

Legal Profession (Foreign Practitioner Examinations) Rules 2011

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No. S 553

LEGAL PROFESSION ACT (CHAPTER 161)

LEGAL PROFESSION (FOREIGN PRACTITIONER EXAMINATIONS) RULES 2011

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

Citation and commencement

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

Definitions

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

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

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

“Chairman” means the Chairman of the Institute;

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

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

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

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

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

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

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

Administration of Examinations

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

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

Application to sit for Examinations

4.—(1) A person who applies to be registered under section 36B of the Act cannot, for the purposes of satisfying any requirement for such registration, or of ascertaining whether any such requirement is satisfied, rely on any determination of the person’s eligibility to sit for the Examinations by the Director, the Examinations Review Board or the Institute.

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

(a) be made to the Director —

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

(b) be accompanied by —

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

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

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

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

- (a) to provide, in addition to any documents referred to in paragraph (2)(b)(ii),

such other evidence as the Director considers necessary;

- (b) to depose to any facts relevant to the application by a statutory declaration; and
- (c) to attend an interview.

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

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

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

- (a) active practice as —
 - (i) a legal practitioner, by whatever name called, in any jurisdiction other than Singapore; or
 - (ii) a foreign lawyer in Singapore; or
- (b) work of a legal nature which is performed as a legal counsel in any corporation or other entity the equity securities of which are listed on the official list of a securities exchange in Singapore or elsewhere.

Application to review decision of Director

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

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

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