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LEGAL PRACTITIONERS (AMENDMENT) BILL 1999

**COMMITTEE STAGE**

Amendments to be moved by the Secretary for Justice

Clause

Amendment Proposed

- 1                   (a)   In subsection (2), by deleting "section 15" and substituting "sections 7, 7A(1) and (2) and 15".
- (b)   By adding -
- "(3)   Sections 7 and 7A(2) shall come into operation on a day to be appointed by the Secretary for Justice by notice in the Gazette, which shall not be before 1 November 2001.".

- 3                   By deleting the proposed section 8AAA and

substituting -

**"8AAA. Additional powers of  
an inspector**

(1) In this section "inspector" ( )  
means an inspector appointed under section 8AA.

(2) The Council may direct an inspector  
to assist it in gathering evidence in respect  
of a matter the Council is considering for the  
purpose of deciding whether or not it should  
be submitted to the Tribunal Convenor of the  
Solicitors Disciplinary Tribunal Panel.

(3) For the purposes of this section, an  
inspector may question -

(a) persons who are, or were at the  
material time, members or  
employees of any law firm; or

(b) where authorized by the Council,  
any other persons whom the  
inspector considers may be able  
to assist the Council.

5(b) In the proposed subsection (2A), by deleting "Where  
the Council is not satisfied with an order made by  
a Solicitors Disciplinary Tribunal, it may appeal  
the order" and substituting "The Council may, with  
leave of the Court of Appeal, appeal an order of a  
Solicitors Disciplinary Tribunal".

6

In the proposed section 13A -

- (a) in subsection (1) by deleting "The" and substituting "Unless, on application by the solicitor, the Solicitors Disciplinary Tribunal or a court, on an appeal under section 13, otherwise orders, the";
- (b) by deleting subsection (2).

7

In the proposed section 27 -

- (a) in the Chinese text, by deleting subsection 2(b)(i) and substituting -
  - "(i) 在緊接認許申請的日期前的 3 個月或更長的時間內一直居於香港;"
- (b) by deleting subsection (4) and substituting -
  - "(4) Notwithstanding that a person does not satisfy all the requirements specified in subsections (1) and (2)(b), where the Court considers that he is a fit and proper person to be a barrister and is satisfied that he has -
    - (a) the qualification acquired outside Hong Kong to engage in

work that would, if undertaken  
in Hong Kong, be similar to  
that undertaken by a barrister  
in the course of ordinary  
practice as a barrister in the  
High Court or Court of Final  
Appeal; and

(b) substantial experience in  
advocacy in a court,

the Court may admit such person as a barrister  
under this section for the purpose of any  
particular case or cases and may impose such  
restrictions and conditions on him as it may  
see fit.".

New

By adding -

**"7A. Additional power of court  
to admit barristers**

(1) Section 27A(1)(e) and (3) is  
repealed.

(2) The remainder of section 27A is  
repealed.".

10

By deleting paragraph (b) and substituting -

"(b) by repealing subsection (3) and  
substituting -

"(3) A practising certificate

may only be issued to an applicant  
who has paid to the Hong Kong Bar  
Association -

(a) except where the Bar  
Council has exempted  
the applicant  
therefrom, the  
membership  
subscription; and

(b) except where the  
applicant has been  
admitted as a  
barrister under  
section 27(4) and the  
Bar Council has  
exempted him  
therefrom, the  
premium prescribed  
for insurance of the  
applicant under the  
current master policy  
for professional  
indemnity insurance  
effected by the Hong  
Kong Bar Association,

in respect of the period for which  
the practising certificate is to be

issued.

(3A) On application by a barrister admitted under section 27(4), the Bar Council may waive part of the membership subscription.";".

11(c) By deleting the proposed new paragraph (f) and substituting -

"(f) if he is an employed barrister within the meaning of section 31C(1)".

12 In the proposed section 31C by adding -

"(3A) The publication in the Gazette by the Bar Council of a list of the names and addresses of those barristers who have obtained employed barrister's certificates for the period therein stated shall be prima facie evidence that each person named therein is the holder of such a certificate for the period specified in such list, and the absence from any such list of the name of any person shall be prima facie evidence that the person does not hold such a certificate.".

15 By adding -

**"72AAA. Conflict between rules made**

**by Chief Justice and Bar  
Council**

Where power is given to -

(a) the Chief Justice; and

(b) the Bar Council,

to make rules in respect of the same matter,  
rules made by either or both of them in  
respect of such a matter shall be valid unless  
there is a conflict between such rules, in  
which case the rules made by the Chief Justice  
shall be given precedence to the extent of  
such conflict."

- 16
- (a) By deleting "(i) and (ii)" and substituting  
"(i), (ii) and (v)".
- (b) By deleting "as long as he qualifies to  
practise as a barrister under section 31 of  
the principal Ordinance" and substituting  
"because of such repeal".

New By adding -

**"17. Sections added**

The following is added -

**"74B. Students already  
enrolled in legal  
studies in the UK**

Notwithstanding the repeal and  
replacement of section 27 of this

Ordinance by section 7 of the Legal Practitioners (Amendment) Ordinance 2000 ( of 2000) ("the amending Ordinance"), where a person is, on the day the amending Ordinance is published in the Gazette, enrolled -

- (a) in a course of studies in the United Kingdom that, on completion, will qualify him for a vocational course leading to admission as a barrister in the United Kingdom;
- (b) in the Bar Vocational Course in the United Kingdom; or
- (c) in an external course of studies offered by an institution in the United Kingdom that, on completion, will qualify him for a vocational course leading to admission as a barrister in the



United Kingdom,  
the person may, instead of complying  
with the requirements established  
under section 27 for admission as a  
barrister, elect to be admitted  
under section 27 as that section  
existed before its repeal by the  
amending Ordinance, provided he -

- (i) has been called to  
the Bar in England or  
Northern Ireland or  
admitted as an  
advocate in Scotland;
- (ii) qualifies for  
admission under the  
other criteria  
established under the  
repealed section  
27(1)(b), (c) and (e)  
and (1A); and
- (iii) applies for admission  
not later than 31  
December 2003.

**74C. Lawyers employed in  
Department of Justice**

- (1) Notwithstanding the repeal

of section 27A of this Ordinance by section 7A of the Legal Practitioners (Amendment) Ordinance 2000 ( of 2000) ("the amending Ordinance"), where a person, on or before the date appointed by the Secretary for Justice by notice in the Gazette for the coming into operation of section 7A(2) of the amending Ordinance, meets the requirements in section 27A(1)(a) to (d), as that section existed before its repeal, the Court may at any time admit such person as a barrister of the High Court of Hong Kong in accordance with the said section 27A(1).

(2) The Court shall not admit as a barrister, under subsection (1), more than 4 persons in any period of 12 months.

(3) For the avoidance of doubt, section 27A(1)(e) and (3) do not apply to admission as a barrister under this section."."