

立法會
Legislative Council

LC Paper No. CB(4)484/18-19
(These minutes have been
cleared with the Chairman)

Ref: CB4/SS/3/18

**Subcommittee on Foreign Lawyers Practice (Amendment) Rules 2018
(Commencement) Notice, Solicitors' Practice (Amendment) Rules 2018
(Commencement) Notice and Summary Disposal of Complaints (Solicitors)
(Amendment) Rules 2018 (Commencement) Notice**

**Minutes of the first meeting held on
Friday, 16 November 2018, at 9:00 am
in Conference Room 3 of the Legislative Council Complex**

Members present : Hon Dennis KWOK Wing-hang (Chairman)
Hon Paul TSE Wai-chun, JP
Dr Hon Junius HO Kwan-yiu, JP

Clerk in attendance : Mr Lemuel WOO
Chief Council Secretary (4)6

Staff in attendance : Ms Clara TAM
Assistant Legal Adviser 9

Ms Macy NG
Senior Council Secretary (4)6

Miss Katherine CHAN
Council Secretary (4)6

Ms Emily LIU
Legislative Assistant (4)6

Action

I. Election of Chairman

Mr Paul TSE, the member who had the highest precedence among members of the Subcommittee present at the meeting, presided over the election of the Chairman of the Subcommittee. He invited nominations for the chairmanship of the Subcommittee.

2. Mr Dennis KWOK was nominated by Mr Paul TSE, and the nomination was seconded by Dr Junius HO. Mr Dennis KWOK accepted the nomination.

3. There being no other nominations, Mr Dennis KWOK was elected the Chairman of the Subcommittee.

4. Members agreed that there was no need to elect a Deputy Chairman.

II. Meeting with The Law Society of Hong Kong

[L.N. 207, 208 and 209 of 2018, Legislative Council Brief issued by The Law Society of Hong Kong on 26 October 2018, LC Paper Nos. LS9/18-19 and CB(4)211/18-19(01)]

Discussion

5. The Chairman informed members that The Law Society of Hong Kong ("the Law Society") had, in response to the Subcommittee's invitation to attend the meeting, written to the Clerk to Subcommittee on 9 November 2018 [LC Paper No. CB(4)211/18-19(01)] requesting the Subcommittee to set out the questions that it would raise at the meeting to enable the Law Society to identify the appropriate persons to attend the first meeting. The Clerk to Subcommittee had informed the Law Society that as the Subcommittee's membership had yet to be finalized at that time, its request could not be acceded to. The Law Society did not send any representative to attend the present meeting.

6. The Subcommittee deliberated (index of proceedings in **Appendix**). Members raised no objection to the Foreign Lawyers Practice (Amendment) Rules 2018 (Commencement) Notice, Solicitors' Practice (Amendment) Rules 2018 (Commencement) Notice and Summary Disposal of Complaints (Solicitors) (Amendment) Rules 2018 (Commencement) Notice (hereinafter collectively referred to as "the three Commencement Notices") and would not propose any amendment.

Issues raised by members

the Law Society 7. Members raised a number of issues relating to the Foreign Lawyers Practice Rules (Cap. 159R) at the meeting. They agreed that to facilitate members' discussion of these issues in other forum of the Legislative Council, the Chairman would, on behalf of the Subcommittee, write to the Law Society requesting it to provide the following information:

- (a) the number of cases in the past five years in which registered foreign lawyers were found in breach of Cap. 159R for practising Hong Kong law (if any);
- (b) the number and nature of enforcement actions which were taken against the cases mentioned in paragraph 7(a), and the difficulties encountered by the Law Society in enforcing the rules and prohibitions under Cap. 159R;
- (c) possible challenges that the Law Society envisaged in enforcing Cap. 159R going forward;
- (d) the possible challenges that the Law Society might face in ensuring that Hong Kong law firms and foreign law firms in Hong Kong would strictly comply with Cap. 159R in general, and the enforcement details of the same; and whether the Law Society would consider including these questions into its current consultation; and
- (e) whether the roles and duties for foreign lawyers should be clearly and better set out under the relevant legislation including Cap. 159R so as to distinguish them from Hong Kong qualified solicitors and other unqualified persons, such as paralegals and legal managers.

8. Members also wished to know the views of members of the Law Society regarding the issues raised in paragraph 7. In this connection, the Law Society was requested to extend the Subcommittee's invitation to its members for their views.

(Post-meeting note: The letter from the Chairman [LC Paper No. CB(4)243/18-19(01)] was issued to the Law Society on 21 November 2018.)

The way forward

9. Members noted that the Chairman would move a motion at the Council meeting of 21 November 2018 to extend the scrutiny period of the three Commencement Notices.

10. Members agreed that subject to any views members might have on the Law Society's response to the requested information as mentioned in paragraphs 7 and 8, the Chairman would consider the need to hold a further meeting. If no further meeting was considered necessary, the Subcommittee would deem to have completed scrutiny of the three Commencement Notices.

(Post-meeting note: The Law Society's interim reply to the follow-up actions arising from the meeting on 16 November 2018 [LC Paper No. CB(4)275/18-19(01)] was issued to members via LC Paper No. CB(4)275/18-19 on 3 December 2018. The Law Society advised that it would provide the response to the Subcommittee by 14 December 2018. Members were informed via LC Paper No. CB(4)300/18-19 on 7 December 2018 that all members had considered it not necessary to conduct a further meeting and therefore, the Subcommittee had completed scrutiny of the three Commencement Notices. The deliberations of the Subcommittee were reported to the House Committee on 14 December 2018. The Law Society's further reply to the abovementioned follow-up actions [LC Paper No. CB(4)336/18-19(01)] was issued to members via LC Paper No. CB(4)336/18-19 on 18 December 2018. The final reply from the Law Society was still pending as at the date of issuance of these minutes.)

III. Any other business

11. There being no other business, the meeting ended at 9:18 am.

**Proceedings of the first meeting of
Subcommittee on Foreign Lawyers Practice (Amendment) Rules 2018 (Commencement) Notice,
Solicitors' Practice (Amendment) Rules 2018 (Commencement) Notice and
Summary Disposal of Complaints (Solicitors) (Amendment) Rules 2018 (Commencement) Notice
on Friday, 16 November 2018, at 9:00 am
in Conference Room 3 of the Legislative Council Complex**

Time marker	Speaker	Subject(s)	Action required
<i>Agenda item I — Election of Chairman</i>			
000637 – 000708	Mr Paul TSE Mr Dennis KWOK Dr Junius HO	Election of Chairman Mr Dennis KWOK was elected the Chairman of the Subcommittee	
<i>Agenda item II — Meeting with The Law Society of Hong Kong</i>			
000709 – 001103	Chairman Dr Junius HO	Concerns about possible impact on Hong Kong law firms and foreign law firms in Hong Kong arising from The Law Society of Hong Kong ("the Law Society")'s recent proposals in relation to registered foreign lawyers, and request for the Law Society to provide information as listed out in paragraph 7(e) of the minutes	the Law Society
001104 – 001247	Chairman Mr Paul TSE	Expression of views that it would be more appropriate for Members to raise the relevant policy issues during the scrutiny period of the three sets of amendment rules concerned ¹ , but not until the introduction of their commencement notices into the Legislative Council	
001248 – 001529	Chairman	Expression of views that registered foreign lawyers did overstep the line and practise Hong Kong law, and request for the Law Society to provide information as listed out in paragraphs 7(a) to (e) of the minutes	the Law Society
001530 – 001954	Chairman Dr Junius HO	Views on receiving views from deputations on the subsidiary legislation, and request for the Law Society to provide information as listed out in paragraphs 7(b), (c) and (e) of the minutes	the Law Society

¹ The three sets of amendment rules were the Foreign Lawyers Practice (Amendment) Rules 2018 (L.N. 39 of 2018), the Solicitors' Practice (Amendment) Rules 2018 (L.N. 40 of 2018) and the Summary Disposal of Complaints (Solicitors) (Amendment) Rules 2018 (L.N. 41 of 2018).

Time marker	Speaker	Subject(s)	Action required
001955 – 002035	Chairman	The Chairman's decision on writing the Law Society a letter, requesting it to provide information as listed out in paragraphs 7(a) to (e) of the minutes and extend the Subcommittee's invitation to its members for their views	the Law Society
002036 – 002144	Chairman	Members raised no query about the subsidiary legislation Legislative timetable	
<i>Agenda item III — Any other business</i>			
002145 – 002149	Chairman	Closing remarks	