

Legal Profession (Amendment) Bill

Bill No. /2012.

Read the first time on .

A BILL

intituled

An Act to amend the Legal Profession Act (Chapter 161 of the 2009 Revised Edition).

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

Short title and commencement

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

5 Amendment of section 10

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

(a) by deleting the words “and Part IIA” wherever they appear in subsection (1) and substituting in each case the words
10 “, Part IIA and section 25(1)(ca)”;

(b) by inserting, immediately before the words “and any” in subsection (2)(h), the words “, section 25(1)(ca)”;

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

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

New section 10A

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

“Protection from personal liability

25 **10A.** No liability shall be incurred by the Board of Directors of the Institute, the Chairman of the Institute or any other member of the Board, the Dean of the Institute, or any other officer or employee of the Institute, any committee appointed under section 7(1) or any member of any such committee, or any other person acting under the direction of the Institute, as a result of
30 anything done (including any statement made) or omitted to be done with reasonable care and in good faith in the execution or purported execution of the Institute’s functions under this Act or any other written law.”

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

(a) by deleting the words “where the court is satisfied that it is of sufficient difficulty and complexity and having regard to the circumstances of the case” in subsection (1); 5

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

“(a) holds —

(i) Her Majesty’s Patent as Queen’s Counsel; or 10

(ii) any appointment of equivalent distinction, of any jurisdiction, prescribed under section 10 for the purposes of this paragraph;”;

(c) by deleting the words “criminal case” in subsection (2) and substituting the words “case involving any area of legal practice prescribed under section 10 for the purposes of this subsection,”; and 15

(d) by inserting, immediately after subsection (6), the following subsections: 20

“(6A) No appeal shall lie from any decision of the court under this section, except with the leave of a Judge.

(6B) No appeal shall lie from any refusal or grant of leave of a Judge under subsection (6A).”.

Amendment of section 25

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

“(ca) a declaration in writing in such form and containing such statements as may be prescribed by the Institute under section 10 for the purposes of this paragraph;” 30

Amendment of section 35

6. Section 35 of the principal Act is amended —

(a) by deleting the word “person” in subsection (1)(b) and substituting the words “relevant foreign lawyer”;

5 (b) by deleting paragraph (c) of subsection (1) and substituting the following paragraph:

“(c) any of the following acts of a relevant foreign lawyer:

10 (i) the giving of advice in relation to or arising out of arbitration proceedings;

(ii) the preparation of documents in relation to or arising out of arbitration proceedings;

15 (iii) the giving of any other assistance, in relation to or arising out of arbitration proceedings, that does not include a right of audience in court proceedings.”; and

(c) by deleting subsection (2) and substituting the following subsection:

20 “(2) In this section —

“arbitration proceedings” means proceedings in an arbitration which —

25 (a) is governed by the Arbitration Act (Cap. 10) or the International Arbitration Act (Cap. 143A); or

(b) would have been governed by either the Arbitration Act or the International Arbitration Act had the place of arbitration been Singapore;

30 “relevant foreign lawyer” means a foreign lawyer who is not disbarred, struck off a roll of legal practitioners (by whatever name called) or suspended from practising, in his capacity as a

legal practitioner (by whatever name called), in any state or territory in which he is duly authorised or registered to practise law.”.

Amendment of section 82B

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

Amendment of section 83

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

Amendment of section 85

9. Section 85 of the principal Act is amended —

(a) by inserting, immediately after the words “public officer” in subsection (1)(*c*), the words “or any officer of the Institute”;

(b) by deleting the words “or the Attorney-General” wherever they appear in subsection (3) and substituting in each case the words “, the Attorney-General or the Institute”; and

(c) by deleting subsection (4) and substituting the following subsection:

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

(a) apply to the Chief Justice to refer to the Chairman of the Inquiry Panel one or more of the complaints or information which in the Council’s opinion are more serious in nature

first and defer the referral of the remaining complaints or information;

(b) apply to the Chairman of the Inquiry Panel for 2 or more of the complaints or information to be dealt with by —

(i) the same Review Committee; or

(ii) the same Inquiry Committee.”.

Amendment of Second Schedule

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

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

“(2) The Council —

15 (a) shall not take any of the directions pursuant to a complaint of the conduct of the solicitor, if the complaint is made to the Society after the expiration of a period of 3 years from the date of the conduct; and

20 (b) shall not take any of the directions, unless the Council is satisfied that, in all the circumstances of the case, it is appropriate to do so.”;

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

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

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

EXPLANATORY STATEMENT

[The Explanatory Statement will be inserted after the Bill has been finalised.]

EXPENDITURE OF PUBLIC MONEY

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

Note 1: LP(A)B2012-(v08)