

## HONG KONG BAR ASSOCIATION

### About us

#### *Basic Information*

<b>Name</b>	Hong Kong Bar Association (HKBA)
<b>Year of establishment</b>	1949
<b>Nature</b>	HKBA is the professional organisation of barristers in Hong Kong and is an unincorporated association registered under the Societies Ordinance, Cap. 151.

1. The objects for which the HKBA was established are to consider all matters affecting the profession and the administration of justice and to take such action thereon as seems proper. Such matters include, among other things, the maintenance of the honour and independence of the Bar; the improvement of the administration of justice in Hong Kong; the prescribing of rules of professional conduct, discipline and etiquette; the furtherance of good relations and understanding within the legal profession; and the furtherance of good relations between the Bar and the lawyers of other countries.
2. A recent amendment to the HKBA's Constitution made explicit the HKBA's commitment to upholding the Rule of Law and the Basic Law of the HKSAR, as well as upholding the independence of the judiciary.

#### *Membership status of the HKBA (as of September 2019)*

	<b>Type of membership</b>	<b>Description</b>	<b>Number of members</b>
	Practicing Member (mandatory)	All barristers wishing to practice in Hong Kong must be members of the HKBA. A practicing member is entitled to vote at the general meetings.	1,558 (106 senior counsel and 1452 junior counsel)
	Employed Member (mandatory)	An employed member is one who is engaged to provide legal advice or services for employers under a contract of	37

		employment. An employed member is entitled to vote at the general meetings	
	Associate Member (mandatory/voluntary)	Any barrister admitted to practice in Hong Kong, not being a Member (including a Practising member or an Employed member) nor a member of the Judiciary, shall, and any barrister admitted to practice only in jurisdictions other than Hong Kong may be an Associate Member. An Associate Member is not entitled to vote at general meetings.	<b>47</b>
	Mess Member (voluntary)	Any barrister who is a member of the Judiciary in Hong Kong may be a Member of the Bar Mess, who shall be entitled only to attend social functions.	<b>23</b>
<b>1.</b>	Academic Member (voluntary)	Any academic staff of legal education of any established universities or institutions in Hong Kong may be an Academic Member. An Academic	<b>3</b>

		Member may attend social functions and participate in seminars, talks and workshops organized by the HKBA	
2.	Student Member (voluntary)	Any student studying law or law related degrees or courses may be and remain a Student Member. A Student Member enjoys the same right as an Academic Member.	14
3.	Life Member	The HKBA may, in General Meeting, confer on any Member the title of Life Member and such person, whilst he is in Hong Kong, shall have all the privileges of a Member.	2
4.	Honorary Life Member	The HKBA may, in General Meeting, confer on any barrister (not being a Member) or any former or present member of the Judiciary of Hong Kong the title of Honorary Life Member.	8
Total			1692

3. The HKBA holds an Annual General Meeting every year to, among other things, elect

the office bearers of the Bar Council and approve the accounts. It may also hold Extraordinary General Meetings in certain circumstances, such as to confer honours on members or revise its constitution.

4. The HKBA is governed by an executive committee known as the Bar Council. The Bar Council has the dual functions of regulating and representing its members. The Bar Council is obliged to meet regularly (usually, once every fortnight).
5. The Bar Council consists of the Chairman, the Vice-Chairman (not more than two), an Honorary Secretary, a deputy, 11 elected members and, at most, nine co-opted members representing different sections in the Bar.
6. The current members of the Bar Council are

Chairman	Philip J. Dykes, SC
Vice-Chairman	Jose-Antonio Maurellet, SC
Honorary Secretary and Treasurer	Jonathan T.Y. Chang
Deputy Honorary Secretary	Po Wing Kay
Council Members	Lawrence Lok, SC
	Johannes M.M. Chan, SC (Hon)
	Stewart K.M. Wong, SC
	Anita H.K. Yip, SC
	Jeremy J. Bartlett, SC
	Derek C.L. Chan, SC
	Erik Sze-Man, Shum
	Andrew Y.S. Mak
	Bruce C.H. Tse
	Jonathan Wong
	Pauline Po Lam, Leung
	Robin Gregory D'Souza
	Randy Shek
	Jeffrey C.K. Tam
	Lester H.L. Lee
	Kim M. Rooney
Hugh T.T. Kam	
Lorraine H.M. Tsang	
Fiona Fok Ching Chong	
Christy Yuen Pui Wong	

7. To assist in its functions, the Bar Council has established a total of 39 Committees and Standing Committees. These include, for example, the Overseas Admission Committee, the Constitutional Affairs & Human Rights Committee, the Greater China Affairs Committee, the Discipline Committee, the Legal Education Committee and the International Practice Committee.
8. The HKBA is served by a secretariat headed by the Administrator, who is presently Ms Dora Chan.

*Contact information of the HKBA*

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## **Attorney System**

### *Legal status of barristers in Hong Kong*

9. The legal profession in Hong Kong consists of solicitors, barristers, foreign lawyers, solicitor advocates and notaries public, all of whom are regulated by the Legal Practitioners Ordinance (the "LPO"). Lawyers who work in the Department of Justice and certain Government departments (known generally as Legal Officers) are regulated by the Legal Officers Ordinance.
10. Barristers are legal practitioners who offer themselves as experts in advocacy and generally specialise in litigation matters. Barristers have the right of audience in all Courts in Hong Kong except for the Labour Tribunal and the Small Claims Tribunal where no legal representation is permitted. Apart from solicitor advocates, who have acquired higher rights of audience, only barristers have the right of audience in Hong Kong's High Court (including the Court of First Instance and the Court of Appeal) and the Court of Final Appeal.
11. Access to barristers by the general public is normally through solicitors. This means that a lay client may not instruct a barrister directly. The distancing of the barrister from the lay client helps to maintain the barrister's impartiality. Changes have been made in recent years so that, in some instances, barristers may also be instructed by other professionals such as accountants.
12. A barrister must practice in professional chambers. It is common for barristers to share chambers (i.e. the same office). However, partnerships are not permitted. Hence, although two or more practicing barristers may share chambers and professional expenses, they must not agree to share professional receipts or assume responsibility for the professional work of each other.
13. The Chief Justice may, after consultation with the Chairman of the Bar and the President of the Law Society, appoint as Senior Counsel a barrister who has practiced for not less than 10 years and has, in the opinion of the Chief Justice, sufficient ability and standing as a barrister, and sufficient knowledge of the law, to be accorded with such status. This is, in effect, a modified continuation of the practice of appointing "Queen's Counsel" in the period prior to 1 July 1997 when Hong Kong was a British Colony. The change in title reflects the fact that the Queen no longer has a Constitutional function in Hong Kong now that it is a party of the PRC.

### *Qualification systems for barristers*

14. Any person who satisfies the requirements set out in Barristers (Qualification for Admission and Pupillage) Rules of the LPO may be admitted as a barrister. A person may become qualified to practice as a barrister in Hong Kong by way of (a) general admission or (b) ad hoc admission.
15. A person is qualified for general admission as a barrister if he or she:
  - i. has obtained Postgraduate Certificate in Laws from the University of Hong Kong the City University of Hong Kong or the Chinese University of Hong Kong;
  - ii. has been admitted as a solicitor in Hong Kong for at least 3 years immediately or in any case not more than twelve months before application for admission,

and was during that period in practice as a solicitor in Hong Kong or employed by the Government as legal officer;

iii. is an overseas lawyer; and:

- holds a valid certificate of admission as legal practitioner in the jurisdiction of admission;
- has practiced for at least 3 years in that jurisdiction;
- is a person of good standing in that jurisdiction; and
- has passed the Barristers Qualification Examination (which is administered by the Bar Council, held at least once a year and consists of 5 examination pages covering various subjects of Hong Kong laws).

16. A barrister must first serve as a pupil barrister for a period of not less than a year (which may be reduced to not less than 3 months in exceptional circumstances to be approved by the Court). Pupillage must be undertaken in the chambers of a practicing barrister of not less than 5 years' experience or the Department of Justice. A barrister seeking admission must have completed not less than 6 months of pupillage (which may be reduced to not less than 3 months in exceptional circumstances).
17. Notwithstanding that a person does not satisfy all the requirements for general admission, where the Court considers that he is a fit and proper person to be a barrister and is satisfied that he has a qualification acquired outside Hong Kong to engage in work that would, if undertaken in Hong Kong, be similar to that undertaken by a barrister in the course of ordinary practice as a barrister in the High Court or Court of Final Appeal, and substantial experience in advocacy in a court, the Court may admit such person as a barrister for the purpose of any particular case or cases and may impose restrictions and condition on him as it may see fit.
18. While an application for ad hoc admission will be determined by the Court, the HKBA will be heard in such an application. The HKBA will decide whether to consent or oppose such an application in accordance with the recommendations of the Overseas Admission Committee. The main consideration is whether it is in the public interest to consent to the application. In practice, most successful applicants for ad hoc admission are Queen's Counsel in England and Wales

#### *Regulation of legal services (as barristers) provided by non-lawyers*

19. Any person who not being a qualified barrister, either directly or indirectly, practices or acts as a barrister is guilty of a criminal offence.

#### *Regulation of foreign registered attorneys to practice as barristers*

20. As mentioned above, a foreign registered attorney may become qualified to practice as a barrister in Hong Kong under rules for general admission or by way of ad hoc admission for a particular case.

### **Regular activities conducted by the organisation**

21. The HKBA's regular activities are conducted by members of the HKBA (not limited to members of the Bar Council) and hired staff of the Bar Secretariat. These activities consist of, among other things, the following.

#### *Disciplinary Matters*

22. Barristers must comply with the Code of Conduct of the Bar of the Hong Kong Special Administrative Region. The Code is aimed at promoting and maintaining the high standards of the profession.

23. Any complaint of misconduct against a barrister will first be considered by the Discipline Committee of the Bar Council. The Bar Council, upon the recommendation of the Discipline Committee, may refer the complaint to the Barristers Disciplinary Tribunal which is an independent statutory body consisting of a Senior Counsel, a barrister and a lay person chosen from a panel appointed by the Chief Justice. The disciplinary powers of the Tribunal include suspending the barrister from practice for a specific period or striking off the barrister's name from the roll of barristers.

#### *Advanced Legal Education*

24. The Bar Council institutes and organises for pupil barristers a programme of compulsory legal education known as the Advanced Legal Education Programme ("ALE"). A pupil must attend such ALE courses as may be required by the Bar Council and obtain a sufficient number of ALE points.
25. There is no compulsory legal education for other practicing barristers. Having said that, the HKBA organises seminars on various legal subjects from time to time.

#### *Funds and scholarships*

26. The HKBA administers a number of funds and scholarships to give financial assistance to new or prospective entrants to the Bar. Such financial assistance may be provided by reference to the merits and/or financial means of the applicants.

#### *Bar Free Legal Services Scheme*

27. The HKBA runs the Bar Free Legal Services Scheme, which provides free legal advice and representation in cases where legal aid is not available or where the applicant is unable to afford legal assistance and the case is thought to be an appropriate one where assistance should be given. The day-to-day administration and initial processing of applications is operated by a coordinator assisted by supporting staff. Barristers who have volunteered to help in the scheme are placed on a panel.

#### *Visits and talks*

28. The HKBA receives and meets delegations and representatives from Mainland China and overseas jurisdictions. These delegations and representatives include government officials, judges, fellow members of the legal profession and law students.
29. The HKBA also organises Court visits and school visits for students in Hong Kong.

#### *Overseas visits and conferences*

30. The HKBA sends representatives to international bodies and legal conferences around the world. In 2019 the Chairman has attended conferences and events in India, Malaysia, England, U.S.A., Russia, Hungary, South Korea and Switzerland.

### **Developments in 2019**

31. The Bar Council implemented its 2018 decision to introduce a system of paid pupillage under which pupil barristers receive some regular remuneration when serving pupillage. It has also progressed plans to introduce a system of compulsory legal education which will be largely self-supervised with some monitoring by the HKBA. It also prepared and circulated a proposal for paid parental leave.
32. Another initiative has been exploration of a scheme to provide paid parental leave. As barristers are self-employed but cannot form partnerships and must maintain professional chambers, taking time off from practice to care for a new child can be

expensive. The Bar Council is in the process of ascertaining whether some subsidy should be paid to new parents when at home looking after a child but still paying chambers rent and other overheads.

33. Much of the HKBA's work this year has been concerned with the fall-out from the Government's ill-considered plan to introduce amendments to legislation dealing with the surrender of fugitives and mutual legal assistance. The proposed changes would have removed a firewall preventing the surrender of persons to the Mainland and providing assistance to law enforcement bodies there. The HKBA criticised the proposed legislation for removing the firewall and not providing good reasons for the change in the law.
34. There were popular mass protests against the proposed amendments. These transformed into protests against Government generally for perceived inadequacies in governance including a failure to progress plans for democratic development. Some of these protests have included violence and damage to property.
35. The HKBA has made 8 statements connected with the proposed legislative changes and issues arising from the protests. These have included statements condemning violence, including police violence, statements deprecating attacks on judges and lawyers and a statement about obeying court orders designed to protect property. The protests continue and the HKBA will continue to monitor the situation.

**Hong Kong Bar Association**  
**30 October 2019**