
21. Trainee Solicitors Rules

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PART I

CITATION AND INTERPRETATION

1. Citation

These rules may be cited as the Trainee Solicitors Rules.

2. Interpretation

In these rules, unless the context otherwise requires -

"company" (公司) means -

- (a) a company within the meaning of the Companies Ordinance (Cap. 622);
- (b) a registered non-Hong Kong company as defined by section 2(1) of the Companies Ordinance (Cap. 622); or
- (c) a corporation established by or under any other Ordinance;

"prescribed fee" (訂明費用) means such fee as may be prescribed by rules made under section 72 of the Ordinance;

"principal" (導師) means the solicitor or qualified person who employs a trainee solicitor or acts as his principal under a trainee solicitor contract;

"Secretary General" (秘書長) means the Secretary General of the Society;

"trainee solicitor" (實習律師) means a person who has entered into a contract in writing under which he is employed as a trainee solicitor.

PART II

(Repealed)

PART III

TRAINEE SOLICITOR CONTRACT

6. Period of trainee solicitor contract

- (1) Except as is provided by rules 9, 9A and 20, no person shall be admitted as a solicitor by virtue of section 4(1)(a) of the Ordinance unless he has been employed as a trainee solicitor under one or more trainee solicitor contracts for a total period of 2 years.
- (2) If the period of 2 years referred to in paragraph (1) is not a continuous period of 2 years, it is effective employment as a trainee solicitor if the trainee solicitor has been employed under one or more trainee solicitor contracts for periods equal in total to 2 years during the 3 years, or such further period as the Council may allow, immediately preceding his application for admission as a solicitor.

6A. (Repealed)

6B. (Repealed)

7. Examinations

A person may only enter into a trainee solicitor contract if he -

- (a) has passed or received a certificate of completion or certificate of satisfactory completion as the case may be in -
 - (i) the Postgraduate Certificate in Laws and such other examination or course as the Society may require and set or approve; or
 - (ii) such other examination or course as the Society may require and set or approve; or
- (b) has been granted total exemption by the Society from the requirements in paragraph (a).

8. Registration of trainee solicitor contract

- (1) A trainee solicitor contract shall be in a form prescribed by the Society and shall be produced to the Secretary General for registration by the trainee solicitor within 1 month after execution and shall be accompanied by -
 - (a) an application for registration in a form approved by the Society completed by the trainee solicitor as the applicant and his principal;
 - (b) a copy of the trainee solicitor contract for retention by the Society;
 - (c) if applicable, the agreement for mutual release of a previous trainee solicitor contract;
 - (d) such evidence as the Society may reasonably require as to the trainee solicitor's character, fitness and suitability to be a trainee solicitor; and
 - (e) the prescribed fee.

- (2) The Council may, if it thinks fit, require an applicant to attend before it and to furnish such additional evidence as to his character, fitness and suitability to be a trainee solicitor as the Council may consider necessary.
- (3) If the Council decides after interviewing the applicant that he is not suitable to be a trainee solicitor, it shall direct the Secretary General not to register the trainee solicitor contract.
- (4) The Secretary General shall refuse to register a trainee solicitor contract produced to him for registration if -
 - (a) in his opinion, the trainee solicitor has not complied with the requirements of paragraph (1);
 - (b) it does not provide for at least the minimum salary payable to the trainee solicitor prescribed by the Society; or
 - (c) in his opinion, the date of commencement of the trainee solicitor contract is inconsistent with the requirements of paragraph (10).
- (5) Subject to paragraphs (4) and (6), the Secretary General, not later than 1 month after the production to him for registration of a trainee solicitor contract, shall -
 - (a) register the trainee solicitor contract;
 - (b) endorse the date of registration on the trainee solicitor contract and on the copy of it; and
 - (c) return the trainee solicitor contract to the trainee solicitor.
- (6) If an applicant is required to attend before the Council for interview or he is required to amend any of his documents and re-submit them, the time limit set out in paragraph (5) shall run from the date of interview or the date of re-submission of the documents, as the case may be.
- (7) A trainee solicitor contract shall be registered by recording -
 - (a) the name of the trainee solicitor;
 - (b) the name and business address of the principal; and
 - (c) the date of commencement of the trainee solicitor contract.
- (8) The register of trainee solicitors or a printout of the register shall be open to inspection by any person during office hours without payment.
- (9) Subject to paragraph (10), if a trainee solicitor contract has been produced to the Secretary General for registration within the period specified in paragraph (1), the period of employment under it shall commence upon the date of execution or upon such earlier or later date as may be specified in the trainee solicitor contract.
- (10) A trainee solicitor contract shall not specify a date of commencement -
 - (a) more than 3 months prior to the date of execution of the trainee solicitor contract; or

- (b) which is prior to the date on which the trainee solicitor passes the examination or course required by rule 7.
- (11) If a trainee solicitor contract is not produced to the Secretary General within the period specified in paragraph (1), employment under it shall, unless the Council otherwise directs, commence on the date of the production of the trainee solicitor contract to the Secretary General, and a note to that effect shall be endorsed by the Secretary General both on the trainee solicitor contract and in the register of trainee solicitors.
- (12) Employment of a person under a trainee solicitor contract the registration of which has been refused is not effective employment as a trainee solicitor.

9. Employment as a trainee solicitor

- (1) Subject to these rules, a trainee solicitor shall during the whole period of his trainee solicitor contract be actually employed under the trainee solicitor contract in the office of his principal.
- (2) A trainee solicitor may, subject to the prior approval in writing of his principal, take a maximum of 44 working days leave from his principal for the purposes of recreation leave, maternity leave or sick leave.
- (3) A trainee solicitor may, subject to the prior approval in writing of his principal, spend a period not exceeding 1 year employed in the office of another solicitor or qualified person in Hong Kong, if that solicitor or qualified person is eligible to employ a trainee solicitor under the Ordinance, and that period is effective employment under his trainee solicitor contract.
- (3A) A trainee solicitor may apply for approval from the Society that his secondment to a company in Hong Kong is effective employment under his trainee solicitor contract.
- (3B) The Society may grant the approval under paragraph (3A) if it is satisfied that the trainee solicitor who submits an application under paragraph (3A) -
 - (a) is seconded to a company which, in the opinion of the Society, is able to provide suitable training for him;
 - (b) is supervised during the period of secondment by a solicitor holding a current practising certificate who is qualified under section 20 of the Ordinance to employ a trainee solicitor or act as his principal under the Ordinance;
 - (c) continues to have access to his principal; and
 - (d) undertakes work in the company which is similar to that undertaken by trainee solicitors in Hong Kong.
- (4) A trainee solicitor may apply for approval from the Society that his secondment to a law firm in a jurisdiction outside Hong Kong is effective employment under his trainee solicitor contract.
- (5) The Society may grant the approval under paragraph (4) if it is satisfied that the trainee solicitor who submits an application under that paragraph -
 - (a) is seconded to a firm which, in the opinion of the Society, is able to provide suitable training for him;

- (b) is supervised in the jurisdiction by a legal practitioner who, in the opinion of the Society, holds qualifications similar or equivalent to those required under the Ordinance or these rules of a solicitor who wishes to employ a trainee solicitor or act as his principal;
 - (c) continues to have access to his principal in Hong Kong; and
 - (d) undertakes work in the jurisdiction which is similar to that undertaken by trainee solicitors in Hong Kong.
- (5A) In considering whether it is satisfied as to the matters specified in paragraph (5)(a) the Society shall have regard to, among other things -
- (a) the jurisdiction outside Hong Kong mentioned in the application and in particular -
 - (i) the relevance of the legal system of that jurisdiction to the legal system in Hong Kong;
 - (ii) the professional and ethical standards of the legal profession in that jurisdiction; and
 - (b) any ties that may exist between the trainee solicitor's principal or principal's firm and the legal practitioner or firm in the jurisdiction outside Hong Kong.
- (6) Unless the Council otherwise allows, the period of secondment for the purposes of paragraphs (3A), (3B), (4) and (5) shall not exceed 6 months, and the total period of secondment during the whole period of the trainee solicitor contract shall not exceed 12 months.
- (7) An application under paragraph (3A) or (4) shall be -
- (a) made not less than 30 days prior to the secondment;
 - (b) in a form approved by the Society completed by the trainee solicitor;
 - (ba) in the case of an application under paragraph (3A), accompanied by a letter from the trainee solicitor's principal about the matters set out in paragraph (3B)(b) to (d);
 - (c) in the case of an application under paragraph (4), accompanied by a letter from the trainee solicitor's principal about the matters set out in paragraph (5)(b) to (d); and
 - (d) accompanied by the prescribed fee.

9A. Employment prior to entering into a trainee solicitor contract

- (1) (Repealed)
- (2) (Repealed)
- (3) A trainee solicitor may apply for approval from the Society that a period of employment in Hong Kong prior to entering into a trainee solicitor contract in Hong Kong is relevant work experience and where he does so the Society may reduce the period of the trainee solicitor contract by 1 month when there is a minimum total of 3 years of relevant work experience, with an additional 1 month reduction for every additional year of relevant work experience, but the period of reduction shall not exceed 6 months.

- (4) The Society shall not consider work experience gained prior to entering into a trainee solicitor contract in Hong Kong as relevant for the purposes of paragraph (3) unless it is satisfied that -
 - (a) the work experience gained is equivalent to the experience gained under a trainee solicitor contract; and
 - (b) the work experience is gained within the 10 years immediately prior to the date of the trainee solicitor contract.
- (5) An application under paragraph (3) shall be -
 - (a) in a form approved by the Society completed by the trainee solicitor;
 - (b) accompanied by a reference from the person who previously employed him specifying the dates of commencement and termination of the employment and the duties undertaken; and
 - (c) accompanied by the prescribed fee.

10. Irregular employment

- (1) Unless the Society otherwise directs, the following is not effective employment under a trainee solicitor contract -
 - (a) a period of employment of a trainee solicitor who is employed by a solicitor in contravention of the provision of section 20 of the Ordinance;
 - (b) a period of employment of a trainee solicitor who is employed by a solicitor in contravention of a prohibition in force under section 21 of the Ordinance.
- (2) (Repealed)

11. Other employment of trainee solicitor

- (1) Subject to these rules, a trainee solicitor shall not hold an office or engage in an employment other than the employment under his trainee solicitor contract, and a period during which he has held such other office or engaged in such other employment is not effective employment as a trainee solicitor, unless the Society otherwise directs.
- (2) Paragraph (1) does not apply to a trainee solicitor who has obtained the written consent of his principal and of the Society before holding the office or engaging in the other employment.
- (3) A direction given by the Society under paragraph (1) or consent given by the Society under paragraph (2) may be given subject to such terms and conditions as the Society may think fit.
- (4) An application for the direction or consent of the Society shall be -
 - (a) in a form approved by the Society completed by the trainee solicitor and his principal; and
 - (b) accompanied by the prescribed fee.

12. (Repealed)

13. New trainee solicitor contracts

- (1) Subject to rules 6 and 8, if before the expiration of a trainee solicitor contract -
- (a) the principal ceases to be eligible to employ a trainee solicitor or to act as a principal under a trainee solicitor contract;
 - (b) the principal dies;
 - (c) the trainee solicitor contract is terminated by mutual consent; or
 - (d) the trainee solicitor contract is terminated by the Court or the Council,
- the trainee solicitor may enter into a new trainee solicitor contract with another principal.
- (2) Where a trainee solicitor contract has been discharged by the Council under section 22 of the Ordinance, employment of the trainee solicitor under a new trainee solicitor contract is only effective employment as a trainee solicitor if it is approved in writing by the Society.
- (3) Subject to rules 6 and 8 if, on the expiration of a trainee solicitor contract, a trainee solicitor cannot satisfy the Society that he has been duly employed as a trainee solicitor for the whole of the period of the trainee solicitor contract he may enter into a new trainee solicitor contract with the same or another principal for such period as will enable him to complete the requisite period of employment as a trainee solicitor.

PART IV

EXAMINATIONS

14. Evidence of results

A certificate or notification issued by or on behalf of the Society, the Law Society of England and Wales, the University of Hong Kong, the City University of Hong Kong, the City Polytechnic of Hong Kong or The Chinese University of Hong Kong as to the results achieved by any candidate in an examination shall be sufficient evidence of whether or not the candidate has passed or failed.

14A. (Repealed)

15. Examination dates

For the avoidance of doubt as to the date of passing an examination or course specified in rule 7, a person shall be deemed to have passed on the last date that he sits for an examination.

16. (Repealed)

17. (Repealed)

18. (Repealed)

19. (Repealed)

19A. (Repealed)

PART V

GENERAL

20. Exemption of disbarred barrister from employment under a trainee solicitor contract

- (1) A person may apply to the Society for an exemption from employment under a trainee solicitor contract if the person has -
- (a) been called to the Bar in Hong Kong;
 - (b) been since the date of his completion of the prescribed qualifying period of active practice for the purposes of section 31 of the Ordinance, if applicable, engaged in the practice of a barrister or advocate (including such practice in the Department of Justice, Legal Advisory and Conveyancing Office of the Lands Department, Official Receiver's Office, Companies Registry, Land Registry, Legal Aid Department or Intellectual Property Department of the Government) in Hong Kong, or, if the Society approves, elsewhere, for a period of not less than 5 years;
 - (c) obtained from the Bar Council a certificate stating –
 - (i) that no resolution has been passed by the Bar Council that the person has been in breach of proper professional standards;
 - (ii) that no resolution has been passed by the Bar Council as a result of a complaint being made to it or otherwise that the conduct of the person should be inquired into by a Barristers Disciplinary Tribunal;
 - (iii) that no conduct of the person as a barrister is the subject of proceedings being conducted or pending before the Barristers Disciplinary Tribunal or the Court of Appeal;
 - (iv) that no order has been made against the person by a Barristers Disciplinary Tribunal under section 37 of the Ordinance; and
 - (v) whether there are any outstanding allegations or complaints against the person that are to be dealt with by the Bar Council;
 - (d) procured himself to be disbarred with a view to becoming a solicitor; and
 - (e) provided a statutory declaration to the Society stating, to the person's knowledge, information and belief, as to whether there are any outstanding allegations or complaints against the person to be dealt with by the Bar Council, and if so, the particulars of those allegations or complaints.
- (1A) On an application under paragraph (1) and subject to paragraph (1B), the Society may grant an exemption.
- (1B) If there are any outstanding allegations or complaints against the person that are to be dealt with by the Bar Council, the Society may grant an exemption only after the Bar Council notifies the Society of the outcome of its decision or resolution in relation to the allegations or complaints.
- (2) A person who has been granted by the Society an exemption from employment under a trainee solicitor contract upon complying with such part of these rules as is applicable to him and upon passing such examination or examinations as may from time to time be determined by the Society shall be qualified for admission in accordance with the provisions of section 4(1)(a) of the Ordinance.

21. (Repealed)

22. Power of waiver

The Council may, in a particular case, waive in writing any provision of these rules other than those of rules 6 and 7, subject to such conditions as it may impose.

23. Saving

Notwithstanding the repeal of rule 9A(1) and (2) by the Trainee Solicitors (Amendment) Rules 1999 ("amending Rules"), any person who has entered into a trainee solicitor contract in England or Wales as at the date on which the amending Rules come into force, may make application for approval that the period of employment as a trainee solicitor in England or Wales be relevant working experience under the repealed rule 9A(1) and (2). The application shall be dealt with under the repealed rule 9A(1) and (2) as if that rule had not been repealed.

FIRST SCHEDULE

(Repealed)

SECOND SCHEDULE

[rule 6.]

(Repealed)

THIRD SCHEDULE

[rule 6.]

(Repealed)