

## **LEGISLATIVE COUNCIL BRIEF**

(Cap.159Q)

### **Overseas Lawyers (Qualification for Admission) (Amendment) Rules 2014 (Commencement) Notice**

1. The Overseas Lawyers (Qualification for Admission) (Amendment) Rules 2014 (the "Amendment Rules") were gazetted on 25 April 2014 and were laid before the Legislative Council on 30 April 2014. No amendments were made during the negative vetting period which expired on 28 May 2014.
2. It is intended that the Amendment Rules would apply to the Overseas Lawyers Qualification Examination ("Examination ") in 2015. It is estimated that applicants may lodge their applications to sit the Examination on or about 1 April 2015. The Examination is scheduled to be held in or about November 2015. Prior to receiving the applications, the Law Society ("Society") will establish a Panel of Examiners for the new written Head of Examination introduced by the Amendment Rules, the written Head on Hong Kong Constitutional Law, and compile the syllabus, standards and reading list. The Society will also consider the guidelines which govern the granting of exemptions to applicants who apply for exemptions from sitting this new Head. In addition, a new Examination Information Package will be prepared to include information on the new Head of Examination and other changes introduced by the Amendment Rules. (The changes are set out in the previous Legislative Council Brief which is attached again in Appendix 1.) If the Amendment Rules are to commence on 2 January 2015, this would provide sufficient notice to the applicants to prepare for the new written Head of Examination, whilst providing sufficient time for the Society to complete the preparatory work prior to receiving the applications from the applicants to sit the Examination.
3. Accordingly, the Council of the Law Society has resolved 2 January 2015 as the commencement date of the Amendment Rules.

## LEGISLATIVE COUNCIL BRIEF

**Overseas Lawyers (Qualification for Admission) (Amendment) Rules 2014**

1. The Overseas Lawyers Qualification Examination (the "Examination") offers an overseas qualified lawyer a means to gain admission as a Hong Kong solicitor.
2. The Examination is held annually, generally in October, November and December. It comprises four written Heads: (Head I) Conveyancing; (Head II) Civil and Criminal Procedure, (Head III) Commercial and Company Law; and (Head IV) Accounts and Professional Conduct. For candidates qualified in non-common law jurisdictions, they have to pass an oral examination on Principles of Common Law (Head V) as well.
3. A candidate is taken to have passed the Examination only if he or she has passed all the Heads that he or she is required to sit. A candidate may apply for exemption from sitting all or part of the Examination. There is a pre-requisite of five years' experience in the practice of law before an applicant can apply for exemption from sitting a written Head.
4. The Examination is conducted on the basis of and is governed by the Overseas Lawyers (Qualification for Admission) Rules (the "OLQE Rules").
5. As a result of a comprehensive review conducted on the Examination some time ago, certain amendments were proposed to the OLQE Rules.
  - a. To become a solicitor in Hong Kong, a person should also be required to have an understanding of the Basic Law. It is not uncommon that in overseas jurisdictions, foreign lawyers seeking admission in those jurisdictions are tested on the constitutional law of the jurisdiction before they are admitted. Rule 7 of the OLQE Rules has therefore been amended to include "Hong Kong Constitutional Law" as an additional written Head of Examination.
  - b. Most overseas lawyers are qualified in a number of jurisdictions. In calculating the five (5) years of experience in an application for exemption under Rule 4(1) of the OLQE Rules, the experience in the practice of law in all the common-law jurisdictions in which the common law applicants were qualified to practise should be counted.
  - c. Similarly, the experience in the practice of law in all the non-common law jurisdictions in which the non-common law applicants were qualified to practise should also be counted for the purpose of the five (5) years of experience in an application for exemption under Rule 5(1) of the OLQE Rules.

- d. Most jurisdictions provide for a period of practical legal training in lieu of traineeship as a requirement for admission. Rule 4(2)(b) of the OLQE Rules has been amended to clarify that the practical legal training which satisfied the admission criteria in an applicant's jurisdiction of admission can be recognised by the Law Society as experience in the practice of law for the purpose of the Examination. The period of pupillage however cannot be recognised as post-admission experience to satisfy the eligibility criteria to sit the Examination.
- e. A prerequisite requirement for non-common law applicants is that they must have completed a one-year full time study of Contract, Tort, Property, Criminal Law, Equity, Constitutional and Administrative Law. Rule 5(2) has been amended to extend recognition to similar studies on a part-time basis.
- f. Some applicants are admitted in more than one jurisdiction. Currently, the jurisdiction in which an applicant was first admitted would be taken as his jurisdiction of admission for the purposes of the OLQE Rules. If an applicant was first admitted in a non-common law jurisdiction, he would be treated as a non-common law applicant unless he has been admitted in another jurisdiction for more than three (3) years and he has chosen that as his jurisdiction of admission. Rule 8 has been amended to enable an applicant who has been admitted in more than one jurisdiction to elect any one of those jurisdictions as his jurisdiction of admission.