

REPORT OF THE CORPORATISATION OF PROFESSIONAL PARTNERSHIPS SUB-COMMITTEE

INTRODUCTION

1. On 30 August 1997, this Sub-Committee was appointed to study and make recommendations to the Law Reform Committee on the possibility of corporatisation of professional partnerships in Singapore.
2. The members of this Sub-Committee are:
 - Mrs Arfat Selvam (Chairperson)
 - Mr Charles Lim
 - Mr Kim Seah Teck Kim
 - Mr Tan Cheng Han
 - Mr Alvin Yeo Khirn Hai
 - Mr Jimmy Yim Wing Kuen
 - Mr Foo Chee Hock
3. Although this Sub-Committee's terms of reference deal with the corporatisation of "professional partnerships", the main thrust of our submission is the corporatisation of law firms. The points raised in this Report are however equally relevant to the corporatisation of other professional partnerships. With the exception of accountants, we note that the other professions are already able to work within the corporate framework.
4. This Sub-Committee is now considering the issue of corporatisation at a particularly opportune time. With the current drive towards globalisation, the rationale and impetus for corporatisation are to prepare and strengthen local law firms to compete on an equal basis with foreign firms when our law firms venture overseas.

OUR APPROACH

5. This Sub-Committee considered as a matter of principle whether law firms should be allowed to incorporate. Under existing legislation, a lawyer in Singapore can only practise either on his own account, in partnership, or as an employee: section 26(1)(a) of the Legal Profession Act (Cap 161). Our deliberations have proceeded along the following lines:
 - The advantages of incorporation;
 - The possible concerns, and how we can address them; and
 - The suggested model of a corporate practice.

ADVANTAGES OF CORPORATISATION

6. THE CORPORATISATION OF LAW FIRMS WILL SUPPORT AND PROMOTE THE GOVERNMENT'S REGIONALISATION AND GLOBALISATION DRIVE

It is unnecessary to go into all the advantages of an incorporated body as compared with a sole proprietorship or partnership. The essential difference and, in this case, the major advantage is that of limited liability, which provides the needed flexibility when one is considering expanding one's operations overseas.

7. In the context of regionalisation, the structure of a partnership with unlimited liability is a poor vehicle to take lawyers beyond our shores. Cross-border ventures necessarily involve risks, require permanence of the business set-up as well as adequate capitalisation to be viable. The corporate structure is clearly more appropriate for such expansion into other countries. Further, incorporation makes available the economic incentives of the Government's regionalisation policy to the legal profession, as these incentives are largely provided for corporate bodies¹.

8. The ability to incorporate also supports the above objective in ensuring a level playing field for both local and foreign law firms. This Sub-Committee notes that foreign lawyers are allowed to incorporate or have limited liability partnerships in their home countries². Local law firms should similarly be allowed to incorporate here and register a branch office in another country, so as to compete on an equal footing with foreign law firms.

9. INCORPORATION WILL ENCOURAGE FIRMS TO GROW, WITH ATTENDANT ADVANTAGES IN THE SHARING OF EXPERTISE AND RESOURCES (IN PARTICULAR IN HIGH-TECH EQUIPMENT)

The Honourable the Chief Justice has more than once exhorted the legal profession to pool their resources to meet the challenges of the future. As it is, the Courts are now moving faster and demanding more of the legal profession. Law firms that do not have the critical mass in expertise, size and resources may be overwhelmed. With corporatisation, law firms can reorganise into larger corporate units to share resources and take advantage of economies of scale. This will enhance their ability to cope with the faster pace, heavier workload and expand their range of work. With growth, there could be scope for concomitant specialisation. The increased responsiveness and ability to cope will in turn be reflected in better service to the public.

10. The corporate structure is more suited for growth, for merger as well as reorganisation, as it is less tied down to the partners' personalities. By de-personalising the practice, corporatisation also increases the willingness and ability to invest, in particular in high-tech equipment.

11. On another level, the corporate structure offers opportunities for creating incentive or reward schemes for employees to have a stake in the company. An example is the giving of share options to retain as well as attract talent. In addition, the Central

Provident Fund scheme for employees in a Company is better than for partners in a law firm.

CONCERNS POSED BY INCORPORATION

12. Some of the concerns raised are that:
 - incorporation may relieve lawyers from personal liability, hence lowering the standard of care;
 - incorporation may benefit only the larger firms; and
 - there will be a loss of consumer protection.
13. In this Sub-committee's view, the first two concerns are not valid. First, it bears repeating that the doctrine of limited liability protects the professional member only in relation to the debts and liabilities of the company. It does not absolve the personal liability of the professional member for his own negligence or other default³, nor from the rules of professional conduct under the Legal Profession Act (Cap. 161). However, it does provide a measure of protection for innocent members for claims beyond the level of reasonable insurance cover⁴. In that sense, it guards against the exceptional odd case of one transaction wiping out the entire law firm and the personal assets of all the partners. Notably, the protection afforded by limited liability is also subject to exceptions stated in the Companies Act (Cap 50) itself, for instance, the provisions relating to delinquent directors and fraudulent trading.
14. The strict liability that currently exists imposes an unduly onerous liability particularly for partners of larger law firms to the extent that while they are personally liable for all matters handled by the firm, in reality there is no way in which they can adequately supervise matters handled by the other partners of the firm.
15. There are also implications for the retention of talent. On the one hand, partners have to be extremely careful to offer partnership to their promising legal assistants; on the other hand, the legal assistants may be hesitant to become partners in view of all the potential liabilities of the firm. Incorporation could go some way to remove this dilemma.
16. As for the second concern, this Sub-Committee acknowledges that incorporation may appear to benefit the larger firms to a greater extent, but this is a function of size and the ability to command more resources. Even so, corporatisation can also positively benefit small law firms. Given the clear division between ownership and control in the corporate structure, one can imagine a situation where a sole-proprietor may wish to relinquish the day to day operations of the firm, while having a stake in the firm. Incorporation may be the best way for him to preserve his goodwill in a permanent structure.
17. In the final analysis, it is a matter of choice for individual law firms whether they should incorporate, based on their own cost benefit analysis⁵. If the future of the legal profession is considered, then the question is what structure will best meet those

challenges, and not whether the larger or smaller firms will benefit more from the proposed changes.

18. **LOSS OF CONSUMER PROTECTION**

The last concern is, in the view of this Sub-Committee, a more serious one, and ought to be sufficiently addressed. Without regulation, the spectre of the \$2 company with minimal insurance coverage may appear. Furthermore, it is not inconceivable that with limited liability, firms will reduce their level of insurance cover.

19. This Sub-Committee considered in turn the two essential issues of adequate capitalisation and insurance coverage. Under section 20(1)(b) of both the Professional Engineers Act (Cap 253) and the Architects Act (Cap 12), at least \$1 million of a corporation's authorised capital must be bona fide paid up. In the context of law firms, a capitalisation requirement may not be efficacious. This is because the capital is likely to be employed towards the purchase of office equipment, law books, etc., that will have a relatively low value if they have to be subsequently realised. Generally, the only significant assets of a law firm are largely account receivables and these may not be meaningful in a distribution among creditors.

20. This Sub-Committee agrees that the more effective safeguard is that of insurance cover. In principle, there should be full and adequate insurance cover in respect of the liabilities to which a firm may be exposed. There should be a minimum amount set by law. The figure should not be less than what law firms now generally insure for.

21. Rule 4 of the Legal Profession (Professional Indemnity Insurance) Rules⁶ currently requires insurance cover of \$500,000 for each civil claim, and up to \$600,000 for the costs and expenses in defending the same⁷. In addition, the Law Society Council may determine the amount of excess (having regard to the number of lawyers in the firm) but such amount shall not exceed \$100,000⁸.

22. These requirements go further than existing legislation for other professions. Both the Professional Engineers Act and the Architects Act, while requiring that the corporation be insured against professional liability if it has limited liability, does not specify any minimum amount: section 24. The rules prescribed under the two Acts are also silent on this.

23. The empirical research conducted by this Sub-Committee reveals that in the last seven years, there has not been a claim paid out which comes close to \$2 million. We are given to understand that the highest claim paid out was slightly over \$1 million, and that the larger firms (i.e., those with more than 40 members) have a better claims record.

SUGGESTED MODEL OF A CORPORATE PRACTICE

24. This Sub-Committee suggests that a possible model of a suitable corporate practice would be one similar to that permitted in England under their Solicitors' Incorporated Practice Rules 1988. Under such a model:

- (a) enabling legislation would be required, amending our Legal Profession Act to allow legal practice through an incorporated entity (presumably under our Companies Act);
- (b) an incorporated practice (like an unincorporated practice) would be required to seek recognition from the appropriate regulatory body, as to its name and practising certification as well as to its continuing compliance with other requirements expected of incorporated practices eg. that it is appropriately managed and controlled by practising lawyers⁹;
- (c) the entity's memorandum and articles of association should be required to contain various mandatory provisions:
- making the provision of professional legal services the primary object under the memorandum¹⁰;
 - requiring that the entity's board of directors be comprised entirely of practising lawyers¹¹;
 - requiring at least two thirds of the shares to be held by lawyers currently practising in the entity;
 - restricting registered and beneficial ownership of shares in the entity to natural persons who are practising lawyers, officers and employees of the entity and persons who were previously practising or employed in the entity¹²; and
 - (to avoid conflict of interest issues) prohibiting any shareholder of the entity to be concurrently a shareholder, partner or employee of any other incorporated or unincorporated entity providing legal services;
- (d) to ensure direct accountability and supervision for professional work undertaken by the corporate entity, legislation should also require that the business of the entity, insofar as it relates to professional work, be under the control and management of a practising lawyer with a valid practising certificate who is a director and shareholder in the entity¹³;
- (e) to ensure maintenance of high professional ethics and standards in discharging professional work, including acting as an advocate in the courts, there could be legislation specifying that the practising lawyer having the control and management of the relevant work, and every other practising lawyer engaged in such work, would be subject to the same standards of professional conduct and competence as if such work were personally supplied by such persons rather than the entity¹⁴;
- (f) there should also be legislation ensuring that the corporate entity has the same rights and is subject to the same obligations in respect of fiduciary, confidential and ethical relationships with every client as currently exists under the law between a professional and his/her client¹⁵;
- (g) the entity should also be required to take the professional indemnity insurance recommended above¹⁶.

RECOMMENDATION:

25. It is this Sub-Committee's conclusion that the advantages of corporatisation of law firms, which are equally applicable to other professional partnerships, are real and substantial. The concerns posed are either overstated, or can be adequately addressed by means of legislation. This Sub-Committee therefore recommends in principle that corporatisation should be introduced for all professional partnerships, as part of Singapore's strategic move to globalise.

26. In preparing this report, this Sub-Committee has consciously kept it brief, to avoid undue attention to be given at this stage to details that could detract from the objective assessment of the policy issues raised in it. If, as a matter of policy, the proposals are found to be acceptable to the authorities, the Law Reform Committee is prepared to supplement this report with details of the legislative changes to be made for its implementation.

Dated this 1st day of December 1997

This report has been approved and is submitted by the following members of the Sub-Committee.

Mrs Arfat Selvam (Chairperson)

Mr Charles Lim

Mr Kim Seah Teck Kim

Mr Tan Cheng Han

Mr Alvin Yeo Khirn Hai

Mr Jimmy Yim Wing Kuen

Mr Foo Chee Hock

¹ For instance, section 13H of the Income Tax Act (Cap. 134) provides for the exemption of the income of an approved venture company derived from approved investments. Also, a corporate structure is in a better position to avail itself of the tax incentives provided in sections 14C and 14K of the Income Tax Act (Cap 134) than a traditional law firm.

² The prime examples are lawyers in England, Australia (South Australia, Tasmania), Hong Kong and some jurisdictions in the United States of America.

³ Under section 26 of both the Professional Engineers Act (Cap 253) and the Architects Act (Cap 12), the registered professional having control of the licensed corporation shall be

subject to the same standards of professional conduct and competence in respect of the supply of professional services as if he was personally supplying those services.

⁴ It may be said that incorporation also protects the innocent partners against the other partners' criminal acts, for instance, criminal breach of trust funds held on behalf of clients

⁵ This would probably include, *inter alia*, the consideration of the corporate tax rate.

⁶ Cap 161, Rule 11

⁷ Rule 4 read with Rule 2

⁸ Rule 5(2)

⁹ See R 2 and R 3, (English) Solicitors' Incorporated Practice Rules 1988.

¹⁰ A similar requirement is provided in our Professional Engineers Act, Cap. 253, section 20(1)(a).

¹¹ Whereas under the Professional Engineers Act, Cap. 253, section 20(1)(c) requires that the chairman and at least two-thirds of the directors be qualified professionals.

¹² The Professional Engineers Act, (Cap. 253), no longer imposes restrictions on shareholdings in limited liability engineering services corporations. Previously (prior to amendments made in 1995), at least two-thirds of shares were required to be held by registered professionals or allied professionals who were current directors, managers or employees.

¹³ Similar to Section 20(1)(e) of the Professional Engineers Act, Cap. 253.

¹⁴ Under Section 26 of the Professional Engineers Act, Cap 253, such professional responsibility attaches to the professional having control and management of the professional engineering services supplied by a corporate entity.

¹⁵ Similar to Section 25, Professional Engineers Act, Cap 253

¹⁶ Similar to Section 24, Professional Engineers Act, Cap 253

SECTION 26
LEGAL PROFESSION ACT
[CAP 161]

squalification for practising certificate

--(1) No solicitor shall apply for a practising certificate --

(a) unless he is practising or intends to practise either on his own account or in partnership;

(b) unless he is or is about to be employed in his or their practice by a solicitor or firm of solicitors in practice in Singapore;

(c) if he has, for a period of 3 years or more, held office as a judge of the Supreme Court or of the Supreme Court of Malaysia or of any High Court in any part of Malaysia;

[**Note:** Act 16/93 wef 1.7.93.]

(d) if he is an undischarged bankrupt;

[**Note:** Act 15/95 wef 15.7.95 vide S 268/95.]

(e) if he has entered into a composition with his creditors or a deed of arrangement for the benefit of his creditors;

(f) if he has one or more outstanding judgments against him amounting in the aggregate to \$100,000 or more which he has been unable to satisfy within 6 months from the date of the earliest judgment; or

(g) if he has been found under section 7 of the Mental Disorders and Treatment Act to be of unsound mind and incapable of managing himself and his affairs.

[**Notes:** Cap. 178. Act 40/96 wef 1.1.97 vide S 548/96.]

(2) Notwithstanding anything in subsection (1), any solicitor who has held office as a judge of the Supreme Court for a period of 3 years or more shall on application be issued a practising certificate enabling him to practise as a solicitor, but without the right of audience in any court of justice in Singapore.

[**Note:** Act 10/91 wef 1.2.91 vide S 68/91.]

(3) Subsection (1) shall not apply to a solicitor employed by the Society, any statutory board or authority or a member of the legal service if the Attorney-General issues a certificate under his hand certifying that the solicitor is so employed and specifying therein the matters in which the solicitor so employed may appear and plead in courts of law, and upon the solicitor otherwise complying with the provisions of this Act the Registrar shall issue to him a practising certificate specifying therein the matters in which he may appear and plead as contained in the Attorney-General's certificate.

[**Note:** Act 41/93 wef 1.1.94 vide S 530/93.]

(4) A practising certificate issued to a solicitor shall cease to be in force--

(a) when the solicitor ceases to practise or to be employed as provided in this section; or

(b) upon the solicitor becoming subject to any disqualification under subsection (1) (d), (e), (f) or (g).

[**Note:** Subst. by Act 40/96 wef 1.1.97 vide S 548/96.]

For the purposes of this section, "judge" shall not include a Judicial Commissioner of the Supreme Court.

[**Note:** Act 40/96 wef 1.1.97 vide S 548/96.]

SECTION 13H
INCOME TAX ACT [CAP 134]

Exemption of income of venture company

13H.--(1) There shall be exempt from tax such income as the Minister may by regulations prescribe of an approved venture company derived by it from making approved investments; and those regulations may provide for the determination of the amount of such income to be exempted and for the deduction of losses otherwise than in accordance with section 37.

(2) The exemption from tax of the income of an approved venture company under regulations made under subsection (1) shall be for such period or periods (referred to in this section as the tax exempt period) not exceeding 10 years in the aggregate as the Minister, or such person as the Minister may appoint, may specify.

(3) The Comptroller shall determine the manner and extent to which allowances under section 19, 19A, 20, 21 or 22 and any expenses, losses and donations allowable under this Act which are attributable to the income referred to in subsection (1) are to be deducted.

(4) In determining the income of an approved venture company which is exempt from tax under regulations made under subsection (1) for any year of assessment, there shall be deducted therefrom --

(a) expenses and donations allowable under this Act for that year of assessment which are attributable to that income;

(b) any loss for that year of assessment arising from the disposal of any approved investments in Singapore or elsewhere;

(c) any allowances for that year of assessment under section 19, 19A, 20, 21 or 22 attributable to that income notwithstanding that no claim for those allowances has been made; and

(d) any balance of the expenses, losses and allowances referred to in paragraphs (a), (b) and (c) which have not been deducted in determining that income for any previous year of assessment.

(5) Any expenses, donations, allowances or losses referred to in subsection (4) shall only be deducted against the income of an approved venture company exempt from tax under regulations made under subsection (1) and shall not be available as a deduction against any other income of the company, except that any balance of the expenses, donations, allowances or losses remaining unabsorbed at the end of the tax exempt period of the company shall be available as a deduction against any other income of the company for the year of assessment which relates to the basis period in which the tax exemption ceases and for any subsequent year of assessment in accordance with section 23 or 37, as the case may be.

(6) The Comptroller shall for each year of assessment issue to an approved venture company a statement showing the amount of income exempt from tax under regulations made under subsection (1) and Parts XVII and XVIII (relating to objections and appeals) and any rules made under this Act shall apply, with the necessary modifications, as if such statement were a notice of assessment.

(7) Subject to subsection (8), where any statement issued to an approved venture company under subsection (6) has become final and conclusive, the amount of income shown therein shall not form part of the statutory income of the company for the year of assessment to which the statement relates and shall be exempt from tax.

(8) The Comptroller may, before any such statement has become final and conclusive, treat a specified amount of the income of an approved venture company as exempt from tax pending such statement becoming final and conclusive.

(9) As soon as any amount of the income of an approved venture company has been exempt from tax under regulations made under subsection (1), that amount shall be credited to a special account (referred to in this section as the account) to be kept by the company for the purpose of this section.

(10) Where the account of an approved venture company is in credit at the date on which any dividends are paid by the company out of the amount credited to that account, an amount equal to those dividends or to that credit, whichever is the less, shall be debited to the account.

(11) So much of the amount of any dividends debited to the account under subsection (10) as is received by a shareholder of an approved venture company shall, if the Comptroller is satisfied with the entries in the account, be exempt from tax in the hands of the shareholder.

(12) Section 44 shall not apply to any dividends or part thereof which are exempt from tax under this section.

(13) Where an amount of dividends exempt from tax under this section has been received from an approved venture company by a shareholder, if that shareholder is a company, any dividends paid by that company to its shareholders, to the extent that the Comptroller is satisfied that those dividends are paid out of that amount, shall be exempt from tax in the hands of those shareholders; and section 44 shall not apply to any such dividend or part thereof.

(14) Notwithstanding subsections (11) and (13), no dividend paid on any share of a preferential nature shall be exempt from tax in the hands of the shareholder.

(15) An approved venture company shall deliver to the Comptroller a copy of the account made up to any date specified by him whenever called upon to do so by notice in writing.

(16) Notwithstanding anything in this section, where it appears to the Comptroller that --

(a) any income of an approved venture company which has been exempted from tax; or

(b) any dividend (including a dividend paid by a company to which subsection (13) applies) which has been exempted from tax in the hands of any shareholder,

ought not to have been so exempted, the Comptroller may, at any time within 6 years from the date of the statement referred to in subsection (6) --

(i) make such assessment or additional assessment upon the company or any such shareholder as may appear to be necessary in order to make good any loss of tax; or

(ii) direct the company to debit its account with such amount as the circumstances may require.

(17) Parts XVII and XVIII (relating to objections and appeals) and any rules made under this Act shall apply, with the necessary modifications, as if an assessment or a direction under subsection (16) were a notice of assessment.

SECTION 14C
INCOME TAX ACT [CAP 134]

Further deduction for export market development expenditure and certain advertising expenses

- 14C.--(1) Subject to this section, where the Comptroller is satisfied that --
- (a) export market development expenditure for the carrying out of an approved marketing project overseas; or
 - (b) advertising expenses in respect of advertisements placed in any approved Singapore publication designed for publicity overseas,

[Notes: 26/93. 32/95.]

have been incurred--

- (i) on or after 1st April 1979 by an approved firm or company resident in Singapore principally for promoting the export of goods manufactured in Singapore;
- (ii) on or after 1st April 1993 by an approved firm or company resident in Singapore and carrying on in Singapore the business of providing services principally for promoting the provision of services overseas; or
- (iii) on or after 1st April 1995 by an approved firm or company resident in Singapore which is the holder of a master franchise or master intellectual property licence principally for promoting the provision of services overseas in connection with the use overseas of any right under the franchise or licence,

There shall be allowed a further deduction of the amount of such expenditure in addition to the deduction allowed under section 14.

[Note: 9/80.]

(2) The Minister may specify the maximum amount of export market development expenditure (or any [?]em thereof) or of advertising expenses to be allowed under subsection (1).

(3) No deduction shall be allowed under this section in respect of --

- (a) any expenses-which are not allowed as deductions under section 14;
- (b) any expenses incurred during its tax relief period (or qualifying period in the case of investment allowance) by a company which is given tax relief under the Economic Expansion Incentives (Relief from Income Tax) Act;

[Note: Cap. 86.]

- (c) any expenses which are allowed as deductions under section 14B; or
- (d) travelling, accommodation and subsistence expenses or allowances for more than two employees taking part overseas in the approved marketing project.

(4) In this section --

"approved" means approved by the Minister or such person as he may appoint;

SECTION 24
PROFESSIONAL ENGINEERS
ACT [CAP 253]

Liability insurance

24. Every licensed corporation which is not an unlimited corporation shall be insured against liability for any breach of professional duty arising out of the conduct of its business of supplying professional engineering services as a direct result of any negligent act, error or omission committed by the corporation or its directors, managers, secretaries or employees.

(4) As soon as any amount of deduction is allowed to any company under subsection (1), a sum equal to the amount of the expenditure or expense incurred by the company which qualified for the deduction under subsection (1) shall be credited to an account (referred to in this section as the further deduction account) to be kept by the company for the purposes of this section.

(5) Section 14B (3B) to (3E) shall apply, with the necessary modifications, to any company to which a deduction is allowed under subsection (1) and, in relation to a deduction allowed to any company under subsection (1) (ii), the references to further deduction in those subsections shall be read as references to a deduction of a sum equal to the amount of the expenditure or expense incurred by the company which qualified for the deduction under subsection (1) (ii).

(6) In this section--

"approved" means approved by the Minister or such person as he may appoint;

"investment development expenditure" means expenses directly attributable to the carrying out of --

- (a) any study to identify investment overseas; and
- (b) any feasibility or due diligence study on any approved investment overseas;

"overseas project development office" means any office established for the purpose of identifying, initiating and developing any approved investment overseas.

[**Note:** 26/93.]

SECTION 26
PROFESSIONAL ENGINEERS
ACT [CAP 253]

Professional responsibility of supervising engineers

26. A registered professional engineer who has the control and management of the business of a licensed corporation relating to the supply of professional engineering services in Singapore shall be subject to the same standards of professional conduct and competence in respect of the business as if the professional engineering services were personally supplied by the registered professional engineer.

"export market development expenditure" means--

(a) expenses directly attributable to the carrying out of export market research or obtaining of export market information, including any feasibility study;

[**Note:** 26/93.]

(b) expenses in respect of advertisements placed in overseas news media, including television, newspapers and trade journals;

(c) expenses incurred on overseas export promotion campaigns; or

(d) expenses incurred in the design of the packaging, or in the certification, of goods manufactured in Singapore for export or in the certification of services to be provided overseas where such certification is carried out by an approved person;

[**Note:** 26/93.]

"master franchise" and "master intellectual property licence" have the same meanings as in section 14B.

[**Note:** 32/95.]

SECTION 26
ARCHITECTS ACT [CAP 12]

Professional responsibility of supervising architect

26. A registered architect who has the control and management of the business of a licensed corporation or partnership relating to the supply of architectural services in Singapore shall be subject to the same standards of professional conduct and competence in respect of such services as if he was personally supplying the architectural services.

SECTION 20
ARCHITECTS ACT [CAP 12]

Licence for multi-discipline and corporate practice

20.--(1) Subject to the provisions of this Act, the Board may grant to a corporation a licence to supply architectural services in Singapore if--

- (a) the memorandum of association of the corporation provides that a primary object of the corporation is to supply architectural services;
- (b) at least \$1 million of the authorised capital of the corporation is paid up;
- (c) the articles of association of the corporation provide that the chairman and at least two-thirds of the directors of the corporation shall be registered architects or allied professionals;

[**Note:** Subst. by Act 3/95 wef 1.4.95 vide S 138/95.]

(d) (Deleted by Act 3/95 wef 1.4.95 svide S 138/95).

(e) the business of the corporation, so far as it relates to the supply of architectural services, will be under the control and management of a director of the corporation who --

(i) is a registered architect ordinarily resident in Singapore; and

(ii) has in force a practising certificate; and

(iii)(Deleted by Act 3/95 wef 1.4.95 vide S 138/95).

(iv)the corporation is insured against professional liability in accordance with section 24 and the rules.

(2) Subject to the provisions of this Act, the Board may grant a licence to any unlimited corporation to supply architectural services in Singapore if--

(a) the memorandum of association of the corporation provides that a primary object of the corporation is to supply architectural services;

[**Note:** Subst. by Act 3/95 wef 1.4.95 vide S 138/95.]

(b) the articles of association of the corporation provide that --

(i) no person shall be a director of the corporation unless he is a registered architect or an allied professional; and

(ii) no person shall be registered as a member of that corporation--

(A) unless he is a registered architect or an allied professional and a director, a manager or an employee of the corporation; or

(B) if he is a nominee of a person who is not a registered architect or an allied professional: and

[**Note:** Subst. by Act 3/95 wef 1.4.95 vide S 138/95.]

(c) the business of the corporation, so far as it relates to the supply of architectural services, will be under the control and management of a director of the corporation who --

- (i) is a registered architect ordinarily resident in Singapore;
- (ii) has in force a practising certificate; and
- (iii) is a member, or a registered owner of at least one share, of the corporation.

(3) Subject to the provisions of this Act, the Board may grant to a partnership not consisting wholly of registered architects a licence to supply architectural services in Singapore if --

(a) the partnership is one in which only registered architects, each of whom shall have in force a practising certificate, and allied professionals have a beneficial interest in the capital assets and profits of the partnership; and

(b) the business of the partnership, so far as it relates to the supply of architectural services in Singapore, will be under the control and management of a partner who is a registered architect ordinarily resident in Singapore and has in force a practising certificate.

(4) Subject to the provisions of this Act, the Board may grant to any corporation (whether unlimited or not), or a partnership not consisting wholly of registered architects, a licence to supply architectural services in Singapore if the corporation or partnership has in force a licence granted under section 17 of the Land Surveyors Act or section 20 of the Professional Engineers Act and --

(a) in the case of an unlimited corporation, the corporation complies with the requirements set out in subsection (2) (b) and (c);

[Note: Act 3/95 wef 1.4.95 vide S 138/95.]

(b) in the case of any other corporation, the corporation complies with the requirements set out in subsection (1) (b), (c), (e) and (f); or

[Note: Act 3/95 wef 1.4.95 vide S 138/95.]

(c) in the case of a partnership, the partnership complies with the requirements set out in subsection (3).

[Notes: Cap. 156. Cap. 253.]

(5) Any application for a licence under this section shall be in such form and shall be made in such manner as may be prescribed.

(6) The Board may refuse to grant a licence to any corporation (whether unlimited or not) or partnership if, in the opinion of the Board, the past conduct of any director, manager or employee of the corporation, or any partner, manager or employee of the partnership, affords reasonable grounds for believing that the corporation or partnership, as the case may be, will not supply architectural services in Singapore in accordance with the written law and with honesty and integrity.

(7) Every licence granted under this section shall, unless earlier revoked, be valid for such period as may be specified therein.

(8) Any person whose application for a licence has been refused by the Board may, within 30 days after being notified of such refusal, appeal in the prescribed manner to the Minister whose decision shall be final.

SECTION 24
ARCHITECTS ACT [CAP 12]

Liability insurance

24. Every licensed corporation which is not an unlimited corporation shall be insured against liability for any breach of professional duty arising in the conduct of its business of supplying architectural services in Singapore as a direct result of any negligent act, error or omission committed by the corporation or its directors, managers, secretaries or employees.

SECTION 14K
INCOME TAX ACT [CAP 134]

Further or double deduction for overseas investment development expenditure

14K.--(1) Where the Comptroller is satisfied that --

- (a) any investment development expenditure for the carrying out of an approved investment project overseas; or
- (b) any expense for the maintenance of an approved overseas project development office,

has been incurred on or after 1st April 1993 by an approved firm or company resident in Singapore and carrying on business in Singapore, there shall be allowed --

- (i) where such expenditure or expense is allowable as a deduction under section 14, a further deduction of the amount of such expenditure or expense in addition to the deduction allowed under that section; and
- (ii) where such expenditure or expense is not allowable as a deduction under section 14, a deduction equal to twice the amount of such expenditure or expense.

(2) The Minister or such person as he may appoint may --

- (a) specify the maximum amount of investment development expenditure for the carrying out of an approved investment project overseas or expenses for the maintenance of an approved overseas project development office (or any item thereof) to be allowed under subsection (1); and
- (b) impose such conditions as he thinks fit when approving the investment project or the overseas project development office for which the deduction is to be allowed under this section.

(3) No deduction shall be allowed under this section in respect of --

- (a) travelling, accommodation and subsistence expenses or allowances for more than two employees taking part in an approved investment project overseas;
- (b) any expenses for the maintenance of an approved overseas project development office --
 - (i) which are incurred for the establishment of that office;
 - (ii) by way of remuneration, travelling, accommodation and subsistence expenses or allowances for more than 3 employees of that office;
 - (iii) which are specifically excluded as a condition of approval for that office under this section;
 - (iv) which are incurred after the end of the first 6 months of the establishment of that office; and
 - (v) which are incurred by the approved firm or company having a permanent establishment which has, during the first 6 months of the establishment of that office, income chargeable to tax in the country in which that office is established.

RULE 2
LEGAL PROFESSION
[PROFESSIONAL INDEMNITY
INSURANCE] RULES
[CAP 161, RULE 11]

Society may arrange for insurance scheme

2. The Council may make arrangements (in a representative capacity) with such insurance underwriters as it may approve, on such terms and conditions and with such exceptions as the Council thinks fit, to establish a common insurance scheme determined by the council for providing indemnity against loss arising from claims in respect of civil liability incurred by --

- (a) an advocate and solicitor or former advocate and solicitor in connection with his practice or with any trust of which he is or formerly was a trustee; and
- (b) an employee or former employee of an advocate and solicitor or former advocate and solicitor in connection with that advocate and solicitor's practice or with any trust of which that advocate and solicitor or the employee is or formerly was a trustee.

RULE 4
LEGAL PROFESSION
[PROFESSIONAL INDEMNITY
INSURANCE] RULES
[CAP 161, RULE 11]

Amount of insurance cover

4. The amount of insurance cover shall be --

(a) for \$500,000 for each and every claim in respect of civil liability referred to in rule 2; and

(b) for the amount of any costs and expenses incurred in the defence or settlement of the claim except that the aggregate amount of such costs and expenses together with the claim shall not exceed 120% of the amount referred to in paragraph (a).

**RULE 5[2]
LEGAL PROFESSION
[PROFESSIONAL INDEMNITY
INSURANCE] RULES
[CAP 161, RULE 11]**

Excess

5.--(1) The Council may determine the amount of excess, if any.

(2) Such excess shall be determined by the Council in accordance with the number of practising advocates and solicitors in the law firm in which the insured advocate and solicitor is in practice at the time when the insurance is taken out but shall not exceed in any case \$100,000.

**RULES 1 TO 3
ENGLISH SOLICITORS'
INCORPORATED PRACTICE
RULES 1988**

Solicitors' Incorporated Practice Rules 1988

Rules dated 17th June 1988 made by the Council of the Law Society with the concurrence of the Master of the Rolls under section 9 of the Administration of Justice Act 1985, Part II of the Solicitors Act 1974 and schedule 15 paragraph 6 of the Financial Services Act 1986, regulating the incorporated practices of solicitors and registered foreign lawyers in England and Wales and overseas.

1 INTERPRETATION

[1]

In these Rules, except where the context otherwise requires:

[1]

- (a) 'the Act' means the Administration of Justice Act 1985;
- (b) 'authorised insurers', 'the Council', 'practising certificate', 'the roll' and 'the Society' shall have the meanings assigned to them in the Solicitors Act 1974;
- (c) 'firm' means an unincorporated partnership consisting of solicitors or recognised bodies or both, or a multi-national partnership and includes also a solicitor who is a sole practitioner;
- (ca) 'foreign lawyer' and 'registered foreign lawyer' shall have the meanings assigned to them by section 89 of the Courts and Legal Services Act 1990;
- (d) 'indemnity rules' means rules made under section 37 of the Solicitors Act 1974 and section 9 of the Act;
- (e) 'member' means a person who agrees to become a member of a body corporate and whose name is entered in its register of members;
- (ea) 'multi-national partnership' means an unincorporated partnership consisting of one or more registered foreign lawyers and one or more solicitors;
- (f) 'person' includes a body corporate;
- (g) 'recognised body' means a body corporate for the time being recognised by the Council under these Rules as being a suitable body to undertake the provision of professional services such as are provided by individuals practising as solicitors or by multi-national partnerships;
- (h) 'solicitor' means a person qualified to act as a solicitor under section 1 of the Solicitors Act 1974;
- (i) 'Solicitors Indemnity Fund' means the Fund established under the Solicitors' Indemnity Rules 1987.

(2) A reference to a Rule is a reference to one of the Solicitors' Incorporated Practice Rules 1988.

3[1] *Solicitors' Incorporated Practice Rules 1988*

(3) A reference to any provision of an Act of Parliament includes a reference to any statutory modification or re-enactment of that provision for the time being in force.

(4) Words importing the masculine gender include the feminine and the neuter, words in the singular include the plural and words in the plural include the singular.

2 REQUIREMENT AS TO RECOGNITION BY THE COUNCIL

[2]

(1) Subject to the provisions of these Rules, a body corporate may carry on business consisting of the provision of professional services such as are provided by individuals practising as solicitors or by multi-national partnerships provided that before commencing any such business such body corporate shall have been recognised by the Council as being a suitable body to undertake the provision of such services and providing that at all times while carrying on such business it remains so recognised.

(2) A recognised body may carry on only such business as is referred to in paragraph (1) of this Rule.

3 MANAGEMENT AND CONTROL

[3]

A recognised body shall at all times be managed and controlled by solicitors or recognised bodies, or by such persons together with one or more registered foreign lawyers provided that there shall be no breach of this Rule where the secretary of a recognised body is not a solicitor, a registered foreign lawyer or a recognised body.

4 DIRECTORS

[4]

A recognised body shall not have as a director any person who is not a solicitor or a registered foreign lawyer; provided that at all times at least one of the directors shall be a solicitor.

5 SHARES

[5]

(1) A recognised body shall not have as a member any person who is not a solicitor, a registered foreign lawyer or a recognised body.

SECTION 2
PROFESSIONAL ENGINEERS
ACT [CAP 253]

Interpretation

2. In this Act, unless the context otherwise requires --

"allied professional" means--

(a) an architect who is registered under the Architects Act; or

[Note: Cap. 12.]

(b) a land surveyor who is registered under the Land Surveyors Act;

[Note: Cap. 156.]

"Board" means the Professional Engineers Board established under section 4;

"building" has the same meaning as in the Building Control Act;

[Note: Cap. 29.]

"building authority" means any person empowered under the provisions of the Building Control Act to approve plans of building works;

"certificate of registration" means the certificate of registration issued under section 17;

"Investigation Committee" means an Investigation Committee appointed under section 7 (2);

"licence" means a licence to supply professional engineering services granted under section 20;

"licensed", in relation to a corporation or partnership means a corporation or partnership which has in force a licence;

"manager", in relation to a corporation or partnership, means the principal executive officer of the corporation or partnership for the time being by whatever name called and whether or not he is a director or partner thereof;

"nominee", in relation to any person, means a person who is accustomed or under an obligation (whether formal or informal) to act in accordance with directions, instructions or wishes of the first mentioned person, except that a person shall not be regarded as a nominee of another person by reason only that he acts on the advice given by that other person in a professional capacity;

"practising certificate" means an annual certificate issued under section 18 authorising the holder thereof to engage in professional engineering work in Singapore;

"President" means the President of the Board appointed under section 4 (2) (a);

"previous Board" means the Professional Engineers Board established under section 3 of the repealed Act;

"professional engineering services" means consultancy or advisory services relating to any professional engineering work and includes selling or supplying for gain or reward any plan, sketch, drawing,

design, specification or other document relating to any professional engineering work;

"professional engineering work" includes any professional service, consultation, investigation, evaluation, planning, design, or responsible supervision of construction or operation in connection with any public or privately owned public utilities, buildings, machines, equipment, processes, works or projects wherein the public interest and welfare, or the safeguarding of life, public health or property is concerned or involved, and that requires the application of engineering principles and data;

"register of licensees" means the register of licensed corporations and partnerships kept by the Board under section 8 (1) (c);

"register of practitioners" means the annual register

of practitioners kept by the Board under section 8 (1) (b);

"register of professional engineers means the register of professional engineers kept by the Board under section 8 (1) (a);

"registered" means registered under section 15 and cognate expressions shall be construed accordingly;

"Registrar" means the Registrar of the Board appointed under section 9;

"repealed Act" means the Professional Engineers Act repealed by this Act;

[**Note:** Cap. 253, 1985 Ed.]

"rules" means rules made by the Board under section 36;

"unlimited corporation" means a corporation formed on the principle of having no limit placed on the liability of its members.

SECTION 20
PROFESSIONAL ENGINEERS
ACT [CAP 253]

Licence for multi-discipline and corporate practice

20.--(1) Subject to the provisions of this Act, the Board may grant a licence to any corporation to supply any professional engineering services in Singapore if--

- (a) the memorandum of association of the corporation provides that a primary object of the corporation is to supply such professional engineering services;
- (b) at least \$1 million of its authorised capital is bona fide paid-up;
- (c) the articles of association of the corporation provide that the chairman and at least two-thirds of the directors of the corporation shall be registered professional engineers or allied professionals;

[**Note:** Act 4/95 wef 1.4.95 vide S 164/95.]

(d) (Deleted by Act 4/95 wef 1.4.95 vide S 164/95).

(e) the business of the corporation, so far as it relates to such professional engineering work in Singapore, will be under the control and management of a director of the corporation who --

- (i) is a registered professional engineer ordinarily resident in Singapore; and
- (ii) has in force a practising certificate authorising him to engage in such professional engineering work; and
- (iii) (Deleted by Act 4/95 wef 1.4.95 vide S 164/95)

(f) the corporation is insured against professional liability in accordance with section 24 and the rules.

(2) Subject to the provisions of this Act, the Board may grant a licence to any unlimited corporation to supply any professional engineering services in Singapore if--

(a) the memorandum of association of the corporation provides that a primary object of the corporation is to supply such professional engineering services;

[**Note:** Subst. by Act 4/95 wef 1.4.95 vide S 164/95.]

(b) the articles of association of the corporation provide that --

- (i) no person shall be a director of the corporation unless he is a registered professional engineer or an allied professional; and
- (ii) no person shall be registered as a member of that corporation --

(A) unless he is a registered professional engineer or an allied professional and a director, a manager or an employee of the corporation; or

(B) if he is a nominee of a person who is not a registered professional engineer or an allied professional; and

[Note: Subst. by Act 4/95 wef 1.4.95 vide S 164/95.]

(c) the business of the corporation, so far as it relates to professional engineering work, will be under the control and management of a director of the corporation who --

(i) is a registered professional engineer ordinarily resident in Singapore;

(ii) has in force a practising certificate authorising him to engage in such professional engineering work; and

(iii) is a member, or a registered owner of at least one share, of the corporation.

(3) Subject to the provisions of this Act, the Board may grant to any partnership not consisting wholly of registered professional engineers a licence to supply any professional engineering services in Singapore if--

(a) the partnership is one in which only registered professional engineers, each of whom shall have in force a practising certificate authorising the holder thereof to engage in professional engineering work to which those services relate, and allied professionals have a beneficial interest in the capital assets and profits of the partnership; and

(b) the business of the partnership, so far as it relates to professional engineering work in Singapore, will be under the control and management of a partner who --

(i) is a registered professional engineer ordinarily resident in Singapore; and

(ii) has in force a practising certificate authorising the partner to engage in such professional engineering work.

(4) Subject to the provisions of this Act, the Board may grant to any corporation or partnership a licence to supply any professional engineering services in Singapore if the corporation or partnership has in force a licence granted under section 20 of the Architects Act or section 17 of the Land Surveyors Act and --

[Notes: Cap. 12. Cap. 156.]

(a) in the case of an *unlimited* corporation, the corporation complies *with* the requirements set out in subsection (2) (b) and (c);

[Note: Act 4/95 wef 1.4.95 vide S 164/95.]

(b) in the case of any other corporation, the corporation complies with the