

**立法會**  
***Legislative Council***

LC Paper No. LS42/17-18

**Paper for the House Committee Meeting  
on 16 March 2018**

**Legal Service Division Report on  
Subsidiary Legislation Gazetted on 9 March 2018**

**Tabling in LegCo** : Council meeting of 21 March 2018

**Amendment to be made by** : Council meeting of 11 April 2018 (or that of 9 May 2018 if extended by resolution)

**Foreign Lawyers Practice (Amendment) Rules 2018** (L.N. 39)

**Solicitors' Practice (Amendment) Rules 2018** (L.N. 40)

**Summary Disposal of Complaints (Solicitors) (Amendment) Rules 2018** (L.N. 41)

L.N. 39 to L.N. 41 are made by the Council ("Council") of The Law Society of Hong Kong ("Law Society") under section 73 of the Legal Practitioners Ordinance (Cap. 159) with the prior approval of the Chief Justice.

L.N. 39 and L.N. 40

2. Section 8 of the Foreign Lawyers Practice Rules (Cap. 159R) and rule 4B of the Solicitors' Practice Rules (Cap. 159H) provide for the control of employment by foreign and Hong Kong firms of persons who are (a) not foreign lawyers and (b) not qualified to act as solicitors under section 7 of Cap. 159 respectively ("unqualified persons"). While rule 4B(2) of Cap. 159H specifies that an unqualified person cannot be employed simultaneously (part-time or full-time) by two Hong Kong firms, section 8 of Cap. 159R has no corresponding provision.

3. L.N. 39 adds a new section 8(4) to Cap. 159R to stipulate that a principal of a foreign firm must not, except with the written approval of the Council, knowingly employ any unqualified person who is in the part-time or full-time employment of a Hong Kong firm or another foreign firm. L.N. 40 amends rule 4B(2) of Cap. 159H to provide that a Hong Kong firm must not, except with the

written approval of the Council, knowingly employ any unqualified person who is in the part-time or full-time employment of another Hong Kong firm or a foreign firm.

#### L.N. 41

4. Section 9A(1A) of Cap. 159 provides that the Council may submit a complaint about the conduct of a solicitor to the Tribunal Convenor of the Solicitors Disciplinary Tribunal Panel ("Tribunal Convenor") for summary disposal pursuant to section 9AB of Cap. 159. The Schedule to the Summary Disposal of Complaints (Solicitors) Rules (Cap. 159AD) prescribes the fixed penalties and fixed investigation costs for breach of the specified provision, practice direction or principle of professional conduct.

5. L.N. 41 amends the Schedule to Cap. 159AD to add a new item 7A to empower the Tribunal Convenor to impose a fixed penalty of \$10,000 and a fixed investigation cost of \$15,000 for breach of the new section 8(4) of Cap. 159R. The above fixed penalty and investigation cost are the same as those for breach of rule 4B(2) of Cap. 159H currently provided in the Schedule to Cap. 159AD.

6. Members may refer to the Legislative Council Brief (no reference number provided) prepared by the Law Society on 9 March 2018 for further details.

#### Consultation with LegCo Panel

7. As advised by the Clerk to the Panel on Administration of Justice and Legal Services, the Law Society informed the Panel in July 2017 that it had finalized the legislative drafting exercise in respect of the proposed amendments contained in L.N. 39 to L.N. 41 in consultation with the Department of Justice. The proposed amendments were circulated to Panel members for comments and no comment was received.

#### Commencement

8. L.N. 39 to L.N. 41 come into operation on a day to be appointed by the President of the Law Society by notice published in the Gazette.

#### Concluding observations

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

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