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LEGAL PROFESSION ACT
(CHAPTER 161)

LEGAL PROFESSION
(PROFESSIONAL CONDUCT) RULES 2015

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In exercise of the powers conferred by section 71(2) of the Legal Profession Act, the Professional Conduct Council makes the following Rules:

PART 1
PRELIMINARY

Citation and commencement

1. These Rules may be cited as the Legal Profession (Professional Conduct) Rules 2015 and come into operation on 18 November 2015.

Definitions

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

“client account” and “client’s money” have the same meanings as in rule 2(1) of the Legal Profession (Solicitors’ Accounts) Rules (R 8);

“conveyancing money” has the same meaning as in rule 2(2) of the Conveyancing and Law of Property (Conveyancing) Rules 2011 (G.N. No. S 391/2011);

“court” means any court of competent jurisdiction in Singapore;

“debt collection business” means a business the principal operations of which relate to the collection of debts, but does not include either of the following:

(a) any business carried out by a legal practitioner as a trustee in bankruptcy, or as a nominee in a voluntary arrangement relating to a debtor who is an individual;

(b) any business in the nature, or that is part, of a factoring arrangement or receivables financing arrangement;

“immediate family member” means a spouse, child, grandchild, sibling, sibling’s child, parent or grandparent;

“law practice” means any law practice entity other than a representative office;

“publicity” means any form of advertisement, and includes any advertisement that —

(a) is printed or contained in any medium for the communication of information; or

(b) appears in, or is communicated through or retrievable from, any mass medium (electronic or otherwise) or the Internet,

and “publicise”, “publicised” and “publicising” are to be construed accordingly;

“relevant appeal” and “relevant proceedings” have the same meanings as in section 36O(1) of the Act;

“tribunal” means any judicial, quasi-judicial, administrative or regulatory body or authority in Singapore, or any tribunal in Singapore that is established by law, and includes any of the following:

(a) any commission of inquiry or committee of inquiry appointed under the Inquiries Act (Cap. 139A), or any committee of inquiry or board of inquiry appointed under any other written law;

(b) any Industrial Arbitration Court or the President, Deputy President, Registrar, Deputy Registrar or Assistant Registrar of the Industrial Arbitration Court appointed under the Industrial Relations Act (Cap. 136), a conciliation officer or referee appointed under the Industrial Relations Act, or the Commissioner for Labour, a Deputy Commissioner for Labour, a Principal Assistant Commissioner for Labour or an Assistant Commissioner for Labour appointed under the Employment Act (Cap. 91);

(c) any professional disciplinary body;

(d) any arbitral tribunal as defined in section 2(1) of the Arbitration Act (Cap. 10) or section 2(1) of the International Arbitration Act (Cap. 143A);

“unauthorised person” has the same meaning as in section 32(2) of the Act.

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- (2) In these Rules, unless the context otherwise requires —
- (a) a reference to an employee of a Singapore law practice includes a reference to a locum solicitor engaged by the Singapore law practice; and
 - (b) a reference to a member of a Singapore law practice includes a reference to a locum solicitor engaged by the Singapore law practice.

Application of Parts 2 to 5

3.—(1) Part 2 applies to the following legal practitioners:

- (a) every solicitor who has in force a practising certificate or is registered under section 36F of the Act;
- (b) every person admitted under section 15 of the Act;
- (c) every regulated foreign lawyer.

(2) Division 1 of Part 3, insofar as it relates to any relevant proceedings or relevant appeal, applies to the following legal practitioners:

- (a) every solicitor who has in force a practising certificate;
- (b) every person admitted under section 15 of the Act;
- (c) every regulated foreign lawyer who is registered under section 36P of the Act.

(3) Division 1 of Part 3, insofar as it relates to any proceedings before a court (other than any relevant proceedings or relevant appeal), applies to the following legal practitioners:

- (a) every solicitor who has in force a practising certificate;
- (b) every person admitted under section 15 of the Act.

(4) Except as otherwise provided in paragraphs (2) and (3), Part 3 applies to the following legal practitioners:

- (a) every solicitor who has in force a practising certificate or is registered under section 36F of the Act;
- (b) every person admitted under section 15 of the Act;

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- (c) every foreign lawyer who is registered under section 36B of the Act.
- (5) Division 2 of Part 3 applies —
- (a) to every Singapore law practice; and
- (b) to the following law practices, in connection with the practice of Singapore law:
- (i) every Joint Law Venture;
 - (ii) every Formal Law Alliance;
 - (iii) every Qualifying Foreign Law Practice;
 - (iv) every licensed foreign law practice.
- (6) Part 4 applies to every law practice.
- (7) Part 5 applies —
- (a) to the following legal practitioners:
- (i) every solicitor who has in force a practising certificate or is registered under section 36F of the Act;
 - (ii) every person admitted under section 15 of the Act;
 - (iii) every foreign lawyer who is registered under section 36B of the Act;
- (b) to every Singapore law practice; and
- (c) to the following law practices, in connection with the practice of Singapore law:
- (i) every Joint Law Venture;
 - (ii) every Formal Law Alliance;
 - (iii) every Qualifying Foreign Law Practice;
 - (iv) every licensed foreign law practice.

Principles guiding interpretation of these Rules**4.** The following principles guide the interpretation of these Rules.*Principles*

- (a) A legal practitioner has a paramount duty to the court, which takes precedence over the legal practitioner's duty to the legal practitioner's client.
- (b) A legal practitioner's duty to the legal practitioner's client is subject only to the legal practitioner's duty to the court, and must at all times be fulfilled in a manner that upholds the standing and integrity of the Singapore legal system and the legal profession in Singapore.
- (c) A legal practitioner has a duty to discharge honourably and with integrity all of the legal practitioner's responsibilities to any tribunal before which the legal practitioner appears, the legal practitioner's clients, the public and other members of the legal profession.
- (d) A legal practitioner must uphold the laws of Singapore in the legal practitioner's practice.
- (e) A legal practitioner must facilitate the access of members of the public to justice.
- (f) A legal practitioner must be fair and courteous towards every person in respect of the legal practitioner's professional conduct.
- (g) A legal practitioner must ensure that the legal practitioner's professional conduct is always consistent with the values of the legal profession in each jurisdiction in which the legal practitioner is qualified to practise law and, when giving advice in any other jurisdiction, the values of the legal profession in that other jurisdiction.
- (h) A legal practitioner must keep up to date with all pertinent developments in the law in the legal practitioner's area of practice.

PART 2**RULES APPLICABLE TO PRACTICE OF LAW IN SINGAPORE***Division 1 — Relationship with client***Honesty, competence and diligence**

5.—(1) The following principles guide the interpretation of this rule.

Principles

- (a) The relationship between a legal practitioner and his or her client imports a duty to be honest in all dealings with the client.
 - (b) A legal practitioner must have the requisite knowledge, skill and experience to provide competent advice and representation to his or her client.
 - (c) A legal practitioner has a duty to be diligent in the advice and information given to his or her client, and in the manner the legal practitioner represents the client.
- (2) A legal practitioner must —
- (a) be honest in all the legal practitioner’s dealings with his or her client;
 - (b) when advising the client, inform the client of all information known to the legal practitioner that may reasonably affect the interests of the client in the matter, other than —
 - (i) any information that the legal practitioner is precluded, by any overriding duty of confidentiality, from disclosing to the client; and
 - (ii) any information that the client has agreed in writing need not be disclosed to the client;
 - (c) act with reasonable diligence and competence in the provision of services to the client;
 - (d) ensure that the legal practitioner has the relevant knowledge, skills and attributes required for each matter undertaken on behalf of the client, and apply the knowledge, skills and attributes in a manner appropriate to that matter;
 - (e) keep the client reasonably informed of the progress of the client’s matter;
 - (f) where practicable, promptly respond to the client’s communications;
 - (g) keep appointments with the client;
 - (h) provide timely advice to the client;

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- (i) follow all lawful, proper and reasonable instructions that the client is competent to give;
 - (j) use all legal means to advance the client's interests, to the extent that the legal practitioner may reasonably be expected to do so; and
 - (k) keep proper contemporaneous records of all instructions received from, and all advice rendered to, the client.

(3) The circumstances, nature and terms of engagement of a legal practitioner by his or her client are to be taken into account when considering whether the legal practitioner has complied with paragraph (2).

(4) A legal practitioner must, as far as reasonably possible, continue to act for his or her client in the client's best interests, after the client's ability to make any decision is impaired because of any mental disability or for any other reason.

(5) When a legal practitioner is given instructions purportedly on behalf of his or her client, the legal practitioner must —

- (a) ensure that the person giving those instructions has the authority to give those instructions on behalf of the client; or
- (b) if there is no evidence of such authority, obtain the client's confirmation of those instructions within a reasonable time after receiving those instructions.

Confidentiality

6.—(1) The following principle guides the interpretation of this rule.

Principle

A legal practitioner's duty to act in the best interests of the legal practitioner's client includes a responsibility to maintain the confidentiality of any information which the legal practitioner acquires in the course of the legal practitioner's professional work.

(2) Subject to paragraph (3) and any rules made under section 136, 150 or 166 of the Act, a legal practitioner must not knowingly disclose any information which —

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- (a) is confidential to his or her client; and
- (b) is acquired by the legal practitioner (whether from the client or from any other person) in the course of the legal practitioner's engagement.
- (3) A legal practitioner may disclose any information referred to in paragraph (2), if —
- (a) the client referred to in paragraph (2) authorises the disclosure;
- (b) the legal practitioner is permitted or is required by law, by an order of court, or by a tribunal to make the disclosure;
- (c) the legal practitioner discloses the information in confidence, for the sole purpose of obtaining advice in connection with the legal practitioner's legal or ethical obligations;
- (d) the legal practitioner discloses the information in confidence to a provider or broker of the legal practitioner's professional indemnity insurance, in connection with any claim or potential claim, or any complaint or potential complaint, by any person against the legal practitioner; or
- (e) the legal practitioner discloses the information for the sole purpose of responding to or defending any charge or complaint, relating to the legal practitioner's conduct or professional behaviour, brought against the legal practitioner in court, before a Review Committee, an Inquiry Committee or a Disciplinary Tribunal, before a complaints committee appointed under section 36S(5) of the Act, or before any relevant professional disciplinary body of a state or territory (other than Singapore) in which the legal practitioner is duly authorised or registered to practise law.

Division 2 — Relationship with other legal practitioners

Responsibilities of legal practitioners to each other

7.—(1) The following principles guide the interpretation of this rule.

Principles

- (a) A legal practitioner must always accord to another legal practitioner the proper respect due to the latter as a member of a noble and honourable profession.
 - (b) A legal practitioner must deal with another legal practitioner in good faith and in a manner which is dignified and courteous, so that the matters on which they have been instructed can be properly and satisfactorily concluded or resolved in the best interests of their respective clients.
 - (c) A legal practitioner must not deal with another legal practitioner in any manner that may adversely affect the reputation and good standing of the legal profession or the practice of law in Singapore.
- (2) A legal practitioner must treat other legal practitioners with courtesy and fairness.
- (3) A legal practitioner (*A*) must not communicate, about a matter in respect of which *A* represents a client, with any person whom *A* knows to be represented in the matter by another legal practitioner (*B*) unless —
- (a) *A* has the prior consent (whether express or implied) of *B* to communicate directly with that person;
 - (b) both of the following apply:
 - (i) there is a reasonable basis for *A* to communicate directly with that person;
 - (ii) prior to the communication, *A* has taken reasonable steps to notify *B* of *A*'s intention to communicate directly with that person, but *B* does not respond within a reasonable time after *A*'s notification;
 - (c) the interests of *A*'s client will be severely prejudiced if the communication is delayed; or

(d) *A* is authorised to communicate directly with that person by law or by an order of a court or tribunal.

(4) A legal practitioner (*A*) may give a second opinion to a client of another legal practitioner (*B*), with or without the knowledge of *B*, but must not improperly seek to influence the client to terminate the relationship between the client and *B*.

(5) A legal practitioner who appoints another legal practitioner must pay or ensure the payment of the latter's fees, unless both legal practitioners agree otherwise.

(6) A legal practitioner must honour every undertaking the legal practitioner gives to another legal practitioner.

(7) A legal practitioner (*A*) must not give an undertaking to another legal practitioner unless —

(a) *A* believes that the undertaking is necessary; and

(b) *A* knows (when giving the undertaking) that *A* is able to honour the undertaking.

(8) A legal practitioner may ask another legal practitioner (*B*) whether *B* has the authority to act for a person.

(9) A legal practitioner (*A*) must accept a written representation by another legal practitioner (*B*) that *B* is authorised to act for a person, unless *A* has good reason for suspecting that the representation is false.

Division 3 — Responsibilities to other persons

Conduct in relation to other persons

8.—(1) The following principles guide the interpretation of this rule.

Principles

(a) A legal practitioner who deals with any person must, regardless of whether that person is involved in any matter with which the legal practitioner is concerned, be honest and courteous, and behave in a manner befitting the legal practitioner's professional standing.

(b) A legal practitioner must behave in a manner consistent with the public interest.

(c) A legal practitioner must treat with fairness any person who is not represented by another legal practitioner.

(2) A legal practitioner (*A*), when dealing on behalf of his or her client with any person who is not represented by another legal practitioner —

(a) must decline to give to the person any legal advice (other than advice to obtain independent legal advice), if *A* knows or ought reasonably to know that the interests of the person are adverse, or potentially adverse, to the interests of *A*'s client; and

(b) must take reasonable steps to ensure that the person is not under the impression that the person's interests are protected by *A*.

(3) A legal practitioner —

(a) must not take unfair advantage of any person; and

(b) must not act towards any person in a way which is fraudulent, deceitful or otherwise contrary to the legal practitioner's position as a member of an honourable profession.

(4) When a legal practitioner issues a letter of demand, the legal practitioner must not demand in the letter anything that is not recoverable by due process of law.

(5) Where any civil claim made against a person, by a client of a legal practitioner, remains unsatisfied, the legal practitioner must not threaten the institution of any criminal or disciplinary proceedings against the person.

(6) A legal practitioner who has acted as a mediator in a mediation must not subsequently act for any party to the mediation in relation to —

(a) the subject of the mediation; or

(b) any matter discussed during the mediation.

PART 3

RULES APPLICABLE TO PRACTICE OF SINGAPORE LAW
AND PRACTICE IN SINGAPORE COURTS

Division 1 — Role in administration of justice

Conduct of proceedings

9.—(1) The following principles guide the interpretation of this rule.

Principles

- (a) A legal practitioner has a duty to assist in the administration of justice, and must act honourably in the interests of the administration of justice.
- (b) A legal practitioner has an obligation to ensure that any work done by the legal practitioner, whether preparatory or otherwise, relating to proceedings before any court or tribunal, will uphold the integrity of the court or tribunal and will contribute to the attainment of justice.
- (c) A legal practitioner must always be truthful and accurate in the legal practitioner's communications with any person involved in or associated with any proceedings before a court or tribunal.
- (d) A legal practitioner must not present, or permit to be presented, any evidence or information which the legal practitioner knows to be false.
- (e) A legal practitioner must, in any proceedings before a court or tribunal, conduct the legal practitioner's case in a manner which maintains the fairness, integrity and efficiency of those proceedings and which is consistent with due process.
- (f) A legal practitioner must comply with all applicable laws and practice directions in the conduct of the legal practitioner's case.

(2) When conducting any proceedings before a court or tribunal on behalf of a client, a legal practitioner must not do any of the following:

- (a) knowingly mislead or attempt to mislead in any way, whether by doing anything referred to in sub-paragraph (b) or (c) or otherwise —
 - (i) the court or tribunal;
 - (ii) any staff of the court or tribunal;
 - (iii) any other legal practitioner; or

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- (iv) any witness in, or any other person involved in or associated with, those proceedings;
 - (b) fabricate any fact or evidence in any communication with, or representation or submission to, the court or tribunal;
 - (c) include, in any document used for those proceedings, any statement of fact which the legal practitioner knows to be false;
 - (d) express the legal practitioner's personal opinion of the client's conduct;
 - (e) allow the legal practitioner's personal opinion to affect —
 - (i) the legal practitioner's professional assessment of the facts or the law; or
 - (ii) the legal practitioner's duty to the court or tribunal;
 - (f) knowingly or recklessly cite the law out of context, interpret the law in a manner calculated to mislead the court or tribunal, or otherwise advance any submission, opinion or proposition which the legal practitioner knows or ought reasonably to know is contrary to the law;
 - (g) concoct any evidence or contrive any fact, whether or not that evidence or fact will assist in advancing the client's case;
 - (h) draft any originating process, pleading, affidavit, witness statement or notice or grounds of appeal containing any of the following:
 - (i) any statement of fact or contention which is not supported by the client or by the legal practitioner's instructions;
 - (ii) any contention which the legal practitioner does not consider to be reasonably and properly arguable;
 - (iii) any allegation of fraud, unless the legal practitioner has clear instructions to make such an allegation and has before the legal practitioner reasonably credible material which establishes a prima facie case of fraud;

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- (iv) in the case of an affidavit or a witness statement, any statement of fact other than the substance of any evidence which the legal practitioner reasonably believes, having regard to the legal practitioner's instructions, the witness making the affidavit or statement would give if that evidence was given orally.
- (3) When conducting proceedings before a court or tribunal, a legal practitioner —
- (a) must inform the court or tribunal of every relevant decision, and every relevant legislative provision, of which the legal practitioner is aware, whether that decision or provision supports or rebuts the legal practitioner's contentions before the court or tribunal; and
 - (b) must disclose to the court or tribunal, and to every other person involved in or associated with those proceedings —
 - (i) every fact, item of evidence, item of information and other matter which the legal practitioner is required by law to disclose in those proceedings to the court or tribunal and to that other person, respectively; and
 - (ii) any procedural irregularity of which the legal practitioner is aware.
- (4) A legal practitioner must not raise as a ground of appeal any procedural irregularity in any proceedings before a court or tribunal, if the legal practitioner could have brought that procedural irregularity to the attention of the court or tribunal during those proceedings but failed, without reasonable justification, to do so.
- (5) Subject to rule 6, where a legal practitioner unknowingly contravenes any provision of this rule, the legal practitioner must, as soon as practicable after the legal practitioner becomes aware of the contravention, disclose the contravention to each person affected by the contravention, and take reasonable steps to remedy the contravention.

Responsibility for client's conduct

10.—(1) The following principles guide the interpretation of this rule.

Principles

- (a) A legal practitioner's duty to assist in the administration of justice includes a responsibility, commensurate with the amount of control the legal practitioner has over his or her client, to prevent the client from misleading a court or tribunal in any manner and from otherwise acting improperly.
 - (b) A legal practitioner must exercise professional judgment over the substance and purpose of any advice which the legal practitioner gives and any document which the legal practitioner drafts.
 - (c) A legal practitioner must not engage in any conduct which would be unlawful, unethical or otherwise improper, whether or not such conduct would promote the cause of his or her client.
- (2) A legal practitioner whose client is a party to any proceedings before a court or tribunal must inform the client of the client's responsibilities to the court or tribunal, and to every other party to those proceedings, including the client's duties —
- (a) to be truthful towards the court or tribunal; and
 - (b) to comply with every legal requirement concerning the conduct and presentation of the client's case.
- (3) To the extent that a legal practitioner is able, the legal practitioner must prevent his or her client from, must not be a party to, and must not assist the client in, doing either or both of the following:
- (a) suppressing evidence;
 - (b) giving false evidence or false information to a court or tribunal.
- (4) Where a legal practitioner knows that his or her client is about to give, or has given, false evidence or false information to a court or tribunal, the legal practitioner must —
- (a) cease to act for the client; or

(b) if the legal practitioner continues to act for the client, conduct the client's case in a manner that does not perpetuate the falsehood.

(5) A legal practitioner must not render to his or her client any advice which the legal practitioner knows or has reasonable grounds to believe is sought by the client for any dishonest, fraudulent or unlawful purpose.

(6) A legal practitioner must not knowingly assist or permit his or her client —

(a) to mislead a court or tribunal; or

(b) to do any other thing which the legal practitioner considers to be dishonest.

Conflict of interest in proceedings before court or tribunal

11.—(1) The following principle guides the interpretation of this rule.

Principle

A legal practitioner's duty to advance the interests of the legal practitioner's client, and to present the client's best possible case, is subject to the legal practitioner's duties as an officer of the court and to assist in the administration of justice.

(2) A legal practitioner must not appear before a court or tribunal in a matter where —

(a) it would be difficult for the legal practitioner to maintain the legal practitioner's professional independence by reason of any commercial, family, personal or other relationship between the legal practitioner and his or her client; or

(b) the impartial administration of justice might or might appear to be prejudiced by reason of the legal practitioner's relationship with the court or tribunal or any member of the court or tribunal.

(3) In any case where it is known or it appears that a legal practitioner will be required to give evidence which is material to the determination of any contested issue before a court or tribunal —

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- (a) the legal practitioner —
- (i) must not accept instructions from any party to that case; and
 - (ii) must, if the legal practitioner was acting for any party to that case, discharge himself or herself, or, where the legal practitioner has represented that party in any proceedings relating to that case, apply to be discharged, from acting further for that party; but
- (b) the law practice in which the legal practitioner practises, or a member of that law practice, may represent or continue to represent any party to that case, unless doing so would prejudice the administration of justice.

Communications and dealings with witnesses

12.—(1) The following principles guide the interpretation of this rule.

Principles

- (a) A legal practitioner must ensure that the legal practitioner acts in a manner consistent with the administration of justice when dealing with any witness, regardless of the effect or potential effect of the evidence given or to be given by that witness.
 - (b) A legal practitioner must exercise the legal practitioner's own judgment both as to the substance and the form of the questions put or statements made to a witness.
- (2) A legal practitioner must not, except with the leave of a court or tribunal, interview or discuss, with a witness whom the legal practitioner has called in proceedings before the court or tribunal, at any time after the start and before the end of the cross-examination of that witness, the evidence given or to be given by that witness or any other witness.
- (3) A legal practitioner must not, by asserting in a statement to a court or tribunal, make any allegation against a witness whom the legal practitioner cross-examined or was given an opportunity to cross-examine, unless the legal practitioner has given the witness an opportunity to answer the allegation during cross-examination.

(4) A legal practitioner must not suggest that a witness or any other person is guilty of any offence or conduct, or attribute to a witness or any other person any offence or conduct of which the legal practitioner's client is accused, unless the suggestion or attribution relates to a matter in issue (including the credibility of the witness) which is material to the client's case and which appears to the legal practitioner to be supported by reasonable grounds.

(5) A legal practitioner must not make any statement, or ask any question, which is scandalous, is intended or calculated to vilify, insult or annoy a witness or any other person, or is otherwise an abuse of the function of the legal practitioner.

(6) A legal practitioner may interview and take statements from any witness (including a prospective witness) at any stage in the proceedings, whether or not that witness has been interviewed or called as a witness by any other party to the proceedings or by the prosecution (in the case of criminal proceedings).

(7) However, if the legal practitioner is aware that the witness has been called, or has been issued a subpoena, to appear in a court by any other party to the proceedings or by the prosecution (in the case of criminal proceedings), the legal practitioner must inform that other party's legal practitioner or the prosecution (as the case may be) of the legal practitioner's intention to interview or take statements from the witness.

(8) A legal practitioner —

- (a) may pay, or offer to pay, a witness any disbursements and expenses which the witness is allowed or entitled to under the law; but
- (b) must not make, or offer to make, any payment to a witness which is contingent upon the nature of the evidence given by the witness or upon the outcome of a case.

Respect for court or tribunal and related responsibilities

13.—(1) The following principles guide the interpretation of this rule.

Principles

- (a) A legal practitioner must present a case, and behave, before a court or tribunal in a manner which is respectful of the court or tribunal.
 - (b) The manner in which a legal practitioner conducts a case before a court or tribunal must be consistent with the standing, dignity and authority of the court or tribunal.
- (2) A legal practitioner must always be respectful of a court or tribunal.
- (3) A legal practitioner must always be courteous in the conduct of a case before a court or tribunal, whether to the court or tribunal, or to any other person involved in the proceedings.
- (4) A legal practitioner must honour every undertaking given by the legal practitioner to a court or tribunal.
- (5) A legal practitioner must not give an undertaking to a court or tribunal unless the legal practitioner —
- (a) believes that the undertaking is necessary; and
 - (b) knows (when giving the undertaking) that he or she is able to honour the undertaking.
- (6) A legal practitioner must not publish, or take steps to facilitate the publication of, any material concerning any proceedings, whether on behalf of his or her client or otherwise, which —
- (a) amounts to a contempt of court; or
 - (b) is calculated to interfere with the fair trial of a case or to prejudice the administration of justice.

Conducting the defence in criminal proceedings

14.—(1) The following principles guide the interpretation of this rule.

Principles

- (a) A legal practitioner who represents an accused person in any criminal proceedings is under a fundamental duty to assist in the administration of justice.
 - (b) A legal practitioner who represents an accused person in any criminal proceedings must present the accused person's case and behave in a manner which is consistent with the aims of these Rules, and must comply with the constitutional, evidential and procedural rules which operate in a criminal trial.
- (2) A legal practitioner who represents an accused person in any criminal proceedings must pursue every reasonable defence, and raise every favourable factor, on behalf of the accused person in accordance with law.
- (3) A legal practitioner who represents an accused person —
- (a) must not provide any surety or bail for the accused person;
 - (b) must not express the legal practitioner's personal opinion as to whether the accused person is guilty, or allow the legal practitioner's personal opinion as to whether the accused person is guilty to affect the legal practitioner's professional assessment of the facts or the law, the legal practitioner's conduct of the criminal proceedings, or the legal practitioner's duty to the accused person or the court;
 - (c) must not be absent from a trial or hearing without reasonable grounds;
 - (d) must, if absent from a trial or hearing —
 - (i) communicate the grounds for the legal practitioner's absence to the accused person before the trial or hearing; and
 - (ii) make reasonable efforts to arrange for another legal practitioner to take over the conduct of the trial or hearing; and

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- (e) must continue to reasonably assist the accused person after the accused person is convicted and sentenced.
- (4) Where a legal practitioner represents an accused person, and the accused person confesses to any offence to the legal practitioner, the legal practitioner —
- (a) may continue to represent the accused person; but
 - (b) must not adduce any evidence or make any submission which is inconsistent with the confession by the accused person.
- (5) A legal practitioner —
- (a) must advise an accused person he or she represents on —
 - (i) whether to plead guilty, or to claim trial, to a charge; and
 - (ii) whether to give evidence or to remain silent in the accused person's defence; and
 - (b) must abide by the decision of the accused person.
- (6) If an accused person absconds, the legal practitioner representing the accused person may —
- (a) apply to be discharged from acting in the matter; or
 - (b) conduct the defence on the basis of instructions received as if the accused person was present but elected to remain silent.
- (7) If an accused person has pleaded guilty or has been convicted after trial, the legal practitioner representing the accused person, when presenting a plea in mitigation, must not make any allegation which is scandalous or is intended or calculated to vilify, insult or annoy any person.
- (8) If an accused person has any previous conviction or antecedent, the legal practitioner representing the accused person is not required to disclose such antecedent, but must not adduce any evidence or make any submission which is inconsistent with the previous conviction or antecedent of the accused person.

Conducting the prosecution in criminal proceedings

15.—(1) The following principles guide the interpretation of this rule.

Principles

(a) A legal practitioner who prosecutes an accused person in criminal proceedings is under a fundamental duty to assist in the administration of justice.

(b) A legal practitioner who prosecutes an accused person must present the legal practitioner's case and behave in a manner which is consistent with the aims of these Rules, and must comply with the constitutional, evidential and procedural rules which operate in a criminal trial.

(2) A legal practitioner who represents the prosecution in any criminal proceedings must present the evidence against an accused person fairly and impartially, and without malice, fear or favour, in accordance with law.

(3) A legal practitioner who represents the prosecution must, within a reasonable time before the close of the prosecution's case, inform the accused person or the accused person's legal practitioner of —

(a) the identity, and the location (if known), of any person who may be able to give relevant evidence, but will not be called as a prosecution witness; and

(b) any substantial conflict between the evidence given by a prosecution witness on a material issue and any prior statement provided by that prosecution witness.

(4) A legal practitioner who represents the prosecution must, within a reasonable time after the conviction but before the sentencing of an accused person, inform the court of —

(a) any previous conviction or antecedent of the accused person that the prosecution knows of;

(b) any relevant factors, and any known precedents, relating to the sentence; and

(c) if the accused person is unrepresented, any known mitigating circumstances.

(5) A legal practitioner who represents the prosecution must not inform the court of any other or pending proceedings against the accused person, except —

- (a) in relation to an application for an adjournment, remand or bail;
- (b) in response to an assertion that there are no other or pending proceedings; or
- (c) where evidence of the other or pending proceedings would otherwise be admissible as a result of any law or rule.

(6) A legal practitioner who represents the prosecution must assist the court at all times before the conclusion of a trial, including by drawing the court's attention to any apparent error (whether of fact or of law), any apparent omission of fact, and any procedural irregularity, which in the opinion of the legal practitioner ought to be corrected.

Division 2 — Relationship with client

Client money

16.—(1) The following principles guide the interpretation of this rule.

Principles

- (a) A legal practitioner is under a duty to ensure that any money or other property which a client of the legal practitioner, with the agreement of the legal practitioner, has entrusted with the legal practitioner, or has made the legal practitioner responsible for, is held in a way that protects the interests of the client.
- (b) A law practice is under a duty to ensure that any money or other property which a client of the law practice, with the agreement of the law practice, has entrusted with the law practice, or has made the law practice responsible for, is held in a way that protects the interests of the client.

(2) A legal practitioner is accountable to his or her client for any money or other property which the client has entrusted with the legal practitioner, or has made the legal practitioner responsible for.

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- (3) A legal practitioner must —
- (a) promptly notify his or her client whenever the legal practitioner receives any money (including conveyancing money) or securities to be held on behalf of the client; and
 - (b) expeditiously render statements of accounts when requested by the client.
- (4) The duties owed by a legal practitioner under this rule apply, with the necessary modifications, to a law practice.

Professional fees and costs

17.—(1) The following principle guides the interpretation of this rule.

Principle

A legal practitioner must act in the best interests of his or her client, and must charge the client fairly for work done.

- (2) A legal practitioner —
- (a) must not undertake work in a manner that unnecessarily or improperly increases the costs that are payable to the legal practitioner;
 - (b) must, at all times, use the legal practitioner's best endeavours to complete any work for his or her client as soon as is reasonably possible;
 - (c) must explain clearly and properly to his or her client a proposal of settlement, or any other offer or position taken by any other party, which affects the client;
 - (d) must, where his or her client does not understand English, ensure that any offer or proposal of settlement is explained to the client in a language or dialect that the client understands;
 - (e) must, in an appropriate case, together with his or her client, evaluate whether any consequence of a matter involving the client justifies the expense of, or the risk involved in, pursuing the matter; and

(f) must advise his or her client on the relevant legal issues in a matter, to enable the client to make an informed decision about how to act in the matter.

(3) A legal practitioner must —

(a) inform his or her client of the basis on which fees for professional services will be charged, and of the manner in which those fees and disbursements (if any) are to be paid by the client;

(b) inform the client of any other reasonably foreseeable payments that the client may have to make, either to the legal practitioner or to any other party, and of the stages at which those payments are likely to be required;

(c) to the extent reasonably practicable and if requested by the client, provide the client with estimates of the fees and other payments referred to in sub-paragraphs (a) and (b), respectively; and

(d) ensure that the actual amounts of the fees and other payments referred to in sub-paragraphs (a) and (b), respectively, do not vary substantially from the estimates referred to in sub-paragraph (c), unless the client has been informed in writing of any changed circumstances.

(4) A legal practitioner must explain the following matters to his or her client at the beginning of a contentious matter and at other appropriate stages in the matter:

(a) that in any event, the client is personally responsible for paying the client's own solicitor and client costs in full, regardless of any order for costs made against any other party;

(b) that in the event the client loses, the client may have to pay the client's own costs, and the court may order the client to pay the costs of one or more other parties as taxed or fixed by the court;

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- (c) that even if the client wins, the other party —
- (i) may not be ordered to pay the full amount of the client's own costs; and
 - (ii) may not be capable of paying what has been ordered.
- (5) If a client of a legal practitioner disputes or raises a query about a bill of the legal practitioner in a matter (whether or not contentious), the legal practitioner must inform the client in writing of the client's right to apply to the court to have the bill taxed or to review any fee agreement, unless the legal practitioner believes that the client knows, or reasonably ought to know, of that right.
- (6) If a client of a legal practitioner consents to the taxation of a bill issued to the client, or the court orders the taxation of a bill issued to a client of a legal practitioner, the legal practitioner must inform the client that —
- (a) the delivery of a bill by the legal practitioner to the client does not preclude the legal practitioner from presenting a bill, for a larger amount or otherwise, for taxation; and
 - (b) upon such a taxation, the legal practitioner is entitled to any amount allowed by the Registrar, even if that amount is more than the amount claimed in any bill previously delivered to the client.
- (7) A legal practitioner must not charge any fee or disbursements, or render a bill (whether or not subject to taxation) for an amount, which constitutes overcharging, even if there is a fee agreement that permits the charging of the fee, disbursements or amount.
- (8) For the purposes of paragraph (7), there is overcharging if a reasonable legal practitioner cannot in good faith charge the fee, disbursements or amount, taking into account all of the following matters:
- (a) the legal practitioner's standing and experience;
 - (b) the nature of the legal work concerned;
 - (c) the time necessary to undertake the legal work;
 - (d) the instructions and requirements of the client concerned;

(e) any other relevant circumstances.

(9) Where, due to a conflict of interests, a legal practitioner has recommended to his or her client that the client seek alternative legal representation, unless the legal practitioner and the client have agreed otherwise, the legal practitioner may charge the client only those items of fees or disbursements which clearly need not be duplicated by the client's new legal practitioner.

Contingency fees prohibited

18. A legal practitioner or law practice must not enter into any negotiations with a client of the legal practitioner or law practice —

- (a) for an interest in the subject matter of litigation or of any other contentious proceedings; or
- (b) except to the extent permitted by any applicable scale of costs, for remuneration proportionate to the amount which may be recovered by the client in the proceedings.

Unauthorised persons

19.—(1) A legal practitioner must not share the legal practitioner's fees with, or pay a commission to, any unauthorised person for any legal work performed by the legal practitioner.

(2) A law practice must not share its fees with, or pay a commission to, any unauthorised person for any legal work performed by the law practice.

Conflict, or potential conflict, between interests of 2 or more clients

20.—(1) The following principles guide the interpretation of this rule.

Principles

- (a) A legal practitioner owes duties of loyalty and confidentiality to each client of the legal practitioner, and must act prudently to avoid any compromise of the lawyer-client relationship between the legal practitioner and the client by reason of a conflict, or potential conflict, between the interests of 2 or more clients of the legal practitioner.

(b) A law practice owes duties of loyalty and confidentiality to each client of the law practice, and must act prudently to avoid any compromise of the lawyer-client relationship between the law practice and the client by reason of a conflict, or potential conflict, between the interests of 2 or more clients of the law practice.

(2) Paragraphs (3), (4) and (7) apply where —

(a) a legal practitioner or law practice intends to act for 2 or more different parties (each called in those paragraphs a relevant party) to a matter or transaction; and

(b) a diversity of interests exists, or may reasonably be expected to exist, between those parties.

(3) Before accepting any instructions from any relevant party in relation to the matter or transaction, the legal practitioner or law practice —

(a) must communicate directly with each relevant party —

(i) to explain to that relevant party —

(A) how the interests of all or any of the relevant parties diverge or may diverge;

(B) how the legal practitioner or law practice may be prevented from disclosing to a relevant party information obtained from another relevant party, despite the relevance of the information to the matter or transaction; and

(C) how the legal practitioner or law practice may be prevented from giving to a relevant party any advice that is prejudicial to another relevant party;

(ii) to inform that relevant party that the legal practitioner or law practice must cease to act in the matter or transaction if, in the course of the retainer, the legal practitioner or law practice has difficulty in advising on and dealing with the relevant parties' divergent interests competently, evenly and consistently;

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- (iii) to receive and deal with any queries which that relevant party may have on the matter or transaction, or on the risks of all or any of the relevant parties being jointly represented in the matter or transaction by the legal practitioner or law practice; and
 - (iv) to ascertain precisely the intentions of that relevant party;
 - (b) in the case of a transaction that is ostensibly or potentially disadvantageous to a particular relevant party, must also communicate directly with the relevant party —
 - (i) to explain the relevant party's position before the transaction, and how the relevant party's position will or may be altered to the relevant party's detriment by the transaction;
 - (ii) to verify whether any instructions purportedly given on behalf of the relevant party do in fact reflect the relevant party's intentions; and
 - (iii) to remove any doubt as to whether the relevant party may have been misled by, or may be acting under the undue influence of, another person;
 - (c) must advise each relevant party to obtain independent legal advice;
 - (d) if a particular relevant party does not obtain independent legal advice, must obtain a written confirmation from the relevant party, or maintain a written record, that the relevant party declines to do so; and
 - (e) must obtain each relevant party's informed consent in writing to the legal practitioner or law practice acting for all relevant parties, despite the relevant parties' divergent interests.
- (4) The legal practitioner or law practice —
- (a) must throughout the course of the retainer for the matter or transaction —

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- (i) continue to be vigilant of any conflict or potential conflict between the interests of any of the relevant parties; and
 - (ii) inform each relevant party of any conflict or potential conflict that arises or may arise between the interests of any of the relevant parties; and
 - (b) must cease to act in the matter or transaction if, in the course of the retainer, the legal practitioner or law practice has difficulty in advising on and dealing with the relevant parties' divergent interests competently, evenly and consistently.
- (5) Paragraphs (6) and (7) apply where —
- (a) a legal practitioner or law practice acts for 2 or more different parties (each called in those paragraphs a relevant party) to a matter or transaction; and
 - (b) a diversity of interests arises between those parties during the course of the retainer for the matter or transaction.
- (6) The legal practitioner or law practice —
- (a) must, throughout the remainder of the course of the retainer for the matter or transaction —
 - (i) continue to be vigilant of any conflict or potential conflict between the interests of any of the relevant parties; and
 - (ii) inform each relevant party of any conflict or potential conflict that arises or may arise between the interests of any of the relevant parties; and
 - (b) must cease to act in the matter or transaction if, in the course of the retainer, the legal practitioner or law practice has difficulty in advising on and dealing with the relevant parties' divergent interests competently, evenly and consistently.
- (7) Despite paragraphs (4)(b) and (6)(b), the legal practitioner or law practice may continue to act for a relevant party in the matter or transaction, if —

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- (a) the legal practitioner or law practice ceases to act for all other relevant parties whose interests diverge from the interests of that relevant party; and
 - (b) all of those other relevant parties give their informed consent in writing for the legal practitioner or law practice to continue to act in the matter or transaction.

(8) Where a legal practitioner or law practice has prepared a document on behalf of 2 or more parties concerning their rights and obligations, and 2 or more of those parties become involved in a dispute arising from the document, the legal practitioner or law practice must not represent any disputing party in the dispute.

Conflict, or potential conflict, between interests of current client and former client

21.—(1) The following principles guide the interpretation of this rule.

Principles

- (a) The duties of loyalty and confidentiality owed by a legal practitioner to his or her client continue after the termination of the retainer.
 - (b) The duties of loyalty and confidentiality owed by a law practice to its client continue after the termination of the retainer.
- (2) Subject to paragraphs (3), (4) and (5), a legal practitioner or law practice must decline to represent, or must withdraw from representing, a client (called in this rule the current client) in a matter, if —
- (a) the legal practitioner or the law practice holds confidential information relating to a former client (called in this rule the former client) that is protected by rule 6;
 - (b) the current client has an interest that is, or may reasonably be expected to be, adverse to an interest of the former client; and
 - (c) that information may reasonably be expected to be material to the representation of the current client in that matter.
- (3) Paragraph (2) does not prevent a legal practitioner or law practice from acting, or continuing to act, for the current client, subject

to any conditions agreed between the legal practitioner or law practice and the former client, if —

- (a) the legal practitioner or law practice has adequately advised the former client to obtain independent legal advice; and
- (b) the former client gives the former client’s informed consent in writing to the legal practitioner or law practice acting, or continuing to act, for the current client.

(4) Where the requirements in paragraph (3)(a) and (b) are not met despite reasonable efforts by the legal practitioner or law practice to meet those requirements, paragraph (2) does not prevent the legal practitioner or law practice from acting, or continuing to act, for the current client, if —

- (a) there are adequate safeguards in place to protect the former client’s confidential information; and
- (b) the legal practitioner or law practice has made reasonable efforts to notify the former client —
 - (i) of those safeguards; and
 - (ii) that the legal practitioner or law practice will act, or continue to act, for the current client.

(5) Where it would be illegal for the legal practitioner or law practice to meet the requirements in paragraphs (3)(a) and (4)(b), paragraph (2) does not prevent the legal practitioner or law practice from acting, or continuing to act, for the current client, if —

- (a) there are adequate safeguards in place to protect the former client’s confidential information; and
- (b) the legal practitioner or law practice ensures that the former client’s confidential information is not accessed, used or disclosed without the former client’s consent in writing.

Conflict, or potential conflict, between interests of client and interests of legal practitioner or law practice, in general

22.—(1) The following principles guide the interpretation of this rule and rules 23, 24 and 25.

Principles

- (a) A legal practitioner owes duties of loyalty and confidentiality to a client of the legal practitioner, and must act prudently to avoid any compromise of the lawyer-client relationship between the legal practitioner and the client by reason of a conflict, or potential conflict, between the interests of the client and the interests of the legal practitioner.
 - (b) A law practice owes duties of loyalty and confidentiality to a client of the law practice, and must act prudently to avoid any compromise of the lawyer-client relationship between the law practice and the client by reason of a conflict, or potential conflict, between the interests of the client and the interests of the law practice.
- (2) Except as otherwise permitted by this rule, a legal practitioner or law practice must not act for a client, if there is, or may reasonably be expected to be, a conflict between —
- (a) the duty to serve the best interests of the client; and
 - (b) the interests of the legal practitioner or law practice.
- (3) Where a legal practitioner, any immediate family member of the legal practitioner, or the law practice in which the legal practitioner practises has an interest in any matter entrusted to the legal practitioner by a client of the legal practitioner —
- (a) in any case where the interest is adverse to the client's interests, the legal practitioner must withdraw from representing the client, unless —
 - (i) the legal practitioner makes a full and frank disclosure of the adverse interest to the client;
 - (ii) the legal practitioner advises the client to obtain independent legal advice;
 - (iii) if the client does not obtain independent legal advice, the legal practitioner ensures that the client is not under an impression that the legal practitioner is protecting the client's interests; and
 - (iv) despite sub-paragraphs (i) and (ii), the client gives the client's informed consent in writing to the legal

practitioner acting, or continuing to act, on the client's behalf; or

- (b) in any other case, the legal practitioner must withdraw from representing the client, unless —
- (i) the legal practitioner makes a full and frank disclosure of the interest to the client; and
 - (ii) despite sub-paragraph (i), the client gives the client's informed consent in writing to the legal practitioner acting, or continuing to act, on the client's behalf.
- (4) Where a law practice has an interest in any matter entrusted to it by its client —
- (a) in any case where the interest is adverse to the client's interests, the law practice must withdraw from representing the client, unless —
- (i) the law practice makes a full and frank disclosure of the adverse interest to the client;
 - (ii) the law practice advises the client to obtain independent legal advice;
 - (iii) if the client does not obtain independent legal advice, the law practice ensures that the client is not under an impression that the law practice is protecting the client's interests; and
 - (iv) despite sub-paragraphs (i) and (ii), the client gives the client's informed consent in writing to the law practice acting, or continuing to act, on the client's behalf; or
- (b) in any other case, the law practice must withdraw from representing the client, unless —
- (i) the law practice makes a full and frank disclosure of the interest to the client; and
 - (ii) despite sub-paragraph (i), the client gives the client's informed consent in writing to the law practice acting, or continuing to act, on the client's behalf.

Prohibited borrowing transactions

23.—(1) Subject to paragraph (2), a legal practitioner or law practice must not do any of the following:

- (a) enter into a prohibited borrowing transaction;
- (b) instruct, procure, provide security for or arrange for an associated party to enter into a prohibited borrowing transaction;
- (c) knowingly allow an associated party to enter into a prohibited borrowing transaction which the legal practitioner or law practice has the power to prevent.

(2) Paragraph (1)(a) does not apply to a prohibited borrowing transaction, if —

- (a) both of the following apply:
 - (i) every party to the transaction (other than the legal practitioner or law practice) has received independent advice before the transaction was entered into;
 - (ii) the legal practitioner or law practice has made full disclosure of each interest of the legal practitioner or law practice in the transaction;
- (b) both of the following apply:
 - (i) the legal practitioner or law practice does not act for any client of the legal practitioner or law practice in the transaction;
 - (ii) any client of the legal practitioner or law practice that is a party to the transaction is represented, in the transaction, by a legal practitioner from a different law practice or by a different law practice; or
- (c) the Council determines (whether before or after the transaction was entered into) that paragraph (1)(a) does not apply to that particular transaction.

(3) Paragraph (1)(b) and (c) does not apply to a prohibited borrowing transaction, if —

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- (a) both of the following apply:
- (i) every party to the transaction (other than the legal practitioner or law practice or the associated party) has received independent advice before the transaction was entered into;
 - (ii) the legal practitioner or law practice has made full disclosure of each interest of the legal practitioner or law practice, and of the associated party, in the transaction;
- (b) both of the following apply:
- (i) the legal practitioner or law practice does not act for any client of the legal practitioner or law practice in the transaction;
 - (ii) any client of the legal practitioner or law practice that is a party to the transaction is represented, in the transaction, by a legal practitioner from a different law practice or by a different law practice; or
- (c) the Council determines (whether before or after the transaction was entered into) that paragraph (1)(b) and (c) does not apply to that particular transaction.
- (4) In this rule —
- “associated party” means —
- (a) in relation to a legal practitioner —
 - (i) any individual who is an immediate family member of —
 - (A) the legal practitioner; or
 - (B) the sole proprietor, or any partner, director, consultant or employee, of a law practice in which the legal practitioner practises law; or
 - (ii) any body corporate, partnership, syndicate, joint venture or trust in which any of the following

individuals has any beneficial interest, whether vested or contingent:

- (A) the legal practitioner;
- (B) any individual who is an immediate family member of —
 - (BA) the legal practitioner; or
 - (BB) the sole proprietor, or any partner, director, consultant or employee, of a law practice in which the legal practitioner practises law; or

(b) in relation to a law practice —

- (i) the sole proprietor, or any partner, director, consultant or employee, of the law practice;
- (ii) any immediate family member of the sole proprietor, or any partner, director, consultant or employee, of the law practice; or
- (iii) any body corporate, partnership, syndicate, joint venture or trust in which any of the following has any beneficial interest, whether vested or contingent:
 - (A) the sole proprietor, or any partner, director, consultant or employee, of the law practice;
 - (B) any immediate family member of the sole proprietor, or any partner, director, consultant or employee, of the law practice;

“client”, in relation to a legal practitioner or law practice, includes (in addition to a client as defined in section 2(1) of the Act) —

- (a) any person who has an existing lawyer-client relationship with the legal practitioner or law practice;

(b) any person seeking to invest money through the legal practitioner or law practice; and

(c) any person approached by or on behalf of the legal practitioner or law practice to invest money through the legal practitioner or law practice;

“excepted person” means any licensed or authorised bank, finance company or other similar entity the business of which includes lending money to members of the public;

“full disclosure” means such disclosure in writing by a legal practitioner or law practice as would be necessary for a trustee transaction;

“independent advice” means advice —

(a) which was given in relation to a transaction by a legal practitioner or law practice that —

(i) is not a party to the transaction; and

(ii) does not represent any associated party in the transaction; and

(b) which the legal practitioner or law practice has certified in writing that the legal practitioner or law practice has given;

“prohibited borrowing transaction” means any transaction under or by virtue of which money or valuable security is borrowed (whether directly or indirectly, and whether with or without security) from a client (not being an excepted person) of a legal practitioner or law practice —

(a) by the legal practitioner or law practice; or

(b) by an associated party of the legal practitioner or law practice.

Purchases from client

24.—(1) Subject to the law on fiduciary relationships, a legal practitioner or law practice may purchase goods and assets from a client of the legal practitioner or law practice only if the purchase is at the prevailing market price or at such price as is reasonable.

(2) Where practicable, the legal practitioner or law practice must obtain an independent valuation of the goods and assets.

Gifts from client

25.—(1) Paragraph (2) applies —

(a) where a client of a legal practitioner intends to make a significant gift, whether by will or while the client is alive, or in any other manner, to —

(i) the legal practitioner;

(ii) the sole proprietor, or any partner, director, consultant or employee, of the law practice in which the legal practitioner practises;

(iii) any immediate family member of —

(A) the legal practitioner; or

(B) the sole proprietor, or any partner, director, consultant or employee, of the law practice in which the legal practitioner practises; or

(iv) the law practice in which the legal practitioner practises; or

(b) where a client of a law practice intends to make a significant gift, whether by will or while the client is alive, or in any other manner, to —

(i) the law practice;

(ii) the sole proprietor, or any partner, director, consultant or employee, of the law practice; or

(iii) any immediate family member of the sole proprietor, or any partner, director, consultant or employee, of the law practice.

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- (2) The legal practitioner or law practice —
 - (a) must not act for the client in relation to the gift; and
 - (b) must advise the client to obtain independent legal advice in relation to the gift.

Completion of retainer and withdrawal from representation

26.—(1) The following principle guides the interpretation of this rule.

Principle

The duties of honesty, competence and diligence owed by a legal practitioner to his or her client continue until the termination of the retainer.

(2) Except as otherwise provided in this rule, a legal practitioner must complete the work which he or she agreed to undertake pursuant to his or her client's instructions.

(3) The dissolution of a law practice terminates the lawyer-client relationship between a client of the law practice and the legal practitioner in the law practice who is in charge of the client's matter.

(4) A legal practitioner must withdraw from representing a client, if —

- (a) the legal practitioner is discharged from the engagement by the client; or
- (b) having come into possession of a document belonging to another party by any means other than the normal and proper channels, and having read the document, the legal practitioner would be embarrassed in the discharge of the legal practitioner's duties by the knowledge of the contents of the document.

(5) A legal practitioner may withdraw from representing a client in a case or matter, if —

- (a) the legal practitioner gives reasonable notice of the withdrawal to the client;
- (b) the withdrawal will not cause any significant harm to the client's interests, the client is fully informed of the

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- consequences of the withdrawal, and the client voluntarily assents to the withdrawal;
- (c) the legal practitioner reasonably believes that continued engagement in the case or matter is likely to have a serious adverse effect on the legal practitioner's health;
 - (d) the client —
 - (i) fails to pay the legal practitioner's invoice within the stipulated period; or
 - (ii) otherwise breaches an agreement with the legal practitioner regarding —
 - (A) fees or expenses to be paid by the client; or
 - (B) the client's conduct;
 - (e) the client makes material misrepresentations about the facts of the case or matter to the legal practitioner;
 - (f) the withdrawal is necessary to avoid a contravention by the legal practitioner of —
 - (i) the Act;
 - (ii) these Rules or any other subsidiary legislation made under the Act;
 - (iii) any practice directions, guidance notes and rulings issued under section 71(6) of the Act;
 - (iv) any practice directions, guidance notes and rulings (relating to professional practice, etiquette, conduct and discipline) issued by the Council or the Society; or
 - (v) if the legal practitioner is duly authorised or registered to practise law in any state or territory other than Singapore, any practice directions, guidance notes and rulings (relating to professional practice, etiquette, conduct and discipline) issued by —
 - (A) the foreign authority having the function conferred by law of authorising or registering

persons to practise law in that state or territory;
or

(B) any relevant professional body of that state or territory;

(g) there is a serious loss of confidence between the legal practitioner and the client; or

(h) any other good cause exists.

(6) Where a legal practitioner withdraws from representing a client in a case or matter, the legal practitioner must —

(a) take reasonable care to avoid foreseeable harm to the client, including, where the circumstances permit —

(i) by giving reasonable notice of the withdrawal to the client;

(ii) by giving the client a reasonable amount of time to engage another legal practitioner to take over the case or matter; and

(iii) by cooperating with the client's new legal practitioner; and

(b) abide by the client's decision on whether to appoint another legal practitioner, and who to appoint, to take over the case or matter, if not completed.

(7) Where a legal practitioner (*A*) claims to exercise a lien for unpaid legal costs over any document of his or her client relating to a matter —

(a) in any case where another legal practitioner (*B*) is acting for the client, *A* must release that document to *B*, and offer such assistance as may be necessary to enable *B* to take over the matter, if —

(i) *B* undertakes to hold that document subject to the lien, and provides reasonable security for *A*'s unpaid costs;
or

- (ii) *B* offers to pay, or to enter into an agreement with the client to obtain payment of, *A*'s costs upon the completion of the matter, and *A* accepts *B*'s offer; or
- (b) in any other case, *A* must release that document to the client, if *A* receives reasonable security for *A*'s unpaid costs.

Division 3 — Relationship with other legal practitioners

Principles guiding interpretation of this Division

27. The following principles guide the interpretation of this Division.

Principles

- (a) A legal practitioner involved in any court proceedings (whether as a counsel, a witness or otherwise) must relate to another legal practitioner in a manner which promotes the administration of justice.
- (b) A legal practitioner is responsible to an opposing legal practitioner for maintaining due process and promoting the administration of justice.

Entering default judgment

28.—(1) A legal practitioner (*A*) must not enter a default judgment under any provision of the Rules of Court (Cap. 322, R 5) against a party who is represented by another legal practitioner (*B*), unless —

- (a) *A* has given *B* written notice of *A*'s intention to enter the default judgment; and
- (b) at least 2 working days have elapsed after the notice is given to *B*.

(2) Any notice under paragraph (1) that is given on a working day after 4 p.m., or on a day other than a working day, is to be treated as given on the next working day.

(3) To avoid doubt —

- (a) this rule does not extend the time stipulated by an order of court, or by any provision of the Rules of Court, for taking any action or step; and

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- (b) a legal practitioner need not give any notice under paragraph (1) before taking any action or step on a failure to comply with an order of court within the time stipulated by the order of court.

(4) In this rule, “working day” means any day other than a Saturday, Sunday or public holiday.

Allegations against another legal practitioner

29. A legal practitioner (*A*) must not permit an allegation to be made against another legal practitioner (*B*) in any document filed on behalf of *A*’s client in any court proceedings, unless —

- (a) *B* is given the opportunity to respond to the allegation; and
- (b) where practicable, *B*’s response (if any) is disclosed to the court.

Communication with court

30.—(1) Where a legal practitioner (*A*) acts for a party to any proceedings that the legal practitioner knows are pending, or are likely to be pending, before the court, the legal practitioner must not initiate any communication with the court about the facts, issues or any other matter in those proceedings, unless —

- (a) *A* has given each legal practitioner acting for another party to those proceedings a reasonable opportunity to be present or to reply; and
- (b) if *A*’s communication with the court was in writing, every other party to those proceedings is given a copy of the written communication.

(2) If a legal practitioner who acts for a party to any proceedings fails to comply with paragraph (1) when communicating with the court about those proceedings, the legal practitioner must inform each legal practitioner acting for another party to those proceedings of the circumstances as soon as possible.

(3) A legal practitioner who initiates any communication with the court in relation to an *ex parte* application filed by the legal

practitioner must comply with all relevant practice directions relating to ex parte applications.

(4) Except as provided in paragraph (3), paragraphs (1) and (2) do not apply to any communication referred to in paragraph (3).

Communication with another legal practitioner

31. Where a legal practitioner acts for a party in a matter, the legal practitioner must not disclose to the court any communication relating to the matter between the legal practitioner and a legal practitioner acting for another party in the matter, unless there is an agreement between the 2 legal practitioners to do so.

Division 4 — Supervision over staff of law practice

Responsibility for staff of law practice

32. A legal practitioner must, regardless of the legal practitioner's designation in a law practice, exercise proper supervision over the staff working under the legal practitioner in the law practice.

Division 5 — Descriptions and executive appointments

Descriptions

33.—(1) A legal practitioner who is an advocate and solicitor must not describe himself or herself in connection with his or her profession as anything other than —

- (a) an advocate and solicitor;
- (b) a lawyer;
- (c) a legal consultant (if qualified to be one);
- (d) a Commissioner for Oaths (if appointed as one);
- (e) a Notary Public (if appointed as one); or
- (f) such other description as may be approved by the Council from time to time.

(2) A legal practitioner who is a regulated foreign lawyer must not describe himself or herself in connection with his or her profession as anything other than —

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- (a) a foreign lawyer;
 - (b) a legal consultant (if qualified to be one); or
 - (c) such other description as may be approved by the Council from time to time.

(3) Paragraph (1) does not prevent a Senior Counsel appointed under section 30 of the Act from describing himself or herself in connection with his or her profession as a Senior Counsel.

(4) Paragraph (2) does not prevent a person who holds Her Majesty's Patent as Queen's Counsel, or holds an appointment of equivalent distinction of any jurisdiction, from describing himself or herself in connection with his or her profession as a Queen's Counsel or as holding that appointment (as the case may be).

Executive appointments

34.—(1) A legal practitioner must not accept any executive appointment associated with any of the following businesses:

- (a) any business which detracts from, is incompatible with, or derogates from the dignity of, the legal profession;
- (b) any business which materially interferes with —
 - (i) the legal practitioner's primary occupation of practising as a lawyer;
 - (ii) the legal practitioner's availability to those who may seek the legal practitioner's services as a lawyer; or
 - (iii) the representation of the legal practitioner's clients;
- (c) any business which is likely to unfairly attract business in the practice of law;
- (d) any business which involves the sharing of the legal practitioner's fees with, or the payment of a commission to, any unauthorised person for legal work performed by the legal practitioner;
- (e) any business set out in the First Schedule;

(f) any business which is prohibited by —

- (i) the Act;
- (ii) these Rules or any other subsidiary legislation made under the Act;
- (iii) any practice directions, guidance notes and rulings issued under section 71(6) of the Act; or
- (iv) any practice directions, guidance notes and rulings (relating to professional practice, etiquette, conduct and discipline) issued by the Council or the Society.

(2) Subject to paragraph (1), a legal practitioner in a Singapore law practice (called in this paragraph the main practice) may accept an executive appointment in another Singapore law practice (called in this paragraph the related practice), if the related practice is connected to the main practice in either of the following ways:

- (a) every legal or beneficial owner of the related practice is the sole proprietor, or a partner or director, of the main practice;
- (b) the legal practitioner accepts the executive appointment as a representative of the main practice in the related practice, and the involvement of the main practice in the related practice is not prohibited by any of the following:
 - (i) the Act;
 - (ii) these Rules or any other subsidiary legislation made under the Act;
 - (iii) any practice directions, guidance notes and rulings issued under section 71(6) of the Act;
 - (iv) any practice directions, guidance notes and rulings (relating to professional practice, etiquette, conduct and discipline) issued by the Council or the Society.

(3) Subject to paragraph (1), a legal practitioner may accept an executive appointment in a business entity which provides law-related services.

(4) Subject to paragraph (1), a legal practitioner (not being a locum solicitor) may accept an executive appointment in a business entity

which does not provide any legal services or law-related services, if all of the conditions set out in the Second Schedule are satisfied.

(5) Despite paragraph (1)(b), but subject to paragraph (1)(a) and (c) to (f), a locum solicitor may accept an executive appointment in a business entity which does not provide any legal services or law-related services, if all of the conditions set out in the Second Schedule are satisfied.

(6) Except as provided in paragraphs (2) to (5) —

(a) a legal practitioner in a Singapore law practice must not accept any executive appointment in another Singapore law practice; and

(b) a legal practitioner must not accept any executive appointment in a business entity.

(7) To avoid doubt, nothing in this rule prohibits a legal practitioner from accepting any appointment in any institution set out in the Third Schedule.

(8) To avoid doubt, this rule does not authorise the formation of, or regulate —

(a) any related practice referred to in paragraph (2); or

(b) any business entity referred to in paragraph (3), (4) or (5).

(9) In this rule and the First to Fourth Schedules —

“business” includes any business, trade or calling in Singapore or elsewhere, whether or not for the purpose of profit, but excludes the practice of law;

“business entity” —

(a) includes any company, corporation, partnership, limited liability partnership, sole proprietorship, business trust or other entity that carries on any business; but

(b) excludes any Singapore law practice, any Joint Law Venture, any Formal Law Alliance, any foreign law practice and any institution set out in the Third Schedule;

“executive appointment” means a position associated with a business, or in a business entity or Singapore law practice, which entitles the holder of the position to perform executive functions in relation to the business, business entity or Singapore law practice (as the case may be), but excludes any non-executive director or independent director associated with the business or in the business entity;

“law-related service” means any service set out in the Fourth Schedule, being a service that may reasonably be performed in conjunction with, and that is in substance related to, the provision of any legal service.

PART 4

RULES APPLICABLE TO MANAGEMENT AND OPERATION OF LAW PRACTICES

Responsibilities in relation to management and operation of law practice

35.—(1) The following principles guide the interpretation of this rule.

Principles

- (a) A legal practitioner in the management of a law practice must make a reasonable effort to provide a working environment which prioritises competence, professionalism and ethical consciousness on the part of every individual working in the law practice.
- (b) A legal practitioner in the management of a law practice is responsible for the implementation and maintenance of adequate systems in the law practice to ensure that every legal practitioner working in the law practice complies with the applicable written law, and any applicable practice directions, guidance notes and rulings issued under section 71(6) of the Act or by the Council or the Society, relating to client’s money, conflicts of interests and client confidentiality.
- (c) A legal practitioner in the management of a law practice must ensure that every system referred to in principle (b) is appropriate to the size and complexity of the law practice, the nature of the work undertaken by the law practice, and the number and qualifications of the employees of the law

practice, and enables an assessment of all circumstances relevant to each client of the law practice and each situation.

(2) The management of a law practice must notify the Society of the name and contact details of a member of the management within 14 days after the member is appointed.

(3) Where the management of a law practice comprises 2 or more individuals, each member of the management is jointly and severally responsible for compliance with the responsibilities of the management under this Part.

(4) The management of a law practice must take reasonable steps to ensure that the law practice has in place adequate systems, policies and controls for ensuring that the law practice, and the legal practitioners working in the law practice, comply with the applicable written law, and any applicable practice directions, guidance notes and rulings issued under section 71(6) of the Act or by the Council or the Society, relating to —

- (a) client's money;
- (b) conflicts of interests; and
- (c) client confidentiality.

(5) The management of a law practice must take reasonable steps to ensure that the systems, policies and controls referred to in paragraph (4) include, but are not limited to —

- (a) training all relevant employees of the law practice on the applicable written law, and any applicable practice directions, guidance notes and rulings issued under section 71(6) of the Act or by the Council or the Society, relating to —
 - (i) client's money;
 - (ii) conflicts of interests;
 - (iii) client confidentiality; and

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- (iv) the responsibilities of those employees in relation to the matters referred to in sub-paragraphs (i), (ii) and (iii);
 - (b) implementing, as soon as possible, policies and procedures for any known breaches of the applicable written law, and any applicable practice directions, guidance notes and rulings issued under section 71(6) of the Act or by the Council or the Society; and
 - (c) documenting the policies and procedures referred to in sub-paragraph (b).
- (6) The management of a law practice must, where appropriate —
- (a) assess the systems, policies and controls referred to in paragraph (4) that are implemented by the law practice; and
 - (b) make changes to ensure that those systems, policies and controls continue to ensure that the law practice, and the legal practitioners working in the law practice, comply with the applicable written law, and any applicable practice directions, guidance notes and rulings issued under section 71(6) of the Act or by the Council or the Society, relating to —
 - (i) client’s money;
 - (ii) conflicts of interests; and
 - (iii) client confidentiality.
- (7) The management of a law practice must ensure that the law practice complies with the requirements of the Act (including these Rules).
- (8) In this rule, “management”, in relation to a law practice, means the sole proprietor of the law practice, or the partners or directors of the law practice who are identified, in the licence issued to the law practice under section 131(3), 138(3), 153(3), 169(3), 170(3), 171(3) or 172(3) of the Act, as the partners or directors charged with management responsibilities in the law practice.

Responsibilities to practice trainees in law practice

36.—(1) The management of a law practice is responsible for providing supervised training in relation to the practice of Singapore law to each practice trainee in the law practice.

(2) The management of a law practice must ensure that all of the following apply to each practice trainee who serves the practice training period under a practice training contract with the law practice:

- (a) the practice trainee is supervised by a supervising solicitor who —
 - (i) is in active practice in the law practice; and
 - (ii) has in force a practising certificate for a total of not less than 5 out of the 7 years immediately preceding the date the supervision of the practice trainee starts;
- (b) the practice trainee is resident in Singapore during the practice training period;
- (c) the supervising solicitor performs the supervising solicitor’s responsibilities in accordance with the Guidelines for Practice Training Contracts issued under rule 23 of the Legal Profession (Admission) Rules 2011 (G.N. No. S 244/2011).

PART 5**RULES APPLICABLE TO TOUTING AND PUBLICITY****Principle guiding interpretation of this Part**

37. The following principle guides the interpretation of this Part.

Principle

A legal practitioner must not engage in publicity, or procure any work or engagement for himself or herself, the law practice in which he or she practises or any other person, in circumstances which affect the dignity and standing of the legal profession.

Business, trade or calling

38. A legal practitioner or law practice must not engage in any business, trade or calling which —

- (a) derogates from the dignity of the legal profession;
- (b) is likely to unfairly attract business in the practice of law; or
- (c) is prohibited by —
 - (i) the Act;
 - (ii) these Rules or any other subsidiary legislation made under the Act;
 - (iii) any practice directions, guidance notes and rulings issued under section 71(6) of the Act; or
 - (iv) any practice directions, guidance notes and rulings (relating to professional practice, etiquette, conduct and discipline) issued by the Council or the Society.

Touting and referrals

39.—(1) A legal practitioner or law practice must not tout for business or do anything which is likely to lead to a reasonable inference that the thing was done for the purpose of touting.

(2) Without prejudice to the generality of paragraph (1), where there is reason to believe that a client is referred to a legal practitioner or law practice by any other person, the legal practitioner or law practice —

- (a) must maintain the independence and integrity of the legal profession, by not permitting the referrer to undermine the professional independence of the legal practitioner or law practice;
- (b) must not reward the referrer by the payment of any commission or other form of consideration;
- (c) must not allow the referral to affect in any way the advice given to the client;
- (d) must advise the client impartially and independently;

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- (e) must ensure that any wish to avoid offending the referrer does not affect in any way the advice given to the client;
 - (f) must ensure that the referrer does not in any way influence any decision taken in relation to the nature, style or extent of the practice of the legal practitioner or law practice; and
 - (g) must communicate directly with the client to obtain or confirm instructions when providing advice and at all appropriate stages of the transaction.

Agreement for referrals

40.—(1) In addition to rule 39, when a legal practitioner or law practice enters into any agreement for the referral of any conveyancing service, the legal practitioner or law practice must ensure that the agreement is made in writing and contains the following terms:

- (a) the referrer undertakes in the agreement to comply with these Rules;
- (b) the legal practitioner or law practice is entitled to terminate the agreement, if there is reason to believe that the referrer is in breach of any term of the agreement;
- (c) any publicity of the referrer (whether written or otherwise), which refers to any service that may be provided by the legal practitioner or law practice, must not suggest any of the following:
 - (i) that the conveyancing service is free;
 - (ii) that different charges are payable for the conveyancing service, depending on whether the client instructs the legal practitioner or law practice;
 - (iii) that the availability or price of any other service offered by the referrer, or by any party related to the referrer, is conditional on the client instructing the legal practitioner or law practice;
- (d) the referrer must not do anything to impair the right of the client not to appoint the legal practitioner or law practice, and

must not influence in any way the right of the client to appoint a legal practitioner or law practice of the client's choice.

(2) The legal practitioner or law practice must terminate the agreement, if —

- (a) the referrer is in breach of any term referred to in paragraph (1); or
- (b) there is reason to believe that the legal practitioner or law practice is in breach of any such term.

(3) Where the legal practitioner or law practice has terminated an agreement under paragraph (2), the legal practitioner or law practice —

- (a) may continue to act in matters for which the legal practitioner or law practice was instructed prior to the termination; but
- (b) must not accept any further referrals from the referrer.

Publicity to be in accordance with these Rules

41. Subject to these Rules, a legal practitioner may —

- (a) publicise the legal practitioner's practice, or the practice of a law practice of which the legal practitioner is a director, a partner or an employee; or
- (b) allow the employees of the law practice to do so.

General responsibilities

42.—(1) A legal practitioner must ensure that any publicity relating to the legal practitioner's practice complies with these Rules, whether that publicity is by the legal practitioner or by any other person on the legal practitioner's behalf.

(2) Where a legal practitioner becomes aware of any impropriety in any publicity relating to the legal practitioner's practice or the practice of a law practice of which the legal practitioner is a director or a partner, the legal practitioner must use the legal practitioner's best endeavours to procure the rectification or withdrawal of the publicity, and to prevent the recurrence of the impropriety.

(3) Where the Council determines that any publicity relating to the practice of a legal practitioner or law practice is contrary to any provision of these Rules, the Council may order the legal practitioner or law practice to alter, withdraw, remove or discontinue the publicity or cause the publicity to be altered, withdrawn, removed or discontinued.

(4) A legal practitioner or law practice must ensure that any publicity relating to the practice of the legal practitioner or law practice does not make use of the armorial bearings of the Society.

Responsibilities relating to publicity within Singapore

43.—(1) When a legal practitioner publicises the legal practitioner's practice or the practice of a law practice of which the legal practitioner is a director, a partner or an employee, the legal practitioner must ensure that —

- (a) any claim to expertise or specialisation can be justified;
- (b) the publicity does not make any direct or indirect mention of —
 - (i) any past case in which, or any client for whom, the legal practitioner, the law practice or any member of the law practice had acted, if the provision of any such information will result in a breach of any duty of confidentiality owed to a client or former client of the legal practitioner or law practice; or
 - (ii) the success rate of the legal practitioner, the law practice or any member of the law practice; and
- (c) the publicity does not make any comparison or criticism in relation to the fees charged, or the quality of the services provided, by any other legal practitioner or law practice.

(2) For the purposes of paragraph (1)(a), the following factors may be taken into account in justifying any claim to expertise or specialisation:

- (a) academic qualifications;
- (b) experience;

- (c) proportion of working time involved;
- (d) level of success achieved;
- (e) complexity of law and practice;
- (f) significance of the matters involving the legal practitioner or the law practice of which the legal practitioner is a director, a partner or an employee;
- (g) assessment by peers.

(3) When a legal practitioner who practised in a law practice is appointed to the judiciary —

- (a) any publicity relating to the law practice must not refer to the legal practitioner's appointment to the judiciary during the tenure of the legal practitioner's judicial office; but
- (b) this paragraph does not prohibit the inclusion of the legal practitioner's name in the publicity, if the name appears as, or forms part of, the name of the law practice.

(4) These Rules do not permit the doing of anything which may reasonably be regarded as touting by —

- (a) a legal practitioner;
- (b) a law practice; or
- (c) a director, a partner or an employee of a law practice.

Misleading, deceptive, inaccurate or false, etc., publicity

44.—(1) A legal practitioner must not publicise the legal practitioner's practice, or the practice of the law practice of which the legal practitioner is a director, a partner or an employee, in a manner which —

- (a) is likely to diminish public confidence in the legal profession or to otherwise bring the legal profession into disrepute;
- (b) may reasonably be regarded as being misleading, deceptive, inaccurate, false or unbecoming the dignity of the legal profession; or

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- (c) the Council may determine to be an undesirable manner of publicising the practice of a legal practitioner or law practice.
- (2) For the purpose of these Rules, publicity is misleading, deceptive, inaccurate or false if —
- (a) it contains a material misrepresentation;
 - (b) it omits to state a material fact;
 - (c) it contains any information which cannot be verified; or
 - (d) it is likely to create an unjustified expectation about the results that can be achieved by the legal practitioner or the law practice of which the legal practitioner is a director, a partner or an employee.

Contributions to good causes

45.—(1) Subject to this rule —

- (a) any legal practitioner or law practice may contribute to good causes, whether by way of donation, sponsorship, subscription or the provision of free services; and
 - (b) any contribution made by the legal practitioner or law practice may be publicly acknowledged by the recipient of the contribution.
- (2) Where a legal practitioner or law practice contributes to any good cause, the legal practitioner or law practice must take reasonable steps to ensure that any public acknowledgment of the contribution does not state any information pertaining to the legal practitioner or law practice except —
- (a) in the case of a contribution made by a legal practitioner, the legal practitioner's name, the fact that the legal practitioner is a legal practitioner, and the name of the law practice of which the legal practitioner is a director, a partner or an employee; and
 - (b) in the case of a contribution made by a law practice, the name of the law practice.

(3) A legal practitioner or law practice may endow prizes and scholarships at any school or educational institution, and may be identified in the name of any prize or scholarship as the endower of the prize or scholarship.

(4) In this rule, “good cause” includes any registered charity and any other benevolent cause or cause concerned with the promotion of education, sports or the arts.

Third-party publicity

46. Subject to the Act and these Rules —

(a) a legal practitioner may allow the legal practitioner’s practice or the practice of the law practice of which the legal practitioner is a director, a partner or an employee; and

(b) a law practice may allow its practice,

to be publicised in, or in conjunction with, the publicity of any third party, whether or not the party is a client of the legal practitioner or law practice.

Giving of free legal advice

47.—(1) A legal practitioner may give free legal advice to any person at or through any facility established with a view to providing legal assistance to members of the public.

(2) In the course of giving such free legal advice, a legal practitioner must take reasonable steps to ensure that no information pertaining to the legal practitioner is publicised except the legal practitioner’s name, the fact that the legal practitioner is a legal practitioner, and the name of the law practice of which the legal practitioner is a director, a partner or an employee.

(3) To avoid doubt, a legal practitioner must not in the course of giving the free legal advice referred to in paragraph (1) —

(a) distribute any of the legal practitioner’s business cards or any brochure, leaflet or pamphlet relating to the legal practitioner’s practice or the practice of the law practice of which the legal practitioner is a director, a partner or an employee; or

- (b) act for any person to whom the legal practitioner has given such free legal advice, unless the legal practitioner acts for that person in a pro bono capacity.

Publicity outside Singapore

48.—(1) A legal practitioner may publicise the legal practitioner’s practice, or the practice of the law practice of which the legal practitioner is a director, a partner or an employee, in a country other than Singapore, and where the legal practitioner does so, rules 43 to 47 do not apply.

(2) Where a legal practitioner publicises the law practice of which the legal practitioner is a director, a partner or an employee in a country other than Singapore, the legal practitioner must ensure that the publicity is not conducted in a manner that is contrary to the laws of that country.

Jurisdiction where publicity is conducted

49. For the purposes of these Rules —

- (a) publicity is conducted in a jurisdiction in which the publicity is reasonably expected to be received or accessible in the normal course of events; and
- (b) publicity is not conducted in a jurisdiction if the receipt of the publicity in the jurisdiction is incidental.

PART 6

MISCELLANEOUS

Savings for duties, etc., that exist apart from these Rules

50. These Rules do not limit or restrict any duty or obligation of a legal practitioner or law practice, or any right or remedy of any person, that exists or may arise apart from these Rules.

Revocation

51. The following Rules are revoked:

- (a) Legal Profession (Professional Conduct) Rules (R 1);

(b) Legal Profession (Publicity) Rules (R 13).

FIRST SCHEDULE

Rule 34(1)(e) and (9)

PROHIBITED BUSINESSES

1. Housing or estate agency business
2. Debt collection business

SECOND SCHEDULE

Rule 34(4), (5) and (9)

CONDITIONS FOR ACCEPTING EXECUTIVE APPOINTMENT
IN BUSINESS ENTITY

1. The business of the business entity —
 - (a) must not jeopardise the professional integrity, independence or competence of the legal practitioner; and
 - (b) must not detract from the standing and dignity of the legal profession.
2. The business entity must not be held out or described in such a way as to suggest —
 - (a) that the business entity is a law practice; or
 - (b) that any legal practitioner in the business entity provides services, carries on business, or is employed, as a regulated legal practitioner.
3. The involvement of the legal practitioner in the business entity must not impair, and must not be in conflict with, the legal practitioner's duties —
 - (a) in the law practice in which the legal practitioner practises; or
 - (b) to any client of that law practice.
4. The files, records and accounts of the business entity must be kept separate from and independent of the files, records and accounts of the law practice in which the legal practitioner practises.
5. Where, in the course of dealing with the law practice in which the legal practitioner practises, a client of that law practice deals with, or is referred by that law practice to, the business entity, the legal practitioner must make full and frank disclosure of all of the following matters to the client:
 - (a) the relationship (if any) between the business entity and each of the following:

SECOND SCHEDULE — *continued*

- (i) that law practice;
 - (ii) every legal practitioner in that law practice who has any interest in the business entity;
 - (b) the financial or other interests of each of the following in the business entity:
 - (i) that law practice;
 - (ii) every legal practitioner in that law practice who has any interest in the business entity;
 - (c) that the statutory protection conferred on a client of a law practice under the Act (including but not limited to compulsory professional indemnity insurance coverage and the Compensation Fund maintained under section 75 of the Act), or under any subsidiary legislation made under the Act, may not be available to a customer of the business entity.
6. The client account of the law practice in which the legal practitioner practises, and any other account of that law practice used to hold money for a client of that law practice, must not be used to hold money for the business entity in its capacity as such, or for any customer of the business entity in the customer's capacity as such.
7. Each account of the business entity must not be used to hold money for the law practice in which the legal practitioner practises in that law practice's capacity as such, or for any client of that law practice in the client's capacity as such.
- 8.—(1) The business entity must conduct its business at an address that is separate and distinct from the address of the law practice in which the legal practitioner practises.
- (2) However —
- (a) both addresses may be in the same building; and
 - (b) the business entity is not to be treated as conducting its business at an address by reason only that the address is the address of the registered office of the business entity.

THIRD SCHEDULE

Rule 34(7) and (9)

INSTITUTIONS IN WHICH LEGAL PRACTITIONER MAY ACCEPT ANY APPOINTMENT

1. The Society
2. The Academy
3. The Institute
4. The National University of Singapore
5. The Singapore Management University
6. Any charity registered under section 5 of the Charities Act (Cap. 37)

FOURTH SCHEDULE

Rule 34(9)

LAW-RELATED SERVICES

1. Any intellectual property service, including the registration (where applicable), and the provision of consultancy and advice on the management and enforcement, of copyright, trade marks, patents, designs, plant varieties and any other category of intellectual property referred to in the Agreement on Trade-Related Aspects of Intellectual Property Rights
2. Any tax service, including tax consultancy and advice
3. Any trust business or trust business service as defined in section 2 of the Trust Companies Act (Cap. 336)
4. Any company secretarial service, including the establishment and incorporation of a company
5. Any service as a continuing sponsor company for an entity any shares of which are listed for quotation on the Singapore Exchange Catalist
6. Any administrative, management, property or other service provided exclusively to a law practice or to a business entity referred to in rule 34(3), (4) or (5)
7. Any forensic investigation, document management or discovery service, or any other service relating to litigation support
8. Any voluntary liquidation service

Made on 18 November 2015.

SUNDARESH MENON
Chairman,
Professional Conduct Council.

[RSCS R7/13 Vol. 1; AG/LLRD/SL/161/2013/1 Vol. 4]

(To be presented to Parliament under section 185 of the Legal Profession Act).