



Legislative Council Brief

A. Title of the subsidiary legislation

Practising Certificate (Solicitors) Rules (“PC Rules”)

B. Introduction / Background

The PC Rules prescribe the practising certificate fees (“PC fee”) payable by practising solicitors and the statutory form of a practising certificate. Rule 3 of the PC Rules provides that the fee for a practising certificate is \$5,000. The statutory form of a practising certificate is prescribed in Form 2 of the PC Rules.

The Law Society proposed to increase the PC fee to \$6,500 and amend the statutory form of the practising certificate to a bilingual format so that both English and Chinese versions can be printed in one document.

C. Justification for introducing the amendments to the subsidiary legislation

1. Increase of PC fee

- (i) The PC fee payable by practising solicitors form the major source of income for the Law Society. The PC fee has undergone upward and downward adjustments based on the particular needs of the Law Society at the time. Since 2010, the PC fee has remained at \$5,000.
- (ii) The scope of operation of the Law Society has expanded to meet the needs of the growing membership and the needs of the changing global legal service environment. The Law Society set up a dedicated section on member services in 2008 providing more support to members including recreation and sports activities to promote a

work-life balance for the well being of our members, social activities to enable members to engage in professional networking and practice support including practice management training. The Law Society also actively engages in community projects to provide members opportunities to give back to the community. In 2016, the Law Society organised 74 community projects including Law Week, Teen Talk, Free Legal Helpline and community talks etc.

- (iii) The mandatory Risk Management Education (“RME”) Programme has been offered free to members subject to the statutory RME obligations since the Programme’s 10th anniversary in 2014. In 2016, the Law Society organised 388 training courses attended by 17,356 participants to ensure that members had sufficient choices of training courses to fulfil the statutory requirement under the Continuing Professional Development (“CPD”) Scheme and the RME Programme. Apart from organising courses itself, the Law Society also accredited 4,234 CPD courses organised by universities, law firms, professional bodies and other providers.
- (iv) To cope with the challenges of globalization, the Law Society takes a more active role in international activities to maintain its status as the representative body of the legal profession.
- (v) In 2016, the Law Society received 35 delegations from the Greater China region and other overseas jurisdictions. It also sponsored young members to attend identified international conferences to gain more international exposure. The growing interaction among jurisdictions around the world and the increasing mobility of the legal professionals across borders demand the Law Society to keep a close watch on the changing practice and regulatory landscape in different jurisdictions and additional headcount to cover the research aspect of the work was necessitated.
- (vi) The fixed costs of the operation including staff costs, office and members’ expenses have increased to cover the expanding work. Compared with 2010 (the year since no adjustment to the PC fees had been made), the staff costs in 2016 based on the audited accounts had increased by 42.4%, office expenses by 21.3% and members’ expenses by 100%.

- (vii) Further, the expenses in 2016 showed a substantial surge mainly due to the exercise of the Law Society's statutory power to intervene in the practice of law firms for protection of the interests of the clients of the firms and the public. The Law Society had to exercise its statutory power to intervene in the practices of four law firms in 2016. The Law Society took control of the office and clients' money of the intervened firms, made arrangements for clients of the intervened firms to engage alternative solicitors and took possession of the intervened firms' documents. The number of files involved in some of the interventions was voluminous and the records were incomplete, resulting in substantial work in the intervention process. The intervention costs amounted to HK\$37.5 million in 2016.
- (viii) Further, in 2017, the Law Society had to exercise its statutory power to intervene into the practices of two law firms and substantial regulatory costs had been incurred.
- (ix) To enhance the prevention of regulatory breaches and to assist members in compliance with the rules and regulations, the Law Society found it necessary to increase its staff headcount to engage additional monitoring accountants and investigation counsel to investigate complaints and inspect law firms' compliance with the rules. In 2016, the Law Society handled 961 complaints and visited 55 law firms to provide assistance and to ensure compliance with the Solicitors' Accounts Rules.
- (x) As a statutory regulatory body of solicitors, the Law Society must maintain a healthy reserve at all times to enable it to fund immediate actions that are necessary to protect the interests of the clients of the solicitors' firms and the public.
- (xi) The Law Society's reserve has been depleted to HK\$192.4 million of which HK\$120.5 million comprised of non-current assets. With the experience of intervention costs as high as HK\$37.5 million in 2016, the Council considered it urgent that the reserve be replenished as soon as possible to ensure that the Law Society is financially ready to fulfil its statutory regulatory role whenever it is required to do so.

2. Bilingual format of the practising certificate

- (i) The Law Society used to issue practising certificates in English only. With the increasing interaction with Chinese clients and Chinese authorities, solicitors also required practising certificates to be issued in Chinese. Law Society then started issuing Chinese practising certificate upon request. Pursuant to the statutory forms, the Law Society has to issue separate practising certificates in English and Chinese. It will be more user friendly if one bilingual practising certificate can be issued.

D. Date of tabling the subsidiary legislation in the Legislative Council and its Commencement Date

It is hoped that the Legislative Council will table the Amendment Rules on 16 May 2018. The Commencement Date of the new PC fee and bilingual format is 1 January 2019.

E. Result of any consultation with the relevant parties

The Law Society's proposals have been considered and approved by the Law Society's Standing Committee on Policy and Resources and the Council comprising a wide cross section of the solicitors' profession.

F. Contact details of relevant officers

The relevant officer for this amendment exercise is Assistant Director, Regulation and Guidance of the Law Society at 3rd Floor, Wing On House, 71 Des Voeux Road Central, Hong Kong (Telephone No. 852-2846 0503).

G. Issuing party and issuance date

The Amendment Rules were gazetted on 11 May 2018. This brief is prepared by the Law Society on 11 May 2018.

Date: 11 May 2018