

---

# THE HONG KONG SOLICITORS' GUIDE TO PROFESSIONAL CONDUCT VOLUME 2

---

THE LAW SOCIETY OF HONG KONG

## CONTENTS

1. Legal Practitioners Ordinance
  2. Accountant's Report Rules
  3. Admission and Registration Rules
  4. Barristers (Qualifications) Rules
  5. Continuing Professional Development Rules
  6. Overseas Lawyers (Qualification for Admission) Rules
  7. Overseas Lawyers (Qualification for Admission) (Fees) Rules
  8. Foreign Lawyers Registration Rules
  9. Foreign Lawyers Registration (Fees) Rules
  10. Foreign Lawyers Practice Rules
  11. Legal Practitioners (Fees) Rules
  12. Practising Certificate (Barristers) Rules
  13. Practising Certificate (Solicitors) (Grounds for Refusal) Rules
  14. Practising Certificate (Solicitors) Rules
  15. Solicitors' Accounts Rules
  16. Solicitors Disciplinary Tribunal Proceedings Rules
  17. Solicitors (General) Costs Rules
  18. Solicitors' Practice Rules
  19. Solicitors (Professional Indemnity) Rules
  20. Solicitors (Trade Marks and Patents) Costs Rules
  21. Trainee Solicitors Rules
  22. Articles of Association of The Law Society of Hong Kong
  23. Memorandum of Association of The Law Society of Hong Kong
  24. Practice Directions 1990
  25. Solicitors' Practice Promotion Code
  26. Inspectors Powers Rules
  27. Barristers Disciplinary Tribunal Proceedings Rules
  28. Solicitors (Group Practice) Rules
  29. Practising Certificate (Special Conditions) Rules
-

- 
30. Legal Practitioners (Risk Management Education) Rules
  31. Barristers (Admission) Rules
  32. Barristers (Advanced Legal Education Requirement) Rules
  33. Barristers (Qualification for Admission and Pupillage) Rules
  34. Summary Disposal of Complaints (Solicitors) Rules

---

# 1. Legal Practitioners Ordinance

---

## ARRANGEMENT OF SECTIONS

Section

### PART I

#### SHORT TITLE AND INTERPRETATION

1. Short title
2. Interpretation

### PART II

#### SOLICITORS

3. Power of Court to admit solicitors
4. Qualifications for admission
5. Roll of solicitors
6. Practising certificates - solicitors
7. Qualifications for practising as solicitor
- 7A. Solicitors may exercise functions of commissioner for oaths
8. Accountant's reports
- 8A. Council may examine documents if solicitor is unfit
- 8AA. Appointment and powers of inspector
- 8AAA. Additional powers of an inspector
- 8B. Document production and privilege
9. Solicitors Disciplinary Tribunal Panel
- 9A. Complaint about solicitor's conduct
- 9AB. Power of Tribunal Convenor to dispose of certain complaints
- 9B. Solicitors Disciplinary Tribunal
10. Powers of a Solicitors Disciplinary Tribunal
11. Ancillary powers of a Solicitors Disciplinary Tribunal
12. Findings of a Solicitors Disciplinary Tribunal
13. Appeal and saving
- 13A. Publication of findings of Solicitors Disciplinary Tribunal
14. (Repealed)
15. (Repealed)
16. Restrictions on powers to strike names off roll
17. Council may inspect proceedings in bankruptcy
18. Winding-up, etc. of business of solicitors struck off or suspended
19. Removal from roll
20. Restrictions on employing trainee solicitors
21. Power to prohibit employing trainee solicitors
22. Power to discharge trainee solicitor contracts in certain cases
23. Termination of trainee solicitor contracts in cases of bankruptcy, etc.
24. Society's general right of audience
25. Expenses of Solicitors Disciplinary Tribunal and of Society
26. Statutory provisions to prevail over Society's articles

Section

## **PART IIA**

### **CIRCUMSTANCES IN WHICH LAW SOCIETY MAY INTERVENE**

- 26A. Circumstances in which powers conferred by Schedule 2 exercisable
- 26AA. (Repealed)
- 26B. Death of sole solicitor or foreign lawyer
- 26C. Undue delay by solicitors or foreign lawyers in connection with clients' instructions
- 26D. Powers conferred by Schedule 2 exercisable after death of solicitor

## **PART III**

### **BARRISTERS**

- 27. Power of Court to admit barristers
- 27A. (Repealed)
- 28. Formalities for admission as a barrister
- 29. Roll of barristers
- 30. Practising certificates - barristers
- 31. Qualifications for practising as a barrister
- 31A. Appointment of Senior Counsel
- 31B. Status of visiting Queen's Counsel
- 32. (Repealed)
- 33. Bar Council - general right of audience
- 34. Barristers Disciplinary Tribunal Panel
- 35. Complaint about barrister's conduct
- 35A. Barristers Disciplinary Tribunal
- 35B. Sittings of Barristers Disciplinary Tribunal
- 36. Powers of Barristers Disciplinary Tribunal
- 37. Disciplinary powers of Barristers Disciplinary Tribunal
- 37A. Findings of a Barristers Disciplinary Tribunal
- 37B. Appeal to Court of Appeal
- 38. Variation of order of the Barristers Disciplinary Tribunal
- 39. Expenses of Barristers Disciplinary Tribunal and of Bar Council

## **PART IIIA**

### **FOREIGN LAWYERS AND FOREIGN FIRMS**

- 39A. Foreign lawyers
- 39B. Foreign firms
- 39C. Associations
- 39D. Hong Kong firms may employ foreign lawyers

**8B. Document production and privilege**

- (1) For the purpose of enforcing the production of documents required by the Council under section 8A, section 11 applies and references in section 11 to the Solicitors Disciplinary Tribunal and to the Chairman of the Solicitors Disciplinary Tribunal shall be deemed to be references respectively to the Council and to the President of the Society.
- (2) Documents required by the Council under section 8A or by an inspector under section 8AA shall be produced or delivered notwithstanding any claim of solicitor-client privilege but documents that are subject to a solicitor-client privilege may only be used for the purposes of an inquiry or investigation under this Ordinance.

**9. Solicitors Disciplinary Tribunal Panel**

- (1) The Chief Justice shall appoint a Solicitors Disciplinary Tribunal Panel consisting of not more than 120 practising solicitors of at least 10 years' standing, not more than 10 foreign lawyers and not more than 60 lay persons who are not, in the opinion of the Chief Justice, connected in any way with the practice of law.
- (2) A member of the Council is not eligible to be appointed to or remain on the Panel.
- (3) A person appointed to the Panel shall be appointed for a term specified by the Chief Justice not to exceed 5 years but may be reappointed for a further term or terms.
- (4) The Chief Justice shall appoint a solicitor as the Tribunal Convenor for a 3 year term and he may appoint one or more solicitors on the Panel and one or more foreign lawyers on the Panel as Deputy Tribunal Convenors for 3 year terms.
- (5) If the Tribunal Convenor is precluded by illness, absence from Hong Kong or any other cause from exercising his functions under this Ordinance, a Deputy Tribunal Convenor may act in his place.
- (6) The Tribunal Convenor and a Deputy Tribunal Convenor who acts in the place of the Tribunal Convenor in circumstances mentioned in subsection (5) may be remunerated by the Society.

**9A. Complaint about solicitor's conduct**

- (1) Where the Council considers that the conduct of a person who is, or was at the relevant time, a solicitor, a foreign lawyer, a trainee solicitor or an employee of a solicitor or foreign lawyer should be inquired into or investigated as a result of a complaint being made to it or otherwise, the Council shall submit the matter to the Tribunal Convenor of the Solicitors Disciplinary Tribunal Panel.
- (1A) Notwithstanding subsection (1), if the conduct involves an alleged breach of:-
  - (a) a provision of this Ordinance;
  - (b) a practice direction issued by the Society; or
  - (c) a principle of professional conduct contained in The Hong Kong Solicitors' Guide to Professional Conduct,

prescribed in rules made by the Council, and the Council considers that that matter is suitable for disposal by the Tribunal Convenor under section 9AB, the Council may submit the matter to the Tribunal Convenor for such disposal subject to the conditions mentioned in subsection (1) of that section being satisfied.

- (1B) In considering whether a matter is suitable for disposal by the Tribunal Convenor under section 9AB, the Council may take into account the following -

- (a) whether the alleged breach is deliberate;
  - (b) whether the alleged breach has been committed with a dishonest intent;
  - (c) the gravity of the alleged breach;
  - (d) any other factor it considers relevant.
- (2) Where a complaint is made to the Council and the Council does not submit a matter to the Tribunal Convenor under subsection (1) within 6 months after receiving the complaint the Chief Judge may, on application by any person or on his own initiative, submit the matter to the Tribunal Convenor if he considers that the Council ought to have done so.

**9AB. Power of Tribunal Convenor to dispose of certain complaints**

- (1) The Tribunal Convenor of the Solicitors Disciplinary Tribunal Panel shall dispose of a matter submitted under section 9A(1A) if the person in respect of whom the submission is made -
- (a) admits liability for the breach of a prescribed provision, practice direction or principle of professional conduct as alleged; and
  - (b) agrees to the matter being disposed of by the Tribunal Convenor under this section,
- in the manner prescribed in rules made by the Council .
- (2) The Tribunal Convenor shall dispose of a matter by making an order requiring the person concerned to pay, within the time specified in the order, the fixed penalty and the Council's fixed investigation costs prescribed in rules made by the Council for a breach of the relevant prescribed provision, practice direction or principle of professional conduct.
- (3) The fixed penalty shall be paid into the general revenue.
- (4) The Tribunal Convenor shall sign an order made under this section and file a copy of the signed order with the Secretary General of the Society.
- (5) Payment of an amount ordered to be paid by the Tribunal Convenor may be enforced as if it were an order issued out of the Court on the production of a copy of the order signed by the Tribunal Convenor and the rules of the Court, so far as applicable, apply to the order.
- (6) An order filed with the Secretary General of the Society shall be available for inspection by any person affected during such hours as the Council may decide.

**9B. Solicitors Disciplinary Tribunal**

- (1) On receipt of a submission under section 8A(3) or 9A in respect of a person who is, or was at the relevant time, a solicitor, a trainee solicitor or an employee of a solicitor the Tribunal Convenor of the Solicitors Disciplinary Tribunal Panel shall, unless it is a matter that is to be disposed of by the Tribunal Convenor under section 9AB, appoint from the Panel 2 solicitors and one lay person to constitute a Solicitors Disciplinary Tribunal to inquire into and investigate the matter.
- (1A) On receipt of a submission under section 8A(3) or 9A in respect of a person who is, or was at the relevant time, a foreign lawyer or an employee of a foreign lawyer the Tribunal Convenor of the Solicitors Disciplinary Tribunal Panel shall, unless it is a matter that is to be disposed of by the Tribunal Convenor under section 9AB, appoint from the Panel 2 solicitors, one foreign lawyer and one lay person to constitute a Solicitors Disciplinary Tribunal to inquire into and investigate the matter.

- (2) The Tribunal members shall elect as chairman one of its members who is a solicitor.
- (3) The Council may be represented at proceedings before the Tribunal.
- (4) The Tribunal shall sit in camera in the places and at the times it directs.
- (5) A member of the Tribunal who becomes a member of the Council may continue as a member of the Tribunal notwithstanding section 9(2).

**10. Powers of a Solicitors Disciplinary Tribunal**

- (1) A Solicitors Disciplinary Tribunal shall have power to inquire into and investigate the conduct of any person in respect of which it was appointed.
- (2) Subject to the provisions of this Ordinance, on completion of its inquiry and investigation, a Solicitors Disciplinary Tribunal shall have power to make such order as it thinks fit and any such order may, in particular, include provision for all or any of the following matters-
  - (a) striking off the roll of solicitors the name of the solicitor to whom the inquiry or investigation relates;
  - (b) suspending that solicitor from practice for such period as the Solicitors Disciplinary Tribunal shall think fit;
  - (ba) permitting the solicitor to continue practice, but subject to conditions which may be imposed for up to 3 years;
  - (bb) payment by that solicitor or foreign lawyer to the complainant of an amount not exceeding the amount paid to the solicitor or foreign lawyer by way of fees and disbursements in relation to the complainant's matters in dispute;
  - (bc) payment by that solicitor to a fund established under section 73A of an amount not greater than an amount paid out of the fund in respect of that solicitor;
  - (c) payment by that solicitor of a penalty not exceeding \$500,000 which shall be paid into the general revenue;
  - (d) censure of that solicitor or, if the inquiry or investigation relates to a solicitor's employee or trainee solicitor, of such employee or trainee solicitor;
  - (e) payment by any party of the costs of and incidental to the proceedings of the Tribunal and the costs of any prior inquiry or investigation in relation to the matters before the Tribunal, to be taxed by a Master of the High Court on a full indemnity basis, or payment of an amount that the Tribunal considers is a reasonable contribution towards those costs;
  - (f) cancellation or suspension of the trainee solicitor contract of the trainee solicitor to whom the inquiry or investigation relates;
  - (g) prohibition of employment by any solicitor or foreign lawyer of any solicitor's employee or trainee solicitor or foreign lawyer's employee, to whom the inquiry or investigation relates, for such period as the Solicitors Disciplinary Tribunal may decide;
  - (h) cancelling the registration of the foreign lawyer to whom the inquiry or investigation relates;
  - (i) suspending the registration of the foreign lawyer for a period that the Solicitors Disciplinary Tribunal considers appropriate;
  - (j) imposing conditions for the continued registration of the foreign lawyer for up to 3 years;

- (k) payment by the foreign lawyer to the complainant of an amount not exceeding the amount paid to the foreign lawyer by way of fees and disbursements in relation to the complainant's matters in dispute;
  - (l) payment by the foreign lawyer of a penalty not exceeding \$500,000 which shall be paid into the general revenue; and
  - (m) censure of the foreign lawyer or, if the complaint or investigation relates to a foreign lawyer's employee, censure of that employee.
- (3) Every order made under subsection (2) shall be filed with the secretary of the Society and shall be available for inspection by any person affected during such hours as the Council may prescribe.
- (4) An order that may be made under subsection (2) may also be made in respect of a person who was, at the relevant time, a solicitor, a foreign lawyer, a trainee solicitor or an employee of a solicitor or foreign lawyer.

## **11. Ancillary powers of a Solicitors Disciplinary Tribunal**

- (1) For the purpose of conducting any such inquiry or investigation, a Solicitors Disciplinary Tribunal shall have all such powers as are vested in the Court or in any judge in the course of any action or suit in respect of the following matters-
- (a) enforcing the attendance of witnesses and examining them upon oath or otherwise;
  - (b) compelling the production of documents;
  - (c) punishing persons guilty of contempt;
  - (d) ordering an inspection of any property;
  - (e) conducting the examination of witnesses; and
  - (f) adjourning any meeting from time to time and from one place to another,
- and a summons under the hand of the Chairman of a Solicitors Disciplinary Tribunal may be substituted for and shall be equivalent to any form of process capable of being issued in any action or suit for compelling the attendance of witnesses or the production of documents and any warrant of committal to prison issued for the purpose of enforcing any such powers as aforesaid shall be under the hand of such Chairman and shall not authorize the imprisonment of any offender for a period exceeding 1 month.
- (2) The Commissioner of Police and all police officers, officers of the court, gaolers and bailiffs of the court are required to give their utmost assistance to every Solicitors Disciplinary Tribunal and to every chairman thereof, in the enforcement of documents, warrants and orders issued in accordance with subsection (1) or otherwise.
- (3) Every member of a Solicitors Disciplinary Tribunal shall have the like protection and privileges, in relation to any action or suit brought against him for any act done or omitted to be done in the execution of his duties as such member, as is given by any law to a magistrate acting in the execution of his office.
- (4) All proceedings of a Solicitors Disciplinary Tribunal and any order made in accordance with the provisions of section 10 shall be privileged.



**12. Findings of Solicitors Disciplinary Tribunal**

- (1) An order made by a Solicitors Disciplinary Tribunal shall include a statement of its findings in relation to the facts of the case and shall be signed by the chairman or by a member authorized by the Tribunal.
- (2) A signed copy of an order of a Tribunal in relation to a solicitor shall be filed with the Registrar who shall enter a note of the order on the roll of solicitors in connection with the name of the solicitor and, where the order so directs, the Registrar shall strike off the name and shall publish an order for suspension or striking off in the Gazette within 14 days after receiving a copy of the order.
- (2A) A signed copy of an order of a Tribunal in relation to a foreign lawyer shall be filed with the Secretary General of the Society and, where the order so directs, the Secretary General shall publish an order for suspension or cancellation of the registration in the Gazette within 14 days after receiving a copy of the order.
- (3) The Tribunal that heard the matter or a Tribunal constituted for the purpose by the Tribunal Convenor may, on the application of a party against whom an order for payment is made, order that payment may be paid by instalments or be deferred for a period the Tribunal considers appropriate.
- (4) An application for an order for payment by instalments, or for the deferring of payment, may be made at the hearing or, within 14 days after the date of the order for payment, by notice in writing to the Tribunal Convenor and to all parties who were represented at the Tribunal hearing.
- (5) On receipt of a notice under subsection (4), the Tribunal Convenor shall, within 14 days, notify the applicant and the other parties of the date on which the application will be heard by a Tribunal.
- (6) There is no right of appeal from the decision of the Tribunal on an application under subsection (4).
- (7) Payment of an amount ordered to be paid by the Tribunal may be enforced as if it were an order issued out of the Court on the production of a copy of the order signed by the chairman or other authorized member of the Tribunal and the rules of the Court, so far as applicable, apply to the order.
- (8) No order under subsection (7) shall be enforced until after the 14 days referred to in subsection (4) has elapsed or until after the Tribunal has made its decision under subsection (3).

**13. Appeal and saving**

- (1) Subject to section 12(6), an appeal against any order made by a Solicitors Disciplinary Tribunal shall lie to the Court of Appeal and the provisions of Order 59 of the Rules of the High Court (Cap. 4 sub. leg.) shall apply to every such appeal save that the time for serving notice of motion of appeal shall be 21 days from the date of the decision and not 6 weeks as provided in the said Order and the decision of the Court of Appeal on any such appeal shall be final.
- (2) Subject to subsection (2A), in any appeal under subsection (1) the Society shall be the respondent.
- (2A) The Council may, with leave of the Court of Appeal, appeal an order of a Solicitors Disciplinary Tribunal under subsection (1), in which case the Society shall be the appellant and the person whose conduct was the subject of the inquiry by the Solicitors Disciplinary Tribunal shall be the respondent.

- (3) Nothing herein contained shall affect the jurisdiction of the Court under sections 3(2) and 45.
- (4) The hearing of every appeal under this section shall be in open court unless, and to the extent to which, the Court of Appeal may otherwise direct.

**13A. Publication of findings of Solicitors Disciplinary Tribunal**

Unless, on application by the solicitor, the Solicitors Disciplinary Tribunal or the Court of Appeal, on an appeal under section 13, otherwise orders, the Society may, after the expiry of the time for filing an appeal under section 13 or after completion of such an appeal, as the case may be, publish a summary of the finding and order of a Solicitors Disciplinary Tribunal and the name of the solicitor who was the subject of the finding and order in any publication produced by, or at the direction of, the Society.

14. (Repealed)

15. (Repealed)

**16. Restrictions on powers to strike names off roll**

- (1) No solicitor shall be liable to have his name struck off the roll of solicitors on account of any failure to comply with such requirements with respect to employment as a trainee solicitor as may be prescribed by the Chief Justice or on account of any defect in his admission and enrolment, unless the application to strike his name off the roll of solicitors is made within 12 months after the date of his enrolment:

Provided that this subsection shall not apply in any case where fraud is proved to have been committed in connection with the failure or defect.

- (2) No solicitor shall be liable to have his name struck off the roll of solicitors by reason only that-
  - (a) a solicitor who employed him or acted as his principal for the whole term or such part of a term of a trainee solicitor contract as may be prescribed by the Chief Justice has neglected or omitted to take out a practising certificate in accordance with the provisions of section 6; or
  - (b) the name of a solicitor who employed him as a trainee solicitor or acted as his principal for any period has after the termination of that period been struck off the roll of solicitors.

**17. Council may inspect proceedings in bankruptcy**

The Council shall be entitled, without payment of any fee, to inspect the file of proceedings in bankruptcy relating to any solicitor or foreign lawyer against whom proceedings in bankruptcy have been taken, and to be supplied with office copies of the proceedings on payment of the usual charges for such copies.

**18. Winding-up, etc. of business of solicitors struck off or suspended**

- (1) The Court may make an order for the winding-up of the business of any solicitor who is struck off the roll of solicitors or of any foreign lawyer whose registration is cancelled in such terms and appointing such solicitor or firm of solicitors or the Official Receiver under the Bankruptcy Ordinance (Cap. 6) or both as it thinks fit for that purpose.

- (2) The Court may make an order appointing any solicitor or firm of solicitors or the Official Receiver or both to manage the business of any solicitor, whose practising certificate is suspended, for the duration of such suspension.
- (3) The Court may make an order appointing a solicitor, firm, foreign lawyer, foreign firm, the Officer Receiver or any combination of them to manage the business of a foreign lawyer whose registration is suspended, for the duration of the suspension.

**19. Removal from roll**

- (1) Upon reasonable cause being shown to the Council by a solicitor the Council may direct the Registrar to remove the name of such solicitor from the roll of solicitors and the Registrar shall thereupon remove such name from the roll of solicitors.
- (1A) Upon reasonable cause being shown to the Council by a foreign lawyer or foreign firm, the Council may direct the Secretary General of the Society to cancel the registration of the foreign lawyer or foreign firm and the Secretary General shall then cancel the registration.
- (2) With effect from the date of removal of a name under this section the person whose name is so removed shall cease to be a solicitor.
- (3) Upon application being made for removal or cancellation as aforesaid the Council may advertise or require the solicitor, foreign lawyer or foreign firm to advertise the application inviting any person who objects thereto to make objection to the Council.
- (4) Where the Registrar is satisfied that a person who was admitted as a solicitor under section 3(1AD) before the repeal of that provision by the Legal Practitioners (Amendment) Ordinance 1994 (60 of 1994) would no longer be qualified under paragraph (a) of that provision if it were still in force, he shall, unless the person has become qualified otherwise under this Ordinance, remove his name from the roll of solicitors.
- (5) Without prejudice to the generality of subsection (1), where a person admitted under section 3(1AB) before that and related provisions ceased to have effect by virtue of section 75(2) does not commence practice as a solicitor within a period of 12 months after his admission, it shall be a cause for the removal of his name from the roll of solicitors under this section.

**20. Restrictions on employing trainee solicitors**

- (1) No person who has not at some time been in continuous practice as a solicitor in Hong Kong for a period of 5 years shall, without the special leave in writing of the Society, employ a trainee solicitor or act as his principal.
- (2) No person shall employ or act as principal for more than 2 trainee solicitors at the same time.
- (3) No person shall employ a trainee solicitor or act as his principal unless he is practising as a solicitor on his own account or in partnership, without the special leave in writing of the Society.
- (4) If any solicitor employs or acts as principal for a trainee solicitor in contravention of any of the provisions of subsection (1), (2) or (3), the Council may terminate the trainee solicitor's contract upon such terms as it thinks fit.
- (4A) It is not a contravention of subsection (1), (2) or (3) for a person other than a solicitor to employ a trainee solicitor so long as -
  - (a) the trainee solicitor is assigned to a solicitor who acts as his principal;
  - (b) the solicitor who acts as principal is qualified under and complies with subsections (1), (2) and (3); and

- (c) the solicitor is employed by the same person as the trainee solicitor.
- (5) Any-
  - (a) solicitor; or
  - (b) qualified person,  
serving in the-
    - (i) Department of Justice; or
    - (ii) the Legal Advisory and Conveyancing Office of the Buildings and Lands Department; or
    - (iia) the Land Registry; or
    - (iib) the Companies Registry; or
    - (iii) Legal Aid Department; or
    - (iv) Official Receiver's Office; or
    - (v) Intellectual Property Department

of the Government shall, for the purpose of this section, be deemed to be practising as a solicitor on his own account; and this subsection shall apply in relation to periods before as well as periods after the commencement of the Legal Practitioners (Amendment) Ordinance 1982.

- (6) (Repealed)
- (7) (Repealed)

## **21. Power to prohibit employing trainee solicitors**

- (1) Where the Society refuses to issue a practising certificate to a solicitor under section 6, the Council may by notice in writing to that solicitor prohibit him from employing a trainee solicitor or acting as the principal of a trainee solicitor.
- (2) (Repealed)

## **22. Power to discharge trainee solicitor contracts in certain cases**

If either-

- (a) during the term of a trainee solicitor contract a trainee solicitor has been continuously absent from the place of business of his principal for a period of 3 months or such longer period as may be prescribed by the Council except for such reason as may be prescribed by the Council; or
- (b) the Council is for any other reason of the opinion that a trainee solicitor contract ought to be terminated,

the Council may, on application of the solicitor, the trainee solicitor or any other person, terminate the trainee solicitor contract on such terms as it shall think fit and may determine what, if any, of the period of employment of the trainee solicitor shall be effective for the purposes of this Ordinance.

**23. Termination of trainee solicitor contracts in cases of bankruptcy, etc.**

If a solicitor who employs a trainee solicitor or acts as his principal becomes bankrupt before the expiration of the trainee solicitor contract or is imprisoned for debt and remains in prison for more than 21 days, the Court, on the application of any person, may order the trainee solicitor contract to be terminated or to be assigned to another solicitor on such terms and in such manner as the Court thinks fit.

**24. Society's general right of audience**

The Society shall have a general right of audience by any member of the Society appointed for that purpose by the Society or by any counsel, before-

- (a) a Solicitors Disciplinary Tribunal; and
- (b) the Court on the hearing of any matter under this Ordinance that does not solely affect barristers,

and in any such case, whether the Society has or is seeking audience or not, the Society shall be served with a copy of every necessary document filed with the Registrar.

**25. Expenses of Solicitors Disciplinary Tribunal and of Society**

- (1) The expenses incurred by-
  - (a) a Solicitors Disciplinary Tribunal; and
  - (b) the Society, in connection with proceedings before a Solicitors Disciplinary Tribunal and any appeal under section 13,may be paid to the Society out of general revenue upon a certificate issued by the Secretary for Justice.
- (2) The Secretary for Justice shall only issue a certificate under subsection (1) if he is satisfied that-
  - (a) the expenses were necessarily incurred by the Solicitors Disciplinary Tribunal or the Society, as the case may be, in exercise of the powers or duties conferred or imposed by this Ordinance;
  - (b) the amount of such expenses is reasonable; and
  - (c) the expenses could not reasonably be recovered from the person whose conduct is the subject of the proceedings before the Solicitors Disciplinary Tribunal or the Court of Appeal, as the case may be.
- (3) In this section, "expenses" includes witnesses' expenses and fees, counsel's fees, solicitor's fees, auditor's fees and other charges and disbursements.

**26. Statutory provisions to prevail over Society's articles**

In the case of any inconsistency between the provisions of this Ordinance and the Memorandum and Articles of Association of the Society the provisions of this Ordinance shall prevail.

## PART IIA

### CIRCUMSTANCES IN WHICH LAW SOCIETY MAY INTERVENE

#### 26A. Circumstances in which powers conferred by Schedule 2 exercisable

- (1) Subject to subsection (2), the powers conferred by Schedule 2 shall be exercisable where -
- (a) the Council has reason to suspect dishonesty on the part of -
    - (i) a solicitor or foreign lawyer; or
    - (ii) an employee or a trainee solicitor of a solicitor or a foreign lawyer; or
    - (iii) the personal representatives of a deceased solicitor or foreign lawyer, in connection with that solicitor's or foreign lawyer's practice or in connection with any trust of which that solicitor or foreign lawyer immediately before the date of his death or formerly was a trustee,and the Council considers the exercise of those powers is in the interests of the public or the clients of the solicitor or foreign lawyer;
  - (b) the Council considers that there has been undue delay on the part of the personal representatives of a deceased solicitor or foreign lawyer who immediately before his death was practising as a solicitor in his own name or as a sole solicitor or foreign lawyer under a firm name in connection with that solicitor's or foreign lawyer's practice or in connection with any controlled trust;
  - (c) the Council is satisfied that a solicitor or foreign lawyer has failed to comply with rules made by virtue of section 73(1)(b) or 73A;
  - (d) a solicitor or foreign lawyer has become bankrupt or has entered into a voluntary arrangement with his creditors within the meaning of the Bankruptcy Ordinance (Cap. 6);
  - (e) a solicitor or foreign lawyer has been committed to prison in any civil or criminal proceedings;
  - (f) the Council is satisfied that a solicitor or foreign lawyer who practises as a solicitor in his own name or as a sole solicitor or foreign lawyer under a firm name is incapacitated by illness or accident to such an extent as to be unable to attend to his practice;
  - (g) the powers conferred by section 10D of the Mental Health Ordinance (Cap. 136) (emergency powers) or section 11 of that Ordinance (appointment of committee) have been exercised in respect of a solicitor or foreign lawyer;
  - (h) the name of a solicitor has been removed from or struck off the roll or a solicitor has been suspended from practice or the registration of a foreign lawyer is cancelled or suspended;
  - (i) the Council is satisfied that a solicitor or foreign lawyer who practises as a solicitor in his own name or as a sole solicitor or foreign lawyer under a firm name has abandoned his practice;
  - (j) the Council is satisfied that a solicitor or foreign lawyer who practises as a solicitor in his own name or as a sole solicitor or foreign lawyer under a firm name is incapacitated by age to such an extent as to be unable to attend to his practice;

- (vii) the form of an accountant's report and the information to be contained therein in accordance with section 8(1);
  - (viii) the evidence, if any, which shall satisfy the Council that the delivery of an accountant's report is unnecessary and the cases in which such evidence is or is not required;
  - (ix) specifying in such circumstances as may be set forth in the rules a different accounting period from that specified in section 8(2); and
  - (x) regulating any matters of procedure or matters incidental, ancillary or supplemental to the provisions of section 8;
- (c) providing for the conduct of an inquiry and investigation by a Solicitors Disciplinary Tribunal;
  - (caa) providing for the practice and procedure to be followed in connection with the submission of a matter by the Council to the Tribunal Convenor under section 9A(1A);
  - (cab) providing for the practice and procedure to be followed in connection with the disposal of a matter by the Tribunal Convenor under section 9AB;
  - (ca) respecting procedures for investigation by an inspector under section 8AA;
  - (cb) requiring a solicitor, foreign lawyer, trainee solicitor or employee to whom a letter of disapproval is sent by the Council, to pay the Council's costs of investigating the conduct which resulted in the letter of disapproval;
  - (d) regulating the employment of trainee solicitors and examinations, and in particular, without prejudice to the generality of the foregoing, providing for-
    - (i) the manner in which any person shall qualify for admission under section 4(1)(a) including, in particular, the period of employment, if any, of a trainee solicitor in any particular case, the examination or examinations to be passed, the courses to be completed and notices and forms to be used in connection therewith; and
    - (ii) (Repealed)
  - (da) respecting the admission of persons under section 4(1)(b), including the qualifications for admission, examinations and the fees to be paid for applications and examinations;
  - (db) respecting the registration of foreign lawyers, foreign firms and Associations, including applications for registration, qualification for registration, fees for application and registration, period and form of registration, conditions of registration, suspension of registration and cancellation of registration;
  - (dc) respecting the practice of Hong Kong firms, foreign firms and Associations;
  - (dd) prohibiting the practice of Hong Kong law by foreign lawyers and for that purpose the Council may define, limit or expand the meaning of the practice of Hong Kong law;
  - (e) enabling the Council to exempt any person from compliance with the provisions of any such rules and to impose and enforce conditions upon which such exemption may be granted in any particular case; and
  - (f) prescribing any thing which, under this Ordinance, is to be or may be prescribed by the Council.

- (2) Every rule made by the Council under this section shall be subject to the prior approval of the Chief Justice.
- (3) No rule made under subsection (1)(b), (c) or (d) shall apply to a person to whom section 75(1) applies insofar as such person is acting in the course of the employment which gives rise to the application of that section.

**73A. Indemnity rules**

- (1) The Council may make rules (in this Ordinance referred to as "indemnity rules") concerning indemnity against loss arising from claims in respect of any description of civil liability incurred-
  - (a) by a solicitor or former solicitor in connection with his practice or with any trust or of which he is or formerly was a trustee;
  - (b) by an employee of a solicitor or former solicitor in connection with that solicitor's practice or with any trust of which that solicitor or the employee is or formerly was a trustee.
- (2) For the purpose of providing such indemnity, indemnity rules-
  - (a) may authorize or require the Society to establish and maintain a fund or funds;
  - (b) may authorize or require the Society to take out and maintain insurance with authorized insurers;
  - (c) may require solicitors or any specified class of solicitors to take out and maintain insurance with authorized insurers.
- (3) Without prejudice to the generality of subsections (1) and (2), indemnity rules-
  - (a) may specify the terms and conditions on which indemnity is to be available, and any circumstances in which the right to it is to be excluded or modified;
  - (b) may provide for the management, administration and protection of any fund maintained by virtue of subsection (2)(a) and require solicitors or any class of solicitors to make payments to any such fund;
  - (c) may require solicitors or any class of solicitors to make payments by way of premium on any insurance policy maintained by the Society by virtue of subsection (2)(b);
  - (d) may prescribe the conditions which an insurance policy must satisfy for the purposes of subsection (2)(c);
  - (e) may authorize the Society to determine the amount of any payments required by the rules, subject to such limits, or in accordance with such provisions, as may be prescribed by the rules;
  - (f) may specify circumstances in which, where a solicitor (not being a solicitor who is exempt from complying with the rules) for whom indemnity is provided has failed to comply with the rules, the Society or insurers may take proceedings against him in respect of sums paid by way of indemnity in connection with a matter in relation to which he has failed to comply;
  - (g) may specify circumstances in which solicitors are exempt from the rules;



---

## **34. Summary Disposal of Complaints (Solicitors) Rules**

---

### **ARRANGEMENT OF SECTIONS**

#### **Section**

#### **PART 1**

#### **PRELIMINARY**

1. Commencement
2. Interpretation
3. Provisions, etc. prescribed for purposes of section 9A(1A) of Ordinance

#### **PART 2**

#### **PROCEDURES BEFORE SUBMISSION OF MATTER TO TRIBUNAL CONVENOR**

4. Council representative to send complaint sheet when Council decides to submit matter to Tribunal Convenor
5. Revocation of decision by Council
6. Discussion of complaint
7. Amendment of complaint sheet, etc.
8. Agreeing to disposal of matter by Tribunal Convenor

#### **PART 3**

#### **SUBMISSION OF MATTER TO AND DISPOSAL OF MATTER BY TRIBUNAL CONVENOR**

9. Application of Part 3
10. Submission of matter to Tribunal Convenor
11. Sending order to relevant person

**PART 4**

**GENERAL**

12. Correction of errors in orders
13. Sending documents

**SCHEDULE**

Scheduled Items

## PART 1

### PRELIMINARY

#### 1. Commencement

omitted

#### 2. Interpretation

In these Rules, unless the context otherwise requires -

“affidavit” (誓章) includes affirmation;

“Council representative” (理事會代表) means a solicitor or counsel appointed by the Council to represent it in the handling of a matter regarding the conduct of a solicitor, a foreign lawyer, a trainee solicitor, or an employee of a solicitor or a foreign lawyer;

“fixed investigation cost” (定額調查費用), in relation to a scheduled item, means the Council’s fixed investigation cost specified opposite the item in column 4 of the Schedule;

“fixed penalty” (定額罰款), in relation to a scheduled item, means the fixed penalty specified opposite the item in column 3 of the Schedule;

“relevant person” (有關人士) means a solicitor, a foreign lawyer, a trainee solicitor, or an employee of a solicitor or a foreign lawyer, to whom a complaint sheet has been sent under section 4;

“scheduled item” (表列項目) means a provision, practice direction or principle of professional conduct specified in column 2 of the Schedule;

“Tribunal Convenor” (審裁組召集人) means the Tribunal Convenor appointed under section 9(4) of the Ordinance.

#### 3. Provisions, etc. prescribed for purposes of section 9A(1A) of Ordinance

The provisions, practice directions and principles of professional conduct specified in column 2 of the Schedule are prescribed for the purposes of section 9A(1A) of the Ordinance.

## **PART 2**

### **PROCEDURES BEFORE SUBMISSION OF MATTER TO TRIBUNAL CONVENOR**

#### **4. Council representative to send complaint sheet when Council decides to submit matter to Tribunal Convenor**

- (1) If the Council decides to submit a matter regarding the conduct of a solicitor, a foreign lawyer, a trainee solicitor, or an employee of a solicitor or a foreign lawyer to the Tribunal Convenor under section 9A(1A) of the Ordinance, the Council representative shall send to the solicitor, foreign lawyer, trainee solicitor or employee a complaint sheet stating the particulars of the complaint together with a summary of facts relating to the conduct being complained of.
- (2) The complaint sheet shall be sent together with a notice -
  - (a) stating that the relevant person's conduct involves an alleged breach of a scheduled item and that the Council has decided to submit the matter to the Tribunal Convenor under section 9A(1A) of the Ordinance and that accordingly -
    - (i) if the relevant person admits liability for the alleged breach and agrees to the matter being disposed of by the Tribunal Convenor under section 9AB of the Ordinance, the matter shall be so disposed of by the Tribunal Convenor and the relevant person shall be only liable to pay a fixed penalty and a fixed investigation cost; and
    - (ii) if the relevant person does not admit liability for the alleged breach or does not agree to the matter being disposed of by the Tribunal Convenor, the matter shall be disposed of by the Solicitors Disciplinary Tribunal;
  - (b) requiring the relevant person to notify the Council representative in writing within 21 days after receiving the complaint sheet whether or not the relevant person wishes to discuss the matter with the Council representative; and
  - (c) stating that if the relevant person does not notify the Council representative as required by paragraph (b), the matter shall be disposed of by the Solicitors Disciplinary Tribunal.
- (3) The amounts of the fixed penalty and the fixed investigation cost referred to in subsection (2)(a)(i) shall be specified in the notice.

#### **5. Revocation of decision by Council**

- (1) Notwithstanding the sending of a complaint sheet to a relevant person under section 4, the Council may, at any time within 21 days thereafter but before the receipt by the Council representative of notification from the relevant person as to whether he wishes to discuss the matter with the Council representative, revoke its decision to submit the matter to the Tribunal Convenor under section 9A(1A) of the Ordinance.

- (2) Upon revoking its decision, the Council shall forthwith notify the relevant person in writing of this fact.

**6. Discussion of complaint**

Unless the Council has revoked its decision to submit the matter to the Tribunal Convenor in accordance with section 5, if a relevant person notifies the Council representative that he wishes to discuss the matter, the Council representative and the relevant person have a period of 21 days beginning on the day after the receipt of the notification by the Council representative to discuss and agree in writing the facts of the case.

**7. Amendment of complaint sheet, etc.**

At the end of the period referred to in section 6, if the Council representative considers that the agreed facts are sufficient to establish the liability of the relevant person, he -

- (a) may amend the complaint sheet, if necessary; and
- (b) shall prepare a statement of the agreed facts and sign the statement on behalf of the Council,

and shall send the complaint sheet or amended complaint sheet (as appropriate) and the statement of agreed facts to the relevant person.

**8. Agreeing to disposal of matter by Tribunal Convenor**

If a relevant person wishes to have a matter disposed of by the Tribunal Convenor under section 9AB of the Ordinance, he shall, within 14 days after receiving the statement of agreed facts, sign and return the statement to the Council representative and indicate in writing that he admits liability for the breach of the scheduled item as alleged and agrees to the matter being disposed of by the Tribunal Convenor under that section.

**PART 3**

**SUBMISSION OF MATTER TO AND DISPOSAL OF MATTER BY  
TRIBUNAL CONVENOR**

**9. Application of Part 3**

- (1) This Part applies in relation to a matter regarding the conduct of a relevant person if the relevant person -
- (a) admits liability for the breach of the scheduled item as alleged;
- (b) agrees to the matter being disposed of by the Tribunal Convenor under section 9AB of the Ordinance; and
- (c) signs and returns the statement of agreed facts,
- within the time prescribed in section 8.

- (2) In any other case, the Solicitors Disciplinary Tribunal Proceedings Rules (Cap. 159 sub. leg.) apply but any information obtained by the relevant person or the Council in the course of or as a result of the discussion of the matter under section 6 may not be used by the relevant person or the Council as evidence in any proceedings against the relevant person under those Rules unless the party against whom the information is proposed to be used consents in writing to the information being so used.

## **10. Submission of matter to Tribunal Convenor**

- (1) A submission to the Tribunal Convenor to dispose of a matter under section 9AB of the Ordinance shall –
  - (a) be in writing and signed on behalf of the Council by the Secretary General of the Society or by such other person as the Council may from time to time appoint;
  - (b) state that the conditions mentioned in subsection (1) of that section that have to be satisfied before the Tribunal Convenor can dispose of the matter have been satisfied; and
  - (c) be accompanied by an affidavit sworn by the Secretary General of the Society or by such other person as the Council may from time to time appoint.
- (2) The affidavit referred to in subsection (1)(c) shall state -
  - (a) the capacity of the deponent;
  - (b) the deponent's means of knowledge of the facts; and
  - (c) the pertinent information about the relevant person,and shall exhibit the statement of agreed facts signed by the Council and the relevant person.
- (3) The Council shall, at the same time as it makes a submission to the Tribunal Convenor, send a copy of the submission to the relevant person.

## **11. Sending order to relevant person**

- (1) As soon as practicable after receiving a submission, the Tribunal Convenor shall make an order under section 9AB(2) of the Ordinance.
- (2) The Tribunal Convenor shall send the order to the relevant person within 7 days of its making.

**PART 4**

**GENERAL**

**12. Correction of errors in orders**

- (1) Where there is a clerical error in an order made under section 9AB(2) of the Ordinance, the Tribunal Convenor may, on his own initiative or on the application of the Council or the relevant person against whom the order was made, correct the error in the order and may for that purpose require the relevant person to produce the order to him for correction.
- (2) The Tribunal Convenor shall file a copy of an amended order with the Secretary General of the Society.

**13. Sending documents**

- (1) Any document to be sent (however described) to any person under these Rules is regarded as duly sent if it is -
  - (a) delivered to that person personally; or
  - (b) left at or sent by registered post to the last known place of business or abode of that person.
- (2) Where the person to whom a document is to be sent is a solicitor or a foreign lawyer and that person either agrees to accept service through a document exchange or states his document exchange number on his letterhead, the document is also regarded as duly sent if it is left at that document exchange or at a document exchange that transmits documents every business day to that document exchange. A document so left is regarded to have been received on the day on which it is left.
- (3) In this section, “business day” (工作天) and “document exchange” (文件轉遞處) have the meanings respectively assigned to them by Order 65, rule 5 of the Rules of the High Court (Cap. 4 sub. leg.).

**SCHEDULE  
3]**

**[ss. 2 &**

**SCHEDULED ITEMS**

**Legal Practitioners Ordinance (Cap. 159)**

Item	Description	Fixed penalty \$	Fixed investigation cost \$
1.	Section 8(1)	10,000	15,000

**Solicitors' Practice Rules (Cap. 159 sub. leg.)**

Item	Description	Fixed penalty \$	Fixed investigation cost \$
1.	Rule 2B(2)	10,000	15,000
2.	Rule 2B(3)	10,000	15,000
3.	Rule 4A(a)	10,000	15,000
4.	Rule 4A(b)	10,000	15,000
5.	Rule 4B(1)	10,000	15,000
6.	Rule 4B(2)	10,000	15,000
7.	Rule 4B(4)	10,000	15,000
8.	Rule 5(1)	10,000	15,000
9.	Rule 5(1A)	10,000	15,000
10.	Rule 5(2)	10,000	15,000
11.	Rule 5(3)	10,000	15,000
12.	Rule 5D(a)	10,000	15,000
13.	Rule 5D(b)	10,000	15,000
14.	Rule 5D(c)	10,000	15,000
15.	Rule 5D(d)	10,000	15,000
16.	Rule 5D(e)	10,000	15,000
17.	Rule 5D(f)	10,000	15,000
18.	Rule 5D(g)	10,000	15,000

**Solicitors (Professional Indemnity) Rules  
(Cap. 159 sub. leg.)**

Item	Description	Fixed penalty \$	Fixed investigation cost \$
1.	Rule 8(1)(a)	10,000	15,000



**Foreign Lawyers Practice Rules (Cap. 159 sub. leg.)**

Item	Description	Fixed penalty \$	Fixed investigation cost \$
1.	Section 5(1)	10,000	15,000
2.	Section 5(2)	10,000	15,000
3.	Section 6(a)	10,000	15,000
4.	Section 6(b)	10,000	15,000
5.	Section 7(4)	10,000	15,000
6.	Section 8(1)	10,000	15,000
7.	Section 8(3)	10,000	15,000
8.	Section 9(1)	10,000	15,000
9.	Section 9(1A)	10,000	15,000
10.	Section 9(2)	10,000	15,000
11.	Section 9(3)	10,000	15,000

**Continuing Professional Development Rules  
(Cap. 159 sub. leg.)**

Item	Description	Fixed penalty \$	Fixed investigation cost \$
1.	Section 5(1)	10,000	15,000
2.	Section 5(2)	10,000	15,000

**Practice Directions 1990 issued by the Society**

Item	Description	Fixed penalty \$	Fixed investigation cost \$
1.	Practice Direction B1	10,000	15,000
2.	Practice Direction C3, paragraph (2)	10,000	15,000
3.	Practice Direction D2, paragraph (1)	10,000	15,000
4.	Practice Direction D5, paragraph (4)	10,000	15,000
5.	Practice Direction D7, paragraph (1)	10,000	15,000
6.	Practice Direction D7, paragraph (2)	10,000	15,000
7.	Practice Direction D8, paragraph (1)	10,000	15,000
8.	Practice Direction D8, paragraph (2)	10,000	15,000
9.	Practice Direction F1, paragraph (1)	10,000	15,000
10.	Practice Direction G1, paragraph (1)	10,000	15,000
11.	Practice Direction G1, paragraph (2)	10,000	15,000
12.	Practice Direction G1A, paragraph (1)	10,000	15,000
13.	Practice Direction G2, paragraph (1)	10,000	15,000
14.	Practice Direction H1, paragraph (2)	10,000	15,000

**The Hong Kong Solicitors' Guide to Professional Conduct**

Item	Description	Fixed penalty \$	Fixed investigation cost \$
1.	Principle 13.09	10,000	15,000
2.	Principle 14.02	10,000	15,000