

**Singapore Institute of Legal Education
Foreign Practitioner Examinations 2018
Ethics and Professional Responsibility**

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This syllabus is divided into the above 6 parts. The statutory provisions which you need to cover are listed below. Specific provisions and related case law are addressed in the subsequent headings of this syllabus. Note that some of the readings are included in the syllabus. Access to articles and other materials will be made available through LawNet.

Recommended Books & Articles:

1. Jeffrey Pinsler, *Legal Profession (Professional Conduct) Rules 2015: A Commentary* (2016, Academy Publishing)
2. *Guide to Professional Conduct for Advocates and Solicitors* (2011, Law Society of Singapore) – contains *inter alia* Law Society's Practice Directions and Guidance Notes on ethics and professional responsibility up to 2010. For the Law Society's Practice Directions and Guidance Notes issued from 2011 onwards, please refer to the relevant edition of the Singapore Law Gazette in the online archive (<http://www.lawgazette.com.sg/>).
3. *A Civil Practice: Good Counsel for Learned Friends* (2011, Academy Publishing)
4. Alvin Chen, "Judicial Developments in Ethical Lawyering in Singapore" (2013) 25 SAclJ 395.

Relevant Statutes / Rules include:

- (1) Legal Profession Act (Cap 161)
- (2) Legal Profession (Professional Conduct) Rules 2015
- (3) Legal Profession (Solicitors' Accounts) Rules
- (4) Legal Profession (Solicitors' Trust Accounts) Rules
- (5) Legal Profession (Deposit Interest) Rules
- (6) Legal Profession (Solicitors' Remuneration) Order
- (7) Law Society of Singapore's Practice Directions and Guidance Notes – Law Society's Practice Directions and Rulings Guide 2013

Part A. REGULATION OF THE LEGAL PROFESSION IN SINGAPORE

- (1) The importance of professional responsibility for legal practitioners and law practices
- *Law Society of Singapore v Ahmad Khalis bin Abdul Ghani* [2006] 4 SLR(R) 308, at [2]-[5], [81]-[82]
 - *Wong Keng Leong Rayney v Law Society of Singapore* [2006] 4 SLR(R) 934, at [84]
 - *Law Society of Singapore v Tan Phuay Kiang* [2007] 3 SLR(R) 477, at [100] and [120]
 - *Law Society of Singapore v Rasif David* [2008] 2 SLR(R) 955, at [50]-[60]
 - *Then Khok Khoon & Anor v Arjun Permanand Samtani & Anor* [2012] 2 SLR 451 at [47]
 - *Law Society of Singapore v Wan Hui Hong James* [2013] 3 SLR 221 at [84]
- (2) Structure of the Legal Profession Act
- Due cause and powers of court (section 83 LPA)
 - The rest of Part VII (apart from section 83) of the LPA on disciplinary proceedings and procedures generally.
- (3) Structure and applicability of the PCR to different categories of law practices and legal practitioners in Singapore (Rules 1, 2 and 3 PCR)
- (4) Principles guiding interpretation of the PCR (Rule 4 PCR)

Part B. RELATIONSHIP WITH THE CLIENT

- (1) Formation of Retainer
- Who is a "client": section 2(1) LPA; *Law Society of Singapore v Uthayasurian Sidambaram* [2009] 4 SLR(R) 674, at [39] to [44]
 - Implied retainer: *Law Society of Singapore v Ahmad Khalis bin Abdul Ghani* [2006] 4 SLR(R) 308; *Anwar Patrick Adrian v Ng Chong & Hue LLC* [2014] 3 SLR 761.
 - Duties to third parties: *AEL and others v Cheoh Yeoh & Associates LLC and another* [2014] 3 SLR 1231; *Anwar Patrick Adrian v Ng Chong & Hue LLC* [2014] 3 SLR 761
 - Position when instructed by agent: *Fong Maun Yee v Yoong Weng Ho Robert* [1997] 1 SLR(R) 751
 - Client's authority (warrant to act) in writing (Order 64). See *Tung Hui Mannequin Industries v Tenet Insurance Co Ltd & Ors* [2005] 3 SLR(R) 184; *Goh Eileen née Chia and another v Goh Mei Ling Yvonne and another* [2014] SGHC 3.
 - PDR 2013, Paragraph 6 - Reservation of Rights in Warrant to Act; PDR 2013, Paragraph 60 - Limitation of Civil Liability; PDR 2013, Paragraph 65 - Warrant to Act, Letter of Engagement and Referrals from Third Parties.

(2) Honesty, competence and diligence (Rule 5 PCR)

- *Su Ah Tee and others v Allister Lim and Thrumurgam (sued as a firm) and another (William Cheng and others, third parties)* [2014] SGHC 159
- *Law Society of Singapore v. K Jayakumar Naidu* [2012] 4 SLR 1232
- *Law Society of Singapore v Ng Bock Hoh Dixon* [2012] 1 SLR 348
- *Lie Hendri Rusli v Wong Tan and Molly Lim (a firm)* [2004] 4 SLR(R) 594
- *The Law Society of Singapore v Chiong Chin May Selena* [2013] SGHC 5
- *Law Society of Singapore v Ng Chee Sing* [2000] 1 SLR(R) 466
- *The Law Society of Singapore v Zulkifli Bin Mohd Amin* [2009] SGDT 4
- *Law Society of Singapore v Udeh Kumar s/o Sethuraju* [2013] 3 SLR 875

(3) Confidentiality (Rule 6 PCR)

- *Law Society of Singapore v Ravi S/O Madasamy* [2015] 3 SLR 1187 at [33]
- PDR 2013, Paragraph 35 - Request for Information
- Law Society Ethics Committee commentary: "Silence is Golden" (Law Society Gazette, April 2014)
- PDR 2013, Paragraph 34 - Professional Secrecy & Privilege

(4) Conflict, or potential conflict, between interests of 2 or more clients (Rule 20 PCR)

- Multiple clients: *Lie Hendri Rusli v Wong Tan and Molly Lim (a firm)* [2004] 4 SLR(R) 594, at [36], [48]-[50]; *Law Society of Singapore v Uthayasurian Sidambaram* [2009] 4 SLR(R) 674; *Law Society of Singapore v Subbiah Pillai* [2004] 2 SLR(R) 447; *Mahidon Nichiar bte Mohd Ali and others v Dawood Sultan Kamaldin* [2015] SGCA 36
- Representation of parties in dispute: *Ong Jane Rebecca v Lim Lie Hoa* [2002] 1 SLR(R) 798.
- Conflict of interest between client and other person: *Law Society of Singapore v Ahmad Khalis bin Abdul Ghani* [2006] 4 SLR(R) 308, at [74]; *Lie Hendri Rusli v Wong Tan and Molly Lim (a firm)* [2004] 4 SLR(R) 594, at [48]-[50]; *Law Society of Singapore v Ganesan Krishnan* [2003] 2 SLR(R) 251; *The Law Society of Singapore v. Surinder Singh Dhillon* [2010] SGDT 8.
- Joint retainer: *Foo Ko Hing v Foo Chee Heng* [2002] 1 SLR(R) 664.
- PDR 2013, Paragraph 30 - Conflict of Interest - Mortgagor/ Mortgagee; PDR 2013, Paragraph 31 - Acting for Both Debenture Holder of a Company and Receiver Appointed by the Holder; PDR 2013, Paragraph 33 - Acting Against a Public Authority; PDR 2013, Paragraph 77 - Interest in a Public Authority

(5) Conflict, or potential conflict, between interests of current client and former client (Rule 21 PCR)

- Candidates are to distinguish Rule 21 PCR c.f. the more restrictive former Rule 31 under the Old PCR.
 - Cases under the former Rule 31 of the Old PCR: *Vorobiev Nikolay v Lush John Frederick Peters and others* [2011] 1 SLR 663; *Richard Hoare v Norhayati Binte Abdul Jali* [2011] SGDC 58; *India International Insurance Pte Ltd v Ho Chai Hong Joanne* [2013] SGDC 193 at [56]-[57]
- (6) Conflict, or potential conflict, between interests of client and interests of legal practitioner or law practice, in general (Rule 22 PCR)
- *Law Society of Singapore v Low Yong Sen* [2009] 1 SLR(R) 802.
 - *Law Society of Singapore v Udeh Kumar s/o Sethuraju* [2013] 3 SLR 875
 - *Then Khok Khoo and another v Arjun Permanand Samtani and another* [2012] 2 SLR 451
 - *Law Society of Singapore v Tan Phuay Khiang* [2007] 3 SLR(R) 477
 - *Ho Kon Kim v Betsy Lim* [2001] SGHC 75; [2001] SGCA 64
 - *The Law Society of Singapore v Singham Dennis Mahendran* [2001] 1 SLR(R) 1
 - GN 2013, Paragraph 2 - Providing Welfare Assistance to Clients.
- (7) Prohibited borrowing transactions (Rule 23 PCR)
- *Law Society of Singapore v Yap Bock Heng Christopher* [2014] 4 SLR 877
 - *Law Society of Singapore v Ong Teck Ghee* [2014] SGGT 7
 - *Wee Soon Kim Anthony v Law Society of Singapore* [2007] 1 SLR(R) 482
 - *The Law Society of Singapore v Thirumurthy Ayernaar Pambayan* [2015] SGGT 2
- (8) Purchases from client (Rule 24 PCR)
- (9) Gifts from client (Rule 25 PCR)
- *Law Society of Singapore v Wan Hui Hong James* [2013] 3 SLR 221
 - *Law Society of Singapore v Manjit Singh s/o Kirpal Singh and another* [2015] 3 SLR 829
- (10) Completion of retainer and withdrawal from representation (Rule 26 PCR)
- Law Society Ethics Committee commentary: "Client's Termination of Retainer and Transfer of Documents: Ethical Considerations" (Law Society Gazette, December 2009)
 - *Chew Kim Kee v. Kertar & Co* [2004] SGHC 95
 - *Engelin Teh Practice LLC v Wee Soon Kim Anthony* [2004] 1 SLR 605
 - *Alfons Tanumihardja v. Thio Su Mien* [2005] 2 SLR(R) 445
 - *The Law Society of Singapore v Chiong Chin May Selena* [2013] SGHC 5 (fourth charge)
 - PDR 2013, Paragraph 101 - Transfer of Clients' Monies on Dissolution
 - GN 2013, Paragraph 10 - Guidelines for Handling of Clients' Files When a Solicitor Leaves a Law Practice to Practise in Another Law Practice
 - PDR 2013, Paragraph 22 - Copies of Documents

Part C. RELATIONSHIP WITH OTHER LEGAL PRACTITIONERS AND OTHER PERSONS

- (1) Responsibilities of legal practitioners to each other (Rule 7, 27 PCR)
- Guiding Principles: Rules 7(1) and 27 PCR
 - The duty of courtesy and fairness –
China Insurance Co (Singapore) Pte Ltd v Liberty Insurance Pte Ltd [2005] 2 SLR(R) 509,
The Law Society of Singapore v Terence Tan Bian Chye [2007] SGDSC10,
Law Society of Singapore v Ravi s/o Madasamy [2015] SGHC 120.
 - Lack of courtesy and fairness examined against other infractions: *Law Society of Singapore v. K Jayakumar Naidu* [2012] 4 SLR 1232, at [74]-[77].
 - PDR 2013, Paragraph 21 - Draft Documents; PDR 2013, Paragraph 37 - Professional Conference; PDR 2013, Paragraph 52 - Waiting Time Before Proceeding to Tax Bills Ex Parte; PDR 2013, Paragraph 55 - Challenging another Solicitor on Law Society's Rulings; PDR 2013, Paragraph 56 - Relations With Other Solicitors; PDR 2013, Paragraph 85 - Quoting of References in Correspondence; PDR 2013, Paragraph 86 - Service of Originating Process on Solicitors; PDR 2013, Paragraph 97 - Phone Etiquette.
 - PDR 2013, Paragraph 17 - Communication with Clients of Other Solicitors; PDR 2013, Paragraph 18 - Dealings with the Opposing Party; PDR 2013, Paragraph 36 - Communication with Former Client.
 - A solicitor may give a second opinion in specific circumstances; PDR 2013, Paragraph 14 - No Taking Over Brief Until Retainer Determined and Basis of Second Opinion; PDR 2013, Paragraph 15 - Advising a Friend Who is a Client of Another Solicitor.
 - Undertakings to other solicitors: Rule 7(6) and 7(7) PCR, *Law Society v Arjan Chotrani Bisham* [2001] SGHC 24
 - A solicitor may ask another solicitor acting in the same matter to produce if he has authority to act: Rule 7(8) and 7(9) PCR, *Tung Hui Mannequin Industries v Tenet Insurance Co Ltd and others* [2005] 3 SLR(R) 184
 - Entrapment to obtain evidence of touting: *Wong Keng Leong Rayney v. Law Society of Singapore* [2006] 4 SLR 934; *Wong Keng Leong Rayney v. Law Society of Singapore* [2007] 4 SLR 377; *The Law Society of Singapore v. Wong Keng Leong Rayney* [2008] SGDSC 1; *Law Society of Singapore v. Tan Guat Neo Phyllis* [2008] 2 SLR 239; *Law Society of Singapore v. Bay Puay Joo Lilian* [2008] 2 SLR 316; *Law Society of Singapore v. Liew Boon Kwee James* [2008] 2 SLR 336; PDR 2013, Paragraph 64 - Obtaining Evidence of a Solicitor's Misconduct by Entrapment Or by Illegal Or Improper Means
- (2) Communication with another legal practitioner (Rule 31 PCR)
- (3) Conduct in relation to other persons (Rule 8 PCR)
- *The Law Society of Singapore v Dilip Kumar* [2006] SGDSC 16; *Grays LLC v Law Society of Singapore* [2008] SGHC 70.
 - Misrepresentation: *Wong Juan Swee v Law Society of Singapore* [1994] 3 SLR 846.

- Sending letters to other parties in copy: *Carolyn Tan Beng Hui v The Law Society of Singapore* [1999] SGHC 23.
- Personal conduct of legal practitioner: *Law Society of Singapore v Choy Chee Yean* [2010] 3 SLR 560; *Law Society of Singapore v Kirpal Singh s/o Hakam Singh* [2010] SGDT 5; *Law Society of Singapore v Gopalan Nair (aka Pallichadath Gopalan Nair)* [2010] SGDT 11
- PDR 2013, Paragraph 27 - Letters Threatening Criminal Proceedings/ Offensive Letters; *The Law Society of Singapore v Peter Pang Xiang Zhong* [2006] SGDSC 21; *The Law Society of Singapore v Terence Tan Bian Chye* [2007] SGDSC 10.
- Letter of demand: PDR 2013, Paragraph 54 - Letters of Demand
- Duty to cooperate with legal requirements of public institutions: *The Law Society of Singapore v Tham Yu Xian Rick* [1999] 3 SLR(R) 68; *Law Society of Singapore v Ong Ying Ping* [2005] 3 SLR(R) 583; PDR 2013, Paragraph 48 - Procedure to Visit and Interview Clients in Prisons.

Part D. SUPERVISION OF STAFF, USE OF TITLES, AND EXECUTIVE APPOINTMENTS

- (1) Responsibility for staff of law practice (Rule 32 PCR)
 - Sections 32-36, 77 LPA; PDR 2013, Paragraph 24 - Work Done by an Unauthorised Person
 - Practice Circular on Supervision of Paralegals (Law Gazette, 6 June 2015); Commentaries on the Law Society of Singapore's Practice Circular on the Supervision of Paralegals (Law Gazette, March 2015)
- (2) Descriptions and titles (Rule 33 PCR)
- (3) Executive appointments (Rule 34; and First to Fourth Schedules PCR)
 - PDR 2013, Paragraph 81 - Executive Appointments and Engagement in Business, Trade or Calling
- (4) Responsibilities in relation to management and operation of law practice (Rule 35)
- (5) Responsibilities to practice trainees in law practice (Rule 36)

Part E. PUBLICITY AND PROHIBITION AGAINST TOUTING

- (1) Publicity (Rules 37, 41, 42, 43, 44, 45, 46, 47, 48 and 49 PCR)

- Law Society Ethics Committee commentary - "Ten Questions on the Publicity Rules" (Law Society Gazette, March 2010)
- PDR 2013, Paragraph 66 - Advertisement and Media Publicity; PDR 2013, Paragraph 67 - Publicity by Solicitors Through Public Appearances and Contributions to Publications; PDR 2013, Paragraph 68 - Correspondences to Potential Clients Where Solicitor is Permitted to Act for More Than One Client in a Transaction; PDR 2013, Paragraph 70 - Third Party Publicity; PDR 2013, Paragraph 71 - Printing of Names on Envelopes; PDR 2013, Paragraph 72 - Greeting Cards 44; PDR 2013, Paragraph 74 - Distribution of Flyers or Leaflets; PDR 2013, Paragraph 75 - Referrals/hyperlinking of websites; PDR 2013, Paragraph 76 - Identification of Lawyers or Law Firms.
- GN 2013, Paragraph 1 - Ethics and Information Technology; Law Society Ethics Committee commentary - "Publicity of Law Practice in Online Forums, Blogs and Other Social Media Platforms" (Law Society Gazette, August 2012).

(2) Touting and Referrals (Rules 39 and 40 PCR)

- *Law Society of Singapore v Chong Wai Yen Michael* [2012] 2 SLR 113
- *Law Society of Singapore v Udeh Kumar s/o Sethuraju* [2013] 3 SLR 875.
- *Law Society of Singapore v Lee Cheong Hoh* [2001] 1 SLR(R) 197
- *The Law Society of Singapore v Tan Buck Chye* [2007] 1 SLR(R) 581
- *The Law Society of Singapore v Lau See-Jin Jeffrey* [1999] 1 SLR(R) 724
- *The Law Society of Singapore v Lillian Bay Puay Joo* [2008] 2 SLR(R) 316;
- *The Law Society of Singapore v Tan Guat Neo Phyllis* [2008] 2 SLR(R) 239
- *The Law Society of Singapore v Yap Kok Kiong* [2006] SGDSC 14
- Restrictions on procurement of work: LPA, s 83(2)(d)-(g) and LPA, s 78(1)(e)

(3) Prohibited business, trade or calling (Rule 38)

- C.f. *Law Society of Singapore v Ong Teck Ghee* [2014] SGDT 7

Part F. PROFESSIONAL FEES AND SOLICITORS' ACCOUNTS RULES

(1) Client money (Rule 16 PCR)

- Legal Profession (Solicitors' Accounts) Rules ("LPSAR")
- Client's money; client account (Rule 2 LPSAR); GN 2013, Paragraph 4 - Deposit of Moneys in the Client Account of a Law Practice.
- Payment without delay into client account (Rule 3 LPSAR)
- Exceptions: (Rules 6 and 9 LPSAR); *Law Society of Singapore v Tay Choon Leng John* [2012] 3 SLR 150
- Splitting of moneys (Rule 5 LPSAR)

- Right of lien, set-off etc (Rule 15 LPSAR)
- Rules 7-8, 10 LPSAR; PDR 2013, Paragraph 78 - Drawing Money for Legal Costs from Client Account; PDR 2013, Paragraph 79 - Monies Drawn on Client Account in Satisfaction of Solicitor's Costs - Rule 7(1)(a)(iv) Solicitors' Accounts Rules
- Accounting records: Rules 11, 11A, 12 LPSAR
- Penalties: *Law Society of Singapore v. Chiong Chin May Selena* [2005] 4 SLR(R) 320; *Law Society of Singapore v. Tan Chwee Wee Allan* [2007] 4 SLR 699 at para. 29; *Law Society of Singapore v. Tay Eng Kwee Edwin* [2007] 4 SLR 171; *Law Society of Singapore v Zulkifli bin Mohd Amin* [2011] 2 SLR 620; *Law Society of Singapore v Tay Choon Leng John* [2012] 3 SLR 150.

(2) Professional fees and costs (Rule 17 PCR)

- Charging fairly for work done: *Law Society of Singapore v Andre Ravindran Saravanapavan Arul* [2011] 4 SLR 1184; *Law Society of Singapore v Andre Ravindran Saravanapavan Arul* [2011] SGDT 2; *Law Society of Singapore v Ng Bock Hoh Dixon* [2012] 1 SLR 348; *Law Society of Singapore v Low Yong Sen* [2009] 1 SLR(R) 802; *Re Lau Liat Meng* [1992] 2 SLR(R) 186; *Wee Soon Kim Anthony v Law Society of Singapore* [2007] 1 SLR(R) 482; *Law Society of Singapore v Chua Swee Keng* [2008] SGDSC 6 (in relation to the third charge); *Law Society of Singapore v Ang Chin Peng* [2013] 1 SLR 946.
- Disclosure of information about fees: *The Law Society of Singapore v Low Yong Sen Vincent* [2006] SGDSC 3; *The Law Society of Singapore v Chung Kok Soon* [2002] SGDSC 2
- PDR 2013, Paragraph 5 - Fee Agreements in Writing; PDR 2013, Paragraph 44 - Non-Refundable Deposit or Retainer; PDR 2013, Paragraph 58 - Fee Arrangements with Clients; PDR 2013, Paragraph 87 - Two-Thirds Rule; PDR 2013, Paragraph 103 - Equity in Lieu of Fees; PDR 2013, Paragraph 104 - Use of Credit Cards.

(3) Contingency fees prohibited (Rule 18 PCR)

- Section 107 LPA and *Law Society of Singapore v Kurubalan s/o Manickam Rengaraju* [2013] 4 SLR 91.

(4) Sharing fees with unauthorised persons (Rule 19 PCR)