

Legal Profession (Amendment) Bill

Bill No. 10/2007.

Read the first time on 9th March 2007.

A BILL

intituled

An Act to amend the Legal Profession Act (Chapter 161 of the 2001 Revised Edition) and to make consequential amendments to certain other written laws.

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

Short title and commencement

1.—(1) This Act may be cited as the Legal Profession (Amendment) Act 2007 and shall, with the exception of section 24(1), come into operation on such date as the Minister may, by notification in the *Gazette*, appoint.

(2) Section 24(1) shall be deemed to have come into operation on 1st April 2007.

Amendment of section 2

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

- (a) by deleting the definition of “Faculty” in subsection (1);
- (b) by deleting paragraph (a) of subsection (3) and substituting the following paragraph:

“(a) prescribe the institutions of higher learning, and the courses provided and qualifications conferred thereby, which may be recognised for the purposes of this Act, and may include provisions for the review by the Board of the syllabus and contents of such courses and examinations leading to such qualifications;”;

- (c) by inserting, immediately after the word “thereof” in subsection (3)(d), the words “by the Minister or by the Board”.

Amendment of section 8

3. Section 8 of the principal Act is amended —

- (a) by deleting paragraph (c) of subsection (1) and substituting the following paragraph:

“(c) the Dean of the Faculty of Law of the National University of Singapore and the Dean of the Faculty of Law of the Singapore Management University, in each case, being a qualified person;”;

- (b) by deleting the words “Dean of the Faculty” in subsection (2) and substituting the words “Deans appointed under subsection (1)(c)”;

(c) by deleting the words “the Dean of the Faculty” in subsection (3) and substituting the words “any of the Deans appointed under subsection (1)(c)”; and

5 (d) by deleting the word “Faculty” in the 4th line of subsection (3) and substituting the words “Faculty of Law of the National University of Singapore or the Faculty of Law of the Singapore Management University”.

Amendment of section 11

10 **4.** Section 11 of the principal Act is amended by deleting subsection (2) and substituting the following subsection:

15 “(2) No person who is a qualified person by reason of his having passed the final examination for a law degree in any university in Singapore pursuant to rules made under section 2(2) shall be admitted as an advocate and solicitor before the law degree is conferred upon him.”.

Amendment of section 13

5. Section 13 of the principal Act is amended by deleting subsection (5) and substituting the following subsection:

20 “(5) Subsection (4) shall not —
 (a) apply to service as a legal officer;
 (b) apply to service as an Assistant Public Prosecutor in the Attorney-General’s Chambers; or
 (c) preclude a pupil receiving remuneration from his master.”.

Amendment of section 14

25 **6.** Section 14(3) of the principal Act is amended by deleting the words “statutory board or authority” and substituting the words “statutory body or law office in the public service”.

Amendment of section 30

30 **7.** Section 30 of the principal Act is amended —
 (a) by deleting the words “member of the Faculty” in subsection (5)(c) and substituting the words “member of the Faculty of Law

of the National University of Singapore or the Faculty of Law of the Singapore Management University”; and

(b) by inserting, immediately after subsection (7), the following subsection:

5 “(8) Any person who, on or after the date of commencement
of this subsection, holds office as the Attorney-General or the
Solicitor-General shall, if he is not a Senior Counsel, be
deemed to have been appointed as Senior Counsel under this
section on that date or the date on which he is appointed
10 Attorney-General or Solicitor-General, whichever is the later.”.

Amendment of section 33

8. Section 33 of the principal Act is amended —

- (a) by deleting “\$1,000” in subsection (1) and substituting “\$25,000”;
- 15 (b) by inserting, immediately after the words “6 months or to both” in the last line of subsection (1), the words “and, in the case of a second or subsequent conviction, to a fine not exceeding \$50,000 or to imprisonment for a term not exceeding 12 months or to both”;
- 20 (c) by deleting “\$500” in subsection (5) and substituting “\$10,000”;
- (d) by deleting “\$1,000” in subsections (5) and (6) and substituting in each case “\$25,000”; and
- (e) by deleting “\$3,000” in subsection (6) and substituting “\$50,000”.

25 New section 35A

9. The principal Act is amended by inserting, immediately after section 35, the following section:

“Order to repay upon conviction under section 33

30 **35A.**—(1) A court may, on the application of the Public Prosecutor, order any unauthorised person convicted of an offence under section 33(1), (2) or (3) or against whom a court has taken into consideration such an offence in sentencing him —

(a) to repay any fee, gain or reward received in respect of any such offence to the person who made the payment; or

(b) to pay any fee, gain or reward referred to in paragraph (a) to the Law Society for the benefit of the person who made the payment.

(2) The Society shall hold and pay out any moneys received pursuant to an order made under subsection (1)(b) in the manner prescribed under subsection (5).

(3) In any proceedings under subsection (1), a certificate purporting to be issued by the Public Prosecutor certifying the amount of any fee, gain or reward referred to in subsection (1)(a) paid by a person to an unauthorised person shall be prima facie evidence of the amount that the unauthorised person is liable to repay under subsection (1)(a) as at the date of the certificate.

(4) An amount ordered to be paid under subsection (1) shall carry interest as from the date of the order and at the same rate as a judgment debt.

(5) The Council may, with the approval of the Chief Justice, make rules for the purposes of subsection (2).

(6) In this section, “fee, gain or reward” does not include disbursements.”.

Amendment of section 36

10. Section 36 of the principal Act is amended by inserting, immediately after subsection (2), the following subsection:

“(3) Subsection (2) shall not entitle any person (referred to in this subsection as “the claimant”) to recover from an unauthorised person any payment that has been repaid to the claimant or paid to the Law Society for the benefit of the claimant under section 35A(1).”.

Amendment of section 39

11. Section 39 of the principal Act is amended —

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

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

“(d) all persons who are members of the Society by reason of section 40A.”.

New section 40A

5 **12.** The principal Act is amended by inserting, immediately after section 40, the following section:

“Foreign practitioner members

40A.—(1) Every foreign lawyer who is —

- (a) registered under section 130I to practise Singapore law in a Joint Law Venture;
- 10 (b) registered under section 130J to practise Singapore law in a Singapore law firm; or
- (c) granted an approval referred to in section 130L,

shall, without election, admission or appointment, become a member of the Society and remain a member under this section so long and only so long as his registration referred to in paragraph (a) or (b) or
15 his approval referred to in paragraph (c) continues in force.

(2) Every foreign lawyer who is a member of the Society under subsection (1) shall be referred to in this Act as a foreign practitioner member.”.

20 **Amendment of section 44**

13. Section 44 of the principal Act is amended by inserting, immediately after subsection (2), the following subsection:

“(3) A foreign practitioner member shall not be expelled from membership so long as his registration referred to in section
25 40A(1)(a) or (b) or his approval referred to in section 40A(1)(c) continues in force.”.

Amendment of section 46

14. Section 46 of the principal Act is amended —

- (a) by deleting the words “and shall be payable to the Society by every solicitor in each year prior to his application for a
30 practising certificate” in subsection (1);

(b) by inserting, immediately after subsection (1), the following subsections:

5 “(1A) The subscription shall be payable to the Society by every solicitor in each year prior to his application for a practising certificate.

(1B) The subscription shall be payable to the Society by a foreign practitioner member —

10 (a) if he is registered under section 130I or 130J, not later than 14 days after the date of issue of every certificate of registration by the Attorney-General in respect of his registration under that section; or

15 (b) if he has been granted an approval referred to in section 130L, but is not registered under section 130I or 130J, not later than 14 days after the date of issue of a certificate of approval by the Attorney-General in respect of that approval and not later than the anniversary of that date of issue in every subsequent year.

20 (1C) The amount payable in the case of subsection (1B)(a) shall be —

(a) if the certificate of registration issued by the Attorney-General is valid for 12 months, the amount of the annual subscription fixed under subsection (1) for foreign practitioner members;

25 (b) if the certificate of registration issued by the Attorney-General is valid for 24 months, double the amount of the annual subscription fixed under subsection (1) for foreign practitioner members; or

30 (c) if the certificate of registration issued by the Attorney-General is valid for 36 months, treble the amount of the annual subscription fixed under subsection (1) for foreign practitioner members.

35 (1D) The amount payable in the case of subsection (1B)(b) shall be the amount of the annual subscription fixed under subsection (1) for foreign practitioner members.”;

- (c) by deleting the words “In fixing” in subsection (2) and substituting the words “Subject to this section, in fixing”;
- (d) by inserting, immediately after subsection (3), the following subsection:

5 “(3A) The subscriptions payable by foreign practitioner members who are members of the Society by reason of section 40A shall at no time exceed the highest subscription payable by practitioner members for the corresponding period.”;

- 10 (e) by inserting, immediately after the words “practitioner members” in subsection (4), the words “and foreign practitioner members”;
- (f) by deleting the word “subscriptions” in subsection (5) and substituting the words “annual subscription”;
- (g) by deleting the word “and” at the end of subsection (6)(a);
- 15 (h) by deleting the full-stop at the end of paragraph (b) of subsection (6) and substituting the word “; and”, and by inserting immediately thereafter the following paragraph:

 “(c) in the case of a subscription paid by a foreign practitioner member, a sum of \$50.”; and

- 20 (i) by inserting, immediately after subsection (6), the following subsection:

 “(7) For the avoidance of doubt, the sum payable to the Board under subsection (6)(c) —

- 25 (a) where a foreign practitioner member has paid to the Society double the amount of the annual subscription pursuant to subsection (1C)(b), shall be \$100; and
- (b) where a foreign practitioner member has paid to the Society treble the amount of the annual subscription pursuant to subsection (1C)(c), shall be \$150.”.

Amendment of section 71

- 30 **15.** Section 71(1) of the principal Act is amended by inserting, immediately after the words “advocates and solicitors”, the words “, including rules empowering the Council to take such action as may be necessary to enable the Council to ascertain whether or not the rules are being complied with”.

Amendment of section 75

16. Section 75 of the principal Act is amended —

(a) by deleting the words “so determined” in subsection (3) and substituting the words “determined under subsection (2)”;

5 (b) by inserting, immediately after subsection (3), the following subsections:

“(3A) Every foreign lawyer who is —

(a) registered under section 130J to practise Singapore law in a Singapore law firm; or

10 (b) granted an approval referred to in section 130L,

shall, while his registration referred to in paragraph (a) or his approval referred to in paragraph (b) continues in force, pay to the Society an annual contribution of such sum (not exceeding the amount applicable to solicitors under subsection (2)) as the Council may from time to time determine and the Society shall pay that contribution to the Fund.

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(3B) A foreign lawyer shall pay the contribution required under subsection (3A) —

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(a) if he is registered under section 130J, not later than 14 days after the date of issue of every certificate of registration by the Attorney-General in respect of his registration under that section; or

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(b) if he has been granted an approval referred to in section 130L, but is not registered under section 130J, not later than 14 days after the date of issue of a certificate of approval by the Attorney-General in respect of that approval and not later than the anniversary of that date of issue in every subsequent year.

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(3C) The amount payable in the case of subsection (3B)(a) shall be —

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(a) if the certificate of registration issued by the Attorney-General is valid for 12 months, the amount of the annual contribution determined under subsection (3A);

(b) if the certificate of registration issued by the Attorney-General is valid for 24 months, double the amount of the annual contribution determined under subsection (3A); or

5 (c) if the certificate of registration issued by the Attorney-General is valid for 36 months, treble the amount of the annual contribution determined under subsection (3A).

10 (3D) The amount payable in the case of subsection (3B)(b) shall be the amount of the annual contribution determined under subsection (3A).”;

(c) by deleting the word “or” at the end of paragraph (b) of subsection (11);

15 (d) by deleting the comma at the end of paragraph (c) of subsection (11) and substituting the word “; or”, and by inserting immediately thereafter the following paragraph:

20 “(d) any foreign lawyer referred to in subsection (3A) or employee of such a foreign lawyer in connection with that foreign lawyer’s practice in a Singapore law firm.”;

(e) by inserting, immediately after subsection (12), the following subsection:

25 “(12A) A grant may be made under this section notwithstanding that subsequent to the commission of that act of dishonesty the foreign lawyer has died or his registration or approval referred to in subsection (3A) has been cancelled or suspended or has expired.”; and

30 (f) by inserting, immediately after the word “solicitor,” wherever it appears in subsections (13) and (14), the words “foreign lawyer,”.

Amendment of section 75A

17. Section 75A of the principal Act is amended —

(a) by deleting the word “contravened” in the 3rd line of subsection (3)(f) and substituting the words “failed to comply with”;

- (b) by deleting the word “contravened” in the last line of subsection (3)(f) and substituting the words “failed to comply”; and
- (c) by inserting, immediately after subsection (6), the following subsection:

5 “(7) Disciplinary proceedings may be taken against any advocate and solicitor who contravenes any rules made under this section.”.

Amendment of section 75C

18. Section 75C of the principal Act is amended —

- 10 (a) by deleting the words “, who is admitted as a solicitor on or after 1st March 1997,” in the 1st and 2nd lines of subsection (1);
- (b) by deleting subsections (3), (4) and (4A) and substituting the following subsections:
 - 15 “(3) Paragraphs (b) and (c) of subsection (1) shall not apply to a solicitor who was admitted as a solicitor before 1st March 1997.
 - (4) This section shall not apply to a solicitor who has before 9th March 2007 been in practice as a solicitor on his own account or in partnership (whether in a law firm or a limited liability law partnership) or as a director of a law corporation.”;
 - 20 (c) by deleting “\$5,000” in subsection (5) and substituting “\$10,000”; and
 - (d) by deleting the words “statutory corporation” in subsection (6) and substituting the words “statutory body or law office in the public service”.
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Amendment of section 75D

19. Section 75D of the principal Act is amended —

- 30 (a) by deleting the word “Faculty” in subsection (1)(c) and substituting the words “Faculty of Law of the National University of Singapore or the Faculty of Law of the Singapore Management University”; and
- (b) by deleting “\$5,000” in subsection (2) and substituting “\$10,000”.

Amendment of section 77

20. Section 77(4) of the principal Act is amended by deleting “\$2,000” and substituting “\$50,000”.

Amendment of section 82A

5 21. Section 82A(1) of the principal Act is amended by inserting, immediately after “91,” “94A,”.

Amendment of section 94A

22. Section 94A of the principal Act is amended —

10 (a) by inserting, immediately after subsection (1), the following subsection:

“(1A) Where an advocate and solicitor has been convicted of an offence under section 33, the Society may, and shall upon a request by the Attorney-General, without further direction or directions, proceed to make an application in accordance with section 98.”;

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(b) by inserting, immediately after the words “subsection (1)” in subsection (2), the words “or (1A)”;

(c) by inserting, immediately after subsection (2), the following subsection:

20 “(3) This section shall not apply to a legal officer.”; and

(d) by inserting, immediately after the word “dishonesty” in the section heading, the words “, or under section 33”.

Repeal and re-enactment of Part IXA

25 23. Part IXA of the principal Act is repealed and the following Part substituted therefor:

“PART IXA

JOINT LAW VENTURES, FORMAL LAW ALLIANCES,
 REPRESENTATIVE OFFICES, FOREIGN LAW FIRMS,
 FOREIGN LAWYERS AND SINGAPORE LAWYERS IN
 FOREIGN PRACTICE

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Interpretation of this Part

130A.—(1) In this Part, unless the context otherwise requires —

“foreign law” means the law of any state or territory other than Singapore and includes international law;

10 “foreign law firm” means a law firm (including a sole proprietorship or a partnership or a body corporate, whether with or without limited liability) providing legal services in any foreign law in Singapore or elsewhere, but does not include a Singapore law firm;

15 “foreign lawyer” means an individual who is duly authorised or registered to practise law in a state or territory other than Singapore by a foreign authority having the function conferred by law of authorising or registering persons to practise law in that state or territory;

20 “Formal Law Alliance” means a Formal Law Alliance registered under section 130C;

“Joint Law Venture” means a Joint Law Venture registered under section 130B;

25 “practise Singapore law” means doing work, or transacting business, in relation to the laws of Singapore, being work or business of a kind that is the right or privilege of a Singapore lawyer under Part IV;

30 “representative office” means an office set up in Singapore by a foreign law firm to carry out only liaison or promotional work for the foreign law firm, without providing legal services in Singapore or conducting any other business activities;

“Singapore law firm” means a firm of advocates and solicitors and includes a law corporation registered under Part VIA or a limited liability law partnership registered under Part VIB;

“Singapore lawyer” means an advocate and solicitor as defined in section 2;

“Singapore lawyer in foreign practice” means a Singapore lawyer practising foreign law in Singapore and who does not hold a practising certificate.

(2) A reference to this Part shall be construed so as to include a reference to any rules made under this Part.

Joint Law Venture

130B.—(1) The Attorney-General may, after consulting such authorities as he thinks fit, approve an application by a foreign law firm made jointly with a Singapore law firm to be registered as a Joint Law Venture on such terms and conditions and for such period as the Attorney-General may think fit.

(2) A Joint Law Venture may be constituted —

(a) by a partnership between a foreign law firm and a Singapore law firm;

(b) by the incorporation of a company under Singapore law, with the shares in the company being held by a foreign law firm and a Singapore law firm or by their respective nominees; or

(c) by any other arrangement or means as may be prescribed.

(3) A foreign law firm and a Singapore law firm are eligible to make an application jointly under subsection (1) if they satisfy the prescribed conditions.

(4) The Attorney-General may refuse to approve an application under subsection (1) without assigning any reason.

(5) The Attorney-General may, if he is satisfied that it is in the public interest to do so, vary or revoke any term or condition imposed on the approval given under subsection (1).

(6) Subject to the provisions of this Part and any term or condition imposed thereunder, a Joint Law Venture shall be entitled to the following privileges:

(a) to practise in areas of legal practice mutually agreed between the law firms constituting the Joint Law Venture;

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- (b) foreign lawyers who are employed by, or who are partners or directors of, the Joint Law Venture may practise Singapore law in accordance with section 130I;
 - (c) the Joint Law Venture may market or publicise itself as a single service provider competent to provide legal services in all areas in which the constituent law firms are qualified to provide;
 - (d) the Joint Law Venture may bill its clients as if it were a single law firm; and
 - 10 (e) such other privileges as may, from time to time, be prescribed or otherwise conferred by law.

15 (7) Nothing in this Act shall prevent the constituent law firms in the Joint Law Venture from sharing office premises, profits or client information with respect to the legal practice of the Joint Law Venture.

(8) A foreign law firm which constitutes part of a Joint Law Venture shall not practise as a foreign law firm in Singapore except through the Joint Law Venture.

20 (9) For the avoidance of doubt, a Joint Law Venture shall not be treated as a law corporation for the purposes of Part VIA.

25 (10) A Joint Law Venture which is a company shall, notwithstanding that the shares in the Joint Law Venture are held by more than 20 members or by a corporation, be deemed to be an exempt private company for the purposes of the Companies Act (Cap. 50).

30 (11) Notwithstanding section 27 of the Companies Act, a Joint Law Venture which is a limited company need not have the word "Limited" or "Berhad" as part of its name and a Joint Law Venture which is a private company need not have the word "Private" or "Sendirian" as part of its name.

(12) The directors of a Joint Law Venture which is a limited company shall ensure that every invoice or official correspondence of the Joint Law Venture bears the statement that it is incorporated with limited liability.

Formal Law Alliance

5 **130C.**—(1) The Attorney-General may, after consulting such authorities as he thinks fit, approve an application by a foreign law firm made jointly with a Singapore law firm to be registered as a Formal Law Alliance on such terms and conditions and for such period as the Attorney-General may think fit.

10 (2) A foreign law firm or a Singapore law firm may, as the case may be, apply for registration of more than one Formal Law Alliance and a registered Formal Law Alliance may comprise more than 2 constituent law firms.

 (3) A foreign law firm and a Singapore law firm are eligible to make an application jointly under subsection (1) if they satisfy the prescribed conditions.

15 (4) The Attorney-General may refuse to approve an application under subsection (1) without assigning any reason.

 (5) The Attorney-General may, if he is satisfied that it is in the public interest to do so, vary or revoke any term or condition imposed on the approval given under subsection (1).

20 (6) Subject to the provisions of this Part and any term or condition imposed thereunder, a Formal Law Alliance shall be entitled to the following privileges:

25 (a) the Formal Law Alliance may market or publicise itself as a single service provider competent to provide legal services in all areas in which the constituent law firms are qualified to provide;

 (b) the Formal Law Alliance may bill its clients as if it were a single law firm; and

30 (c) a foreign lawyer who is a partner, a director or an employee of a foreign law firm which constitutes part of the Formal Law Alliance may prepare all the documents in a transaction involving the law or regulatory regime of more than one country or jurisdiction, except that any legal opinion relating to Singapore law must be given by a Singapore lawyer who has in force a practising certificate.

35 (7) Nothing in this Act shall prevent the constituent law firms in the Formal Law Alliance from sharing office premises, profits or client

information with respect to the legal practice of the Formal Law Alliance.

Accounts of Joint Law Venture

5 **130D.**—(1) Sections 72 and 73 and any rules made thereunder shall apply, with such modifications as may be prescribed, to a Joint Law Venture in respect of the practice of Singapore law.

10 (2) Where a Joint Law Venture has submitted an accountant's report in compliance with section 73 as applied to it by subsection (1), the Singapore law firm which constitutes part of the Joint Law Venture shall not be required to submit another accountant's report under that section.

Solicitor-client privilege in Joint Law Venture and Formal Law Alliance

15 **130E.**—(1) Solicitor-client privilege exists between a Joint Law Venture or a Formal Law Alliance and its client in the same way as it exists between a solicitor and his client.

20 (2) Nothing in this section shall affect the solicitor-client privilege that exists between the Singapore law firm or the foreign law firm and a client, as the case may be, which constitutes part of a Joint Law Venture or a Formal Law Alliance.

Cancellation of registration of Joint Law Venture and Formal Law Alliance

25 **130F.**—(1) The Attorney-General may, by notice in writing to a Joint Law Venture or a Formal Law Alliance, cancel its registration under this Part if the Attorney-General is satisfied that there is sufficient reason for doing so.

(2) Without limiting the grounds for cancellation, the registration may be cancelled if —

- 30 (a) the foreign law firm's registration or authorisation to practise law in a state or territory outside Singapore has been cancelled by the relevant authority as a result of criminal, civil or disciplinary proceedings;
- (b) the Joint Law Venture or the Formal Law Alliance fails to comply with any requirement of or imposed under this Part;

- (c) the registration or authorisation of the foreign law firm to practise law in a state or territory outside Singapore by the relevant authority has lapsed;
- (d) the foreign law firm has been dissolved or is in liquidation;
- 5 (e) the Joint Law Venture or the Formal Law Alliance fails to comply with any condition imposed on its registration under this Part;
- (f) the Joint Law Venture or the Formal Law Alliance has been dissolved and reconstituted without the approval of the Attorney-General; or
- 10 (g) the Attorney-General is satisfied that it is in the public interest to do so.

(3) Registration may not be cancelled under subsection (1) or (2) unless the Joint Law Venture or the Formal Law Alliance or the law firms constituting the Venture or Alliance, as the case may be, are given a reasonable opportunity to make written representations to the Attorney-General.

Rules on Joint Law Ventures and Formal Law Alliances

20 **130G.** The Minister may, after consulting the Attorney-General, make rules for the following purposes:

- (a) to prescribe the experience and expertise required for eligibility to apply for the registration of a Joint Law Venture or a Formal Law Alliance;
- 25 (b) to prescribe the manner or means by which a Joint Law Venture or a Formal Law Alliance may conduct its business or publicise itself; and
- (c) to modify the application of any provision of this Act, other than this Part, to a Singapore law firm or a solicitor practising in that law firm where that Singapore law firm constitutes part of a Joint Law Venture or a Formal Law Alliance.
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Registration of foreign law firms, representative offices, foreign lawyers and Singapore lawyers in foreign practice

130H. The Minister may, after consulting the Attorney-General, make rules to provide for the registration with the Attorney-General of —

- (a) foreign law firms and representative offices;
- (b) foreign lawyers practising in or employed by a Joint Law Venture, a foreign law firm or a Singapore law firm; and
- (c) Singapore lawyers in foreign practice.

Registration of foreign lawyer to practise Singapore law in Joint Law Venture

130I.—(1) A foreign lawyer who is employed by or who is a partner or director of a Joint Law Venture may, notwithstanding anything to the contrary in Part IV, practise Singapore law as a partner, a director or an employee of that Joint Law Venture and recover costs and retain payments in respect of such practice if he is registered by the Attorney-General under subsection (3).

(2) Notwithstanding subsection (1), a foreign lawyer who is registered under subsection (3) shall not represent any party before any judicial or regulatory tribunal or body in Singapore.

(3) The Attorney-General may, in his discretion, approve an application to register a foreign lawyer to practise Singapore law as a partner, a director or an employee of a Joint Law Venture subject to any term or condition and for such period as the Attorney-General thinks fit, if the foreign lawyer possesses such qualifications and satisfies such requirements as the Minister may prescribe under section 130K.

(4) The registration of a foreign lawyer under this section shall —

- (a) lapse if the Joint Law Venture is dissolved or in liquidation or if the registration of the Joint Law Venture is cancelled under section 130F; and
- (b) be suspended for such period as the Attorney-General may think fit if the foreign lawyer ceases to be a partner, a director or an employee, as the case may be, of the Joint Law Venture.

(5) Nothing in this section shall be construed so as to affect any right or privilege of an advocate and solicitor conferred by this Act or any other written law.

Registration of foreign lawyer to practise Singapore law in Singapore law firm

130J.—(1) A foreign lawyer may, notwithstanding anything to the contrary in Part IV, practise Singapore law in a Singapore law firm if he is registered to practise Singapore law in that Singapore law firm by the Attorney-General under subsection (3).

(2) Notwithstanding subsection (1), a foreign lawyer who is registered to practise Singapore law under subsection (3) shall not represent any party before any judicial or regulatory tribunal or body in Singapore.

(3) The Attorney-General may, in his discretion, approve an application to register a foreign lawyer to practise Singapore law in a Singapore law firm subject to any term or condition and for such period as the Attorney-General thinks fit, if the foreign lawyer possesses such qualifications and satisfies such requirements as the Minister may prescribe under section 130K.

(4) The registration of a foreign lawyer under this section shall lapse if the foreign lawyer ceases to be a partner, a director or an employee in the Singapore law firm.

(5) Subsection (4) shall not apply to a foreign lawyer if the foreign lawyer —

(a) upon ceasing to be a partner or a director in the Singapore law firm, remains or becomes an employee in that Singapore law firm; or

(b) upon ceasing to be an employee in the Singapore law firm, remains or becomes a partner or a director in that Singapore law firm.

(6) Nothing in this section shall be construed so as to affect any right or privilege of an advocate and solicitor conferred by this Act or any other written law.

Rules relating to sections 130I and 130J

130K.—(1) The Minister may, after consulting the Attorney-General, make rules —

- 5 (a) to prescribe the qualifications, experience and expertise required of a foreign lawyer for eligibility to apply for registration under section 130I or 130J;
- (b) to prescribe conditions that a foreign lawyer registered under section 130I or 130J must comply with, including any restriction as to the areas of Singapore law that the foreign lawyer may practise; and
- 10 (c) to specify the type of Singapore law firm at which a foreign lawyer registered under section 130J may practise, including the areas of practice of the Singapore law firm.

(2) Without prejudice to the generality of subsection (1)(a), the rules may —

- 15 (a) prescribe the institutions of higher learning and the qualifications conferred thereby which may be recognised for the purposes of this section;
- (b) provide that the foreign lawyer must take and pass such qualifying examinations as the Attorney-General may require and provide for such examinations to be administered and conducted by a panel of examiners as provided in the rules;
- 20 (c) provide that a foreign lawyer must successfully complete such modules in such courses of instruction as the Attorney-General may require;
- 25 (d) specify the minimum standard of attainment to be achieved by the foreign lawyer in relation to the prescribed qualifications, examinations or courses; and
- 30 (e) require a foreign lawyer to have practised as a partner, a director or an employee in a Singapore law firm for a minimum period and specify any requirements as to the type of Singapore law firm at which the foreign lawyer must have practised, including any area of practice of the Singapore law firm.
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Foreign interests in Singapore law firms

130L.—(1) Subject to the provisions of this Part, nothing in this Act shall prevent a foreign lawyer, with the approval of the Attorney-General, from doing any or all of the following:

- 5 (a) being a director, a partner or a shareholder in the Singapore law firm in which he is registered to practise foreign law under section 130H;
- (b) being a director, a partner or a shareholder in the Singapore law firm in which he is registered to practise Singapore law
- 10 under section 130J;
- (c) sharing in the profits of any such Singapore law firm.

(2) The Attorney-General may, in granting his approval referred to in subsection (1), impose any conditions as he thinks fit on the foreign lawyer or on the Singapore law firm in which the foreign lawyer is registered to practise foreign law under section 130H or is registered to practise Singapore law under section 130J.

(3) For the avoidance of doubt, the approval of the Attorney-General referred to in subsection (1) shall lapse if the registration of the foreign lawyer to practise foreign law under section 130H or to practise Singapore law under section 130J is cancelled, suspended or otherwise lapses.

(4) A foreign lawyer to whom an approval referred to in subsection (1) has been granted shall not —

- 25 (a) be a managing partner, a managing director or a manager of any Singapore law firm; and
- (b) while such an approval remains in force, be —
 - (i) a partner, a director, a shareholder, an employee or a consultant in any foreign law firm; or
 - (ii) a nominee of any foreign law firm or any other foreign lawyer in respect of the management of, or the control of any voting power or equity interest in, the Singapore law firm in which he is practising.
- 30

(5) The total value of equity interests in a Singapore law firm held by foreign lawyers (whether individually or collectively) as

shareholders or partners of the Singapore law firm shall not exceed 25% of the total value of equity interests in the Singapore law firm.

(6) Foreign lawyers (whether individually or collectively) shall not, directly or indirectly, have a controlling interest in a Singapore law firm.

(7) For the purposes of subsection (6), foreign lawyers shall be deemed to have a controlling interest in a Singapore law firm if —

(a) foreign lawyers (whether individually or collectively) are entitled to exercise or control the exercise of more than 25% of the total voting rights exercisable by the shareholders or partners (as the case may be) in the Singapore law firm; or

(b) the majority of the partners, directors or managers (as the case may be) of the Singapore law firm are, in any matter relating to the management of the Singapore law firm, nominees of foreign lawyers (whether individually or collectively).

(8) The total amount of payments made by a Singapore law firm, during the financial year of that firm, to foreign lawyers —

(a) as remuneration to its directors;

(b) as dividends to its shareholders or partners; and

(c) under any other profit-sharing arrangement,

shall not exceed 25% of the total amount of remuneration to its directors, dividends to its shareholders or partners and payments under any other profit-sharing arrangement paid by that Singapore law firm during the financial year of that firm.

(9) The Minister may, by order, vary the percentage of equity interests specified for the purposes of subsection (5), the percentage of total voting rights specified for the purposes of subsection (7)(a) or the percentage of the total payments specified for the purposes of subsection (8).

(10) For the purposes of subsections (4)(b)(ii) and (7)(b), a person is deemed to be a nominee of a foreign law firm or foreign lawyer if that person is accustomed or under an obligation whether formal or informal to act in accordance with the directions, instructions or wishes of that foreign law firm or foreign lawyer.

(11) In this section, “manager” —

- (a) in relation to a body corporate or partnership, means the principal executive officer of the body corporate or partnership for the time being by whatever name called and whether or not he is a director or partner thereof; and
- (b) in relation to a limited liability partnership, has the same meaning as in section 2(1) of the Limited Liability Partnerships Act (Cap. 163A).

(12) For the avoidance of doubt, in this section and in section 130M —

“foreign lawyer” means a foreign lawyer, whether practising in Singapore or elsewhere;

“foreign law firm” means a foreign law firm, whether with an office or a place of business in Singapore or elsewhere.

Measures to ensure compliance with section 130L

130M.—(1) Where a Singapore law firm applies for an approval referred to in section 130L(1) in respect of a foreign lawyer, the Attorney-General may require the Singapore law firm making the application, the foreign lawyer and any partner or director of the Singapore law firm to provide such undertakings as he thinks fit to prevent any direct or indirect circumvention of section 130L.

(2) Where a foreign lawyer, a Singapore law firm or a partner or director of a Singapore law firm has contravened section 130L or any undertaking provided by that person or law firm, as the case may be, under subsection (1) —

- (a) the foreign lawyer, Singapore law firm or partner or director concerned (as the case may be) shall notify the Attorney-General in writing of the contravention;
- (b) the foreign lawyer or partner or director concerned (as the case may be) shall cease to exercise his voting rights as a shareholder or partner in the Singapore law firm concerned;
- (c) the foreign lawyer concerned shall repay to the Singapore law firm concerned any payment he has received in excess of the amount permitted under section 130L(8);

(d) the foreign lawyer, Singapore law firm or partner or director concerned (as the case may be) shall take all reasonable steps to remove the circumstances giving rise to the contravention; and

5 (e) the foreign lawyer, Singapore law firm or partner or director concerned (as the case may be) shall comply with any directions made by the Attorney-General under subsections (3) and (4).

10 (3) Where a foreign lawyer, Singapore law firm or partner or director of a Singapore law firm has contravened section 130L or any undertaking required under subsection (1), the Attorney-General may —

(a) cancel the approval referred to in section 130L(1) in respect of the foreign lawyer concerned; and

15 (b) make directions to the foreign lawyer, Singapore law firm or partner or director concerned (as the case may be) to ensure compliance with section 130L.

(4) Without prejudice to the generality of subsection (3)(b), the Attorney-General may direct —

20 (a) the foreign lawyer concerned to divest himself of any shares he may have in the Singapore law firm within such time as the Attorney-General may specify;

25 (b) the foreign lawyer concerned to repay to the Singapore law firm concerned any payment he has received in excess of the amount permitted under section 130L(8) within such time as the Attorney-General may specify; and

(c) the foreign lawyer concerned to cease doing any act in his capacity as a managing partner, a managing director or a manager of the Singapore law firm concerned.

30 (5) A direction under this section shall be —

(a) made in writing and shall specify the provision under section 130L or the undertaking provided under this section that has been contravened; and

35 (b) sent to the person or law firm to which it relates at the last known address of that person or law firm.

(6) In this section, a reference to a foreign lawyer concerned shall —

- (a) in relation to a contravention of section 130L(4), refer to the foreign lawyer who so contravened that section;
- 5 (b) in relation to a contravention of section 130L(5) or (6), refer to every foreign lawyer who was a partner or shareholder (as the case may be) of the Singapore law firm concerned when the contravention occurred;
- 10 (c) in relation to a contravention of subsection (8) of section 130L, refer to every foreign lawyer who received any payment referred to in paragraph (a), (b) or (c) of that subsection from the Singapore law firm concerned during the financial year of the firm when the contravention occurred; and
- 15 (d) in relation to the breach of an undertaking provided by a foreign lawyer under subsection (1), refer to the foreign lawyer who provided the undertaking.

(7) In this section, a reference to a partner or a director concerned shall, in relation to the breach of an undertaking provided by a partner or a director of a Singapore law firm under subsection (1), refer to the partner or director who provided the undertaking.

(8) In this section, a reference to a Singapore law firm concerned shall —

- 25 (a) in relation to a contravention of section 130L(4) by a foreign lawyer who has been granted an approval under section 130L(1), refer to the Singapore law firm in respect of which the approval was granted;
- (b) in relation to a contravention of section 130L(5), (6) or (8), refer to the Singapore law firm in respect of which the contravention occurred; and
- 30 (c) in relation to the breach of an undertaking provided under subsection (1), refer to the Singapore law firm in respect of which the undertaking was provided.

Compliance with guidelines, directions, undertakings and conditions

5 **130N.**—(1) The Attorney-General may require any person making an application for any registration or approval under this Part to provide such undertakings as he thinks fit to prevent any direct or indirect circumvention of the provisions of this Part.

(2) The Attorney-General may, from time to time, issue guidelines relating to any registration or approval under this Part.

10 (3) Where any requirement of any guidelines issued under this section conflicts with any requirement specified in this Part, the latter shall prevail.

15 (4) The Attorney-General shall cause all guidelines issued under this section to be published in such manner as will give persons or entities to whom the guidelines relate adequate notice of the requirements specified therein.

20 (5) It shall be a condition of every registration or approval under this Part that the person or entity registered or granted approval shall comply with the requirements of this Part, including any guidelines issued under this section and any undertakings provided under this section or section 130M.

25 (6) The Attorney-General may, if he is satisfied that any person or entity registered or approved under this Part has contravened any provision of this Part, any guideline issued under this section or any undertaking provided under this section or section 130M, issue directions to that person or entity to ensure compliance by that person or entity.

(7) A direction under subsection (6) shall be —

30 (a) made in writing and shall specify the provision of this Part or the guideline issued under this section or the undertaking provided under this section or section 130M that has been contravened; and

(b) sent to the person or entity to which it relates at the last known address of that person or entity.

35 (8) The Attorney-General may cancel the registration or approval in respect of any person or entity under this Part if that person or entity fails to comply with any condition of registration or approval of that

person or entity under this Part or any direction of the Attorney-General issued under subsection (6).

(9) Where the registration or certification of any person, foreign law firm, Joint Law Venture, Formal Law Alliance or representative office under any provision of the repealed Part IXA (referred to in this subsection as the “former registration or certification”) is deemed to be registered under any provision of this Part by rules made under this Part —

(a) the deemed registration shall, unless the Attorney-General otherwise determines, be subject to the same conditions (if any) that applied to the former registration or certification; and

(b) subsections (5), (6) and (8) shall apply to any guidelines or directions issued by the Attorney-General and any undertakings given by any person, before the date of commencement of this section in respect of the former registration or certification, as if those guidelines, directions or undertakings were guidelines issued under this section or directions issued under subsection (6) or undertakings provided under this section, respectively.

Disciplinary control over foreign lawyers

130O.—(1) Any complaint in respect of the conduct of a foreign lawyer registered under this Part shall be made to the Attorney-General.

(2) Every complaint shall be in writing and be supported by a statutory declaration stating —

(a) the name, address and occupation of the complainant;

(b) the name and address of the foreign lawyer complained against;

(c) the grounds of the complaint; and

(d) the evidence of the alleged misconduct.

(3) The Attorney-General may, in his discretion, waive any requirement in subsection (2) if the complaint is made by a public officer in the course of his duties.

(4) Where the Attorney-General has received any complaint under this section or where facts are brought to the knowledge of the Attorney-General which satisfy the Attorney-General that there may be grounds for such a complaint, the Attorney-General shall give the foreign lawyer concerned a reasonable opportunity to make representations in writing, and if he is of the opinion that there is sufficient reason for doing so, the Attorney-General may —

- (a) cancel or suspend for such period as he may think fit the registration of the foreign lawyer under this Part;
- (b) censure the foreign lawyer;
- (c) order the foreign lawyer to pay a penalty not exceeding \$10,000 or such other higher sum as may be prescribed; or
- (d) make such other order as he thinks fit.

(5) If the foreign lawyer fails to pay a penalty imposed under subsection (4)(c) or to comply with an order made under subsection (4)(d) within such time as the Attorney-General may specify, the Attorney-General may cancel or suspend for such period as he may think fit the registration of that foreign lawyer.

(6) In respect of any action or order under this section, any determination or application by the Attorney-General, on the facts and in the circumstances of the case before him, of any rules of an applicable jurisdiction relating to the professional conduct or etiquette of the foreign lawyer concerned shall be final and binding on that foreign lawyer.

(7) Any action, order or determination taken or made by the Attorney-General under this Part shall not in any way affect the power or authority of any relevant professional disciplinary body (whether in Singapore or in any state or territory outside Singapore) to take such action as it deems appropriate against the foreign lawyer concerned in respect of the same conduct giving rise to the action or order by the Attorney-General under subsection (4).

(8) Where a complaint received by the Attorney-General under this section relates to a foreign lawyer who is —

- (a) registered under section 130I to practise Singapore law in a Joint Law Venture;

- (b) registered under section 130J to practise Singapore law in a Singapore law firm; or
- (c) granted the approval of the Attorney-General referred to in section 130L,

5 the Attorney-General may, if he considers it appropriate, consult the Council of the Law Society in relation to any action, order or determination to be taken or made by him in respect of the complaint.

Attorney-General's decision final

10 **130P.** Any decision made by the Attorney-General under this Part shall be final and conclusive.

Failure to register or furnish information

130Q.—(1) Where a Joint Law Venture or foreign law firm —

- (a) fails to apply for registration where such registration is required under this Part; or
- 15 (b) fails to furnish any particulars or information required under this Part,

20 then the rights of the Joint Law Venture or foreign law firm under or arising out of any contract in relation to the legal services provided through the office or place of business in Singapore of the Joint Law Venture or foreign law firm (as the case may be) shall not be enforceable in legal proceedings in the name of the Joint Law Venture or foreign law firm.

(2) Where a foreign lawyer or a Singapore lawyer in foreign practice —

- 25 (a) fails to apply for registration where such registration is required under this Part; or
- (b) fails to furnish any particulars or information required under this Part,

30 then the rights of the foreign lawyer or Singapore lawyer in foreign practice under or arising out of any contract in relation to the legal services provided through the office or place of business in Singapore of the Joint Law Venture, foreign law firm or Singapore law firm (as the case may be) in which he is employed or is practising foreign law shall not be enforceable in legal proceedings in the name of the

lawyer or the Joint Law Venture, foreign law firm or Singapore law firm.

Civil penalty

5 **130R.**—(1) Any person (including a Joint Law Venture, Formal Law Alliance, foreign law firm or Singapore law firm) that contravenes any provision in this Part shall be liable to pay a civil penalty in accordance with this section.

10 (2) Whenever it appears to the Attorney-General that any such person has contravened any provision in this Part, the Attorney-General may bring an action in a court to seek an order for a civil penalty in respect of that contravention against —

- 15 (a) that person;
- (b) the foreign law firm or Singapore law firm in which that person is a partner, a director, a consultant or an employee; or
- (c) the Joint Law Venture or Formal Law Alliance or its constituent law firms, in which that person is practising.

20 (3) If the court is satisfied on a balance of probabilities that the person has contravened a provision in this Part, the court may make an order for the payment of a civil penalty against —

- 25 (a) the person, being an individual, of a sum not exceeding \$50,000; or
- (b) the Singapore law firm, foreign law firm, Joint Law Venture, Formal Law Alliance or a constituent firm against which the action is brought under subsection (2), of a sum not exceeding \$100,000.

30 (4) Notwithstanding subsection (3), where an action has been brought against a person or a Singapore law firm, foreign law firm, Joint Law Venture, Formal Law Alliance or a constituent firm (referred to in this section as “the defendant”), the court may make an order against the defendant if the Attorney-General has agreed to allow the defendant to consent to the order with or without admission of a contravention of a provision in this Part and the order may be made on such terms as may be agreed between the Attorney-General and the defendant.

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(5) Nothing in this section shall be construed to prevent the Attorney-General from entering into an agreement with the defendant to pay, with or without admission of liability, a civil penalty within the limits referred to in subsection (3) for a contravention of any provision in this Part.

(6) A civil penalty imposed under this section shall be payable to the Consolidated Fund.

(7) If the defendant fails to pay the civil penalty imposed on him within the time specified in the court order referred to in subsection (3) or (4) or specified under the agreement referred to in subsection (5), the Attorney-General may recover the civil penalty as though the civil penalty were a judgment debt due to the Government.

(8) Rules of Court may be made to —

(a) regulate and prescribe the procedure and practice to be followed in respect of proceedings under this section; and

(b) provide for costs and fees of such proceedings, and for regulating any matter relating to the costs of such proceedings.

(9) This section shall apply notwithstanding that any disciplinary action has been taken against the foreign lawyer concerned under any other provision of this Act or by any professional disciplinary body (whether in Singapore or in any state or territory outside Singapore).

Liability of partners, directors and shareholders

130S. Where a Joint Law Venture, Formal Law Alliance, foreign law firm or Singapore law firm is proved to have contravened any provision in this Part, every partner, director and shareholder of the Joint Law Venture, Formal Law Alliance, foreign law firm or Singapore law firm (as the case may be) at the time of the contravention shall be deemed to have contravened the provision unless he proves that —

(a) the contravention occurred without his consent or connivance; and

(b) he exercised such diligence to prevent the contravention as he ought to have exercised having regard to the nature of his function in that capacity and to all the circumstances.

Rules

130T.—(1) The Minister may, after consulting the Attorney-General, make such rules as may be necessary or expedient for the purposes of this Part.

5 (2) Without prejudice to the generality of subsection (1), the Minister may, after consulting the Attorney-General, make rules —

(a) to prescribe anything which may be prescribed under this Part;

10 (b) to prescribe any condition for eligibility to apply for any registration under this Part or for the approval of the Attorney-General referred to in section 130L;

(c) to provide for the manner and means of application and the information and documents to be furnished for any registration under this Part, for the approval of the Attorney-General referred to in section 130L, for renewal of such registration and for other related matters;

15 (d) to provide for the payment of fees on applications for any registration under this Part, for the approval of the Attorney-General referred to in section 130L, for renewal of such registration and for other related matters;

20 (e) to provide for the cancellation of any registration under this Part or of the approval of the Attorney-General referred to in section 130L;

25 (f) to require the submission of information and particulars relating to Joint Law Ventures, foreign law firms, representative offices, foreign lawyers, Singapore lawyers in foreign practice and persons practising in or employed by any Joint Law Venture, foreign law firm or representative office;

30 (g) to provide the form and manner in which registers of Joint Law Ventures, Formal Law Alliances, representative offices, foreign lawyers and Singapore lawyers in foreign practice are to be kept;

35 (h) to provide the form and manner in which registers of approvals of the Attorney-General referred to in section 130L are to be kept;

- (i) to provide for the issuance and amendment of certificates of registration or certificates of good standing and certified true copies thereof and for the payment of fees in relation thereto;
- 5 (j) to provide for the professional conduct, ethics and disciplinary control of Joint Law Ventures, foreign law firms, foreign lawyers and Singapore lawyers in foreign practice registered under this Part or foreign lawyers granted the approval of the Attorney-General referred to in section 10 130L, including the imposition of compulsory insurance cover and financial controls;
- (k) to extend to —
- (i) foreign lawyers or Singapore lawyers in foreign practice registered under this Part; or
- 15 (ii) foreign lawyers granted the approval of the Attorney-General referred to in section 130L,
any provisions in the Act that are applicable to advocates and solicitors with such modifications as the Minister thinks fit;
- 20 (l) to provide measures to ensure compliance with the requirements of section 130L, including measures requiring foreign lawyers who are shareholders or partners in the Singapore law firm to divest themselves of their shares or interests in the Singapore law firm;
- 25 (m) to exempt any person or class of persons from any provision of this Part; and
- (n) to make such transitional, savings or other consequential provisions as the Minister considers necessary or expedient.
- (3) Where any powers under Part VII of this Act apply to a foreign lawyer pursuant to rules made under this section (in particular, 30 subsection (2)(j)), those powers shall not be exercised in respect of the foreign lawyer except with the written consent of the Attorney-General.”.

Repeal of section 137 and enactment of new section 137

- 35 **24.**—(1) Section 137 of the principal Act is repealed.

(2) The principal Act is amended by inserting, immediately after section 136, the following section:

“Jurisdiction of court

5 **137.** Notwithstanding any provision to the contrary in the Criminal Procedure Code (Cap. 68), a District Court shall have jurisdiction to try any offence under this Act and shall have power to impose the full penalty or punishment in respect of the offence.”

Consequential amendments to other written laws

10 **25.** The provisions of the Acts specified in the first column of the Schedule are amended in the manner set out in the second column thereof.

THE SCHEDULE

Section 25

CONSEQUENTIAL AMENDMENTS TO OTHER WRITTEN LAWS

<i>First column</i>	<i>Second column</i>
(1) Notaries Public Act (Chapter 208, 1997 Ed.) Section 7	Delete “\$500” and substitute “\$10,000”.
(2) Singapore Academy of Law Act (Chapter 294A, 1997 Ed.)	
(a) Section 2	Delete the definition of “Faculty”.
(b) Section 5(1)	(i) Delete paragraph (f) and substitute the following paragraph: “(f) the Dean of the Faculty of Law of the National University of Singapore and the Dean of the Faculty of Law of the Singapore Management University, in each case, being a qualified person;”.
	(ii) Delete the words “Dean of the Faculty” in paragraph (h) and substitute the words “Deans appointed under paragraph (f)”.

<i>First column</i>	<i>Second column</i>
(c) Section 16(1)	Delete the words “member of the Faculty” in paragraph (c) and substitute the words “member of the Faculty of Law of the National University of Singapore or the Faculty of Law of the Singapore Management University”.

EXPLANATORY STATEMENT

This Bill seeks to amend the Legal Profession Act (Cap. 161) —

- (a) to make changes that are consequential upon the establishment of the Faculty of Law of the Singapore Management University;
- (b) to enable qualified persons to serve their pupillage as Assistant Public Prosecutors in the Attorney-General’s Chambers;
- (c) to increase the penalties for unauthorised practice as an advocate and solicitor, to provide for a fast-track disciplinary process where such an offence is committed by an advocate and solicitor and to provide for repayment of any fee, gain or reward received in respect of such an offence;
- (d) to empower the Council of the Law Society to make certain rules relating to money-laundering;
- (e) to clarify that disciplinary proceedings may be taken against solicitors who contravene the rules relating to professional indemnity made under section 75A;
- (f) to extend provisions relating to advocates and solicitors practising on their own account or in partnership or as a director of a law corporation for the first time;
- (g) to implement proposals of the Review Committee on Joint Law Ventures and Formal Law Alliances and the Third Committee on the Supply of Lawyers relating to foreign lawyers and international legal services;
- (h) to provide greater flexibility in the framework for the recognition of qualified persons;
- (i) to empower the District Court to try any offence under the Act and to impose the full penalty or punishment in respect of the offence;
- (j) to repeal the provision granting the Board of Legal Education and the Law Society exemption from income tax; and
- (k) to make other related amendments.

Clause 1 relates to the short title and commencement. Section 24(1) of the Legal Profession (Amendment) Act 2007 (providing for the repeal of section 137) shall be deemed to have come into operation on 1st April 2007.

Clause 2 amends section 2(1) by deleting the definition of “Faculty” therein as specific references to both the Law Faculties of the National University of Singapore and the Singapore Management University have been made in sections 8, 30 and 75D of the Act. Section 2(3)(a) is amended to clarify that the Minister may prescribe courses for the purposes of recognition as a qualified person and make provision for the review by the Board of Legal Education of the syllabus and contents of such courses and examinations. The power to grant exemptions from the provisions of rules made under section 2(2) in section 2(3)(d) (currently exercised by the Minister) is extended to include the Board of Legal Education.

Clause 3 amends section 8 to make the Deans of both the Law Faculties of the National University of Singapore and the Singapore Management University *ex officio* members of the Board of Legal Education provided that they are qualified persons.

Clause 4 amends section 11(2) to provide that no person who is a qualified person by reason of having passed the final examination for a law degree in any university in Singapore pursuant to rules made under section 2(2) shall be admitted as an advocate and solicitor before the law degree is conferred. The existing provision applies only to the degree of Bachelor of Laws in the National University of Singapore. This amendment allows greater flexibility in the application of the provision.

Clause 5 amends section 13 to exempt service as an Assistant Public Prosecutor in the Attorney-General’s Chambers from the operation of section 13(4). This will enable qualified persons to serve their pupillage as Assistant Public Prosecutors in the Attorney-General’s Chambers.

Clause 6 amends section 14(3) to extend the power of the Minister to define the meaning of “legal officer” for the purposes of sections 14 and 13(5). The substitution of the words “statutory body or law office in the public service” for “statutory board or authority” will enable the Minister to include legal officers in a statutory body or a law office in the public service who may not be in the Singapore Legal Service.

Clause 7 amends section 30(5)(c) to extend the existing provision on revocation of the appointment of a Senior Counsel, which currently applies in the case of dismissal of a member of the Faculty of Law of the National University of Singapore, to dismissal of a member of the Faculty of Law of the Singapore Management University. It also amends section 30 by inserting new subsection (8) to provide that any person holding office as the Attorney-General or the Solicitor-General on or after the date of commencement of that subsection shall be deemed to have been appointed as Senior Counsel under that section.

Clause 8 amends section 33 to increase the penalties for various offences relating to an unauthorised person acting as an advocate and solicitor.

Clause 9 inserts new section 35A to empower a court to order repayment of any fee, gain or reward received in respect of offences under section 33(1), (2) or (3).

Clause 10 amends section 36 to prevent a person from obtaining double recovery under both sections 35A and 36.

Clause 11 amends section 39 to add an additional category to the membership of the Law Society, namely, foreign practitioner members under new section 40A.

Clause 12 inserts new section 40A to provide for certain foreign lawyers to be foreign practitioner members of the Law Society. The provision applies to foreign lawyers who are registered under section 130I to practise Singapore law in a Joint Law Venture, foreign lawyers who are registered under section 130J to practise Singapore law in a Singapore law firm and foreign lawyers who have been granted an approval referred to in section 130L.

Clause 13 amends section 44 to provide that a foreign practitioner member shall not be expelled from membership of the Law Society as long as his registration or approval referred to in section 40A continues in force.

Clause 14 amends section 46 to provide for the payment of subscriptions by a foreign practitioner member and the contributions to the Board of Legal Education to be deducted from such subscriptions.

Clause 15 amends section 71 to empower the Council of the Law Society to make certain rules relating to money-laundering.

Clause 16 amends section 75 to provide for contributions to the Compensation Fund by foreign lawyers registered under section 130J to practise Singapore law in a Singapore law firm or granted an approval referred to in section 130L and to permit the grant of compensation from the Fund in relation to acts of dishonesty involving such a foreign lawyer.

Clause 17 amends section 75A to clarify that disciplinary proceedings may be taken against advocates and solicitors who contravene the rules relating to professional indemnity made under section 75A and to correct a typographical error in section 75A(3)(f) by reverting to the original wording of the provision.

Clause 18 amends section 75C to require all advocates and solicitors, whenever they were admitted, who practise as a sole proprietor or in partnership or as a director of a law corporation for the first time after 9th March 2007 to complete a prescribed legal practice management course and to have at least 3 years' practice experience as a solicitor or legal officer. The penalty in subsection (5) has also been enhanced. The words "statutory corporation" in subsection (6) have been replaced by the words "statutory body or law office in the public service" for greater flexibility.

Clause 19 amends section 75D to include experience as a full-time member of the academic staff of the Faculty of Law of the Singapore Management University as a qualification to take or use the title of consultant. The penalty in subsection (2) has also been enhanced.

Clause 20 amends section 77 to enhance the penalty in subsection (4).

Clause 21 amends section 82A to extend the application of section 94A to non-practising solicitors.

Clause 22 amends section 94A to extend the fast-track disciplinary process to advocates and solicitors who have been convicted of an offence under section 33.

Clause 23 repeals and re-enacts a new Part IXA to implement the proposals of the Review Committee on Joint Law Ventures and Formal Law Alliances and the Third Committee on the Supply of Lawyers relating to foreign lawyers and international legal services. The main proposals are implemented as follows:

Section 130J implements the talent tap scheme proposed by the Third Committee on the Supply of Lawyers. The provision allows Singapore law firms to employ suitably qualified foreign lawyers to practise Singapore law in Singapore law firms subject to terms or conditions imposed by the Attorney-General.

Section 130L implements the proposal of the Review Committee on Joint Law Ventures and Formal Law Alliances to allow foreign lawyers to own equity shares in Singapore law firms subject to a 25% limit and other conditions.

Various other changes and clarifications have been made to the provisions of Part IXA to update the existing legal framework for the regulation of foreign lawyers and to enhance the powers of the Attorney-General to deal with errant foreign law firms and foreign lawyers. These include:

- (a) the measures in section 130M to ensure compliance with section 130L;
- (b) the express provisions on guidelines, directions, undertakings and conditions imposed by the Attorney-General; and
- (c) the provision for the Attorney-General to bring an action in a court to seek an order for a civil penalty under section 130R in respect of a contravention of Part IXA.

Clause 24 repeals the existing section 137 which conferred on the Board of Legal Education and the Law Society exemptions from income tax. It enacts new section 137 which provides for the jurisdiction of the District Court to try any offence under the Act and to impose the full penalty or punishment in respect of the offence.

Clause 25 provides for consequential amendments specified in the Schedule, namely, to amend the Notaries Public Act (Cap. 208) to provide for enhanced penalties under section 7 and to amend the Singapore Academy of Law Act (Cap. 294A) by deleting the definition of “Faculty” in section 2, by amending section 5 to make the Deans of both the Law Faculties of the National University of Singapore and the Singapore Management University *ex officio* members of the Singapore Academy of Law provided that they are qualified persons, and by amending section 16 (Disqualifications for membership of Academy) to refer to a member of the Faculty of Law of the National University of Singapore or of the Singapore Management University.

EXPENDITURE OF PUBLIC MONEY

This Bill will not involve the Government in any extra financial expenditure.