

LN325-E

L.N. 325 of 1999

Overseas Lawyers (Qualification for Admission)

(Amendment) Rules 1999

(Made by the Council of The Law Society of Hong Kong

under section 73 of the Legal Practitioners

Ordinance (Cap. 159) with the prior

approval of the Chief Justice)

1. Commencement

These Rules shall come into operation on 1 January 2000.

2. Society to issue certificate if applicant appears to be qualified

Section 3 of the Overseas Lawyers (Qualification for Admission) Rules (Cap. 159 sub. leg.) is amended---

(a) in subsection (2), by repealing "If" and substituting "Subject to subsection (2A), if";

(b) by adding---

"(2A) The Society may refuse to issue a certificate under subsection (2) where the applicant---

(a) is subject to a prohibition from attempting the Examination under section 10(1)(a) or (1A)(a); or

(b) has previously been issued a certificate under subsection (2) and that certificate has been revoked by the Society under section 10(1)(b) or (1A)(b).".

3. Requirements for applicant from common law jurisdiction

Section 4 is amended---

(a) in subsection (1), by repealing "Unless" and substituting "For the purpose of section 2(c), unless";

(b) in subsection (2)---

(i) by repealing "Unless" and substituting "For the purpose of section 2(c), unless";

(ii) in paragraph (b)(ii), by repealing "law" and substituting "the law of that jurisdiction".

4. Requirements for applicant from non-common law jurisdiction

Section 5 is amended---

(a) in subsection (1), by repealing "Unless" and substituting "For the purpose of section 2(c), unless";

(b) in subsection (2), by repealing "Unless" and substituting "For the purpose of section 2(c), unless".

5. Unsuitability of prospective solicitor

Section 10 is amended---

(a) in subsection (1)---

(i) by repealing "按其決定的條款" and substituting "按其決定的條款而";

(ii) in paragraph (a), by repealing "企圖";

(iii) in paragraph (b), by repealing "a certificate issued under section 3" and substituting "that certificate";

(iv) in paragraph (c), by adding "該人" after "認許";

(b) by adding---

"(1A) If the Society at any time becomes aware of any misconduct in relation to an Examination committed by a person taking the Examination, it may, on such terms as it determines, impose any of the following sanctions, that is it may---

(a) prohibit the person from attempting the Examination, either permanently or for such period as the Society thinks fit;

(b) revoke the certificate issued to him under section 3;

(c) disqualify that person from any or all the subjects in the relevant sitting of the Examination and annul the results of any or all subjects taken in that sitting;
or

(d) oppose his admission as a solicitor.";

(c) in subsection (2), by adding "or (1A)" after "subsection (1)";

(d) in subsection (3), by adding "or (1A)" after "subsection (1)".

6. Section added

The following is added---

"12. Transitional

(1) In this section---

"Paralegal Scheme" (法律輔助人員計劃) means the scheme operated by the Society under which an overseas lawyer from a common law jurisdiction may be approved by the Society to be employed as a paralegal, under the supervision of a solicitor or solicitors in a Hong Kong firm, for the purpose of satisfying the requirements specified in the pre-amended section 4(2)(b)(ii) or (iii);

(2) In relation to any provision mentioned in this section, "pre-amended" shall be construed as referring to that provision in force immediately before 1 January 2000.

(3) The pre-amended subparagraph (ii) or (iii) of section 4(2)(b) shall continue to apply to a person whose employment as a paralegal in a Hong Kong firm has been first approved by the Society under the Paralegal Scheme before 1 January 2000, as if that subparagraph had not been amended by the Overseas Lawyers (Qualification for Admission) (Amendment) Rules 1999 (L.N. 325 of 1999), if the Society is satisfied

that the person has satisfied the requirements specified in that pre-amended subparagraph---

(a) on or before 31 December 2001; or

(b) (in the case where the Society is satisfied that there are exceptional circumstances) before such later date as the Society may approve in any particular case.".

Approved this 9th day of December 1999.

Andrew LI

Chief Justice

Made this 15th day of December 1999.

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Explanatory Note

These Rules amend the Overseas Lawyers (Qualification for Admission) Rules (Cap. 159 sub. leg.) ("the Rules") to---

(a) provide that The Law Society of Hong Kong may refuse to issue a certificate under section 3(2) of the Rules if the overseas lawyer concerned is subject to a prohibition from attempting the Overseas Lawyers Qualification Examination or has previously been issued such a certificate and that certificate has been revoked (section 2);

(b) amend section 4(2)(b)(ii) of the Rules so that for overseas lawyers from common law jurisdiction, the requirement of post-admission experience is restricted to experience in the practice of the law of the relevant jurisdiction (section 3);

(c) make minor amendments to sections 4 and 5 of the Rules to link those sections to section 2 of the Rules (sections 3 and 4);

(d) make minor linguistic amendments to section 10(1) of the Rules and add a new section 10(1A) to provide for misconduct in relation to the Overseas Lawyers Qualification Examination (section 5);

(e) add a new section 12 to the Rules to provide for transitional arrangement for those overseas lawyers who have been approved by The Law Society of Hong Kong under the Paralegal Scheme prior to 1 January 2000 (section 6).