

---

## 4. Barristers (Qualifications) Rules

---

### ARRANGEMENT OF RULES

Rule

1. Citation
- 1A. Application
2. General admission before 1 June 1986: qualifying period of active practice
- 2A. Admission for particular cases: qualifying period of active practice
- 2B. General admission on or after 1 June 1986: qualifying period of active practice
3. Application for pupillage in Hong Kong
4. Approval of Bar Council
5. Disqualification
6. Approval of pupillage
7. Termination of pupillage
8. Appeals
9. Requirements of pupillage
10. Reduction of pupillage
11. (Repealed)
12. Reduction of pupillage of a barrister admitted under section 27A

**1. Citation**

These rules may be cited as the Barristers (Qualification) Rules.

**1A. Application**

These rules shall apply to –

- (a) persons who elect under section 74C of the Ordinance as amended by the Legal Practitioners (Amendment) Ordinance 2000 (42 of 2000) ("the amending Ordinance") to be admitted under section 27 of the Ordinance as that section existed before its repeal by the amending Ordinance; or
- (b) persons who seek admission under section 74D of the Ordinance as amended by the amending Ordinance.

**2. General admission before 1 June 1986: qualifying period of active practice**

(1) Where a person is admitted as a barrister generally under section 27(1)(a)(i) or (ii) of the Ordinance before 1 June 1986, the qualifying period of active practice for the purposes of section 31 of the Ordinance shall be a period of not less than 12 months of active practice as a barrister or advocate in any part of the Commonwealth after the date of that person's call to the Bar in England or Northern Ireland or his admission as an advocate in Scotland or, in the case of a person who, prior to his call to the Bar in England or Northern Ireland or admission as an advocate in Scotland, had been admitted as a barrister or advocate in any part of the Commonwealth, after the date of his being so admitted, which period may include-

- (a) if the person has obtained a certificate issued by the Council of Legal Education that he has satisfactorily completed the Council's Post Final Practical Course, the period of such course;
- (b) any period spent as a pupil in the chambers of a practising barrister in England or Northern Ireland or of a practising member of the Faculty of Advocates in Scotland;
- (c) any period spent as a pupil in the chambers of a practising barrister in Hong Kong;
- (d) any period not exceeding 9 months spent as a pupil in the Attorney General's Chambers, which period may include a period not exceeding 3 months on secondment to the Legal Aid Department.

(2) The period of 12 months specified in paragraph (1) shall be reduced-

- (a) by the period of any course referred to in sub-paragraph (a) of that paragraph completed before the date of call to the Bar in England or Northern Ireland or admission as an advocate in Scotland;
- (b) by any period spent as a pupil in the chambers of a practising barrister in England or Northern Ireland or of a practising member of the Faculty of Advocates in Scotland after taking all the examinations the passing of which qualifies a person for call to the Bar in England or Northern Ireland or for admission as an advocate in Scotland if the pupil passes those examinations and is called to the Bar or is admitted, as the case may be, on the next occasion immediately following the commencement of the pupillage;
- (c) by any period not exceeding one month spent as a judge's marshal after the date of call to the Bar in England or Northern Ireland or admission as an advocate in Scotland.

- (3) Where a person is admitted as a barrister generally under section 27(1)(a)(iii) or (iv) of the Ordinance before 1 June 1986, the qualifying period of active practice for the purposes of section 31 of the Ordinance shall be the period of approved pupillage under these rules, which period may include any period spent as a pupil in the chambers of a practising barrister in England or Northern Ireland or of a practising member of the Faculty of Advocates in Scotland.

**2A. Admission for particular cases: qualifying period of active practice**

Where a person is admitted as a barrister for the purpose of any particular case or cases under section 27 of the Ordinance, the qualifying period of active practice for the purposes of section 31 of the Ordinance shall be a period of not less than 12 months of active practice as a barrister or advocate in any part of the Commonwealth after the date of that person's call to the Bar in England or Northern Ireland or his admission as an advocate in Scotland or, in the case of a person who, prior to his call to the Bar of England or Northern Ireland or admission as an advocate in Scotland, had been admitted as a barrister or advocate in any part of the Commonwealth, after the date of his being so admitted.

**2B. General admission on or after 1 June 1986: qualifying period of active practice**

Where a person is admitted as a barrister generally under section 27 or 27A of the Ordinance on or after 1 June 1986, the qualifying period of active practice for the purposes of section 31 shall be the period of approved pupillage under these rules.

**3. Application for pupillage in Hong Kong**

A person desiring to become a pupil in Hong Kong shall-

- (a) give to the Secretary to the Bar Council not less than 3 weeks' notice in writing of his intention to serve a pupillage in Hong Kong, stating whether he wishes to serve his pupillage-
- (i) with a practising barrister; or
  - (ii) in the Attorney General's Chambers,
- and if with a practising barrister, stating the name and professional address of that barrister;
- (b) deposit with the Bar Council a certificate from the Registrar of the High Court that the applicant has been admitted as a barrister in Hong Kong and separate certificates of good character from two responsible persons who have known him for one year or more and have had opportunity of judging his character;
- (c) deposit with the Bar Council a written declaration and undertaking that-
- (i) he is not in practice as a solicitor either on his own account or as a partner or employee in any legal firm whether in Hong Kong or elsewhere and that he does not intend, so long as he remains a pupil, to practise as a solicitor either on his own account or as a partner or employee in any firm in Hong Kong or elsewhere;
  - (ii) he is not enrolled and, so long as he remains a pupil, will not be enrolled as a student, trainee solicitor or member of The Law Society of Hong Kong.

**4. Approval of Bar Council**

A practising barrister shall not receive a pupil into his chambers unless he has first obtained the approval of the Bar Council to the pupillage.

**5. Disqualification**

A person shall not be eligible to become a pupil for the purposes of these rules if he-

- (a) is an undischarged bankrupt;
- (b) has been convicted of a criminal offence of such a nature as, in the opinion of the Bar Council, makes his admission as a pupil undesirable;
- (c) is engaged in any occupation which, in the opinion of the Bar Council, is incompatible with pupillage; or
- (d) is for any other reason considered by the Bar Council to be unsuitable as a pupil.

## **6. Approval of pupillage**

The Bar Council shall, if it is satisfied that the applicant has complied with the requirements of rule 3 that he is a fit and suitable person and is not ineligible by virtue of rule 5, and if he wishes to serve his pupillage with a practising barrister, that the practising barrister with whom he wishes to serve his pupillage has obtained the approval of the Bar Council to the pupillage under rule 4, approve him as a pupil.

## **7. Termination of pupillage**

- (1) A pupil who, while serving pupillage, is-
  - (a) adjudicated bankrupt;
  - (b) convicted of a criminal offence; or
  - (c) engaged, employed or enrolled in contravention of his written declaration and undertaking,shall forthwith inform the Bar Council in writing.
- (2) The Bar Council may approve the transfer of pupillage from one practising barrister to another or from a practising barrister to the Attorney General's Chambers or from the Attorney General's Chambers to a practising barrister.
- (3) The Bar Council may order the termination or suspension of a pupillage if it is satisfied that-
  - (a) the pupil has been guilty of misconduct; or
  - (b) the pupil has notified, or failed to notify the Bar Council, of the occurrence of any of the matters referred to in paragraph (1).
- (4) For the purposes of this rule "misconduct" means any conduct which would be regarded as professional misconduct if committed by a practising barrister.

## **8. Appeals**

- (1) Any person who is aggrieved by an order or decision of the Chief Judge or the Bar Council under these rules may, by notice of motion, appeal to the Court of Appeal against the order or decision.
- (2) The notice of motion shall state the grounds of the appeal and shall be served on the Bar Council as Respondents and on the Attorney General.
- (3) At the hearing before the Court of Appeal the applicant, the Bar Council and the Attorney

General may be represented by counsel and adduce evidence.

- (4) The Court of Appeal may confirm, vary or quash the order or decision and make such order as to costs as it thinks fit.

#### 9. Requirements of pupillage

- (1) The period of approved pupillage under these rules shall be-
- (a) a period of not less than 1 year in the chambers of a practising barrister (of not less than 5 years standing as a barrister) in Hong Kong; or
  - (b) a period of not less than 9 months in the Attorney General's Chambers, which may include a period not exceeding 3 months on secondment to the Legal Aid Department, so long as he has also spent a period of not less than 3 months in such service as is described in sub-paragraph (a).
- (2) The period of approved pupillage mentioned in paragraph (1) shall be reduced by any period not exceeding one month spent as a judge's marshal in Hong Kong after the date of admission as a barrister in Hong Kong.
- (3) A person shall not be regarded as having undertaken the period of approved pupillage under these rules unless he has obtained from those of whom he has been a pupil certificates stating he has served his period of pupillage with diligence and that he is a suitable person to practise as a barrister in Hong Kong.
- (4) Any period of work in the nature of pupillage undertaken in the Attorney General's Chambers or in the chambers of a practising barrister (of not less than 5 years standing as a barrister) in Hong Kong after being called to the Bar in England or Northern Ireland, being admitted as an advocate in Scotland or taking all the examinations the passing of which qualifies a person for admission as a barrister in Hong Kong may at the discretion of the Bar Council be accepted, if he is so called or admitted or if he passes those examinations, as a period of approved pupillage, or part thereof, as required by these rules.

#### 10. Reduction of pupillage

The Chief Judge may, after consulting the Bar Council, reduce the period of approved pupillage mentioned in rule 9 where he is satisfied that a barrister admitted under section 27 of the Ordinance has substantial experience in advocacy in court:

Provided that the period of pupillage required to be served shall not be less than 3 months.

#### 11. (Repealed)

#### 12. Reduction of pupillage of a barrister admitted under section 27A

- (1) The Chief Judge may, after consulting the Bar Council and the Attorney General, reduce or dispense with the period of approved pupillage mentioned in rule 9 where he is satisfied that a barrister admitted under section 27A of the Ordinance has substantial experience in advocacy in court.
- (2) The Chief Judge may make the reduction or dispensation of the period of approved pupillage subject to conditions that he may specify.