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## ADMISSION AS A SOLICITOR: BARRISTERS

This information package applies from **13 July 2015**.

This package sets out the procedure for a barrister to transfer to the roll of solicitors. **Please read this package carefully before preparing your documents and before seeking advice from the Society.**

### 1. *Legislation*

The relevant provisions are sections 3 and 4 of the Legal Practitioners Ordinance (LPO), rules 3, 4 and 5 of the Admission and Registration Rules (A & R Rules) and rules 7 and 20 of the Trainee Solicitors Rules (TSR).

### 2. *Eligibility*

A barrister seeking admission as a solicitor must establish that he or she -

- (a) is exempt from employment as a trainee solicitor under section 20 of the TSR (see Schedule attached);
- (b) has passed such examinations as may be determined by the Society;
- (c) is a fit and proper person to be a solicitor; and
- (d)
  - (i) has resided in Hong Kong for at least 3 months immediately before his or her admission; or
  - (ii) intends to reside in Hong Kong for at least 3 months immediately after his or her admission; or
  - (iii) has been ordinarily resident in Hong Kong for at least 7 years; or
  - (iv) has been present in Hong Kong for at least 180 days of each of at least 7 years.

Please note that under section 4(3) of the Legal Practitioners Ordinance, if you were admitted as a solicitor on the basis of an intention to reside in Hong Kong for at least 3 months immediately after your admission, but failed to so reside, the Court may, on the application of the Society, order that your name be removed from or struck off the roll of solicitors.

**If you are not eligible for exemption from a trainee solicitor contract, you must enter into a trainee solicitor contract in Hong Kong for 2 years.** You may obtain from the reception desk at the Society an information package called "Information for Trainee Solicitors" which sets out the procedure for entering into a trainee solicitor contract.

The Society has been advised by the Bar Association that it requires barristers to be disbarred before entering into trainee solicitor contracts. The Law Society is also aware that the Registrar of the High Court has recently requested the Bar Association to advise their members to draw up the Court's orders which removed their names from the roll of barristers as provided under Order 42 rule 4 of the Rules of the High Court and serve the drawn up orders on the Registrar for enforcement. You should therefore consult the Bar Association before entering into a trainee solicitor contract.

### 3. *Procedure*

#### **Step 1: APPLICATION FOR EXEMPTION**

If you wish to apply for exemption from employment as a trainee solicitor, you must provide the following to the Society (marked "Attention: Registration Section")-

- (a) a completed general application form ("D"); and
- (b) a cheque for \$1,400.00 payable to "The Law Society of Hong Kong".

**In addition to the requirements specified in section 20(1) of the TSR, the Council, pursuant to section 20(2) of the TSR, has determined that you will be required to sit and pass Head IV (Accounts and Professional Conduct) of the Overseas Lawyers Qualification Examination ("the Examination") which is held annually, usually in November.**

**The Overseas Lawyers (Qualification for Admission) (Amendment) Rules came into operation on 2 January 2015. An additional written Head VI (Hong Kong Constitutional Law) has been introduced. To be eligible to apply for exemption from this Head, you have to provide a certified copy of your academic transcript evidencing your completion and passing of the course on Hong Kong Constitutional Law provided by the University of Hong Kong, City University of Hong Kong or The Chinese University of Hong Kong as part of a qualifying degree course. Otherwise, you have to sit this Head VI in addition to Head IV.**

**You will be eligible to sit the Examination provided that you have satisfied the requirements specified in section 20(1)(a), (b) and (c) of the TSR by the closing date for applications to register to sit the Examination.**

**In order to sit the Examination, applicants must pay the fee prescribed under the Overseas Lawyers (Qualification for Admission) (Fees) Rules. The fee is currently set at \$5,500.00 for one Head and \$1,100 for each additional Head and a cheque should be made payable to "The Law Society of Hong Kong".**

**Information about the dates for the Examination, the closing date for applications to register to sit the Examination, and the standards, syllabi and reading lists may be obtained from the Standards and Development Department (contact: Ms Kathy Wong 2846 0523).**

**For the purposes of section 20(2) of the TSR, barristers who have previously been admitted as solicitors in Hong Kong and who have successfully completed the PCLL and a two year trainee solicitor contract in Hong Kong, will not be required to sit the Examination when seeking restoration to the roll of solicitors after practising as a barrister in the interim period.**

**You may elect to sit and pass the Examination before applying for exemption from employment as a trainee solicitor. If you wish to do so, you have to indicate in your application letter to sit the Examination that you will apply for exemption from employment as a trainee solicitor pursuant to section 20(1) of the TSR after passing the Examination.**

#### **Step 2: APPLICATION FOR CERTIFICATE OF ELIGIBILITY FOR ADMISSION (Form 2)**

If you are granted exemption from employment as a trainee solicitor you may apply for a certificate of eligibility for admission by delivering the following documents to the Society (marked attention "Registration Section") -

- (a) a completed Form 1B (application for a certificate of eligibility for admission);  
and
- (b) a cheque for \$1,500.00 payable to "The Law Society of Hong Kong".

#### **Step 3: CERTIFICATE OF ELIGIBILITY FOR ADMISSION**

After your documents have been checked, a Form 2 (certificate of eligibility for admission) will be issued to you.

**It may take up to 4 weeks to issue the Form 2 depending on the workload of the Society. Do not telephone the Society until the end of this period.**

#### **Step 4: MOTION PAPERS**

After you have received the Form 2, you must prepare and file a motion paper with the High Court **within 2 months** of the date of the Form 2: rule 4(1A).

**If you fail to do so, you will have to apply for another Form 2 (see Step 1) and a further application fee is payable. The Society has no discretion to extend this time limit.**

A sample motion paper is attached. The motion paper must be accompanied by –

- (a) the original Form 2 certificate issued by the Society; and
- (b) a cheque for \$1,135.00 payable to "The Government of the Hong Kong Special Administrative Region" for the application fee.

It is a requirement of rule 4(2) of the A & R Rules that the original Form 2 certificate accompanies your motion paper. **Do not file your motion paper before you obtain the Form 2 from the Society.**

You must serve a certified copy of the motion paper and the Form 2 on the Society and the Secretary for Justice at the same time as the papers are filed at the Court.

The copy delivered to the Society must be accompanied by the name of the person who will move your admission and whether that person is a barrister or solicitor. If the name of the person moving your admission changes, you should notify the Society immediately by fax on 2845 0387.

The Secretary for Justice will write to you and advise whether there is any objection to your admission. A copy of the letter will be sent to the Court and the Society.

The Society will **not** issue a letter if your papers are in order.

If your papers are not in order, you will be advised by the Society or the Secretary for Justice of the further steps which you need to take.

A further fee of \$360.00 for entering your name on the roll is payable to the High Court after your admission. A demand note for the fee will be issued to you by the Court.

#### 4. *General notes*

You must read the notes at the bottom of the attached forms carefully. Any amendments to the attached forms must be initialed by the declarant and the witness. If a document is not in a form acceptable to the Society it will be returned to you for amendment and re-execution. You will not be permitted to bring substitute pages to the Society and insert them in the original document in place of the incorrect pages.

## **Trainee Solicitors Rules**

### **SCHEDULE**

#### **PART V**

#### **GENERAL**

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

(1) Any person who 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 that it knows of no reason why he should not be admitted to practise as a solicitor; and
- (d) procured himself to be disbarred with a view to becoming a solicitor,

shall be exempted from employment under a trainee solicitor contract.

(2) Any such person as is referred to in paragraph (1) 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.

**TRAINEE SOLICITORS RULES**  
**GENERAL FORM OF APPLICATION**

- (1) Name:
- (2) Address:
- (3) Telephone number:
- (4) I apply to The Law Society of Hong Kong under rule 20 of the Trainee Solicitors Rules for exemption from employment as a trainee solicitor.
- (5) I was admitted as a barrister in Hong Kong on the \_\_\_\_\_ day of \_\_\_\_\_ and a copy of my admission certificate is attached to this declaration.
- (6) I served my pupillage with \_\_\_\_\_ from \_\_\_\_\_ to \_\_\_\_\_.
- (7) I was granted my first unlimited practising certificate as a barrister on \_\_\_\_\_.
- (8) Full details of my practice as a barrister / with the Hong Kong Government\*, including an explanation for any breaks in my periods of practice are set out below -

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Address of chambers/ Hong Kong Government Department	Period of practice	Main areas of practice
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- (9) I confirm that I have been in practice as a barrister / with the Hong Kong Government\* in Hong Kong / elsewhere \* (specify) for a continuous period of at least 5 years since the completion of my pupillage. I attach a copy of all practising certificates issued to me since my admission as a barrister and / or a certificate of service from the Hong Kong Government\*.
- (10) I have passed the Postgraduate Certificate in Laws / Solicitors' Final Examination / Legal Practice Course / Professional Skills Course / Bar Finals \* and a copy of the full transcript of my results is attached.
- (11) I have passed the Overseas Lawyers Qualification Examination and a copy of the certificate from the authority administering the examination is attached.

OR

I agree to sit the Overseas Lawyers Qualification Examination and undertake to provide to the Society a copy of the certificate from the authority administering the examination once I have passed the Examination.

- (12) I enclose a certificate issued by the Bar Council that it knows of no reason why I should not be admitted to practise as a solicitor.
- (13) I have procured myself to be disbarred with a view to becoming a solicitor.

AND I make this solemn declaration conscientiously believing it to be true and by virtue of the Oaths and Declarations Ordinance (Cap. 11).

DECLARED at .....)  
 HONG KONG this .....day of)  
 ..... )

Before me,

Commissioner for Oaths / Solicitor

## Notes

1. \* Delete whichever is inapplicable.
2. The following documents must be attached to your application -
  - . a certified copy of your admission certificate;
  - . a certified copy of your practising certificates since admission;
  - . a certified copy of the full transcript of your PCLL, Solicitors' Finals, Legal Practice Course, Professional Skills Course or Bar Finals results; and
  - . a certified copy of the certificate issued by The Law Society of Hong Kong stating you passed the Overseas Lawyers Qualification Examination if you have passed this Examination prior to this application.
  - . a certificate issued by the Bar Council that it knows of no reason why you should not be admitted to practise as a solicitor.

If you are relying on a period of practice with the Hong Kong Government, you should also attach a certificate of service from the Hong Kong Government.

If you are relying on a period of active practice in a place other than Hong Kong, you should attach full details and supporting documentation.

3. Any attachments to your application must be certified as follows -

"This is a true copy of the ..... referred to in paragraph ..... of the declaration of ..... made before me this ..... day of ....."

Commissioner for Oaths / Solicitor"

4. **Your declaration must not be witnessed by a solicitor who is an employee or principal in the same firm as you.**

### Personal Information Collection Statement

1. Your personal data collected using this form ("the data") will be used by the Law Society for the purposes of exercising its powers under the Legal Practitioners Ordinance and its subsidiary legislation (Chapter 159) and administering or enforcing the relevant provisions of the said Ordinance and its subsidiary legislation, and for any other legitimate purposes as may be required, authorized or permitted by law.
2. The data may be disclosed to relevant government departments and related organizations and to persons in the Law Society with responsibility for carrying out the purposes mentioned in paragraph 1 above.
3. You have a right to request access to and correction of the data. Any such request should be addressed to the Secretary General, the Law Society of Hong Kong, 3/F, Wing On House, 71 Des Voeux Road Central, Hong Kong.



ADMISSION AND REGISTRATION RULES

APPLICATION FOR A CERTIFICATE OF ELIGIBILITY FOR ADMISSION AS A SOLICITOR ON THE BASIS OF COMPLIANCE WITH SECTION 4(1)(a) - BARRISTERS

To: The Law Society of Hong Kong,

I, ..... [name in English and, if applicable, Chinese]

of .....

..... apply for the issue to me of a certificate of eligibility in accordance with rule 3(4) of the Admission and Registration Rules (Cap. 159 sub. leg.).

Telephone contact number .....

I do solemnly and sincerely declare as follows-

- (1) I have resided in Hong Kong for at least 3 months immediately before my admission OR\* I intend to reside in Hong Kong for at least 3 months immediately after my admission OR\* I have been ordinarily resident in Hong Kong for at least 7 years OR\* I have been present in Hong Kong for at least 180 days of each of at least 7 years.

Details of my periods of residence are set out below -

Table with 2 columns: Address, Period of residence

The attached document marked "....." is a certified copy of my passport.

- (2) I was admitted as a barrister in Hong Kong on the ..... day of ..... and the attached document marked " " is a certified copy of my admission certificate.
- (3) The attached document marked " " is a certificate from the Bar Council stating that it knows of no reason why I should not be admitted as a solicitor.
- (4) My name was removed from the roll of barristers in Hong Kong on the ..... day of ..... and the attached document marked " " is a certificate to that effect from the Registrar of the High Court.
- (5) The Law Society of Hong Kong granted me exemption from employment as a trainee solicitor on the ..... day of .....
- (6) I was not required to pass any examinations prior to applying for admission as a solicitor.

OR\*

I was required to pass an examination / examinations\* in ..... prior to applying for admission as a solicitor. I passed the examination / examinations\* on the ..... day of ..... The attached document marked " " is a certified copy of a certificate from the authority administering the examination.

AND I make this solemn declaration conscientiously believing it to be true and by virtue of the Oaths and Declarations Ordinance (Cap. 11).

DECLARED at ..... )  
 HONG KONG this ..... day of )  
 ..... )

Before me,

Commissioner for Oaths / Solicitor.

***Please read the notes on the back of this form.***

## *Notes*

1. \* Delete if inapplicable.
2. You must give full details of your periods of residence in Hong Kong, and attach a certified copy of your passport, including relevant pages showing date/s of arrival and if applicable, date/s of departure from Hong Kong, whatever the basis of residency upon which you are claiming to be eligible for admission.

Please note that under section 4(3) of the Legal Practitioners Ordinance, if you were admitted as a solicitor on the basis of an intention to reside in Hong Kong for at least 3 months immediately after your admission, but failed to so reside, the Court may, on the application of the Society, order that your name be removed from or struck off the roll of solicitors.

3. The following documents must also be attached to your Form 1B -
  - the **original** certificate from the Bar Council
  - a certified copy of a certificate that your name has been removed from the roll of barristers (see paragraph (4))
  - a certified copy of a certificate from the authority administering the examination referred to in paragraph (6)

(If you require the Society to return the original certificate, a certified copy of the certificate should be included with your Form 1B. The original will be returned to you with your Form 2.)

3. Any attachments to your Form 1B must be certified as follows -

"This is a true copy of the ..... referred to in paragraph ..... of the declaration  
of ..... made before me this .....  
day of ....."

Commissioner for Oaths / Solicitor"

4. **Your declaration must not be witnessed by a solicitor who is an employee or principal in the same firm as you.**

(All applicants should file a certified copy of his or her Hong Kong Identity Card with their application for record purposes.)

### **Personal Information Collection Statement**

1. Your personal data collected using this form ("the data") will be used by the Law Society for the purposes of exercising its powers under the Legal Practitioners Ordinance and its subsidiary legislation (Chapter 159) and administering or enforcing the relevant provisions of the said Ordinance and its subsidiary legislation, and for any other legitimate purposes as may be required, authorized or permitted by law.
2. The data may be disclosed to relevant government departments and related organizations and to persons in the Law Society with responsibility for carrying out the purposes mentioned in paragraph 1 above.
3. You have a right to request access to and correction of the data. Any such request should be addressed to the Secretary General, the Law Society of Hong Kong, 3/F, Wing On House, 71 Des Voeux Road Central, Hong Kong.

IN THE HIGH COURT OF HONG KONG  
COURT OF FIRST INSTANCE  
MISCELLANEOUS PROCEEDINGS NO.      OF

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IN THE MATTER of the application of [name of applicant] to be admitted and enrolled as a  
Solicitor of the High Court of the Hong Kong Special Administrative Region

and

IN THE MATTER of the Admission and Registration Rules of the Legal Practitioners  
Ordinance, Cap. 159 of the Laws of the Hong Kong Special Administrative Region.

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NOTICE OF MOTION

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Filed this [      ] day of [      ] [      ]

[name of firm]  
Solicitors for the applicant  
[address of firm]

IN THE HIGH COURT OF HONG KONG

COURT OF FIRST INSTANCE

MISCELLANEOUS PROCEEDINGS NO. OF

-----

IN THE MATTER of the application of [name of applicant] to be admitted and enrolled as a  
Solicitor of the High Court of the Hong Kong Special Administrative Region

and

IN THE MATTER of the Admission and Registration Rules of the Legal Practitioners  
Ordinance, Cap. 159 of the Laws of the Hong Kong Special Administrative Region.

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NOTICE OF MOTION

To : The Registrar of the High Court of Hong Kong Court of First Instance

TAKE NOTICE that this Honourable Court will be moved on Saturday, the [ ]  
day of [ ] [ ] at 9.30 o'clock in the forenoon or so soon thereafter as  
may be convenient to the Court by counsel or such other person as may be authorized so to do  
pursuant to Rule 5 of the Admission and Registration Rules Cap. 159 that the abovenamed  
[name of applicant] be admitted and enrolled as a solicitor of this Honourable Court.

Dated the [ ] day of [ ] [ ]

[name of firm]  
Solicitors for the applicant  
[address of firm]