

立法會
Legislative Council

LC Paper No. LS 36/02-03

**Paper for the House Committee Meeting
on 10 January 2003**

**Legal Service Division Report on
Subsidiary Legislation Gazetted on 27 and 28 December 2002**

Date of tabling in LegCo : 8 January 2003

Amendment to be made by : 22 January 2003 (or 26 February 2003 if extended by resolution)

PART I DESIGNATION OF LIBRARIES ORDERS

Public Health and Municipal Services Ordinance (Cap. 132)

Designation of Libraries Order 2002 (L.N. 243)

Designation of Libraries (No. 2) Order 2002 (L.N. 244)

Designation of Libraries (No. 3) Order 2002 (L.N. 245)

Section 105K of the Public Health and Municipal Services Ordinance (Cap. 132) ("the Ordinance") empowers the Director of Leisure and Cultural Services ("the Director"), by order published in the Gazette, to designate any building, or part of a building, as a library.

2. L.N.s 243 and 244 designate the second floor, 9 Wo Mun Street, Fanling and Units 1-4, LG1, Fu Yan House, Fu Shan Estate, Po Kong Village Road, Kowloon as libraries respectively.

3. The effect of these Orders is to vest the management and control of the new Fanling Public Library and the Fu Shan Public Library, as described in the Schedule to the respective Orders, in the Director. It also enables the Director to exercise his other statutory functions under the Ordinance in respect of the libraries.

4. L.N. 245 cancels the previous designation of the Hong Kong Central Library and substitutes a new designation for it.

5. The effect of this Order is to vest the management and control of the Hong Kong Central Library (the new designation), as described in Schedule 2 to the Order, in the Director. It also enables the Director to exercise his other statutory functions under the Ordinance in respect of the library.

6. No difficulties relating to the legal and drafting aspects of the above items have been identified.

PART II DESIGNATION OF CIVIC CENTRES ORDER

Public Health and Municipal Services Ordinance (Cap. 132)

Public Health and Municipal Services Ordinance (Civic Centres) (Amendment of Thirteenth Schedule) Order 2002 (L.N. 246)

7. Section 105M of the Public Health and Municipal Services Ordinance (Cap. 132) ("the Ordinance") empowers the Director of Leisure and Cultural Services ("the Director"), by order published in the Gazette, to add to or delete from the Thirteenth Schedule to the Ordinance any premises and the grounds appurtenant thereto for use as a civic centre.

8. This Order—

- (a) provides that the premises specified in Schedule 1 to the Order (i.e. the Lecture Theatre and the Exhibition Gallery of the Hong Kong Central Library) cease to be set aside for use as a civic centre; and
- (b) sets aside the premises specified in Schedule 2 to the Order (i.e. the Lecture Theatre, the Exhibition Gallery, Activity Room 1 and Activity Room 2 of the building known as the Hong Kong Central Library and any other part of that building that is not designated as a library under L.N 245) for use as a civic centre.

9. The effect of this Order is to vest the management and control of the civic centre, as described in Schedule 2 to the Order, in the Director. It also enables the Director to exercise his other statutory functions under the Ordinance in respect of the civic centre.

10. No difficulties relating to the legal and drafting aspects of the above item have been identified.

PART III RULES MADE UNDER THE LEGAL PRACTITIONERS ORDINANCE (CAP. 159)

Legal Practitioners Ordinance (Cap. 159)

Legal Practitioners (Risk Management Education) Rules (L.N. 248)

11. Section 73 of the Legal Practitioners Ordinance (Cap. 159) ("the Ordinance") provides that the Council of The Law Society of Hong Kong ("the Council") may make rules for specified purposes subject to the prior approval of the Chief Justice.

12. Section 2 defines various terms used in the Rules.

13. Section 3 provides for the application of the Rules to a solicitor who is a principal or a solicitor other than a principal as from 14 March 2003 or 1 January 2004, or 1 November 2004 or 1 November 2005 respectively depending on the date of admission as a solicitor, and a trainee solicitor or foreign lawyer as from 1 November 2006. In response to our enquiry, the Law Society clarifies that the admission date of a solicitor for the purpose of determining the application of the Rules under section 3 is his first admission date. The Law Society will make clarification of this point in the guidelines to be issued under section 4 prior to the commencement of the Rules.

14. Section 4 provides that the Risk Management Education Programme ("the Programme") shall consist of general core courses, principal's core courses and elective courses. It also empowers the Law Society to provide guidelines from time to time as to the implementation of the Programme and compliance with the Rules, including guidelines setting out matters the Law Society proposes to have regard to in determining whether a person has attended a Risk Management Education course ("RME course") to the satisfaction of the Law Society. In response to our enquiry, the Law Society clarifies that matters that may be taken into account in determining whether a person has attended an RME course to the satisfaction of the Law Society include partial attendance of a course where the person arrives late, leaves early or is absent during the course apart from scheduled breaks.

15. Sections 5 to 7 provide for the attendance requirement in respect of general core course, principal's core course and elective course respectively.

16. Section 8 defines the meaning of an "exempted practice year".

17. Section 9 requires a person to whom the Rules apply, a person or organization (other than the Law Society) conducting an RME course to keep and maintain a record of attendance at or in respect of any RME course.

18. Section 10 provides that any person aggrieved by a decision made by or on behalf of the Law Society in respect of the Programme may apply in writing to the Council, etc. for a review of the decision within 1 month after he is informed of the decision.

19. Section 11 provides for related amendment to the Foreign Lawyers Registration Rules (Cap. 159 sub. leg.) to make it a condition of a certificate of registration as a foreign lawyer that he shall comply with the requirement of the Rules for the period that he remains as an employee of a Hong Kong firm.

20. Section 12 provides for the calculation of the current practice year.

21. In relation to a solicitor who does not comply with the requirements regarding the attendance of the RME courses, the Law Society may suspend or cancel his practising certificate under section 6(5A) of the Ordinance. If a trainee solicitor has not complied with the requirements in relation to the attendance of the RME courses, he will have to first complete the requirements before he is in a position to complete Form 4 (as amended by L.N. 247) to apply for a certificate of eligibility for admission as a solicitor. This is the same as in the case where a trainee solicitor has not completed the required number of CPD points by the end of his period of employment as a trainee solicitor. He will have to accumulate the required CPD points before he can complete Form 4 to apply for a certificate of eligibility for admission as a solicitor. In relation to a foreign lawyer, the form of application for renewal of his certificate of registration, according to the Law Society, will be amended to include a paragraph requiring him to confirm his compliance with the requirements of the Rules in the past year.

22. 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, the Law Drafting Division of the Department of Justice has agreed to synchronize it as "機構" instead of "組織" for consistency with other legislation. We are still discussing with the Law Drafting Division about the most appropriate way to effect the proposed amendment. We will further report on this item and L.N.247 as soon as possible.

23. Members may refer to copies of the correspondence between the Law Society and Legal Service Division at the **Annex**.

24. These Rules (other than section 11) will come into operation on 14 March 2003. Section 11 will come into operation on 1 November 2006.

Legal Practitioners Ordinance (Cap. 159)
Admission and Registration (Amendment) (No. 2) Rules 2002 (L.N. 247)

25. Section 72 of the Ordinance provides that the Chief Justice may make rules for specified purposes.

26. These Rules amend—

- (a) Form 2 in the Schedule to the Admission and Registration Rules (Cap. 159 sub. leg.) ("the Principal Rules") to reflect the requirement that a trainee solicitor shall have accumulated the number of CPD accreditation points required under the Continuing Professional Development Rules (Cap. 159 sub. leg) (section 2(a)(i)) and attended the RME courses required under the Legal Practitioners (Risk Management Education) Rules (L.N. 248 of 2002) ("the RME Rules") during his employment as a trainee solicitor (section 2(a)(ii));

- (b) Form 4 in the Schedule to the Principal Rules to reflect the requirement that a trainee solicitor shall have attended the RME courses required under the RME Rules during his employment as a trainee solicitor (section 2(b)).

27. Section 2(a)(ii) and (b) will come into operation on 1 November 2006.

28. No difficulties relating to the legal and drafting aspects of the above items have been identified.

PART IV ELECTORAL AFFAIRS COMMISSION ORDINANCE

Electoral Affairs Commission Ordinance (Cap. 541)

Electoral Affairs Commission (Registration of Electors) (Legislative Council Geographical Constituencies) (District Council Constituencies) (Amendment) Regulation 2002 (L.N. 254)

Electoral Affairs Commission (Registration) (Electors for Legislative Council Functional Constituencies) (Voters for Election Committee Subsectors) (Members of Election Committee) (Amendment) Regulation 2002 (L.N. 255)

29. The Electoral Provisions (Miscellaneous Amendments) Ordinance 2002 (33 of 2002) ("the Amendment Ordinance") was passed on 18 December 2002 to make provisions, amongst other things—

- (a) to adjust the cycle for the compilation and publication of electoral registers under Legislative Council Ordinance (Cap. 542); and
- (b) to adjust the cycle for the compilation and publication of registers of voters under the Chief Executive Election Ordinance (Cap. 569).

30. The new arrangements with respect to the publication of the provisional and final registers of electors for Geographical Constituencies ("GC") and Functional Constituencies ("FC") and of the voters for subsectors of the Election Committee ("EC") are—

	Publication of Provisional Registers for GCs, FCs and Subsectors	Publication of Final Registers for GCs, FCs and Subsectors
Publication deadlines in District Council election years	15 August	25 September
Publication deadlines in other years	15 June	25 July

31. L.N. 254 and L.N. 255 are subsidiary legislation made by the Electoral Affairs Commission consequential to the new arrangements made by the Amendment Ordinance.

32. L.N. 254 revises the dates in relation to—

- (a) the application for registration in electoral registers;
- (b) the requirement for particulars or proof relating to application for registration, and the response thereto;
- (c) the making of inquiries regarding persons registered, and the reply thereto;
- (d) the correction of entries in electoral registers;
- (e) the publication and inspection of omissions lists and electoral registers; and
- (f) the lodging, and delivery of copies, of notices of objection and notices of claim.

33. L.N. 255 revises the dates in relation to—

- (a) the sending of notifications to natural persons for them to elect to be registered, and the response thereto;
- (b) the application for registration in a functional constituencies register or a subsector register;
- (c) the giving of notices of appointment of authorized representatives;
- (d) the requirement for particulars or proof relating to application for registration, and the response thereto;
- (e) the making of inquiries regarding persons registered, and the reply thereto;
- (f) the correction of entries in functional constituencies registers, subsector registers and Election Committee registers;
- (g) the publication and inspection of omissions lists and functional constituencies registers and subsector registers; and
- (h) the lodging, and delivery of copies, of notices of objection, notices of claim and notices of appeal.

34. The above subsidiary legislation also makes amendment to provide that whether the name of a person is to be recorded in an electoral register, a functional constituencies register, a subsector register or an Election Committee register (as the case may be) in English or Chinese will be determined by whether the "principal residential address" (instead of the person's signature) is given in English or Chinese on the person's application.

35. Members may refer to the LegCo Brief issued by the Registration and Electoral Office in December 2002 for background information of these subsidiary legislation. The Administration considers that there is no need for public consultation (para. 9, LegCo Brief) and the proposals of the subsidiary legislation have not been referred to any LegCo Panel.

36. Both subsidiary legislation will come into operation on 28 February 2003.

37. The Legal Service Division is looking at the drafting and legal aspects of these subsidiary legislation and will, if necessary, further report to the House.

PART V COMMENCEMENT NOTICES

Import and Export Ordinance (Cap. 60)

Import and Export (General) (Amendment) Regulation 2002 (L.N. 179 of 2002) (Commencement) Notice 2002 (L.N. 251)

38. This Notice specifies 2 January 2003 as the day on which the Import and Export (General) (Amendment) Regulation 2002 (L.N. 179 of 2002) ("the Amendment Regulation") would come into operation.

39. The Amendment Regulation amends the Import and Export (General) Regulations (Cap. 60 sub. leg.) for the purpose of implementing in Hong Kong the Kimberley Process Certification Scheme ("KPCS"). KPCS is an international certification scheme for rough diamonds that seeks to stop trade in rough diamonds from fuelling armed conflicts, activities of rebel movements and the illicit proliferation of armament.

Import and Export (Fees) (Amendment) Regulation 2002 (L.N. 180 of 2002)

Import and Export (Fees) (Amendment) Regulation 2002 (L.N. 180 of 2002) (Commencement) Notice 2002 (L.N. 252)

40. This Notice specifies 2 January 2003 as the day on which the Import and Export (Fees) (Amendment) Regulation 2002 (L.N. 180 of 2002) ("the Amendment Regulation") would come into operation.

41. The Amendment Regulation amends the Import and Export (Fees) Regulations (Cap. 60 sub. leg.) to prescribe fees payable for registration as registered rough diamond traders and for issue of a licence for import or export of rough diamonds.

Karaoke Establishments Ordinance (22 of 2002)

Karaoke Establishments Ordinance (22 of 2002) (Commencement) Notice 2002 (L.N. 253)

42. This Notice specifies 8 January 2003 as the day on which the Karaoke Establishments Ordinance (22 of 2002) ("the Ordinance") shall come into operation.

43. The Ordinance establishes a scheme for the regulatory control of karaoke establishments.

44. No difficulties relating to the legal and drafting aspects of the above items have been identified.

PART IV MISCELLANEOUS AMENDMENTS

Banking Ordinance (Cap. 155)

Banking Ordinance (Amendment of Third Schedule) Notice 2002 (L.N. 249)

45. Under section 135(3) of the Banking Ordinance (Cap. 155) ("the Ordinance"), the Financial Secretary may, by notice in the Gazette, amend the Third Schedule (capital adequacy ratio) to the Ordinance.

46. This Notice amends some of the provisions for the calculation of the capital adequacy ratio of an authorized institution prescribed in the Third Schedule to the Ordinance. Under the Ordinance, "authorized institution" means a bank, restricted licence bank or deposit-taking company. The main purpose of the Notice is to enable the Monetary Authority to approve certain capital instruments (namely perpetual subordinated debt, term subordinated debt, paid-up term preference shares and paid-up irredeemable cumulative preference shares), which permit increase in the interest rate or dividends, to be included in the Supplementary Capital of an authorized institution.

47. Members may refer to LegCo Brief File Ref: G4/16/22CIII of 27 December 2002 issued by Financial Services and the Treasury Bureau for background information.

48. No difficulties relating to the legal and drafting aspects of the above item have been identified.

Import and Export (General) Regulations (Cap. 60 sub. leg.)
Import and Export (General) Regulations (Amendment of Seventh Schedule)
Notice 2002 (L.N. 250)

49. Under section 7(2) of the Import and Export (General) Regulations ("the Principal Regulations"), the Director-General of Trade and Industry may, by notice in the Gazette, add to the Seventh Schedule the name of a country or place for which the Kimberley Process Certification Scheme ("the KPCS") is effective; or any other country or place from which the import of rough diamonds into, and to which the export of rough diamonds from, a country or place for which the KPCS is effective is permitted by the Kimberley Process.

50. This Notice adds 53 countries or places to the Seventh Schedule to the Principal Regulations. That Seventh Schedule was added to the Principal Regulations by the Import and Export (General) (Amendment) Regulation 2002 (L.N. 179 of 2002).

51. This Notice came into operation on 2 January 2003.

52. No difficulties relating to the legal and drafting aspects of the above items have been identified.

Encl

Prepared by

Lam Ping-man, Stephen (Legal Notices No. 243 to 253)
Cheng Kit-ye, Kitty (Legal Notices No. 254 and 255)
Assistant Legal Advisers
Legislative Council Secretariat
9 January 2003

Annex

HC/sp/SG194

2846 0503

9 January 2003

Mr Stephen Lam
Assistant Legal Adviser
Legislative Council Secretariat
Legal Service Division
Legislative Council Building
8 Jackson Road
Central, Hong Kong

Dear Mr Lam,

Re : Legal Practitioners (Risk Management Education) Rules (“Rules”)

Thank you for your letter of 8 January 2003.

The policy in relation to the application of the Rules, as explained in our letter dated 7 January 2003, is to require the more senior lawyers to undertake the risk management education programme first because according to the relevant statistics, the responsibility for claims made against the Professional Indemnity Scheme more often lies with the more senior lawyers. Furthermore, the culture of the firm is set from the top down. It is expected that if the principals are properly educated in risk management, it will facilitate the more speedy development of such a culture within the firm. The Rules are therefore to apply from the top and work downwards so that they apply to principals, non-principal solicitors, trainee solicitors and foreign lawyers in that order.

Section 3 of the Rules has adequately reflected such policy intent.

For the sole purpose of making the course more manageable, the categories of principals and non-principal solicitors have been subdivided into 2 tranches. The subdivision into 2 tranches has no bearing on the policy intent.

It is doubtful if any solicitor falls within your hypothetical case whereby he has 2 admission dates and relying on one but not the other would result in him being grouped under a different tranche. Nevertheless, clarification on the application of the Rules in such cases can be included in the guidelines relating to the implementation of the Programme and compliance with the Rules under section 4(3)(d) of the Rules, which are expected to be issued prior to the commencement of the Rules.

Yours sincerely,

Heidi Chu
Assistant Director
Regulation and Guidance

HC/sp/SG194
LS/S/13/02-03
2869 9468
2877 5029

The Law Society of Hong Kong
3/F Wing On House
71 Des Voeux Road
Central
Hong Kong

8 January 2003

(Attention: Ms Heidi CHU,
Assistant Director Regulation & Guidance)

BY FAX
Fax No. : 2845 0387
Total No. of page: 1

Dear Ms Chu,

**Legal Practitioners (Risk Management Education) Rules
L.N. 248 of 2002**

Thank you for your letter of 7 January 2003.

In relation to your answer to our query about section 3, does the present drafting of section 3 adequately reflect your policy intent? If not, how would you clarify your policy intent?

Your reply in both languages by close of play today is much appreciated.

Yours sincerely,

(Stephen LAM)
Assistant Legal Adviser

c.c. DoJ (Attn: Mr Sunny CHAN, SGC)
(Fax No. 2869 1302)

HC/sp/SG194
LS/S/13/02-03
2846 0523

7 January 2003

Mr Stephen Lam
Assistant Legal Adviser
Legislative Council Secretariat
Legal Service Division
Legislative Council Building
8 Jackson Road
Central, Hong Kong

Dear Mr Lam,

**Re : Legal Practitioners (Risk Management Education) Rules
L.N. 248 of 2002**

Thank you for your letter dated 28 December 2002.

General Question

(a) Solicitors

The Legal Practitioners (Risk Management Education) Rules ("Rules") are made pursuant to section 73(1)(ab) of the Legal Practitioners Ordinance (**Annexure 1**) which provides for rules to be made for continuing legal education and training that must be undertaken by solicitors.

Under section 6(5)(c) of the Ordinance (**Annexure 2**), it is provided that the Society may 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. For instance, a condition to comply with the Continuing Professional Development Rules ("CPD Rules") has been imposed on practising certificates of those subject to the CPD Rules pursuant to section 6(5)(c) of the Ordinance.

Section 6(5A) of the Ordinance (Annexure 2) further provides that where the Society considers that a solicitor has not complied with conditions imposed under subsection (5), 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. This section is currently being applied to the condition relating to Continuing Professional Development ("CPD") imposed under subsection (5).

Accordingly, if a solicitor does not comply with the requirements in relation to the attendance of the risk management education courses, the Society is entitled to act in accordance with section 6(5A) of the Ordinance, as in the case for breaches of the CPD Rules.

(b) Trainee solicitor

One of the consequential amendments is to amend Form 2 (Certificate of eligibility for admission as a solicitor) and Form 4 (Application for a certificate of eligibility for admission as a solicitor) contained in the Admission and Registration Rules to include a reference to compliance with the requirements of the Rules. Please see Forms 2 and 4 marked up with the amendments attached at **Annexures 3 and 4**.

Accordingly, if a trainee solicitor has not complied with the requirements in relation to the attendance of the risk management education courses, he will have to first complete the requirements before he is in a position to complete Form 4 to apply for a certificate of eligibility for admission as a solicitor. This is the same as in the case where a trainee solicitor has not completed the required number of CPD points by the end of his period of employment as a trainee solicitor. He will have to accumulate the required CPD points before he can complete Form 4 to apply for a certificate of eligibility for admission as a solicitor.

(c) Foreign lawyer

One of the consequential amendments is to insert a provision in the Foreign Lawyers Registration Rules to state that it shall be a condition of a certificate of registration as a foreign lawyer that he shall comply with the requirement of the Rules for the period that he remains as an employee of a Hong Kong firm. The proposed new rule 6A of the Foreign Lawyers Registration Rules is set out at section 11 of the Rules (**Annexure 5**).

The certificate of registration is renewed on an annual basis in accordance with rule 10(c) of the Foreign Lawyers Registration Rules (**Annexure 6**).

The form of application for renewal will be amended to include a paragraph requiring the foreign lawyer to confirm his compliance with the requirements of the proposed Rules in the past year.

Accordingly, if the foreign lawyer does not comply with the requirements in relation to the attendance of the risk management education courses, he will not be able to complete the application for renewal of his registration as a foreign lawyer.

Sections 3(a) and (b)

Sections 3(a) and (b) provide respectively for the application of the Rules to principals and non-principals in 2 tranches on the basis of their admission dates. Based on existing data, it is estimated that there are over 1,800 principals and about 2,400 non-principal solicitors. To make it more

manageable, the Rules divide each category into 2 tranches on the basis of their admission dates so as to spread the number over a certain period to complete the course.

The first tranche of principals will come under the Rules from 14 March 2003 and will be required to complete the principal's core course by 31 March 2004. The second tranche will come under the Rules from 1 January 2004 and will be required to complete the principals' core course by 31 December 2004.

For non-principal solicitors, the Rules will apply to the first tranche from 1 November 2004. They will be required to complete the general core course by 31 October 2005. The second tranche will come under the Rules from 1 November 2005 and will be required to complete the general core course by 31 October 2006.

Irrespective of the admission date, a practising solicitor, depending on whether he is a principal or a non-principal, has to complete either the principals' core course or the general core course. The admission date is only relevant to the extent of determining into which tranche a solicitor will fall and the gap between the application of the Rules to the first tranche and the second tranche for principals and non-principal solicitors is only 9 months and 12 months respectively.

I understand from you that the queries in relation to sections 3(a) and (b) are purely hypothetical.

The application of the Rules is based on seniority. They apply from the "top and work downwards". Accordingly, the Rules apply first to principals, then to non-principal solicitors, trainee solicitors and foreign lawyers.

In your hypothetical situations, the Rules will therefore apply to Mr A and Mr B on the basis of their first admission dates to take into account their earlier experience.

Section 4(3)(d)

Matters that may be taken into account in determining whether a person has attended an RME course to the satisfaction of the Society include partial attendance of a course where the person arrives late, leaves early or is absent during the course apart from scheduled breaks.

Section 9(2) and (3)

Please see attached a letter from the Law Drafting Division ([Annexure 7](#)) suggesting that it be dealt with by way of an omnibus minor amendment bill when appropriate circumstances arise.

Section 10

Decisions referred to in section 10 may include determinations on whether, based on section 8, a year is an exempted year in relation to a person to whom the Rules apply and on whether, based on the guidelines issued under section 4(3)(d), a person has complied with the Rules and attended an RME course to the satisfaction of the Society.

Yours sincerely,

Heidi Chu
Assistant Director
Regulation and Guidance
Encl
64957

72AAA. Conflict between rules made by Chief Justice and Bar Council

ANNEXURE 1

Where power is given to -

- (a) the Chief Justice; and
- (b) the Bar Council,

to make rules in respect of the same matter, rules made by either or both of them in respect of such a matter shall be valid unless there is a conflict between such rules, in which case the rules made by the Chief Justice shall be given precedence to the extent of such conflict.

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;
- (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;

- (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;

- (ab) providing for any continuing legal education or training that must be undertaken by solicitors;

(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;
- (vi) the nature and extent of the examination to be made by the accountant of the books and accounts of a solicitor or of his firm and of any other relevant documents with a view to the signing of a report to be delivered by the solicitor under section 8;

- (2) A person shall not be disqualified from admission as a solicitor by reason only that-
- (a) a solicitor who employed him or acted as his principal for the whole term or such part of a term of a trainee solicitor contract as may be prescribed by the Council has neglected or omitted to take out a practising certificate; or
 - (b) the name of the solicitor who employed him as a trainee solicitor or acted as his principal for any period has after the termination of that period been removed from or struck off the roll of solicitors.
- (3) Where a person who was admitted as a solicitor on the basis of an intention referred to in subsection (1A)(b) fails to reside in Hong Kong for at least 3 months immediately after his admission, the Court may, on the application of the Society, order that the person's name be removed from or struck off the roll of solicitors.

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 Judge 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.

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.
- (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.
- (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.
- (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-
 - (a) refuse to issue a practising certificate on such grounds as may be prescribed by the Council;
 - (b) issue a practising certificate to an applicant subject to such conditions as may be prescribed by the Council;

- (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;
 - (d) refuse to issue a practising certificate if the applicant has not complied with any continuing legal education rules made under section 73; or
 - (e) amend an already issued certificate by adding such conditions as may be prescribed by the Council.
- (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.
- (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.
 - (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.
 - (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.
 - (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.
 - (9) Where the Society, in the exercise of the powers conferred on it under subsection (5) or (5A), refuses to issue a practising certificate, issues a certificate subject to conditions, amends a certificate by adding conditions or suspends or cancels a certificate, the solicitor may appeal to the Chief Judge against the decision of the Society within 1 month of being notified of it.
 - (10) Where the Council refuses to disapply subsection (6) in the case of an applicant who claims to have acquired substantial experience in the law, either in Hong Kong or elsewhere, the applicant may appeal to the Chief Judge against the decision of the Council within 1 month of being informed of that decision.
 - (11) On an appeal to the Chief Judge under subsection (9) or (10) he may-
 - (a) affirm the decision of the Society or Council;
 - (b) direct the Society to issue a practising certificate to the appellant free from conditions or subject to such conditions as he thinks fit; or
 - (c) remit the matter to the Society or Council for reconsideration with such directions as he thinks fit.
 - (12) Where the Chief Judge affirms a decision of the Society or Council under paragraph (a) of subsection (11) or directs the Society to issue a practising certificate under paragraph (b) of that subsection; the decision of the Chief Judge shall be final.

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
- (2) Commercial or corporate law
- (3) Family law
- (4) Civil litigation
- (5) Criminal litigation
- (6) Wills, Probate and Trusts
- (7) Trade Marks, Patents, Copyrights
- (8) Such other legal topic as may be determined from time to time by the Society

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
- (2) Civil litigation
- (3) Commercial
- (4) Company
- (5) Criminal litigation
- (6) Family
- (7) Insolvency
- (8) Intellectual property
- (9) Property
- (10) Trusts, Wills and Probate

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—

“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

陳傳仁

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

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;
- ~~(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 -
 - (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 -
- (a) offer, or permit to be offered, to the public the services of any employee as a practitioner of foreign law unless that employee is a foreign lawyer or a solicitor who does not hold a practising certificate;
 - (b) in relation to any employee whose services are offered to the public as a practitioner of foreign law, hold out such employee, or permit such employee to be held out, to the public as being qualified or entitled to practise as a solicitor, whether at that or any other time.
- (3) A principal of the Hong Kong firm or any foreign firm in an Association shall ensure that the number of foreign lawyers associated with the Hong Kong firm or foreign firm or firms in the Association does not exceed the number of solicitors associated with the Hong Kong firm or such greater number as the Council may approve in any particular case where it considers there are special circumstances.
- (4) Where a foreign firm is a member of more than one Association, a foreign lawyer associated with that firm shall not be counted, for the purpose of subsection (3), in respect of more than one Association.
- (5) Where a Hong Kong firm is a member of more than one Association, a solicitor associated with that firm shall not be counted, for the purpose of subsection (3), in respect of more than one Association.

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

LS/S/13/02-03
2869 9468
2877 5029

The Law Society of Hong Kong
3/F Wing On House
71 Des Voeux Road
Central
Hong Kong

28 December 2002

(Attention: Ms Heidi CHU,
Assistant Director Regulation & Guidance)

BY FAX
Fax No. : 2845 0387
Total No. of page: (2)

Dear Ms Chu

**Legal Practitioners (Risk Management Education) Rules
L.N. 248 of 2002**

We are scrutinising the legal and drafting aspects of the Rules. We have the following queries and should be grateful for your clarification -

General Question

What will be the sanctions or legal consequences if a solicitor, trainee solicitor or foreign lawyer who has failed to comply with the Legal Practitioners (Risk Management Education) Rules?

Section 3(a)

What will be the effective date of application of the Rules to a solicitor who is a principal in the following circumstances? Mr. A who was admitted as a solicitor of the High Court in 1980 but was struck off the list of solicitors in 1985. Mr. A was latter re-admitted as a solicitor in 1991.

Section 3(b)

What will be the effective date of application of the Rules to a solicitor other than a principal in the following circumstances? Mr. B who was admitted as a solicitor of the High Court in 1990 but was struck off the list of solicitors in 1995. Mr. B was latter re-admitted as a solicitor in 1999.

Section 4(3)(d)

What matters will be had regard to in determining whether a person has attended an RME course to the satisfaction of the Society?

Section 9(2) & (3)

For consistency with the Chinese rendition for the term "organization" in section 4(3)(b) as "組織", would it be appropriate to change "機構" to "組織" for the term "organization" in the provisions?

Section 10

Would you give examples of the "decision" referred to in the provision?

Your reply in both languages by 31 December 2002 is much appreciated.

Yours sincerely,

(Stephen LAM)
Assistant Legal Adviser

cc: DoJ (Attn: Mr Sunny CHAN, SGC) Fax No. 2869 1302