

立法會
Legislative Council

LC Paper No. CB(3) 195/12-13

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Tel : 3919 3300

Date : 30 November 2012

From : Clerk to the Legislative Council

To : All Members of the Legislative Council

Council meeting of 5 December 2012

**Proposed resolution under the
Interpretation and General Clauses Ordinance**

I forward for Members' consideration a proposed resolution which the Secretary for Justice will move, at the Council meeting of 5 December 2012, under section 34(2) of the Interpretation and General Clauses Ordinance (Cap. 1) in relation to:

- (a) Solicitors' Accounts (Amendment) Rules 2012, published in the Gazette as Legal Notice No. 151 of 2012; and
- (b) Accountant's Report (Amendment) Rules 2012, published in the Gazette as Legal Notice No. 152 of 2012.

2. The President has directed that "it be printed in the terms in which it was handed in" on the Agenda of the Council.

3. The speech, in both Chinese and English, which the Secretary for Justice will deliver when moving the proposed resolution is also attached.

(Odelia LEUNG)
for Clerk to the Legislative Council

Encl.

Interpretation and General Clauses Ordinance

Resolution

(Under section 34(2) of the Interpretation and General Clauses Ordinance
(Cap. 1))

Solicitors' Accounts (Amendment) Rules 2012

Accountant's Report (Amendment) Rules 2012

Resolved that—

- (a) the Solicitors' Accounts (Amendment) Rules 2012, published in the Gazette as Legal Notice No. 151 of 2012 and laid on the table of the Legislative Council on 17 October 2012, be amended as set out in Schedule 1;
- (b) the Accountant's Report (Amendment) Rules 2012, published in the Gazette as Legal Notice No. 152 of 2012 and laid on the table of the Legislative Council on 17 October 2012, be amended as set out in Schedule 2.

Schedule 1

[para. (a)]

Amendments to Solicitors' Accounts (Amendment) Rules 2012

1. **Rule 4 amended (rule 2 amended (interpretation))**
 - (1) Rule 4(1)(a), Chinese text, after ““指以律師名義在”—
Add
“銀行開立的往來或儲蓄”.
 - (2) Rule 4(1)(a), Chinese text, after “牌照的”—
Add
“銀行開立的往來或存款”.
 - (3) Rule 4(5), new definition of *principal*, after “partner of a firm”—
Add
“and also includes any solicitor who is held out or holds himself or herself out as such a partner or sole practitioner”.
2. **Rule 6 amended (rule 6A added)**
 - (1) Rule 6, Chinese text, new rule 6A(1)—
Repeal
“衍生”
Substitute
“累算”.
 - (2) Rule 6, Chinese text, new rule 6A(2)—
Repeal
“衍生”

Substitute

“累算”。

- (3) Rule 6, English text, new rule 6A(3)(b)—

Repeal

“On”

Substitute

“After”。

- (4) Rule 6, Chinese text, new rule 6A(6)—

Repeal

“衍生”

Substitute

“賺取”。

3. Rule 6A added

After rule 6—

Add**“6A. Rule 7 amended (drawings from a client account)**

Rule 7(a)(iv), Chinese text—

Repeal

“告知”

Substitute

“通知”。

4. Rule 8 amended (rule 9 amended (exceptions))

- (1) Rule 8(1), Chinese text, new rule 9(2)(c)(i)—

Repeal

“告知”

Substitute

“通知”。

- (2) Rule 8(2), new rule 9(2A)(b), after “client account”—

Add

“without delay”。

- (3) Rule 8(2), new rule 9(2A)(c)(i), after “client account”—

Add

“without delay”。

- (4) Rule 8(2), English text, new rule 9(2A)(c)(ii)—

Repeal

“should”

Substitute

“must”。

- (5) Rule 8(2), Chinese text, new rule 9(2A)(c)(ii), before “4個”—

Add

“第”。

- (6) Rule 8(2), Chinese text, new rule 9(2A)(c)(ii), before “5個”—

Add

“第”。

5. Rule 10 amended (rule 10 amended (obligation to keep accounts))

- (1) Before rule 10(1)—

Add

“(1A) Rule 10(4), Chinese text—

Repeal

“告知” (wherever appearing)

Substitute

“通知”.

- (2) Rule 10(1), English text, before “as are necessary”—

Add

“such cards or other permanent documents”.

- (3) Rule 10(1)—

Repeal

“or, as the case may be,”

Substitute

“any cards or other permanent documents or”.

6. Rule 11A added

After rule 11—

Add**“11A. Rule 12 amended (delivery of intimation and notification)**

- (1) Rule 12, heading—

Repeal

“intimation and notification”

Substitute

“written intimation etc.”.

- (2) Rule 12, Chinese text—

Repeal

“告知”

Substitute

“通知”.

Schedule 2

[para. (b)]

**Amendments to Accountant's Report (Amendment)
Rules 2012**

1. Rule 3 amended (rule 2 amended (interpretation))

- (1) Rule 3(1)(a), Chinese text, after ““指以律師或律師行名義在”—

Add

“銀行開立的往來或儲蓄”。

- (2) Rule 3(1)(a), Chinese text, after “牌照的”—

Add

“銀行開立的往來或存款”。

Meeting of Legislative Council on 5 December 2012

Motion to Amend

the Solicitors' Accounts (Amendment) Rules 2012 and

the Accountant's Report (Amendment) Rules 2012

made under the Interpretation and General Clauses Ordinance

Speech by the Secretary for Justice

(refer to the final speech to be delivered at LegCo meeting)

President,

I move that the motion as set out in the paper delivered to Members be passed. The motion is to propose amendments to the Solicitors' Accounts (Amendment) Rules 2012 and the Accountant's Report (Amendment) Rules 2012.

These Rules were made by the Council of the Law Society of Hong Kong pursuant to section 73 of the Legal Practitioners Ordinance (Cap. 159) with the prior approval of the Chief Justice. The major objectives of the Solicitors' Accounts (Amendment) Rules 2012 are to set out the principles that must be observed by solicitors in handling client's money,

and to extend the application of the Solicitors' Accounts Rules as amended to solicitor corporations, foreign lawyers and foreign firms. The Accountant's Report (Amendment) Rules 2012 mainly amend the existing definition of "client account" and introduce a new definition of "solicitor".

These two sets of Rules were tabled at the Legislative Council on 17 October 2012, together with three other related pieces of subsidiary legislation made under Cap. 159. A subcommittee was subsequently formed by the House Committee to scrutinize the five sets of subsidiary legislation.

At the meeting of the Subcommittee held on 13 November 2012, the Law Society agreed that certain amendments proposed by the Legal Adviser to the Subcommittee should be made to the Solicitors' Accounts (Amendment) Rules 2012 and the Accountant's Report (Amendment) Rules 2012. These amendments have the support of the Subcommittee.

Most of the proposed amendments relate to the drafting aspects of both the English and Chinese texts of the Rules and have no impact on the substance of the provisions in question. The Administration has no objection to these proposed amendments. In the circumstances, I agree to move this motion to propose the amendments agreed between the Law Society and the Subcommittee.

I would like to take this opportunity to express my appreciation of the efforts made by Honourable Dennis Kwok, the Chairman of the Subcommittee, and other Members of the Subcommittee.

President, I move that the motion be passed. Thank you.

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