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LEGAL PROFESSION ACT
(CHAPTER 161)

LEGAL PROFESSION
(FOREIGN PRACTITIONER EXAMINATIONS)
RULES 2011

ARRANGEMENT OF RULES

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In exercise of the powers conferred by section 10(1) and (2) of the Legal Profession Act, the Board of Directors of the Singapore Institute of Legal Education, after consulting the Minister for Law and the Council of the Law Society of Singapore, hereby makes the following Rules:

Citation and commencement

1. These Rules may be cited as the Legal Profession (Foreign Practitioner Examinations) Rules 2011 and shall come into operation on 29th September 2011.

Definitions

2. In these Rules, unless the context otherwise requires —

“Board” means the Board of Directors of the Institute;

“candidate” means a person whose application to sit for the Examinations has been approved;

“Chairman” means the Chairman of the Institute;

“Code of Conduct” means the Code of Conduct issued by the Director under rule 7 and includes the Code of Conduct as amended from time to time under that rule;

“Director” means the Director of the Examinations appointed by the Board, and includes any Deputy Director of the Examinations appointed by the Board;

“examination centre” means the premises on which the Examinations are conducted;

“Examinations” means the Foreign Practitioner Examinations conducted by the Institute for the purposes of rule 20 of the Legal Profession (International Services) Rules 2008 (G.N. No. S 481/2008);

“Examinations Disciplinary Committee” means the Examinations Disciplinary Committee appointed by the Chairman under rule 10;

“Examinations Review Board” means the Examinations Review Board appointed by the Chairman under rule 9;

“misconduct” means any act, conduct or neglect that is in contravention of the Code of Conduct and includes any act or conduct referred to in rule 11(1).

Administration of Examinations

3.—(1) The Examinations shall be held at such times and in such format as the Board may determine.

(2) The Institute may appoint such examiners as it considers necessary to assist in the administration and conduct of the Examinations.

Application to sit for Examinations

4.—(1) A person who applies to be registered by the Attorney-General to practise Singapore law under section 130I of the Act cannot, for the purposes of satisfying any requirement for such registration, or of ascertaining whether any such requirement is satisfied, rely on any determination of the person's eligibility to sit for the Examinations by the Director, the Examinations Review Board or the Institute.

(2) An application to sit for a particular session of the Examinations shall —

(a) be made to the Director —

- (i) in such form and manner as the Director may require;
- (ii) within such period as the Director may specify; and
- (iii) regardless of whether the applicant has been exempted by the Minister under rule 16(1) from all or any, or from the whole or any part of any, of the requirements under paragraph (3)(b) to (g); and

(b) be accompanied by —

- (i) a non-refundable application fee of the amount specified in the Schedule; and
- (ii) such documents as the Director may require.

(3) Subject to rule 16, but without prejudice to paragraph (6), a person shall not be eligible, and the Director shall not approve the person's application, to sit for a particular session of the Examinations unless, at the time the application is made under paragraph (2), the person —

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- (a) is a foreign lawyer;
 - (b) has attained the age of 21 years;
 - (c) is not the subject of any disciplinary proceedings as a solicitor or foreign lawyer in Singapore or elsewhere and has not been previously disciplined for any disciplinary offence;
 - (d) is not a party to any criminal or civil proceedings that may lead to disciplinary proceedings being taken against him as a solicitor or foreign lawyer in Singapore or elsewhere;
 - (e) is not, as a result of any criminal or civil proceedings against him in Singapore or elsewhere, prohibited from practising law in Singapore or elsewhere or subject to any special conditions in the practice of law;
 - (f) has, after becoming a foreign lawyer, been engaged in relevant legal practice or work, in Singapore or elsewhere, in one or more of the permitted areas of legal practice in any foreign law, for at least 3 years in the 5 years immediately preceding the date on which the application is made;
 - (g) is practising in Singapore as a foreign lawyer in a Joint Law Venture, Qualifying Foreign Law Practice, licensed foreign law practice or Singapore law practice, or has received a job offer to practise in Singapore as a foreign lawyer in a Joint Law Venture, Qualifying Foreign Law Practice, licensed foreign law practice or Singapore law practice (being a job offer which may, but need not, be contingent on him passing the Examinations); and
 - (h) is not disentitled from sitting for that session of the Examinations under rule 13(1)(a).

(4) For the purposes of paragraph (3), the Director may require a foreign lawyer —

- (a) to provide, in addition to any documents referred to in paragraph (2)(b)(ii), such other evidence as the Director considers necessary;
- (b) to depose to any facts relevant to the application by a statutory declaration; and

(c) to attend an interview.

(5) For the purposes of determining whether a foreign lawyer has been engaged in relevant legal practice or work for at least 3 years, as set out under paragraph (3)(f), any period spent in attending any course of instruction, course of study or postgraduate education (not being a period spent to satisfy any applicable requirements relating to continuing professional development), and any period spent in serving any articles, period of pupillage, practice training period or other period of supervised training in relation to the practice of law (by whatever name called), shall be disregarded.

(6) Without prejudice to paragraph (3), a foreign lawyer who has failed the Examinations twice within a period of 5 years shall not be eligible, and the Director shall not approve the person's application, to sit for another session of the Examinations until a period of 3 years has elapsed from the year in which he last failed the Examinations.

(7) In this rule, "relevant legal practice or work" means —

(a) active practice as —

(i) a legal practitioner, by whatever name called, in any jurisdiction other than Singapore; or

(ii) a foreign lawyer in Singapore; or

(b) work of a legal nature which is performed as a legal counsel in any corporation or other entity the equity securities of which are listed on the official list of a securities exchange in Singapore or elsewhere.

Application to review decision of Director

5.—(1) Any person who, having applied under rule 4(2) to sit for a particular session of the Examinations, is aggrieved by a decision of the Director under rule 4(3) may, within 14 days after the date on which the decision was communicated to him, apply to the Institute in such manner as the Institute may specify for the decision to be reviewed by the Examinations Review Board.

(2) Every application under paragraph (1) for a review of a decision of the Director shall be accompanied by a fee for that purpose of the amount specified in the Schedule.

(3) Upon considering an application by an aggrieved person under paragraph (1), the Examinations Review Board may —

(a) approve the person's application under rule 4(2) to sit for a particular session of the Examinations —

(i) unconditionally; or

(ii) subject to the person complying with such conditions as the Examinations Review Board may impose; or

(b) affirm the decision of the Director.

(4) Where the Examinations Review Board has approved under paragraph (3)(a)(i) a person's application under rule 4(2) to sit for a particular session of the Examinations, the Examinations Review Board may order that the fee paid by the person under paragraph (2) be refunded to the person.

(5) The Examinations Review Board shall give notice in writing to a person who has made an application under paragraph (1) of its decision, and the decision of the Examinations Review Board shall be final.

Examination fee

6.—(1) Where the Director or the Examinations Review Board has approved a person's application under rule 4(2) to sit for a particular session of the Examinations, the person shall pay to the Institute, in such manner and within such period as the Director may specify, an examination fee for that particular session of the Examinations of the amount specified in the Schedule.

(2) If the person fails to pay the Institute the examination fee for that particular session of the Examinations within the period specified by the Director under paragraph (1), the person shall not be entitled to sit for that particular session of the Examinations, notwithstanding the approval of the person's application under rule 4(2) to sit for that particular session of the Examinations.

Code of Conduct

7.—(1) The Director may, with the approval of the Board, issue and from time to time amend a Code of Conduct for the Examinations.

(2) It shall be the duty of every candidate to comply with the Code of Conduct.

(3) The Director shall cause the Code of Conduct to be published in such manner as he may think necessary and appropriate to bring it to the attention of all candidates.

Results of Examinations

8.—(1) The Director shall release the results of a particular session of the Examinations as soon as is practicable after that particular session of the Examinations.

(2) A candidate who has failed a particular session of the Examinations may, within one month after the date of the release of the results of that particular session of the Examinations, apply to the Institute in such manner as the Institute may specify for his results in that particular session of the Examinations to be reviewed by the Examinations Review Board.

(3) Every application under paragraph (2) for the review of the results of a candidate shall be accompanied by the fee for that purpose specified in the Schedule.

(4) Where a candidate has made an application under paragraph (2) for his results in a particular session of the Examinations to be reviewed, the Examinations Review Board shall review the answer scripts submitted by the candidate for that particular session of the Examinations to determine the merits of the application.

(5) For the purposes of reviewing the results of a candidate, the Examinations Review Board may, but need not, by notice in writing, call upon the candidate to attend before the Examinations Review Board at the time and place specified in the notice for an oral examination.

(6) If a candidate does not attend before the Examinations Review Board when called upon to do so under paragraph (5), the Examinations Review Board may proceed with its review in his absence.

(7) After the Examinations Review Board has conducted its review of a candidate's results in a particular session of the Examinations, the Examinations Review Board may —

- (a) substitute the candidate's original results in that particular session of the Examinations with new results; or
- (b) affirm the candidate's original results in that particular session of the Examinations.

(8) Where, after conducting a review, the Examinations Review Board determines that a candidate has passed the Examinations, the Examinations Review Board may order that the fee paid by the candidate under paragraph (3) be refunded to the candidate.

(9) The Examinations Review Board shall give notice in writing to the candidate concerned of its decision, and the decision of the Examinations Review Board shall be final.

Examinations Review Board

9.—(1) The Chairman may appoint any 2 or more members of the Board to constitute an Examinations Review Board, and shall appoint one of the members of the Examinations Review Board to preside over it.

(2) The Examinations Review Board may be appointed in connection with one or more matters or for a fixed period of time as the Chairman may think fit.

(3) If any member of the Examinations Review Board is unable to act for any reason in any case, the Chairman may appoint another member of the Board to replace him for that case.

(4) The Director shall be the secretary of the Examinations Review Board.

(5) A decision of the Examinations Review Board shall be made by a majority vote of its members except that, in the event of an equality of votes, the member presiding shall have a casting vote in addition to his original vote.

(6) The Examinations Review Board shall not be bound to act in a formal manner and may determine its own procedures.

(7) The Examinations Review Board shall not be bound by the provisions of the Evidence Act (Cap. 97) or by any other law relating to evidence, and may inform itself on any matter in such manner as it thinks fit.

Examinations Disciplinary Committee

10.—(1) The Chairman may appoint any 3 members of the Board to constitute an Examinations Disciplinary Committee, and shall appoint one of the members of the Examinations Disciplinary Committee to preside over it.

(2) The Examinations Disciplinary Committee may be appointed in connection with one or more matters or for a fixed period of time as the Chairman may think fit.

(3) If any member of the Examinations Disciplinary Committee is unable to act for any reason in any case, the Chairman may appoint another member of the Board to replace him for that case.

(4) The Director shall be the secretary of the Examinations Disciplinary Committee.

(5) A decision of the Examinations Disciplinary Committee shall be made by a majority vote of its members.

(6) The Examinations Disciplinary Committee shall not be bound to act in a formal manner and may determine its own procedures.

(7) The Examinations Disciplinary Committee shall not be bound by the provisions of the Evidence Act (Cap. 97) or by any other law relating to evidence, and may inform itself on any matter in such manner as it thinks fit.

Report of misconduct to Examinations Disciplinary Committee

11.—(1) The Director shall report the matter to the Examinations Disciplinary Committee if he has reason to believe that a candidate —

- (a) has cheated in the Examinations, or attempted to cheat in the Examinations, has facilitated the cheating of another candidate in the Examinations, or has otherwise breached the Code of Conduct;

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- (b) has committed any offence in the examination centre;
 - (c) has, in dealing with the Institute, acted fraudulently or dishonestly; or
 - (d) has done any other act or conducted himself in any other manner which —
 - (i) is unbecoming of a candidate or implies a defect of character making him unfit for the legal profession; and
 - (ii) is, in the opinion of the Director, of sufficient gravity to warrant a report to the Examinations Disciplinary Committee.

(2) The Director shall notify the candidate concerned in writing that he has made the report under paragraph (1) as soon as it is practicable to do so.

Inquiry by Examinations Disciplinary Committee

12.—(1) Upon receiving a report from the Director under rule 11, the Examinations Disciplinary Committee shall conduct an inquiry into the matter to determine if any action should be taken in respect of the candidate concerned and shall, by notice in writing, call upon the candidate concerned —

- (a) to show cause, in writing and within such time as may be specified in the notice, as to why he should not be dealt with by the Board under rule 13; or
- (b) to attend before the Examinations Disciplinary Committee at the time and place specified in the notice to show cause as to why he should not be dealt with by the Board under rule 13.

(2) The Examinations Disciplinary Committee may also call upon any other person —

- (a) to furnish to the Examinations Disciplinary Committee in writing; or
- (b) to attend before the Examinations Disciplinary Committee at the time and place specified in the notice to furnish,

any information or evidence as it thinks necessary for the purposes of its inquiry.

(3) If the candidate concerned does not attend before the Examinations Disciplinary Committee when called upon to do so under paragraph (1), the Examinations Disciplinary Committee may proceed with its inquiry in his absence.

(4) If, in the course of its inquiry, the Examinations Disciplinary Committee receives information that the candidate has committed any misconduct that has not been referred to in the Director's report under rule 11, the Examinations Disciplinary Committee may, after giving notice to the candidate concerned, decide on its own motion to inquire into that misconduct.

(5) After the Examinations Disciplinary Committee has conducted its inquiry and given the candidate concerned a reasonable opportunity of being heard, the Examinations Disciplinary Committee shall submit a report of its findings to the Board and recommend to the Board the action to be taken in respect of the candidate concerned.

(6) If any candidate, in connection with an inquiry being conducted by the Examinations Disciplinary Committee, furnishes to the Examinations Disciplinary Committee any information or evidence which he knows or has reason to believe to be false or misleading in a material particular, the Examinations Disciplinary Committee may, after giving him a reasonable opportunity to show cause as to why he should not be dealt with by the Board under rule 13, report the matter to the Board and recommend to the Board the action to be taken against him.

Action by Board

13.—(1) Upon receiving and considering the report and recommendation of the Examinations Disciplinary Committee under rule 12, the Board may —

- (a) disentitle the candidate concerned from sitting for the session of the Examinations concerned, or from sitting for that and subsequent sessions of the Examinations for such period as the Board may determine;

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- (b) deprive the candidate concerned of a pass in the Examinations;
 - (c) refuse to issue to the candidate concerned any certificate which may be issued by the Institute in relation to the Examinations, whether absolutely or until —
 - (i) the candidate concerned has complied with such conditions as the Board may impose; or
 - (ii) such period of time, as determined by the Board, has elapsed;
 - (d) revoke any certificate, award or prize that has already been granted to the candidate concerned;
 - (e) issue a written notice to the candidate concerned directing him to comply with such requirements as the Board may specify in the notice;
 - (f) issue a private reprimand to the candidate concerned that may, at the Board's discretion, form part of the candidate's official record;
 - (g) issue a censure to the candidate concerned which may be published in such manner and to such persons as the Board thinks fit;
 - (h) withdraw from the candidate concerned, whether absolutely or partially, and whether permanently or for such period as the Board may specify, any facility, privilege or benefit granted by the Board to candidates; or
 - (i) determine that no action be taken against the candidate concerned.

(2) If the candidate concerned fails to comply with a written notice issued to him under paragraph (1)(e), the Board may deal with him in any other manner provided for in paragraph (1) as it thinks fit.

(3) A candidate who has been dealt with by the Board under paragraph (1) shall not be entitled to any refund of any fee paid by him to the Institute for the Examinations.

(4) The members of the Examinations Disciplinary Committee shall not participate in the Board's deliberation of its report or vote on the action to be taken by the Board in respect of the matter.

(5) The Board shall give notice in writing to the candidate concerned of its decision and the action (if any) that it has decided to take against him, and the decision of the Board shall be final.

(6) In paragraph (1)(d), "award" includes an award of a pass or a distinction in the Examinations.

Continuing liability under these Rules

14.—(1) Notwithstanding the fact that a person has ceased to be a candidate upon his withdrawal from any session of the Examinations or upon the conclusion of any session of the Examinations (being a session of the Examinations during which he has failed the Examinations) —

(a) such person shall, for a period of 3 months from the date he ceased to be a candidate —

(i) continue to be subject to these Rules in respect of any misconduct that he may have committed while he was a candidate; and

(ii) be liable to be dealt with in accordance with rules 11, 12 and 13 for the misconduct as if he were still a candidate; and

(b) the Institute may withhold the issue of any document to such person until the matter has been determined and disposed of by the Board under rule 13.

(2) Notwithstanding the fact that a person has ceased to be a candidate upon the conclusion of any session of the Examinations (being a session of the Examinations during which he has passed the Examinations) —

(a) such person shall, for so long as he is entitled to apply for registration under section 130I of the Act, or for the renewal of such registration under section 130P of the Act, on account of having passed those Examinations —

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- (i) continue to be subject to these Rules in respect of any misconduct that he may have committed while he was a candidate; and
 - (ii) be liable to be dealt with in accordance with rules 11, 12 and 13 for the misconduct as if he were still a candidate; and
- (b) the Institute may withhold the issue of any certificate or document to such person until the matter has been determined and disposed of by the Board under rule 13.

Power of Institute to revoke certificates, awards and prizes

15.—(1) The Institute may revoke any certificate, award or prize granted or issued by it in relation to the Examinations to any person if the Institute is satisfied that —

- (a) the person has obtained the certificate, award or prize through dishonest or fraudulent means; or
- (b) the person has made any statement which is false in any material particular, or made or produced or caused to be made or produced any false or fraudulent certificate or other academic qualification, in or in relation to his application to sit for any session of the Examinations.

(2) The Institute shall, before revoking any certificate, award or prize under paragraph (1), give the person concerned notice in writing of its intention to do so, specifying a date, not less than 21 days after the date of the notice, upon which the revocation shall take effect and calling upon the person to show cause to the Institute why the certificate, award or prize should not be revoked.

(3) When the Institute has revoked any certificate, award or prize under paragraph (1) —

- (a) the Institute shall inform the person concerned by notice in writing of the revocation and cause the revocation to be notified in the *Gazette*; and
- (b) the person concerned shall, where applicable, return the certificate, award or prize to the Institute within such time as the Institute may allow.

(4) The certificate, award or prize shall cease to be valid upon its revocation.

(5) In this rule, “award” includes an award of a pass or a distinction in the Examinations.

Exemption

16.—(1) Upon an application made to the Minister by any foreign lawyer, the Minister may exempt the foreign lawyer from all or any, and from the whole or any part of any, of the requirements under rule 4(3)(b) to (g), if the Minister is of the opinion that the foreign lawyer is, by reason of his standing and experience or for any other cause, a fit and proper person to be so exempted.

(2) Every application under paragraph (1) shall be accompanied by an application fee of the amount specified in the Schedule.

(3) An exemption granted to a foreign lawyer under paragraph (1) —

- (a) may be subject to such conditions as the Minister may think fit to impose by notice in writing to the foreign lawyer;
- (b) shall be notified in writing to the foreign lawyer; and
- (c) need not be published in the *Gazette*.

Guidelines

17.—(1) The Institute may, from time to time, issue guidelines for the purposes of these Rules.

(2) The guidelines issued under paragraph (1) may explain, clarify or provide examples or illustrations to explain or clarify any requirement under these Rules.

THE SCHEDULE

Rules 4(2)(b)(i), 5(2), 6, 8(3) and 16(2)

FEEES (INCLUSIVE OF GOODS AND SERVICES TAX)

1. Non-refundable application fee under rule 4(2)(b)(i): \$321
2. Fee under rule 5(2) for review of decision of Director: \$214

THE SCHEDULE — *continued*

3. Examination fee under rule 6: \$7,704
4. Fee under rule 8(3) for review of results of candidate in Examinations: \$535
5. Application fee under rule 16(2): \$350

Made this 29th day of September 2011.

JUSTICE V K RAJAH
Chairman,
Singapore Institute of Legal
Education.

[SILE/2011/3/FPE; AG/LLRD/SL/161/2010/17 Vol. 1]

(To be presented to Parliament under section 131 of the Legal Profession Act).