
L.N. 57 of 2014

Overseas Lawyers (Qualification for Admission) (Amendment) Rules 2014

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Overseas Lawyers (Qualification for Admission) (Amendment) Rules 2014

(Made by the Council of The Law Society of Hong Kong under section 73 of the Legal Practitioners Ordinance (Cap. 159) subject to the prior approval of the Chief Justice)

1. Commencement

These Rules come into operation on a day to be appointed by the President of The Law Society of Hong Kong by notice published in the Gazette.

2. Overseas Lawyers (Qualification for Admission) Rules amended

The Overseas Lawyers (Qualification for Admission) Rules (Cap. 159 sub. leg. Q) are amended as set out in sections 3 to 14.

3. Section 1 amended (interpretation)

Section 1—

Add in alphabetical order

“*applicant* (申請人) means a person who seeks admission as a solicitor under section 4(1)(b) of the Ordinance;”.

4. Section 2 amended (general qualifications for admission under section 4(1)(b) of the Ordinance)

Section 2—

Repeal paragraph (b)

Substitute

“(b) he is a person of good standing in each jurisdiction in which he has been admitted; and”.

5. Section 3 amended (Society to issue certificate if applicant appears to be qualified)

(1) Section 3(1)—

Repeal

everything before “must”

Substitute

“(1) An applicant”.

(2) Section 3(2), Chinese text—

Repeal

“必須”

Substitute

“須”.

(3) Section 3(4)—

Repeal

“A person”

Substitute

“An applicant”.

6. Section 4 amended (requirements for applicant from common law jurisdiction)

(1) Section 4(1)—

Repeal

“a person”

Substitute

“an applicant”.

(2) Section 4(1)—

Repeal

“practice of law”

Substitute

“practice of the law of any common law jurisdiction”.

- (3) Section 4(1)(a)(i), after “degree in law”—

Add

“obtained from a common law jurisdiction”.

- (4) Section 4(1)(b)—

Repeal

“set out”

Substitute

“specified”.

- (5) Section 4(1)—

Repeal

“(iii) and (iv)”

Substitute

“(iii), (iv) and (v)”.

- (6) Section 4(1), Chinese text—

Repeal

“必須” (wherever appearing)

Substitute

“須”.

- (7) Section 4(2)—

Repeal

everything after “determines,” and before “must have—”

Substitute

“an applicant whose jurisdiction of admission is a common law jurisdiction and who has had less than 5 years of experience in the practice of the law of any common law jurisdiction”.

- (8) Section 4(2)(a)—

Repeal

“subsection (1)(a) or (b); and”

Substitute

“subsection (1)(a) (except subparagraph (iii)) or subsection (1)(b);”.

- (9) Section 4(2)—

Repeal

everything after “following further requirements,”

Substitute

“that is to say—

- (i) the applicant has completed service as a trainee solicitor or articled clerk, or a course of practical legal training that the Society accepts in place of that service, as required for admission as a lawyer in the applicant’s jurisdiction of admission, the period of which is not less than 2 years;
- (ii) the applicant has had not less than 2 years of post-admission experience (other than as a pupil) in the practice of the law of the applicant’s jurisdiction of admission; or
- (iii) the applicant—
 - (A) has completed service as a trainee solicitor or articled clerk, or a course of practical legal training that the Society accepts in place of that service, as required for admission as a lawyer in the applicant’s jurisdiction of

admission, the period of which is less than 2 years; and

- (B) has had post-admission experience (other than as a pupil) in the practice of the law of the applicant's jurisdiction of admission, the period of which is less than 2 years,

and the aggregate of those periods is not less than 2 years; and”.

- (10) After section 4(2)(b)—

Add

“(c) passed the Examination in all the subjects referred to in section 7(1)(a).”.

- (11) After section 4(2)—

Add

“(3) For the purpose of determining the length of an applicant's experience in the practice of the law of any common law jurisdiction under subsections (1) and (2), if an applicant has, during the 10 years immediately preceding an application for taking the Examination or for exemption from taking the Examination—

- (a) completed service as a trainee solicitor, articled clerk or pupil, or a course of practical legal training that the Society accepts in place of that service, as required for admission as a lawyer in the applicant's jurisdiction of admission;
- (b) provided legal services to the public in the capacity of a lawyer practising the law of any common law jurisdiction; or
- (c) provided legal services otherwise than to the public, in the capacity of a lawyer practising the law of any common law jurisdiction, the nature of which is regarded by the Society as being similar to those under paragraph (b),

any service or training so completed or any services so provided are to be treated as experience in the practice of the law of any common law jurisdiction.

- (4) For the purpose of determining the length of an applicant’s post-admission experience in the practice of the law of the applicant’s jurisdiction of admission under subsection (2)(b)(ii) or (iii)(B), if the applicant has, during the 10 years immediately preceding an application for taking the Examination—

(a) provided legal services to the public in the capacity of a lawyer practising the law of the applicant’s jurisdiction of admission; or

(b) provided legal services otherwise than to the public, in the capacity of a lawyer practising the law of the applicant’s jurisdiction of admission, the nature of which is regarded by the Society as being similar to those under paragraph (a),

any services so provided are to be treated as post-admission experience in the practice of the law of the applicant’s jurisdiction of admission.”.

7. Section 5 amended (requirements for applicant from non-common law jurisdiction)

- (1) Section 5(1)—

Repeal

“a person”

Substitute

“an applicant”.

- (2) Section 5(1)—

Repeal

“the jurisdiction of his admission”

Substitute

“any non-common law jurisdiction”.

- (3) Section 5(2)—

Repeal

everything after “determines,” and before “must have”

Substitute

“an applicant whose jurisdiction of admission is a non-common law jurisdiction and who has had less than 5 years of experience in the practice of the law of any non-common law jurisdiction”.

- (4) Section 5(2)(a), after “Administrative Law”—

Add

“, or part-time study the nature of which is regarded by the Society as being similar to that full-time study”.

- (5) Section 5(2)—

Repeal paragraph (b)

Substitute

“(b) passed, or received a certificate of completion or certificate of satisfactory completion in—

- (i) the Postgraduate Certificate in Laws and any other examination or course that the Society may require (whether set by it or approved by it); or
- (ii) any other examination or course that the Society may require (whether set by it or approved by it); and”.

- (6) Section 5(2)(c)—

Repeal subparagraphs (i), (ii) and (iii)

Substitute

“(i) the applicant has completed service as a trainee solicitor or articled clerk, or a course of practical legal training that the Society accepts in place of that

service, as required for admission as a lawyer in the applicant's jurisdiction of admission, the period of which is not less than 3 years;

- (ii) the applicant has had not less than 3 years of post-admission experience (other than as a pupil) in the practice of the law of the applicant's jurisdiction of admission; or
- (iii) the applicant—
 - (A) has completed service as a trainee solicitor or articled clerk, or a course of practical legal training that the Society accepts in place of that service, as required for admission as a lawyer in the applicant's jurisdiction of admission, the period of which is less than 3 years; and
 - (B) has had post-admission experience (other than as a pupil) in the practice of the law of the applicant's jurisdiction of admission, the period of which is less than 3 years,

and the aggregate of those periods is not less than 3 years.”.

- (7) After section 5(2)—

Add

- “(3) For the purpose of determining the length of an applicant's experience in the practice of the law of any non-common law jurisdiction under subsections (1) and (2), if an applicant has, during the 10 years immediately preceding an application for taking the Examination or for exemption from taking the Examination—
 - (a) completed service as a trainee solicitor, articled clerk or pupil, or a course of practical legal training that the Society accepts in place of that service, as required for admission as a lawyer in the applicant's jurisdiction of admission;

- (b) provided legal services to the public in the capacity of a lawyer practising the law of any non-common law jurisdiction; or
- (c) provided legal services otherwise than to the public, in the capacity of a lawyer practising the law of any non-common law jurisdiction, the nature of which is regarded by the Society as being similar to those under paragraph (b),

any service or training so completed or any services so provided are to be treated as experience in the practice of the law of any non-common law jurisdiction.

- (4) For the purpose of determining the length of an applicant's post-admission experience in the practice of the law of the applicant's jurisdiction of admission under subsection (2)(c)(ii) or (iii)(B), if the applicant has, during the 10 years immediately preceding an application for taking the Examination—

- (a) provided legal services to the public in the capacity of a lawyer practising the law of the applicant's jurisdiction of admission; or
- (b) provided legal services otherwise than to the public, in the capacity of a lawyer practising the law of the applicant's jurisdiction of admission, the nature of which is regarded by the Society as being similar to those under paragraph (a),

any services so provided are to be treated as post-admission experience in the practice of the law of the applicant's jurisdiction of admission.”.

8. Section 6 substituted

Section 6—

Repeal the section

Substitute

“6. Matters to be taken into account for purposes of sections 4(1) and 5(1)

For the purposes of sections 4(1) and 5(1), the Society, in determining that an applicant is only required to pass the Examination in some of the subjects referred to in those sections—

- (a) must be satisfied that the applicant has had not less than 5 years of experience in the practice of law as required under section 4(1) or 5(1); and
- (b) must have regard to—
 - (i) the nature and extent of the applicant’s practical experience in the law of Hong Kong; and
 - (ii) any academic or other qualifications which the applicant may have.”.

9. Section 7 amended (the Examination)

- (1) Section 7(1)(a)(iv)—

Repeal

“Conduct; and”

Substitute

“Conduct;”.

- (2) After section 7(1)(a)(iv)—

Add

“(v) Hong Kong Constitutional Law; and”.

10. Section 8 substituted

Section 8—

Repeal the section

Substitute

“8. Applicants admitted in more than one jurisdiction

If an applicant is an overseas lawyer in respect of more than one jurisdiction, the applicant may, for the purposes of these Rules, elect any one of those jurisdictions as the applicant’s jurisdiction of admission.”.

11. Section 9 amended (appeal procedure)

Section 9—

Repeal

“A person”

Substitute

“An applicant”.

12. Section 10 amended (unsuitability of prospective solicitor)

(1) Section 10(1)—

Repeal

“any person”

Substitute

“an applicant”.

(2) Section 10(1)(c), Chinese text—

Repeal

“該人”

Substitute

“該申請人”.

(3) Section 10(1A)—

Repeal

“a person”

Substitute

“an applicant”.

- (4) Section 10(1A)(a)—

Repeal

“person”

Substitute

“applicant”.

- (5) Section 10(1A)(b), Chinese text—

Repeal

“該人”

Substitute

“該申請人”.

- (6) Section 10(1A)(c)—

Repeal

“that person”

Substitute

“the applicant”.

- (7) Section 10(1A)(d), Chinese text—

Repeal

“該人”

Substitute

“該申請人”.

- (8) Section 10(2)—

Repeal

“unadmitted person”

Substitute

“applicant”.

- (9) Section 10(3)—
Repeal
“unadmitted person”
Substitute
“applicant”.

13. Section 11 amended (forms and fees)

- (1) Section 11(1)—
Repeal
“A person”
Substitute
“An applicant”.

- (2) Section 11(2)—
Repeal
“A person”
Substitute
“An applicant”.

- (3) Section 11(3)(a)—
Repeal
“or the person giving notice”.

14. Section 12 repealed (transitional)

- Section 12—
Repeal the section.

Approved this 14th day of March 2014.

Geoffrey MA
Chief Justice

Made this 9th day of April 2014.

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Explanatory Note

These Rules amend the Overseas Lawyers (Qualification for Admission) Rules (Cap. 159 sub. leg. Q) (*the Rules*).

2. Section 1 of the Rules is amended by adding a definition of *applicant*.
3. Section 2(b) of the Rules is amended to require that, in order to be qualified for admission as a solicitor in Hong Kong, an overseas lawyer has to be a person of good standing in each jurisdiction in which the overseas lawyer has been admitted.
4. Sections 4 and 5 of the Rules are amended to make it clear that the experience of an overseas lawyer in the practice of law can be the relevant experience of more than one jurisdiction and specify the type of service or training that may be treated as experience in the practice of law.
5. As regards an applicant whose jurisdiction of admission is a common law jurisdiction and who has had not less than 5 years of experience in the practice of the law of any common law jurisdiction, section 4(1) of the Rules is amended to—
 - (a) make it clear that the bachelor's degree in law mentioned in section 4(1)(a)(i) of the Rules has to be obtained by the applicant from a common law jurisdiction; and
 - (b) provide that the applicant is required to pass the Overseas Lawyers Qualification Examination (*the Examination*) in the subject of Hong Kong Constitutional Law.
6. As regards an applicant whose jurisdiction of admission is a common law jurisdiction and who has had less than 5 years of experience in the practice of the law of any common law jurisdiction, section 4(2) of the Rules is amended to—

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- (a) recognize the completion of a course of practical legal training as meeting the requirement specified in section 4(2)(b)(i) of the Rules;
 - (b) make it clear that the experience as a pupil is not recognized as meeting the post-admission experience requirement specified in section 4(2)(b)(ii) of the Rules;
 - (c) make it clear that an applicant may combine—
 - (i) the whole period of service as a trainee solicitor or articulated clerk, or a course of practical legal training required for admission as a lawyer in the applicant's jurisdiction of admission; and
 - (ii) the post-admission experience,to satisfy the requirement under section 4(2)(b)(iii) of the Rules.
 7. Section 4(3) is added to the Rules to specify the type of service or training that may be treated as experience in the practice of the law of any common law jurisdiction for the purposes of section 4(1) and (2) of the Rules.
 8. Section 4(4) is added to the Rules to specify the type of services that may be treated as post-admission experience in the practice of the law of an applicant's jurisdiction of admission for the purposes of section 4(2)(b)(ii) or (iii)(B) of the Rules.
 9. As regards an applicant whose jurisdiction of admission is a non-common law jurisdiction and who has had less than 5 years of experience in the practice of the law of any non-common law jurisdiction, section 5(2) of the Rules is amended to—
 - (a) recognize the completion of part-time courses as meeting the requirement specified in section 5(2)(a) of the Rules;

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- (b) recognize the passing in examinations or courses other than the Postgraduate Certificate in Laws as meeting the requirement specified in section 5(2)(b) of the Rules;
 - (c) recognize the completion of a course of practical legal training as meeting the requirement specified in section 5(2)(c)(i) of the Rules;
 - (d) make it clear that the experience as a pupil is not recognized as meeting the post-admission experience requirement specified in section 5(2)(c)(ii) of the Rules;
 - (e) make it clear that an applicant may combine—
 - (i) the whole period of service as a trainee solicitor or articled clerk, or a course of practical legal training required for admission as a lawyer in the applicant's jurisdiction of admission; and
 - (ii) the post-admission experience,
to satisfy the requirement under section 5(2)(c)(iii) of the Rules.
10. Section 5(3) is added to the Rules to specify the type of service or training that may be treated as experience in the practice of the law of any non-common law jurisdiction for the purposes of section 5(1) and (2) of the Rules.
11. Section 5(4) is added to the Rules to specify the type of services that may be treated as post-admission experience in the practice of the law of an applicant's jurisdiction of admission for the purposes of section 5(2)(c)(ii) or (iii)(B) of the Rules.
12. Section 6 of the Rules is amended to provide that The Law Society of Hong Kong in determining that an applicant is only required to pass the Examination in some of the subjects referred to in section 4(1) or 5(1) of the Rules, must have regard to the nature and extent of the applicant's practical experience in the law of Hong Kong and any academic or other qualifications.

13. Section 7(1)(a) of the Rules is amended to include Hong Kong Constitutional Law as an additional subject in the Examination by written assessment for overseas lawyers.
14. Section 8 of the Rules is amended to enable an applicant who is entitled to practise the law of more than one jurisdiction to elect any one of those jurisdictions as the applicant's jurisdiction of admission.
15. Sections 3, 4, 5, 9, 10 and 11 of the Rules are amended, amongst other things, to replace "person" by "applicant" for achieving consistency in the use of terminologies in the Rules.
16. Section 12 of the Rules is repealed as the section is spent.