

6. 本部並無發現上述附屬法例在法律及草擬方面有任何問題。

第II部 文娛中心指定令

《公眾衛生及市政條例》(第132章)

《2002年公眾衛生及市政條例(文娛中心)(修訂附表13)令》(第246號法律公告)

7. 《公眾衛生及市政條例》(第132章)(下稱“該條例”)第105M條賦權康樂及文化事務署署長(下稱“署長”)可藉憲報刊登的命令，將該條例附表13內所述的任何處所及其附屬場地加入或刪除作文娛中心用途。

8. 此命令——

(a) 規定在此命令附表1指明的處所(即香港中央圖書館的演講廳及展覽館)停止撥作文娛中心用途；及

(b) 將此命令附表2指明的處所(即香港中央圖書館的建築物的演講廳、展覽館、一號活動室及二號活動室及該建築物沒有根據第245號法律公告指定為圖書館的任何其他部分)撥作文娛中心用途。

9. 此命令的效用是賦予署長管理和掌管此命令附表2內所述的文娛中心的權力，並使署長可就該文娛中心行使他在該條例下的其他法定職能。

10. 本部並無發現上述附屬法例在法律及草擬方面有任何問題。

第III部 根據《法律執業者條例》(第159章)訂立的規則

《法律執業者條例》(第159章)

《法律執業者(風險管理教育)規則》(第248號法律公告)

11. 《法律執業者條例》(第159章)第73條訂明，香港律師會理事會(下稱“理事會”)事先經終審法院首席法官批准，可以為特定目的而訂立規則。

12. 第2條界定此規則所採用不同用語的定義。

13. 第3條訂明此規則分別對由2003年3月14日或2004年1月1日；或2004年11月1日或2005年11月1日起身為主管或不是主管的律師的適用範圍，視乎其獲認許為律師的日期而定，以及自2006年11月1日起的實習律師或外地律師。律師會在回應本部的查詢時澄清，在確定該規則第3條應否適用方面，律師獲認許為律師的日期應是其首次獲認許為律師的日期。律師會會在此規則生效前根據第4條發出的指引中澄清此點。

14. 第4條訂明風險管理教育計劃(下稱“該計劃”)須包括一般必修課程、主管必修課程及選修課程。此規則亦賦權律師會可不時就計劃的實施及遵守本規則提供指引，包括列出律師會擬在確定某人是否已修讀風險管理教育課程(下稱“風險管理課程”)達致律師會滿意的程度時所考慮的事項的指引。律師會在回應本部的查詢時澄清，在確定某人是否已修讀風險管

理課程達致律師會滿意的程度時可考慮的事項包括該人只出席部分課程的情況，包括遲到、早退或在課程期間除已編排的休息時間外缺席。

15. 第5至7條分別訂明修讀一般必修課程、主管必修課程及選修課程的規定。

16. 第8條界定“獲豁免執業年度”的定義。

17. 第9條規定此規則適用的人、舉辦風險管理課程的任何人士或機構(律師會除外)須備存和保留他修讀任何風險管理課程的紀錄或就該課程備存和保留一份修讀紀錄。

18. 第10條訂明，對由律師會或由他人代律師會就該計劃所作出的決定感到受屈的人，可在他獲悉該決定後的1個月內，以書面向理事會等申請覆核該決定。

19. 第11條訂明《外地律師註冊規則》(第159章，附屬法例)的相關修訂，藉此令外地律師的註冊證書成為一項條件限制。該外地律師仍然是一所香港律師行的僱員期間，須遵守有關規則的規定。

20. 第12條訂明今個執業年度的計算方法。

21. 關於未能遵守有關修讀風險管理課程規定的律師，律師會可根據該條例第6(5A)條暫時吊銷或取消其執業證書。如實習律師沒有遵守有關修讀風險管理課程的規定，他必須先完成有關修讀課程的規定，才有資格填寫表格4(第247號法律公告所修訂)申請符合資格獲認許為律師證明書。這與實習律師在其受僱擔任實習律師的期間終結前未能完成所需的評審學分數目的情況相同。有關律師在填寫表格4申請符合資格獲認許為律師證明書前，必須累積所需的評審學分。據律師會所述，關於外地律師註冊證書續期的申請表格將會予以修訂，以加入一個段落，要求外地律師證實其過往已遵守有關規則規定。

22. 至於該規則第4(3)(b)(i)及(ii)與9(2)及(3)條內“organization”一詞的中譯本，律政司法律草擬科同意統一採用“機構”而非“組織”，使其與其他法例一致。本部現時仍與法律草擬科討論實施建議修訂的最適當方法。本部會盡快就此項附屬法例及第247號法律公告提交進一步報告。

23. 議員可參考**附件**所載述律師會與法律事務部之間的往來函件。

24. 此規則(第11條除外)自2003年3月14日起實施。第11條自2006年11月1日起實施。

《法律執業者條例》(第159章)

《2002年認許及註冊(修訂)(第2號)規則》(第247號法律公告)

25. 《法律執業者條例》第72條訂明終審法院首席法官可就指定目的而訂立規則。

26. 此規則修訂 ——

- (a) 《認許及註冊規則》(第159章，附屬法例)(下稱“該主體規則”)的附表中的表格2，以反映實習律師須在受僱為實習律師期間，完成累積《專業進修規則》(第159章，附屬法例)(第2(a)(i)條)所規定的數目的評審學分及完成修讀《法律執業者(風險管理教育)規則》(2002年第248號法律公告)(“《風險管理規則》”)所規定的風險管理課程的規定(第2(a)(ii)條)；
- (b) 該規則的附表中的表格4，以反映實習律師須在受僱為實習律師期間完成修讀《風險管理規則》所規定的風險管理課程(第2(b)條)。

27. 第2(a)(ii)及(b)條自2006年11月1日起實施。

28. 本部並無發現上述附屬法例在法律及草擬方面有任何問題。

第IV部 《選舉管理委員會條例》

《選舉管理委員會條例》(第541章)

《2002年選舉管理委員會(選民登記)(立法會地方選區)(區議會選區)(修訂)規例》(第254號法律公告)

《2002年選舉管理委員會(登記)(立法會功能界別選民)(選舉委員會界別分組投票人)(選舉委員會委員)(修訂)規例》(第255號法律公告)

29. 《2002年選舉條文(雜項修訂)條例》(2002年第33號)(下稱“修訂條例”)於2002年12月18日通過，就多項事宜訂定條文，其中包括：

- (a) 調整《立法會條例》(第542章)所訂的選民登記冊的編製和發表的周期；及
- (b) 調整《行政長官選舉條例》(第569章)所訂的投票登記冊的編製和發表的周期。

30. 有關發表地方選區和功能界別選民及選舉委員會界別分組投票人的臨時登記冊及正式登記冊的新安排如下：

	地方選區、功能界別及 界別分組臨時登記冊 的發表日期	地方選區、功能界別及 界別分組正式登記冊 的發表日期
在區議會選舉年發表 登記冊的最後期限	8月15日	9月25日
在其他年度發表登記 冊的最後期限	6月15日	7月25日

31. 第254及255號法律公告為選舉管理委員會因應修訂條例所作出的新安排而訂立的附屬法例。

32. 第254號法律公告修改有關下述事項的日期 ——

- (a) 申請在選民登記冊上登記；
- (b) 要求關乎登記申請的詳情或證明，以及對要求的回應；
- (c) 就已登記人士作出查訊，以及對查訊的回答；
- (d) 改正選民登記冊內的記項；
- (e) 遭剔除者名單及選民登記冊的刊登及查閱；及
- (f) 反對通知書及申索通知書的遞交及其文本的送遞。

33. 第255號法律公告修改有關下述事項的日期 ——

- (a) 為自然人的選擇登記而送交通告，以及對通告的回應；
- (b) 申請在功能界別選民登記冊或界別分組投票人登記冊上登記；
- (c) 就委任獲授權代表送交通知書；
- (d) 要求關乎登記申請的詳情或證明，以及對要求的回應；
- (e) 就已登記人士作出查訊，以及對查訊的回應；
- (f) 改正功能界別選民登記冊、界別分組投票人登記冊及選舉委員會委員登記冊內的記項；
- (g) 遭剔除者名單、功能界別選民登記冊及界別分組投票人登記冊的發表及查閱；及
- (h) 反對通知書、申索通知書及上訴通知書的文本的遞交及送遞。

34. 上述附屬法例亦作出修訂，訂定任何人的姓名或名稱是以中文還是英文記錄在選民登記冊、功能界別選民登記冊、界別分組投票人登記冊或選舉委員會委員登記冊(視屬何情況而定)上，取決於在該人的申請中是以中文還是以英文提供“主要住址”(而非其簽署)。

35. 議員可參閱選舉事務處於2002年12月發出的立法會參考資料摘要，以了解有關此兩項附屬法例的背景資料。政府當局認為無須進行公眾諮詢(立法會參考資料摘要第9段)，而此兩項附屬法例的建議並無交付立法會任何事務委員會處理。

36. 此兩項附屬法例將於2003年2月28日起實施。

37. 法律事務部現正研究此兩項附屬法例在草擬及法律方面的問題，並會在有需要時再向內務委員會作出匯報。

第V部 生效日期公告

《進出口(一般)規例》(第60章)

《〈2002年進出口(一般)(修訂)規例〉(2002年第179號法律公告)2002年(生效日期)公告》(第251號法律公告)

38. 此公告指定2003年1月2日為《〈2002年進出口(一般)(修訂)規例〉(2002年第179號法律公告)(下稱“修訂規例”)開始實施的日期。

39. 此修訂規例修訂《進出口(一般)規例》(第60章，附屬法例)，以在香港實施“金伯利進程發證計劃”。該計劃是一項關於未經加工鑽石的國際發證計劃，旨在防範未經加工鑽石貿易所得的財富用以資助武裝衝突、叛亂活動及非法的武裝勢力擴散。

《〈2002年進出口(費用)(修訂)規例〉(2002年第180號法律公告)

《〈2002年進出口(費用)(修訂)規例〉(2002年第180號法律公告)2002年(生效日期)公告》(第252號法律公告)

40. 此公告指定2003年1月2日為《2002年進出口(費用)(修訂)規例》(2002年第180號法律公告)(下稱“修訂規例”)開始實施的日期。

41. 修訂規例修訂《進出口(費用)規例》(第60章，附屬法例)，以訂明登記為登記未經加工鑽石商及發給未經加工鑽石的進口許可證或出口許可證而收取的費用。

《卡拉OK場所條例》(2002年第22號)

《〈卡拉OK場所條例〉(2002年第22號)2002年(生效日期)公告》(第253號法律公告)

42. 此公告指定2003年1月8日為《卡拉OK場所條例》(2002年第22號)(下稱“該條例”)開始實施的日期。

43. 該條例設立一項規管卡拉OK場所的計劃。

44. 本部並無發現上述附屬法例在法律及草擬方面有任何問題。

第IV部 雜項修訂

《銀行業條例》(第155章)

《2002年銀行業條例(修訂附表3)公告》(第249號法律公告)

45. 根據《銀行業條例》(第155章)第135(3)條(下稱“該條例”)，財政司司長可藉憲報公告，修訂該條例附表3(資本充足比率)。

46. 此公告對該條例附表3中訂明關於計算認可機構的資本充足比率的若干條文作出修訂。根據該條例，“認可機構”一詞指銀行、有限制牌照銀行或接受存款公司。此項公告的主要目的，是授權金融管理專員認可若干准許提高利率或增加股息的資本票據(即永久後償債項、有期後償債項、繳足股款的有期優先股及繳足股款、不可贖回而可累積的優先股)，並將該等資本票據納入為認可機構的附加資本。

47. 議員可參閱財經事務及庫務局於2002年12月27日發出的立法會參考資料摘要(檔號：G4/16/22CIII)，以了解有關的背景資料。

48. 本部並無發現上述附屬法例在法律及草擬方面有任何問題。

《進出口(一般)規例》(第60章，附屬法例)

《2002年進出口(一般)規例(修訂附表7)公告》(第250號法律公告)

49. 根據《進出口(一般)規例》(下稱“主體規例”)第7(2)條，工業貿易署署長可以憲報公告在附表7加入實施金伯利進程發證計劃(下稱“進程發證計劃”)的國家或地方的名稱，或獲金伯利進程准許從實施進程發證計劃的國家或地方進口未經加工鑽石及出口未經加工鑽石往該等國家或地方的任何國家或地方的名稱。

50. 此公告在主體規例附表7加入53個國家或地方。該附表7是《2002年進出口(一般)(修訂)規例》(2002年第179號法律公告)加入主體規例中。

51. 此公告已於2003年1月2日開始實施。

52. 本部並無發現上述附屬法例在法律及草擬方面有任何問題。

連附件

立法會秘書處

助理法律顧問

林秉文(第243至253號法律公告)

鄭潔儀(第254及255號法律公告)

2003年1月9日

林先生：

有關法律執業者(風險管理教育)規則(「該規則」)

2003年1月8日來函收悉。

如 1月7日的函件中所述，該規則適用範圍的政策是讓年資較深的律師首先修讀風險管理課程，原因是根據有關數據，專業彌償計劃的申索多針對年資較深的律師，此外，一間律師行的文化是由高層制定，如主管正確地接受風險管理教育，對在律師行內迅速發揚此種文化有幫助。該規則的適用範圍遂由上而下，依次序先適用於主管，非主管律師，實習律師及外地律師。

該規則的第三條已充分反影該政策。

將主管及非主管各分兩批，純為使課程比較容易管理。分作兩批對政策沒有任何重要性。

你假設某律師獲兩次認許，而若選擇其中一次認許的日期，將令他被視為不同的一批處理，是否有律師屬這種假設情況也是疑問。但是，按第4(3)(d)條就計劃的實施及遵守本規則所提供的指引內，可澄清在這些情況下該規則的適用範圍，該些指引預期在該規則生效前發出。

此致

朱潔冰
條例及指導部副總
二零零三年一月九日

(譯文)

來函檔號：HC/sp/SG194
本函檔號：LS/S/13/02-03
電 話：2869 9468
圖文傳真：2877 5029

傳真文件

(傳真號碼：2845 0387)
(共1頁)

香港中區
德輔道71號
永安大廈3樓
香港律師會

(經辦人：條例及指導部總監朱潔冰女士)

朱女士：

**《法律執業者(風險管理教育)規則》
(2002年第248號法律公告)**

閣下2003年1月7日的來函收悉。

關於閣下就本部對第3條所提疑問的答覆，第3條的現行草擬方式是否足以反映律師會的政策目的？若否，謹請閣下指出律師會如何澄清其政策目的？

謹請閣下在今天辦公時間結束前以中英文作覆。

助理法律顧問

(林秉文)

副本致：律政司(經辦人：高級政府律師陳元新先生)
(傳真號碼：2869 1302)

2003年1月8日

m4158

林先生：

有關法律執業者(風險管理教育)規則的事宜

一般問題

(a) 律師

法律執業者(風險管理教育)規則(「該規則」)是根據法律執業者條例(附件一)的第73(1)(ab)條制訂，第73(1)(ab)條是關於訂立規定律師接受法律進修或訓練的規則。

根據條例的第6(5)(c)條(附件二)，律師會可向申請人發出執業證書，條件為申請人須遵從根據第73條所訂立的任何法律進修規則。按照條例的第6(5)(c)條處理的例子，包括律師會在須遵守專業進修規則申請人的執業證書上，施加遵守專業進修規則的條件。

另外，條例的第6(5A)條(附件二)規定，凡律師會認為某律師不符合根據第(5)款所施加的條件，可在給予該名律師申述的機會後，暫時吊銷或取消該名律師的執業證書，並可退回或不退回證書的費用。第(5A)款適用於根據第(5)款所施加的專業進修條件。

根據上述的條款，若某律師不遵守修讀風險管理課程的規定，正如違反專業進修規則的情形一樣，律師會有權根據條例的第6(5A)條處理。

(b) 實習律師

該規則的其中一項相關修訂是更改認許及註冊規則的表格2（符合資格獲認許為律師證明書）和表格4（符合資格獲認許為律師證明書的申請表），使其包括遵守該規則的條款。請參閱經修定的表格2和4(附件三和四)。

據此，若某實習律師不遵守修讀風險管理課程的規定，該名實習律師必須先完成該課程，才可填寫表格4，以申請符合資格獲認許為律師的證明書。這與某實習律師在其實習期屆滿前未完成所須的專業進修學分的處理方法是一樣的。該名實習律師須要修讀所須專業進修學分後，才可申請符合資格獲認許為律師證明書。

(c) 外地律師

該規則的另一項相關修訂是在外地律師註冊規則加插新的第6A條，訂明註冊條件為該名外地律師受僱於香港律師行期間，必須遵守該規則的要求。第6A條列於該規則的第11條（附件五）。

註冊證書須按外地律師註冊規則第10(c) 條每年續期（附件六）。

申請續期的表格將作出修訂，要求外地律師申請人確認在過往一年，他已遵守該規則的規定。

因此，若某外地律師不遵守修讀風險管理課程的規定，他便不能填寫外地律師註冊續期的申請表。

第3(a)及(b)條

第3(a)及(b)條分別規定該規則的適用範圍，就主管及非主管的律師以言，以其獲認許為律師的日期為基礎，分別將之分為2批。根據現有數據，估計有超過1,800名主管及約2,400名非主管。為令課程易於管理，該規則將主管及非主管律師按獲認許日期各分2批。以便在指定修讀時限內，分散修讀課程的人數。

該規則由2003年3月14日起，適用於第一批主管，他們須在2004年3月14日前完成主管必修課程。該規則由2004年1月1日起，適用於第二批主管，他們須在2004年12月31日前完成主管必修課程。

至於非主管律師，該規則由2004年11月1日起適用於第一批。他們須在2005年10月31日前完成一般必修課程。該規則由2005年11月1日起，適用於第二批，他們須在2006年10月31日前完成一般必修課程。

不論獲認許為律師日期的先後，一名執業律師，視乎他是主管或非主管，他必須完成主管必修課程或一般必修課程。獲認許為律師的日期只是用作決定該名律師是屬於第一批或第二批，而適用日期，就主管及非主管而言，差距只是分別為9個月及12個月。

你提及就第3(a)及(b)條所提出的疑問，是純屬假設。

該規則的適用日期是以年資為基礎，適用形式是由”上至下”所以，該規則首先適用於主管，然後是非主管律師，實習律師及外地律師。

在你的假設情況下，該規則將按照A先生及B先生的較早獲認許日期為準，以便可考慮他們過往的經驗。

第4(3)(d)條

在決定某人是否已修讀風險管理課程達到律師會滿意的程度時，所考慮的事項包括某人只修讀部份課程的情況，如該人遲到，早退，或在課程舉行時，除原定的休息時間外，大部份時間缺席。

第9(2)及(3)條

請參閱法律草擬科的函件（附件七）內所提出的建議，在適當情況下，以雜項修訂草案形式處理。

第10條

第10條所指的決定，可包括按第8條規定，決定某執業年度是否獲豁免執業年度，及按第4(3)(d)條發出的指引，決定某人是否已遵守該規則或是否已修讀風險管理課程達到律師會滿意的程度。

此致

朱潔冰
條例及指導部副總監
二零零三年一月七日

72B. 立法會可修訂附表 1

立法會可藉決議修訂附表 1。

(由 1999 年第 11 號第 3 條修訂)

73. 理事會訂立規則的權力

(1) 理事會可訂立規則——

(a) 規定——

- (i) 律師、外地律師、律師及外地律師的僱員以及實習律師的專業執業、行為操守及紀律；(由 1994 年第 60 號第 45 條代替。由 1998 年第 23 號第 2 條修訂)
- (ii) 向不合資格人士支付佣金的限制；及
- (iii) 為了協調律師相互之間的關係，在獲得執委會的事先批准後，對律師與大律師之間的關係予以管限；(由 1991 年第 70 號第 8 條修訂)

(aa) 規管律師執業證書的發出，和該等執業證書的須繳付費用、發出條件、申請方式、期限及格式、發出執業證書一事及暫時吊銷執業證書一事的公布，以及概括而言，與執業證書有關的事宜；(由 1976 年第 58 號第 13 條增補)

✓(ab) 規定律師必須接受的任何法律進修或訓練；(由 1991 年第 70 號第 10 條增補)

(b) 就律師備存帳目作出以下規定——

- (i) 律師將當事人的款項在銀行開立帳戶和維持該等帳戶；
- (ii) 律師備存載有關於他為當事人或因當事人而收取、持有或支付的款項的詳情及資料的帳目；
- (iii) 賦予理事會權力採取所需行動，使其能夠確定該等規則是否正獲遵從；
- (iv) 就律師以受信人身份持有的款項的處理方式、並就該等款項的帳目的備存方式以及該等帳目的審計方式，予以規管；
- (v) 可發給會計師報告的會計師須具備的資格；(由 1968 年第 25 號第 14 條修訂)

72B. Legislative Council may amend Schedule 1

The Legislative Council may by resolution amend Schedule 1.

73. Power of the Council to make rules

(1) The Council may make rules——

(a) providing for——

- (i) the professional practice, conduct and discipline of solicitors, foreign lawyers, employees of solicitors and foreign lawyers and trainee solicitors; (Replaced 60 of 1994 s. 45)
- (ii) the restriction of payment of commission to unqualified persons; and
- (iii) for the purpose of harmonizing the relationship of solicitors inter se and, with the prior approval of the Bar Council, governing the relationship of solicitors and barristers; (Amended 70 of 1991 s. 8)

(aa) regulating the issue to solicitors of practising certificates and the fees payable for, the conditions of issue of, the manner of applying for, the period and form of, the publication of the issue and the suspension of such practising certificates and generally in relation thereto; (Added 58 of 1976 s. 13)

(ab) providing for any continuing legal education or training that must be undertaken by solicitors; (Added 70 of 1991 s. 10)

(b) in relation to the keeping by solicitors of accounts, providing for——

- (i) the opening and keeping by solicitors of accounts at banks of clients' money;
- (ii) the keeping by solicitors of accounts containing particulars and information as to moneys received, held or paid both for or on account of their clients;
- (iii) empowering the Council to take such action as may be necessary to enable them to ascertain whether or not such rules are being complied with;
- (iv) regulating the manner in which solicitors shall deal with money held by them in a fiduciary capacity and the books of accounts to be kept in respect thereof and for the auditing of such accounts;
- (v) the qualifications to be held by an accountant by whom an accountant's report may be given; (Amended 25 of 1968 s. 14)

- (a) 以終審法院首席法官訂明的理由拒絕發出執業證書；
- (b) 在終審法院首席法官所訂明的條件的規限下，向申請人發出執業證書；
- ✓(c) 向申請人發出執業證書，條件為申請人須遵從根據第 73 條所訂立的任何法律進修規則；(由 1991 年第 70 號第 4 條增補)
- (d) 在申請人並無遵從根據第 73 條所訂立的任何法律進修規則的情況下，拒絕發出執業證書；或 (由 1991 年第 70 號第 4 條增補)
- (e) 藉增補終審法院首席法官所訂明的條件而修訂已發出的執業證書。(由 1991 年第 70 號第 4 條增補。由 1998 年第 25 號第 2 條修訂)

✓(5A) 凡律師會認為某律師不符合根據第 (5) 或 (6) 款所施加的條件，可在給予該名律師作出申述的機會後，暫時吊銷或取消該名律師的執業證書，並可退回或不退回證書的費用。(由 1991 年第 70 號第 4 條增補)

(6) 凡屬在 1976 年 8 月 1 日或之後首次向任何律師發出的執業證書，而該律師不能令理事會信納他自從獲認許為律師後，曾於申請該執業證書之前至少有 2 年真誠地受僱從事於一名在香港的律師的執業業務，則該執業證書須附有一項條件，規定該律師不得獨自或以合夥形式執業為律師，直至他令理事會信納他自從獲認許為律師後曾至少有 2 年真誠地受僱從事於一名在香港的律師的執業業務為止。(由 1979 年第 22 號第 2 條修訂；由 1989 年第 46 號第 3 條修訂)

(6A) 如理事會認為申請人在香港或其他地方已取得相當的法律經驗，則理事會可免除第 (6) 款的 2 年受僱規定，或可將 2 年的規定期間減至其認為適合的一段期間。(由 1994 年第 60 號第 6 條代替)

(7) 凡某名律師的姓名從律師登記冊上被刪除或剔除，或該律師破產，則該律師的執業證書須自動終止，而在任何此等情況下，就該執業證書而繳付的費用的任何部分不得發還。(由 1998 年第 27 號第 7 條修訂)

(8) 凡列出已取得執業證書(執業證書的期間在名單上說明)的律師的姓名及地址的名單，一經律師會在憲報刊登，即屬表面證據，以證明名列該名單的每一人均為根據第 7 條合資格執業為律師，且是已根據本條獲發給在該名單上所述期間的執業證書的人，直至相反證明成立為止；而任何人的姓名如並無名列在上述任何名單內，即為該人是一名不合資格人士的證據，直至相反證明成立為止。

- (a) refuse to issue a practising certificate on such grounds as may be prescribed by the Chief Justice;
- (b) issue a practising certificate to an applicant subject to such conditions as may be prescribed by the Chief Justice;
- (c) issue a practising certificate to an applicant subject to the condition that he shall comply with any continuing legal education rules made under section 73; (Added 70 of 1991 s. 4)
- (d) refuse to issue a practising certificate if the applicant has not complied with any continuing legal education rules made under section 73; or (Added 70 of 1991 s. 4)
- (e) amend an already issued certificate by adding such conditions as may be prescribed by the Chief Justice. (Added 70 of 1991 s. 4)

(5A) Where the Society considers that a solicitor has not complied with conditions imposed under subsection (5) or (6) it may, after affording the solicitor the opportunity to make representations, suspend or cancel the solicitor's practising certificate with or without refunding the certificate fee. (Added 70 of 1991 s. 4)

(6) It shall be a condition of a practising certificate issued for the first time on or after 1 August 1976 to any solicitor who does not satisfy the Council that since being admitted as a solicitor he has been bona fide employed in the practice of a solicitor in Hong Kong for at least 2 years prior to his application for such practising certificate, that he shall not practise as a solicitor on his own account or in partnership until he satisfies the Council that since being admitted as a solicitor he has been bona fide employed in the practice of a solicitor in Hong Kong for at least 2 years. (Amended 22 of 1979 s. 2; 46 of 1989 s. 3)

(6A) If the Council considers that an applicant has acquired substantial experience in the law either in Hong Kong or elsewhere, the Council may waive the 2 year employment requirement in subsection (6) or it may reduce the period of 2 years to a period it considers appropriate. (Replaced 60 of 1994 s. 6)

(7) Where the name of a solicitor is removed from or struck off the roll of solicitors or where a solicitor becomes bankrupt, the practising certificate of that solicitor shall automatically determine and in any such case no part of the fee paid in respect thereof shall be repayable. (Amended 27 of 1998 s. 7)

(8) The publication in the Gazette by the Society of a list of the names and addresses of those solicitors who have obtained practising certificates for the period stated therein shall, until the contrary is proved, be evidence that each person named therein is a person qualified under section 7 to act as a solicitor and to whom a practising certificate for the period stated in such list has been issued under this section; and the absence from any such list of the name of any person shall, until the contrary is proved, be evidence that such person is an unqualified person.

附件二

5. 律師登記冊

(1) 司法常務官須備存一份獲法院根據第 4 條認許的所有律師的登記冊，須保管該份律師登記冊及與之有關的所有文件，並須容許任何人在辦公時間內免費查閱該份登記冊。

(2) 由一名法官所簽署的認許證書一經出示，以及在由終審法院首席法官所訂明的費用已繳付予司法常務官及律師會後，司法常務官須將該名獲認許的人的姓名列入律師登記冊。

(3) 終審法院首席法官如認為適當，可隨時命令司法常務官將已從律師登記冊上刪除或剔除的律師的姓名，重新列入律師登記冊。

(由 1994 年第 60 號第 5 條修訂；由 1998 年第 25 號第 2 條修訂)
[比照 1957 c. 27 ss. 6, 7 & 8 U.K.]

6. 執業證書——律師

(1) 律師會經接獲任何律師於任何年份的 11 月以理事會所認可的格式提出的書面申請，並在獲繳付如此訂明的費用後，在符合第 (3) 款的規定下，須發給該名申請人一張由申請日期隨後的 1 月 1 日起計為期一公曆年的律師執業證書。(由 1994 年第 60 號第 6 條修訂)

(1A) 在《1994 年法律執業者(修訂)條例》* (1994 年第 60 號) 廢除第 3(1AD) 條之前簽發予根據該條獲認許的律師的執業證書，須有條件規限，即該律師不得獨自或以合夥形式執業。(由 1989 年第 46 號第 3 條增補。由 1994 年第 60 號第 6 條修訂)

(2) 根據第 (1) 款發出的執業證書須採用理事會訂明的格式。

(3) 除非申請人在有需要的情況下已根據第 8 條向理事會交付一份會計師報告，並已遵從理事會根據第 73A 條所訂立的任何彌償規則或獲豁免遵從該等規則，以及已向律師會就將獲發給執業證書的年份繳付會員費，否則執業證書不得根據第 (1) 款發出。(由 1980 年第 75 號第 2 條修訂)

(4) 儘管有第 (1) 款的規定，律師會可按其認為適當的條件，准許在任何時間根據本款申請執業證書，並可在接獲該申請後發給申請人一張期限不超過一公曆年並於發出年份的 12 月 31 日屆滿的執業證書。

(5) 儘管有第 (1) 款的規定，律師會可——

* “《1994 年法律執業者(修訂)條例》”乃“Legal Practitioners (Amendment) Ordinance 1994”之譯名。

5. Roll of solicitors

(1) The Registrar shall keep a roll of all solicitors admitted by the Court under section 4 and shall have the custody of the roll of solicitors and of all documents relating thereto and shall allow any person to inspect the roll during office hours without payment.

(2) The Registrar, upon production of a certificate of admission signed by a judge and upon payment to the Registrar and to the Society of such fees as may be prescribed by the Chief Justice, shall enter on the roll of solicitors the name of the person admitted.

(3) The Chief Justice may, if he thinks fit, at any time order the Registrar to replace on the roll of solicitors the name of a solicitor whose name has been removed or struck off the roll of solicitors.

(Amended 60 of 1994 s. 5)
[cf. 1957 c. 27 ss. 6, 7 & 8 U.K.]

6. Practising certificates—solicitors

(1) The Society, on application in writing by a solicitor in the month of November in any year in a form approved by the Council and on payment of such fee as may be so prescribed, shall, subject to subsection (3), issue to the applicant a practising certificate as a solicitor for the period of one calendar year from 1 January next following the date of the application. (Amended 60 of 1994 s. 6)

(1A) A practising certificate issued to a solicitor admitted under section 3(1AD) before the repeal of that provision by the Legal Practitioners (Amendment) Ordinance 1994 (60 of 1994) is subject to the condition that the solicitor shall not practise on his own account or in partnership. (Added 46 of 1989 s. 3. Amended 60 of 1994 s. 6)

(2) A practising certificate issued under subsection (1) shall be in such form as may be prescribed by the Council.

(3) A practising certificate shall not be issued under subsection (1) unless the applicant has, where necessary, delivered to the Council an accountant's report under section 8, complied with any indemnity rules made by the Council under section 73A or is exempt from them and has paid to the Society the membership subscription in respect of the year for which the practising certificate is to be issued. (Amended 75 of 1980 s. 2)

(4) Notwithstanding subsection (1), the Society may, upon such conditions as it thinks fit, permit an application for a practising certificate to be made under this subsection at any time and upon such application may issue to the applicant a practising certificate for any period not exceeding one calendar year and ending on 31 December in the year in which it is issued.

(5) Notwithstanding subsection (1), the Society may——

Proposed amendments based on DOJ's 1st working draft dated 05/11/02

FORM 2

(rule 3(4))

ADMISSION AND REGISTRATION RULES

CERTIFICATE OF ELIGIBILITY FOR ADMISSION AS A SOLICITOR

THIS IS TO CERTIFY THAT

.....
of.....

- (1) on the day of applied under rule 3(1) of the Admission and Registration Rules (Cap. 159 sub. leg.) for a certificate of eligibility for admission as a solicitor on the basis of compliance with section 4(1)(a) of the Legal Practitioners Ordinance (Cap. 159); and
- (2) has satisfied the Society that he -
 - (a) has accumulated the number of CPD accreditation points that is required by section 5 of the Continuing Professional Development Rules (Cap. 159 sub.leg.) to be accumulated by the end of his period of employment as a trainee solicitor;
 - (aa)* has attended all general core courses and the minimum hours of elective courses required under the Legal Practitioners (Risk Management Education) Rules (L.N. 248 of 2002) during his employment as a trainee solicitor;**
 - (b) has passed or obtained or been granted total exemption from the examinations required by rule 7 of the Trainee Solicitors Rules (Cap. 159 sub. leg.);
 - (c) has been employed as a trainee solicitor for a period of years to the satisfaction of the Society/has been granted exemption from employment as a trainee solicitor* in accordance with the Trainee Solicitors Rules (Cap. 159 sub. leg.);
 - (d) has resided in Hong Kong for at least 3 months immediately before his admission/intends to reside in Hong Kong for at least 3 months immediately after his admission/has been ordinarily resident in Hong Kong for at least 7 years/has been present in Hong Kong for at least 180 days of each of at least 7 years*; and
 - (e) is in other respects fit to be a solicitor.

Dated this day of

(Sgd.)
for The Law Society of Hong Kong.

* Delete whichever is inapplicable.

FORM 4

(rule 3(2)(b))

ADMISSION AND REGISTRATION RULES

APPLICATION FOR A CERTIFICATE OF ELIGIBILITY FOR ADMISSION
AS A SOLICITOR ON THE BASIS OF COMPLIANCE WITH
SECTION 4(1)(a) - TRAINEE SOLICITORS

To: The Law Society of Hong Kong,

I,

of
apply for the issue to me of a certificate of eligibility in accordance with rule 3(4) of the
Admission and Registration Rules (Cap. 159 sub. leg.).

We,

of(the "Trainee Solicitor")

and.....

of(the "Principal")

do solemnly and sincerely declare as follows-

(a) I, the Trainee Solicitor for myself say as follows-

1. I have resided in Hong Kong for at least 3 months immediately before my admission

OR*

I intend to reside in Hong Kong for at least 3 months immediately after my admission

OR*

I have been ordinarily resident in Hong Kong for at least 7 years

OR*

I have been present in Hong Kong for at least 180 days of each of at least 7 years

Details of my periods of residence are set out in the "First Schedule" annexed to this
application. (See Note 1)

The attached document marked " " is a certified copy of my passport.

2. I was employed under a trainee solicitor contract by the Principal for the
period.....to..... (the "Trainee Solicitor Contract").

3. *Except as indicated in paragraph(s) 4 and 5** / I have actually exclusively and bona fide
been employed as a trainee solicitor by the Principal.

Admission and Registration Rules

4. *Except as mentioned in the "Second Schedule" annexed to this application * / I have not held any office or engaged in any employment other than the employment of the Principal.*
5. *I have been absent from the office of the Principal for the period or periods mentioned in the first column of the "Third Schedule" annexed to this application for the reasons set out in the third column*.*
6. I have complied with the requirements of rule 7 of the Trainee Solicitors Rules (Cap. 159 sub. leg.) as to the passing of examinations.
7. I confirm that my most recent trainee solicitor contract was entered into before 1 September 1998, and that during the period of my employment as a trainee solicitor I have learned in the office of the Principal the following basic skills and characteristics associated with the practice and profession of a solicitor marked "X" in the appropriate box-

- | | | |
|-----|---------------------------------------|--------------------------|
| (1) | Drafting documents | <input type="checkbox"/> |
| (2) | Communication with clients and others | <input type="checkbox"/> |
| (3) | Research | <input type="checkbox"/> |
| (4) | Office routines, procedures and costs | <input type="checkbox"/> |

OR*

I confirm that my most recent trainee solicitor contract was entered into on or after 1 September 1998, and that during the period of my employment as a trainee solicitor I have learned in the office of the Principal the principles of professional conduct and the following basic skills associated with the practice and profession of a solicitor marked AX= in the appropriate box-

- | | | |
|-----|------------------|--------------------------|
| (1) | Communication | <input type="checkbox"/> |
| (2) | Practice support | <input type="checkbox"/> |
| (3) | Legal research | <input type="checkbox"/> |
| (4) | Drafting | <input type="checkbox"/> |
| (5) | Interviewing | <input type="checkbox"/> |
| (6) | Negotiation | <input type="checkbox"/> |
| (7) | Advocacy | <input type="checkbox"/> |

8. I confirm that my most recent trainee solicitor contract was entered into before 1 September 1998, and that during the period of my employment as a trainee solicitor I have gained reasonable experience in the office of the Principal in at least 3/2* of the following basic legal topics being those marked "X" in the appropriate box (and in the office of , another person qualified under section 20 of the Legal Practitioners Ordinance (Cap. 159) to employ a trainee solicitor, in at least 1 of the following basic legal topics being that/those* marked "Z" in the appropriate box)* -

Admission and Registration Rules

- | | | |
|-----|---|--------------------------|
| (1) | Conveyancing | <input type="checkbox"/> |
| (2) | Commercial or corporate law | <input type="checkbox"/> |
| (3) | Family law | <input type="checkbox"/> |
| (4) | Civil litigation | <input type="checkbox"/> |
| (5) | Criminal litigation | <input type="checkbox"/> |
| (6) | Wills, Probate and Trusts | <input type="checkbox"/> |
| (7) | Trade Marks, Patents, Copyrights | <input type="checkbox"/> |
| (8) | Such other legal topic as may be determined
from time to time by the Society | <input type="checkbox"/> |

OR*

I confirm that my most recent trainee solicitor contract was entered into on or after 1 September 1998, and that during the period of my employment as a trainee solicitor I have gained proper training and experience in the office of the Principal in at least 3/2* of the following basic legal topics being those marked AX= in the appropriate box (and in the office of, another person qualified under section 20 of the Legal Practitioners Ordinance (Cap. 159) to employ a trainee solicitor, in at least 1 of the following basic legal topics being that/those* marked "Z" in the appropriate box)* -

- | | | |
|------|---------------------------|--------------------------|
| (1) | Banking | <input type="checkbox"/> |
| (2) | Civil litigation | <input type="checkbox"/> |
| (3) | Commercial | <input type="checkbox"/> |
| (4) | Company | <input type="checkbox"/> |
| (5) | Criminal litigation | <input type="checkbox"/> |
| (6) | Family | <input type="checkbox"/> |
| (7) | Insolvency | <input type="checkbox"/> |
| (8) | Intellectual property | <input type="checkbox"/> |
| (9) | Property | <input type="checkbox"/> |
| (10) | Trusts, Wills and Probate | <input type="checkbox"/> |

9. I have accumulated the number of CPD accreditation points that is required by section 5 of the Continuing Professional Development Rules (Cap. 159 sub. leg.) to be accumulated by the end of my period of employment as a trainee solicitor.

Admission and Registration Rules

10*. I have attended all general core courses and the minimum hours of elective courses required under the Legal Practitioners (Risk Management Education) Rules (L.N. 248 of 2002) during my employment as a trainee solicitor.

(b) AND I, the Principal for myself say as follows-

1. At the time of execution of the Trainee Solicitor Contract, I was and have remained qualified under section 20 of the Legal Practitioners Ordinance (Cap. 159) to employ a trainee solicitor.
2. I have read paragraphs 2, 3, 4 and 5 of the declaration made by the Trainee Solicitor and the contents are true to the best of my knowledge, information and belief.
3. With regard to paragraph 7 of the declaration, I confirm that during the term of the Trainee Solicitor Contract, I have provided the Trainee Solicitor with the opportunity to learn in my office the basic skills and characteristics associated with the practice and profession of a solicitor as enumerated by the Trainee Solicitor.
4. With regard to paragraph 8 of the declaration, I confirm that during the term of the Trainee Solicitor Contract, I have provided the Trainee Solicitor with the opportunity to gain reasonable experience in my office (and in the office of another person qualified under section 20 of the Legal Practitioners Ordinance (Cap. 159) to employ a trainee solicitor)* the basic legal topics as enumerated by the Trainee Solicitor.
5. I consider that the Trainee Solicitor is fit to be a solicitor.

AND we make this solemn declaration conscientiously believing it to be true and by virtue of the Oaths and Declarations Ordinance (Cap. 11).

DECLARED at)
HONG KONG this day of)
.....)

Before me,

Commissioner for Oaths / Solicitor.

Admission and Registration Rules

FIRST SCHEDULE

Address	Period of residence
---------	---------------------

SECOND SCHEDULE

Details of other offices / employment

THIRD SCHEDULE

Period of absence	With / without consent of Principal	Reasons
-------------------	-------------------------------------	---------

- Note : 1. Where the Trainee Solicitor has been employed under two or more trainee solicitor contracts, each person employing him shall make a separate declaration.
2. * Delete whichever is inapplicable.

9. 修讀紀錄

(1) 本規則適用的人須——

- (a) 以律師會指明的格式備存和保留他修讀任何風險管理課程的紀錄；及
- (b) 在律師會的要求下——
 - (i) 向律師會出示 (a) 段所提述的紀錄；
 - (ii) 在律師會指明的期間內及以它指明的方式，向它提交與他修讀任何風險管理課程有關的資料；及
 - (iii) 到理事會席前向它提交它認為必需而關乎他修讀任何風險管理課程的其他資料。

(2) 舉辦風險管理課程的任何人士或機構(律師會除外)須按照律師會根據第 4(3)(d) 條就備存和保留修讀紀錄而提供的指引，就該風險管理課程備存和保留一份修讀紀錄。

(3) 律師會可要求有關人士或機構在有關的風險管理課程完畢後的 7 天內，提交第 (2) 款所提述的修讀紀錄。

10. 覆核

(1) 對由律師會或由他人代律師會就計劃所作出的決定感到受屈的人，可在他獲悉該決定後的 1 個月內，以書面向理事會或由理事會為施行本條而委任的在理事會轄下組成的委員會申請覆核該決定。

(2) 理事會或第 (1) 款所提述的委員會須考慮根據該款所提出的申請，並可確認或更改該項申請所關乎的決定。

相關修訂

《外地律師註冊規則》

11. 加入條文

《外地律師註冊規則》(第 159 章，附屬法例) 現予修訂，加入——

9. Record of attendance

(1) A person to whom these Rules apply shall—

- (a) keep and retain a record of his attendance at any RME course in a form specified by the Society; and
- (b) at the request of the Society—
 - (i) produce to the Society the record referred to in paragraph (a);
 - (ii) furnish the Society with such information relating to his attendance at any RME course within such time and in such manner as may be specified by it; and
 - (iii) attend before the Council and furnish the Council with such additional information relating to his attendance at any RME course as the Council considers necessary.

(2) Any person or organization (other than the Society) conducting an RME course shall keep and retain a record of attendance in respect of the RME course in accordance with the guidelines provided by the Society under section 4(3)(d) concerning the keeping and retaining of such record.

(3) The Society may require the person or organization concerned to produce the record of attendance referred to in subsection (2) within 7 days from the completion of the RME course concerned.

10. Review

(1) Any person aggrieved by a decision made by or on behalf of the Society in respect of the Programme may apply in writing to the Council, or to such committee formed under the Council as may be appointed by the Council for the purposes of this section, for a review of the decision within 1 month after he is informed of the decision.

(2) The Council, or the committee referred to in subsection (1), shall consider an application made under that subsection and may confirm or vary the decision to which the application relates.

Related Amendment

Foreign Lawyers Registration Rules

11. Section added

The Foreign Lawyers Registration Rules (Cap. 159 sub. leg.) are amended by adding—

34142

“6A. 遵守《法律執業者(風險管理教育)規則》

外地律師的註冊證書須受以下條件限制：該外地律師在他受僱於一所香港律師行作外地法律執業的期間內，須遵守《法律執業者(風險管理教育)規則》(2002 年第 248 號法律公告)。”

12. 過渡性條文

(1) 就在 2003 年 10 月 31 日終結的期間而言的執業年度，為 2003 年 3 月 14 日至 2003 年 10 月 31 日的期間。

(2) 凡——

(a) 在 1990 年 9 月 15 日或以後獲認許為高等法院律師的人的首個執業年度若非因本款便應在 2003 年 10 月 31 日終結，則就該人而言——

(i) 其首個執業年度自 2003 年 3 月 14 日開始，於 2004 年 3 月 31 日終結；及

(ii) 接續其首個執業年度的執業年度自 2004 年 4 月 1 日開始，於 2004 年 10 月 31 日終結；或

(b) 在 1990 年 9 月 15 日以前獲認許為高等法院律師的人的首個執業年度若非因本款便應在 2004 年 10 月 31 日終結，則就該人而言——

(i) 其首個執業年度自 2004 年 1 月 1 日開始，於 2004 年 12 月 31 日終結；及

(ii) 接續其首個執業年度的執業年度自 2005 年 1 月 1 日開始，於 2005 年 10 月 31 日終結。

於 2002 年 12 月 18 日批准。

終審法院首席法官
李國能

於 2002 年 12 月 19 日訂立。

史密夫

周永健

黃嘉純

黎庭康

陳偉仁

何君堯

簡錦材

梁雲生

“6A. Compliance with Legal Practitioners (Risk Management Education) Rules

A certificate of registration as a foreign lawyer is subject to the condition that during any period for which the foreign lawyer is employed by a Hong Kong firm to practise foreign law, he shall comply with the Legal Practitioners (Risk Management Education) Rules (L.N. 248 of 2002).”

12. Transitional

(1) The practice year for the period ending on 31 October 2003 shall be the period between 14 March 2003 and 31 October 2003.

(2) As regards a person—

(a) whose first practice year would, but for this subsection, end on 31 October 2003 and who was admitted as a solicitor of the High Court on or after 15 September 1990—

(i) his first practice year shall commence on 14 March 2003 and end on 31 March 2004; and

(ii) the practice year succeeding his first practice year shall commence on 1 April 2004 and end on 31 October 2004; or

(b) whose first practice year would, but for this subsection, end on 31 October 2004 and who was admitted as a solicitor of the High Court before 15 September 1990—

(i) his first practice year shall commence on 1 January 2004 and end on 31 December 2004; and

(ii) the practice year succeeding his first practice year shall commence on 1 January 2005 and end on 31 October 2005.

Approved this 18th day of December 2002.

Andrew LI
Chief Justice

Made this 19th day of December 2002.

Michael LINTERN-SMITH

Anthony W. K. CHOW

Lester G. HUANG

Alex T. H. LAI

Paul C. Y. TAN

Junius K. Y. HO

Anson K. C. KAN

Vincent W. S. LIANG

[附屬法例]

- ✓ (c) 可於證書屆滿當年的 5 月 15 日或該日之前藉提交以下各項而由律師會予以續期——
- (i) 一份律師會批准的格式的申請書；
 - (ii) 律師會為該續期所釐定的費用；及
 - (iii) 顯示申請人已遵從本條例第 IIIA 部所指的註冊規定的文件。

11. 上訴程序

任何人或律師行謀求根據本條例第 IIIA 部註冊，可——

- (a) 在接獲律師會所發出的就該人的註冊申請或該律師行的註冊申請而根據本規則作出的任何決定的通知後 1 個月內，要求覆核該份申請；及
- (b) 在接獲律師會所發出該會對根據 (a) 段作出的覆核要求而作出決定的通知後 3 個月內，向原訟法庭申請，而原訟法庭可—— (1998 年第 25 號第 2 條)
 - (i) 確認律師會的決定；或
 - (ii) 作出法院認為適當的其他命令。

12. 禁止從事香港法律執業

(1) 除第 (2) 款所規定者外，外地律師不得給予或提供任何法律服務，而該法律服務為在顧及有關個案的所有情況下可適當地視為由律師以律師身分慣常地給予的服務。

- (2) 外地律師可對以下任何事宜提供意見，或予以處理——
 - (a) 預計受香港以外的司法管轄區的法律所規限者；或
 - (b) 涉及國際私法或國際公法，或法律上的衝突者。

(1998 年第 23 號第 2 條)

13. 紀律事宜

(1) 香港律師行的主管，不得准許與該律師行有聯繫的外地律師的數目超過該律師行居於香港的主管及所僱用的律師的數目，或超過理事會在個別個案中認為情況特殊而批准的更大數目。

- (2) 外地律師行的主管不得——

[Subsidiary]

- (c) may be renewed by lodging with the Society on or before 15 May in the year in which the certificate expires—
 - (i) an application in the form approved by the Society;
 - (ii) the fee fixed by the Society for such renewal; and
 - (iii) documents showing that the applicant has complied with the requirements for registration under Part IIIA of the Ordinance.

11. Appeal procedure

A person or firm seeking registration under Part IIIA of the Ordinance may—

- (a) within one month of receiving notification from the Society of any decision of the Society under these Rules in respect of his or its application for registration, ask for the application to be reviewed; and
- (b) within 3 months of receiving notification from the Society of its decision on a request for review under paragraph (a), apply to the Court of First Instance which may— (25 of 1998 s. 2)
 - (i) affirm the decision of the Society; or
 - (ii) make such other order as the Court thinks fit.

12. Prohibition on the practice of Hong Kong law

(1) Except as provided in subsection (2), a foreign lawyer shall not provide or offer any legal service which, having regard to all the circumstances of the case, can properly be regarded as a service customarily provided by a solicitor in his capacity as such.

- (2) A foreign lawyer may give advice on or handle any matter which—
 - (a) is expected to be subject to the law of a jurisdiction other than Hong Kong; or
 - (b) involves private or public international law or conflict of laws.

13. Disciplinary matters

(1) A principal of a Hong Kong firm shall not permit the number of foreign lawyers associated with the firm to exceed the number of resident principals and solicitors employed in the firm or such greater number as the Council may approve in any particular case where it considers there are special circumstances.

- (2) A principal of a foreign firm shall not——

附件六

4 年內，已與該海外律師行如此聯繫一段不少於 12 個月的額外期間；及

(C) 已從事法律執業不少於 5 年；或

(b) 如屬任何其他情況——

(i) 該律師行的每名有意在香港執業的合夥人，已令律師會信納，在他有資格從事法律執業的外地司法管轄區，以及在過去 5 年內的任何時間他曾從事法律執業的每個司法管轄區，他均有良好聲譽；

(ii) 其中一名有意在香港執業的合夥人，在他有資格從事法律執業的外地司法管轄區，或在之前 5 年內他曾從事該法律執業的一個司法管轄區，他有相當聲譽；及

(iii) 每名有意在香港執業的合夥人，已在一個他有資格執業的外地司法管轄區從事該司法管轄區的法律執業不少於 3 年。

(2) 凡理事會認為個別個案適合時，可寬免遵從第 (1) 款的任何規定。

(1998 年第 23 號第 2 條)

8. 註冊為聯營組織

一間外地律師行與一間香港律師行同為一個聯營組織的一方時，該外地律師行在沒有理事會的同意下，即沒有資格與任何其他香港律師行註冊為一個聯營組織。

(1998 年第 23 號第 2 條)

9. 註冊費用

凡理事會已訂立規則，指明就依據本條例第 IIIA 部進行的任何註冊須繳付的費用，該等費用須在註冊前繳付。

10. 註冊證書

律師會依據本條例第 IIIA 部發出的註冊證書——

(a) 須由證書上所顯示的發出日期的日期起生效；

(b) 須有效至發出日期後的下一個 6 月 30 日，或如發生日期是任何一年的 5 月 15 日至 6 月 30 日之間，則有效至下一年度的 6 月 30 日；

and had, during the 4 years immediately preceding the commencement of that period, been so associated with the overseas firm for an additional period of not less than 12 months; and

(C) has been in the practice of the law for not less than 5 years; or

(b) in any other case——

(i) each of the partners of the firm who intends to practise in Hong Kong has satisfied the Society that he is of good standing in the foreign jurisdiction in which he is qualified to practise the law and in every jurisdiction in which he has at any time within the past 5 years practised the law;

(ii) one of the partners who intends to practise in Hong Kong is of substantial reputation in the foreign jurisdiction the law of which he is qualified to practise, or in a jurisdiction in which he has practised that law during the preceding 5 years; and

(iii) each of the partners who intends to practise in Hong Kong has been in practice of the law of a foreign jurisdiction in which he is qualified to practise for not less than 3 years.

(2) The Council may waive any of the requirements of subsection (1) where it considers it appropriate in the particular case.

8. Registration as an Association

A foreign firm that is a party to an Association with a Hong Kong firm shall not, without the consent of the Council, be eligible to be registered with any other Hong Kong firm as an Association.

9. Fee for registration

Where the Council has made rules specifying a fee to be paid in respect of any registration pursuant to Part IIIA of the Ordinance, such fee shall be payable prior to the registration.

10. Certificate of registration

A certificate of registration issued by the Society pursuant to Part IIIA of the Ordinance——

(a) shall be valid as from the date shown on the certificate as the date of issue;

(b) shall be valid until 30 June next following the date of issue or, where the date of issue is a date between 15 May and 30 June in any year, until 30 June in the year following;

LDT/272/34/0 B
HC/sp/SG194
2867 4604

6 January 2003

By Fax and By Post 2845

0387

Miss Heidi Chu
Assistant Director
Regulation and Guidance
The Law Society of Hong Kong
3/F Wing On House,
71 Des Voeux Road,
Central, Hong Kong

Dear Ms Chu,

Legal Practitioners (Risk Management Education) Rules

I refer to Mr. Stephen Lam's letter to the Law Society of Hong Kong dated 28 December 2002 and the telephone conversations between us this afternoon.

As regards the Chinese rendition for the English term "organization" in section 4(3)(b)(i) & (ii) and section 9(2) & (3) of the Rules, I agree that for consistency purpose, it may be better for the same rendition to be adopted for the English term in both sections even though the Chinese terms "機構" and "組織" render the same and unambiguous meaning in the text and are the equivalent of the same English term in the context. As "機構" is adopted for the term "organization" in both sections 4 and 10 of the Continuing Professional Development Rules (Cap. 159W) in similar context, it may be more appropriate for the term to be rendered into "機構" instead of "組織".

/As I understand

As I understand that there is no amendment to be made by the Society to the Rules for the moment and the use of the above Chinese terms would not in any way affect the purpose or the intended effect of the Rules, it is suggested that any alteration to the Chinese terms as proposed above may be effected in a simpler manner by way of an omnibus minor amendment bill when appropriate circumstances arise.

If I may be of any further assistance, please feel free to let me know.

By the way, please let us have a copy of your reply to Mr Stephen Lam for our reference.

Yours sincerely,

(Alan Chong)
Government Counsel

Internal

Mr Sunny Chan - 'A' file

(譯文)

來函檔號：
本函檔號：LS/S/13/02-03
電話：2869 9468
圖文傳真：2877 5029

傳真文件

(傳真號碼：2845 0387)
(共2頁)

香港中區
德輔道71號
永安大廈3樓
香港律師會

(經辦人：條例及指導部副總監朱潔冰女士)

朱潔冰女士：

**《法律執業者(風險管理教育)規則》
(2002年第248號法律公告)**

本部現正從法律及草擬兩方面研究此規則。本部有下列疑問，謹請閣下作出澄清——

一般問題

律師、實習律師或外地律師如不遵守《法律執業者(風險管理教育)規則》，會有何制裁或法律後果？

第3(a)條

在以下情況下此規則適用於身為主管的律師的生效日期為何？A先生於1980年獲認許為高等法院律師，但於1985年在律師名冊中被除名。A先生其後再於1991年獲認許為律師。

第3(b)條

在以下情況下此規則適用於不是主管的律師的生效日期為何？B先生於1990年獲認許為高等法院律師，但於1995年在律師名冊中被除名。B先生其後再於1999年獲認許為律師。

第4(3)(d)條

在決定某人是否已修讀風險管理課程達致律師會滿意的程度時所考慮的事項為何？

第9(2)及(3)條

第4(3)(b)條內“organization”一字的中譯為“組織”，為一致起見，在該兩項條文內“organization”一字的中譯是否宜由“機構”改為“組織”？

第10條

請提供有關該條所提述的“決定”的例子？

謹請閣下在2002年12月31日前以中英文作覆。

助理法律顧問

(林秉文)

副本致：律政司(經辦人：高級政府律師陳元新先生)
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