

june 2007



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Welcome to the first issue of the Academy's new e-zine, *Inter Se* Online.



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Details on the 14th Singapore Academy of Law Annual Lecture.



legislation update

Legislation passed or revised in March and April 2007.



case law update

Coming soon:
Summaries of cases from the Supreme and Subordinate courts.



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INTER SE REVAMPED

Welcome to the first issue of the Academy's new e-zine, *Inter Se Online*. From June 2007, you can look forward to reading *Inter Se* in two brand-new formats and with two fresh looks. It is out with the bi-monthly print *Inter Se* and in with the revamped, dual-component *Inter Se* which comprises:

- a monthly online version ("*Inter Se Online*"); and
- a half-yearly print version ("*Inter Se Print*").

Inter Se Online is a monthly information-dissemination and news-reporting e-magazine sent out via an e-mail blast to all members and made available on the Academy's website. *Inter Se Online* focuses on bringing relevant and current legal news and updates to members in a concise and timely manner.

Inter Se Print is a themed publication focusing on analysis and comment. It will serve a knowledge creation and genre-insight function on a particular area of the law and/or legal practice. Published every six months in a calendar year (once in June and once in December), *Inter Se Print* will feature the "life" of a particular area of practice with topical articles, people profiles and reviews of relevant publications on that area of practice.

We hope that the revamped *Inter Se* will better meet your needs. As we continually try to improve what we can offer you, our member, do let us know what you think via e-mail to inter_se@sal.org.sg ■



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ACADEMY PUBLISHING LAUNCHED TOGETHER WITH FIRST PUBLICATION ON LEGAL ETHICS

Academy Publishing, a new division under the Singapore Academy of Law, was launched by the Honourable the Chief Justice Chan Sek Keong on Friday, 18 May 2007. The aims of this new division are threefold: to provide affordable legal materials to the legal profession and law students; to provide an alternative avenue to academics in the two law schools in Singapore to publish their writings; and to disseminate the laws of Singapore to a wider public in the region or internationally.

To encourage lawyers, students and the public to own and refer to more law books,



Academy Publishing aims to price its books at least 50% lower than most comparable law text books currently in the market. These publications will be made available at major stores and through the Academy's website.

The first publication by Academy Publishing is *Ethics and Professional Responsibility: A*



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Code for the Advocate and Solicitor, by Professor Jeffrey Pinsler. The book is a manual for Singapore lawyers to guide them through the many ethical issues that they will inevitably face in their professional life. It is a work that was specially commissioned by the Chief Justice.

To raise the standard of legal knowledge and practice of our future lawyers, the Academy presented newly-admitted advocates and solicitors at the Mass Call on 26 May 2007 with a complimentary copy of the book to encourage them to start their careers as ethical and responsible lawyers.

Read the Chief Justice's full speech delivered at the launch and find out more about *Ethics and Professional Responsibility: A Code for the Advocate and Solicitor* in the upcoming June 2007 print edition of *Inter Se*.

Ethics and Professional Responsibility: A Code for the Advocate and Solicitor is available for purchase through the Academy's website at www.sal.org.sg ■



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SINGAPORE ACADEMY OF LAW POSTGRADUATE SCHOLARSHIPS – NYU@NUS DUAL GRADUATE DEGREE PROGRAMME IN SINGAPORE 2008/2009

The Singapore Academy of Law is offering scholarships for postgraduate studies in law for the NYU@NUS Dual Graduate Degree Programme in Singapore. This programme will allow SAL scholarship awardees to experience two educational systems and earn a Masters of Law (LLM) from both the National University of Singapore (NUS) and New York University (NYU).

Applicants must:

- be members of the Singapore Academy of Law;
- be below 40 years of age as at January 2007;
- possess at least a Second Upper honours degree in Law; and

- at the time of the award, not have been awarded any other scholarship for the course for which this application is made.

For more details, please call **Sheeba Said** at **6332 4006**.

Application forms may be downloaded from the Academy's website at www.sal.org.sg or obtained from:

Singapore Academy of Law
1 Supreme Court Lane
Level 4
Singapore 178879

The closing date for the submission of applications is **4.00pm on Friday 31 August 2007**. ■



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COMMISSIONERS FOR OATHS AND NOTARIES PUBLIC 1 OCTOBER 2007 TO 30 SEPTEMBER 2008

The Singapore Academy of Law invites applications from advocates and solicitors for appointment/reappointment* as commissioners for oaths and/or notaries public for the period 1 October 2007 to 30 September 2008. **Applications should be received by the Academy before 4.00pm, Tuesday, 31 July 2007. Late applications will not be considered.**

All commissioners for oaths and notaries public will be issued with expiry date stamps for use on documents administered in exercise of their appointments. Commissioners for oaths and notaries public are required to maintain a register of these documents.

Advocates and solicitors are required to pay an annual fee of \$500 each for the appointment/reappointment as

commissioners for oaths and as notaries public (see below for internal guidelines used for the appointment/reappointment of commissioners for oaths and notaries public).

For more information on the appointment/reappointment of commissioners for oaths and notaries public, please contact the Board of Commissioners for Oaths and Notaries Public ("the Board") office at telephone number **6332 4117/6**. Application forms may be downloaded from the Academy's website at www.sal.org.sg or obtained from our office:

**Singapore Academy of Law
Board of Commissioners for Oaths and Notaries Public
1 Supreme Court Lane
Level 4
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Subject to the Board's discretion, the internal guidelines used for the fresh appointments of advocates and solicitors as commissioners for oaths and notaries public are as follows:

As at 1 October 2007

Commissioners for Oaths

- those with not less than ten years' experience in active legal practice and/or legal service; and
- those who are not less than 35 years of age.

Notaries Public

- those with not less than 15 years' experience in legal practice; and
- those who are not less than 40 years of age.

The Board will, otherwise than in exceptional cases, apply a quota for the appointment of commissioners for oaths and notaries public, depending on the size of the firm in which the applicant practises. The table below is for general guidance:

1 to 5 lawyers	1 commissioner and 1 notary
6 to 10 lawyers	2 commissioners and 2 notaries
11 to 50 lawyers	3 commissioners and 3 notaries
51 to 80 lawyers	4 commissioners and 4 notaries
81 to 100 lawyers	5 commissioners and 5 notaries
101 to 150 lawyers	6 commissioners and 6 notaries
151 to 200 lawyers	8 commissioners and 8 notaries
201 to 250 lawyers	10 commissioners and 10 notaries

*Commissioners for oaths and notaries public whose appointments expire on 31 March 2008 should apply in January 2008. ■



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HEADLINES IN THE STRAITS TIMES

Jane Ng

"1,200 sign up at SMU law school"

The Straits Times (21 April 2007).

K C Vijayan

"Ex-CAD chief Glenn Knight seeks return to practising law"

The Straits Times (25 April 2007).

Tan Cheng Han

"Law school has to keep up with the times"

The Straits Times (26 April 2007) [An excerpt from a public lecture delivered as part of the National University of Singapore's Faculty of Law's 50th-anniversary celebrations.]

K C Vijayan

"Lawyers can seek earlier access to accused persons"

The Straits Times (27 April 2007).

Tracy Sua and Teh Joo Lin

"Community Court effective in giving second chances"

The Straits Times (28 April 2007).

Chong Chee Kin

"Fender-bender claims below \$1,000 to go to mediator"

The Straits Times (28 April 2007).

Yap Su-Yin

"New measures to ease divorce disputes"

The Straits Times (28 April 2007).

Serene Luo

"Anti-spam law means more unwanted mail?"

The Straits Times (30 April 2007).

K C Vijayan and Chong Chee Kin

"Courts to back mediation centre settlements"

The Straits Times (3 May 2007).



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Yvonne C L Lee

"Decriminalising homosexual acts would be an error"

The Straits Times (4 May 2007).

W Calvin Ho

"Respecting privacy in biomedical research"

The Straits Times (5 May 2007).

Michelle Neo

"Educate Generation Y on bioethical issues"

The Straits Times (5 May 2007).

Tania Tan and Michelle Neo

"New privacy laws to protect data of research participants"

The Straits Times (8 May 2007).

Chang Ai-Lien

"A step forward to ensure volunteers for critical research"

The Straits Times (8 May 2007).

Bryan Tan and Wang Zhengmin

"Ways to protect your Intellectual Property"

The Straits Times (8 May 2007).

Sujin Thomas

"Quiet debut for Bail Court"

The Straits Times (8 May 2007). ■



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HEADLINES IN THE BUSINESS TIMES

Michelle Neo and Tania Tan

"Legal muscle to regulate patient data"

The Straits Times (8 May 2007).

Wee Li-En

"Different strokes for law firm Duane Morris"

The Business Times (23 April 2007).

Tamara Mohanan Kuppusamy

"Latest law firms tie-up confident of succeeding"

The Business Times (27 April 2007).

Wee Li-En

"Tapping forensic accountants for divorce cases"

The Business Times (28 April 2007).

Wee Li-En

"Wong Partnership to set up office in Qatar by June"

The Business Times (2 May 2007).

Matthew Phan

"Move to allow use of medical info for public health planning"

The Business Times (8 May 2007).

Charmian Kok

"Subhas Anandan leaves Harry Elias for KhattarWong"

The Business Times (10 May 2007). ■



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AN UPDATE ON THE 14TH SINGAPORE ACADEMY OF LAW ANNUAL LECTURE



The Singapore Academy of Law is pleased to announce that the Honourable Murray Gleeson, AC, Chief Justice of the High Court 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.

Chief Justice Gleeson was born in New South Wales in 1938 and completed his secondary education at St Joseph's College, Sydney. He went on to the University of Sydney where he obtained first class honours in Arts and Law. He was admitted to the New South Wales Bar in 1963 and was the President of its Bar Association from 1984–1985.

While building a successful practice, Chief Justice Gleeson was also a part-time lecturer in company law at Sydney University from 1963–1974, and tutor in law at St Paul's



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College within that University. He was appointed Queen's Counsel in 1974 at the relatively young age of 36. Having taken silk, Chief Justice Gleeson built a substantial appellate practice while specialising in constitutional, commercial and tax matters. His reputation at the Bar was as "an advocate with formidable analytical and technical skills" with "great attachment to logic".

Chief Justice Gleeson was appointed Chief Justice of the Supreme Court of New South Wales in 1988 and was elevated to his current position in the highest judicial office in the land in 1998.

Chief Justice Gleeson's other honours include holding office as Lieutenant Governor of New South Wales from 1989–1998 and receiving the appointment of Companion in the General Division of the Order of Australia (AC) in 1992, Australia's highest civil honour.

The Academy is honoured to have Chief Justice Gleeson grace the occasion of this year's Annual Lecture. 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.

Please request an invitation online at **www.sal.org.sg** by 27 August 2007. For further enquiries, please contact us at **6332 4388** or e-mail **annuallecture@sal.org.sg** ■



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PROTECTING PRIVACY IN AN EVER-CHANGING TECHNOLOGICAL LANDSCAPE: HITHER, THITHER, WHITHER

By Daphne Hong, Deputy Senior State Counsel, Attorney-General's Chambers, and David Lee, Assistant Registrar, Supreme Court

"Once upon a time we were just plain people. But that was before we began having relationships with mechanical systems. Get involved with a machine and sooner or later you are reduced to a factor." – Ellen Goodman, Pulitzer prize winning journalist

Introduction

Privacy forms the cornerstone of human dignity in most, if not all, modern societies. Few may realise that the law of privacy dates back to as early as 1361 when the Justice of Peace Act in England provided for the arrest of peeping toms and eavesdroppers.¹ Times have moved on since its humble beginnings. The advent of modern technology and the increasing sophistication with which information technology can be harnessed to collect, analyse and disseminate information on individuals² provided much impetus in many countries to provide greater

protection to privacy. Since the world's first data protection statute was enacted in the German state of Hesse in 1970,³ efforts have been made nationally,⁴ regionally⁵ and even internationally⁶ to afford greater data protection.

While the issue of data privacy can be examined from a multitude of perspectives, the aim of this article is a modest one. It seeks to provide a quick survey and a short critique of the approaches taken in other jurisdictions on the issue of data protection legislation. Next, it summarises the position



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taken in Singapore thus far. Finally, it endeavours to provide a list of issues to promote further thought and debate on the approach to be taken for data protection in Singapore.

Thither – Protecting Privacy on Both Sides of the Atlantic

Perhaps the most glaring difference in approaches taken towards data protection can be gleaned from the opposite ends of the Atlantic Ocean. In Europe, comprehensive national legislation appears to have been necessitated by the EU Directive.⁷ The general tendency has been to enact omnibus data protection statutes regulating almost all instances where personal data is processed by a computer. In addition, a supervisory agency generally independent of the Government is appointed to oversee and regulate data protection in Europe.⁸

On the other hand, the United States has adopted a sectoral approach. Under this approach, statutes are being enacted to regulate specific forms of information handling, regardless of the medium in which the data is being processed. Hence, the Fair Credit Reporting Act 1970 gives a right of access to information held by credit reference agencies, while the Privacy Act 1974 provides a right of access to certain records held by public agencies and places restrictions on the use to which data may be put by those agencies.⁹

Each of these two approaches has its pros and cons.¹⁰ Comprehensive legislation¹¹ ensures that the State's legislative framework is consistent with international statutory regimes. However, the benefits of a "one-size-fits-all" uniform legislation applicable across all sectors may be more illusory than real.¹² A straight-jacket approach has been criticised because "any set of data protection



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rules will need to be adapted to the specific circumstances of different sectors".¹³

A sectoral approach paves the way for nimble treatment of issues. It provides scope for flexibility, allowing rules to be varied or stated in a different manner according to the sector it seeks to govern.¹⁴ However, a sectoral approach presupposes that the lines between different sectors can be clearly drawn. The brisk pace of technological advancement not only, in itself, makes this task difficult, it also has a direct impact on the way businesses are conducted which may result in further blurring of sectoral lines. Further, a sectoral approach may result in legislation lagging behind the need to protect privacy in new or emerging sectors.¹⁵

Thither – Guarding Privacy in Other Commonwealth Jurisdictions

The national legislation in other Commonwealth jurisdictions have been

largely influenced by the EU Directive. In Canada¹⁶, not one but two federal statutes have been enacted to provide individuals with a right of access to both personal and non-personal information held by the federal public sector.¹⁷ The Privacy Act was first enacted in 1983 to impose obligations on federal government departments to respect privacy rights by limiting the collection, use and disclosure of personal information. In 2000, the Personal Information Protection and Electronic Documents Act (PIPEDA) was passed to set out rules on how private sector organisations may collect, use or disclose personal information gathered in the course of commercial activities. Apart from these two pieces of federal legislation, the various states of Canada have passed legislation to deal specifically with data protection in the health care, banking and consumer credit reporting sectors. What was interesting about the Canadian regime was the fact that Parliament had introduced a compulsory



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five-yearly review of the PIPEDA, with the most recent review conducted in 2006.¹⁸

In Hong Kong, the Personal Data (Privacy) Ordinance was enacted in December 1996 after a six-year long comparative study by its Law Reform Commission.¹⁹ The Ordinance was (as noted by the Privacy Commissioner of Hong Kong²⁰) necessitated by economic or trade interests, as the European Union was (and still is) one of Hong Kong's major trading partners. The Ordinance covered both the public and private sectors, a feat achieved through one piece of legislation what Canada achieved in two. As with the Canadian legislation, Hong Kong had chosen the path to be technology-neutral.

Two key lessons can be gleaned from this brief survey of the Canadian and Hong Kong experience in introducing privacy legislation. First, the road to legislation is a long one after much consultation. It is noteworthy that

in the Canadian example, Parliament mandated regular reviews of the legislation after its promulgation. Second, in both jurisdictions, a Privacy Commissioner was set up to oversee and regulate privacy matters. While much ink has been spilt on the cost of privacy legislation to the private sector,²¹ there has been a dearth of literature on the cost to the Government for setting up commissions to oversee privacy issues after the legislation has been introduced. The operating costs of these commissions may not be insignificant. The total operating budget of the Office of the Privacy Commissioner of Canada was reported to have been C\$11.3m in 2005.²² The Privacy Commissioner of Hong Kong had noted in 2006 that its annual budget was about HK\$31.9m.²³

Hither – The Model Data Protection Code and The Instruction Manual

Singapore presently does not have a general



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or comprehensive data protection law.²⁴ Protection of personal data held by public sector agencies is accorded by a number of statutory provisions in relation to tax, customs, central provident funds, bankruptcy, criminal records, etc.²⁵ The Official Secrets Act and the Computer Misuse Act provide for criminal sanctions which may be levied against civil servants who seek to make use of Government databases for unauthorised access to confidential personal data and unauthorised disclosure of such data to third parties. For the private sector, there are currently sectoral laws to protect personal data, for example, banking secrecy laws. In addition, common law rules on confidentiality apply to both the private and public sectors.

More significantly, in 2001, the National Internet Advisory Committee ("the NIAC") introduced a Model Data Protection Code for the Private Sector ("the Model Code"). The aim of the Model Code is two-fold, viz

to establish minimum acceptable standards for data protection and to promote harmonisation of data protection rules among the various sectors.²⁶

The NIAC took into account a similar Code from Canada, the EU Directive and the OECD Guidelines in drafting this set of basic Data Protection Principles ("DPPs"). Following a three-month public consultation exercise in 2002, the Model Code was refined and subsequently adopted by the National Trust Council in December 2002 as part of its good e-business practices under its TrustSg accreditation programme.

Since the introduction of the Model Code, the Government has adopted (with modifications appropriate to the public sector) all ten of the Model Code's DPPs as part of its Government Instruction Manual on IT audit policy, or what is known as "IM8". These principles bind all public sector



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agencies which had one year from 16 May 2003 to implement the data protection principles.

Whither – Some Issues for Further Thought

Five years have passed since the introduction of the Model Code in Singapore. In March 2006, the Minister for Information, Communication and the Arts mentioned in Parliament that an inter-ministry committee had been tasked to study the various models of data protection available for adoption by Singapore. While the inter-ministry committee proceeds with its study, it may be timely for the legal fraternity to consider whether the present regime of data protection in Singapore is sufficient or whether it has to be enhanced.

In that light, the authors propose the following three questions to be considered:

(a) whether Singapore should adopt a comprehensive data protection

legislation regime or to allow self-regulation and regulation by sectors to continue;

- (b) if a comprehensive data protection legislation regime is favoured, whether it is necessary to cater for two separate sets of legislation for the public and the private sectors; and
- (c) regardless of the answer to the above, whether it is advisable for Singapore to set up a Privacy Commission (similar to the ones in Canada and Hong Kong) to oversee privacy issues.

Conclusion

The aim of this article is not to prescribe or to proscribe a particular approach. Rather, it has the more modest aim of fleshing out issues for the reader's consideration in the hope of providing a catalyst for further debate on this issue. In this debate, it is important not to lose sight of the potential for technology to help as well as hinder. In



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a very recent article, *The Economist* took the stance that “the use of data mining by governments need not be sinister, and could help to deliver public services more efficiently”.²⁷ As we embark on this debate, examining the pros and cons of the various approaches towards data protection, we should be keenly aware that our deepening interactions with technology should not result in us being “reduced to a factor”. ■

¹ James Michael, *Privacy and Human Rights* (UNESCO 1994) at p 15.

² See article in *The Economist's Technology Quarterly* entitled “Go With The Flow” (10 March 2007) where it was noted that researchers at the Massachusetts Institute of Technology are devising a new programme to allow anonymised data from mobile phone operators to construct maps showing the distribution of mobile phone users (and hence people) to monitor the flow of people around a city in real time.

³ See Lloyd, *Information Technology Law* (4th Ed, 2004) at para 4.2, p 62.

⁴ Three years after the first data protection statute was enacted in Germany, the first (of many) national statutes on data protection was promulgated in Sweden in 1973.

⁵ See, for example, the *European Convention for the Protection of Individuals with Regard to Automatic Processing of Personal Data*, 1981.

⁶ See, for example, the Organisation for Economic Co-Operation and Development (OECD) *Guidelines Concerning the Protection of Privacy and Transborder Flows of Personal data*, 1980. See also the United Nations' Economic and Social Council's *Guidelines Concerning Computerised Personal Data Files*, E/CN.4/1990/72.

⁷ European Union, *Directive on the Protection of Individuals with Regard to the Processing of Personal data and the Free Movement of Such Data* (95/46/EC) at <<http://eurlex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32002L0058:EN:HTML>>.

⁸ *Supra* n 3. Lloyd at para 4.2, p 61. See, for example, the Information Commissioner's Office in the United Kingdom at <<http://www.ico.gov.uk/>>.

⁹ *Ibid*.

¹⁰ For a detailed discussion of the pros and cons of the various international approaches, see National Internet Advisory Committee Legal Subcommittee, *Report on a Model Data Protection Code for the Private Sector*, Annex 3: “Enforcement and Compliance Options for a Personal Data Protection regime for the Private Sector in Singapore” (February 2002) at <http://www.agc.gov.sg/publications/law_reports.htm>.



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¹¹ For the purposes of this article, "comprehensive legislation" includes regimes where legislation has been promulgated to cover all industries, in both the public and private sectors, as well as regimes where separate comprehensive laws for the private sector and public sector respectively.

¹² The National Internet Advisory Committee Legal Subcommittee recognised in its report that "there is an emerging recognition that the adoption of legislation is not a panacea to all the ills in society" and that "the trend now is to regulate less but regulate better". *Supra* n 10 at para 6.5. See also Colin J Bennett, "An International Standard for Privacy Protection: Objections to the Objections" (2000), at <<http://www.cfp2000.org/papers/bennett.pdf>>, where the learned author opined, "we must face the reality that only a small minority of countries will be motivated to follow the European model of a general data protection law overseen by an independent supervisory authority".

¹³ See paper presented by Colin J Bennett at the 10th Conference on Computers, Freedom and Privacy entitled "An International Standard for Privacy Protection: Objections to the Objections" (2000) at <<http://www.cfp2000.org/papers/bennett.pdf>>.

¹⁴ *Supra* n 10.

¹⁵ It has been noted that "there are over 100 bills pending in the [United States] Congress on privacy protection": see <<http://www.gilc.org/privacy/survey/survey1z.html#USA>> and <http://www.epic.org/privacy/bill_track.html>.

¹⁶ See, generally, website of the Office of the Privacy Commissioner of Canada at <http://www.privcom.gc.ca/fs-fi/02_05_d_15_e.asp>.

¹⁷ See Canada's Privacy Act and the Personal Information Protection and Electronic Documents Act, both available through the website of the Office of the Privacy Commissioner of Canada, *ibid*.

¹⁸ See <http://www.privcom.gc.ca/information/pub/pipeda_review_060718_e.asp>.

¹⁹ See <<http://www.pcpd.org.hk/english/ordinance/ordglance.html>>.

²⁰ See Luncheon Talk, "Privacy and the Development of Privacy Rights in Hong Kong" (22 July 2006) at <<http://www.pcpd.org.hk/english/infocentre/speech.html>>.

²¹ See, for example, Robert Gellman, "How the Lack of Privacy Costs Consumers and Why Business Studies of Privacy Costs are Biased and Incomplete" (March 2002) at <<http://www.epic.org/reports/dmfrivacy.html>>.



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²² See speech of Jennifer Stoddart, Privacy Commissioner of Canada in 2005, at http://www.privcom.gc.ca/speech/2005/sp-d_050531_e.asp.

²³ This figure is derived from the Privacy Commissioner's speech at a Symposium on Interpreting Privacy Principles at the University of New South Wales in May 2006 at <http://www.worldlii.org/int/other/PrivLRes/2006/8.html>. The Commissioner mentioned that a sum of HK\$957,000, or less than 3% of its annual budget, was spent on communication with the public.

²⁴ *Supra* n 10.

²⁵ *Supra* n 10, Annex 2 which contains a comprehensive list of all Singapore Acts providing statutory secrecy and disclosure provisions.

²⁶ *Supra* n 10 at p 8.

²⁷ "Big Brother just wants to help", *The Economist* (10 March 2007).



legislation update inter se online

► Bills introduced in March and April 2007

► Subsidiary legislation published in March and April 2007

► Acts brought into operation in March and April 2007

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

Bills introduced in March and April 2007

The **Legal Profession (Amendment) Bill** (No 10/2007) seeks to amend the Legal Profession Act (Cap 161) for the following purposes:

- (a) to make changes that are consequential upon the establishment of the Faculty of Law of the Singapore Management University;
- (b) to enable qualified persons to serve their pupillage as Assistant Public Prosecutors in the Attorney-General's Chambers;
- (c) to increase the penalties for unauthorised practice as an advocate and solicitor, to provide for a fast-track disciplinary process where such an offence is committed by an advocate and solicitor and to provide for repayment of any fee, gain or reward received in respect of such an offence;
- (d) to empower the Council of the Law Society to make certain rules relating to money-laundering;
- (e) to clarify that disciplinary proceedings may be taken against solicitors who

contravene the rules relating to professional indemnity made under s 75A;

- (f) to extend provisions relating to advocates and solicitors practising on their own account or in partnership or as a director of a law corporation for the first time;
- (g) to implement proposals of the Review Committee on Joint Law Ventures and Formal Law Alliances and the Third Committee on the Supply of Lawyers relating to foreign lawyers and international legal services;
- (h) to provide greater flexibility in the framework for the recognition of qualified persons;
- (i) to empower the District Court to try any offence under the Act and to impose the full penalty or punishment in respect of the offence;
- (j) to repeal the provision granting the Board of Legal Education and the Law Society exemption from income tax; and
- (k) to make other related amendments.



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The **Competition (Amendment) Bill** (No 11/2007) seeks to amend the Competition Act (Cap 50B) for the following purposes:

- (a) to extend Pt III of the Act to an anticipated merger which, if carried into effect, will result in the occurrence of a merger, as defined in the Act. The Act presently applies only to mergers, where control has passed to an acquiring party. The amendments will permit voluntary statutory notifications of certain anticipated mergers to be made to the Competition Commission of Singapore (the Commission) for decision;
- (b) to remove notifications for guidance in respect of the s 54 prohibition and to remove the provision that allows the Commission to re-open a non-infringement decision on a merger due to a material change in circumstances;
- (c) to clarify when a merger occurs, the test for control for the purposes of determining when a merger has occurred, and who is a party involved in a merger

for the purposes of notification, decision and appeal;

- (d) to replace the criterion for a joint venture to be considered as a merger, namely, that such a joint venture must perform on "an indefinite basis" all the functions of an autonomous economic entity, with the criterion that the functions be performed on "a lasting basis";
- (e) to permit the Commission, where it has not completed its consideration of a matter, to make interim directions in respect of applications under s 57 or s 58 and investigations of anticipated mergers and mergers to prevent any action that may prejudice further consideration or investigations, or the giving of any final directions under s 69, or, as a matter of urgency, to act to prevent serious, irreparable damage to a particular person or category of persons, or to protect the public interest. The power may be exercised where the Commission has reasonable grounds for suspecting that an anticipated merger, if carried into



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- effect, will infringe, or a merger has infringed, the section 54 prohibition;
- (f) to permit the Commission to accept, vary, substitute or release commitments in respect of anticipated mergers or mergers. A non-infringement decision made because of the acceptance of a commitment may be revoked if any term of the commitment is not adhered to. The Commission will, except in exceptional circumstances, consult with any relevant third party before accepting, varying, substituting or releasing any commitment;
 - (g) to clarify, in respect of the three prohibitions in the Act, that when the Commission gives guidance or makes a decision that one prohibition is unlikely to have been, or has not been, infringed, this will not preclude an investigation by the Commission into a possible infringement of the other two prohibitions;
 - (h) to expand the Commission's powers to compel the furnishing of information or

documents relevant to the conduct of market studies and the consideration of applications for decision;

- (i) to permit a person authorised by the Commission to accompany an investigating officer and a person required by an inspector to enter premises for investigation under s 64;
- (j) to exclude from the s 34 prohibition and the s 47 prohibition, mergers and ancillary restrictions (ancillary restrictions being additional arrangements that may not be integral to a merger, but which are directly related and necessary to its implementation); and
- (k) to exclude from the s 54 prohibition, mergers where the resultant economic efficiencies outweigh any adverse effect from the substantial lessening of competition arising from the mergers, and to clarify the ambit of the exclusion in respect of mergers approved under any written law.



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The **Singapore Armed Forces**

(Amendment) Bill (No 12/2007) seeks to amend the Singapore Armed Forces Act (Cap 295) to enable the Singapore Armed Forces to be deployed in aid of civilian authorities for specified purposes or in specified events. The Bill, amongst other things —

- (a) empowers the Minister to authorise the Singapore Armed Forces to be deployed in air and sea operations, such as to combat piracy, to detect and prevent any threat of attack on Singapore by air or sea, to implement international initiatives against proliferation of weapons and to rescue hostages;
- (b) empowers the Minister, upon the occurrence or likely occurrence of any relevant event (where relevant events would include terrorist attacks in Singapore, threats to persons such as visiting dignitaries, and damage or disruption to the operation of key civilian installations) and after consulting the Committee established by the Prime

- Minister for this purpose, to make an order for the Singapore Armed Forces to be deployed for the relevant event;
- (c) sets out the land-based powers (which are similar to powers which a police officer may exercise, and include powers of arrest and seizure, powers to prevent offences, powers of crowd control and traffic control, powers to set up road blocks and powers to search for and seize any weapon, explosive or other dangerous device or substance) which may be lawfully exercised by a serviceman within Singapore acting in accordance with an order made by the Minister; and
- (d) provides the procedure for dealing with any person arrested or detained, any thing or vehicle seized or any aircraft or vessel detained by a serviceman acting in the exercise of his powers.

The **Environmental Pollution Control (Amendment) Bill** (No 13/2007) seeks to amend the Environmental Pollution Control Act (Cap 94A) principally to establish a



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scheme to mandate the labelling of certain goods which are declared to be registrable goods for the purpose of energy conservation. The Bill, amongst other things —

- (a) empowers the Minister to declare, after consultation with the National Environment Agency, the classes, descriptions or types of goods that are to be registrable goods;
- (b) prohibits the supply, whether by an importer or a manufacturer or otherwise, of registrable goods in the course of any trade or business that are not registered and that are not labelled in the prescribed manner;
- (c) provides for the registration of suppliers of registrable goods and for the registration of such goods, and that any importer or manufacturer of registrable goods who fails to register himself as a registered supplier is an offence;
- (d) empowers the Director-General of Environmental Protection ("the Director-General") to keep and maintain a register

of registered suppliers and registered goods;

- (e) provides that the registration of suppliers is perpetual unless it is withdrawn or revoked, and that the registration of registered goods is valid for three years (unless earlier withdrawn or revoked) and is renewable;
- (f) sets out the requirements in relation to the keeping of records that a registered supplier must comply with, including making the records available to the Director-General for inspection and submitting such documents or information as may be required by the Director-General; and
- (g) makes consequential amendments to certain other written laws arising from the change of the short title from "Environmental Pollution Control Act" to "Environmental Protection and Management Act".

The **Radiation Protection Bill** (No 14/2007) seeks to repeal and re-enact, with



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amendments, the Radiation Protection Act (Cap 262) principally to implement Singapore's obligations in relation to the application of safeguards in connection with nuclear non-proliferation. The Bill, amongst other things —

- (a) provides that the Director-General of Environmental Protection (the Director-General) is charged with the general administration of the Bill, and that he may appoint authorised officers to exercise the powers conferred and perform the duties imposed under the Bill;
- (b) provides that the National Environment Agency ("the Agency") may appoint such advisory or technical committees as it thinks necessary for the purposes of the Bill;
- (c) provides that the import, export, possession or control, manufacture, sale, transport or use of, or dealing with, any radioactive material is not permitted except under and in accordance with a licence granted by the Director-General;

- (d) provides that the import, export, possession or control, manufacture, production, sale or use of, or dealing with or dealing in, any irradiating apparatus is not permitted except under and in accordance with a licence granted by the Director-General;
- (e) requires every licensee to provide his employees with a working environment that is safe and without risks to health, and to ensure that no one else is exposed to health or safety risks arising from his undertaking or activities;
- (f) provides that no person is permitted to dispose of any radioactive waste, to accumulate any radioactive waste on any premises or to transport any radioactive waste (as the case may be) except with the prior approval in writing of the Director-General and in accordance with the conditions, limitations and exceptions that he may specify;
- (g) sets out the obligations of every licensee and every person who has been granted any approval by the Director-General to



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keep and maintain records, and to furnish reports to the Director-General; and for the Director-General to seek, from any person, information or documents that may be required to be given by Singapore to the International Atomic Energy Agency ("IAEA");

- (h) provides for the appointment of national inspectors and the right of national inspectors to carry out inspections for a compliance purpose; and for inspections by IAEA inspectors; and
- (i) provides for consequential amendments to certain other written laws arising from the repeal of the Radiation Protection Act (Cap 262) and the transfer of responsibility for the Act from the Health Sciences Authority to the Agency.

The **Goods and Services Tax (Amendment) Bill** (No 15/2007) seeks to amend the Goods and Services Tax Act (Cap 117A) principally for the following purposes:

- (a) to provide for the rate of tax to be 7% from 1 July 2007 onwards;
- (b) to provide for the zero-rating of services

comprising the supply of a right to promulgate an advertisement, and the promulgation of an advertisement, by any medium of communication in certain circumstances;

- (c) to provide for matters relating to the zero-rating of the supply by a taxable person of any prescribed tool, the supply of any services directly in connection with such tool and the supply of any prototype of such tool to a person who belongs in a country outside Singapore and who is not a registered person, where such tool is used in Singapore for the manufacture of goods for the person who belongs in a country outside Singapore;
- (d) to empower the Minister to make regulations for input tax to be deemed to have been incurred on any cash payment made by an insurer upon an occurrence of an insured event in certain circumstances, and for various matters relating thereto;
- (e) to change the period of time during which an assessment may be raised by the Comptroller of Goods and Services



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- Tax from seven years to five years in respect of prescribed accounting periods ending on or after 1 January 2007; and
- (f) to include, as an exempt supply of financial services, the provision of financing by a financial institution in connection with a qualifying Islamic financial arrangement in relation to non-residential property, for which the financial institution derives an effective return.

The **Financial Procedure (Amendment) Bill** (No 16/2007) seeks to amend the Financial Procedure Act (Cap 109) to remove the need for the President to determine or authorise the investment of public moneys in securities or other instruments. The Minister for Finance, instead of the President, would determine or authorise the type of securities or other instruments in which public moneys may be invested.

The **Employment of Foreign Workers (Amendment) Bill** (No 17/2007) seeks to amend the Employment of Foreign Workers

Act (Cap 91A) principally for the following purposes:

- (a) to consolidate the legislative authority for the issuance and enforcement of all work passes, which includes work permits, special passes and employment passes;
- (b) to define that a "personal identifier" means any of the following specified in the new Schedule, including those in digital form, eg fingerprints and handprints of a person (including those taken using paper and ink and digital livescanning technologies), a photograph or other image of a person's face and shoulders, or a person's signature. The Minister is also empowered to amend the Schedule and prescribe by subsidiary legislation other identifiers (eg an image, measurement or recording of an external part of the human body) except if it involves the taking of an intimate sample within the meaning of s 13A of the Registration of Criminals Act (Cap 268);
- (c) to provide that the Controller of Work Passes ("the Controller") may issue certain

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categories of work passes to certain foreign employees without specifying the employer and the type of employment (such that it is no longer an offence for an employer to employ a foreign worker unless the employer has obtained in respect of the foreign worker a valid work permit which allows the foreign worker to work for the employer), and that no person may now employ a foreign employee unless the foreign employee has a valid work pass;

- (d) to enhance the penalties for the offence of allowing a foreigner without a valid work pass to enter or remain at the work place;
- (e) to require an employer to terminate the employment of a foreign employee where the Controller has decided to suspend or revoke the work pass of the foreign employee; and also to require an employer who intends to have the work pass of a foreign employee cancelled to apply to the Controller to cancel the work pass and (if so required)

to return the work pass to the Controller within seven days of such cancellation;

- (f) to prohibit a self-employed foreigner from engaging in any trade, vocation, profession or other activity for the purpose of gain in Singapore unless he has obtained a valid work pass which allows him to work in Singapore;
- (g) to provide that a work pass for a foreign employee will be valid only in respect of the trade or occupation, the type of employment, the employer and the foreign employee that may be specified therein, and that a work pass for a self-employed foreigner will be valid only in respect of the trade, vocation, profession or activity and the self-employed foreigner that may be specified therein. The work pass will only be valid for the period specified in the work pass unless it is suspended or revoked by the Controller, or cancelled by the Controller on application by the employer or self-employed foreigner, as the case may be;
- (h) to provide that a work pass holder must



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not allow any other person to have possession of his work pass, and that upon demand by an employment inspector, a work pass holder must produce his work pass for inspection;

- (i) to introduce a new offence of failing to notify the Controller of any false information;
- (j) to enhance the investigative powers of employment inspectors; and
- (k) to make consequential amendments to certain other written laws arising from the amendment of the short title from "Employment of Foreign Workers Act" to "Employment of Foreign Manpower Act" and the term "work permit" to "work pass".

The **Gas (Amendment) Bill** (No 18/2007) seeks to amend the Gas Act (Cap 116A) principally for the following purposes:

- (a) to extend the regulatory oversight of the Energy Market Authority of Singapore ("the Authority") to cover the shipping of gas, the retailing of gas, the

management and operation of onshore receiving facilities and liquefied natural gas terminals, the production of town gas, and the importation of natural gas and liquefied natural gas (LNG);

- (b) to enhance the powers of the Authority with regard to the provision of rights of access to a relevant facility;
- (c) to provide for arrangements for allocation of gas in offshore gas pipelines;
- (d) to provide for a gas network code by which designated gas transporters and relevant gas shippers must abide;
- (e) to provide for the control of —
 - (i) the acquisition of equity interests in a gas transporter, a gas transport agent, a designated entity that owns a gas pipeline network and a designated business trust established in respect of a gas pipeline network;
 - (ii) the acquisition of the business of a gas transporter, a gas transport agent, a designated entity that owns a gas pipeline network and a designated business trust established in respect of a gas pipeline network; and

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- (iii) the appointments of officers of a gas transporter and a gas transport agent;
- (f) to provide for the specific sanctions and courses of action available in the event a person fails to comply with any direction issued by the Minister, or contravenes any regulation made by the Minister, for the purposes of Pt XII of the Act;
- (g) to repeal or delete certain provisions in the Act which have not come into force, in order to make amendments to these provisions; and
- (h) to make consequential amendments in connection with the above purposes.

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The **Housing Developers (Amendment) Rules 2007** (GN No S 87/2007, wef 1 April 2007) amend the Housing Developers Rules (Cap 130, R 1) to specify the new fees payable by a housing developer for licences granted under s 4(4) of the Housing Developers (Control and Licensing) Act. The new fees are as follows:

- (a) \$2,000 for a licence for the development of a housing project having not more than ten units;
- (b) \$4,500 for a licence for the development of a housing project having more than ten units but not more than 50 units;
- (c) \$7,500 for a licence for the development of a housing project having more than 50 units but not more than 100 units;
- (d) \$11,000 for a licence for the development of a housing project having more than 100 units but not more than 200 units;
- (e) \$14,000 for a licence for the development of a housing project having more than 200 units but not more than 400 units; and
- (f) \$17,000 for a licence for the development of a housing project having more than 400 units.

The **Misuse of Drugs (Amendment) Regulations 2007** (GN No S 108/2007, wef 13 March 2007) amend the Misuse of Drugs Regulations (Cap 185, Rg 1) to amend the following licence fees:

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- (a) for any licence to sell controlled drugs by wholesale, or for any licence to manufacture controlled drugs, the new fee is \$500 per year;
- (b) for any licence to import controlled drugs, or for any licence to export controlled drugs, the new fee is \$100; and
- (c) for any amendment to any licence on any single occasion —
 - (i) the new fee is \$200 with site inspection; and
 - (ii) the new fee is \$50 without site inspection.

The Minister for National Development has, by the **Notification relating to Assignment of Function to Housing and Development Board** (GN No S 123/2007, wef 23 March 2007), assigned to the Housing and Development Board the function of selling granite to persons engaged in the construction industry or to such other person as the Board considers appropriate.

The **Town Councils (Disbursement of Moneys from Sinking Fund) (Amendment) Rules 2007** (GN No S 129/2007, wef 1 April 2007) amend the Town Councils (Disbursement of Moneys from Sinking Fund) Rules (Cap 329A, R 5) to provide that, for the purposes of s 33(6)(a)(v) of the Town Councils Act, a Town Council may disburse moneys from any of its sinking funds to meet expenses or liabilities properly attributable to that sinking fund in respect of any cyclical replacement of any lift position display panel for the benefit of residents in the housing estates of the Housing and Development Board within the Town which the Town Council manages and maintains.

The **Employment of Foreign Workers (Levy) (Amendment) Order 2007** (GN No S 144/2007, wef 1 April 2007) amends the Employment of Foreign Workers (Levy) Order (Cap 91A, O 1) to provide that, in certain circumstances, the levy payable by an employer in respect of each foreign worker

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employer's total number of workers or 40% thereof for foreign manufacturing workers) is reduced from \$310 for every calendar month to \$280, and where the foreign worker is employed for part of a month, the levy is reduced from \$11 to \$10 for every day during which the worker is employed in that month, subject to a cap of \$280 in total. The circumstances under which the new rates of levy apply are as follows:

- (a) where the employer's foreign workers exceed the threshold percentage of 30% but form not more than 35% of the employer's total number of workers; and
- (b) where the employer's foreign manufacturing workers exceeds the threshold percentage of 40% but form not more than 50% of the employer's total number of workers.

The **Public Service (Special and Senior Personnel Boards) (Amendment) Order 2007** (GN No S 147/2007, wef 1 April 2007) amends the Public Service (Special and Senior Personnel Boards) Order (O 2) to

reflect Prof Walter Woon Cheong Ming's appointment as a member of the Senior Personnel Board D in place of Mr Chan Seng Onn.

The Minister for Information, Communications and the Arts, being of the opinion that the possession or distribution of the film "Zahari's 17 Years" by Mr See Tong Ming would be contrary to the public interest, has, by the **Films (Prohibited Film) Order 2007** (GN No S 153/2007, wef 12 April 2007), prohibited the possession and distribution of that film by any person.

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1. **Statutes (Miscellaneous Amendment) Act 2007** (Act 2 of 2007) —
 - (a) Sections 2–5, 7, 9, 10 and 12–18 wef 1 March 2007 *vide* GN No S 62/2007.
 - (b) Section 6 wef 1 April 2007 *vide* GN No S 62/2007.
2. **Children Development Co-Savings (Amendment) Act 2007** (Act 9 of 2007) (wef 1 March *vide* GN No S 79/2007).
3. **Land Transport Authority of Singapore (Amendment) Act 2007** (Act 11 of 2007) (wef 1 March 2007 *vide* GN No S 81/2007).
4. **Charities (Amendment) Act 2007** (Act 10 of 2007) (wef 1 March 2007 *vide* GN No S 88/2007).

5. **Economic Expansion Incentives (Relief from Income Tax) (Amendment) Act 2007** (Act 14 of 2007) (Sections 2(a) and 2(b) wef 5 March 2007).
6. **Administration of Muslim Law (Amendment) Act 2005** (Act 35 of 2005) (wef 19 March 2007 *vide* GN No S 113/2007 except ss 2, 3(a), 3(c), 4, 8(a), 9 and 12).
7. **Supplementary Supply (FY 2006) Act 2007** (Act 17 of 2007) (wef 26 March 2007).
8. **Banking (Amendment) Act 2007 (Act 1 of 2007)** (wef 31 March 2007 *vide* GN No S 137/2007).
9. **Supply Act 2007** (Act 18 of 2007) (wef 1 April 2007).
10. **Civil Aviation Authority of Singapore (Amendment) Act 2007** (Act 16 of 2007) (wef 1 April 2007 *vide* GN No S 128/2007).

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Revision of Acts

The Law Revision Commissioners have published, in loose-leaf form, a revised edition of the following Acts, incorporating amendments up to 1 March 2007 (wef 31 March 2007 *vide* GN No S 119/2007):

1. Financial Advisers Act (Cap 110).
2. Parliamentary Elections Act (Cap 218).
3. Presidential Elections Act (Cap 240A).
4. Road Traffic (Special Powers) Act (Cap 277).

Re-issue of Subject Index to Acts

The Law Revision Commissioners have prepared and published a re-issue of the Subject Index to Acts in respect of all Acts enacted before 1 January 2007, which will replace the existing Subject Index to Acts as from 30 March 2007.

Re-issue of Subject Index to Subsidiary Legislation

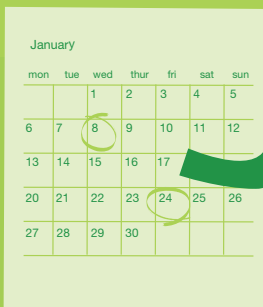
The Law Revision Commissioners have prepared and published a re-issue of the Subject Index to Subsidiary Legislation in respect of all subsidiary legislation enacted before 31 December 2006, which will replace the existing Subject Index to Subsidiary Legislation as from 30 March 2007. ■

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case law update inter se^{online}

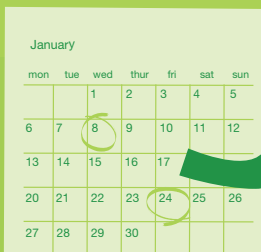
Case Law Update will begin in the July 2007 issue of *Inter Se Online*. This new segment will function as a monthly update on all judgments delivered by the Supreme and Subordinate Courts of Singapore. Concise topic summaries (called “catchwords”) will be prepared for each judgment. The summaries will then be organised topically. You, the reader, will be able to locate, with ease, what is relevant to your needs. ■



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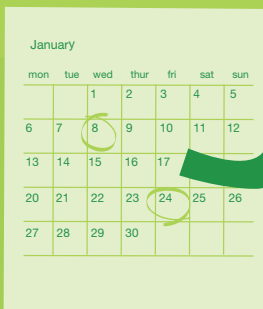
LEGAL EDUCATION & TRAINING CALENDAR FROM JUNE 2007 TO JULY 2007

DATE	TOPIC	SPEAKER(S)/TRAINER(S)	ORGANISER(S)
6, 20 Jun (Wed) 1.30pm–5.30pm	Adobe 7.0	NTUC Learning Hub	SAL (LawNet Training Centre)
7 Jun (Thu) 1.30pm–5.30pm	STARS e-Lodgement	Serena Lim BiziBody	
11, 25 Jun (Mon) 1.30pm–5.30pm	Adobe 8.0	NTUC Learning Hub	
12–14 Jun (Tue–Thu) 9.00am–5.00pm	EFS FE Full Course	Clifford Leslie Nonis Crimson Logic	
15 Jun (Fri) 9.00am–5.00pm	LawNet Conveyancing: Intereq & STARS e-Lodgement	Serena Lim BiziBody	
18 Jun (Mon) 9.30am–5.30pm	LawNet Services at a Glance	Clifford Leslie Nonis Crimson Logic	
27 Jun (Wed) 9.00am–5.00pm	EFS ROC 1 & 2	Clifford Leslie Nonis Crimson Logic	



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DATE	TOPIC	SPEAKER(S)/TRAINER(S)	ORGANISER(S)
2 Jul (Mon) 9.00 am–5.00pm	Ms Word for Legal Professionals	Clifford Leslie Nonis Crimson Logic	SAL (LawNet Training Centre)
4 Jul (Wed) 1.30pm–5.30pm	Adobe 7.0	NTUC Learning Hub	
6 Jul (Fri) 9.00am–12.00pm	EFS Phase 4B	Clifford Leslie Nonis Crimson Logic	
9 Jul (Mon) 1.30pm–5.30pm	Adobe 8.0	NTUC Learning Hub	
9–11 Jul (Mon–Wed) 9.00am–5.00pm	EFS FE Full Course	Clifford Leslie Nonis Crimson Logic	
12 Jul (Thu) 1.30pm–5.30pm	STARS e-Lodgement	Serena Lim BiziBody	National University of Singapore (NUS) & SAL (Legal Education & Studies)
22–23 Aug (Wed–Thu) 9.00am–5.00pm	10th Singapore Conferences on International Business Law – The Regulation of Wealth Management	See http://law.nus.edu.sg/ccsl/scibl2007/ for details.	



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calendar

DATE	TOPIC	SPEAKER(S)/TRAINER(S)	ORGANISER(S)
29 Aug (Wed) 2.30pm–5.00pm	Climate Change and the Kyoto Mechanisms	Dr Charlotte Streck Climate Focus, the Netherlands	Asia-Pacific Centre for Environmental Law (APCEL) & SAL (Legal Education & Studies)

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:

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Legal Education and Studies (LES): Serene Ong at tel: (65) 6332 4032 or les@sal.org.sg