

LEGAL PROFESSION ACT
(CHAPTER 161)

**LEGAL PROFESSION
(DISCIPLINARY TRIBUNAL)
RULES**

R 2

**G.N. No.
S 596/2008**

Amended by
S 471/2009

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LEGAL PROFESSION ACT
(CHAPTER 161, SECTIONS 82A(14), 91(1) AND 135(a))

LEGAL PROFESSION
(DISCIPLINARY TRIBUNAL)
RULES

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[1st December 2008]

Citation

1. These Rules may be cited as the Legal Profession (Disciplinary Tribunal) Rules.

Definitions

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

“complainant” means —

(a) a person —

(i) who has made a complaint to the Society under section 85(1); or

(ii) who has made an application under section 82A(5) for leave for an investigation to be made into a complaint against a Legal Service Officer or a non-practising solicitor; or

(b) in a case where any Judge of the Supreme Court or the Attorney-General has referred to the Society any information touching upon the conduct of a solicitor under section 85(3), the Attorney-General;

“complaint” means a complaint of the conduct of a Legal Service Officer or a solicitor and includes —

(a) any information touching upon the conduct of a solicitor that may be referred by a Judge of the Supreme Court or the Attorney-General or the Council under section 85(2) or (3), as the case may be; and

(b) in a case where a Disciplinary Tribunal is appointed to investigate a complaint of misconduct against a Legal Service Officer or non-practising solicitor pursuant to an application under section 82A(5), the affidavit referred to in section 82A(5) setting out the allegations of misconduct against the Legal Service Officer or non-practising solicitor;

“Form” means a form set out in the Schedule and a form so numbered in the Schedule;

“identification number” means —

- (a) in the case of a person who is a citizen or permanent resident of Singapore and who has been issued with an identity card under the National Registration Act (Cap. 201), his Singapore identity card number (including the letters that form the prefix and suffix to the identity card number); or
- (b) in the case of any other person, the name of the country that issued his passport followed by his passport number;

“law practice” has the same meaning as in the Legal Profession (Professional Conduct) Rules (R 1);

“non-practising solicitor” means a solicitor who does not, at the time of the misconduct that he is alleged to be guilty of, have in force a practising certificate;

“party” means a party to the Disciplinary Tribunal proceedings;

“respondent” means the Legal Service Officer or solicitor in respect of whom a Disciplinary Tribunal has been appointed to hear and investigate a matter;

“Secretariat” means the Secretariat established by the Supreme Court to provide administrative support to a Disciplinary Tribunal;

“Secretary” means the secretary of a Disciplinary Tribunal appointed by the Chief Justice under section 90(5);

“working day” means any day other than Saturday, Sunday or a public holiday.

(2) In these Rules —

- (a) a reference to a specified section is a reference to the section in the Act; and
- (b) where the complainant is the Attorney-General, a reference to the complainant’s solicitor includes a reference to the Attorney-General, the Solicitor-General or any State Counsel.

Commencement of Disciplinary Tribunal proceedings by Society

3.—(1) Where the Council applies to the Chief Justice under section 89(1) to appoint a Disciplinary Tribunal to hear and investigate a matter against a solicitor, the Society shall, within 2 working days after the date the Council makes the application —

- (a) inform the Secretariat of the application to the Chief Justice; and
- (b) provide the Secretariat with the following information:
 - (i) the full name of the solicitor concerned;
 - (ii) the name of the law practice at which the solicitor concerned practises or last practised in Singapore;
 - (iii) the principal address and any other address or addresses at which the solicitor concerned practises or last practised in Singapore;
 - (iv) the telephone and facsimile numbers of the office or offices at which the solicitor concerned practises or last practised in Singapore;
 - (v) the Singapore residential address or addresses of the solicitor concerned;
 - (vi) the Singapore residential telephone number or numbers of the solicitor concerned;
 - (vii) the electronic mail address or addresses of the solicitor concerned;
 - (viii) the identification number of the solicitor concerned;
 - (ix) the charge or charges against the solicitor concerned;
 - (x) the names of the members of any Review Committee or Inquiry Committee to which the matter against the solicitor concerned had been referred;
 - (xi) the name and contact particulars of the solicitor appointed to represent the Society before the Disciplinary Tribunal.

(2) The solicitor appointed to represent the Society before the Disciplinary Tribunal shall, within 8 days after the date the Council makes the application, furnish the Secretariat with 6 copies of each of the following documents:

- (a) the complaint against the solicitor concerned;

- (b) the statement of the case in Form 1, specifying the charges and allegations that the solicitor concerned is required to answer.

Commencement of Disciplinary Tribunal proceedings by complainant

4.—(1) Where, on an application by a complainant under section 96(1), a Judge of the Supreme Court makes an order under section 96(4)(b) directing the Society to apply to the Chief Justice for the appointment of a Disciplinary Tribunal, the Society shall, within 2 working days after the date it makes the application to the Chief Justice —

- (a) inform the Secretariat of the application to the Chief Justice; and
- (b) provide the Secretariat with the following information:
 - (i) the full name of the solicitor concerned;
 - (ii) the name of the law practice at which the solicitor concerned practises or last practised in Singapore;
 - (iii) the principal address and any other address or addresses at which the solicitor concerned practises or last practised in Singapore;
 - (iv) the telephone and facsimile numbers of the office or offices at which the solicitor concerned practises or last practised in Singapore;
 - (v) the Singapore residential address or addresses of the solicitor concerned;
 - (vi) the Singapore residential telephone number or numbers of the solicitor concerned;
 - (vii) the electronic mail address or addresses of the solicitor concerned;
 - (viii) the identification number of the solicitor concerned;
 - (ix) a copy of the complaint against the solicitor concerned;
 - (x) the names of the members of any Review Committee or Inquiry Committee to which the matter against the solicitor concerned had been referred;
 - (xi) the name and contact particulars of the complainant and of the complainant's solicitor, if any.

(2) The complainant shall, within 8 days after the date the Judge makes the order under section 96(4)(b) directing the Society to apply to the Chief Justice for the appointment of a Disciplinary Tribunal —

- (a) provide the Secretariat with the name and contact particulars of his solicitor and an address for the service of documents; and
- (b) furnish the Secretariat with 6 copies of each of the following documents:
 - (i) the complaint against the solicitor concerned;
 - (ii) the statement of the case in Form 1, specifying the charges and allegations that the solicitor concerned is required to answer.

Commencement of Disciplinary Tribunal proceedings against Legal Service Officers and non-practising solicitors

5. Where, on an application by a complainant under section 82A(5) for leave for an investigation to be made into a complaint against a Legal Service Officer or a non-practising solicitor, the Chief Justice grants such leave and appoints a Disciplinary Tribunal, the complainant shall —

- (a) within 2 working days after such leave is granted, provide the Secretariat with the following information relating to the Legal Service Officer or solicitor concerned:
 - (i) his full name;
 - (ii) the name of the organisation at which he works;
 - (iii) his appointment or designation in the organisation at which he works;
 - (iv) the principal address and any other address or addresses at which he works;
 - (v) the telephone and facsimile numbers of the office or offices at which he works;
 - (vi) his Singapore residential address or addresses, if available;
 - (vii) his Singapore residential telephone number or numbers, if available;
 - (viii) his electronic mail address or addresses, if available;

- (ix) his identification number, if available; and
- (b) within 8 days after such leave is granted —
 - (i) provide the Secretariat with the name and contact particulars of his solicitor and an address for the service of documents; and
 - (ii) furnish the Secretariat with 6 copies of each of the following documents:
 - (A) the affidavit referred to in section 82A(5) setting out the allegations of misconduct against the Legal Service Officer or solicitor concerned;
 - (B) the statement of the case in Form 2, specifying the charges and allegations that the Legal Service Officer or solicitor concerned is required to answer.

Documents to be forwarded by Secretary

6. As soon as is practicable after the appointment of a Disciplinary Tribunal, the Secretary shall —

- (a) forward to the Disciplinary Tribunal and to the respondent a copy each of —
 - (i) the notice in Form 3;
 - (ii) the complaint against the respondent; and
 - (iii) the statement of the case specifying the charges and allegations that the respondent is required to answer; and
- (b) forward to the solicitor for the Society or the complainant, as the case may be, a copy of the notice in Form 3.

Representation

7.—(1) The respondent may appear before the Disciplinary Tribunal either in person or by a solicitor.

(2) Subject to paragraph (3), where the Disciplinary Tribunal proceedings are commenced pursuant to an application by a complainant under section 82A(5) or 96(1), the complainant shall

employ a solicitor and be represented by the solicitor in the conduct of proceedings before the Disciplinary Tribunal.

(3) Where the complainant is the Attorney-General, the Attorney-General may act in person, or be represented by the Solicitor-General or any State Counsel, in the conduct of any Disciplinary Tribunal proceedings commenced pursuant to an application under section 82A(5) or 96(1).

Defence

8. The respondent shall, within 14 days after the date the notice in Form 3 is served on him, furnish —

- (a) the Secretary with 5 copies of his defence; and
- (b) every other party with one copy of his defence.

Discovery

9.—(1) Each party shall, within 28 days after the date of the notice in Form 3, furnish —

- (a) the Secretary with 5 copies of the list of documents on which he intends to rely; and
- (b) every other party with one copy of the list of documents on which he intends to rely.

(2) Any party may inspect the documents included in the list furnished by any other party within 14 days after the date the list is furnished.

(3) A copy of any document mentioned in the list furnished by any party shall, on application and on payment by the party requiring it of the proper charges, be furnished to that party by the other within 3 days after receipt of such application.

Evidence

10.—(1) At a Disciplinary Tribunal hearing, the evidence in chief of a witness shall be given by way of affidavit.

(2) Unless the Disciplinary Tribunal otherwise orders or the parties otherwise agree, the witness shall attend the Disciplinary Tribunal hearing for cross-examination.

(3) Where a witness does not attend the Disciplinary Tribunal hearing for cross-examination, his affidavit shall not be received in evidence unless —

- (a) the Disciplinary Tribunal gives leave for his affidavit to be received in evidence; or
- (b) his attendance at the hearing has been dispensed with by order of the Disciplinary Tribunal or by agreement between the parties.

(4) Unless the Disciplinary Tribunal otherwise orders, the evidence in chief of all witnesses shall be limited to one affidavit for each witness.

(5) Every party shall, within 2 months after the date of the notice in Form 3, furnish —

- (a) the Secretary with —
 - (i) 5 copies of each of the affidavits of evidence in chief of his witnesses;
 - (ii) 5 copies of the bundle of documents that he will be relying on or referring to in the course of the Disciplinary Tribunal hearing; and
 - (iii) 5 copies of the bundle of authorities that he will be relying on or referring to in the course of the Disciplinary Tribunal hearing; and
- (b) every other party with —
 - (i) one copy of each of the affidavits of evidence in chief referred to in sub-paragraph (a)(i);
 - (ii) one copy of the bundle of documents referred to in sub-paragraph (a)(ii); and
 - (iii) one copy of the bundle of authorities referred to in sub-paragraph (a)(iii).

Subpoenas

11. A request for a subpoena under section 91(2) shall be made at the Registry of the Supreme Court in accordance with Order 38, rules 14 to 19 of, and Forms 67 to 70 of Appendix A to, the Rules of Court (Cap. 322, R 5).

Disciplinary Tribunal may give directions by letter

12.—(1) The Disciplinary Tribunal may give the parties directions for the conduct of the matter by way of a letter served in accordance with rule 19.

(2) A letter containing the directions of the Disciplinary Tribunal may be signed by the Secretary or, in his absence, by an officer who is authorised to perform the duties of the Head of the Secretariat.

Pre-hearing conferences

13. The Disciplinary Tribunal may, of its own motion or on the application of any party, direct the parties to attend a pre-hearing conference, in order that it may make such orders or give such directions as it thinks fit for the just, expeditious and economical disposal of the matter.

Convening of Disciplinary Tribunal hearing

14.—(1) Unless the Disciplinary Tribunal otherwise orders, the Disciplinary Tribunal hearing shall be convened within 4 months after the date the Disciplinary Tribunal is appointed.

(2) The Secretary shall notify the parties of the date or dates fixed for the Disciplinary Tribunal hearing by serving a notice of the hearing in Form 4.

Disciplinary Tribunal to hear applications in camera

15.—(1) The Disciplinary Tribunal shall hear all matters in camera and shall, on completion of the proceedings, record its findings and opinion in the form of a report under section 82A(7) or 93(4), as the case may be.

(2) The Disciplinary Tribunal may permit a person whom it considers, in its discretion, to be an interested party to be present in person or by his solicitor.

Failure to appear

16. If the respondent fails to appear at the Disciplinary Tribunal hearing, the Disciplinary Tribunal may, upon proof of service on

the respondent of the notice of the hearing in Form 4, proceed to hear and determine the Disciplinary Tribunal proceedings in his absence.

Adjournments

17. The Disciplinary Tribunal may, of its own motion or upon the application of any party, adjourn the Disciplinary Tribunal hearing as the Disciplinary Tribunal thinks fit.

Amendments of or additions to statement of case

18.—(1) If it appears to the Disciplinary Tribunal that the allegations in a statement of the case should be amended or added to, the Disciplinary Tribunal may permit the amendment of or addition to the statement of the case.

(2) If the amendment or addition is allowed at the Disciplinary Tribunal hearing, and the amendment or addition is such as to take any party by surprise or prejudice the conduct of his case, the Disciplinary Tribunal shall grant an adjournment of the Disciplinary Tribunal hearing as the Disciplinary Tribunal thinks fit.

(3) If the Disciplinary Tribunal permits the amendment of or addition to the statement of the case, the Disciplinary Tribunal shall also permit the respondent to amend his defence.

Service of letters, notices and documents

19.—(1) Service of any letter, notice or document on the respondent may be effected by —

- (a) serving the letter, notice or document personally on the respondent;
- (b) leaving the letter, notice or document in an envelope addressed to the respondent —
 - (i) where the respondent is a Legal Service Officer or non-practising solicitor, at the principal address at which he works and, if available, his Singapore residential address;
 - (ii) where the respondent is a solicitor who has ceased to practise, at the principal address at which he last practised in Singapore and his Singapore residential

- address according to the records maintained by the Supreme Court; or
- (iii) where the respondent is a solicitor who is still practising, at the principal address at which he practises in Singapore;
- (c) sending the letter, notice or document by registered or ordinary post to the respondent —
- (i) where the respondent is a Legal Service Officer or non-practising solicitor, at the principal address at which he works and, if available, his Singapore residential address;
 - (ii) where the respondent is a solicitor who has ceased to practise, at the principal address at which he last practised in Singapore and his Singapore residential address according to the records maintained by the Supreme Court; or
 - (iii) where the respondent is a solicitor who is still practising, at the principal address at which he practises in Singapore; or
- (d) serving the letter, notice or document on the respondent's solicitor, if any.

(2) When the Secretary or the Secretariat serves any letter, notice or document on the respondent in accordance with paragraph (1)(a), (b), (c) or (d), such service shall be deemed to be good and sufficient service of the letter, notice or document on the respondent.

(3) When the Secretary or the Secretariat serves any letter, notice or document on the respondent in accordance with paragraph (1)(b), such service shall be deemed to be effected on the date the letter, notice or document is left at the address concerned or, where there is more than one address, at all of the addresses concerned.

(4) When the Secretary or the Secretariat serves any letter, notice or document on the respondent in accordance with paragraph (1)(c), such service shall be deemed to be effected on the date the letter, notice or document is delivered by the postal authority to the respondent, or 4 working days after the date the letter, notice or document is posted, whichever is earlier.

(5) Where the Disciplinary Tribunal proceedings are commenced pursuant to an application by a complainant under section 82A(5) or 96(1), service of any letter, notice or document on the complainant may be effected by —

- (a) leaving the letter, notice or document in an envelope addressed to the complainant at any address provided by the complainant for the service of documents;
- (b) sending the letter, notice or document by registered or ordinary post to the complainant at any address provided by the complainant for the service of documents; or
- (c) serving the letter, notice or document on the complainant's solicitor, if any.

(6) Where the Disciplinary Tribunal, on the application or instigation of any party, orders or directs the Secretariat to serve a letter, notice or document in a manner that is not prescribed in this rule, that party shall bear the expenses incurred or to be incurred by the Secretariat in effecting service in the manner ordered or directed by the Disciplinary Tribunal.

Failure to comply with directions or orders

20. If any party fails to comply with —

- (a) any of the directions contained in these Rules; or
- (b) any order made or direction given by the Disciplinary Tribunal,

the Disciplinary Tribunal may, in its discretion, draw such inferences from the failure as it considers appropriate.

Disciplinary Tribunal may dispense with certain matters

21. The Disciplinary Tribunal may dispense with any requirements of these Rules relating to letters, notices, documents, service or time, in any case where it appears to the Disciplinary Tribunal to be just to do so.

Extension of time

22. The Disciplinary Tribunal may extend the period for doing anything under these Rules, notwithstanding that the application for extension is not made until after the expiration of that period.

Application of Evidence Act

23.—(1) The Evidence Act (Cap. 97) shall apply to proceedings before the Disciplinary Tribunal in the same manner as it applies to civil and criminal proceedings.

(2) The Disciplinary Tribunal may, in its discretion, accept as conclusive a finding of fact of a court of competent jurisdiction in Singapore to which proceedings the respondent was a party.

Costs

24.—(1) The Disciplinary Tribunal shall have no power to award costs to or against a Legal Service Officer or non-practising solicitor in any Disciplinary Tribunal proceedings commenced against the Legal Service Officer or non-practising solicitor.

(2) Except as provided in section 93(2) and (2A), the Disciplinary Tribunal shall have no power to award costs to or against a solicitor in any Disciplinary Tribunal proceedings commenced against the solicitor.

Fees relating to record of proceedings

25.—(1) The fee payable under section 93(6) for a copy of the record of proceedings of a Disciplinary Tribunal shall comprise —

(a) a processing charge of —

- (i) \$30, in a case where the copy is to be made available within 3 working days after the date the request for the copy is received by the Secretariat; or
- (ii) \$20, in any other case; and

(b) such of the following compilation charges as may be applicable:

- (i) if the copy is issued in the form of one or more CD-ROMs of documents in digital or other electronic machine-readable form, \$0.30 per readable page of document;
- (ii) if the copy is issued in the form of one or more bound volumes of paper documents —
 - (A) \$0.30 per page of document; and
 - (B) \$5 per volume of documents.

(2) Where the Secretary is required under section 97(3) to file in court the record of proceedings of a Disciplinary Tribunal for the purposes of an application under section 97(1), the person making the application shall reimburse the Secretariat for all court fees incurred by the Secretariat in connection with the filing of the record of proceedings.

Procedure

26.—(1) Subject to these Rules, the Disciplinary Tribunal shall have power to regulate its own proceedings, and in doing so, the Disciplinary Tribunal shall have regard to the practice and procedure of the courts.

(2) Where a Disciplinary Tribunal has been appointed under section 90(2) in connection with 2 or more matters involving the same respondent, the Disciplinary Tribunal may hear the matters at the same time or one immediately after another.

Transitional provision

27. Notwithstanding the revocation of the Legal Profession (Disciplinary Committee Proceedings) Rules (R 2, 2003 Ed.), the revoked Rules shall continue to apply to any proceedings before any Disciplinary Committee appointed by the Chief Justice before 1st December 2008 as if those Rules had not been revoked.

THE SCHEDULE

Rule 2

FORM 1

Rules 3(2) and 4(2)

IN THE MATTER OF
AN ADVOCATE AND SOLICITOR

AND

IN THE MATTER OF THE LEGAL PROFESSION ACT
(CHAPTER 161)

STATEMENT OF THE CASE

1. of [state address], an Advocate and Solicitor of the Supreme Court of Singapore of years standing, is/was* a/an/the* [state appointment or designation of respondent] of/in* [state name of law practice at which respondent practises or last practised].

2. [State the facts concisely in numbered paragraphs as in a statement of claim in civil proceedings].

Dated this day of 20 .

(Signature)
Solicitor representing
the Law Society/Complainant.*

*Delete as appropriate.

THE SCHEDULE — *continued*

FORM 2

Rule 5

IN THE MATTER OF
A LEGAL SERVICE OFFICER* AND*
AN ADVOCATE AND SOLICITOR*

AND

IN THE MATTER OF THE LEGAL PROFESSION ACT
(CHAPTER 161)

STATEMENT OF THE CASE

1. of [state address], a Legal Service Officer of years experience* and* an Advocate and Solicitor of the Supreme Court of Singapore of years standing*, is a/an/the* [state appointment or designation of respondent] of/in* [state name of organisation at which respondent works].

2. [State the facts concisely in numbered paragraphs as in a statement of claim in civil proceedings].

Dated this day of 20 .

(Signature)
*Solicitor representing
the Complainant/Complainant*.*

*Delete as appropriate.

THE SCHEDULE — *continued*

FORM 3

Rules 6, 8, 9(1) and 10(5)

IN THE MATTER OF
A LEGAL SERVICE OFFICER* AND*
AN ADVOCATE AND SOLICITOR*

AND

IN THE MATTER OF THE LEGAL PROFESSION ACT
(CHAPTER 161)

NOTICE OF DISCIPLINARY TRIBUNAL PROCEEDINGS

Notice is hereby given that Disciplinary Tribunal proceedings have been commenced against , a Legal Service Officer* and* an Advocate and Solicitor of the Supreme Court of Singapore*, who is required to answer the allegations contained in the complaint and the statement of the case that accompany this notice.

Dated this day of 20 .

(Signature)
Secretary of
the Disciplinary Tribunal.

*Delete as appropriate.

THE SCHEDULE — *continued*

FORM 4

Rules 14(2) and 16

IN THE MATTER OF
A LEGAL SERVICE OFFICER* AND*
AN ADVOCATE AND SOLICITOR*

AND

IN THE MATTER OF THE LEGAL PROFESSION ACT
(CHAPTER 161)

NOTICE OF DISCIPLINARY TRIBUNAL HEARING

Notice is hereby given that the Disciplinary Tribunal proceedings against
have been fixed for hearing on/from*
to* . The Disciplinary Tribunal will sit at the Supreme Court Building,
and the hearing will begin on at a.m./p.m.*

Dated this day of 20 .

(Signature)
Secretary of
the Disciplinary Tribunal.

*Delete as appropriate.

[G.N. Nos. S 596/2008; S 471/2009]