

**1998 年法律執業者 (修訂) 條例**

**LEGAL PRACTITIONERS  
(AMENDMENT) ORDINANCE 1998**

**Appendix A**

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## LEGAL PRACTITIONERS (AMENDMENT) ORDINANCE 1998

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香港特別行政區

HONG KONG SPECIAL ADMINISTRATIVE REGION

1998年 第 27 號條例

ORDINANCE NO. 27 OF 1998



印章位置



L.S.

行政長官  
董建華

1998年 4月 16日

TUNG Chee-hwa  
Chief Executive  
16 April 1998

本條例旨在修訂《法律執業者條例》。

An Ordinance to amend the Legal Practitioners Ordinance.

[ ]

[ ]

由臨時立法會制訂。

Enacted by the Provisional Legislative Council.

1. 簡稱及生效日期

- (1) 本條例可引稱為《1998年法律執業者(修訂)條例》。
- (2) 本條例自律政司司長以憲報公告指定的日期起實施。

1. Short title and commencement

- (1) This Ordinance may be cited as the Legal Practitioners (Amendment) Ordinance 1998.
- (2) This Ordinance shall come into operation on a day to be appointed by the Secretary for Justice by notice in the Gazette.

2. 修訂詳題

《法律執業者條例》(第159章)的詳題現予修訂，廢除“、其僱員及公證人的認許”而代以“及其僱員的認許及註冊、就公證人的委任”。

2. Long title amended

The long title to the Legal Practitioners Ordinance (Cap. 159) is amended by repealing “and of notaries public” and substituting “the appointment and registration of notaries public”.

3. 取代第 IV 部

《法律執業者條例》(第159章)第 IV 部現予廢除，代以——

3. Part substituted

Part IV of the Legal Practitioners Ordinance (Cap. 159) is repealed and the following substituted—

“第 IV 部

“PART IV

公證人

NOTARIES PUBLIC

40A. 獲委任所需的資格

40A. Qualifications for appointment

- (1) 終審法院首席法官可委任他認為是作為公證人的適當人選且合乎下列情況的人為香港的公證人——

- (1) The Chief Justice may appoint as a notary public in Hong Kong a person whom he considers to be a fit and proper person to be a notary public and who—

## (a) 該人符合以下規定——

- (i) 在緊接他提出要求委任的申請的日期之前整段 7 年期間他的姓名一直列於律師登記冊上；
  - (ii) 他已在為期不少於 7 年的一段期間，或合計為期不少於 7 年的多於一段期間執業為律師；
  - (iii) 在截至他提出要求委任的申請的日期為止的 1 年期間內，他由公證人協會理事會根據第 73D 條訂明的任何考試中合格；及
- (b) 他符合公證人協會理事會根據第 73D 條就申請要求獲委任為公證人的人而訂明的任何規定。

(2) 終審法院首席法官可指定一名法院法官，以行使根據第(1)款賦予終審法院首席法官委任公證人的權力。

(3) 就第(1)(a)(i)款而言，任何申請要求獲委任為公證人的人，如在截至他提出該申請的日期為止的 7 年內的任何時間，曾根據第 10(2)(b)條被暫時吊銷其律師執業資格，則須視為在該整段被暫時吊銷執業資格期間並無名列於律師登記冊上。

(4) 終審法院首席法官應根據本款向其提出的申請，為施行第(1)(a)(ii)款而就個別個案指明一個並非該節所指指明的期間。

(5) 終審法院首席法官可訂立規則，訂明根據本條委任公證人的方式。

## (c) satisfies the following requirements—

- (i) his name has been on the roll of solicitors continuously for the whole of the period of 7 years immediately before the date of his application for appointment;
  - (ii) he has practised as a solicitor for a period or periods in aggregate of not less than 7 years;
  - (iii) he has, within the period of 1 year ending on the date of his application for appointment, passed any examination prescribed by the Council of the Society of Notaries under section 73D; and
- (b) has complied with any requirements prescribed by the Council of the Society of Notaries under section 73D with respect to persons applying for appointment as a notary public.

(2) The Chief Justice may designate a judge of the Court to exercise the powers conferred on him under subsection (1) to appoint a notary public.

(3) For the purposes of subsection (1)(a)(i), a person applying for appointment as a notary public who has, at any time within the period of 7 years ending on the date of his application for appointment, been suspended from practice as a solicitor under section 10(2)(b) shall be regarded as not having been on the roll of solicitors during the whole of the period of that suspension.

(4) The Chief Justice may, upon application being made to him under this subsection, specify in a particular case a period for the purposes of subsection (1)(a)(ii) other than the period specified in that subparagraph.

(5) The Chief Justice may make rules prescribing the manner of appointment as a notary public under this section.

**40B. 公證人的權力**

(1) 每名公證人，不論是憑藉根據在緊接《1998年法律執業者(修訂)條例》(1998年第27號)的生效日期前有效的本部註冊作為公證人，或是在《1998年法律執業者(修訂)條例》(1998年第27號)的生效日期當日或之後根據本部獲委任的公證人，均具有在緊接該生效日期前所有可由公證人根據香港法律行使的權力。

(2) 在不影響第(1)款的一般性的原則下，在該款中對權力的提述，包括對以下權力的提述——

(a) 見證、認證或核證文件妥為簽立的權力；

**40B. Powers of notaries public**

(1) Every notary public, whether a notary public by virtue of registration under this Part as in force immediately before the commencement of the Legal Practitioners (Amendment) Ordinance 1998 (27 of 1998) or a notary public appointed under this Part on or after that commencement, has all the powers which immediately before that commencement were exercisable by a notary public under the law of Hong Kong.

(2) Without affecting the generality of subsection (1), the reference to powers in that subsection includes a reference to—

(a) the power to attest, authenticate or certify the due execution of documents;

- (b) 在匯票上作拒付紀錄或拒付證明的權力，以及以公證承付的方式見  
 認就拒付匯票而作出參加付款的權力；
- (c) 監督或主持證明的權力。
- (3) 第(1)款不得解釋為影響——
- (a) 當其時由香港以外的某國家或地區的法律或根據該國家或地區的法  
 律賦予(單獨或在連同其他事宜的情況下)在該國家或地區的司法管  
 轄區以外地方的公證人的任何權力；
- (b) 當其時由國際間的法律或由某條約、公約或其他國際協議所成  
 立(或依據該條約、公約或國際協議所組成)的國家群體、組織或組  
 合的法律賦予公證人的任何權力。
- (4) 凡第(3)(a)或(b)款所描述的權力是由如此描述的法律或根據該等法律  
 賦予一個或多於一個指明類別或種類的公證人的，第(3)款須按照該等法律解釋  
 和具有效力。
- (5) (a) 在第(1)款中，“權力”(power)包括職能及責任，而該款須據此解  
 釋和具有效力。
- (b) 第(3)(a)款中對國家的提述須解釋為包括對國家的一部分的提述。

#### 40C. 公證人註冊紀錄冊

- (1) 司法常務官須持續備存一份公證人的註冊紀錄冊，並須保管該份註冊紀  
 錄冊及與之有關的所有文件，以及容許任何人在辦公時間內免費查閱該份註冊紀  
 錄冊。
- (2) 由終審法院首席法官所簽署的委任證明書一經出示，以及在由終審法院  
 首席法官所打明的任何費用已繳付予司法常務官及公證人協會後，司法常務官須  
 將獲委任的人的姓名列入公證人註冊紀錄冊。
- (3) 終審法院首席法官如認為適當，可隨時命令司法常務官將已從公證人註  
 冊紀錄冊上刪除或剔除的公證人姓名，重新載入公證人註冊紀錄冊。

#### 40D. 執業為公證人的資格

- (1) 只有符合以下所有條件的人方有資格以公證人身份執業——

- (b) the power to note or protest bills of exchange and to attest, by an act of honour, payment of bills of exchange for honour supra protest;
- (c) the power to administer oaths, affirmations or declarations.
- (3) Subsection (1) shall not be construed as affecting—
- (a) any power which is for the time being conferred (either exclusively or inter alia) by or under the law of a country or territory outside Hong Kong on notaries outside the jurisdiction of that country or territory;
- (b) any power which is for the time being conferred on notaries by the law of nations or which is so conferred by the law of a community, association or group of states established by or formed pursuant to a treaty, convention or other international agreement.
- (4) Where a power described in subsection (3)(a) or (b) is conferred by or under a law so described on notaries of 1 or more specified classes or descriptions, subsection (3) shall be construed and have effect in accordance with that law.
- (5) (a) In subsection (1) “power” (權力) includes functions and duties and that subsection shall be construed and have effect accordingly.
- (b) The references in subsection (3)(a) to a country shall be construed as including references to part of a country.

#### 40C. Register of notaries public

- (1) The Registrar shall continue to keep a register of notaries public and shall have the custody of the register and of all documents relating to the register and shall allow any person to inspect the register during office hours without payment.
- (2) The Registrar, upon production of a certificate of appointment signed by the Chief Justice and upon payment to the Registrar and to the Society of Notaries of any fees prescribed by the Chief Justice, shall enter on the register of notaries public the name of the person appointed.
- (3) The Chief Justice may, if he thinks fit, at any time order the Registrar to replace on the register of notaries public the name of a notary public whose name has been removed from or struck off the register of notaries public.

#### 40D. Qualifications for practising as notary public

- (1) No person shall be qualified to practise as a notary public unless—

- (a) 他的姓名當其時列於公證人註冊紀錄冊上；
- (b) 他的姓名當其時列於律師登記冊上；
- (c) 他並無被暫時吊銷作為公證人或律師的執業資格；
- (d) 除第(2)款所規定的情況外，他是一名持有現行的公證人執業證書的人；及
- (e) 他正遵從公證人協會理事會根據第 73E 條所訂立的任何彌償規則，或獲豁免而無需遵從該等規則。
- (2) 如任何人持有由律師會發出的現行的律師執業證書並持有由公證人協會發出的現行的會員證明書，則第(1)(d)款施加的規定不適用於該人。

#### 40E. 執業證書——公證人

- (1) 公證人協會在接獲任何公證人於任何年份的 11 月提出的書面申請後，在符合第(2)至(6)款的規定下，須發給該名申請人一份由申請日期隨後的 1 月 1 日起計為期一公曆年的公證人執業證書。
- (2) 根據第(1)款提出的申請須採用公證人協會理事會所認可的格式，並須附同公證人協會理事會為發出執業證書而訂明的任何費用。
- (3) 根據第(1)款發出的執業證書須採用公證人協會理事會訂明的格式。
- (4) 除非申請人在有需要的情況下已遵從公證人協會理事會根據第 73E 條所訂立的任何彌償規則，或獲豁免而無需遵從該等規則，以及已向公證人協會就有關執業證書所關乎的年份繳付會員費，否則有關執業證書不得根據第(1)款發出。
- (5) 雖有第(1)款的規定，公證人協會可按其認為適當的條件，准許在任何時間根據本款申請執業證書，並可在接獲該申請後發給申請人一份期限不超過一公曆年並於發出年份的 12 月 31 日屆滿的執業證書。
- (6) 雖有第(1)款的規定，公證人協會可——
- (a) 以終審法院首席法官訂明的理由拒絕發出執業證書；

- (a) his name is for the time being on the register of notaries public;
- (b) his name is for the time being on the roll of solicitors;
- (c) he is not suspended from practising as a notary public or as a solicitor;
- (d) except as provided in subsection (2), he is a person who holds a current practising certificate as a notary public; and
- (e) he is complying with any indemnity rules made by the Council of the Society of Notaries under section 73E or is exempt from complying with them.

(2) The requirement imposed by subsection (1)(d) does not apply in the case of a person who holds a current practising certificate as a solicitor issued by the Law Society and a current certificate of membership issued by the Society of Notaries.

#### 40E. Practising certificate—notaries public

- (1) On application in writing by a notary public in the month of November in any year, but subject to subsections (2) to (6), the Society of Notaries shall issue to the applicant a practising certificate as a notary public for the period of one calendar year from 1 January next following the date of the application.
- (2) Any application under subsection (1) shall be in a form approved by the Council of the Society of Notaries and shall be accompanied by payment of any fee prescribed by the Council for the issue of a practising certificate.
- (3) A practising certificate issued under subsection (1) shall be in a form prescribed by the Council of the Society of Notaries.
- (4) A practising certificate shall not be issued under subsection (1) unless the applicant has, where necessary, complied with any indemnity rules made by the Council of the Society of Notaries under section 73E or is exempt from them and has paid to the Society of Notaries the membership subscription in respect of the year for which the practising certificate is to be issued.
- (5) Despite subsection (1), the Society of Notaries may, upon such conditions as it thinks fit, permit an application for a practising certificate to be made under this subsection at any time and upon such application may issue to the applicant a practising certificate for any period not exceeding one calendar year and ending on 31 December in the year in which it is issued.
- (6) Despite subsection (1), the Society of Notaries may—
- (a) refuse to issue a practising certificate on grounds prescribed by the Chief Justice;

(b) 在終審法院首席法官所訂明的條件的規限下，向申請人發出執業證書；

(c) 藉將終審法院首席法官所訂明的條件補入而修訂已發出的執業證書。

(7) 公證人協會如認為某公證人不符合根據第(6)款所施加的條件，可在給予該名公證人作出申述的機會後，暫時吊銷或取消該名公證人的執業證書，並可退回或不退回就該執業證書而繳付的任何費用。

(8) 凡某公證人的姓名從公證人註冊紀錄冊上被刪除或剔除，或該公證人被廢產，則該公證人的執業證書須自動終止，而在任何此等情況下，就該執業證書而繳付的費用的任何部分不得發還。

(9) 凡公證人協會在憲報刊登公告，而該公告載有已就該公告所示的期間取得執業證書的公證人的姓名及地址的名單，則在相反證明成立之前，該名單即為名列其內的人是根據第40D條有資格以公證人身分行事，並已根據本條就該公告所示的期間獲發給執業證書的人的證據；而在相反證明成立之前，任何人的姓名如無列於上述名單內，即為該人並無以公證人身分行事的資格的證據。

(10) 凡公證人協會行使根據第(6)或(7)款賦予該協會的權力而拒絕發出執業證書，或發出受條件規限的證書，或藉補入條件而修訂證書，或暫時吊銷或取消證書，則有關公證人可在接獲公證人協會的決定後1個月內，就該項決定向終審法院首席法官上訴。

(11) 終審法院首席法官接獲根據第(10)款提出的上訴後，可——

(a) 維持公證人協會的決定；或

(b) 指示公證人協會——

(i) 向申請人發出一份不受條件規限的執業證書，或在有為施行第

(6)(b)款而訂明條件的情況下，發出一份受在該等條件中終審法院首席法官認為適當的條件規限的執業證書；

(ii) 免除任何根據第(6)(c)款在執業證書上補入的條件；或

(iii) 撤銷根據第(7)款實施的對執業證書的暫時吊銷或取消，

(b) issue a practising certificate to an applicant subject to conditions prescribed by the Chief Justice;

(c) amend an already issued certificate by adding conditions prescribed by the Chief Justice.

(7) Where the Society of Notaries considers that a notary public has not complied with conditions imposed under subsection (6) it may, after affording the notary public the opportunity to make representations, suspend or cancel the notary public's practising certificate with or without refunding any fee paid in respect of the practising certificate.

(8) Where the name of a notary public is removed from or struck off the register of notaries public or where a notary public becomes bankrupt, the practising certificate of that notary public shall automatically determine and in any such case no part of the fee paid in respect of the practising certificate shall be repayable.

(9) The publication in the Gazette by the Society of Notaries of notice containing a list of the names and addresses of those notaries public who have obtained practising certificates for the period stated in the notice shall, until the contrary is proved, be evidence that each person whose name appears in the list is a person qualified under section 40D to act as a notary public and to whom a practising certificate for the period stated in the notice has been issued under this section; and the absence from any such list of the name of any person shall, until the contrary is proved, be evidence that such person is not so qualified.

(10) Where the Society of Notaries, in the exercise of the powers conferred on it under subsection (6) or (7), refuses to issue a practising certificate, issues a certificate subject to conditions, amends a certificate by adding conditions or suspends or cancels a certificate, the notary public may appeal to the Chief Justice against the decision of the Society of Notaries within 1 month of being notified of it.

(11) On an appeal to the Chief Justice under subsection (10), he may—

(a) affirm the decision of the Society of Notaries; or

(b) direct the Society of Notaries to—

(i) issue a practising certificate to the applicant free from conditions or, if any conditions have been prescribed for the purposes of subsection (6)(b), subject to such of those conditions as he thinks fit;

(ii) remove any conditions added to a practising certificate under subsection (6)(c); or

(iii) revoke any suspension or cancellation of a practising certificate effected under subsection (7).



**40F. 公證人的紀律**

(1) 如任何公證人——

- (a) 在進行其公證工作時作出欺詐性的行為；
- (b) 在進行其公證工作時或在其他情況下，作出損害司法公正的行為，或不誠實的或在其他情況下有損公證人信譽的行為，或相當可能令公證人專業的聲音受損的行為；
- (c) 在並未獲豁免而無需遵從公證人協會根據第 73E 條所訂立的任何規則的情況下，沒有遵從該規則；或
- (d) 已破產或他已與其債權人訂立《破產條例》(第 6 章)所指的自願安排，

則可根據本部對該公證人施以紀律處分。

(2) 凡任何公證人因身體或精神疾病而喪失行為能力，以致不能進行公證工作，則可根據本部處置該公證人，其方式猶如可根據本部對他施以紀律處分者一樣，而就根據本部對該人進行的任何法律程序而言，凡在本部提述該人的行為操守，須理解為提述該人的身體或精神健康狀況。

**40G. 公證人紀律審裁團**

(1) 終審法院首席法官須委任一個公證人紀律審裁團，該審裁團由下列人士組成——

- (a) 不少於 10 名但不多於 20 名具有至少 5 年資歷的執業公證人；及
- (b) 不少於 5 名但不多於 10 名非法律專業人士，而該等人士是終審法院首席法官認為在任何方面均與以公證人身分執業或法律執業無關連者。

(2) 公證人協會理事會的成員沒有資格獲委任為審裁團成員或留任審裁團成員。

(3) 獲委任為審裁團成員的人的任期須為一段由終審法院首席法官指明而不超過 5 年的期間，但可再次或多次獲委任。

(4) 終審法院首席法官須委任審裁團內的其中一名公證人為審裁組召集人，並可委任審裁團內的一名或多於一名其他公證人作為審裁組副召集人，召集人及副召集人的任期為 3 年。

**40F. Discipline of notaries public**

(1) A notary public shall be liable to be disciplined under this Part if—

- (a) he has engaged in fraudulent conduct in pursuit of his notarial work;
- (b) he has engaged in conduct, whether in pursuit of his notarial work or otherwise, which is prejudicial to the administration of justice, or which is dishonest or otherwise discreditable to a notary public, or which is likely to bring the profession of notary public into disrepute;
- (c) not being exempt from the requirement to comply with a rule made by the Society of Notaries under section 73E, he has failed to comply with that rule; or
- (d) he has become bankrupt or has entered into a voluntary arrangement with his creditors within the meaning of the Bankruptcy Ordinance (Cap. 6).

(2) A notary public who is so incapacitated by physical or mental illness as to be unable to carry out notarial work shall be liable to be dealt with under this Part in the same manner as if he was liable to be disciplined under this Part, and for the purposes of any proceedings under this Part in relation to such a person references in this Part to the person's conduct shall be read as references to his state of physical or mental health.

**40G. Notaries Public Disciplinary Tribunal Panel**

(1) The Chief Justice shall appoint a Notaries Public Disciplinary Tribunal Panel consisting of—

- (a) no fewer than 10 and no more than 20 practising notaries public of at least 5 years' standing; and
- (b) no fewer than 5 and no more than 10 lay persons who are not, in the opinion of the Chief Justice, connected in any way with practice as a notary public or the practice of law.

(2) A member of the Council of the Society of Notaries 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 one of the notaries public on the Panel as the Tribunal Convenor for a 3 year term and he may appoint one or more of the other notaries public on the Panel as a Deputy Tribunal Convenor for a 3 year term.

(5) 每當審裁組召集人因患病、不在香港或任何其他原因而不能行使本條例所訂的審裁組召集人職能時，或在審裁組召集人有或相當可能有任何利益衝突的情況下，由審裁組召集人或終審法院首席法官指定的審裁組副召集人可署理審裁組召集人的職位。

#### 40H. 對公證人行為操守的申訴

- (1) 凡公證人協會理事會由於向其作出的申訴或其他原因，而認為可根據本部對一名是或在有關時間是公證人的人施以紀律處分，則公證人協會理事會須將該事宜呈交審裁組召集人，以組成公證人紀律審裁組，對該人的行為操守進行研訊。
- (2) 凡有申訴向公證人協會理事會作出，而該理事會沒有在接獲申訴後 6 個月內根據第(1)款將有關事宜呈交審裁組召集人，則終審法院首席法官如認為公證人協會理事會應將該事宜呈交審裁組召集人，可應任何人的申請或主動將該事宜呈交審裁組召集人。
- (3) 向審裁組召集人呈交的事宜須包括或附同須予研訊的行為操守的詳情以及任何相關的指稱失當行為的詳情。

#### 40I. 公證人紀律審裁組

- (1) 在接獲根據第 40H 條呈交的事宜後，審裁組召集人須從審裁團中委任 2 名公證人及 1 名非法律專業人士。
- (2) 如此獲委任的人士即組成一個公證人紀律審裁組，以對有關公證人的行為操守進行研訊。
- (3) 當組成公證人紀律審裁組時，審裁組召集人亦須委任其中一名成員為該審裁組的主席。
- (4) 如只為以下目的，公證人紀律審裁組可由主席以及主席所指定的一名其他成員組成——
  - (a) 為正根據第 40J 條進行的任何研訊的進行而發出指示或作出命令；
  - (b) 宣布審裁組研訊所作的裁斷。

(5) A Deputy Tribunal Convener designated by the Tribunal Convener or the Chief Justice may act in place of the Tribunal Convener whenever the Tribunal Convener is prevented from exercising the Tribunal Convener's functions under this Ordinance because of illness, absence from Hong Kong or any other cause, or if there is or is likely to be any conflict of interest on the part of the Tribunal Convener.

#### 40H. Complaint about conduct of notaries public

- (1) Where the Council of the Society of Notaries considers as a result of a complaint being made to it or otherwise that a person who is, or was at the relevant time, a notary public may be liable to be disciplined under this Part it shall submit the matter to the Tribunal Convener for the purpose of constituting a Notaries Public Disciplinary Tribunal to inquire into the conduct of the person.
- (2) Where a complaint is made to the Council of the Society of Notaries and the Council does not submit a matter to the Tribunal Convener under subsection (1) within 6 months after receiving the complaint the Chief Justice may, on application by any person or on his own initiative, submit the matter to the Tribunal Convener if he considers that the Council ought to have done so.
- (3) A matter submitted to the Tribunal Convener shall include or be accompanied by particulars of the conduct that is to be inquired into and by particulars of any associated allegations of misconduct.

#### 40I. Notaries Public Disciplinary Tribunal

- (1) On receiving a submission under section 40H, the Tribunal Convener shall appoint from the Panel 2 notaries public and one lay person.
- (2) The persons so appointed constitute a Notaries Public Disciplinary Tribunal to inquire into the conduct of the notary public concerned.
- (3) When constituting a Notaries Public Disciplinary Tribunal, the Tribunal Convener shall also appoint one of its members as chairman of the Tribunal.
- (4) A Notaries Public Disciplinary Tribunal may be constituted by the chairman and by one other member designated by the chairman for the purposes only of—
  - (a) giving directions or making orders for the conduct of any inquiry being held under section 40J;
  - (b) announcing the findings of the Tribunal with respect to the inquiry.

- (5) 審裁組的成員一旦成為公證人協會理事會的成員，即停止為審裁組的成員。
- (6) 公證人紀律審裁組須在審裁組主席指示的地點及時間進行聆訊。
- (7) 公證人紀律審裁組須以非公開形式進行其法律程序，但如行為操守正被研訊的公證人要求以公開形式進行法律程序，則屬例外。

#### 40.J. 公證人紀律審裁組的權力

- (1) 就對某人的行為操守進行研訊而組成的公證人紀律審裁組，有權就該等行為操守進行研訊。
- (2) 公證人紀律審裁組在完成研訊後，有權作出其認為適當的命令，而任何該等命令尤其可包括關於所有或任何下列事宜的規定——
- (a) 從公證人註冊紀錄冊上剔除該研訊所關乎的公證人的姓名；
  - (b) 暫時吊銷該公證人在一段該審裁組認為適當的期間內執業的資格；
  - (c) 准許該公證人繼續執業，但須受有效期可達 3 年的條件規限；
  - (d) 由該公證人向有關申訴人支付一筆款項，其款額不得超過與該申訴人的爭議事宜有關而曾支付予或須支付予該公證人的款項；
  - (e) 由該公證人向根據第 73B 條訂明的規則所設立的基金支付一筆不大於曾由該基金就該公證人支付的款額；
  - (f) 由該公證人支付一筆不超過 \$500,000 並須撥入政府一般收入內的罰款；
  - (g) 譴責該公證人；
  - (h) 由任何一方支付審裁組的法律程序的事務費及附帶事務費，以及支付與審裁組席前的事宜有關的任何事前研訊或調查的事務費，該等事務費由高等法院聆案官按完全彌償基準評定；或出任何一方支付一筆審裁組認為屬合理分擔該等事務費的款額。

(5) A member of the Tribunal who becomes a member of the Council of the Society of Notaries ceases to be a member of the Tribunal.

(6) A Notaries Public Disciplinary Tribunal shall sit at such places and at such times as the chairman of the Tribunal directs.

(7) A Notaries Public Disciplinary Tribunal shall hold its proceedings in camera, except when the notary public whose conduct is being inquired into requests that the proceedings be open to the public.

#### 40.J. Powers of a Notaries Public Disciplinary Tribunal

(1) A Notaries Public Disciplinary Tribunal shall have power to inquire into the conduct of any person in respect of which it was constituted.

(2) On completion of its inquiry, a Notaries Public 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 register of notaries public the name of the notary public to whom the inquiry relates;
- (b) suspending that notary public from practice for such period as the Notaries Public Disciplinary Tribunal thinks fit;
- (c) permitting the notary public to continue practice, but subject to conditions which may be imposed for up to 3 years;
- (d) payment by that notary public to the complainant of an amount not exceeding the amount paid or payable to the notary public in relation to the complainant's matters in dispute;
- (e) payment by that notary public to a fund established under rules prescribed under section 73E of an amount not greater than an amount paid out of the fund in respect of that notary public;
- (f) payment by that notary public of a penalty not exceeding \$500,000 which shall be paid into the general revenue;
- (g) censure of that notary public;
- (h) 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 any amount that the Tribunal considers is a reasonable contribution towards those costs.

(3) 每份根據第(2)款作出的命令均須送交公證人協會秘書存檔，並須在公證人協會理事會訂明的時間內供任何受影響人士查閱，而每份該等命令的經簽署文本須在命令作出後 14 天內送交律師會秘書長存檔。

(4) 可根據第(2)款作出的命令，亦可就一名在有關期間是公證人的人而作出。

#### 40K. 公證人紀律審裁組的附帶權力

(1) 為了根據第 40J 條進行任何研訊，公證人紀律審裁組就以下事宜具有在任何訴訟或起訴的過程中歸於法院或任何法官的所有權力——

- (a) 強制證人出席，並在他們宣誓後加以訊問或在他們不宣誓的情況下加以訊問；
- (b) 強迫出示文件；
- (c) 懲罰犯了藐視罪的人；
- (d) 命令檢查任何財產；
- (e) 進行訊問證人；及
- (f) 不時押後任何會議和將會議地點從一處地方改至另一處地方，

而公證人紀律審裁組主席親自簽署的傳票，可代替並相等於在任何訴訟或起訴中為了強迫證人出庭或強迫出示文件而可以發出的任何形式的法律程序文件；而為了強制執行任何此等權力而發出的任何交付監獄的手令，須由該審裁組主席簽署，但不得授權將任何違犯者監禁超過 1 個月的期間。

(2) 警務處處長及所有警務人員、懲教署署長及懲教署的所有人員，以及法院執達主任，均須在強制執行歸於每個公證人紀律審裁組或公證人紀律審裁組主席的權力(不論是否第(1)款所賦予)方面，竭力協助該公證人紀律審裁組及該名主席。

(3) 公證人紀律審裁組的每一名成員，在針對他作為成員而執行他的職責時所作出的作為或不作為所提出的任何訴訟或起訴方面具有的保障及特權，與任何法律給予在執行職責而行事時的裁判官的保障及特權一樣。

(3) Every order made under subsection (2) shall be filed with the Secretary of the Society of Notaries and shall be available for inspection by any person affected during such hours as the Council of the Society of Notaries may prescribe, and a signed copy of every order shall be filed with the Secretary General of the Law Society within 14 days of its being made.

(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 notary public.

#### 40K. Ancillary powers of a Notaries Public Disciplinary Tribunal

(1) For the purpose of conducting any inquiry under section 40J, a Notaries Public 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 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 shall be signed by the chairman of the Tribunal but shall not authorize the imprisonment of any offender for a period exceeding 1 month.

(2) The Commissioner of Police and all police officers, the Commissioner of Correctional Services and all officers of the Correctional Services Department and all officers and bailiffs of the court are required to give their utmost assistance to every Notaries Public Disciplinary Tribunal and to every chairman of such Tribunal in the enforcement of the exercise of any power vested in the Tribunal or chairman, whether conferred by subsection (1) or otherwise.

(3) Every member of a Notaries Public 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) 公證人紀律審裁組的所有法律程序均享有特權。
- (5) 為對某人的行為操守進行研訊而組成的公證人紀律審裁組才可對該人的其他行為操守進行研訊，但上述權力只可在以下情況下行使——
- (a) 已就該等其他行為操守給予該人合理的通知及充足的詳情；並且
- (b) 該審裁組信納該等其他行為操守是與前述的行為操守有關的。
- (6) 如有關事宜是——
- (a) 根據第 40H(1) 條呈交審裁組召集人的，則第 (5) 款所賦予的權力只可應公證人協理理事會的申請才可行使；或
- (b) 根據第 40H(2) 條呈交審裁組召集人的，則第 (5) 款所賦予的權力只可應終審法院首席法官的申請才可行使。
- (7) 就第 (5) 款而言，如通知少於 7 天，則不屬合理的通知。

#### 40L. 公證人紀律審裁組的裁斷

- (1) 公證人紀律審裁組根據第 40J(2) 條作出的命令，須包括一項其對案件的事實而作出的裁斷的陳述，並須由該審裁組的主席或獲該審裁組授權的一名成員簽署。
- (2) 審裁組就一名公證人而作出的命令的經簽署文本，須送交司法常務官存檔，司法常務官須在公證人註冊紀錄冊上就該公證人的姓名相關之處就該命令加註；而凡該命令如此指示，司法常務官須剔除該姓名，並須在該命令的文本送交存檔後 14 天內，在憲報刊登暫時吊銷執業資格或剔除姓名的命令。
- (3) 聆訊有關事宜的審裁組，或為該目的而由審裁組召集人所組成或任命審裁組，在接獲根據第 40J(2) 條被命令付款的一方的申請後，可命令將款項以分期方式支付，或將支付期限押後一段該審裁組認為適當的期間。
- (4) 要求發出分期付款或押後付款命令的申請，可在聆訊時提出，或可在作出付款的命令的日期後 14 天內，藉向審裁組召集人及所有在該次審裁組聆訊中有代表的各方發出書面通知而提出。

(4) All proceedings of a Notaries Public Disciplinary Tribunal shall be privileged.

(5) A Notaries Public Disciplinary Tribunal constituted to inquire into the conduct of a person may inquire into other conduct of the person, but only if—

(a) the person has been given reasonable notice and adequate particulars of that other conduct; and

(b) the Tribunal is satisfied that that other conduct is related to the first-mentioned conduct.

(6) The power conferred by subsection (5) is exercisable only on the application of—

(a) the Council of the Society of Notaries in the case of a matter submitted to the Tribunal Convenor under section 40H(1); or

(b) the Chief Justice in the case of a matter submitted to the Tribunal Convenor under section 40H(2).

(7) Notice is not reasonable for the purposes of subsection (5) if it is less than 7 days.

#### 40L. Findings of a Notaries Public Disciplinary Tribunal

(1) An order made by a Notaries Public Disciplinary Tribunal under section 40J(2) shall include a statement of its findings in relation to the facts of the case and shall be signed by the chairman of the Tribunal or by a member authorized by the Tribunal.

(2) A signed copy of an order of a Tribunal in relation to a notary public shall be filed with the Registrar who shall enter a note of the order on the register of notaries public in connection with the name of the notary public 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 a copy of the order is so filed.

(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 under section 40J(2), 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) 在接獲根據第(4)款發出的通知後，審裁組召集人須在14天內，將審裁組聆訊該項申請的日期通知申請人及其他各方。

(6) 由審裁組主席或審裁組其他獲授權成員所簽署的命令的文本一經出示，即可對審裁組所命令須支付款額的支付事宜，予以強制執行，猶如該命令為法院發出的命令一樣，而法院的規則在可適用的範圍內，適用於該命令。

(7) 任何根據第(6)款作出的命令不得強制執行，直至第(4)款提述的14天屆滿後，或直至審裁組已根據第(3)款作出決定為止。

#### 40M. 上訴及保留條文

(1) 除第(2)款另有規定外，針對公證人紀律審裁組所作出的任何命令而提出的上訴，須向上訴法庭提出，而《最高法院規則》(第4章，附屬法例)第59號命令的規定，適用於每一宗上述的上訴，但送達上訴動議通知書的時限則為有關的決定的日期起計的21天而非第59號命令所規定的6個星期；上訴法庭就上述任何上訴作出的決定即為最終的決定。

(2) 如審裁組就根據第40L(4)條提出的申請作出任何決定，第(1)款並不適用於該決定。

(3) 在根據第(1)款提出的任何上訴中，公證人協會為答辯人。

(4) 根據本條進行的每一宗上訴的聆訊，須在公開法庭進行，但如上訴法庭另有指示，並在其另有指示的範圍內，則屬例外。

(5) On receipt of a notice under subsection (4), the Tribunal Convenor shall, within 14 days, notify the applicant and the other parties of a date on which the application will be heard by a Tribunal.

(6) 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 of the Tribunal or other authorized member of the Tribunal and the rules of the Court, so far as applicable, apply to the order.

(7) No order under subsection (6) shall be enforced until after the 14 days referred to in subsection (4) have elapsed or until after the Tribunal has made its decision under subsection (3).

#### 40M. Appeal and saving

(1) Subject to subsection (2), an appeal shall lie to the Court of Appeal against any order made by a Notaries Public Disciplinary Tribunal and the provisions of Order 59 of the Rules of the Supreme 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 that Order and the decision of the Court of Appeal on any such appeal shall be final.

(2) Subsection (1) does not apply in relation to any decision of the Tribunal on an application under section 40L(4).

(3) In any appeal under subsection (1) the Society of Notaries shall be the respondent.

(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.

#### 40N. 被剔除姓名或暫時吊銷執業 資格的公證人的業務清盤等

(1) 法院可作出命令，將從公證人註冊紀錄冊上被剔除姓名的任何公證人的業務，按其認為為清盤目的是適宜的條款清盤，並可為該目的而委任其認為適當的具有公證人執業資格的律師或律師行或根據《破產條例》(第6章)委任破產管理署署長，或同時委任兩者。

(2) 法院可作出命令，委任任何具有公證人執業資格的律師或律師行或委任破產管理署署長，或同時委任兩者，在任何被暫時吊銷執業證書的公證人被暫時吊銷執業證書的期限內，管理該公證人的業務。

#### 40N. Winding-up, etc. of business of notaries public struck off or suspended

(1) The Court may make an order for the winding-up of the business of any notary public who is struck off the register of notaries public in such terms and appointing such solicitor or firm of solicitors with notarial practice 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 with notarial practice or the Official Receiver or both to manage the business of any notary public whose practising certificate is suspended, for the duration of the suspension.

**40O. 應公證人要求從註冊紀錄冊上除名**

- (1) 在任何公證人向公證人協會理事會提出合理理由後，理事會可指示司法常務官從公證人註冊紀錄冊上刪除該公證人的姓名，而司法常務官須從公證人註冊紀錄冊上刪除該姓名。
- (2) 自根據本條刪除姓名的日期起，被如此刪除姓名的人即停止為公證人。

**40P. 自動剔除或暫時吊銷公證人執業資格**

- (1) 凡兼任公證人的任何律師的姓名，被司法常務官依據律師紀律審裁組根據第 10(2)(a) 條作出的命令而根據第 12(2) 條從律師登記冊上剔除，司法常務官須於其後在切實可行的範圍內盡快將該人的姓名從公證人註冊紀錄冊上剔除，並須在剔除該姓名後 14 天內，就此事在憲報刊登公告。
- (2) (a) 凡兼任公證人的律師被律師紀律審裁組根據第 10(2)(b) 條作出的命令暫時吊銷律師執業資格一段期間，該公證人即當作於同一期間被暫時吊銷公證人執業資格。
- (b) 凡律師紀律審裁組將就該名兼任公證人的律師而作出的命令的經簽署副本根據第 12(2) 條送交司法常務官存檔，司法常務官就該項命令在律師登記冊上加註後，須在切實可行的範圍內盡快將憑藉 (a) 段生效的暫時吊銷公證人執業資格的期間在公證人註冊紀錄冊上加註；而凡律師紀律審裁組作出的命令指示司法常務官將暫時吊銷該名律師的執業資格的命令刊登於憲報，司法常務官亦須在憲報刊登憑藉 (a) 段生效的暫時吊銷公證人執業資格的公告。
- (3) (a) 如兼任公證人的律師的姓名已按第 (1) 款的規定從律師登記冊上剔除，而上訴法庭在根據第 13 條進行的法律程序中就該律師作出命令，規定由司法常務官將該律師的姓名重新列入律師登記冊，則除

**40O. Removal from register at request of notary public**

- (1) Upon reasonable cause being shown to the Council of the Society of Notaries by a notary public, the Council may direct the Registrar to remove the name of such notary public from the register of notaries public and the Registrar shall remove such name from the register of notaries public.
- (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 notary public.

**40P. Automatic striking-off or suspension of notary public**

- (1) Where the name of a solicitor who is also a notary public is struck off the roll of solicitors by the Registrar under section 12(2) pursuant to an order made by the Solicitors Disciplinary Tribunal under section 10(2)(a), the Registrar shall as soon as practicable after that strike off the register of notaries public the name of that person and shall publish a notice of this fact in the Gazette within 14 days after the striking off the register of notaries public.
- (2) (a) Where a solicitor who is also a notary public is suspended from practice as a solicitor for a period by order of a Solicitors Disciplinary Tribunal under section 10(2)(b), the notary public shall be deemed to be suspended from practice as a notary public for the same period.
- (b) Where in relation to such a solicitor who is also a notary public a signed copy of the order of the Solicitors Disciplinary Tribunal is filed with the Registrar under section 12(2), the Registrar shall as soon as is practicable after entering a note on the order on the roll of solicitors, enter a note on the register of notaries public of the period of suspension having effect by virtue of paragraph (a); and where the Registrar is directed by the order made by the Solicitors Disciplinary Tribunal to publish the order for suspension of the solicitor in the Gazette he shall also publish in the Gazette a notice of the suspension having effect by virtue of paragraph (a).
- (3) (a) If in relation to a solicitor who is also a notary public and whose name has been struck off the roll of solicitors as provided in subsection (1), an order is made by the Court of Appeal in proceedings under section 13 that the solicitor's name be restored to the roll of solicitors by the Registrar

任何就該公證人而根據第 40J(2) 條作出的命令另有規定外，司法常務官須於其後在切實可行範圍內盡快將該公證人的姓名重新列入公證人註冊紀錄冊。

- (b) 如已按第 (2) 款的規定將兼任公證人的律師的律師執業資格暫時吊銷，而上訴法庭在根據第 13 條進行的法律程序中就該律師作出命令，規定將暫時吊銷執業資格一事撤銷，則應藉第 (2)(a) 款暫時吊銷該人的公證人執業資格一事亦停止有效，而司法常務官亦須相應地在公證人註冊紀錄冊上適當加註。

#### 40Q. 公證人協會的一般出庭發言權

公證人協會——

- (c) 在公證人紀律審裁組席前；及  
(b) 在根據本條例進行而影響公證人的任何事宜的聆訊中，在法院席前，

透過由該會為出庭發言權而委任的任何該會會員，或透過任何律師或大律師，享有一般出庭發言權，而在任何上述情況中，不論公證人協會是否已出庭發言或在謀求出庭發言，仍須將所有送交司法常務官存檔的必要的文件副本一份送達公證人協會。

#### 40R. 公證人紀律審裁組及公證人協會的開支

- (1) 由——  
(a) 公證人紀律審裁組招致的開支；及  
(b) 公證人協會在與公證人紀律審裁組席前進行的法律程序以及與根據第 40M 條進行的任何上訴有關的情況下招致的開支，  
在律政司司長發出證明書後，可從政府一般收入中支予予公證人協會。  
(2) 律政司司長在信納以下各項後才可根據第 (1) 款發出證明書——  
(a) 該等開支是公證人紀律審裁組或公證人協會 (視屬何情況而定) 在行使本條例賦予或施加的權力或職責時所必須招致的；  
(b) 該等開支的款額是合理的；及

then, subject to any order made in respect of the notary public under section 40J(2), the Registrar shall as soon as is practicable after that restore the name of the notary public to the register of notaries public.

- (b) If in relation to a solicitor who is also a notary public and who has been suspended from practice as a solicitor as provided in subsection (2), an order is made by the Court of Appeal in proceedings under section 13 that the suspension be set aside, any suspension of that person from practice as a notary public having effect by virtue of subsection (2)(a) shall cease to have effect, and the Registrar shall enter an appropriate note on the register of notaries public accordingly.

#### 40Q. Society of Notaries' general right of audience

The Society of Notaries shall have a general right of audience by any of its members appointed by it for that purpose, or by any solicitor or counsel, before—

- (a) a Notaries Public Disciplinary Tribunal; and  
(b) the Court on the hearing of any matter under this Ordinance that affects notaries public,

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

#### 40R. Expenses of Notaries Public Disciplinary Tribunal and of Society of Notaries

- (1) The expenses incurred by—  
(a) a Notaries Public Disciplinary Tribunal; and  
(b) the Society of Notaries, in connection with proceedings before a Notaries Public Disciplinary Tribunal and any appeal under section 40M, may be paid to the Society of Notaries 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 Notaries Public Disciplinary Tribunal or the Society of Notaries, as the case may be, in exercise of the powers or duties conferred or imposed by this Ordinance; and  
(b) the amount of such expenses is reasonable; and



- (c) 公證人紀律審裁組或上訴法庭(視屬何情況而定)席前所進行的法律程序的標的為某人的行為操守，而該等開支不能合理地向該人追討。
- (3) 在本條中，“開支”(expenses)包括證人的開支及費用、大律師的費用、律師的費用、核數師的費用，以及其他收費及代墊付的費用。

#### 40S. 法例條文的效力高於公證人協會的章程細則

如本條例的條文與公證人協會的組織章程大綱及章程細則的條文有任何抵觸，須以本條例的條文為準。

#### 40T. 過渡性安排

- (1) 在本條中，“《修訂條例》”(amendment Ordinance)指《1998年法律執業者(修訂)條例》(1998年第27號)。
- (2) 除文意另有所指外，本條例或任何其他條例中凡提述——
- (a) 公證人，即包括提述在緊接《修訂條例》的生效日期前憑藉根據當時有效的本部註冊為公證人的人；
- (b) 公證人註冊紀錄冊，即包括提述在緊接《修訂條例》的生效日期前根據當時有效的本部備存的註冊紀錄冊；
- (c) 根據本部作出的命令，即包括提述在緊接《修訂條例》的生效日期前根據當時有效的本部作出的命令。”。

#### 4. 加入條文 現加入——

##### “73D. 公證人協會理事會 訂立規則的權力

- (1) 公證人協會理事會可訂立規則——
- (a) 對下述事宜作出規定——
- (i) 申請根據第40A條委任為公證人的人所須符合的規定；

- (c) 該等開支不能合理地由該人追討。
- (3) 在本條中，“開支”(expenses)包括證人的開支及費用、大律師的費用、律師的費用、核數師的費用，以及其他收費及代墊付的費用。

#### 40S. Statutory provisions to prevail over Society of Notaries' articles

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

#### 40T. Transitional arrangements

- (1) In this section, “amendment Ordinance” means the Legal Practitioners (Amendment) Ordinance 1998 (27 of 1998).
- (2) Unless the context otherwise requires, reference in this or any other Ordinance—
- (a) to a notary public includes reference to a person who is a notary public by virtue of registration under this Part as in force immediately before the commencement of the amendment Ordinance;
- (b) to the register of notaries public includes reference to the register kept under this Part as in force immediately before the commencement of the amendment Ordinance;
- (c) to any order made under this Part includes reference to an order made under this Part as in force immediately before the commencement of the amendment Ordinance.”.

#### 4. Sections added

The following are added—

##### “73D. Power of Council of Society of Notaries to make rules

- (1) The Council of the Society of Notaries may make rules—
- (a) providing for—
- (i) the requirements to be complied with by persons applying for appointment as a notary public under section 40A;

- (ii) 公證人及其僱員的專業執業、行為操守及紀律；
- (iii) 向不合資格人士支付佣金的限制；及
- (iv) 為了協調公證人相互之間的關係，在獲得大律師執委會及律師會理事會(視屬何情況而定)的事先批准後，對公證人與律師之間和公證人與大律師之間的關係分別予以管限；
- (b) 規管向公證人發出執業證書、和須就該等執業證書繳付的費用、發出條件、申請方式、期限及格式、發出執業證書一事及暫時吊銷執業證書一事的公布，以及概括而言，與執業證書有關的事宜；
- (c) 對公證人紀律審裁組的研訊的進行作出規定；
- (d) 以在申請根據第40A條委任為公證人的人所須考得合格的考試方面，以及就該等考試而須向公證人協會理事會繳付的費用方面，作出規定；
- (e) 使公證人協會理事會能夠豁免任何人使其無需遵從任何該等規則的條文，並能夠施加和強制執行在任何個別情況下批准該項豁免時所訂的條件；
- (f) 訂明根據本條例須由或可由公證人協會理事會訂明的任何事項。
- (2) 在不局限第(1)(a)(ii)款的效力的原則下，根據該款訂立的規則，可就以下事宜作出規定——
- (a) 可對公證人的僱員施以紀律處分的情況；
- (b) 針對公證人的僱員提起紀律處分程序；及
- (c) 就公證人的僱員違反紀律而可施加的制裁，
- 而該等規則可規定第IV部中處理公證人的紀律的任何條文(包括委任公證人紀律審裁組的成員以組成一個公證人紀律審裁組，以研訊某公證人的行為操守)，適用於公證人的僱員。
- (3) 公證人協會理事會根據本條訂立的每一條規則，須經終審法院首席法官事先批准。

- (ii) the professional practice, conduct and discipline of notaries public and their employees;
- (iii) the restriction of payment of commission to unqualified persons; and
- (iv) for the purpose of harmonizing the relationship of notaries inter se and, with the prior approval of the Bar Council and the Council of the Law Society, as the case may be, governing the relationship of notaries public and solicitors and barristers respectively;
- (b) regulating the issue to notaries public of practising certificates and the fees payable for, the conditions of issue of, the manner of applying for, the period and form of, the publication of the issue and the suspension of, such practising certificates and generally in relation to practising certificates;
- (c) providing for the conduct of any inquiry by a Notaries Public Disciplinary Tribunal;
- (d) respecting the examinations to be passed by persons applying for appointment as notaries public under section 40A and the fees payable to the Council of the Society of Notaries in connection with such examinations;
- (e) enabling the Council of the Society of Notaries 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;
- (f) prescribing any thing which, under this Ordinance, is to be or may be prescribed by the Council of the Society of Notaries.

(2) Without limiting the effect of subsection (1)(a)(ii), rules made under that paragraph may provide—

- (a) for the circumstances in which employees of notaries public shall be liable to be disciplined;
- (b) for the bringing of disciplinary proceedings against employees of notaries public; and
- (c) for the sanctions that may be imposed in respect of breaches of discipline by employees of notaries public,
- and such rules may provide that any provision of Part IV dealing with the discipline of notaries public (including the appointment of members of the Notaries Public Disciplinary Tribunal Panel to constitute a Notaries Public Disciplinary Tribunal to inquire into the conduct of a notary public) shall apply in relation to employees of notaries public.

(3) Every rule made by the Council of the Society of Notaries under this section shall be subject to the prior approval of the Chief Justice.

### 73E. 公證人的彌償規則

(1) 公證人協會理事會可訂立關於彌償就以下民事法律責任提出的申索而產生的損失的規則——

(a) 公證人或前公證人在其執業業務方面招致的任何種類的民事法律責任；或

(b) 公證人或前公證人的僱員或前僱員在該公證人的執業業務方面招致的任何種類的民事法律責任。

(2) 為提供該等彌償，根據本條訂立的規則——

(a) 可授權或規定公證人協會單獨或聯同律師會設立和維持一個或多於一個基金；

(b) 可授權或規定公證人協會單獨或聯同律師會向獲認可保人購買保險和維持受保；

(c) 可規定公證人或任何指明類別的公證人向獲認可保人購買保險和維持受保。

(3) 在不損害第(1)及(2)款的一般性的原則下，根據本條訂立的規則——

(a) 可指明獲得彌償的條款及條件，並可指明彌償權利可在何種情況下免除或修改；

(b) 可對憑藉第(2)(a)款維持的任何基金的管理、行政及保障作出規定，並規定公證人或任何類別的公證人向任何該等基金支付款項；

(c) 可規定公證人或任何類別的公證人以支付保費的方式，就公證人協會憑藉第(2)(b)款維持的任何保單，支付款項；

(d) 可指明保單為第(2)(c)款的施行而必須符合的條件；

(e) 可授權公證人協會在符合由規則所訂明的限制的規限下，或按照規則所訂明的條文，釐定在規則中所規定支付的款額；

(f) 可指明在何種情況下，如已就某公證人提供彌償(並非獲豁免從規則的公證人)而該公證人沒有遵從規則時，公證人協會或保人

### 73E. Indemnity rules for notaries public

(1) The Council of the Society of Notaries may make rules concerning indemnity against loss arising from claims in respect of any description of civil liability incurred—

(a) by a notary public or former notary public in connection with his practice; or

(b) by an employee or a former employee of a notary public or former notary public in connection with that notary public's practice.

(2) For the purpose of providing such indemnity, rules made under this section—

(a) may authorize or require the Society of Notaries, by itself or jointly with the Law Society, to establish and maintain a fund or funds;

(b) may authorize or require the Society of Notaries, by itself or jointly with the Law Society, to take out and maintain insurance with authorized insurers;

(c) may require notaries public or any specified class of notaries public to take out and maintain insurance with authorized insurers.

(3) Without prejudice to the generality of subsections (1) and (2), rules made under this section—

(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 notaries public or any class of notaries public to make payments to any such fund;

(c) may require notaries public or any class of notaries public to make payments by way of premium on any insurance policy maintained by the Society of Notaries 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 of Notaries 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 notary public (not being a notary public who is exempt from complying with the rules) for whom indemnity is provided has failed to

可就與他不遵從的事宜有關而以彌償方式所支付的款項對他進行法律程序；

(g) 可指明在何種情況下，公證人獲豁免而無需遵從根據本條訂立的規則；

(h) 可賦予公證人協會理事會權力採取其認為必需或適當的步驟，以確定規則是否已獲遵從；及

(i) 可載有附帶的、程序上的或補充的條文。

(4) 在不損害公證人協會的任何其他權力的原則下，公證人協會有權實施其認為就本條所指的彌償而言屬必需或適當的任何安排。

(5) 公證人協會理事會根據本條訂立的每一項規則，須經終審法院首席法官事先批准。

### 73F. 公證人協會理事會可作出轉授

公證人協會理事會可將根據本條例賦予或施加於公證人協會或其理事會的任何權力或職責，轉授予任何人或公證人協會理事會轄下的委員會，但根據第73D及73E條訂立規則的權力除外。”。

## 5. 本條例的雜項修訂

(1) 第2(1)條現予修訂——

(a) 在“理事會”的定義中，於“指”字之前加入“就律師會而言，”；

(b) 在“執業證書”的定義中——

(i) 廢除(c)段中的“及”；

(ii) 在(b)段的末處加入“及”；

(iii) 加入——

“(c) 公證人協會根據第40E條發出的證書；”；

(c) 在“公證人註冊紀錄冊”的定義中，廢除“第41條”而以“第40C條”；

(d) 在“律師會”的定義中，在“Society”之後加入“，Law Society”；

(e) 加入——

““公證人協會”(Society of Notaries)指名為香港法律公證人協會的團體，該團體根據《公司條例》(第32章)成立為有限責任法團，

其所具有的宗旨包括提高公證人的專業水平，規管公證人的執業，以及履行或執行根據本條例賦予該團體的職責或責任；

comply with the rules, the Society of Notaries 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 notaries public are exempt from the rules made under this section;

(h) may empower the Council of the Society of Notaries to take such steps as they consider necessary or expedient to ascertain whether or not the rules are being complied with; and

(i) may contain incidental, procedural or supplementary provisions.

(4) The Society of Notaries shall have power, without prejudice to any of its other powers, to carry into effect any arrangements which it considers necessary or expedient for the purpose of indemnity under this section.

(5) Every rule made by the Council of the Society of Notaries under this section shall be subject to the prior approval of the Chief Justice.

### 73F. Council of Society of Notaries may delegate

The Council of the Society of Notaries may delegate to any person or to a committee of the Council of the Society of Notaries any of the powers or duties granted or imposed on the Society of Notaries or its Council under this Ordinance, other than the power to make rules under sections 73D and 73E.”.

## 5. Miscellaneous amendments of the Ordinance

(1) Section 2(1) is amended—

(a) in the definition of “Council”, by adding “, in relation to the Law Society,” after “means”;

(b) in the definition of “practising certificate”—

(i) in paragraph (a), by repealing “and”;

(ii) in paragraph (b), by adding “and” at the end;

(iii) by adding—

“(c) a certificate issued by the Society of Notaries under section 40E.”;

(c) in the definition of “register of notaries public”, by repealing “section 41” and substituting “section 40C”;

(d) in the definition of “Society”, by repealing “(lawyer) means” and substituting “and “Law Society” (lawyer) mean”;

(e) by adding—

““Council of the Society of Notaries” (公證人協會理事會) means the Council of Management of that society

“公證人協會理事會”(Council of the Society of Notaries) 指按照該協會的組織章程細則的條文委出的執行理事會；”。

- (2) 第 12 條現予修訂，加入——  
 “(9) 審裁組根據第 10 條作出的每一項命令的經簽署副本，須在該項命令由審裁組作出後的 14 天內送交公證人協會秘書存檔。”。
- (3) 第 44 條現予修訂——  
 (a) 將條文重新編為第 (1) 款；  
 (b) 加入——

“(2) 本條的任何條文，不得解釋為影響《領事關係條例》(第 259 章)的任何條文。”。

- (4) 第 72(a) 條現予修訂——  
 (a) 廢除首次出現的“註冊”，而代以“委任”；  
 (b) 在第 (iii) 及 (iv) 節中，廢除“根據第 40 條註冊”而代以“根據第 40A 條委任”；  
 (c) 在第 (iv) 節中，廢除“或註冊”而代以“或委任”；  
 (d) 在第 (v) 及 (vii) 節中，廢除“註冊”而代以“委任”。
- (5) 第 73A(2) 條現予修訂，在 (a) 及 (b) 段中，於“律師會”之後加入“自行或聯同公證人協會”。

appointed in accordance with the provisions of its articles of association;

“Society of Notaries” (公證人協會) means the body known as The Hong Kong Society of Notaries incorporated with limited liability under the Companies Ordinance (Cap. 32) and having among its objects the promotion of proper professional standards among notaries public, the regulation of the practice of notaries public and the performance or discharge of such duties or responsibilities as may be conferred on it under this Ordinance.”

- (2) Section 12 is amended by adding—  
 “(9) A signed copy of every order made by a Tribunal under section 10 shall be filed with the Secretary of the Society of Notaries within 14 days after it is made by the Tribunal.”
- (3) Section 44 is amended—  
 (a) by renumbering it as subsection (1);  
 (b) by adding—  
 “(2) Nothing in this section shall be construed as affecting any provision of the Consular Relations Ordinance (Cap. 259).”
- (4) Section 72(a) is amended—  
 (a) by repealing “registration” where it first appears and substituting “appointment”;  
 (b) in subparagraphs (iii) and (iv), by repealing “registration under section 40” and substituting “appointment under section 40A”;  
 (c) in subparagraph (iv) by repealing “or registration” and substituting “or appointment”;  
 (d) in subparagraphs (v) and (vii), by repealing “registrations” and substituting “appointments”.
- (5) Section 73A(2) is amended in paragraphs (a) and (b) by adding “, by itself or jointly with the Society of Notaries,” after “Society”.

## 6. 保留條文

(1) 本條例的任何條文，並不影響任何在緊接本條例第 3 及 4 條的生效日期前，憑藉根據當時有效的本條例第 IV 部在公證人註冊紀錄冊上註冊為公證人、而在該生效日期當日及之後以公證人身分執業的人的權利；在不抵觸第 (2) 款所提述的任何載入註冊紀錄冊的命令或記項下，該人可繼續以公證人身分執業，其方式猶如他已獲根

## i. Saving

(1) Nothing in this Ordinance affects the rights of any person who immediately before the commencement of sections 3 and 4 of this Ordinance was a notary public by virtue of registration on the register of notaries public under Part IV of the Ordinance as then in force to practise as a notary public in and after that commencement and, subject to any order or entry on the register as is referred to in subsection (2), such person may continue to practise as a notary public in the same manner as if he had been appointed as a notary

據在該生效日期當日及之後有效的本條例第IV部委任為公證人，並在公證人註冊紀錄冊上註冊一樣。

(2) 本條例的任何條文，並不影響終審法院首席法官或法院在緊接本條例第3及4條的生效日期前，根據當時有效的本條例第IV部所作出的任何命令的效力及效果，亦不影響在緊接本條例第3及4條的生效日期前，根據當時有效的本條例第IV部載入公證人註冊紀錄冊的任何記項的效力及效果，而該等命令及記項在該生效日期當日及之後繼續有效，其方式猶如該等命令或記項是在該生效日期當日或之後由適當的主管當局根據本條例第IV部作出，或(視屬何情況而定)在該生效日期當日或之後根據本條例第IV部載入公證人註冊紀錄冊一樣。

#### 7. 在《破產條例》(第6章)修訂後相應作出的修訂

- (1) 第6(7)條現予修訂，廢除“破產接管令正在對該律師生效”而代以“該律師破產”。
- (2) 第23條現予修訂，廢除“或根據任何與破產有關的法律而簽立一份使他的債權人受益的信託契據”，
- (3) 第26A(1)(d)條現予修訂，廢除“被裁定破產，或已與他的債權人達成債務重整協議或債務償還安排”而代以“破產或已與其債權人訂立《破產條例》(第6章)所指的自願安排”。
- (4) 第39A(3)條現予修訂，廢除“有根據《破產條例》(第6章)發出的破產接管令對外地律師生效”而代以“某外地律師破產”。
- (5) 第53(1)(c)條現予修訂，廢除“有一項對他生效的破產接管令”而代以“他已破產”。
- (6) 第64(1)(c)條現予修訂，廢除“債務重整協議”而代以“與債權人訂立《破產條例》(第6章)所指的自願安排”。
- (7) 第66(1)條現予修訂，在但書中，廢除“重整債務”而代以“訂立《破產條例》(第6章)所指的自願安排”。

public, and was registered on the register of notaries public, under Part IV of the Ordinance as in force on and after that commencement.

(2) Nothing in this Ordinance affects the force and effect of any order of the Chief Justice or the Court, or any entry on the register of notaries public, made under Part IV of the Ordinance as in force immediately before the commencement of sections 3 and 4 of this Ordinance, and such orders and entries shall continue to be given effect on and after that commencement in the same manner as if made by the appropriate authority or on the register of notaries public, as the case may be, under Part IV of the Ordinance on or after that commencement.

#### 7. Amendments consequent on amendments to the Bankruptcy Ordinance (Cap. 6)

(1) Section 6(7) is amended by repealing “receiving order in bankruptcy is in force against him” and substituting “solicitor becomes bankrupt”.

(2) Section 23 is amended by repealing “or executes a trust deed for the benefit of his creditors under any law relating to bankruptcy”.

(3) Section 26A(1)(d) is amended by repealing “been adjudged bankrupt or has made a composition or arrangement with his creditors” and substituting—

“become bankrupt or has entered into a voluntary arrangement with his creditors within the meaning of the Bankruptcy Ordinance (Cap. 6)”.

(4) Section 39A(3) is amended by repealing “receiving order in bankruptcy under the Bankruptcy Ordinance (Cap. 6) is in force against a foreign lawyer” and substituting “foreign lawyer becomes bankrupt”.

(5) Section 53(1)(c) is amended by repealing “a receiving order in bankruptcy being in force against him” and substituting “having become bankrupt”.

(6) Section 64(1)(c) is amended by repealing “composition” and substituting “voluntary arrangement with creditors within the meaning of the Bankruptcy Ordinance (Cap. 6)”.

(7) Section 66(1) is amended in the proviso by repealing “compound with his creditors” and substituting “enter into a voluntary arrangement with his creditors within the meaning of the Bankruptcy Ordinance (Cap. 6)”.

Consequential Amendments

相應修訂

《宣誓及聲明條例》

Oaths and Declarations Ordinance

8. 釋義

《宣誓及聲明條例》(第11章)第2條現予修訂，廢除“公證人”的定義而代以——“公證人”(notary)的涵義與《法律執業者條例》(第159章)第2(1)條中該詞的涵義相同；”。

8. Interpretation

Section 2 of the Oaths and Declarations Ordinance (Cap. 11) is amended by repealing the definition of “notary” and substituting—  
““notary” (公證人) has the same meaning as “notary public” in section 2(1) of the Legal Practitioners Ordinance (Cap. 159);”.

9. 廢除

《認許及註冊規則》(第159章，附屬法例)第11及12條以及附表的表格9現予廢除，但本條不得解釋為阻止高等法院司法常務官全部以上述第12條及表格9所規定的格式或部分以該格式備存公證人註冊記錄冊。

《認許及註冊規則》

Admission and Registration Rules

9. Repeals

Rules 11 and 12 of, and Form 9 in the Schedule to, the Admission and Registration Rules (Cap. 159 sub. leg.) are repealed, but nothing in this section shall be construed as preventing the Registrar of the High Court from maintaining the register of notaries public, either wholly or partly, in the form provided for in that rule 12 and Form 9.

10. 廢除

《法律執業者(費用)規則》(第159章，附屬法例)附表1的第5項現予廢除。

《法律執業者(費用)規則》

Legal Practitioners (Fees) Rules

10. Repeal

Item 5 of Schedule 1 to the Legal Practitioners (Fees) Rules (Cap. 159 sub. leg.) is repealed.

11. 聲明的方式

《商船(註冊)條例》(第415章)第84條現予修訂——

(a) 廢除所有“法律公證人”而代以“公證人”；

(b) 在第(2)(a)款中，廢除“由最高法院司法常務官根據《法律執業者條例》(第159章)第40條為其妥為註冊的”而代以“《法律執業者條例》(第159章)第2(1)條所界定的”。

11. Mode of making declarations

Section 84 of the Merchant Shipping (Registration) Ordinance (Cap. 415) is amended—

(a) by repealing “法律公證人” wherever it appears and substituting “公證人”;

(b) in subsection (2)(a), by repealing “duly registered by the Registrar of the Supreme Court under section 40” and substituting “as defined in section 2(1)”.

Merchant Shipping (Registration) Ordinance