

立法會
Legislative Council

LC Paper No. LS11/03-04

**Paper for the House Committee Meeting
on 7 November 2003**

**Legal Service Division Report on
Subsidiary Legislation Gazetted on 31 October 2003**

Date of Tabling in LegCo : 5 November 2003

Amendment to be made by : 3 December 2003 (or 7 January 2004 if extended by resolution)

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

**Legal Practitioners Ordinance (Cap. 159)
Legal Practitioners (Risk Management Education) (Amendment) Rules 2003
(L.N. 238)**

The Amendment Rules amend the Legal Practitioners (Risk Management Education) Rules (Cap. 159. sub. leg. Z) ("the RME Rules") to—

- (a) enable the Council ("the Council") of the Law Society of Hong Kong ("the Law Society") to appoint by notice published in the Gazette the date on which the first practice year for any solicitor who was admitted as a solicitor of the High Court on or after 15 September 1990 and who is a principal immediately before the commencement of these Amendment Rules ("post-1990 principal") shall end;
- (b) enable the Council to appoint different dates for the RME Rules to apply to solicitors (other than a post-1990 principal), trainee solicitors and foreign lawyers;
- (c) repeal the commencement date of 1 November 2006 for a related amendment to the Foreign Lawyers Registration Rules (Cap. 159 sub. leg. S) and enable the President of the Law Society to appoint the commencement date so as to correspond with the day to be appointed for the application of the RME Rules in relation to foreign lawyers.

2. The RME Rules provide for the implementation of a programme of training courses on risk management for solicitors or foreign lawyers who practise in Hong Kong firms and for trainee solicitors. Members may refer to our report on the RME Rules (L.N. 248 of 2002) in the paper for the House Committee meeting on 10 January 2003 (LC Paper No. LS 36/02-03) for background information. Under the RME Rules, post-1990 principals are required to complete all principal's core courses in their first practice year from 14 March 2003 to 31 March 2004.

3. According to the Law Society, joint providers from Australia were selected by the Council through a tender process to develop and deliver the core course. This requires the providers to come to Hong Kong to conduct an analysis of claims under the Professional Indemnity Scheme to provide localized programme. Owing to the outbreak of Severe Acute Respiratory Syndrome between March and June, the providers declined to travel to Hong Kong. The timetable on the development and delivery of the core courses has been disrupted and it is no longer feasible to have the core courses in place to enable the post-1990 principals to meet the requirement before 31 March 2004.

4. The main purpose of the Amendment Rules is to repeal the specific timetable for application of the RME Rules as set out in those Rules and to enable the Council to appoint, by notices published in the Gazette, different dates for application of the RME Rules. The end date of 31 March 2004 for the first practice year for post-1990 principals is repealed and another date would be appointed by the Council.

5. The Law Society has provided a tentative implementation timetable. A summary of the original and the proposed dates when the RME Rules will apply to solicitors, trainee solicitors and foreign lawyers are set out below for Members' information :

<i>Participants</i>	<i>Original dates of application</i>	<i>Proposed dates of application</i>
principals (a) admitted on or after 15 September 1990 (b) admitted before 15 September 1990	14 March 2003 1 January 2004	 1 November 2004
non-principal solicitors (a) admitted on or after 9 May 1998 (b) admitted before 9 May 1998	1 November 2004 1 November 2005	1 November 2005 1 November 2006
trainees and foreign lawyers	1 November 2006	1 November 2007

Legal Practitioners Ordinance (Cap. 159)
Admission and Registration (Amendment) (No. 2) Rules 2002 (Amendment) Rules 2003 (L.N. 237)

6. These Amendment Rules amend the Admission and Registration (Amendment) (No. 2) Rules 2002 (L.N. 247 of 2002) ("the Rules") by repealing the commencement date of 1 November 2006 and enabling the President of the Law Society to appoint the commencement date by notice published in the Gazette.

7. The Amendment Rules are made consequent to the Legal Practitioners (Risk Management Education) (Amendment) Rules 2003 (L.N. 238 of 2003) to enable the commencement day of section 2(a)(ii) and (b) of the Rules to correspond with the day to be appointed for the application of the RME Rules in relation to trainee solicitors.

8. The effect of section 2(a)(ii) and (b) of the Rules is to reflect in the forms the requirements that a trainee solicitor shall have accumulated the number of CPD accreditation points required under the Continuing Professional Development Rules (Cap. 159 sub. leg. W) and attended all RME courses required under the RME Rules during his employment as a trainee solicitor.

PART II OTHER SUBSIDIARY LEGISLATION

Import and Export Ordinance (Cap. 60)
Import and Export (General) Regulations (Amendment of Seventh Schedule) (No. 8) Notice 2003 (L.N. 239)

9. Under section 7(2) of the Import and Export (General) Regulations (Cap. 60 sub. leg.) ("the Regulations"), the Director-General of Trade and Industry may, by notice in the Gazette, add to the Seventh Schedule to the Regulations :

- (a) the name of a country or place for which the Kimberley Process Certification Scheme (KPCS) is effective; or
- (b) the name of any other country or place from which the import of rough diamonds into, and to which the export of diamonds from, a country or place for which KPCS is effective is permitted by the Kimberly Process.

10. This Notice adds Bulgaria and Malaysia to the Seventh Schedule to the Regulations.

Tax Reserve Certificates (Fourth Series) Rules (Cap. 289 sub. leg. A)
Tax Reserve Certificates (Rate of Interest) (No. 5) Notice 2003 (L.N. 240)

11. This Notice fixes at 0.025% per annum as the rate of interest payable on tax reserve certificates issued on or after 3 November 2003.

12. No difficulties relating to the legal and drafting aspects of all of the above subsidiary legislation have been identified.

Prepared by

Wong Sze-man, Bernice
Assistant Legal Adviser
Legislative Council Secretariat
4 November 2003

LS/S/5/03-04