

THE LAW SOCIETY OF SINGAPORE

PRACTICE DIRECTION 8.7.1

[Formerly Council's Practice Direction 1 of 2010]

UNDERTAKINGS REQUIRED OF A LAW PRACTICE UNDER SECTION 78(1) OF THE LEGAL PROFESSION ACT

This Practice Direction sets out the requirements for the employment of staff under section 78(1) of the Legal Profession Act (Cap 161, 2009 Rev Ed) ('LPA') and the undertaking(s) that are required by the Law Society for different categories of prospective employees.

Under section 78(1) of the LPA, consent of the High Court is required if a solicitor (as defined by the Act) wishes to employ or remunerate any person, who to his/her knowledge is an undischarged bankrupt or has been:

- (a) struck off a roll of legal practitioners by whatever name called otherwise than at his/her own request in Singapore or in any part of Malaysia or elsewhere and remains struck off;
- (b) suspended from practising as an advocate and solicitor in Singapore or in any part of Malaysia or elsewhere and remains suspended;
- (c) convicted of an offence involving dishonesty;
- (d) convicted of an offence under section 33 of the Miscellaneous Offences (Public Order and Nuisance) Act (Cap 184, 1997 Rev Ed) or under any provision of the LPA;
- (e) listed as a tout under section 39 of the Family Justice Act 2014 (Act 27 of 2014), section 62 of the State Courts Act (Cap 321, 2007 Rev Ed) or section 73 of the Supreme Court of Judicature Act (Cap 322, 2007 Rev Ed); or
- (f) a person in respect of whom an order under section 78(4) of the LPA has been made.

An application under section 78(1) of the LPA is required to be made by originating summons and served on the Law Society of Singapore and the Attorney-General's Chambers. The application should be supported by (i) an affidavit of the sole proprietor, managing partner or managing director of the law practice ('Employer'); and (ii) an affidavit from the prospective employee.

The originating summons should provide for a prayer for the court to make an order as follows:

"... for an order as appears in the draft thereof enclosed herewith. Any further or other orders[.]"

Based on past High Court decisions in section 78(1) applications, the Council of the Law Society would require the law practice (namely, the sole proprietor or all the partners or directors) to give the following undertakings which must be incorporated in the Employer's affidavit and the Order of Court.

A copy of the Law Society's draft Order of Court is annexed to this Practice Direction:

- (a) Where the prospective employee is a person who has been struck off the roll of legal practitioners or suspended from practising as specified in sections 78(1)(a) and 78(1)(b) of the LPA:

Undertakings

That the prospective employee:

- (i) would perform only the scope of work as [*position employed*], [*to set out scope of work*] and that such work would be duly supervised by the law practice's solicitors; and
- (ii) would not have dealings with the law practice's money, whether it be in respect of clients' accounts or office accounts or otherwise.

- (b) Where the prospective employee is an undischarged bankrupt or falls within the other categories as specified in sections 78(1)(c)–78(1)(f) of the LPA:

Undertaking

That the prospective employee would not have dealings with the law practice's money, whether it be in respect of clients' accounts or office accounts or otherwise.

Notwithstanding the above, the Society may require additional undertaking(s) to be given by the law practice as may be appropriate depending on the circumstances of the case.

Date: 1 June 2018

THE COUNCIL OF THE LAW SOCIETY OF SINGAPORE

Retained Practice Directions

IN THE HIGH COURT OF THE REPUBLIC OF SINGAPORE

Originating Summons No. _____ of 201_____

In the Matter of Section 78(1) Legal Profession Act
(Cap 161)

And

In the Matter of the application by M/s _____ for consent of the High
Court of the Republic of Singapore to employ and remunerate _____ (NRIC
No. S _____)

ORDER OF COURT

BEFORE THE HONOURABLE IN CHAMBERS

JUSTICE _____

UPON THE APPLICATION by the abovenamed M/s _____ by way of Originating
Summons No. _____ coming on for hearing this day AND UPON READING the affidavit
of _____ filed on ____ (month) 201__ and the exhibits therein referred to and the
affidavit of _____ filed on ____ (month) 201__ and UPON HEARING counsel for
M/s _____ and the State Counsel from the Attorney-General's Chambers and Counsel for the
Law Society of Singapore AND UPON M/s _____ providing the following undertakings*:

- i) to ensure that _____ will perform only the scope of work as [position employed], [to
set out scope of work] and that such work be duly supervised by the law practice's lawyers; and
- ii) to ensure that _____ will not have any dealings with the law practice's money, whether it be
in respect of clients' accounts or office accounts or otherwise.

IT IS HEREBY ORDERED THAT consent be given by this Honourable Court to M/s
_____ to employ and remunerate _____ (NRIC No. S _____),
as a _____. His/her scope of work shall be as follows:

- a)
- b)
- c)

Dated this _____ day of _____ 201__

ASSISTANT REGISTRAR

*Delete if inapplicable