

《公證人 (紀律審裁組法律程序) 規則》
(第 159 章，附屬法例 AE)

Notaries Public (Disciplinary Tribunal Proceedings) Rules
(Cap. 159 sub. leg. AE)

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經核證文本
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尚未實施的條文 / 修訂 ——

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制定史

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《公證人 (紀律審裁組法律程序) 規則》

(第 159 章, 附屬法例 AE)

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Notaries Public (Disciplinary Tribunal Proceedings)
Rules

(Cap. 159 sub. leg. AE)

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《公證人（紀律審裁組法律程序）規則》

（第 159 章第 73D 條）

（略去制定語式條文——2019 年第 2 號編輯修訂紀錄）

[2005 年 6 月 30 日] 2005 年第 60 號法律公告
（格式變更——2019 年第 2 號編輯修訂紀錄）

1. （已失時效而略去——2019 年第 2 號編輯修訂紀錄）

2. 釋義

在本規則中，除文意另有所指外——

申請人 (applicant) ——

- (a) 就根據本條例第 40H(1) 條呈交的任何事宜的研訊而言，指公證人協會；或
- (b) 就根據本條例第 40H(2) 條呈交的任何事宜的研訊而言，指高等法院首席法官根據第 3 條委任的人；

研訊 (inquiry) 指根據本條例第 40J(1) 條進行的研訊；

書記 (clerk) 指審裁組的書記或獲審裁組委任以執行該職位的職責的任何人士；

秘書 (Secretary) 指公證人協會秘書；

答辯人 (respondent) 指一名公證人，而他的行為操守是研訊的標的；

審裁組 (Tribunal) 指根據本條例第 40I 條組成的公證人紀律審裁組；

審裁組召集人 (Tribunal Convenor) 指終審法院首席法官根據本條例第 40G(4) 條委任的審裁組召集人。

Notaries Public (Disciplinary Tribunal Proceedings) Rules

(Cap. 159, section 73D)

(Enacting provision omitted—E.R. 2 of 2019)

[30 June 2005] L.N. 60 of 2005
(Format changes—E.R. 2 of 2019)

1. (Omitted as spent—E.R. 2 of 2019)

2. Interpretation

In these Rules, unless the context otherwise requires—

applicant (申請人) means—

- (a) in the case of an inquiry on a matter submitted under section 40H(1) of the Ordinance, the Society of Notaries; or
- (b) in the case of an inquiry on a matter submitted under section 40H(2) of the Ordinance, the person appointed by the Chief Judge under section 3;

clerk (書記) means the clerk to a Tribunal or any person appointed by a Tribunal to perform the duties of that office;

inquiry (研訊) means an inquiry under section 40J(1) of the Ordinance;

respondent (答辯人) means a notary public whose conduct is the subject of an inquiry;

Secretary (秘書) means the Secretary of the Society of Notaries;

(2019 年第 2 號編輯修訂紀錄)

3. 申請人的委任

凡高等法院首席法官根據本條例第 40H(2) 條向審裁組召集人呈交任何事宜，高等法院首席法官可委任任何人（包括在公證人協會同意下委任該會）作為其後研訊的申請人。

4. 就審裁組的組成發出通知

在組成審裁組以進行研訊後 7 天內，書記必須將以下各項以書面通知知會申請人及答辯人——

- (a) 審裁組的組成；
- (b) 審裁組各成員的姓名；及
- (c) 審裁組供送達文件的地址。

5. 無須進行聆訊而中止研訊

審裁組在考慮根據本條例第 40H 條向審裁組召集人呈交的任何事宜後，如信納並無顯示須對答辯人採取紀律行動的表面證據，則審裁組可根據本條例第 40J(2) 條作出命令，飭令在不進行進一步聆訊的情況下中止有關研訊。

6. 聆訊通知

- (1) 審裁組在考慮根據本條例第 40H 條向審裁組召集人呈交的任何事宜後，如按證據表面信納有導致對答辯人採取紀律行動的情況存在，則——

Tribunal (審裁組) means a Notaries Public Disciplinary Tribunal constituted under section 40I of the Ordinance;

Tribunal Convenor (審裁組召集人) means the Tribunal Convenor appointed by the Chief Justice under section 40G(4) of the Ordinance.

3. Appointment of applicant

If a matter is submitted by the Chief Judge to the Tribunal Convenor under section 40H(2) of the Ordinance, the Chief Judge may appoint any person, including the Society of Notaries if it so consents, as the applicant in the subsequent inquiry.

4. Notice of constitution of Tribunal

Within 7 days after a Tribunal has been constituted to conduct an inquiry, the clerk must by written notice inform the applicant and respondent of—

- (a) the constitution of the Tribunal;
- (b) the names of the Tribunal's members; and
- (c) the Tribunal's address for service.

5. Discontinuance of inquiry without hearing

If, after considering a matter submitted to the Tribunal Convenor under section 40H of the Ordinance, a Tribunal is satisfied on the face of the evidence that no case for disciplinary action is shown against the respondent, the Tribunal may make an order under section 40J(2) of the Ordinance that the inquiry be discontinued without further hearing.

6. Notice of hearing

- (1) If, after considering a matter submitted to the Tribunal Convenor under section 40H of the Ordinance, a Tribunal

- (a) 審裁組必須在切實可行範圍內盡快定出有關研訊的首次聆訊日期、時間及地點；及
- (b) 書記必須——
 - (i) 以書面通知將該聆訊知會申請人及答辯人；及
 - (ii) 將載有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的有關文件的副本，送達答辯人。
- (2) 根據第 (1)(b) 款送達通知及文件的日期與所定的首次聆訊日期之間，不得相隔少於 21 天。
- (3) 在定出研訊其後每次聆訊的日期、時間及地點後，書記必須在切實可行範圍內盡快以書面通知知會申請人及答辯人。

7. 沒有出席聆訊

- (1) 如申請人或答辯人沒有出席聆訊，則審裁組在信納聆訊通知已送達缺席的一方後，仍可進行有關研訊。
- (2) 如缺席的一方是申請人，則審裁組可根據本條例第 40J(2) 條作出命令，飭令在不進行進一步聆訊的情況下中止有關研訊。

8. 由律師或大律師代表

申請人及答辯人在研訊中均可由律師或大律師代表。

is satisfied on the face of the evidence that a case for disciplinary action is shown against the respondent, then—

- (a) the Tribunal must as soon as practicable fix the date, time and place of the first hearing of the inquiry; and
- (b) the clerk must—
 - (i) by written notice inform the applicant and respondent of such hearing; and
 - (ii) serve on the respondent copies of relevant documents containing particulars of the conduct that is to be inquired into and particulars of any associated allegations of misconduct.
- (2) The period between the date of service of the notice and documents under subsection (1)(b) and the day fixed for the first hearing must not be less than 21 days.
- (3) As soon as practicable after the date, time and place of each subsequent hearing of the inquiry have been fixed, the clerk must by written notice inform the applicant and respondent.

7. Failure to appear at hearing

- (1) If either the applicant or respondent fails to appear at a hearing, the Tribunal may still proceed with the inquiry if it is satisfied that a notice of hearing has been served on the absent party.
- (2) If the absent party is the applicant, the Tribunal may make an order under section 40J(2) of the Ordinance that the inquiry be discontinued without further hearing.

8. Representation by solicitor or counsel

The applicant and respondent may be represented at an inquiry by solicitor or counsel.

9. 藉誓章提出的證據的可接納性

- (1) 審裁組可根據藉誓章提出的證據，就整宗研訊或個別事實進行聆訊和行事。
- (2) 審裁組可主動或應申請人或答辯人的申請，要求任何誓章的宣誓人出席審裁組的聆訊，以作出口頭證供和接受盤問。

10. 命令的作出、送達及送交存檔

- (1) 審裁組可在完成研訊當日或在它所定的較後日期，就研訊作出命令。
- (2) 凡命令將會在某較後日期作出，書記必須在切實可行範圍內盡快以書面通知將作出該命令的日期、時間及地點知會申請人及答辯人。
- (3) 書記必須在命令作出後 4 天內，將它送達申請人及答辯人。
- (4) 書記必須在命令作出後 14 天內，按照本條例第 40J(3) 及 40L(2) 條將它送交存檔。

11. 法律程序的撤回

除非審裁組另有指示，否則在根據第 6(1)(b) 條就研訊送達首次聆訊的通知後，在審裁組席前進行的任何法律程序均不得撤回。

12. 押後聆訊

審裁組可主動或應申請人或答辯人的申請，按它認為適當的關於訟費或其他方面的條款將聆訊押後。

9. Admissibility of evidence given by affidavit

- (1) A Tribunal may either as to an entire inquiry or as to a particular fact proceed and act upon evidence given by affidavit.
- (2) The Tribunal may, of its own motion or on the application of the applicant or respondent, require the deponent to an affidavit to attend before the Tribunal for the purpose of giving oral evidence and of being cross-examined.

10. Making, service and filing of order

- (1) A Tribunal may make any order in relation to an inquiry on the day on which the inquiry is completed, or at a later date as the Tribunal may fix.
- (2) If the order is to be made at a later date, then as soon as practicable after the date, time and place for doing so have been fixed, the clerk must by written notice inform the applicant and respondent.
- (3) Within 4 days after the date of making the order, the clerk must serve the order on the applicant and respondent.
- (4) Within 14 days after the date of making the order, the clerk must file the order in accordance with sections 40J(3) and 40L(2) of the Ordinance.

11. Withdrawal of proceedings

Unless a Tribunal directs otherwise, no proceedings before it may be withdrawn once a notice of the first hearing of the inquiry has been served under section 6(1)(b).

12. Adjournments

A Tribunal may, of its own motion or on the application of the applicant or respondent, adjourn a hearing on such terms as to

13. 法律程序的紀錄

- (1) 審裁組的法律程序必須以速記或錄音方式予以記錄。
- (2) 法律程序的申請人及答辯人在向審裁組繳付合理費用後，可查閱該等紀錄和取得該等紀錄的副本。

14. 送達

- (1) 根據本規則送達的任何通知或文件，可採用面交送達的方式或寄往以下地方的掛號郵遞的方式送達——
 - (a) 如送達對象是審裁組，則送達第 4(c) 條提述的審裁組供送達文件的地址予書記；
 - (b) 如送達對象是答辯人——
 - (i) 則送達答辯人在香港通常的居住或營業地方；或
 - (ii) 如地址不詳，則送達答辯人最後為人所知的在香港的居住或營業地方；及
 - (c) 在其他情況下，則送達須獲送達該通知或文件的人最後為人所知的在香港的居住或營業地方。
- (2) 審裁組如認為適當，可就任何通知或文件作出替代送達的命令。

15. 時間的延長或縮短

凡審裁組已就某人須根據本規則作出任何事情指明時限，則審裁組可延長或縮短該時限。

costs or otherwise as the Tribunal considers appropriate.

13. Record of proceedings

- (1) The proceedings of the Tribunal must be recorded by shorthand notes or by sound recording.
- (2) The applicant and respondent to the proceedings may inspect and take copies of the record on payment of reasonable charges to the Tribunal.

14. Service

- (1) Service of a notice or document under these Rules may be effected personally or by registered post addressed—
 - (a) in the case of a Tribunal, to the clerk at the Tribunal's address for service referred to in section 4(c);
 - (b) in the case of a respondent—
 - (i) to the respondent's usual place of residence or business in Hong Kong; or
 - (ii) if the address is unknown, to the respondent's last known place of residence or business in Hong Kong; and
 - (c) in any other case, to the last known place of residence or business in Hong Kong of the person to be served.
- (2) A Tribunal may make an order for substituted service of a notice or document if the Tribunal considers it appropriate to do so.

15. Extension or abridgement of time

Where a Tribunal has specified a time limit within which a person is required to do anything under these Rules, the Tribunal may extend or abridge such time limit.

16. 保留文件以待上訴

- (1) 除非審裁組另有命令，否則在與根據本規則進行的任何法律程序有關連的情況下出示、使用或作出的所有文件及證物——
 - (a) 必須由審裁組或書記保留，直至可根據本條例第 40M 條提出上訴的期限屆滿為止；或
 - (b) 在有人提出上訴的情況下，必須由審裁組或書記保留，直至上訴已予聆訊或以其他方式處理為止，
而在其後則必須交予秘書妥為保管。
- (2) 秘書必須於自收取文件及證物的日期後起計不少於 3 年的期間保留該等文件及證物。在此期間，任何人均不得在未經審裁組召集人同意的情況下取用該等文件或證物。

17. 程序及證據規則

除本條例及本規則另有規定外，審裁組可決定其本身的程序及證據規則。

18. 傳票

根據本條例第 40K(1) 條發出的傳票，必須符合附表訂明的格式。

16. Retention of documents pending appeal

- (1) Unless a Tribunal otherwise orders, all documents and exhibits produced, used or made in connection with any proceedings under these Rules must be retained by the Tribunal or the clerk—
 - (a) until the time for an appeal under section 40M of the Ordinance has expired; or
 - (b) if an appeal is lodged, until the appeal is heard or otherwise disposed of,
and thereafter must be deposited with the Secretary for safe keeping.
- (2) The Secretary must retain the documents and exhibits for a period of not less than 3 years after the date of their receipt. During that period, no person may have access to the documents or exhibits without the Tribunal Convenor's consent.

17. Procedure and rules of evidence

Subject to the Ordinance and these Rules, a Tribunal may determine its own procedure and rules of evidence.

18. Summons

The form of a summons issued under section 40K(1) of the Ordinance must be in accordance with the form prescribed in the Schedule.

S-1

附表

第 159AE 章

Schedule

S-2

Cap. 159AE

附表

[第 18 條]

表格

證人傳票

《法律執業者條例》
(第 159 章)

關於根據《法律執業者條例》第 40J(1) 條進行的研訊。

關於地址為 ⁽¹⁾.....

的 ⁽²⁾ 公證人／公證人的僱員 ⁽³⁾..... 的研訊事宜。

致 ⁽⁴⁾ :..... 地址為 ⁽⁵⁾.....

.....。

現傳召你出席公證人紀律審裁組於 20..... 年..... 月

..... 日 (星期.....) ⁽⁶⁾ 上午／下午..... 時..... 分在
..... 進行的研訊，就研訊所涉及的事宜作
證，⁽⁷⁾ 並帶同及出示以下的指明文件：

[述明須出示的文件的詳情]

而除非審裁組另有指示，否則你亦須每天出席該研訊，直至該研訊
完成為止。

本傳票於 20..... 年..... 月..... 日由本人簽發。

.....
公證人紀律審裁組主席

Schedule

[s. 18]

Form

SUMMONS TO WITNESS

LEGAL PRACTITIONERS ORDINANCE
(Chapter 159)

In the matter of an inquiry under section 40J(1) of the Legal
Practitioners Ordinance.

And in the matter of ⁽¹⁾.....,
⁽²⁾ a notary public/an employee of a notary public of ⁽³⁾.....

.....
TO ⁽⁴⁾ :..... of
⁽⁵⁾.....

You are hereby summoned to attend before the Notaries Public
Disciplinary Tribunal at on
..... day, the day of 20 at ⁽⁶⁾ a.m./
p.m., and so from day to day until the Tribunal otherwise directs, to give
evidence in respect of the matter under inquiry ⁽⁷⁾ and also to bring with
you and produce the documents specified below:

[State particulars of documents required to be produced]

Given under my hand this day of 20.....

.....
Chairman of the Notaries Public
Disciplinary Tribunal

S-3

附表

第 159AE 章

- 註： (1) 填上答辯人的地址。
(2) 如不適用可刪去。
(3) 填上答辯人的姓名。
(4) 填上證人的姓名。
(5) 填上證人的地址。
(6) 如不適用可刪去。
(7) 如不要求證人出示文件，此項可刪去。

Schedule

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- NOTE: (1) Insert name of respondent.
(2) Delete if inapplicable.
(3) Insert address of respondent.
(4) Insert name of witness.
(5) Insert address of witness.
(6) Delete if inapplicable.
(7) Delete if witness not required to produce documents.