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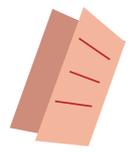
in the news

Legal news headlines in July and August 2007.



in the know

Tech law updates and information on Academy activities for members at work and at play!



legislation update

Legislation passed or revised in July and August 2007.



case law update

Catchword summaries of cases from the Supreme Court, organised by subject matter. Catchwords for Subordinate Courts cases coming soon!



calendar

Training calendar for September and October 2007.



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Headlines in *The Straits Times*

Philip Jeyaretnam, "Interest earned on stake in *en bloc* sales" [Contract to determine who gets money], *The Straits Times Forum* (6 July 2007)

Ken Kwek and Sue-Ann Chia, "Defamation suit against Far Eastern Economic Review" [FEER's appeal for QC rejected by court], *The Straits Times* (10 July 2007)

"New magistrate assumes post today" [Former Supreme Court Assistant Registrar Karolyn Gin appointed a Subordinate Court magistrate], *The Straits Times* (10 July 2007)

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Dr Miles Upton, "Law Society should act to protect clients' interest", *The Straits Times Forum* (12 July 2007)

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"Former Chief Justice awarded honorary degree by SMU", *The Straits Times* (15 July 2007)

Selina Lum, "No comeback for lawyer disbarred after seeking bribe" [Grave nature of offence outweighs all factors in applicant's favour], *The Straits Times* (14 July 2007)



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Peh Shing Huei, "Caning error" [District judge who approved extra strokes removed from certain judicial duties], *The Straits Times* (17 July 2007)

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Sue-Ann Chia, "Sylvia Lim ticked off for questioning court's integrity", *The Straits Times* (17 July 2007)

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Khushwant Singh, "Internet sexual predators" [Authorities looking at pre-emptive UK law to protect minors], *The Straits Times* (18 July 2007)

"Lawyer said to have lied twice" [Disbarred lawyer accused of lying about home address to police and school principal], *The Straits Times* (18 July 2007)

Dudley Au, "Interest earned on client's money belongs to client", *The Straits Times Forum* (20 July 2007)

K C Vijayan, "High Court rejects couple's insurance claim to pay for IVF" [Insurer not liable for couple's fertility treatment expenses incurred after loss of sons in accident], *The Straits Times* (23 July 2007)

K C Vijayan, "Need to study why more appeal without lawyers: CJ" [Whether high legal costs a concern], *The Straits Times* (24 July 2007)

K C Vijayan, "Legal ethics hog spotlight in latest law journal" [CJ and other key legal



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"Former vice-dean of Harvard Law School joins SMU", *The Business Times* (13 July 2007)

Chuang Peck Ming, "\$1m fine: Postal law takes tough competition line" [Financial penalty for anti-competitive conduct raised], *The Business Times* (17 Jul 2007)

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Loh Chee Kong, "How long, Your Honour?" [Banned lawyer's application for reinstatement dismissed], *Today* (14 July 2007)

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► **2007 International Negotiation Competition for Law Students**

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2007 International Negotiation Competition for Law Students

By Sherrie Lee, Assistant Manager, Singapore Mediation Centre

Thirty-two law undergraduates from some of the top law schools in Asia, Europe, the United States, Canada and Australia battled it out at negotiation tables at the Supreme Court in Singapore from 2 to 6 July 2007. This was part of the 2007 International Negotiation Competition for Law Students ("INC") which was held for the first time in Asia. The competition was hosted by the Singapore Mediation Centre ("SMC") as part of its 10th anniversary celebrations.

In this year's competition, the law students negotiated over the loan of exotic animals from various countries for the purpose of creating biodiversity on an uninhabited tropical island. Singapore was represented by two teams from the Faculty of Law of the National University of Singapore who beat

22 others in an internal competition to qualify for this international event.

One of the Singapore teams, comprising Ms Sangeeta Yogendran and Ms Pearlyn Yap, took home awards for Best Cooperative Problem-Solving in a Multi-Party Negotiation and Outstanding Teamwork.

Top honours went to the team representing England and Wales, Mr Steven Meltzer and Mr Michael Weinstein. They also received an award for Maximising Total Value to a Client in a Multi-Party Negotiation. The teams from Australia, Canada and Ireland came in second, third and fourth respectively.

The closing Awards Reception was held on 6 July at the Forbidden City at Clarke Quay.



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INC Opening Ceremony

The INC Opening Ceremony was held on 2 July at the Supreme Court Auditorium and the Guest-of-Honour was Senior Minister of State for Law and Home Affairs, Associate Professor Ho Peng Kee. Welcoming him were Chairman of the Singapore Mediation Centre, Justice Andrew Ang, and Professor Larry Teply, Chair of the International Negotiation Competition.



Justice Ang welcomed the international participants to INC, especially those who were

visiting Singapore for the first time. In his speech, he noted that INC provided a valuable platform for future lawyers to become aware of, and experience the challenges of international negotiations and cross-cultural communication.

In addition, Justice Ang said that hosting INC was part of SMC's aims to educate future lawyers about the importance of interest-based negotiation skills in amicable conflict resolution.

The highlight of the opening ceremony was a dance performance by the Singapore Management University Malay Language and Cultural Club. The traditional dance performance culminated in the Guest-of-Honour striking a gong three times to declare the INC open.

The opening ceremony ended with a cocktail reception and the INC participants crowding round the dancers for photo-taking.



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National Day Awards 2007

Inter Se wishes to extend its heartiest congratulations to the following recipients of this year's National Day Awards:

Professor Teo Keang Sood (Faculty of Law, National University of Singapore), who was awarded the Public Service Medal in his capacity as Editor for the Singapore Academy of Law Annual Review of Singapore Cases, and **Ms Serene Wee**, Chief Executive, Singapore Academy of Law, who was awarded the Public Administration Medal (Silver).



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Feeds, Splogs and Scrapes: Content Theft on the Internet

by Low Siew Ling, Assistant Registrar, Supreme Court and Davinia Aziz, Deputy Registrar, Subordinate Courts

Some time in 2006, photographer Rebekka Gudleifsdóttir discovered that eight of her photographs had been reprinted and sold for profit without her permission by an online gallery. Her images had been uploaded on the online image-sharing site Flickr, with all rights reserved. The gallery pocketed £32,500 from the sale of her photographs. Rebekka, an art student and single mother, received nothing.

Content theft on the Internet is becoming increasingly prevalent, and cases of image theft, theft of content in Really Simple Syndication ("RSS") and other types of feeds, as well as outright automated website hijacking, are extremely common. Unfortunately, the user-writeable – and rewriteable – environment of Web 2.0 facilitates content theft with unnerving ease. In particular, the problem of automated

bogus sites "scraped" from legitimate website content – or "splogging" – has gained alarming ascendancy in the last two years. Technorati, the online blog aggregation service which monitors some 96.2 million blogs and over 250 million pieces of tagged social media, estimates that between 3,000 and 7,000 new "splogs" are created each day. In most cases, the purpose of "splogged" content is to generate income from contextual advertisements.

Old rules, new "territory"

The basic legal issues presented by content theft of "all rights reserved" material are straightforward. The infringement is clear under ss 31–34 and 103–105A of the Copyright Act (Cap 63, 2006 Rev Ed) – but only if the person who does the act comprised in a copyright without the



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permission of the copyright owner, does so in Singapore.

However, as Andrea Antonelli has argued (“Applicable Law Aspects of Copyright Infringement on the Internet: What Principles Should Apply?” [2003] SJLS 147), the very essence of the Internet is “characterised by an absence of physical boundaries”. Except in straightforward cases, establishing jurisdiction is going to be extremely difficult, especially where the content theft takes place by way of splogs hosted on servers outside Singapore.

This article examines the types of content theft currently prevalent in cyberspace, and sets out some measures that copyright owners can take to protect themselves.

Types of content theft

Lorelle VanFossen covers a wide range of issues related to blogging on her

site, Lorelle on WordPress

<<http://lorelle.wordpress.com/>>. VanFossen identified three primary categories of content theft:

- Image theft.** The plight of Rebekka Gudleifsdóttir is a classic example of image theft on the Internet. Unfortunately, despite clear copyright and reprint permissions policies on popular websites like Flickr, it is nearly impossible to prevent image theft on the Internet – except by refraining from uploading images altogether.
- RSS or feed content theft, or “feed scraping”.** RSS or other types of syndication feeds such as Atom or XML feeds are used to completely replace any original content on a website. In some instances, VanFossen notes, some website owners use “multiple feeds to pull information from other sites into their own, making it look like the site has an interesting and original collection



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of content, when it is actually stolen without permission from other sites”.

- (c) **Website hijacking.** Content theft of this nature may occur in a few different ways. First, original content may simply be stolen and reproduced *verbatim* on another site. Second, site bandwidth may be stolen by “hotlinking” to the original content in the offending site’s web pages.

Self-help: Battling content theft on the Internet

On her website, VanFossen goes on to recommend several simple methods which a copyright owner can use to detect content theft on the Internet. These include:

- (a) **Google Alerts.** Google Alerts are e-mail alerts of web pages in the Google database matching a custom set of search terms. Typically, the copyright owner may set such terms to include

the site name, or a unique phrase matching his site content.

- (b) **Use TrackBack.** In basic terms, TrackBack is a feature in blogging tools such as WordPress, Movable Type and Typepad that lets website authors know when other sites have linked to them. The TrackBack usually appears in the author’s application dashboard, and in the comments section of the original website post. VanFossen reports that she detects most of her content theft using the TrackBack feature in WordPress.
- (c) **Check server logs.** Spikes in bandwidth numbers for hosts or referrers may indicate “hotlinking” by website hijackers. Familiarity with the patterns of his or her server logs, and an understanding of what these numbers mean, will assist a website author in detecting abuse on his or her site.



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Short of legal action, VanFossen's next step usually consists of contacting the content thief with a simple request to modify the stolen content to include excerpts with a link to her original content, credit the material to her, or provide compensation. As a further step, VanFossen recommends approaching the site's advertisers to inform them of the copyright infringement, or requesting that the illegal site be removed from search engine databases.

Conclusion

Most of us would have created some form of copyrightable material on the Internet, whether it takes the form of photos uploaded on Flickr or personal commentaries on our blogs. Unfortunately, there is little that national copyright protection frameworks

like the Singapore Copyright Act can do to protect such material from content theft, given the limits of territorial jurisdiction in cyberspace. Unless and until a uniform international portfolio of rules for copyright and related rights is adopted, copyright owners will have to resort to self-help measures to detect and prevent content theft.

Tech Law Update is brought to you by the members of the Legal Service Commission's Technology Law Core Group ("TLCG"). Formed in 2000, the TLCG aims to build up a corps of legal service officers with special knowledge in information technology, and a deeper understanding of the legal issues arising from the adoption of new technologies.



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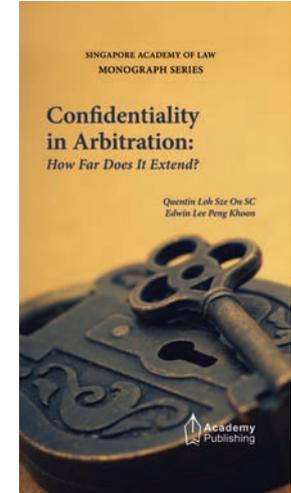
Confidentiality in Arbitration: How Far Does it Extend?

By *Quentin Loh Sze On, SC* and *Edwin Lee Peng Khoon*; review by *Michael Hwang, SC*

As arbitration practitioners will be aware, relatively little attention has been devoted to the topic of confidentiality in arbitration. As *Myanma Young Chi Oo Co Ltd v Win Win Nu* [2003] 2 SLR 547 is still the only local case dealing with this topic, the learned authors have filled the gap in local arbitration literature with this monograph. Written in a succinct and *straight-to-the-point* style, the authors have been able to describe the law succinctly yet in sufficient detail while giving their insights on various aspects of arbitral confidentiality in a limited space of 115 pages.

The authors have described the position of various jurisdictions on the topic of confidentiality in arbitration, such as Singapore, England, Australia, New Zealand, United States, Sweden, Germany and France.

In addition, the authors have devoted an entire chapter to arbitral confidentiality provisions in the rules of the major arbitral institutions such as Singapore International Arbitration Centre ("SIAC"), London Court of International Arbitration ("LCIA") and American Arbitration Association ("AAA"). This comparative analysis is certainly useful guidance to our local courts given the scarcity of local case law on this topic.





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The recent Privy Council decision in *Associated Electric and Gas Insurance Services Ltd v European Reinsurance Co of Zurich (Bermuda)* [2003] 1 WLR 1041 has held that the nature and scope of the confidentiality obligation in arbitration is fact and situation sensitive, thereby casting reservations on the English paradigm of arbitral confidentiality as an implied rule subject to judicially created exceptions laid down in *Ali Shipping Corporation v Shipyard Trogir* [1999] 1 WLR 314. In this regard, it is significant to note that the drafters of major sources of arbitral laws and rules, such as the United Nations Commission on International Trade Law (“UNCITRAL”) Model Law and the International Chamber of Commerce (“ICC”) Rules, have not seen fit to lay down a comprehensive code on arbitral confidentiality. This has been because of the difficulties in laying down a universal code of confidentiality which can

satisfactorily address all situations.

Associated Electric is therefore a salutary decision which emphasises the law in this area by incremental accretions both to the scope of arbitral confidentiality as well as the extent of its exceptions.

The unspoken moral of the work is that, if parties are really insistent on keeping their arbitrations confidential, they will have to do one of three things:

- add a provision in their arbitration agreement that defines the agreed scope of confidentiality and the agreed exceptions;
- adopt a set of arbitral rules which have extensive provisions relating to confidentiality, eg the SIAC Rules or the World Intellectual Property Organisation (“WIPO”) Arbitration Rules; or
- apply to the tribunal for directions on confidentiality.



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One doctrinal reservation that may be expressed about the learned authors' views is their contention that the case law on the equitable doctrine of confidence can be imported into arbitration, as they have suggested in Chapter 15 entitled "The Equitable Doctrine of Confidence". While equity is based on conscience, arbitral confidentiality is derived from the needs of commercial

men to be able to craft a dispute resolution process to suit their particular needs in the case at hand. Hence, the principles that underpin the development of the equitable doctrine may not be applicable to developing the law of confidentiality in arbitration. However, this is merely a minor caveat on a thought provoking and welcome contribution to our local arbitration jurisprudence.



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14th Singapore Academy of Law Annual Lecture

The Honourable Murray Gleeson AC, Chief Justice of Australia, will deliver the 14th Singapore Academy of Law Annual Lecture. Chief Justice Gleeson will speak on "Australia's Contribution to the Development of the Common Law". The Lecture will be held on Thursday, 20 September 2007 at 7.30pm at the Supreme Court Auditorium.

Synopsis of the Lecture

Contributions to the common law have been made by Australian judges of various jurisdictions, law teachers and law reformers. The Lecture will concentrate on the work of the High Court of Australia. Contributions to the law may take the form of promotion of necessary change, resistance to inappropriate change or co-operation with

other jurisdictions in the affirmation and development of legal principles. The Lecture seeks to cover a range of topics and time, by selecting notable examples of the High Court's decision-making in areas of criminal law, equity, contract, tort and administrative law. It also explains some features of the Australian context relevant to an evaluation of Australian jurisprudence.

The Lecture is open to members of the legal profession and to the public, by invitation only. Invitations will be issued on a first-come, first-served basis. For further enquiries, please contact us at 6332 4388 or email annuallecture@sal.org.sg to request an invitation.



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By Joyce Chng and Emily Teo, Legislation Division, Attorney-General's Chambers

Bills Introduced in Parliament in July and August 2007

The **Private Security Industry Bill**

(No 26/2007) seeks to repeal and re-enact with amendments the Private Investigation and Security Agencies Act (Cap 249) in order to strengthen the role that the private security industry can play in protecting and enhancing community safety —

- (a) by tightening probity checks and raising the factors that may be used to determine whether a person is suitable to remain as a licensed private investigation agency or security agency;
- (b) by introducing a separate licensing regime for individual private investigators and security officers (including bouncers), which will allow the licensing officer to check their backgrounds, mandate on-going training and monitor their appropriateness to remain in the industry;
- (c) by regulating previously unregulated sectors of the industry, such as security service providers;

- (d) by reducing waste of public resources through attendances to false alarms; and
- (e) by increasing penalties for persons and entities operating without a licence and for those who engage unlicensed personnel.

The Bill also makes consequential amendments to the Central Provident Fund Act (Cap 36) and the Miscellaneous Offences (Public Order and Nuisance) Act (Cap 184).

The **Accounting Standards Bill** (No 27/2007) seeks to —

- (a) establish the Accounting Standards Council, in place of the Council on Corporate Disclosure and Governance under the Companies Act (Cap 50), to issue accounting standards applicable to companies and other incorporated and unincorporated bodies; and
- (b) require statutory bodies to prepare their accounts and financial statements in



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accordance with accounting standards specially established by the Accountant-General for statutory bodies, so as to facilitate the Parliament's oversight over these bodies.

The Bill also makes consequential and related amendments to the Companies Act, the Financial Procedure Act (Cap 109) and the Societies Act (Cap 311).

The **Central Provident Fund (Amendment) Bill** (No 28/2007) seeks to amend the Central Provident Fund Act (Cap 36) for the following main purposes:

- (a) to give the Central Provident Fund Board (the Board) the exclusive right to use its symbol or representation;
- (b) to provide for the revocation of a memorandum executed under s 15(6A) where the marriage between the members who executed the memorandum has been dissolved, otherwise than by death, or annulled;

- (c) to extend the ambit of s 15(10), (10A) and (11) to any immovable property sold by an approved developer under Part IVB of the Housing and Development Act (Cap 129);
- (d) to enable, in certain circumstances —
 - (i) a member of the Central Provident Fund ("the Fund") to transfer a portion of the sum standing to his credit in the Fund to the retirement account of his grandparent or sibling; and
 - (ii) any person to pay money into the retirement account of his sibling, and to provide for the application of the moneys transferred by a member of the Fund to, or paid by any person into, the retirement account of his parent, grandparent, spouse or sibling;
- (e) to enable, in certain circumstances —
 - (i) a member of the Fund to transfer a portion of the sum standing to his credit in the Fund to the special account of his spouse or sibling; and



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- (ii) any person to pay money into the special account of his spouse or sibling, and to provide for the application of the moneys so transferred or paid;
- (f) to enable a member of the Fund to transfer a sum standing to his credit in his ordinary account or special account, or in both accounts, to his retirement account, in certain circumstances;
- (g) to reflect the manner in which the maximum sum which a member may apply to the Board to transfer from his ordinary account to his special account under s 18B(1) has been computed;
- (h) to provide that where any moneys have been transferred or paid by a member of the Fund to the retirement account of his parent, grandparent, spouse or sibling —
 - (i) those moneys will be deemed to be contributions for the purposes of the Act, and will not form part of the moneys payable out of the Fund on the death of the parent, grandparent, spouse or sibling; and
 - (ii) any balance of those moneys remaining on the death of the parent, grandparent, spouse or sibling (excluding any amount that has already been transferred or paid, or that the Board has received notice (in accordance with any regulations made under s 77(1)) is to be transferred or paid, to any person under new s 27B) will be credited to the account of the member;
- (i) to provide that where any moneys have been transferred or paid by a member of the Fund to the special account of his spouse or sibling —
 - (i) those moneys will be deemed to be contributions for the purposes of the Act, and will not form part of the moneys payable out of the Fund on the death of the spouse or sibling; and



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- (ii) any balance of those moneys remaining on the death of the spouse or sibling (excluding any amount that has already been transferred or paid, or that the Board has received notice (in accordance with any regulations made under s 77(1)) is to be transferred or paid, to any person under new s 27B) will be credited to the account of the member;
- (j) to make provision for certain types of relief which may be ordered when certain types of Fund-related assets are divided during matrimonial proceedings under the Women's Charter (Cap 353) or under the Administration of Muslim Law Act (Cap 3);
- (k) to make it an offence for any person to employ any device, scheme or artifice to defraud, or to engage in any act, practice or course of business which operates as a fraud or deception, or is likely to operate as a fraud or deception, upon any person, in connection with the making of any investment under any scheme in accordance with any regulations made under s 77(1)(n) or the sale or disposal of any such investment;
- (l) to provide for additional means for the recovery of any amount due from a member of the Fund who has withdrawn any amount from his ordinary account or special account in connection with any investment made under any scheme in accordance with any regulations made under s 77(1)(n), and who is convicted of an offence in connection with that investment;
- (m) to provide for a certificate issued by the Board as to the amount to be refunded or transferred by a member of the Fund to his ordinary account or special account to be *prima facie* evidence of those facts; and
- (n) to provide for priority to be given to any amount due to the Fund, including



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any amount required by the Board or ordered by a court to be paid, repaid, refunded or transferred to a member's account with the Fund, where the member's property is sought to be attached by creditors of the member.

The **Carriage by Air (Montreal Convention, 1999) Bill** (No 29/2007) seeks to give effect in Singapore to the 1999 Montreal Convention for the unification of certain rules for international carriage by air ("the Convention"), which is intended to replace the 1929 Warsaw Convention, the 1955 Hague Protocol and the 1975 Montreal Protocol No 4 (to all of which Singapore is a party), and to make related amendments to the Carriage by Air Act (Cap 32A).

The provisions of the Bill and the Convention will apply in relation to any international

carriage by air between Singapore and any other country that is a party to the Convention. (The phrase "international carriage" is defined in Art 1 of the 1999 Montreal Convention. The phrase does not include carriage between two points within the territory of a single country that is a party to the Convention without agreed stopping place within the territory of another country which is also a party to that Convention.)

The Carriage by Air Act, which gives effect in Singapore to the 1929 Warsaw Convention, the 1955 Hague Protocol and the 1975 Montreal Protocol No 4, will continue to apply in relation to any international carriage by air between Singapore and any other country which is a party thereto but which has not yet ratified the 1999 Montreal Convention.

By Joyce Chng and Emily Teo, Legislation Division, Attorney-General's Chambers



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► **Subsidiary Legislation Published in July and August 2007**

► Act Brought into Operation in August 2007

► Revision of Acts in July 2007

By Joyce Chng and Emily Teo, Legislation Division, Attorney-General's Chambers

Subsidiary Legislation Published in July and August 2007

The Prime Minister has directed, *vide* the **Constitution of the Republic of Singapore (Responsibility for the Portfolio of the Prime Minister — Delegation) Notification 2007** (GN No S 376/2007, wef 16 July 2007), that Dr Lee Boon Yang, Minister for Information, Communications and the Arts, be charged with the responsibility for national symbols in so far as such responsibility relates to the national flag and national anthem of Singapore.

The **Singapore Arms and Flag and National Anthem (Amendment) Rules 2007** (GN No S 377/2007, wef 16 July 2007) amend the Singapore Arms and Flag and National Anthem Rules (Cap 296, R 1) to provide, amongst other things —

(a) that during the period beginning 1 July and ending on 30 September of each year —

- (i) the national flag may be displayed outside a building or in an open space at any time;
 - (ii) the national flag may be displayed on any vehicle (other than a hearse), vessel or aircraft in a manner that does not give rise to any disrespect to the flag; and
 - (iii) the national flag or an image thereof may be incorporated as part of any costume or attire in a manner that does not give rise to any disrespect to the flag;
- (b) that no person shall use or apply the national flag or any image thereof for any commercial or advertising purposes or as part of any furnishing, decoration, covering or receptacle except in circumstances as may be approved by the Minister;



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- (c) that the national flag or an image thereof shall not be used or applied as part of any trademark or used or displayed at any private funeral, wake, memorial service or other funerary rite, ceremony or procession; and
- (d) that no person shall produce or display any flag which bears any graphics or word superimposed on the design of the national flag.

The **Legal Profession (Professional Conduct) (Amendment) Rules 2007**

(GN No S 384/2007, wef 15 August 2007) amend the Legal Profession (Professional Conduct) Rules (Cap 161, R 1) to provide, amongst other things —

- (a) that an advocate and solicitor or a law practice, whether receiving instructions in a matter from an agent on behalf of a principal client or otherwise, shall take reasonable measures to ascertain the identity of a client or principal client

before accepting instructions to act in a matter;

- (b) that an advocate and solicitor or a law practice shall not open or maintain any account for or hold and receive moneys from an anonymous source or a client with an obviously fictitious name;
- (c) that an advocate and solicitor or a law practice shall, when accepting instructions from or acting for a client in relation to specified matters, obtain satisfactory evidence as to the nature and purpose of the business relationship with the client in the matter and the business relationship between the client and any other party to the matter;
- (d) that a law practice shall retain for not less than five years after the end of a matter —
 - (i) the documents that were used to ascertain the identity of any client or the nature and purpose of the business relationships; and



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- (ii) the records of transactions undertaken on behalf of the client in the matter; and
- (e) that the Council of the Law Society of Singapore, whether on its own motion or on a written complaint lodged with it by a third party, may require an advocate and solicitor or a proprietor, partner or director of a law practice to produce any document or provide any information or explanation to the Council or to any person appointed by the Council.

The **Planning (Development Charges) (Amendment No 2) Rules 2007** (GN No S 385/2007, wef 18 July 2007) amend the Planning (Development Charges) Rules (Cap 232, R 5) to provide —

- (a) that the development charge payable for any planning permission or conservation permission in respect of a proposed development shall be an amount equal to 70% of any appreciation in the value of the land

- arising from the grant of the written permission to develop the land; and
- (b) for the revised development charge rates.

Act Brought into Operation in August 2007

Singapore Armed Forces (Amendment) Act 2007 (Act 25 of 2007) wef 1 August 2007 by GN No S 403/2007

Revision of Acts in July 2007

The Law Revision Commissioners have prepared and published, in loose-leaf form, a revised edition of the following Acts, incorporating amendments up to 1 July 2007 (wef 31 July 2007 by GN No S 392/2007):

- (a) Computer Misuse Act (Cap 50A)
- (b) Payment Systems (Oversight) Act (Cap 222A)
- (c) Subordinate Courts Act (Cap 321)
- (d) Supreme Court of Judicature Act (Cap 322)
- (e) Workplace Safety and Health Act (Cap 354A)



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Matrimonial assets — Division — Principles governing division of matrimonial assets — Whether prenuptial agreement relating to division of assets should be enforced

TQ v TR [2007] SGHC 106

Matrimonial assets — Division — Whether husband disclosed all assets — Whether adverse inference may be drawn against husband from non-disclosure of assets — Proportion of matrimonial assets to be awarded to wife — Section 112(2) Women's Charter (Cap 353, 1997 Rev Ed)

Cheong Yuet Meng Jacqueline v Kong Chee Hoh [2007] SGHC 78

Matrimonial assets — Division — Whether property purchased after marriage has broken down but before decree absolute has been made is considered matrimonial asset — Whether CPF money used to

purchase property before marriage is subject to division — Section 112 Women's Charter (Cap 353, 1997 Rev Ed)

TV (m.w.) v TW [2007] SGHC 113

Matrimonial assets — Matrimonial assets consisting of matrimonial home and wife's CPF account — Matrimonial home purchased with couple's joint account and CPF contributions — Wife claimed to be sole contributor to joint account — Whether equal divisions of assets equitable in light of length of marriage, number of transactions and lack of proper accounting

Sim Geok Seng (alias Sim Eng Seng Robert) v Lee Kim Kiat [2007] SGHC 100

Matrimonial assets — Matrimonial home — Direct and indirect contribution towards purchase of matrimonial home

TV (m.w.) v TW [2007] SGHC 113





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Winding up — Rejection of proof of debt by liquidator — Whether time should be extended for appeal against liquidator's rejection of proof of debt — Section 93 Companies (Winding Up) Rules (Cap 50, R1, 2006 Rev Ed)

Wong David H v Timothy Seow Group Architects Pte Ltd (in liquidation) and another [2007] SGHC 110

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General principles — Claims — Whether insured vehicle used for reward — Whether insurer entitled to repudiate liability on the basis that insured had breached terms of motor policy by using insured vehicle for reward

NTUC Income Insurance Co-operative Ltd v Toh Kheng Boon [2007] SGHC 117

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Conveyance — Legal requisitions — 31.5% of total land area and 26.8% of existing building affected by road reserve — Whether reply unsatisfactory

Re 41B Lorong 17 Geylang, Singapore 388564 [2007] SGHC 112

Licences — Termination — Parties entered into licence agreement for food stall premises — Licensor later alleged that certain oral conditions tied the licence agreement to business operations of another stall also licensed to licensee — Whether licence agreement was subject to oral conditions — Whether licensor was entitled to terminate licence for first stall when licensor ceased business operations at second stall — Whether licensor had wrongly repudiated licence agreement

Seah Boon Lock and another v Family Food Court [2007] SGHC 80





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Re 41B Lorong 17 Geylang, Singapore 388564 [2007] SGHC 112

Sale of Land — Recovery of option moneys — Whether term to refund option moneys if legal requisitions unsatisfactory ought to be implied

Re 41B Lorong 17 Geylang, Singapore 388564 [2007] SGHC 112

Legal Profession

Application for reinstatement on the roll of advocates and solicitors made 12 years after striking off — Applicant struck off the roll

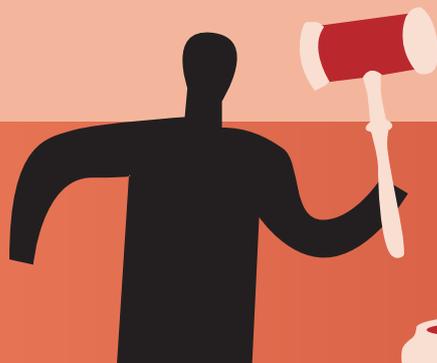
after conviction for offence implying defect of character — Whether applicant fit to be restored on the roll — Section 102 Legal Profession Act (Cap 161, 2001 Rev Ed)

Glenn Jeyasingam Knight v Law Society of Singapore [2007] SGHC 105

Disciplinary procedures — Findings of Disciplinary Committee quashed by High Court — Whether costs should be ordered against Law Society for withdrawal of originating summons issued to respondent to show cause — Whether order of costs may be made against Disciplinary Committee

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Professional conduct — Breach — Respondent an advocate and solicitor acting for homeowners in transaction for sale of flat pursuant to referral by moneylender — Respondent preparing power of attorney for homeowners for proposed sale of flat — Respondent preparing statutory declaration for homeowners authorising distribution of sale proceeds to five enumerated parties — Respondent acting for some of the enumerated parties previously and receiving referrals from them — Whether respondent's conduct amounting to misconduct unbefitting an advocate and solicitor — Section 83(2)(h) Legal Profession Act (Cap 161, 2001 Rev Ed)

Law Society of Singapore v Tan Phuay Kiang [2007] SGHC 83

Professional conduct — Conflict of interest — Respondent an advocate and solicitor acting for homeowners in transaction for sale of flat pursuant to referral for moneylender — Respondent preparing statutory declaration for homeowners authorising distribution of sale proceeds to five enumerated parties — Respondent acting for some of the enumerated parties previously and receiving referrals from them — Whether respondent owed overriding duty to homeowners in sale transaction

Law Society of Singapore v Tan Phuay Kiang [2007] SGHC 83

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solicitor — Appropriate sentence for misconduct — Mitigation — Whether public service constituted mitigating factor — Section 83(2)(h) Legal Profession Act (Cap 161, 2001 Rev Ed)

Law Society of Singapore v Tan Phuay Kiang [2007] SGHC 83

Whether public interest justified imposition of conditions on the applicant's practising certificate — Section 25A(2)(b) Legal Profession Act (Cap 161, 2001 Rev Ed)

Glenn Jeyasingam Knight v Law Society of Singapore [2007] SGHC 105

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When time begins to run — Creditor calling on on-demand guarantee — No cause of action arising until demand for payment made — Time only beginning to run

when demand made — Whether demand by creditor against guarantor out of time because of statute-barred principal transaction

Kim Eng Securities Pte Ltd v Tan Suan Khee [2007] SGHC 75

Patents and Inventions

Infringement — Liability to account for profits — Whether lack of requisite knowledge of patent may be pleaded by defendants after consent judgment reached to limit period of infringement for accounting purposes — Whether defendants should be ordered to furnish accounts for period of infringement asserted by plaintiff — Section 69(1) Patents Act (Cap 221, 2005 Rev Ed)

Seiko Epson Corp v Sepoms Technology Pte Ltd and another [2007] SGHC 81





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Property tax — Appeal against valuation and assessment — Whether machinery located in the subject property fell within one or more of the exclusions provided by s 2(2) Property Tax Act (Cap 254, 2005 Rev Ed) — Whether the pipelines that extended beyond the boundaries of the subject property ought to be included in property tax assessment — Whether the contractor's test method was the correct method of assessment

First DCS Pte Ltd v Chief Assessor and another [2007] SGHC 82

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Offences — Driver not stopping on own accord after causing accident — Driver stopped by another road user and brought back to accident scene — Whether driver failing to render assistance to accident

victim — Section 84(3) Road Traffic Act (Cap 276, 2004 Rev Ed)

Fernandez Joseph Ferdinand v Public Prosecutor [2007] SGHC 60

Offences — Driver not stopping on own accord after causing accident — Driver stopped by another road user and brought back to accident scene — Whether driver failing to stop after an accident under s 84(1) — Section 84(1) Road Traffic Act (Cap 276, 2004 Rev Ed)

Fernandez Joseph Ferdinand v Public Prosecutor [2007] SGHC 60

Offences — Driver not stopping on own accord after causing accident — Driver stopped by another road user and brought back to accident scene — Whether driver



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may be considered as having removed his vehicle from the accident scene — Section 84(4) Road Traffic Act (Cap 276, 2004 Rev Ed)

Fernandez Joseph Ferdinent v Public Prosecutor [2007] SGHC 60

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Construction of statute — Purposive approach — Whether water as an article had been made or altered or adapted for sale under s 2(2) Property Tax Act (Cap 254, 2005 Rev Ed)

First DCS Pte Ltd v Chief Assessor and another [2007] SGHC 82

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Conspiracy — Lawful and unlawful — Supplier overcharged company — Certain breaches of duties by employees enabling

overcharging — Whether employees conspired with supplier

Nagase Singapore Pte Ltd v Ching Kai Huat and others [2007] SGHC 61

Negligence — Contributory negligence — Whether plaintiff contributed to accident — Proportion of plaintiff's contributory negligence

Gobi Nadhan a/l Balakrishnan v Tan Chin Sian [2007] SGHC 57

Negligence — Road traffic accident at junction between straight-travelling plaintiff motorcyclist and right-turning defendant driver — Whether plaintiff or defendant had right of way — Whether defendant liable for accident

Gobi Nadhan a/l Balakrishnan v Tan Chin Sian [2007] SGHC 57





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Negligence — Whether defendant driver negligent in driving and liable for road accident — Whether third party's negligence in the driving of plaintiff's vehicle caused or contributed to collision

Kwek Peck Ying v Loh Kwang Chay [2007] SGHC 56

Trade Marks and Trade Names

Invalidity — Bad faith — Proprietorship of "WARMAN" mark in Singapore — Whether contractual term in agreements between parties may be implied to confer proprietorship of mark on defendant — Whether defendant operated as trade mark licensee of plaintiff — Whether absence of manufacturing rights in place of registration of trade mark fatal to claim of proprietorship of trade mark

Weir Warman Ltd v Research & Development Pty Limited [2007] SGHC 59

Invalidity — Bad faith — Whether the contractual right to register the "WARMAN" mark in Singapore sufficient to negate bad faith on part of defendant — Whether defendant had additional duty to disclose contractual relationship with plaintiff to Registrar of Trade Marks at time of registration of "WARMAN" mark

Weir Warman Ltd v Research & Development Pty Limited [2007] SGHC 59

Revocation — Genuine use — Whether three sales transaction made by defendant in relation to "WARMAN" pump parts sufficient to constitute "genuine use" — Whether "genuine use" can be established where no evidence of actual sales — Section 22(1) of Trade Marks Act (Cap 332, 2005 Rev Ed)

Weir Warman Ltd v Research & Development Pty Limited [2007] SGHC 59





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Revocation — Whether defendant's registered mark in Class 7 should be partially revoked to limit specification to pumps and pump parts — Whether necessary to insert words of limitation to remaining specifications to further confine defendant's registration of "WARMAN" mark to particular types of pump parts — Section 22(6) of Trade Marks Act (Cap 332, 2005 Rev Ed)

Weir Warman Ltd v Research & Development Pty Limited [2007] SGHC 59

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"Serious injury" — Sections 47D and 84(8) Road Traffic Act (Cap 276)

Fernandez Joseph Ferdinant v Public Prosecutor [2007] SGHC 60





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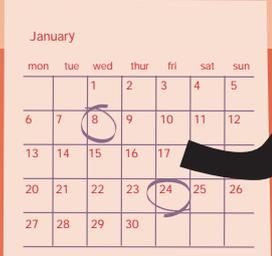
LEGAL EDUCATION & TRAINING CALENDAR FROM SEPTEMBER 2007 TO OCTOBER 2007

DATE	TOPIC	SPEAKER(S)/TRAINER(S)	ORGANISER(S)
4, 5, 11, 12, 18, 25 Sep (Tue, Wed) 9.30am–12.30pm	LawNet Portal Administrator Course	Clifford Leslie Nonis, Crimson Logic	SAL
4, 5, 11, 12, 18, 25 Sep (Tue, Wed) 9.30am–12.30pm	LawNet2 Portal User Course	Clifford Leslie Nonis, Crimson Logic	SAL
5, 19 Sep (Wed) 1.30pm– 5.30pm	Adobe 8.0	NTUC Learning Hub	SAL
5, 12, 19, 26 Sep (Wed) 9.30am–12.30pm or 2.00pm–5.00pm	EFS Enhancement 8.0	Clifford Leslie Nonis, Crimson Logic	SAL
10–12 Sep (Mon–Wed) 9.00am–5.00pm	EFS FE Full Course	Clifford Leslie Nonis, Crimson Logic	SAL
13 Sep (Thu) 1.30pm–5.30pm	STARS e-Lodgement	Serena Lim, Bizibody	SAL



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DATE	TOPIC	SPEAKER(S)/TRAINER(S)	ORGANISER(S)
13 Sep 2007 (Thu) 2.30pm–5.00pm	Developments in Shipping Law in 2007: Leading English Cases	Prof Stephen Girvin, Prof of Maritime Law at the University of Birmingham, UK and MPA Visiting Prof of Maritime Law at NUS	National University of Singapore (NUS) and SAL
18 Sep (Tue) 9.00am–5.00pm	LawNet Services at a Glance	Clifford Leslie Nonis, Crimson Logic	SAL
20, 21 Sep (Thu, Fri) 9.00am–5.00pm	Mediation: Strategic Conflict Management for Professionals	Loong Seng Onn & Carol Liew	SMC
20 Sep (Thu) 9.00am–12.00pm or 2.00pm–5.00pm	EFS Phase 4B	Clifford Leslie Nonis, Crimson Logic	SAL
24 Sep (Mon) 9.00am–5.00pm	LawNet Conveyancing: Intereq & STARS e-Lodgement	Serena Lim, Bizibody	SAL
27 Sep (Thu) 9.00am–5.00pm	EFS ROC 1 & 2	Clifford Leslie Nonis, Crimson Logic	SAL



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1 Oct (Wed) 9.30am–5.30pm	Microsoft Word for Legal Professionals	Clifford Leslie Nonis, Crimson Logic	SAL
2, 9, 16, 23 Oct (Tue) 9.30am–12.30pm	LawNet Portal Administrator Course	Clifford Leslie Nonis, Crimson Logic	SAL
2, 9, 16, 23 Oct (Tue) 9.30am–12.30pm	LawNet2 Portal User Course	Clifford Leslie Nonis, Crimson Logic	SAL
3–5 Oct; 12 Oct (Wed–Fri; Fri) 9.00am–5.00pm	Associate Mediator Accreditation Course	Loong Seng Onn & Carol Liew	SMC

Please note that all information is correct at the time of publication. While every effort is made to retain the original arrangements, changes may sometimes be necessary. Details on select events may be found on the Academy's website at <http://www.sal.org.sg/>

For enquiries and more information, please contact the respective organisers::

LawNet Training Centre (LTC):

Seri Adilia at tel: (65) 6332 4256 or Aida Bte Abdul Rahman at tel: (65) 6332 4382 or lrc@sal.org.sg

Legal Education and Studies (LES):

Alexis Ong at tel: (65) 6332 4149 or les@sal.org.sg

Singapore Mediation Centre (SMC):

Survinder Kaur at tel: (65) 6332 4213 or survinder_kaur@sal.org.sg

For more information on the SMC courses above, please visit <http://www.mediation.com.sg/pdf/SMCTraining2007.pdf>