

LEGISLATIVE COUNCIL BRIEF

(Cap. 159 sub. leg. B)

Admission and Registration (Amendment) Rules (Commencement) Notice

1. The 2021 Admission and Registration (Amendment) Rules (“the Rules”) were gazetted on 19 March 2021. No amendments were made during the negative vetting period.
2. Details of the Rules were set out in the attached previous Legislative Council Brief.
3. Pursuant to section 1 of the Rules, the President of the Law Society appointed 1 November 2021 as the Commencement Date of the Rules.

Date: 6th August 2021



Legislative Council Brief

A. Title of the subsidiary legislation

Admission and Registration Rules (“AR Rules”)

B. Introduction / Background

Section 72 (a) (i) of the Legal Practitioners Ordinance empowered the Chief Justice to make rules in relation to the admission of solicitors and of barristers and the appointment of notaries public regulating the manner in which applications for admission under sections 4 and 27 shall be made and the forms to be employed in respect thereof.

The Law Society proposed to amend Form 4 (a trainee solicitor’s application for a certificate of eligibility for admission as a solicitor) in the Schedule to the AR Rules by introducing international law as one of the basic legal topics in which a trainee solicitor may gain proper training and experience.

C. Justifications for introducing the amendments to the subsidiary legislation

The Department of Justice (“DOJ”) explained that the work of their International Law Division (“ILD”) is of great importance in maintaining Hong Kong as an international centre of finance, trade and commerce. ILD provides legal advice on public international law to the Government; negotiates international agreements, provides legal advice for such negotiations; and it handles requests for legal co-operation between Hong Kong and other jurisdictions.

They also explained that it is difficult to recruit sufficient Government Counsel. They considered that there is a practical need to provide greater opportunities to the trainee solicitors for exposure to international law work and develop their interest or potential in this area of work. For this reason, they proposed that the trainee solicitors should be provided with an option to choose international law as one of the basic legal topics in which they may gain proper training and experience. Details of the ILD structure and its work posted on the DOJ's website are attached at Annexure 1. Details of the DOJ's existing training programme for their trainee solicitors posted on the DOJ's website are at Annexure 2.

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 24 March 2021. The Commencement Date of the Amendment Rules is to be appointed by the President of The Law Society of Hong Kong by notice published in the Gazette.

E. Result of any consultation with the relevant parties

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

F. Contact details of relevant officers

The officer for this amendment exercise is the Assistant Director, Regulation and Guidance I of the Law Society at 3rd Floor, Wing On House, 71 Des Voeux Road Central, Hong Kong (Telephone No. 2805 9116).

G. Issuing party and issuance date

The Amendment Rules were gazetted on 19 March 2021. This brief is prepared by the Law Society on 19 March 2021.

Date: 19 March 2021

International Law Division

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The International Law Division comprises the Treaties & Law Unit and the Mutual Legal Assistance Unit. It has three important roles: it provides legal advice on public international law to the government; it negotiates international agreements, or provides legal advisers for such negotiations; and it handles requests for legal co-operation between the HKSAR and other jurisdictions.

Advice

The subjects on which the Treaties & Law Unit gives advice include international trade law, privileges and immunities, civil aviation and maritime matters, international labour conventions, human rights, environment and health, visa abolition and outer space. The unit also advises on the drafting and interpretation of co-operative agreements and

arrangements which range from customs and police co-operation to cultural and education co-operation. The Mutual Legal Assistance Unit also performs an advisory role in relation to aspects of international criminal law and international legal co-operation in criminal matters. In addition, the division advises on the enactment of legislation to implement international agreements in the HKSAR. The subject matter includes United Nations Security Council Resolutions, maritime matters, conservation, surrender of fugitive offenders and mutual legal assistance in criminal matters.

Negotiations

Bilateral agreements

Counsel in the division negotiate agreements on behalf of the HKSAR with foreign countries on the surrender of fugitive offenders, mutual legal assistance in criminal matters and the transfer of sentenced persons. The HKSAR has signed over 60 agreements on these three areas.

Apart from conducting negotiations, counsel in the division also provide legal support in bilateral negotiations as part of the HKSAR delegation. The subject matter of negotiations includes air services, avoidance of double taxation, customs co-operation, free trade agreements, agreements on investment promotion and protection and visa abolition. The number of these bilateral agreements to which the HKSAR is a party has been over 180.

Mutual legal assistance in criminal matters

These agreements provide for the rendering of assistance in relation to the investigation and prosecution of crimes, and proceedings related to criminal matters. The types of assistance include taking of evidence, executing requests for search and seizure, producing documents, restraining and confiscating proceeds of crime, transferring persons to give assistance and effecting service of legal process.

Surrender of fugitive offenders

The parties to an agreement for the surrender of fugitive offenders undertake to surrender to each other, subject to conditions, persons who are accused of serious offences, or who have absconded after conviction. The conduct constituting the crime must amount to an offence according to the laws of both parties. These agreements help to prevent the HKSAR from becoming a haven for criminals from abroad and facilitate the return to the HKSAR of criminals who have fled overseas.

Transfer of sentenced persons

These agreements enable foreign nationals serving a sentence of imprisonment in the HKSAR to return to their home country so as to serve out the remainder of their sentence in an environment which is free from cultural and language barriers and where they will be able to receive family support. Similarly, people from the HKSAR who are serving sentences of imprisonment imposed in foreign jurisdictions may return to the HKSAR to serve the balance of their sentences in a familiar environment and thereby enhance their prospects of rehabilitation.

Air services

Air services agreements provide the framework for scheduled air services to operate between the HKSAR and its bilateral partners. They are negotiated on the basis of a balanced exchange of air traffic rights. Negotiations have also taken place to provide for overflight agreements with appropriate countries. The HKSAR has signed over 70 air services agreements with other jurisdictions.

Avoidance of double taxation

These agreements and arrangements provide for the avoidance of double taxation of persons carrying on cross-border economic activities. The agreements and arrangements may relate to specific income (such as income from international air and maritime traffic), or may provide for comprehensive double taxation avoidance. The HKSAR has signed around 40 comprehensive double taxation agreements and agreements in respect of shipping and air services income, and has reached substantial agreement with a number of jurisdictions on comprehensive agreements.

Investment promotion and protection

An investment promotion and protection agreement creates favourable conditions for greater investment by investors of one contracting party in the area of the other. Such an agreement includes provision for the investments of each party to be accorded fair and equitable treatment with no discrimination, and for compensation to be paid for losses caused by war or other armed conflict, revolution, national emergency or riot; and for deprivation of investments. Currently, the HKSAR has signed around 20 investment promotion and protection agreements with other jurisdictions.

Visa abolition

These agreements and arrangements provide for mutual dispensation of visa requirements and facilitate travel between the HKSAR and other jurisdictions. These arrangements are especially important for businessmen and tourists. The number of agreements or arrangements which enable holders of HKSAR passports to enjoy visa-on-arrival or visa-free access to other jurisdictions is over 160.

Multilateral agreements

Counsel in the division participate in international meetings and diplomatic conferences held by international organisations. Counsel may form part of the "Hong Kong, China" delegation, as in the case of the World Trade Organization of which the HKSAR is a member. They may also be members of the Chinese delegation, as in the case of the Hague Conference on Private International Law or the International Civil Aviation Organization, where membership is limited to states.

Very often these meetings and conferences discuss the drafting and conclusion of multilateral agreements or matters arising from their implementation. Currently, over 260 multilateral treaties apply to the HKSAR.

Requests for assistance

The Mutual Legal Assistance Unit discharges the responsibilities of the Central Authority of the HKSAR for the purposes of mutual legal co-operation in criminal matters. The unit co-ordinates and processes requests to and from the HKSAR for the surrender of fugitive offenders and for mutual legal assistance; and advises the government on applications for the transfer of sentenced persons to and from the HKSAR. The unit also handles letters of requests from overseas courts or tribunals pursuant to the Evidence Ordinance (Cap. 8). On the authorization of the Secretary for Justice, the unit acts as the Central Authority of the HKSAR under the Hague Convention on the Civil Aspects of International Child Abduction and processes return and access applications to and from Convention countries in accordance with the Child Abduction and Custody Ordinance (Cap. 512). Details regarding the Convention and the related operation regime in the HKSAR are available from this link .

For information of obtaining assistance from HKSAR in criminal cases, please refer to Guidelines for Making Applications under the Mutual Legal Assistance in Criminal Matters Ordinance (Chapter 525, Laws of Hong Kong) and Guide to Asset Recovery in the Hong Kong Special Administrative Region .

Other work

Financial Action Task Force Against Money Laundering (FATF)

The Mutual Legal Assistance Unit provides legal support to the Financial Secretary and Secretary for Security in relation to the HKSAR's participation in the FATF as a full member, under the name "Hong Kong, China". Counsel attend international meetings of the FATF, participate in expert working groups and act as expert legal assessors in mutual evaluations of fellow members' implementation of measures to combat money laundering and terrorist financing.

International seminars

Counsel in the division contribute to maintaining the HKSAR's international profile by regularly speaking and participating in regional and international seminars organised by other governments and international organisations such as the Hague Conference on Private International Law. Counsel also frequently conduct briefings for local and overseas law enforcement agencies on mutual legal assistance matters and deliver papers in the field of international co-operation in criminal matters such as asset recovery and other forms of mutual legal assistance.

Career Opportunities for Legal Professionals

Legal Trainee Scheme

A Training Scheme that will expand your horizons

[Expand All](#)

[Collapse All](#)

Objective

The objective of the Legal Trainee Scheme is to provide legal trainees with practical training in accordance with the requirements of the Law Society of Hong Kong or the Hong Kong Bar Association and enable them to acquire experience in various types of legal work undertaken by Government lawyers.

The Scheme

Legal Trainees (Solicitor) will join a two-year programme comprising attachments* to the following -

- a. our Civil Division for nine months;
- b. our Prosecutions Division for six months;
- c. a private law firm for six months; and
- d. one of the legal/judicial group of departments (including Legal Aid Department, Intellectual Property Department, Official Receiver's Office, Legal Advisory and Conveyancing Office of the Lands Department, Land Registry and Companies Registry) according to the preference of individual trainee, or our Law Drafting Division or Constitutional and Policy Affairs Division, for another three months.

Legal Trainees (Barrister) will join a one-year programme comprising attachments* to the following -

- a. our Civil Division for three months;
- b. our Prosecutions Division for five months;
- c. the Judiciary as a judge's marshal for one month; and
- d. a practising barrister in the private Bar for three months.

* The training attachments may be subject to change.

UNIQUE EXPOSURE

This is a unique training scheme in which you will be able to gain insights into the work of a government counsel and that of a lawyer in private practice. Under the training scheme, a Legal Trainee (Solicitor) will be seconded to a private law firm to work for six months to serve a totally different clientele. We will try to arrange for the trainee to work in a firm of his/her choice and in the areas that the trainee is interested in. Likewise, we will try to arrange for a Legal Trainee (Barrister) to be attached to a set of chambers of his/her choice to learn directly from a barrister in private practice.

Exposure that could only be found in DoJ

For both streams

- To attend a 12-week Criminal Advocacy Course including mock trials;
- To prosecute different types of cases in the magistrates' courts;
- To give legal advice to law enforcement agencies; and
- To assist experienced counsel in criminal prosecutions and in civil trials.

For the solicitor stream

- To advise different Government bureaux and departments in diverse areas of law, such as tort, inland revenue, immigration and civil service employment;
- To work in one of the legal/judicial group of departments, the Law Drafting Division or Constitutional and Policy Affairs Division; and
- To attend certain chambers hearings in civil cases.

For the barrister stream

- To work as a judge's marshal.

What's more

Legal Trainees will be sponsored to attend training courses required by the Law Society of Hong Kong under the Continuing Professional Development Scheme or by the Hong Kong Bar Association under the Pupils Advanced Legal Education Programme.

From time to time, the Department will invite eminent scholars and distinguished practitioners to give talks or seminars to keep the trainees abreast of the latest developments in the law.

MENTORSHIP ARRANGEMENT

Your overall personal growth is as important as your ability to acquire the requisite knowledge and skills for being a successful lawyer. Throughout the training period, two experienced DoJ counsel will be assigned to be your mentors to provide guidance and advice and to share with you their experience.

Experienced counsel in each division of the Department to which you will be attached will also monitor your professional development during the training. They stand ready to provide you with practical advice on the work allocated to you.

What Former Legal Trainees Say

From Learning to Earning

by Mr Wesley W. C. WONG, SC, Solicitor General

The Right Choice for Me

by Mr Clifford TAVARES, Deputy Principal Government Counsel

Application

CAREER TALK

Briefing sessions on the Legal Trainee Scheme will be held around March every year at The University of Hong Kong, City University of Hong Kong and The Chinese University of Hong Kong. This year's briefing sessions will be postponed until further notice.

RECRUITMENT

Invitations to apply will be advertised on 13 and 20 March 2020 in the Ming Pao and on 14 and 21 March 2020 in the South China Morning Post. The advertisement will also be posted on the website of the Department of Justice.

The application period for the Legal Trainee Scheme (2021 Intake) is open now until 30 June 2020 (Please see "Existing job vacancies" under "Recruitment" Section for more details).

Shortlisted applicants will be invited to attend interview(s) in late September / early October. Successful applicants are generally expected to start their training in the following summer.

ENTRY REQUIREMENTS

- a. Permanent residents of the Hong Kong Special Administrative Region;
- b.
 - i. Postgraduate Certificate in Laws (PCLL) graduates of The University of Hong Kong or City University of Hong Kong or The Chinese University of Hong Kong / PCLL students or potential PCLL students of these universities who will graduate in the following year; OR
 - ii. civil servants serving in the Department of Justice, the Legal Aid Department, the Legal Advisory and Conveyancing Office of the Lands Department, the Land Registry, the Companies Registry, the Intellectual Property Department, the Official Receiver's Office and the Judiciary who hold qualifications recognised for training purposes by the Law Society of Hong Kong or the Hong Kong Bar Association; and
- c. Have attained 'Level 2' or above in English Language and Chinese Language Notes (1) and (2) in the Hong Kong Diploma of Secondary Education Examination (HKDSEE) or Hong Kong Certificate of Education Examination (HKCEE), or equivalent.

Notes:

1. *For appointment purpose, 'Grade E' in English Language (Syllabus B) and Chinese Language in the HKCEE before 2007 is accepted administratively as comparable to 'Level 2' in English Language and Chinese Language in the 2007 HKCEE and henceforth.*

2. *'Level 1' result or above in the Use of Chinese paper of the Common Recruitment Examination (CRE) will also be accepted as meeting the Chinese language proficiency requirement for appointment as Legal Trainee.*

TERMS OF APPOINTMENT AND CONDITIONS OF SERVICE

Terms of engagement

Legal Trainees will be engaged on temporary month-to-month terms. Legal Trainees (Solicitor) will join the Legal Trainee Scheme for a period of two years and Legal Trainees (Barrister) will join the Legal Trainee Scheme for one year.

Salary

Legal Trainees will receive, in the first 12 months, a monthly salary equivalent to the pay on point 27 of the Master Pay Scale (MPS), currently \$55,995; and in the second 12 months (as applicable to Legal Trainees (Solicitor)), a monthly salary equivalent to the pay on MPS point 28, currently \$58,635.

Mandatory Provident Fund

Legal Trainees are subject to the Mandatory Provident Fund Schemes Ordinance (Cap. 485).

Leave

Legal Trainees are entitled to earn leave at a rate of 14 days per year.

Medical and dental benefits

Medical and dental benefits are available to Legal Trainees in accordance with the rules and regulations promulgated from time to time.

Enquiries

Enquiries can be made to Executive Officer (Personnel)⁴ or Clerical Officer (Training) of the Department of Justice at 3902 8739 or 3902 8763 or to our Training Registry via email: training@doj.gov.hk.

