor's firm, or a solicitor corporation, and of any other relevant documents with a view to the preparation of a report to be delivered to the Council in accordance with section 8;”.	99.	第 73(1)(b)(vi) 條	廢除而代以—— “(vi) 會計師為了擬備一份須按照第 8 條的規定交付予理事會的報告而須對律師或其律師行的或律師法團的帳目紀錄及任何其他有關文件予以審核的性質及範圍；”。
100.	Section 73(1)(cb)	Repeal “solicitor, foreign lawyer, trainee solicitor or employee” and substitute “legal practice entity, a member or employee of such an entity, or a trainee solicitor”.	100.	第 73(1)(cb) 條	廢除“律師、外國律師、實習律師或僱員”而代以“法律執業實體、該等實體的成員或僱員，或實習律師”。

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101.	Section 73(1)(dc)	Repeal "Hong Kong firms, foreign firms and".	101.	第 73(1)(dc) 條	廢除 "香港律師行、外國律師行及"。
102.	Section 73	<p>Add—</p> <p>"(1A) Without limiting the powers conferred on the Council by subsection (1) to make rules with respect to solicitor corporations, the Council may make rules—</p> <p>(a) for the management and control of solicitor corporations by solicitors; and</p> <p>(b) specifying the conditions subject to which companies may be approved as solicitor corporations (including conditions as to the names that those companies may use); and</p> <p>(c) specifying the conditions that companies so approved must comply with as a condition of their continued approval as solicitor corporations (including the payment of specified fees for that approval); and</p> <p>(d) for regulating the conduct of the affairs of solicitor corporations.</p> <p>(1B) Without limiting the powers conferred on the Council by subsection (1) to make rules with respect to foreign lawyer corporations, the Council may make rules—</p> <p>(a) for the registration of foreign lawyer corporations, including applications for registration, qualifications for registration and fees for registration and applications for registrations; and</p> <p>(b) for the management and control of foreign lawyer corporations by solicitors; and</p> <p>(c) specifying the conditions subject to which companies or oversea companies may be registered as foreign lawyer corporations (including conditions as to the names that those companies may use); and</p> <p>(d) specifying the conditions that companies so registered must comply with as a condition of their continued registration as foreign lawyer corporations; and</p> <p>(e) for regulating the conduct of the affairs of foreign lawyer corporations."</p>	102.	第 73 條	<p>加入——</p> <p>"(1A) 在不限制第 (1) 款賦予理事會就律師法團訂立規則的權力的原則下，理事會可就以下事宜訂立規則——</p> <p>(a) 律師對律師法團的管理和控制；及</p> <p>(b) 指明公司可獲批准為律師法團所須遵從的條件 (包括關於該等公司可使用的名稱的條件)；及</p> <p>(c) 指明如此獲得批准的公司必須遵從的條件 (包括為該項認可而繳付指明的費用)，以作為其持續獲得批准為律師法團的條件；及</p> <p>(d) 規管律師法團事務的進行。</p> <p>(1B) 在不限制第 (1) 款賦予理事會就外國律師法團訂立規則的權力的原則下，理事會可就以下事宜訂立規則——</p> <p>(a) 外國律師法團的註冊，包括註冊申請、註冊資格以及註冊及註冊申請的費用；及</p> <p>(b) 律師對外國律師法團的管理和控制；及</p> <p>(c) 指明公司或海外公司可註冊為外國律師法團所須遵從的條件 (包括關於該等公司可使用的名稱的條件)；及</p> <p>(d) 指明經如此註冊的公司必須遵從的條件，以作為其持續獲註冊為外國律師法團的條件；及</p> <p>(e) 規管外國律師法團事務的進行。"</p>
103.	Section 73A(1)(a) and (b)	<p>Repeal and substitute—</p> <p>"(a) by a person who is a solicitor or solicitor corporation, or a former solicitor or former solicitor corporation, in connection with the</p>	103.	第 73A(1)(a) 及 (b) 條	<p>廢除而代以——</p> <p>"(a) 由屬律師或律師法團的人或屬前律師或前律師法團的人就他的法律執業業務而招致的，</p>

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		person's legal practice, or with any trust of which the person is or formerly was a trustee; or			或就該人現在是受託人或以前曾是受託人的任何信託而招致的；或
		(b) by an employee of such a person in connection with the person's legal practice, or with any trust of which that person or employee is or formerly was a trustee."			(b) 由上述的人的僱員就該人的法律執業業務而招致的，或就該人或該僱員是受託人或以前曾是受託人的任何信託而招致的。"
104.	Section 73A(3)(b) and (c)	Repeal "or any class of solicitors" and substitute "or solicitor corporations, or any class of solicitors or solicitor corporations."	104.	第 73A(3)(b) 及 (c) 條	廢除 "任何類別的律師" 而代以 "律師法團或任何類別的律師或律師法團，"。
105.	Section 73A(3)(f)	Repeal and substitute— "(f) may specify circumstances in which, where a solicitor or solicitor corporation (not being a solicitor or solicitor corporation who is exempt from complying with the rules) for whom indemnity is provided has failed to comply with the rules, the Society or insurers may bring legal proceedings against the solicitor or corporation for money paid as an indemnity as a result of the failure to comply;"	105.	第 73A(3)(f) 條	廢除而代以—— "(f) 可指明如獲提供彌償的律師或律師法團 (但非獲豁免遵從規則的律師或律師法團) 不遵從規則時，律師會或保險人可就因該項不遵從事件而以彌償方式支付的款項向該律師或法團提起法律程序的情況；"
106.	Section 73A(4)	Add "or solicitor corporation" after "solicitor" where it twice occurs.	106.	第 73A(4) 條	在首兩次出現的 "律師" 之後加入 "或律師法團"。
107.	Section 74(3)(c)	Add "or solicitor corporation" after "solicitor".	107.	第 74(3)(c) 條	在兩度出現的 "律師" 之後加入 "或律師法團"。
108.	Section 74(3)(d)	Repeal and substitute— "(d) authorizing and regulating the taking by a solicitor or a solicitor corporation from a client of security for any money or thing that may become due to the solicitor or corporation under any such rule; and"	108.	第 74(3)(d) 條	廢除而代以—— "(d) 授權與規管律師或律師法團，就根據上述任何規則可成為應支付予該律師或法團的款項或物件，而向當事人獲取保證；及"
109.	Section 74(5)	Add "and solicitor corporations" after "solicitors".	109.	第 74(5) 條	在 "律師" 之後加入 "及律師法團"。
110.	Schedule 2, section 1(1)	Repeal "solicitor or his firm or the foreign lawyer or his firm" and substitute "legal practice entity concerned".	110.	附表 2，第 1(1) 條	廢除 "律師或該律師的律師行，或其他代外國律師或該外國律師的律師行" 而代以 "有關法律執業實體"。
111.	Schedule 2, section 2(2)(a)	Repeal and substitute— "(a) where the powers conferred by this section are exercisable because of section 26A of this Ordinance, to all sums of money held by or on behalf of the legal practice entity concerned either in connection with the entity's practice or with any trust of which the entity is or formerly was a trustee; and"	111.	附表 2，第 2(2)(a) 條	廢除而代以—— "(a) 凡本條所賦予的權力是因本條例第 26A 條而可予行使的，則本條適用於由或代有關法律執業實體而持有的所有款項，而該等款項是與該實體現在的執業業務有關，或與該實體現在是或曾經是受託人的任何信託有關的；及"
112.	Schedule 2, section 2(2)(c)	Repeal "solicitor or his firm or the foreign lawyer or his firm" and substitute "legal practice entity".	112.	附表 2，第 2(2)(c) 條	廢除 "律師或他的律師行，或由或代外國律師或他的律師行" 而代以 "法律執業實體"。
113.	Schedule 2, section 2(3)	Repeal "solicitor or his firm or the foreign lawyer or his firm" and substitute "legal practice entity".	113.	附表 2，第 2(3) 條	廢除 "律師或他的律師行，或向外國律師或他的律師行" 而代以 "法律執業實體"。

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(MISCELLANEOUS AMENDMENTS)

Item	Provision affected	Amendment
114.	Schedule 2, section 2(4)	Repeal "solicitor instructed by the Council) to that solicitor" and substitute "solicitor or solicitor corporation instructed by the Council) to that solicitor or corporation".
115.	Schedule 2, section 3	Repeal "solicitor or his firm or the foreign lawyer or his firm" and substitute "legal practice entity".
116.	Schedule 2, section 5	Repeal and substitute— "5. (1) The Council, or a person appointed by the Council for the purpose, may— (a) withdraw money held in any banking account kept in the name of the legal practice entity and any money held at the office of the entity on behalf of the entity's clients; and (b) establish one or more special account in the name of the Council or the person so appointed and pay the money into the account or accounts. (2) Subsection (1) is subject to any notice that may be served under section 2(3) and to any application that may be made under section 2(4). (3) The Council or person appointed may operate a special account established under this section in the same way as the legal practice entity concerned might have operated any of its banking accounts. (4) A banker is under no obligation to find out whether an account established with the banker under this section is being operated as provided by subsection (3)."
117.	Schedule 2, section 7(1)	Repeal "solicitor or his firm or the foreign lawyer or his firm" where it first occurs and substitute "legal practice entity".
118.	Schedule 2, section 7(1)(a)	Repeal "solicitor or his firm or the foreign lawyer or his firm" and substitute "entity".
119.	Schedule 2, section 7(1)(b)	Repeal "solicitor or his firm or the foreign lawyer or his firm" and substitute "entity".
120.	Schedule 2, section 7(5)	Repeal "solicitor or his firm or the foreign lawyer or his firm" and substitute "entity".
121.	Schedule 2, section 7(7)	Repeal "upon the solicitor or foreign lawyer" and substitute "on the legal practice entity".
122.	Schedule 2, section 8(1)	Repeal "solicitor or his firm or the foreign lawyer or his firm" and substitute "legal practice entity".
123.	Schedule 2, section 10	Repeal "shall be paid by the solicitor or foreign lawyer or his personal representatives and shall be recoverable from him or them" and substitute "are to be paid by the legal practice entity or, where the entity is a natural person who has died, by the entity's personal representatives and are recoverable from the entity or personal representatives".

項	受影響的條文	修訂
114.	附表2, 第2(4)條	廢除"律師姓名)該律師"而代以"律師的姓名或延聘的律師法團的名稱)該律師或法團"。
115.	附表2, 第3條	廢除"律師或他的律師行,或代外國律師或他的律師行"而代以"法律執業實體"。
116.	附表2, 第5條	廢除而代以—— "5. (1) 理事會或由理事會為此而委任的人,可—— (a) 提取以某法律執業實體的名義而存放於任何銀行帳戶的款項,及代該實體的當事人持有而存放於該實體的辦事處的任何款項;及 (b) 以理事會或如此獲委任的人的名義開立一個或多於一個專項帳戶,並將該等款項付入該帳戶或該等帳戶內。 (2) 第(1)款不得抵觸可根據第2(3)條送達的任何通知,亦不得抵觸可根據第2(4)條提出的任何申請。 (3) 理事會或獲委任的人可操作根據本條開立的專項帳戶,一如有關法律執業實體操作其任何銀行帳戶一樣。 (4) 銀行並無責任查明根據本條在該銀行開立的帳戶是否按第(3)款的規定而操作。"
117.	附表2, 第7(1)條	廢除首次出現的"律師或他的律師行,或向外國律師或他的律師行"而代以"法律執業實體"。
118.	附表2, 第7(1)(a)條	廢除"律師或他的律師行,或為該外國律師或他的律師行"而代以"實體"。
119.	附表2, 第7(1)(b)條	廢除"律師或他的律師行,或為該外國律師或他的律師行"而代以"實體"。
120.	附表2, 第7(5)條	廢除"有關律師或他的律師行,亦非有關外國律師或他的律師行"而代以"該實體"。
121.	附表2, 第7(7)條	廢除兩度出現的"律師或外國律師"而代以"法律執業實體"。
122.	附表2, 第8(1)條	廢除"律師或他的律師行,或以有關外國律師或他的律師行"而代以"法律執業實體"。
123.	附表2, 第10條	廢除"律師或外國律師或他的遺產代理人支付,並可作為欠理事會的債項而向他或他們追討"而代以"法律執業實體或(如該實體是已去世的自然人)其遺產代理人支付,並可作為欠理事會的債項而向該實體或該遺產代理人追討"。

Item	Provision affected	Amendment
124.	Schedule 2, section 11	Repeal.

## SCHEDULE 2

[ss. 1 &amp; 21]

## SAVINGS AND TRANSITIONAL PROVISIONS

## 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.

項	受影響的條文	修訂
124.	附表2, 第11條	廢除。

## 附表2

[第1及21條]

## 保留及過渡性條文

## 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席前待決的任何事宜。

## 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。

**LIST OF ABBREVIATIONS**

AJLS Panel	- Panel on Administration of Justice and Legal Services
APS	- Assistant Principal Solicitor
CFA	- Court of Final Appeal
draft SCR	- draft Solicitor Corporation Rules
EBC	- employed barrister's certificate
LRC	- Law Reform Commission of Hong Kong
Loose-leaf Ordinance	- the Laws (Loose-leaf Publication) Ordinance 1990 (51 of 1990)
the 1997 Ordinance	- the Legal Services Legislation (Miscellaneous Amendments) Ordinance 1997 (94 of 1997)