



## LEGISLATIVE COUNCIL BRIEF

(Cap. 159 sub. leg. J)

### **Trainee Solicitors (Amendment) Rules 2015 (Commencement) Notice**

1. The Trainee Solicitors (Amendment) Rules 2015 (the “Amendment Rules”) were gazetted on 4 September 2015. No amendments were made during the negative vetting period which expired on 2 December 2015.
2. The details and explanation of the amendments were set out in the attached previous revised Legislative Council Brief and the Law Society’s letter to the Legislative Council both of 29 September 2015.
3. Pursuant to section 1 of the Amendment Rules, the President of the Law Society appointed 3 May 2016 as the Commencement Date of the Amendment Rules.



## Legislative Council Brief

### A. Title of the subsidiary legislation

Trainee Solicitors (Amendment) Rules 2015 (“Amendment Rules”).

### B. Introduction / Background

- (i) In 2006, The Chinese University of Hong Kong (“CUHK”) proposed to establish the Postgraduate Certificate in Laws (“PCLL”) Programme.
- (ii) In addition to establishing the PCLL Programme, CUHK, together with the Bar, the Judiciary, the Department of Justice (“DOJ”) and the Law Society (“Society”) considered a proposal for an “Integrated Training Programme” (“ITP”).
- (iii) It was proposed that under the ITP, the 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 before undergoing practical training for another few months. Such alternation of course work and practical training would repeat for a few times during that three-year period.
- (iv) The amendments to the Trainee Solicitors Rules Cap. 159J (“TS Rules”), the Continuing Professional Development (“CPD”) Rules and the Admission and Registration Rules (“Admission Rules”) for the establishment of the ITP were sent to the Chief Justice for approval in September 2007. The amendments at the time included the amendments to insert “The Chinese University of Hong Kong” in rule 14 of the TS Rules i.e. the amendments which are currently being introduced by the Amendment Rules.

- (v) It was explained to the Judiciary at the time that from the 2008/09 academic year i.e. September 2008 onwards, in addition to City University ("CityU") and The University of Hong Kong ("HKU"), CUHK would become a third PCLL provider. In addition to a one-year PCLL Programme, CUHK also planned to offer an alternative training model delivering the PCLL Programme as a sandwich course i.e. the ITP. Under the ITP, a student would be allowed, in the course of the PCLL, to have an opportunity to apply the skills learned in a real life legal practice under supervision. When CUHK offered the PCLL from the 2008/09 academic year onwards, there would be two training models (the traditional model and the ITP) on offer at the same time. The TS Rules, the CPD Rules and the Admission Rules would therefore have to be amended to accommodate the ITP.
- (vi) The Chief Justice granted his approval in principle to the proposed amendments in March 2008. Drafting Instructions were sent to DOJ in April 2008 on the amendments. In the covering letter to DOJ, the Society repeated the explanation to the Judiciary set out in paragraph B(v) above.
- (vii) The Statute Law (Miscellaneous Provisions) Ordinance, Ord. No. 10 of 2008 ("Miscellaneous Ordinance") was promulgated in 2008. S34 of Part 9 of the Miscellaneous Ordinance amended the definition of "Postgraduate Certificate in Laws" in S2(1) of the Legal Practitioners Ordinance Cap. 159 ("LPO") by including the PCLL conducted by CUHK in the definition. However, the legislative amendment process to amend the TS Rules (including the amendment to rule 14), the CPD Rules and the Admission Rules relating to ITP was only concluded in February 2012. In March 2012, CUHK advised the Society it no longer wished to pursue the ITP. The Society therefore withdrew all legislative amendments relating to the ITP.
- (viii) As the Society had withdrawn all amendments relating to the ITP, it was necessary for the Society to commence another legislative amendment exercise to solely amend rule 14 of the TS Rules. This the Society did in 2013 which resulted in the present Amendment Rules.

**C. Justification for introducing the amendments to the subsidiary legislation**

- (i) 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 Society, the Law Society of England & Wales, the University of Hong Kong, City University and City Polytechnic.
- (ii) 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 PCLL and such other examination or course as the Society may require and set or approve.
- (iii) Since the Miscellaneous Ordinance has already amended the definition of PCLL in S2(1) of the LPO to include the PCLL conducted by CUHK, it is proposed to amend rule 14 of the TS to include the certificates of completion of PCLL issued by CUHK.

**D. Explanation of main provision**

Rule 14 of the TS Rules sets out what evidence shows that an applicant for registration of trainee solicitor contract has passed an examination.

**E. Date of tabling the subsidiary legislation in LegCo and its Commencement Date**

It is hoped that LegCo will table the Amendment Rules on 14 October 2015. The Commencement Date is to be appointed by the President of the Society by notice published in the Gazette.

**F. Result of any consultation with the relevant parties**

When the ITP was first proposed in 2006, the Society liaised with CUHK, the Bar, the Judiciary and the DOJ on the amendments to the TS Rules, including the amendment to rule 14 of the TS Rules. The views of the other 2 law schools, CityU and HKU, and the then Chairman of the Standing Committee on Legal Education and Training were also sought.

The amendments were approved by the Society's Trainee Solicitors Committee, the Legal Education Committee, the Standing Committee on Standards & Development, and the Council, comprising a wide cross section of the solicitors' profession in Hong Kong.

**G. Contact details of relevant officers**

The relevant officer for this amendment exercise is Assistant Director, Regulation and Guidance of the Law Society at 3rd Floor, Wing On House, 71 Des Voeux Road Central, Hong Kong (Telephone No. 852-2846 0503).

**H. Issuing party and issuance date**

The Amendment Rules were gazetted on 4 September 2015. This brief is prepared by the Society on 18 September 2015.