

立法會
Legislative Council

LC Paper No. LS71/16-17

**Paper for the House Committee Meeting
on 2 June 2017**

**Legal Service Division Report on
Subsidiary Legislation Gazetted on 26 May 2017**

Tabling in LegCo : Council meeting of 31 May 2017

Amendment to be made by : Council meeting of 28 June 2017 (or the first meeting of the next session if extended by resolution)

PART I ADMISSION AS A SOLICITOR

Admission and Registration (Amendment) Rules 2017 (L.N. 103)

Trainee Solicitors (Amendment) Rules 2017 (L.N. 104)

Rule 20(1) of the Trainee Solicitors Rules (Cap. 159J) provides for the conditions to be met by a disbarred barrister who wishes to become a solicitor before applying to The Law Society of Hong Kong ("Law Society") for exemption from employment under a trainee solicitor contract. One of those conditions requires the disbarred barrister to obtain from the Bar Council of Hong Kong Bar Association ("Bar Council") a certificate stating that it knows of no reason why the applicant should not be admitted as a solicitor (rule 20(1)(c)). The relevant provision does not specify what kind of information should be included in the certificate.

2. L.N. 104 is made by the Council of the Law Society under section 73 of the Legal Practitioners Ordinance (Cap. 159) with the prior approval of the Chief Justice. L.N. 104 amends Cap. 159J mainly to -

- (a) amend rule 20(1)(c) to require the certificate to be issued by the Bar Council to include specifically the following information:

- (i) no resolution has been passed by the Bar Council that the applicant has been in breach of proper professional standards;
 - (ii) no resolution has been passed by the Bar Council as a result of a complaint being made to it that the conduct of the applicant should be inquired into by a Barristers Disciplinary Tribunal;
 - (iii) no conduct of the applicant as a barrister is the subject of proceedings being conducted or pending before the Barristers Disciplinary Tribunal or the Court of Appeal;
 - (iv) no order has been made against the applicant by a Barristers Disciplinary Tribunal under section 37 of Cap. 159 (e.g. orders to pay penalty or costs of the proceedings); and
 - (v) whether there are any outstanding allegations or complaints against the applicant that are to be dealt with by the Bar Council; and
- (b) require the applicant to provide a statutory declaration to the Law Society stating whether there are any outstanding allegations or complaints against him/her to be dealt with by the Bar Council, and if so, the particulars of those allegations or complaints (new rule 20(1)(e)).

3. L.N. 103 is made by the Chief Justice under section 72 of Cap. 159 to amend Form 1B (a disbarred barrister's application for a certificate of eligibility for admission as a solicitor) in the Schedule to the Admission and Registration Rules (Cap. 159B). The amendment is made as a consequence of the amendments made to rule 20 of Cap. 159J by L.N. 104.

4. L.N. 104 comes into operation on a day to be appointed by the President of the Law Society by notice published in the Gazette. L.N. 103 comes into operation on the day when L.N. 104 comes into operation.

5. As advised by the Clerk to the Panel on Administration of Justice and Legal Services, the Panel has not been consulted on L.N. 103 and L.N. 104.

6. According to paragraphs 10 and 11 of the Legislative Council ("LegCo") Brief (with no file reference) issued by the Law Society on 26 May 2017. The amendments were approved by the Law Society's various committees which comprise a wide cross-section of the solicitors' profession in

Hong Kong. The Hong Kong Bar Association was consulted and it had no comments on the amendments.

PART II COMMENCEMENT NOTICE

Import and Export (Strategic Commodities) Regulations (Amendment of Schedule 1) Order 2017 (Commencement) Notice (L.N. 105)

7. By L.N. 105, the Director-General of Trade and Industry appoints 3 July 2017 as the day on which the Import and Export (Strategic Commodities) Regulations (Amendment of Schedule 1) Order 2017 (L.N. 42 of 2017) comes into operation.

8. L.N. 42 of 2017, gazetted on 24 March 2017, amends Schedule 1 to the Import and Export (Strategic Commodities) Regulations (Cap. 60G) to reflect the latest changes made to the control lists of strategic commodities adopted by various international non-proliferation regimes. These changes relax control over certain dual-use strategic commodities including electronics, computers, telecommunications and information security products and impose new control on certain dual-use strategic commodities including nuclear materials, facilities and equipment. No subcommittee was formed to study L.N. 42 of 2017.

9. The Administration has not issued a LegCo Brief in respect of L.N. 105. According to paragraph 8 of the LegCo Brief issued by the Trade and Industry Department on L.N. 42 of 2017 on 22 March 2017 (File Ref. : TRA CR 1506/2), the Administration planned to bring L.N. 42 of 2017 into operation on 3 July 2017.

10. As advised by the Clerk to the Panel on Commerce and Industry, the Panel has not been consulted on L.N. 105.

Concluding Observations

11. No difficulties have been identified in the legal and drafting aspects of the above items of subsidiary legislation.

Prepared by

Clara TAM
Assistant Legal Adviser
Legislative Council Secretariat
31 May 2017
LS/S/31/16-17