

LEGAL PROFESSION (AMENDMENT) ACT 2012

No. 3 of 2012.

An Act to amend the Legal Profession Act (Chapter 161 of the 2009 Revised Edition) and to make a related amendment to the Supreme Court of Judicature Act (Chapter 322 of the 2007 Revised Edition).

Be it enacted by the President with the advice and consent of the Parliament of Singapore, as follows:

Short title and commencement

1. This Act may be cited as the Legal Profession (Amendment) Act 2012 and shall come into operation on such date as the Minister may, by notification in the *Gazette*, appoint.

Amendment of section 10

2. Section 10 of the Legal Profession Act (referred to in this Act as the principal Act) is amended —

- (a) by deleting the words “and Part IIA” wherever they appear in subsection (1) and substituting in each case the words “, Part IIA and section 25(1)(ca)”;
- (b) by inserting, immediately after the words “Part IIA” in subsection (2)(h), the words “, section 25(1)(ca)”;
- (c) by inserting, immediately after subsection (2), the following subsection:

“(3) Disciplinary proceedings may be taken against any advocate and solicitor, or foreign lawyer registered by the Attorney-General under section 130I, who contravenes any rules made under this section.”

New section 10A

3. The principal Act is amended by inserting, immediately after section 10, the following section:

“Protection from personal liability

10A. No liability shall be incurred by the Board of Directors of the Institute, the Chairman of the Institute or any other member of the Board, the Dean of the Institute, or any other officer or employee of the Institute, any committee appointed under section 7(1) or any member of any such committee, or any other person acting under the direction of the Institute, as a result of anything done (including any statement made) or omitted to be done with reasonable care and in good faith in the execution or purported execution of the Institute’s functions under this Act or any other written law.”

Amendment of section 15**4.** Section 15 of the principal Act is amended —

- (a) by deleting the words “where the court is satisfied that it is of sufficient difficulty and complexity and having regard to the circumstances of the case” in subsection (1);
- (b) by deleting paragraph (a) of subsection (1) and substituting the following paragraph:

“(a) holds —

- (i) Her Majesty’s Patent as Queen’s Counsel;
or
 - (ii) any appointment of equivalent distinction
of any jurisdiction;”;
- (c) by deleting the words “criminal case” in subsection (2) and substituting the words “case involving any area of legal practice prescribed under section 10 for the purposes of this subsection,”; and
 - (d) by inserting, immediately after subsection (6), the following subsection:

“(6A) The Chief Justice may, after consulting the Judges of the Supreme Court, by notification published in the *Gazette*, specify the matters that the court may consider when deciding whether to admit a person under this section.”.

Amendment of section 25**5.** Section 25(1) of the principal Act is amended by inserting, immediately after paragraph (c), the following paragraph:

- “(ca) a declaration in writing in such form and containing such statements as may be prescribed by the Institute under section 10 for the purposes of this paragraph;”.

Amendment of section 82B

6. Section 82B(2) of the principal Act is amended by deleting the words “or censured” in paragraph (*j*) and substituting the words “, ordered to pay a penalty, censured or reprimanded”.

Amendment of section 83

7. Section 83(2) of the principal Act is amended by deleting the words “or censured” in paragraph (*k*) and substituting the words “, ordered to pay a penalty, censured or reprimanded”.

Amendment of section 85

8. Section 85 of the principal Act is amended —

- (a) by inserting, immediately after the words “public officer” in subsection (1)(c), the words “or any officer of the Institute”;
- (b) by deleting the words “or the Attorney-General” wherever they appear in subsection (3) and substituting in each case the words “, the Attorney-General or the Institute”; and
- (c) by deleting subsection (4) and substituting the following subsection:

“(4) Notwithstanding subsections (1A), (2) and (3), where 2 or more complaints or information touching upon the conduct of an advocate and solicitor (including any such complaint or information which had been referred to a Disciplinary Tribunal under section 89) have been received by the Council, the Council may do either or both of the following:

- (a) apply to the Chief Justice to refer to the Chairman of the Inquiry Panel one or more of the complaints or information which in the Council’s opinion are more serious in nature first and defer the referral of the remaining complaints or information;
- (b) apply to the Chairman of the Inquiry Panel for 2 or more of the complaints or information to be dealt with by —

- (i) the same Review Committee; or
- (ii) the same Inquiry Committee.”.

Amendment of section 86

9. Section 86(7) of the principal Act is amended by deleting sub-paragraphs (i) and (ii) of paragraph (b) and substituting the following sub-paragraphs:

- “(i) that the advocate and solicitor should be ordered to pay a penalty under section 88, and a penalty sufficient and appropriate to the misconduct committed;
- (ii) that the advocate and solicitor should be reprimanded or given a warning; or
- (iii) that the complaint be dismissed.”.

Amendment of section 130L

10. Section 130L of the principal Act is amended —

- (a) by deleting the words “this section” in subsections (2) and (3) and substituting in each case the words “subsection (1)”; and
- (b) by inserting, immediately after subsection (5), the following subsections:

“(6) Subject to the provisions of this Part, nothing in this Act shall prevent a foreign law practice, with the approval of the Attorney-General, from —

- (a) being a shareholder in any Singapore law practice which is a law corporation; or
- (b) sharing in the profits of any Singapore law practice.

(7) Every foreign law practice and every Singapore law practice referred to in subsection (6) shall comply with —

- (a) such conditions as may be prescribed; and
- (b) such conditions as the Attorney-General may think fit to impose in any particular case on the foreign

law practice or Singapore law practice, as the case may be.

(8) For the avoidance of doubt, for the purposes of this section and section 130M, it shall be irrelevant whether a foreign law practice is licensed under section 130B, 130C, 130D, 130E or 130F.”.

Amendment of section 130M

11. Section 130M of the principal Act is amended —

- (a) by deleting “130L” where it first appears in subsection (1) and substituting “130L(1)”;
- (b) by deleting the word “he” in subsection (1) and substituting the words “the Attorney-General”;
- (c) by deleting the words “a foreign lawyer, a Singapore law practice or a partner or director of a Singapore law practice” in subsection (2) and substituting the words “any foreign lawyer, Singapore law practice or partner or director referred to in subsection (1)”;
- (d) by deleting the words “a foreign lawyer, Singapore law practice or partner or director of a Singapore law practice” in subsection (3) and substituting the words “any foreign lawyer, Singapore law practice or partner or director referred to in subsection (1)”;
- (e) by deleting “130L” in subsection (3)(a) and substituting “130L(1)”;
- (f) by inserting, immediately after subsection (4), the following subsections:

“(4A) Where a Singapore law practice applies for an approval under section 130L(6) in respect of a foreign law practice, the Attorney-General may require the Singapore law practice making the application, the foreign law practice and any partner or director of the Singapore law practice or foreign law practice to provide such undertakings as the Attorney-General thinks fit to

prevent any direct or indirect circumvention of section 130L or any condition under section 130L(7).

(4B) Where any Singapore law practice, foreign law practice or partner or director referred to in subsection (4A) has contravened section 130L or any undertaking provided by the Singapore law practice, foreign law practice or partner or director concerned (as the case may be) under subsection (4A) —

- (a) the Singapore law practice, foreign law practice or partner or director concerned (as the case may be) shall without delay notify the Attorney-General in writing of the contravention;
- (b) the partner or director concerned shall, if he is a partner or director of the Singapore law practice concerned, immediately cease to exercise his voting rights as a shareholder or partner in the Singapore law practice concerned;
- (c) subject to any direction issued by the Attorney-General under subsection (4D)(b), the foreign law practice concerned shall as soon as practicable repay to the Singapore law practice concerned any payment it has received in excess of the amount permitted under any rules made under section 130W;
- (d) the Singapore law practice, foreign law practice or partner or director concerned (as the case may be) shall take all reasonable steps to remove the circumstances giving rise to the contravention; and
- (e) the Singapore law practice, foreign law practice or partner or director concerned (as the case may be) shall comply with any directions issued by the Attorney-General under subsections (4C) and (4D).

(4C) Where any Singapore law practice, foreign law practice or partner or director referred to in subsection (4A)

has contravened section 130L or any undertaking required under subsection (4A), the Attorney-General may —

- (a) cancel the approval under section 130L(6) in respect of the foreign law practice concerned; and
- (b) issue directions to the Singapore law practice, foreign law practice or partner or director concerned (as the case may be) to ensure compliance with section 130L.

(4D) Without prejudice to the generality of subsection (4C)(b), the Attorney-General may direct the foreign law practice concerned —

- (a) to divest itself of any shares it may have in the Singapore law practice concerned within such time as the Attorney-General may specify; and
- (b) to repay to the Singapore law practice concerned any payment the foreign law practice has received in excess of the amount permitted under any rules made under section 130W within such time as the Attorney-General may specify.”.

Amendment of section 130W

12. Section 130W(2) of the principal Act is amended —

- (a) by deleting “130L” in paragraphs (q), (s) and (u) and substituting in each case the words “130L(1) or (6)”;
- (b) by deleting “130L” in paragraph (v)(ii) and substituting “130L(1)”;
- (c) by deleting paragraph (w) and substituting the following paragraph:
 - “(w) to provide for measures to ensure compliance with the requirements of section 130L, including —
 - (i) measures requiring any foreign lawyer who is a shareholder or partner in a Singapore law practice to divest himself of his shares

or interests in the Singapore law practice;
and

- (ii) measures requiring any foreign law practice which is a shareholder in a Singapore law practice to divest itself of its shares in the Singapore law practice;”.

Amendment of Second Schedule

13. Paragraph 1 of the Second Schedule to the principal Act is amended —

- (a) by deleting sub-paragraph (2) and substituting the following sub-paragraph:

“(2) The Council —

- (a) shall not take any of the directions pursuant to a complaint of the conduct of the solicitor, if the complaint is made to the Society after the expiration of a period of 3 years from the date of the conduct; and
- (b) shall not take any of the directions, unless the Council is satisfied that, in all the circumstances of the case, it is appropriate to do so.”;

- (b) by deleting the word “and” at the end of sub-paragraph (3)(a);
and

- (c) by deleting the full-stop at the end of sub-paragraph (b) of sub-paragraph (3) and substituting the word “; and”, and by inserting immediately thereafter the following sub-paragraph:

“(c) where the client has attempted to contact the solicitor with a view to resolving a matter, have regard to whether the solicitor has responded to the client or attempted to resolve the matter.”.

Miscellaneous amendments

14. The principal Act is amended by deleting “130L” wherever it appears in the following provisions and substituting in each case “130L(1)”:

Sections 40A(1)(b), 46(1B)(b), 75(3A)(b) and (3B)(b) and 130R(1)(b), (4) and (6).

Related amendment to Supreme Court of Judicature Act

15. Section 30(2) of the Supreme Court of Judicature Act (Cap. 322) is amended by inserting, immediately after paragraph (c), the following paragraph:

“(ca) an appeal against any judgment or order obtained after the hearing of an application for the admission of a person under section 15 of the Legal Profession Act (Cap. 161);”.
