

## LEGAL SYSTEMS IN ASEAN – SINGAPORE CHAPTER 6 - THE LEGAL PROFESSION

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### A. INTRODUCTION

Unlike the legal profession in England which is divided into barristers and solicitors, the Singapore legal profession is a fused profession, with each lawyer who is called to the Bar known as an ‘Advocate and Solicitor’ with the exclusive right of audience to appear before all courts of justice in Singapore<sup>1</sup>. In 1996<sup>2</sup>, a new prestigious rank of litigation specialists called Senior Counsel was created which is analogous to the rank of Queen’s Counsel in England<sup>3</sup>.

In recent years, the legal profession has undergone important structural changes. As part of the liberalisation of legal services, the Legal Profession Act (Cap. 161) was amended in 2000<sup>4</sup> to provide that resident foreign lawyers practising in foreign law firms in Singapore are required to register with the Attorney-General. By virtue of the same set of amendments, foreign lawyers were permitted, with the approval of the Attorney-General, to form joint law ventures and formal law alliances with local law firms and law corporations<sup>5</sup>. Law firms which were traditionally operating in general partnerships were allowed to practise as limited companies in 2000 in the form of Limited Law Corporations or LLCs<sup>6</sup>. Lawyers are permitted to practise as locum solicitors from 2005 through the amendments effected by the Legal Profession (Amendment) Act 2004<sup>7</sup>. With the enactment of the Limited Liability Partnerships Act 2005, lawyers will be able to practise as, and law firms can now be converted into, Limited Liability Law Partnerships or LLPs<sup>8</sup>.

#### *Fused Profession*

As mentioned above, the Singapore legal profession is a fused profession, with each lawyer who is called to the Bar being called an ‘Advocate and Solicitor’ with the exclusive right of audience to appear before all courts of justice in Singapore<sup>9</sup>. In practice, some

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\* The views expressed in this article are that of the author alone. They do not necessarily reflect the views or opinions of the ASEAN Law Association or the organisation which the author is currently associated with.

<sup>1</sup> Section 29(1), Legal Profession Act (Cap. 161, 2001 Rev Ed.) (“LPA”).

<sup>2</sup> Section 30 was introduced by the Legal Profession (Amendment) Act 1996 (No. 40 of 1996). The Legal Profession (Amendment) Act 1989 (No. 15 of 1989) had earlier introduced section 28A on appointment of Senior Counsel but no appointment was made under the 1989 provisions except for the statutory appointments of the persons who held the offices of Attorney-General and Solicitor-General in 1989 (Mr Tan Boon Teik and Mr Koh Eng Tian).

<sup>3</sup> Section 30, LPA.

<sup>4</sup> See new Part IXA of the LPA inserted by the Legal Profession (Amendment) Act 2000 (No. 4 of 2000).

<sup>5</sup> See sections 130B and 130D, LPA.

<sup>6</sup> See new Part VIA of the LPA inserted by the Legal Profession (Amendment) Act 2000 (No. 4 of 2000).

<sup>7</sup> No. 23 of 2004.

<sup>8</sup> See also the Legal Profession (Amendment) Bill 2005 (No. 31 of 2005) introduced on 17 October 2005.

<sup>9</sup> Section 29(1), LPA.

lawyers specialise in litigation whilst other lawyers focus on solicitors work and do not appear in court. As at 31 March 2005, there were a total of 3,439 practising lawyers on the Roll of Advocates and Solicitors of whom 2094 are graduates of the Law Faculty of the University of Malaya (in Singapore) or National University of Singapore (NUS).

### ***Senior Counsel***

The emergence of highly specialist litigators has led to the appointment of Senior Counsel, analogous to the rank of Queen's Counsel in England<sup>10</sup>. The appointments were intended to encourage home-grown advocates of the highest calibre instead of reliance on the ad hoc admission of Queen's Counsel from England<sup>11</sup>. Some senior lawyers feel that the increasing use of Senior Counsel for very complex litigation will lead to a quasi-split profession. As at October 2005, there were 41 Senior Counsel<sup>12</sup>. Several Senior Counsel on the list are not practising as they are currently Judges of the Supreme Court.

Senior Counsel in Singapore are appointed by a selection committee constituted under section 30 of the Legal Profession Act comprising the Chief Justice, the Attorney-General and the Judges of Appeal. The selection committee appoints Senior Counsel on the basis of applications received from persons who have had a minimum of 10 years' experience as advocates and solicitors or as Legal Service officers or both. The committee may appoint a member of the Bar as a Senior Counsel if they are of the opinion that, by virtue of the person's ability, standing at the Bar or special knowledge or experience in law, the person is deserving of such distinction. Senior Counsel rank in precedence after the Attorney-General and the Solicitor-General according to their seniority of appointment as Senior Counsel<sup>13</sup>.

### ***Consultants***

A practising lawyer is not allowed to take or use the title of consultant unless he has not less than 10 years' experience in the aggregate as a practising lawyer, legal officer or academic in the Law Faculty of NUS. It is not uncommon for retired partners and retired judges to practise as consultants to law firms.

## **B. INSTITUTIONS**

The institutions governing the admission into and the conduct of the legal profession in Singapore are:

- (a) Board of Legal Education;
- (b) Supreme Court of Singapore;
- (b) Law Society of Singapore;
- (c) Singapore Academy of Law; and
- (d) Attorney-General's Chambers.

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<sup>10</sup> Section 30, LPA.

<sup>11</sup> Before the appointment of Senior Counsel, parties would seek the ad hoc admission of Queen's Counsel (QC) from England under section 21 of the LPA for difficult and complex cases in which the QC had special qualifications or experience.

<sup>12</sup> See "Senior Counsel" in website of the Singapore Academy of Law at <http://www.sal.org.sg>.

<sup>13</sup> Section 31, LPA

### ***Board of Legal Education***

The Board of Legal Education (“Board”) is a statutory body established under the Legal Profession Act<sup>14</sup>. The Board comprises the Attorney-General, the President of the Law Society of Singapore, the Dean of the Law Faculty of NUS, 4 advocates and solicitors nominated by the Senate of the Academy of Law after consultation with the Council of the Law Society, and 3 other members nominated by the Senate of the Academy of Law<sup>15</sup>.

The main objectives of the Board are to register qualified persons seeking admission as advocates and solicitors, to provide for the training, education and examination of qualified persons intending to practise the profession of law in Singapore and to exercise supervision over qualified persons during their period of pupillage<sup>16</sup>.

### ***Supreme Court of Singapore***

All advocates and solicitors and legal officers are officers of the Supreme Court<sup>17</sup>. Advocates and solicitors are admitted by a Judge of the Supreme Court, usually the Chief Justice, at a “mass call”. The Registrar of the Supreme Court issues, upon application, the practising certificates authorising the lawyer to practise as an advocate and solicitor in Singapore<sup>18</sup>. The Registrar also maintains a register of practitioners. A lawyer cannot practise law without a practising certificate<sup>19</sup>. All advocates and solicitors are subject to the control of the Supreme Court and are liable on due cause shown to a court of 3 Judges of the Supreme Court, to be struck off the roll or suspended from practice for any period not exceeding 5 years or censured<sup>20</sup>.

### ***Law Society of Singapore***

The Society was established in 1967 by statute and took on the name of the Law Society of Singapore in 1970<sup>21</sup>. The Society is managed by a body of persons called the Council of the Society which consists of 15 elected members, as well as 3 members nominated to serve by the Minister for Law<sup>22</sup>. Elections to the Council are held every year and all lawyers who hold practising certificates vote at the elections in the category of their seniority at the Bar. Voting is compulsory by law<sup>23</sup>. The members of the Council elect from amongst themselves, a President and two Vice Presidents of the Law Society.

The purposes of the Law Society and the powers of the Council are described in the Legal Profession Act<sup>24</sup>. Some of the important purposes of the Law Society are to maintain and improve the standards of conduct and learning of the legal profession in Singapore, to represent, protect and assist members of the legal profession in Singapore, to protect and

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<sup>14</sup> Section 3, LPA.

<sup>15</sup> Section 8(1), LPA.

<sup>16</sup> Section 4, LPA.

<sup>17</sup> Section 82(1), LPA.

<sup>18</sup> Section 25(2), LPA.

<sup>19</sup> It is an offence under section 33 of the LPA punishable by a fine and/or imprisonment of up to 6 months.

<sup>20</sup> Section 83, LPA.

<sup>21</sup> Section 37, LPA.

<sup>22</sup> Sections 47 to 49, LPA.

<sup>23</sup> Section 50, LPA.

<sup>24</sup> Section 38, LPA.

assist the public in Singapore in all matters touching on the law and to establish a scheme whereby needy persons on non-capital criminal charges can be represented by lawyers.

Some important functions of the Council are to make rules to regulate the practice and conduct of lawyers, to manage the Law Society and its funds, and to deal with complaints of misconduct against lawyers. To assist the Council in carrying out its statutory functions, the Council has appointed various committees and permanent staff including a Chief Executive.

### ***Singapore Academy of Law***

The Singapore Academy of Law ("the Academy") was established by the Singapore Academy of Law Act<sup>25</sup> in 1988. At the time of its inception, Parliament had envisaged an institution patterned after the English Inns of Court, to develop among the legal profession in Singapore a collegiate spirit which is necessary for pride in the profession and in its standards and practices befitting an honourable profession.

Over the years, the Academy has evolved from a membership-based body to a service-based institution. It is now also the law reporting agency in Singapore; a continuing legal education provider; a legal publications body; an alternative dispute resolutions agency; an appointing body for Senior Counsel, commissioners for oaths and notaries public; a promoter of legal information technology and the keeper of stakeholding moneys in Singapore<sup>26</sup>.

The Academy is a statutory body with a broad set of functions<sup>27</sup>. Under the Academy is its subsidiary, the Singapore Mediation Centre, which plays a specialised and unique role in the promotion of mediation as alternative means for the resolution of civil, commercial and trade disputes.

### ***Attorney-General***

The regulation of foreign lawyers in Singapore is vested in the Attorney-General rather than the Law Society. The office of the Attorney-General of Singapore is established by the Constitution of Singapore<sup>28</sup>. In addition to being the Public Prosecutor, the Attorney-General advises the Government upon such legal matters and performs such other duties of a legal character, as may be referred or assigned to him by the President or the Cabinet. He is also to discharge the functions conferred on him by the Constitution or any other legislation. The Legal Profession (International Services) Secretariat in the Attorney-General's Chambers registers all foreign law firms and foreign lawyers practising offshore law in Singapore<sup>29</sup>. The Attorney-General is the approving authority for the formation of Joint Law Ventures and Formal Law Alliances between Singapore law firms and foreign law firms<sup>30</sup>. The Attorney-General is also empowered to take disciplinary proceedings<sup>31</sup>

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<sup>25</sup> Cap. 294A.

<sup>26</sup> See "About us" in website of the Singapore Academy of Law at <http://www.sal.org.sg>.

<sup>27</sup> Section 4, Singapore Academy of Law Act (Cap. 294A, 1997 Rev Ed.).

<sup>28</sup> Article 35(1) of the Constitution of the Republic of Singapore (1999 Reprint).

<sup>29</sup> Section 130I, LPA.

<sup>30</sup> Sections 130B and 130D, LPA.

<sup>31</sup> Section 130F, LPA.

against foreign lawyers and may cancel the registration<sup>32</sup> of a Joint Law Venture or a Formal Law Alliance for sufficient reasons.

### C. PRACTICE STRUCTURES

Practising lawyers have a wide variety of structures in which to practise law. They may practise in sole proprietorships, in general partnerships, in limited liability partnerships and in limited law corporations. In addition, solicitors may practise on a temporary or free lance basis as a locum solicitor<sup>33</sup> and several small law firms can form a Group Law Practice<sup>34</sup>. Large firms specialising in corporate and banking and finance may also practise jointly with international law firms through Joint Law Ventures<sup>35</sup> and Formal Law Alliances<sup>36</sup>.

#### *Sole Proprietors and General Partnerships*

A lawyer may practise alone or in partnership with other lawyers or as an employed legal assistant in a law firm. The firm is owned by the partners and the legal assistants are salaried employees. Although there are a number of large firms, the vast majority of firms are small and medium-sized. Up to 1 March 1997, there was nothing to prevent a newly qualified lawyer from setting up his own law firm. This was changed in 1997 when the Legal Profession Act was amended. Lawyers admitted on or after 1 March 1997, cannot practise as a sole proprietor or partner for the first three years of practise<sup>37</sup>. After 3 years of practise, lawyers can practise without any restriction as a partner or director. A lawyer cannot practise as a sole proprietor, even after 3 years of practise, without completing the Law Society's Legal Practice Management Course.

A solicitor may be exempted from this restriction if the Minister for Law is satisfied that a solicitor has gained substantial experience in law in Singapore or elsewhere<sup>38</sup>. The application, however, must be made to the Council which then seeks the Minister's approval on the solicitor's behalf. Section 75C will not apply if the lawyer practises as a partner with a lawyer of more than 3 years' practice<sup>39</sup>.

#### *Limited Liability Law Partnerships*

With the enactment of the Limited Liability Partnerships Act 2005<sup>40</sup>, lawyers can now take advantage of this new business vehicle for the practise of law. Although the structure and management of an LLP is closer to that of a general partnership than a limited law

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<sup>32</sup> Section 130G, LPA.

<sup>33</sup> Section 25(2A), LPA.

<sup>34</sup> There were as at 13 October 2004, 6 group law practices. The largest group comprised 11 law firms. See [www.lawsociety.org.sg](http://www.lawsociety.org.sg).

<sup>35</sup> There were as at 3 October 2005, 6 Joint Law Ventures, namely Allen & Overy, Shook Lin and Bok, Baker & McKenzie, Wong & Leow Pte Ltd, Clifford Chance Wong Pte Ltd, Freshfields Drew & Napier Pte Ltd, Linklaters Allen & Gledhill Pte Ltd and Lovells Lee & Lee Pte Ltd. See "Legal Professional (International Services) Secretariat" in website of Attorney-General's Chambers at [www.agc.gov.sg](http://www.agc.gov.sg).

<sup>36</sup> There was as at 13 October 2005, no formal law alliance registered.

<sup>37</sup> Section 75C, LPA.

<sup>38</sup> Section 75C(2), LPA.

<sup>39</sup> Section 75C(3), LPA.

<sup>40</sup> No. 5 of 2005.

corporation, the LLP is a separate legal entity from its partners<sup>41</sup>. The liability of partners are limited to the amount of their contributions to the property of the LLP. A partner is not personally liable, directly or indirectly, by way of indemnification, contribution, assessment or otherwise, for an obligation of the LLP solely by reason of being a partner of the LLP<sup>42</sup>. The partners of the LLP are not vicariously responsible for the negligence and other wrongful acts of their employees. But lawyers practising in an LLP continue to be personally liable for their own professional negligence. The Legal Profession (Amendment) Bill 2005 (Bill No. 31 of 2005) introduced on 17 October 2005 will introduce the regulatory requirements for lawyers practising in limited liability partnerships. As an LLP will be a separate legal entity and its liability is limited, the regulatory restrictions in the new Part VIB of the Legal Profession Act are similar to that imposed on limited law corporations.

### ***Limited Law Corporations***

Singapore lawyers have the option of providing legal services through law corporations in addition to sole proprietorships or partnerships with the enactment of the Legal Profession (Amendment) Act 2000<sup>43</sup>. A law corporation is an exempt private limited company incorporated under the Companies Act<sup>44</sup>. The liabilities of shareholders of the LLC are limited to their share contributions. The directors and shareholders are not vicariously responsible for the negligence and other wrongful acts of their employees. But lawyers practising in a LLC continue to be personally liable for their own professional negligence. The directors of the LLC shall be jointly liable to disciplinary proceedings under the Legal Profession Act if the business of the law corporation is conducted in a manner unbefitting an honourable profession and where such conduct cannot be attributed to the act or omission of a particular solicitor or solicitors whose identity is known<sup>45</sup>.

The LLC has the same rights and is subject to the same fiduciary, confidential and ethical requirements with respect to each client that exist at law with respect to a solicitor and his client<sup>46</sup>. The Companies Act and other written law relevant to companies will apply to a law corporation subject to the overriding requirements and restrictions under the Legal Profession Act and the Legal Profession (Law Corporation) Rules. Some of the restrictions relate to the holding and disposal of shares in the LLC. The name of the law corporation must be approved by the Council. A law corporation (which is a separate legal entity from the practising lawyers who are members of its Board of Directors) has all the rights and is subject to the same obligations as a lawyer holding a practising certificate. The memorandum of every law corporation must comply with the requirements in the Legal Profession (Law Corporation) Rules and every law corporation is required by the Legal Profession (Professional Indemnity Insurance) Rules to maintain a higher coverage of indemnity insurance (\$2 million for each claim) than general partnerships (\$1 million for each claim)<sup>47</sup>. There is however no minimum paid-up capital to comply with.

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<sup>41</sup> Section 4, Limited Liability Partnerships Act 2005.

<sup>42</sup> Section 8, Limited Liability Partnerships Act 2005.

<sup>43</sup> Part VIA of the LPA contains sections 81A to 81O which sets out the relevant statutory provisions on the commencement to the winding up of a law corporation. On 1 October 2000, the Legal Profession (Law Corporation) Rules were enacted by the Minister of Law under section 81N of the Act, to enable the Council to accept applications by lawyers to form a law corporation.

<sup>44</sup> Cap. 50.

<sup>45</sup> Section 81F, LPA.

<sup>46</sup> Section 81E(1), LPA.

<sup>47</sup> Rule 4(1), Legal Profession (Professional Indemnity Insurance) Rules (Cap. 161, R 11, 2002 Rev Ed.).

## D. FOREIGN LAWYERS

The regulation of foreign lawyers in Singapore is vested in the Attorney-General rather than the Law Society. The Legal Profession (International Services) Secretariat of the Attorney-General's Chambers registers all foreign law firms and foreign lawyers practising offshore law in Singapore<sup>48</sup>. As at 3 October 2005, there were 62 foreign law firms and 6 foreign representative law offices registered with the Attorney-General's Chambers.<sup>49</sup>

### *Joint Law Ventures and Formal Law Alliances*

The Attorney-General is the approving authority for the formation of Joint Law Ventures and Formal Law Alliances between Singapore law firms and foreign law firms<sup>50</sup>. As at 3 October 2005, there were 6 Joint Law Ventures<sup>51</sup>. A foreign lawyer who is employed by or who is a partner or director of a Joint Law Venture may practise Singapore law as part of the Joint Law Venture if he is registered to practise Singapore law by the Attorney-General<sup>52</sup>.

A Joint Law Venture may be constituted: (a) by a partnership between a foreign law firm and a Singapore law firm; or (b) by the incorporation of a company under Singapore law with shares in the company held by a foreign law firm and a Singapore law firm or by their respective nominees<sup>53</sup>. Approval is subject to compliance with the conditions set out in the Legal Profession (International Services) Rules. For example, the foreign law firm and the Singapore law firm must have relevant legal expertise and experience in banking and finance work which are acceptable to the Attorney-General.<sup>54</sup>

A Joint Law Venture is entitled to privileges<sup>55</sup>. The Joint Law Venture may practise in areas of legal practice mutually agreed between the law firms constituting the Joint Law Venture. Foreign lawyers who are employed by, or who are partners or directors of, the registered Joint Law Venture may practise Singapore law. The Joint Law Venture may market or publicise itself as a single service provider competent to provide legal services in all areas in which the constituent law firms are qualified to provide and bill its clients as if it were a single law firm.

A Formal Law Alliance is formed by a written agreement between the foreign law firm and the Singapore law firm. The approval is subject to compliance with conditions set out in the Legal Profession (International Services) Rules. For example, the foreign law firm and the Singapore law firm must have relevant legal expertise and experience in banking, finance, corporate, technology or telecommunications work or such other areas of work as

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<sup>48</sup> Section 130I, LPA.

<sup>49</sup> See "Legal Professional (International Services) Secretariat" in website of Attorney-General's Chambers at [www.agc.gov.sg](http://www.agc.gov.sg).

<sup>50</sup> Sections 130B and 130D, LPA.

<sup>51</sup> There were as at 3 October 2005, 6 Joint Law Ventures, namely Allen & Overy, Shook Lin and Bok, Baker & McKenzie, Wong & Leow Pte Ltd, Clifford Chance Wong Pte Ltd, Freshfields Drew & Napier Pte Ltd, Linklaters Allen & Gledhill Pte Ltd and Lovells Lee & Lee Pte Ltd.

<sup>52</sup> Section 130C, LPA.

<sup>53</sup> Section 130B(1), LPA.

<sup>54</sup> Rule 2(1)(a), Legal Profession (International Services) Rules (Cap. 161, R 20, 2002 Rev Ed.).

<sup>55</sup> Section 130B(6), LPA.

may be determined by the Attorney-General<sup>56</sup>. A Formal Law Alliance is entitled to privileges<sup>57</sup>. The Formal Law Alliance may market or publicise itself as a single service provider competent to provide legal services in all areas in which the constituent law firms are qualified to provide and bill its clients as if it were a single law firm. A foreign lawyer who is a partner, director or an employee of the foreign law firm which constitutes part of the Formal Law Alliance may prepare all the documents in a transaction involving the law or regulatory regime of more than one country or jurisdiction, except that any legal opinion relating to Singapore law must be given by a practising Singapore lawyer.

### ***Disciplinary Proceedings Against Foreign Lawyers***

A foreign lawyer practising Singapore law in a Joint Law Venture shall comply with such rules relating to professional conduct or ethics as may be prescribed in rules made under section 130J unless the Attorney-General, in his discretion, exempts the foreign lawyer from such compliance. Sections 71 and 72 and rules<sup>58</sup> made under those sections apply, with prescribed modifications to a Joint Law Venture in respect of the practice of Singapore law. The Attorney-General is also empowered to take disciplinary proceedings<sup>59</sup> against foreign lawyers and may cancel the registration<sup>60</sup> of a Joint Law Venture or a Formal Law Alliance for sufficient reasons.

## **E. QUALIFICATIONS TO PRACTISE**

### ***Legal Education and Law Faculty of National University of Singapore***

The Singapore law school, then called the Law Department of the University of Malaya (in Singapore) was set up in 1956. Until then, students wishing to become qualified lawyers had to pursue their law studies in England, Wales or Northern Ireland. The first batch of law students were admitted to the Law Department in September 1957. The first Professor of Law and Head of the Law Department was L A Sheridan. He was only 29 years of age and was already a distinguished scholar. He became the Dean when the Law Department became a Faculty of Law in 1958. He had the unenviable task of setting up a law library, recruiting staff, devising an internationally acceptable syllabus, introducing teaching methods to inexperienced teachers and developing legal research. The Law Faculty produced its first batch of 22 graduates in 1961<sup>61</sup>. The first local law graduate was admitted to the Singapore Bar on 26 January 1962. The first local law graduate was admitted to the Malayan (now Malaysian) Bar on 31 January 1962.

### ***Requirements for Admission as Advocates and Solicitors***

To be admitted as an advocate and solicitor of the Supreme Court of Singapore, a lawyer must be a “qualified person” within the meaning of Section 2 of the Legal Profession Act.

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<sup>56</sup> Rule 13(1)(a), Legal Profession (International Services) Rules (Cap. 161, R 20, 2002 Rev Ed.).

<sup>57</sup> Section 130D(6), LPA.

<sup>58</sup> The professional conduct and solicitors accounts rules are made pursuant to sections 71 (Rules as to professional practice, etiquette, conduct and discipline) and 72 (Rules as to keeping of accounts by solicitors) of the LPA.

<sup>59</sup> Section 130F, LPA.

<sup>60</sup> Section 130G, LPA.

<sup>61</sup> Attorney-General Chan Sek Keong, Ambassador Professor Tommy Koh and ASEAN Law Association former President T P B Menon were amongst the first batch of local law graduates.

Before a qualified person can be admitted to the Singapore Bar as an advocate and solicitor, he must also satisfy the other requirements of the Act which are as follows:

- (a) has attained the age of 21 years;
- (b) is of good character;
- (c) has satisfactorily served the prescribed period of pupillage for qualified persons;
- (d) has attended such courses of instruction and kept such dining terms as may be prescribed by the Board of Legal Education (Postgraduate Practical Law Course and Edu-Dine); and
- (e) has passed such examinations as may be prescribed by the Board (Postgraduate Practical Law Course examinations).

### ***Meaning of “Qualified Person”***

To be a qualified person<sup>62</sup>, an aspiring lawyer can either —

- (a) graduate with at least a Bachelor of Laws (LLB) (second class lower honours) from the National University of Singapore; or
- (b) graduate with at least a second class upper honours or equivalent law degree from approved universities in the United Kingdom (UK), Australia or New Zealand and obtain the Graduate Diploma in Singapore Law.

To qualify for admission to the one year full-time Diploma in Singapore Law course, applicants from approved UK universities must possess a first class or second upper class bachelor's degree in law. Applicants from approved Australian and New Zealand universities must be ranked by the institution concerned as among the highest 30% of the candidate's cohort in terms of academic performance. As at 1 August 2005, the approved universities are:

- (a) *UK universities* —  
Birmingham, Bristol, Cambridge, Durham, Exeter, Leeds, Leicester, Liverpool, London (King's College London, London School of Economics, Queen Mary and Westfield College, School of Oriental and African Studies, University College London), Manchester, Nottingham, Oxford, Sheffield, Southampton and Warwick;
- (b) *Australian and New Zealand universities* —  
Australian National University (ANU), Flinders, Monash, Melbourne, New South Wales, Queensland, Sydney, Auckland, Victoria (Wellington), Western Australia, Tasmania and Murdoch.

In addition, the Board of Legal Education has discretion<sup>63</sup> to approve as a qualified person any person who possesses such qualification or expertise as would contribute to, promote or enhance the quality of legal services in Singapore or the economic or technological

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<sup>62</sup> See generally the Legal Profession (Qualified Persons) Rules (Cap. 161, R 15, 2002 Rev Ed.).

<sup>63</sup> Section 7, LPA.

development of Singapore. This special scheme allows the Board to approve exceptional graduates from universities which are not on the approved list.

### ***Practical Law Course***

After one becomes a qualified person, the next step is to complete the Postgraduate Practical Law Course (“PLC”) conducted by the Board of Legal Education and pass the examinations. The PLC is a full-time course currently conducted over a period of 5 months. The course seeks to teach and train students in procedural law and practice, practical evidence, and certain areas of substantive law relevant to practice in Singapore. It also seeks to train them in the skills of the professional lawyer and to provide opportunities to practise these skills under supervision. It introduces students to the work of the professional lawyer in his office, in dealing with clients, and in the courts.

In 1999, the Board introduced an institution called “Edu-Dine” for PLC students. The primary objective is to provide a congenial forum where, over 3 dinners, students may interact with judges, senior lawyers, law academics, etc., so as to know them better and to develop a collegiate spirit among members of the legal fraternity.

### ***Pupillage***

The final step to admission as an advocate and solicitor is for the qualified person to serve a period of 6 months pupillage with a pupil master who is an advocate and solicitor of not less than 5 years’ standing. Lawyers employed in the Singapore Legal Service have to serve a longer period of 3 years pupillage<sup>64</sup> with a legal officer who is an advocate and solicitor of not less than 5 years’ standing. Pupils are required to seek the approval from the Board to serve their pupillage by submitting an application form to the Board.

### ***Other Routes to Admission***

Experienced Malayan practitioners in active practice in any part of Malaysia for 3 out of the immediate past 4 years may be admitted to the Singapore Bar without having to serve pupillage or attend the Practical Law course. Such Malayan practitioners must however obtain the same qualifications as Singapore qualified persons. The scheme for experienced Hong Kong practitioners to be admitted directly to the Singapore Bar was discontinued with effect from 1 January 1995.

## **F. PROFESSIONAL CONDUCT AND ETHICS**

### ***Ethics and Rules***

The legal profession in Singapore is governed by the Legal Profession Act and a plethora of Rules<sup>65</sup> passed under the Act including the Legal Profession (Professional Conduct) Rules<sup>66</sup>, the Legal Profession (Solicitors’ Accounts) Rules<sup>67</sup> and the Legal Profession

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<sup>64</sup> Six months pupillage in the Legal Service is equivalent to one month’s pupillage with a practitioner.

<sup>65</sup> These Rules are made pursuant to sections 71 (Rules as to professional practice, etiquette, conduct and discipline) and 72 (Rules as to keeping of accounts by solicitors) of the LPA.

<sup>66</sup> Cap. 161, R 1, 2000 Rev Ed.

<sup>67</sup> Cap. 161, R 8, 1999 Rev Ed.

(Publicity) Rules. The Professional Conduct Rules cover a wide range of topics and can be said to constitute the canons of legal ethics although it is not exhaustive. The more than 90 rules deal with topics like Touting and Referrals, Relationship and Dealings with Clients, Conduct of Proceedings in Court, Defending Accused Persons and Conduct of Criminal Prosecutions. Added to the Rules, is a body of case law that had been developed by the Courts over the years particularly after the Legal Profession Act became law in 1967.

In order to safeguard the interests of the public, all practising lawyers are required to maintain a minimum amount of professional indemnity insurance against loss arising from professional negligence and other claims<sup>68</sup>. The minimum coverage for each claim is \$1 million for sole proprietorships and general partnerships and \$2 million for LLCs and LLPs. The Solicitors' Accounts Rules have also been tightened in 2004 as a preventive measure against lawyers absconding with their clients' monies. All law practices must carry out monthly reconciliations of their clients' account. All authorisations for payments from the clients' account above \$5,000 must be signed by 2 lawyers unless the law firms' books are kept by an accounting firm or corporation or by a book-keeper approved by the Law Society. No money from the client's account can be withdrawn by a cash cheque without the client's written authorisation.

## **G. DISCIPLINARY PROCESSES**

The legal profession is a self-regulatory profession in that disciplinary proceedings are conducted by the Law Society of Singapore. As all advocates and solicitors are officers of the Supreme Court, the more severe sanctions of suspension or striking off the rolls can only be imposed by a court of 3 Judges of the Supreme Court. The Law Society however does not have jurisdiction over lawyers who are employed in the Singapore Legal Service as Magistrates, District Judges and State Counsel<sup>69</sup>. Investigations against legal officers must be authorised by the Chief Justice and if a prima facie case exists, the Chief Justice may appoint a Disciplinary Committee to hear and investigate the complaint. If the Disciplinary Committee finds that cause of sufficient gravity exists, the Chief Justice may initiate the application to the court of 3 Judges for disciplinary action. Foreign lawyers, Joint Law Ventures and Formal Law Alliances are regulated by the Attorney-General.

Disciplinary proceedings against practising lawyers may be initiated in three ways. Where the Society receives a complaint regarding the conduct of a practising lawyer, or where the Attorney-General or the Supreme Court refers any information to the Society concerning the conduct of a practising lawyer, the Law Society Council must refer the matter to the Chairman of the Inquiry Panel. The Council may also refer any information on its own initiative.

The Chairman must refer the complaint or information to a Review Committee comprising a practising lawyer on the Inquiry Panel as chairman and a legal officer with at least 10 years' experience. The main function of the Review Committee is act as a filter by advising the Council to dismiss complaints or information which are frivolous, vexatious,

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<sup>68</sup> See section 75A of the LPA as well as the Legal Profession (Professional Indemnity Insurance) Rules (Cap. 161, R 11, 2002 Rev Ed.).

<sup>69</sup> Section 82A, LPA.

misconceived or lacking in substance<sup>70</sup>. Complaints which are not filtered by the Review Committee are then referred to an Inquiry Committee comprising 2 practising lawyers from the Inquiry Panel, a legal officer with at least 10 years' experience and a lay person (non-lawyer who is usually a professional, e.g. doctor or engineer)<sup>71</sup>.

The Inquiry Committee's task is to investigate whether there is any substance in the complaint, and recommend whether the complaint should be formally investigated by a Disciplinary Committee. There are strict time limits imposed on the Inquiry Committee. Upon completion of investigations, the Inquiry Committee may recommend several courses of action to the Council. Where the misconduct is not serious, it may recommend dismissal of the complaint or imposition of a penalty of a fine not exceeding \$5,000<sup>72</sup>.

If the Inquiry Committee recommends a formal investigation by the Disciplinary Committee, the Council must determine within a month of receiving the report whether it agrees with the Committee. If it does not, it must furnish its reasons in writing upon the request of the complainant who may still apply to a High Court Judge to reverse the Council's decision. The Council may still determine that a formal investigation is necessary even though the Inquiry Committee recommends that it is unnecessary<sup>73</sup>. The Disciplinary Committee is appointed by the Chief Justice upon the Council's application.

The composition of the Disciplinary Committee is identical to that of the Inquiry Committee<sup>74</sup>. The lay member has no voting right. The Disciplinary Committee carries out a formal investigation and the entire record of the proceedings, including its findings, are made public. After hearing and investigating any matter referred to it, the Disciplinary Committee may arrive at one of 3 possible determinations<sup>75</sup>:

- (a) no cause of sufficient gravity for disciplinary action exists under section 83;
- (b) while no cause of sufficient gravity for disciplinary action exists under that section the advocate and solicitor should be reprimanded or ordered to pay a penalty sufficient and appropriate to the misconduct committed; or
- (c) cause of sufficient gravity for disciplinary action exists under that section.

If the Disciplinary Committee makes the first determination that no cause of sufficient gravity for disciplinary action exists, the Society need not take any further action in the matter unless directed by the High Court or a Judge sitting in open court. If the Disciplinary Committee makes the second determination that, while no cause of sufficient gravity for disciplinary action exists, the advocate and solicitor should be reprimanded or ordered to pay a penalty, the Council shall if it agrees with the determination, reprimand the advocate and solicitor or order him to pay a penalty of not more than \$10,000 or if it disagrees with the determination, proceed to make an application to the High Court for an order to show cause why the lawyer should not be struck off the roll or suspended from practice or censured. If the Disciplinary Committee makes the third determination that cause of sufficient gravity for disciplinary action exists, the Society shall proceed to make an application to the High Court for an order to show cause why the lawyer should not be

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<sup>70</sup> Section 85(8), LPA.

<sup>71</sup> Section 85(10), LPA.

<sup>72</sup> Section 86(7) read with section 88(1), LPA.

<sup>73</sup> Section 87(2), LPA.

<sup>74</sup> Section 90, LPA.

<sup>75</sup> Section 93, LPA.

struck off the roll or suspended from practice or censured<sup>76</sup>. The show cause action is heard by a court of 3 Judges of the Supreme Court from which there is no appeal. Section 83 of the Legal Profession Act empowers the Supreme Court to strike advocates and solicitors off the roll, suspend advocates and solicitors from practice for up to five years, or censure any advocate and solicitor on due cause being shown. The due cause may be shown by, for example, proof that the lawyer has been guilty of fraudulent or grossly improper conduct in the discharge of his professional duty.

In certain serious cases, the Inquiry and Disciplinary Committee stages can be by-passed. An example would be a case where the lawyer has been convicted of a criminal offence involving fraud or dishonesty<sup>77</sup>.

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<sup>76</sup> Section 94, LPA.

<sup>77</sup> Section 94A, LPA.