

PART VIII

GENERAL

74A. Standing Committee on Legal Education and Training

- (1) There is established by this section a Standing Committee on Legal Education and Training.
- (2) The functions of the committee are-
 - (a) to keep under review, evaluate and assess-
 - (i) the system and provision of legal education and training in Hong Kong;
 - (ii) without prejudice to the generality of subparagraph (i), the academic requirements and standards for admission to the Postgraduate Certificate in Laws programme;
 - (b) to monitor the provision of vocational training of prospective legal practitioners in Hong Kong by organizations other than the Society or the Hong Kong Bar Association;
 - (c) to make recommendations on matters referred to in paragraphs (a) and (b); and
 - (d) to collect and disseminate information concerning the system of legal education and training in Hong Kong.
- (3) The committee shall consist of-
 - (a) 15 members appointed by the Chief Executive of whom-
 - (i) 2 shall be persons nominated by the Chief Justice;
 - (ii) 1 shall be a person nominated by the Secretary for Justice;
 - (iii) 1 shall be a person nominated by the Secretary for Education and Manpower;
 - (iv) 2 shall be persons nominated by the Society;
 - (v) 2 shall be persons nominated by the Hong Kong Bar Association;
 - (vi) 2 shall be persons nominated by the Vice-Chancellor of the University of Hong Kong;
 - (vii) 2 shall be persons nominated by the President of the City University of Hong Kong;
 - (viii) 2 shall be members of the public; and
 - (ix) 1 shall be a person nominated by The Federation for Continuing Education in Tertiary Institutions, a non-profit-making educational organization, from among its members which provide continuing legal education courses in Hong Kong; and
 - (b) a chairman appointed by the Chief Executive after consultation with the persons and organizations making nominations pursuant to paragraph (a)(i) to (vii) and (ix).
- (4) A member of the committee who is unable to attend a meeting of the committee, except for a member appointed pursuant to subsection (3)(a)(viii), may, subject to the consent of the chairman, send a substitute to attend the meeting in his place and the substitute shall be deemed to be a member of the committee for the purpose of that meeting.

- (5) A member of the committee including the chairman shall hold office for a term not exceeding 2 years.
- (6) A member of the committee including the chairman may at any time resign from the committee by giving notice in writing of his resignation to the Chief Executive.
- (7) The Secretary for Justice may publish notice of the appointment or termination of membership of a member (including the chairman) appointed pursuant to this section in the Gazette.
- (8) The committee shall report annually to the Chief Executive and its annual report shall be tabled in the Legislative Council.
- (9) The committee may determine its own procedure.

74C. Students already enrolled in legal studies in the United Kingdom

Notwithstanding the repeal and replacement of section 27 by section 7 of the Legal Practitioners (Amendment) Ordinance 2000 (42 of 2000) (“the amending Ordinance”), where a person, on the day the amending Ordinance is published in the Gazette, is enrolled or registered in, or has been offered a place —

- (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 in Hong Kong 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 2004.

74D. Lawyers employed in Department of Justice

- (1) Notwithstanding the repeal of section 27A by section 8 of the Legal Practitioners (Amendment) Ordinance 2000 (42 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 8(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) does not apply to admission as a barrister under this section.

75. Saving

- (1) Nothing in this Ordinance shall-
 - (a) prejudice or affect any rights or privileges of any legal officer within the meaning of section 2 of the Legal Officers Ordinance (Cap. 87), any person holding an appointment under section 3(1) of the Legal Aid Ordinance (Cap. 91) or any person deemed to be a legal officer for the purpose of the Legal Officers Ordinance (Cap. 87) by virtue of section 3(3) of the Director of Intellectual Property (Establishment) Ordinance (Cap. 412) or section 75(3) of the Bankruptcy Ordinance (Cap. 6) or require any such person or any clerk, trainee solicitor or officer appointed to act for him to be admitted in any case where it would not have been necessary for him to be admitted if this Ordinance had not been enacted; or
 - (b) affect any enactment empowering any person, whether or not a solicitor or a barrister, to conduct, convene or otherwise act in relation to any legal proceedings.
- (2) (Omitted as spent)

NOTES:

* section 31A Appointment of Senior Counsel

Note 1-S of Schedule 2 to 94 of 1997 reads as follows -

"2. Status of existing Queen's Counsel

- (1) This section applies to -
 - (a) a barrister of the Supreme Court of Hong Kong who, immediately before the commencement of this section, is holding an appointment as a Queen's Counsel in Hong Kong; and
 - (b) a barrister called to the bar in England or Northern Ireland, or an advocate admitted in Scotland, who, immediately before that commencement -
 - (i) is holding an appointment as a Queen's Counsel in the United Kingdom; and
 - (ii) is admitted as a barrister of the Supreme Court of Hong Kong otherwise than for the purpose of appearing in a specific legal proceeding.
- (2) A barrister to whom this section applies is, on the commencement of this section, taken to have been appointed as a Senior Counsel under section 31A of the Legal Practitioners Ordinance (Cap. 159) with the same precedence as the barrister would have if -
 - (a) the barrister had been appointed under that section as a Senior Counsel on the date when the barrister was appointed as a Queen's Counsel; and
 - (b) that section had been in force on that date.
- (3) Nothing in this section or section 31A of the Legal Practitioners Ordinance (Cap. 159) -
 - (a) affects the appointment, before the commencement of this section, of a barrister as a Queen's Counsel in Hong Kong; or
 - (b) precludes a barrister from being appointed as a Queen's Counsel in Hong Kong after that commencement but before 1 July 1997."

* section 34 Barristers Disciplinary Tribunal Panel

Note 2-S. 3 of Schedule 2 to 94 of 1997 reads as follows -

"3. Barristers Disciplinary Tribunal Panel

The substitution of section 34(1) of the Legal Practitioners Ordinance (Cap. 159) by section 8 of this Ordinance does not affect the appointment of any person who was, immediately before the commencement of the last-mentioned section, holding office as a member of the Barristers Disciplinary Tribunal Panel."

SCHEDULE 1

[ss.3 & 27A]

(Repealed)

SCHEDULE 2

[ss. 26A, 26B, 26C & 26D]

MONEY

1. (1) The Court of First Instance, on the application of the Council, may order that no payment shall be made without the leave of the court by any person (whether or not named in the order) of any money held by him (in whatever manner and whether it was received before or after the making of the order) on behalf of the solicitor or his firm or the foreign lawyer or his firm.
- (2) No order under this section shall take effect in relation to any person to whom it applies unless the Council has served a copy of the order on him (whether or not he is named in it) and, in the case of a bank or other financial institution, has indicated at which of its branches the Council believes that the money to which the order relates is held.
- (3) A person shall not be treated as having disobeyed an order under this section by making a payment of money if he satisfies the Court that he exercised due diligence to ascertain whether it was money to which the order related but nevertheless failed to ascertain that the order related to it.
- (4) This section does not apply where the powers conferred by this Schedule are exercisable by virtue of section 26C of this Ordinance.
2. (1) Without prejudice to section 1 if the Council passes a resolution to the effect that any sums of money to which this section applies, and the right to recover or receive them, shall vest in the Council, all such sums shall vest accordingly (whether they were received by the person holding them before or after the Council's resolution) and shall be held by the Council on trust to exercise in relation to them the powers conferred by this Schedule and subject thereto upon trust for the persons beneficially entitled to them.
- (2) This section applies -
 - (a) where the powers conferred by this section are exercisable by virtue of section 26A of this Ordinance, to all sums of money held by or on behalf of the solicitor or his firm or the foreign lawyer or his firm in connection with his practice or with any trust of which he is or formerly was a trustee;
 - (b) where they are exercisable by virtue of section 26B of this Ordinance, to all sums of money in any client account; and
 - (c) where they are exercisable by virtue of section 26C of this Ordinance, to all sums of money held by or on behalf of the solicitor or his firm or the foreign lawyer or his firm in connection with the trust or other matter to which the complaint relates.
- (3) Except where section 4 applies, the Council shall serve on the solicitor or his firm or the foreign lawyer or his firm and on any other person having possession of sums of money to which this section applies a certified copy of the Council's resolution and a notice prohibiting the payment out of any such sums of money.
- (4) Within 8 days of the service of a notice under subsection (3), the person on whom it was served, on giving not less than 48 hours' notice in writing to the Council and (if the notice under subsection (3) gives the name of the solicitor instructed by the Council) to that solicitor, may apply to the Court of First Instance for an order directing the Council to withdraw the notice.