

**立法會**  
**Legislative Council**

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**Paper for the House Committee meeting on 13 November 2015**

**Report of the Subcommittee on  
Trainee Solicitors (Amendment) Rules 2015**

**Purpose**

This paper reports on the deliberations of the Subcommittee on the Trainee Solicitors (Amendment) Rules 2015 ("the Amendment Rules").

**Background**

2. Rule 14 of the Trainee Solicitors Rules (Cap. 159J) ("TS Rules") describes what evidence is sufficient to show whether a person has passed or failed an examination conducted by The Law Society of Hong Kong ("the Law Society"), the Law Society of England and Wales, the University of Hong Kong, the City University of Hong Kong and the City Polytechnic of Hong Kong. Rule 7(a) of the TS Rules stipulates that a person may only enter into a trainee solicitor contract if he has passed or received a certificate of completion or certificate of satisfactory completion as the case may be in the Postgraduate Certificate in Laws ("PCLL") and such other examination or course as the Law Society may require and set or approve.

3. Since the Statute Law (Miscellaneous Provisions) Ordinance (Ord. No. 10 of 2008) gazetted in May 2008 has already amended the definition of PCLL in section 2(1) of the Legal Practitioners Ordinance (Cap. 159) ("LPO") to include PCLL conducted by The Chinese University of Hong Kong ("CUHK"), the Law Society has proposed to amend rule 14 of the TS Rules to include the certificates of PCLL issued by CUHK.

**The Amendment Rules**

4. The Amendment Rules (L.N.174 of 2015) are made by the Council of the Law Society under section 73 of LPO with the prior approval of the Chief

Justice. The Amendments Rules amend rule 14 of the TS Rules to add "The Chinese University of Hong Kong" as one of the recognized institutions by which a certificate or notification issued in respect of the examination results shall be sufficient evidence of a person's satisfactory completion of PCLL.

5. Subject to amendments, if any, by the Legislative Council, the Amendment Rules will come into operation on a day to be appointed by the President of the Law Society by notice published in the Gazette.

### **The Subcommittee**

6. At the House Committee meeting held on 9 October 2015, Members agreed that a subcommittee should be formed to study the Amendment Rules. The membership list of the Subcommittee is in the **Appendix**. Under the chairmanship of Hon Dennis KWOK, the Subcommittee held one meeting to examine the Amendment Rules.

7. A motion was moved by Hon Dennis KWOK on behalf of the Subcommittee at the Council meeting of 4 November 2015 to extend the scrutiny period of the Amendment Rules from 11 November 2015 to 2 December 2015.

### **Deliberations of the Subcommittee**

8. Members raise no objection to the Amendment Rules. The views and concerns expressed by members are summarized in the ensuing paragraphs.

#### Timing for introducing the Amendment Rules

9. It is noted that the PCLL Programme of CUHK was founded in 2008 and there have been PCLL graduates since 2009. Members are concerned why rule 14 of the TS Rules has not been amended to include CUHK at an earlier date to tie in with the first batch of PCLL graduates in 2009.

10. According to the information provided by the Law Society, CUHK proposed to establish the PCLL Programme in 2006. In addition, CUHK, together with the Hong Kong Bar Association, the Judiciary, the Department of Justice ("DoJ") and the Law Society considered a proposal for an Integrated Training Programme ("ITP") under which PCLL would be delivered as a sandwich course over a period of three years. A PCLL student would attend certain parts of the course for a few months and undergo practical training for another few months on an alternate basis during the three-year period.

11. In September 2007, the Law Society issued the proposed amendments to the TS Rules, the Continuing Professional Development Rules (Cap. 159W) ("CPD Rules") and the Admission and Registration Rules (Cap. 159B) ("Admission Rules") for the establishment of ITP to the Chief Justice for approval. The amendments also included the proposed addition of "The Chinese University of Hong Kong" to rule 14 of the TS Rules, i.e. the proposed amendments under the Amendment Rules. It was anticipated that starting from the 2008-2009 academic year, in addition to the City University of Hong Kong and the University of Hong Kong, CUHK would become the third PCLL programme provider in Hong Kong. It would offer two different training models, namely, the traditional model and the ITP model. In March 2008, the Chief Justice granted approval in principle to the proposed amendments. The Law Society then issued Drafting Instructions to DoJ in April 2008. The exercise to amend the TS Rules (including the proposed amendment to rule 14), the CPD Rules and the Admission Rules for the introduction of ITP was only concluded in February 2012.

12. In March 2012, CUHK advised the Law Society that it no longer wished to pursue ITP. The Law Society therefore withdrew all legislative amendments relating to ITP (paragraph 11 above). It also commenced another exercise in 2013 to amend only rule 14 of the TS Rules, which resulted in the Amendment Rules.

13. The Subcommittee also notes that the Law Society is yet to determine the commencement date of the Amendment Rules.

#### Trainee solicitor contracts of the PCLL graduates of CUHK

14. Pending the amendment to rule 14 of the TS Rules to add CUHK, concern has been raised about the legal basis for the Law Society to register the trainee solicitor contracts of the PCLL graduates of CUHK since 2009 whereby they might gain admission as solicitors under section 4(1)(a) of LPO.

15. As explained by the Law Society, rule 14 of the TS Rules describes what evidence is sufficient to show whether a person has passed or failed an examination conducted by the Law Society, the Law Society of England and Wales, the University of Hong Kong, the City University of Hong Kong and the City Polytechnic of Hong Kong. The omission of the name of CUHK from rule 14 does not preclude the Law Society from admitting the certificates of completion of PCLL issued by CUHK, nor does the omission invalidate the evidence shown by the certificates of completion issued by CUHK.

16. According to rule 7(a)(i) of the TS Rules, a person may only enter into a trainee solicitor contract if he has passed or received a certificate of completion

in PCLL and such other examination or course as the Law Society may require and set or approve. Meanwhile, the definition of PCLL under section 2(1) of LPO already includes CUHK as one of the PCLL course providers. Hence, the Law Society is of the view that rule 7(a)(i) of the TS Rules together with the definition of PCLL in section 2(1) of LPO are sufficient to empower the Law Society to register the trainee solicitor contracts of persons who have completed their PCLL in CUHK. The production of evidence under rule 14 of the TS Rules is not a precedent condition for the Law Society to approve a person entering into a trainee solicitor contract under rule 7 of the TS Rules.

#### Provision of PCLL places

17. As the qualification of PCLL is required for admission to the legal profession, a member has expressed concern that due to the limited number of PCLL places currently offered by the law schools of the University of Hong Kong, CUHK and the City University of Hong Kong, many candidates, in particular mature students, experience difficulty in gaining admission to the PCLL programme. As a result, they may be deprived of the opportunity to enter the legal profession. He sees merits in the Law Society's proposal on a common entrance examination as an additional means of admitting individuals to practise as solicitors in Hong Kong. In this connection, the Subcommittee notes that issues related to legal education would be further considered by the Panel on Administration of Justice and Legal Services in due course.

#### **Recommendation**

18. The Subcommittee has no objection to the Amendment Rules and will not propose any amendment to it.

#### **Advice sought**

19. Members are invited to note the deliberations of the Subcommittee.

**Subcommittee on Trainee Solicitors (Amendment) Rules 2015**

**Membership list**

**Chairman** Hon Dennis KWOK

**Members** Hon Albert HO Chun-yan  
Hon Abraham SHEK Lai-him, GBS, JP  
Dr Hon Priscilla LEUNG Mei-fun, SBS, JP  
Hon Paul TSE Wai-chun, JP  
Hon CHUNG Kwok-pan

(Total : 6 members)

**Clerk** Miss Polly YEUNG

**Legal Adviser** Miss Winnie LO

**Date** 27 October 2015