



inter se online



in the news

Legal news headlines in September and October 2007.



in the know

Information on Academy activities for members at work and at play!



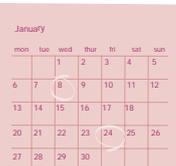
legislation update

Legislation passed or revised in September and October.



case law update

Catchword summaries of cases from the Supreme Court, organised by subject matter.



calendar

Trainings and workshops calendar from November 2007.



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- **Headlines in The Straits Times**
- *Headlines in The Business Times*
- *Headlines in Today*
- *Headlines in The New Paper*

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- *The Singapore Academy of Law Annual Lecture 2007: Australia's Contribution to the Development of the Common Law*
- *Law Society's Community Legal Clinics/Pro Bono Services Office*
- *Presenting Singapore's Premiere Legal Research Resource to the Malaysian Legal Community: LawNet2 Boleh!*

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"A three-year review process" [More than 500 provisions under Penal Code reviewed], *The Straits Times* (18 September 2007)

"At a glance: What's new, what's expanded" [List of key proposed changes to Penal Code], *The Straits Times* (18 September 2007)

Natalie Soh, "Big changes to Penal Code to reflect crime's changing nature", *The Straits Times* (18 September 2007)

Zakir Hussain, "Death penalty proposed for fatal bombing", *The Straits Times* (18 September 2007)

"Lawyer in 'cashback' scheme jailed three months", *The Straits Times* (18 September 2007)

Radha Basu, "Male homosexual sex to remain a crime", *The Straits Times* (18 September 2007)

Goh Chin Lian, "Rehiring: 'Reference manual' in two years" [National guidelines on rehiring to be drawn up ahead of re-employment law due in 2012], *The Straits Times* (18 September 2007)

Radha Basu, "Tougher laws against sexual predators" [Protection for kids from online predators], *The Straits Times* (18 September 2007)

Selina Lum, "Tougher penalties if crime motivated by race or religion", *The Straits Times* (18 September 2007)

Sumathi V Selvaretnam, "Fifty years of legal education in S'pore – captured in a book", *The Straits Times* (19 September 2007)

"J B Jeyaretnam back to practise law after seven-year hiatus", *The Straits Times* (19 September 2007)





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Selina Lum, "Alleged drug lord loses plea against detention" [Appeal by ex-lawyer held without trial under ministerial order rejected], *The Straits Times* (20 September 2007)

Money Kanagasabapathy, "Crime and punishment worries autistic boy's dad", *The Straits Times Forum* (20 September 2007)

Selina Lum, "JBJ gets cert to practise law again", *The Straits Times* (20 September 2007)

Wee Li-En, "KhattarWong signs agreement with Vietnam's PBC", *The Business Times* (20 September 2007)

"Probe claim of judge-fixing: KL Bar Council", *The Straits Times* (20 September 2007)

K C Vijayan, "S'pore ranked No 6 globally as arbitration centre", *The Straits Times* (20 September 2007)

Jeremy Au Yong, "Views divided, so gay sex law stays", *The Straits Times* (22 September 2007)

Mavis Toh, "Deterring online predators", *The Straits Times* (23 September 2007)

P Jayaram, "Indians 'losing faith in judiciary'" [India's "snail-paced judicial system" resulted in citizens taking law into own hands], *The Straits Times* (26 September 2007)

Hazlin Hassan, "Lawyers march in KL for justice" [Lawyers demand probe into claims of judge-fixing by a prominent lawyer], *The Straits Times* (27 September 2007)

Lee Hui Chieh, "Ignorance is no excuse for infecting others" [Changes to Infectious Diseases Act to hold those who do not know they are HIV-infected responsible for their actions], *The Straits Times* (28 September 2007)



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Salma Khalik, "Commentary: Here's the chance to take a close look at the Act" [Six weeks of public consultation on proposed changes to Infectious Diseases Act], *The Straits Times* (29 September 2007)

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Andy Ho, "Penal Code Amendments" [Article discussing the newly introduced term, "sexual grooming"], *The Straits Times* (29 September 2007)

Lee Hui Chieh, "Radical approach to tackle spread of AIDS" [Ignorance no longer an excuse for infecting others], *The Straits Times* (29 September 2007)

Leslie Lopez, "The talk in Kuala Lumpur: 'Judge-fixing' video clip", *The Straits Times* (29 September 2007)

Lee Hui Chieh, "Tough laws to fight disease outbreak sought", *The Straits Times* (29 September 2007)

Mavis Toh, "AIDS laws must close loopholes, says Balaji", *The Straits Times* (30 September 2007)

Carolyn Hong, "Judge-fixing video revives calls for revamp", *The Straits Times* (2 October 2007)

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"Jonathan Lock wins appeal" [Outcome of motor accident dispute "heartwarming in

all respects"], *The Straits Times* (5 October 2007)

Carolyn Hong, "KL panel to probe video 'toothless'" [Critics said team lacks power and questioned if government was even serious in investigating judge-fixing allegation], *The Straits Times* (5 October 2007)

Jenny Koh Geok Hwa, "Have guidelines on accident claims", *The Straits Times Forum* (6 October 2007)

Ben Nadarajan, "The Horizon Towers show" ["Star-studded line-up" of lawyers in collective sale dispute], *The Straits Times* (7 October 2007)

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Uma Shankari, "House okays changes to *en bloc* sale rules" [Parliament approved changes to Land Titles (Strata) Bill], *The Business Times* (21 September 2007)

"Malaysia out to ensure judicial integrity" [Independent three-man panel to investigate authenticity of judge-fixing video clip], *The Business Times* (26 September 2007)

"Consumer protection law to be beefed up", *The Business Times* (29 September 2007)

Michelle Quah, "Legal bigwigs wear funny hat to attract talent", *The Business Times* (29 September 2007)

Chen Huifen, "More powers for health minister" [Changes to Infectious Diseases Act], *The Business Times* (29 September 2007)

Tan Chong Huat, "Corporate ethics: Taking the balanced approach" [Discussion on merits of a code of ethics for listed companies], *The Business Times* (5 October 2007)



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Thomas Koshy, "An auditor is a watchdog, not a bloodhound" [Article discussing the liabilities of auditors and company directors], *Today* (19 September 2007)

Ansley Ng and Lee U-Wen, "More bite to fight terrorism" [Anti-money laundering and sensitive goods laws tightened], *Today* (20 September 2007)

Nazry Bahrawi, "Anwar's video 'exposé'" [Eight-minute clip purportedly linking judge to "appointment fixing" shown], *Today* (20 September 2007)

Lee U-Wen, "Helping NUS law grads stay relevant" [Faculty of Law conducting a brand assessment and audit], *Today* (21 September 2007)

Leong Wee Keat, "Jeyaretnam reinstated as an attorney after appeal is accepted", *Today* (21 September 2007)

Leong Wee Keat, "Three years on, new safety laws" [Building Control Act to tighten safety standards at work sites], *Today* (21 September 2007)

"Malaysian lawyers defy police in rare protest march", *Today* (26 September 2007)

Cheow Xin Yi, "Consumers get a say on proposed protection law", *Today* (29 September 2007)

Tan Hui Leng, "Know or don't know, it's still illegal" [Ignorance no longer an excuse for spreading HIV], *Today* (29 September 2007)



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Oon Yeoh, "Malaysian judiciary on trial"
[Confidence in judiciary eroded because of
recent judge-fixing allegation], *Today*
(3 October 2007)

Esther Fung, "Industry weighs new *en bloc*
rules" [Minority owners could get a higher
sales price if their objections to the sale are
valid], *Today* (4 October 2007)

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Appeal judges for information], *The New Paper* (4 October 2007)



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The Singapore Academy of Law Annual Lecture 2007: Australia's Contribution to the Development of the Common Law, Delivered by the Honourable Murray Gleeson AC, Chief Justice of Australia

By Goh Yihan and Nathaniel Khng, Justices' Law Clerks, Supreme Court of Singapore



The Honourable Murray Gleeson AC, Chief Justice of Australia, delivered the 14th Singapore Academy of Law Annual Lecture ("the Lecture") this year. The Lecture was held on Thursday, 20 September 2007 at the Supreme Court Auditorium to a capacity crowd. Gleeson CJ spoke on "Australia's

Contribution to the Development of the Common Law", with a focus on the work of the High Court of Australia. Many areas of the law were covered, including criminal law, equity, contract, tort and administrative law, and the landmark cases in each area were elucidated upon. In addition, some features of the Australian legal system and its history, relevant to an evaluation of Australian jurisprudence, were touched upon.

Much was learnt that evening about the various contributions made by the High Court of Australia to the common law. In response to recent attempts to label the High Court as radical or conservative,



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Gleeson CJ emphasised that judges did not harbour hidden political agendas and that such attempts were misguided. He stated that "[t]he court does not pursue self-consciously any intellectual or political fashion" and that "[d]evelopments in the common law, like reaffirmations of accepted principle, are generally made in the name of orthodoxy".

In elaboration, Gleeson CJ explained that the reason why the High Court was now more susceptible to over-simplified labelling was because of the changes in the type of

cases that now came before the court. With the requirement of leave before cases could come before the High Court, it was not surprising that the High Court is now expected to make decisions in relatively more controversial areas of the law, and hence is more likely to be labelled accordingly.

In concluding the Lecture, the Chief Justice reaffirmed his belief "that the manner in which the court sets about reaching, and justifying, a conclusion has always been ... orthodox".



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Law Society's Community Legal Clinics/Pro Bono Services Office

An important part of the Law Society's mission is to serve the community by facilitating access to justice. Over the years, the Law Society and its members have discharged this mission with honour and distinction through various *pro bono* schemes. The Criminal Legal Aid Scheme ("CLAS") for the poor in non-capital cases and Project Law Help for non-profit organisations requiring corporate legal advice are excellent examples of fruit born from an active spirit of volunteerism.

It was in this spirit of volunteerism that the Law Society undertook last year a review of legal aid and *pro bono* work in Singapore. The Law Society's Legal Aid Review Committee chaired by Jimmy Yim, SC and Malathi Das produced a comprehensive report and made a number of key

recommendations. Chief among these were that every practising lawyer should pledge at least 25 hours of *pro bono* work a year and that there should be established an office of *pro bono* services to co-ordinate and administer the Law Society's *pro bono* programmes.

With the support of the Ministry of Law, the Singapore Academy of Law and the Subordinate Courts, the Law Society's Pro Bono Services Office officially opened on 10 September 2007. Located on the fifth floor of the Subordinate Courts, the Pro Bono Services Office provides both a focal point for the Law Society's existing *pro bono* initiatives such as CLAS and Project Law Help, and a rallying point for new *pro bono* initiatives such as the Community Legal Clinics.



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The Community Legal Clinics started operations on 10 September 2007 and are targeted at needy Singaporeans and Permanent Residents not currently legally represented and who require basic legal advice on personal matters. These free legal clinics run on alternate days at the North-West and South-East Community Development Councils ("CDC"s) four nights a week, every week of the year. Support for volunteer lawyers by the *Pro Bono Services Office* includes: (a) conducting a pre-registration interview for clinic applicants to ascertain the nature of the advice sought; (b) sending volunteer lawyers a detailed list of cases for their assigned session a few days before, thereby giving them advance notice of the legal queries they will be answering; and (c) making relevant referrals to Family Services Centres or the National Council of Social Services ("NCSS") registered voluntary welfare organisations

for clinic attendees who may require psychological or sociological help.

The Community Legal Clinic project represents a deepened and strengthened commitment by the profession to ensure access to justice. Volunteers assisting in the administration of the clinics include law undergraduates from the NUS *Pro Bono* Group soon to be joined by volunteers from the inaugural batch of SMU law students, and law and management diploma students from Temasek Polytechnic. The initiative is also made possible with the support of the broader community, in particular the support of the North-West and South-East CDCs and the support of the NCSS and its network of Family Service Centres and voluntary welfare organisations.

Special mention should be made of the 17 law practices that have come forward to



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anchor the year-long pilot phase of the Community Legal Clinics. Ranging in size from five lawyers to over 200 lawyers, these firms are pillars supporting the profession's steadfast commitment to securing access to justice for the needy in our community. The list of practices in alphabetical order is as follows:

Clifford Law Corporation
Colin Ng & Partners
Drew & Napier LLC
Harry Elias Partnership
Kelvin Chia Partnership
Khattarwong
Lee & Lee
Rajah & Tann
Rodyk & Davidson LLP

Shook Lin & Bok LLP
Straits Law Practice LLC
Tan Kok Quan Partnership
Tan Peng Chin LLC
Tan Rajah & Cheah
TSMP Law Corporation
Wong & Leow LLC
WongPartnership

As can be seen, the Community Legal Clinics are a striking example of how the various stakeholders in our legal community can work hand in hand for the public good. They provide an excellent model for future *pro bono* initiatives as well as a springboard for the Law Society to reach needy segments of our population.



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Presenting Singapore's Premiere Legal Research Resource to the Malaysian Legal Community: LawNet2 Boleh!

By Clifford Wong, Assistant Director, LawNet, Singapore Academy of Law

LawNet2 was officially launched at the 14th Malaysian Law Conference held at the Kuala Lumpur Convention Centre from 29 to 31 October 2007.

Justice Lee Seiu Kin, in his capacity as Chairman of the LawNet Management Committee, was on hand for the launch and a speech at the special luncheon on the opening day of the Malaysian Law Conference. Also in attendance was Ms Serene Wee, Chief Executive of SAL who said, "LawNet has proven to be a valuable online legal research tool to the legal community of Singapore. I am confident that it will prove to be an equally valuable research instrument to the Malaysian legal community."

"The Malaysian Bar Council is pleased to endorse Legal Workbench. Legal Workbench will be of great benefit to Malaysian legal practitioners, academics and researchers alike."

Lim Chee Wee, Secretary of the Malaysian Bar Council

LawNet2 is marketed under the longstanding brand of Legal Workbench – a legal touchstone of the Singapore community for the past decade and a local standard for excellence in legal research. Legal content from the Malaysian Bar, including its publications, *Praxis* and *Insaf*, is now fully available and searchable within LawNet2. Other Malaysian-specific content in the form of legal updates will also be featured within LawNet2 soon. In addition, the integration



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of English case law (*Weekly Law Reports* and *Law Reports*, from 1865 onwards) and the interlink of Singaporean and Malaysian material with English common law content makes LawNet2 the indispensable legal research tool for both Singaporean and Malaysian users.

Watch this space for more details about the launch in December's *Inter Se!*

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- The Law on Corruption in Singapore: Cases and Materials

► Tech Law Update

- First US Decision on Illegal File-sharing

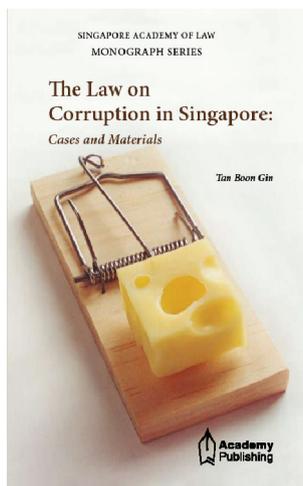
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- Singapore Academy of Law Postgraduate Scholarships

The Law on Corruption in Singapore: Cases and Materials



Written by Tan Boon Gin, a former Deputy Public Prosecutor with considerable practical experience in the prosecution of defendants, *The Law on Corruption in Singapore: Cases and Materials* covers 26 major court decisions concerning various aspects of the law on corruption. It examines how the law of corruption in Singapore has evolved from

its paradigm involving a breach of duty to include the perversion of justice and, most recently, marriages of convenience. This book also deals with practical evidential issues including the *indicia* that the courts have looked to in determining the existence of a corrupt element in law and in fact. The author has sought to reconcile the myriad cases by ordering the relevant extracts and linking them through explanatory notes to give the practitioner a clear and accessible guide to the law.

The Law on Corruption in Singapore: Cases and Materials is a joint publication by Academy Publishing and the Subordinate Courts.

Get your copy today. For enquiries, please contact Pauline at tel: (65) 6332 0056/(65) 9276 6305 or at pauline_wong@sal.org.sg.





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First US Decision on Illegal File-sharing

By Tan Chuan Huei

On 5 October 2007, a court in the US ordered a woman to pay US\$222,000 for file-sharing music without the authority of copyright owners. The defendant, Ms Jammie Thomas, was ordered to pay US\$9,250 in statutory damages for each song shared online. The case is significant because it is the first lawsuit initiated by the Recording Industry Association of America ("RIAA") against a file-sharer that was litigated. According to news reports, more than 20,000 suits have been filed by RIAA against illegal file-sharers but most have been settled privately by the defendants paying several thousand dollars in damages.

Ms Thomas's defence was that she did not offer to share any songs online but that her IP address had been spoofed or hacked by others. RIAA, however, managed to convince the jury otherwise by producing evidence

of the defendant having used the same screen-name across several online services and e-mail accounts, a password-protected PC that only she had access to, and her "eclectic musical tastes".

Under US copyright law, those who upload music using P2P technology without the copyright owner's permission violate his right of distribution in that the music becomes available for downloading by the public. Those who download files containing the copyrighted music violate the right of reproduction in that copies are made in their computers. Anyone found to have infringed a copyrighted work may be liable to statutory damages of up to US\$30,000 for each work infringed and, if wilful infringement is proven by the copyright owner, that amount may be increased to US\$150,000 for each work infringed.





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This case bears a strong resemblance to Odex's actions against Internet users in Singapore for downloading *anime* (Japanese animated movies and series) via the BitTorrent network.

Odex is a Singapore company that releases *anime* for the local market. In 2007, it began lawsuits against persons who downloaded *anime* that were sub-licensed to it. In the course of its actions, Odex also applied for pre-action discovery of documents for local Internet service providers to reveal their subscribers' information for the purposes of its suits against the downloaders. One of these applications was unsuccessful because, among other things, the court held that Odex was neither the copyright owner nor the exclusive licensee for most of the titles, and that it had failed to adduce sufficient evidence to make out a strong *prima facie* case of wrongdoing.

But the outcome could well have been similar to the *RIAA* case if the copyright owner (as in the *RIAA* case) had filed the suit itself and was able to adduce sufficient evidence of unauthorised downloading of its copyrighted works on the network in question. By downloading copyrighted works using P2P technology without the copyright owner's permission, the right of reproduction under s 26 of the Singapore Copyright Act will be infringed. Similar to US copyright law, the court may award statutory damages of S\$10,000 for each work or subject matter infringed, subject to a maximum of S\$200,000.

It remains to be seen whether a downloader can make out a defence against an infringement action under the Copyright Act. It has been suggested by Associate Professor Burton Ong of the National University of Singapore, in a letter to *The*



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Straits Times, that a possible defence is the as-yet untested fair dealing defence under s 35 of the Copyright Act (an equivalent for subject matter other than works is found in s 109).

Under s 35, a fair dealing with a work is not an infringement of the copyright in the work. The Act goes on to set out a list of factors which may be used in determining whether a dealing is fair, such as the purpose and character of the dealing, the amount copied, the effect of the work on the potential market and the possibility of obtaining the work at a reasonable time at an ordinary commercial price. *Anime* owners may possibly be able to invoke this defence if they can show, for example, that the copies distributed by Odex are of a poor quality and they are unable to get decent quality copies elsewhere in Singapore, and that the potential market for *anime* in Singapore is actually boosted rather than undermined by their actions.

However, if US case law on s 107 of their Copyright Law (on which our s 35 is substantially based) is followed, defendants will face an uphill task in making out the defence. The court in the case of *A & M v Napster Inc* 239 F3d 1004 (9th Cir, 2001) held that the use of Napster's file-sharing program to download and transmit music files did not amount to fair use within the meaning of s 107. It found that a Napster subscriber engaged in a commercial rather than personal use of a sound recording when he transmitted an MP3 file to an anonymous requester on the ground that this saves the latter the expense of purchasing an authorised copy. A direct economic benefit is not required to demonstrate a commercial use. The court also found that file-sharing on Napster had adversely affected the market for CD sales and online distribution of music.

Needless to say, the ongoing Odex litigation will be closely watched by Singaporean lawyers – and file-sharers!



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Upcoming Events for SAL Members

“Beyond Hair” with Keratase Hairspa and Makeover for the Festive Season, by Mahogany

Date : 2 and 9 Nov

Time : 6.30pm–10.00pm

Venue : Mahogany at 3 Killiney Rd, #01-04/05 Winsland House 1

SAL Evening at the Singapore Repertory Theatre – The Pillowman

Date : 16 Nov

Time : 7.15pm

Venue : Singapore Repertory Theatre, DBS Arts Centre, Home of Singapore Repertory Theatre at 20 Merbau Road

SAL Movie Night – The Kingdom

Date : 22 Nov

Time : 7.30pm

Venue : Eng Wah Cinemas at Suntec

SAL Charity Project with Melrose Home

Date : 7 Dec

Time : TBC

Venue : Supreme Court

For more information, please visit www.sal.org.sg.



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- *Singapore Academy of Law Postgraduate Scholarships*

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 from both the National University of Singapore and New York University.

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.

Application forms may be downloaded from the SAL website www.sal.org.sg or obtained from:

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

The closing date for applications has been extended to **12.30pm, 1 December 2007 (Saturday)**.

For more details, please contact Ms Sheeba Said at tel: (65) 6332 4068.





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The **Terrorism (Suppression of Bombings) Bill** (No 37/2007) seeks to suppress terrorist bombings and to enable Singapore to ratify and give effect to the International Convention for the Suppression of Terrorist Bombings adopted by the General Assembly of the United Nations on 15 December 1997 ("the Convention"). The Bill, amongst other things —

- (a) makes it an offence to deliver, place, discharge or detonate an explosive or other lethal device in, into or against an infrastructure facility, a place of public use, a public transportation system or a State or government facility with intent to cause death, serious bodily injury or extensive destruction likely to result in major economic loss;
- (b) provides that every person in Singapore who has information which he knows or believes may be of material assistance

in preventing the commission of a terrorist bombing offence, or in securing the apprehension, prosecution or conviction of a person for such offence, must inform a police officer;

- (c) provides that in the provision of mutual legal assistance to a foreign country for a criminal matter involving an offence corresponding to an offence under the Bill, that offence will be deemed not to be an offence of a political character;
- (d) provides that terrorist bombing offences will be extraditable offences;
- (e) provides that every person who, outside Singapore, commits an act or omission that, if committed in Singapore, would constitute a terrorist bombing offence is deemed to commit the act or omission in Singapore and may be proceeded against, charged, tried and punished accordingly; and



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- (f) provides that no prosecution under the Bill may be instituted except by or with the consent of the Public Prosecutor.

The **Penal Code (Amendment) Bill** (No 38/2007) seeks to amend the Penal Code (Cap 224) for the following main purposes:

- (a) to provide that the sentence of life imprisonment means imprisonment for the duration of the offender's life;
- (b) to provide caning as a punishment for certain offences;
- (c) to increase existing penalties for various offences as some of the penalties (especially the fines) are too low and to give flexibility to the judiciary in sentencing;
- (d) to create new offences relating to —
 - (i) genocide;
 - (ii) obstructing, preventing, perverting or defeating the course of justice;
 - (iii) bribery of witnesses;
 - (iv) making or possessing equipment for making a false instrument;

- (v) making or possessing equipment for making a false instrument with intent to induce prejudice;
- (vi) promoting enmity between different groups on grounds of religion or race and doing acts prejudicial to maintenance of harmony;
- (vii) kidnapping or abducting in order to compel the Government, etc.;
- (viii) sexual assault by penetration;
- (ix) sexual penetration of a minor under 16 years of age;
- (x) commercial sex with a minor under 18 years of age (whether within or outside Singapore);
- (xi) tours outside Singapore for commercial sex with minors under 18 years of age;
- (xii) sexual grooming of a minor under 16 years of age;
- (xiii) procurement of sexual activity with person with certain mental disability; and
- (xiv) sexual penetration of a corpse;

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- (e) to provide for enhanced penalties for racially or religiously aggravated offences;
- (f) to provide for an enhanced penalty for outrage of modesty committed against a child under 14 years of age;
- (g) to modify the offence of rape and provide for exceptions to the husband's marital immunity from rape;
- (h) to modify the offence of sexual penetration with a living animal (which offence is currently contained in the existing s 377);
- (i) to modify the offence of incest;
- (j) to expand the scope of the offences of unlawful assembly, extortion and cheating;
- (k) to expand the scope of the defence in s 94 (Act to which a person is compelled by threats);
- (l) to provide for extra-territorial jurisdiction over public servants who, being citizens of Singapore or permanent residents of Singapore, commit crimes outside Singapore when acting or purporting to act in the course of their employment;
- (m) to clarify the scope of abetment of offences, criminal conspiracy and attempts to commit offences;
- (n) to update certain offences to make clear that the offences can be committed using electronic means;
- (o) to expand the scope of certain offences to cover electronic records;
- (p) to expand the circumstances under which a consent is not a consent within the meaning of the Code;
- (q) to delete the reference to Malaysia and Brunei Darussalam in s 75 (Punishment of persons convicted, after a previous conviction, of an offence punishable with three years' imprisonment);
- (r) to provide new illustrations to ss 79 (Act done by a person justified, or by mistake of fact believing himself justified by law) and 81 (Act likely to cause harm but done without a criminal intent, and to prevent other harm);



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- (s) to increase the age of the person to whom an obscene object is sold, distributed, etc, from 20 years to 21 years in s 293 (Sale, etc, of obscene objects to young person); and
- (t) to update certain definitions and illustrations.

The Bill also seeks to make related and consequential amendments to the Children and Young Persons Act (Cap 38), the Criminal Law (Temporary Provisions) Act (Cap 67), the Evidence Act (Cap 97), the Public Order (Preservation) Act (Cap 258), the Road Traffic Act (Cap 276), the Road Vehicles (Special Powers) Act (Cap 277), the Singapore Armed Forces Act (Cap 295) and the Women's Charter (Cap 353).

The **Chemical Weapons (Prohibition) (Amendment) Bill** (No 39/2007) seeks to amend the Chemical Weapons (Prohibition)

Act (Cap 37B) for the following main purposes:

- (a) to designate the Director-General of Customs ("the Director-General") as the person responsible for the administration of the Act, in place of the Director for the Prohibition of Chemical Weapons;
- (b) to enable the Director-General to appoint any person as an authorised officer with the approval of the Minister for the purposes of the Act;
- (c) to exclude, from the requirement for a licence to do certain acts involving a scheduled chemical or an unscheduled discrete organic chemical, acts involving a mixture containing that chemical in low concentration; and
- (d) to enable regulations to be made to provide for appeals to the Minister against decisions of the Director-General not to grant, renew or extend a licence, or to suspend or cancel a licence.



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The **Education Endowment Scheme (Amendment No 2) Bill** (No 40/2007) seeks to amend the Education Endowment Scheme Act (Cap 87A) for the following main purposes:

- (a) to make refinements to the Education Endowment Scheme;
- (b) to authorise the payment into the Edusave Endowment Fund ("the Endowment Fund") of any moneys which the Minister has authorised to be transferred from the Edusave Pupils Fund;
- (c) to provide for the income of the Endowment Fund to be used, among other things, for —
 - (i) the provision of grants to any prescribed educational institution to enable it to enhance its quality of teaching;
 - (ii) the provision of scholarships to full-time pupils at any prescribed educational institution; and
 - (iii) the provision of contributions and additional income to the Edusave Pupils Fund;
- (d) to empower the Minister to authorise the transfer to the Endowment Fund of any moneys in the Edusave Pupils Fund which, in his opinion, are not immediately required to meet the purposes of the Edusave Pupils Fund; and to provide that the moneys so transferred will not form any part of the capital money of the Endowment Fund but will, for certain purposes, be deemed to form part of the income of the Endowment Fund;
- (e) to empower the Minister to determine, without prescribing in regulations, the rate of interest payable on the amount standing in an Edusave account;
- (f) to provide for the establishment of the Post-Secondary Education ("PSE") Scheme (a scheme to promote savings for post-secondary education);



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- (g) to provide for the establishment of the PSE Fund and for the appointment of an officer (the PSE Scheme Administrator) by the Minister to administer that Fund on behalf of the Minister;
- (h) to provide for the transfer of the sum standing to the credit of a person in his Edusave account to his PSE account, instead of his ordinary account under the Central Provident Fund Act (Cap 36), and for him to thereupon cease to be a member of the Edusave Pupils Fund;
- (i) to provide for the criteria for membership of the PSE Fund and for the payment of contributions and interest to eligible members of the PSE Fund;
- (j) to clarify that any moneys paid into the PSE account of a member of the PSE

Fund will belong to the member not absolutely but subject to the Act, in so far as the Act provides for the refund, withdrawal, transfer or utilisation of any sum contributed to or standing in a PSE account; and

- (k) to prevent any contribution by a parent of a member of the PSE Fund from constituting a transaction at an undervalue or an unfair preference under s 98 or 99 of the Bankruptcy Act (Cap 20), or forming part of the estate of the parent, if the parent has been adjudged bankrupt.

The Bill also makes certain related amendments to the Children Development Co-Savings Act (Cap 38A).

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The **Employment of Foreign Manpower (Levy) (Amendment) Order 2007**

(GN No S 471/2007, wef 15 September 2007) amends the Employment of Foreign Manpower (Levy) Order 2007 (GN No S 343/2007) to allow for changes in the levy payable in respect of any foreign domestic worker whose employer (or any specified family member of the employer) has a disability.

The Info-communications Development Authority of Singapore has, by the **Postal Services (Designated Postal Licensees) Notification 2007** (GN No S 472/2007, wef 10 September 2007), declared Singapore Post Limited and any other public postal licensee to be designated postal licensees for the purposes of Pt IVA of the Postal Services Act (Cap 237A).

With reference to the Notification relating to the Auxiliary Police Forces (Cap 235,

N 1), the **Notification relating to Change of Name of Auxiliary Police Force** (GN No S 480/2007, wef 14 September 2007) notifies that the name of "The Commercial and Industrial Security Corporation Auxiliary Police Force" has been changed to "Certis CISCO Auxiliary Police Force".

The Minister for Finance has, by an **Order under Section 6(1)** (GN No S 528/2007) of the Developmental Investment Fund Act (Cap 79), directed —

- (a) that an account within the Developmental Investment Fund, called the Research and Development Fund Account, be established on 29 June 2001, comprising moneys in the Fund allocated in support of research and development in Singapore; and
- (b) that the Research and Development Fund Account be placed under the control, supervision and management of the Minister for Trade and Industry.



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Environmental Pollution Control (Amendment) Act 2007 (Act 26 of 2007) (Section 5 wef 1 October 2007 by GN No S 277/2007)

Central Provident Fund (Amendment) Act 2007 (Act 40 of 2007) (wef 1 October 2007 by GN No S 501/2007 except ss 5(1)(d) and (2), 6(a), (b), (d) and (f), 7(2), 8(c) and (d), 12 and 25(b))

Land Titles (Strata) (Amendment) Act 2007 (Act 46 of 2007) (wef 4 October 2007 by GN No S 529/2007)

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Revision of Subsidiary Legislation

The Law Revision Commissioners have published, in loose-leaf form, the October 2007 Revised Edition of Subsidiary Legislation made under the following Acts (wef 1 October 2007 by GN No S 520/2007), incorporating all the amendments up to 1 September 2007:

Agri-Food and Veterinary Authority Act (Cap 5)

- (a) Agri-Food and Veterinary Authority (Certification Marks) Regulations (Rg 1) (S 56/2004)
- (b) Agri-Food and Veterinary Authority (Certification Mark) Notification (N 1) (S 57/2004)
- (c) Agri-Food and Veterinary Authority (Certification Mark) (No 2) Notification (N 2) (S 218/2004)
- (d) Agri-Food and Veterinary Authority (Certification Mark) (No 3) Notification (N 3) (S 323/2004)

Animals and Birds Act (Cap 7)

- (a) Animals and Birds (Dog Licensing and Control) Rules (R 1) (S 413/2007)
- (b) Animals and Birds (Quarantine) Rules (R 6) (S 283/88)
- (c) Animals and Birds (Veterinary Fees) Rules (R 8) (S 140/97)
- (d) Animals and Birds (Care and Use of Animals for Scientific Purposes) Rules (R 10) (S 668/2004)
- (e) Animals and Birds (Prohibition of Live Poultry on Pulau Ubin) Rules (R 11) (S 336/2005)
- (f) Animals and Birds (Prevention of Avian Disease in Non-Commercial Poultry) Rules (R 12) (S 534/2006)

Arms and Explosives Act (Cap 13)

- (a) Arms and Explosives (Arms) Rules (R 1) (S 414/2006)





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- (b) Arms and Explosives (Explosives) Rules (R 2) (S 415/2006)
- (c) Appointment of Licensing Officer and Assistant Licensing Officers (N 2) (684/2003)

Deposit Insurance Act (Cap 77A)

- (a) Deposit Insurance (Composition of Offences) Regulations (Rg 1) (S 7/2006)
- (b) Deposit Insurance Regulations (Rg 2) (S 8/2006)
- (c) Deposit Insurance (Designation of Deposit Insurance Agency) Notification (N 1) (S 60/2006)
- (d) Deposit Insurance (Effective Date) Notification (N 2) (S 181/2006)

Limited Liability Partnerships Act (Cap 163A)

- (a) Direction under Section 19(1)(d) (Dir 1) (1669/2007)

Patents Act (Cap 221)

- (a) Patents (Composition of Offences) Regulations (Rg 1) (S 227/2001)
- (b) Patents Rules (R 1) (S 1/95)

Payment Systems (Oversight) Act (Cap 222A)

- (a) Payment Systems (Oversight) Regulations (Rg 1) (S 332/2006)
- (b) Payment Systems (Oversight) (Composition of Offences) Regulations (Rg 2) (S 333/2006)
- (c) Payment Systems (Oversight) (Exemption) Regulations (Rg 3) (S 334/2006)
- (d) Payment Systems (Oversight) (Singapore Dollar Cheque Clearing System and Inter-bank GIRO System) Regulations (Rg 4) (S 335/2006)
- (e) Payment Systems (Oversight) (Transitional and Savings Provisions) Regulations (Rg 5) (S 336/2006)

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- (f) Payment Systems (Oversight) (Designated Payment Systems) (Consolidation) Order (O 1) (S 337/2006)
- (g) Payment Systems (Oversight) (Exclusion of Single Purpose Stored Value Facilities) Order (O 2) (S 338/2006)

Planning Act (Cap 232)

- (a) Planning (Use Classes) Rules (R 2) (S 371/2001)
- (b) Planning (Development Charges) Rules (R 5) (S 174/98)
- (c) Planning (Fees) Rules (R 7) (S 375/98)
- (d) Planning (Declaration by Qualified Person) Rules (R 11) (S 777/2005)
- (e) Planning (Deferment of Payment of Development Charge by Charities) Rules (R 12) (S 496/2006)
- (f) Planning (Development of Land Authorisation for Housing and Development Board and Jurong Town Corporation) Notification (N 2) (S 544/97)

- (g) Appointment of Competent Authority (N 7) (S 110/2001)
- (h) Planning (Development of Land Authorisation for National Parks Board) Notification (N 8) (S 127/2004)
- (i) Planning (Exemption under Section 53) (Consolidation) Notification (N 9) (S 20/2005)
- (j) Planning (Child Care Centre — Authorisation) Notification (N 10) (S 136/2005)
- (k) Planning (Subdivision of Building — Authorisation) Notification (N 11) (S 700/2005)
- (l) Planning (Exemption under Section 53) (No 2) Notification (N 12) (S 203/2007)

Supreme Court of Judicature Act (Cap 322)

- (a) Supreme Court (Estate Duty Act) Rules (R 1) (S 807/2005)

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(b) Supreme Court (Presidential Elections) (Application for Avoidance of Election) Rules (R 7) (S 808/2005)

(c) Supreme Court of Judicature (Transfer of Matrimonial, Divorce and Guardianship of Infants Proceedings to District Court) Order (O 1) (S 855/2005)

(d) Supreme Court of Judicature (Transfer of Proceedings pursuant to Section 17A(2)) Order (O 2) (S 631/2004)

(e) Interest Rate on Money Lodged in Court (N 4) (S 106/2002)

(f) Notification under Section 11(1) (N 5) (S 394/2005)

(g) Notification under Section 32(1) (N 6) (S 395/2005)

Workplace Safety and Health Act (Cap 354A)

(a) Workplace Safety and Health (General Provisions) Regulations (Rg 1) (S 134/2006)

(b) Workplace Safety and Health (Registration of Factories) Regulations (Rg 2) (S 135/2006)

(c) Workplace Safety and Health (Incident Reporting) Regulations (Rg 3) (S 136/2006)

(d) Workplace Safety and Health (First-Aid) Regulations (Rg 4) (S 137/2006)

(e) Workplace Safety and Health (Offences and Penalties) (Subsidiary Legislation under Section 66(14)) Regulations (Rg 5) (S 138/2006)

(f) Workplace Safety and Health (Composition of Offences) Regulations (Rg 6) (S 139/2006)

(g) Workplace Safety and Health (Transitional Provision) Regulations (Rg 7) (S 140/2006)

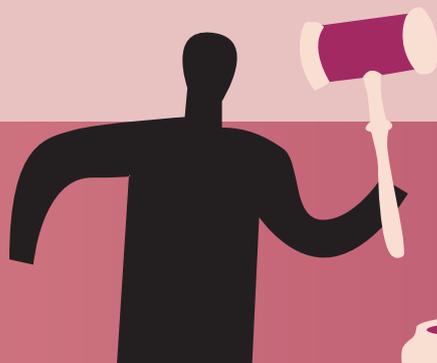
(h) Workplace Safety and Health (Risk Management) Regulations (Rg 8) (S 141/2006)

(i) Workplace Safety and Health (Workplace Safety and Health Officers) Regulations (Rg 9) (S 373/2007)

(j) Workplace Safety and Health (Exemption) Order (O 1) (S 142/2006)

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Misrepresentation — Allegation of negligent misrepresentation — Whether alleged representation was a statement of fact or merely a promise to do something in the future — Section 2(1) Misrepresentation Act (Cap 390, 1994 Rev Ed)

Tipper Corp Pte Ltd v JTC Corporation [2007] SGHC 67

Remedies — Damages — Costs incurred from a breach of contract by one party sought as damages by the innocent party — Whether such costs were direct costs that flowed directly and naturally from the breach

RDC Concrete Pte Ltd v Sato Kogyo (S) Pte Ltd and another appeal [2007] SGCA 39

Remedies — Damages — When damages awarded in lieu of specific performance

Lee Chee Wei v Tan Hor Peow Victor and others and another appeal [2007] SGCA 22

Remedies — Specific performance — Contract for sale of shares in company pursuing public listing — Whether specific performance an appropriate remedy — Circumstances in which specific performance will be granted

Lee Chee Wei v Tan Hor Peow Victor and others and another appeal [2007] SGCA 22

Criminal Procedure and Sentencing

Sentencing — Principles — Cases as guidelines for sentencing — Distinction between rape *simpliciter* and aggravated rape — Aggravating factors for rape — Whether other aggravating factors exist for rape besides those provided by



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legislature — Whether forgiveness given by victim should be mitigating factor — Sections 376(1) and 376(2) Penal Code (Cap 224, 1985 Rev Ed)

Public Prosecutor v UI [2007] SGHC 139

Sentencing — Principles — Prosecutorial discretion to proceed with certain charges — Section 18 Criminal Procedure Code (Cap 68, 1985 Rev Ed)

Public Prosecutor v UI [2007] SGHC 139

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District Court — Jurisdiction in actions of contract and tort — Statutory limit of \$250,000 for amount of damages District Court can order — Consent interlocutory judgment wherein tortfeasor accepted 70% liability — Whether victim can recover up to \$250,000 or only 70% of \$250,000 as

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Ng Chan Teng v Keppel Singmarine Dockyard Pte Ltd [2007] SGHC 148

Family Law

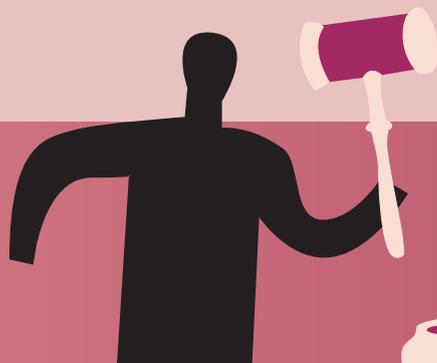
Maintenance — Wife — Quantum of maintenance — Matters to be considered — Broad brush approach taken — Section 114 Women's Charter (Cap 353, 1997 Rev Ed)

UE v UF [2007] SGHC 134

Matrimonial assets — Division — Apportionment of assets — Conflicting versions of facts and events — Whether parties' assertions substantiated by documentation — Relevance of dual role of wife as homemaker and primary caregiver to children in division of matrimonial assets

UE v UF [2007] SGHC 134





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Bankruptcy — Offences — Undischarged bankrupt obtaining credit without disclosing bankruptcy status — Whether the defence of innocent intention is satisfied — Sections 141(1)(a) and 133 Bankruptcy Act (Cap 20, 2000 Rev Ed)

Public Prosecutor v Low Kok Heng [2007] SGHC 123

Bankruptcy — Proof of debt by creditor — Whether sufficient evidence furnished to support proof — Rule 174 Bankruptcy Rules (Cap 20, R1, 2006 Rev Ed)

Re Lee Kim Kiat [2007] SGHC 146

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by operative clause of policy — Whether exclusion clauses in policy excluded liability of insurer — Circumstances where court will intervene to deny efficacy of exclusion clause in policy

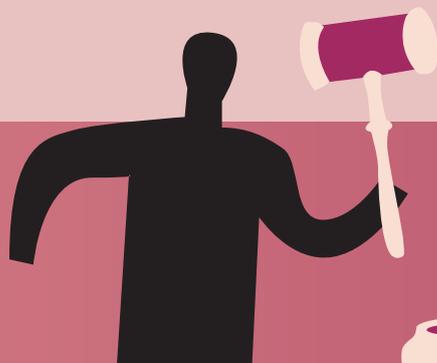
B-Gold Interior Design & Construction Pte Ltd v Zurich Insurance (Singapore) Pte Ltd [2007] SGHC 126

Legal Profession

Disciplinary procedures — Whether the evidence was inadmissible because it was illegally or improperly obtained — Whether motive of law firm instigating sting operation was relevant

Wong Keng Leong Rayney v Law Society of Singapore [2007] SGCA 42

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years from date of striking-off order — Previously convicted of corruption — Grounds for application for restoration to roll — Whether applicant fit to have his name restored on the roll — Section 102 Legal Profession Act (Cap 161, 2001 Rev Ed)

Narindar Singh Kang v Law Society of Singapore [2007] SGHC 145

Professional conduct — Breach — Lawyer paying referral fee to estate agent in fictitious conveyancing transaction — Sections 83(2)(d), 83(2)(e) and 83(2)(h) Legal Profession Act (Cap 161, 2001 Rev Ed), r 11A(2)(b) Legal Profession (Professional Conduct) Rules (Cap 161, R 1, 2000 Rev Ed)

Wong Keng Leong Rayney v Law Society of Singapore [2007] SGCA 42

Show cause action — Respondent failing to maintain any books or accounts for one

year — Respondent unrepresented and absent from disciplinary committee proceeding and show cause hearing — Whether respondent's conduct amounting to grossly improper conduct — Appropriate penalty — Section 83(2)(b) Legal Profession Act (Cap 161, 2001 Rev Ed), Rule 11 Legal Profession (Solicitors' Accounts) Rules (Cap 161, R 8, 1999 Rev Ed)

Law Society of Singapore v Tay Eng Kwee Edwin [2007] SGHC 114

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Extension of limitation period — Acknowledgement — Whether there was effective acknowledgement — Section 26(1) Limitation Act (Cap 163, 1996 Rev Ed)

Takako Murakami (executrix of the estate of Takashi Murakami Suroso, deceased) v Wiryadi Louise Maria and others [2007] SGCA 43



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Lim Ah Neu v Tan Tiow Jin [2007] SGHC 135

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Income taxation — Accounting — Husband and wife buying eight residential properties and selling seven of them in eight years — Whether property sales amounting to trade — Section 10(1)(a) Income Tax Act (Cap 134, 2004 Rev Ed)

NP and another v Comptroller of Income Tax [2007] SGHC 141

Income taxation — Appeals — Approach of the court — Issue of whether buying and selling properties amounting to trading —

Whether issue one of mixed fact and law — Section 81(2) Income Tax Act (Cap 134, 2004 Rev Ed)

NP and another v Comptroller of Income Tax [2007] SGHC 141

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Construction of statute — Purposive approach — Whether the strict construction rule of penal statutes applied

Public Prosecutor v Low Kok Heng [2007] SGHC 123

Interpretation Act — Ambiguity — Extrinsic aids — Purposive approach — Whether the purposive approach applied — Whether extrinsic aids can be relied upon — Section 9A Interpretation Act (Cap 1, 2002 Rev Ed)

Public Prosecutor v Low Kok Heng [2007] SGHC 123



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Negligence — Contributory negligence — Motorcyclist and bus colliding in intersection — Motorcyclist killed in collision — Whether motorcyclist contributorily negligent by proceeding straight across intersection even though traffic light green in his favour — Whether motorcyclist's blood alcohol concentration of 68mg/100ml rendering him unfit to ride at time of accident

SBS Transit Ltd v Stafford Rosemary Anne Jane (administratrix of the estate of Anthony John Stafford, deceased) [2007] SGCA 7

Negligence — Contributory negligence — Relief via s 391 Companies Act or plea of contributory negligence dependent on circumstances of case and different threshold requirements — Whether auditors failed to act honestly, reasonably and in good faith — Attribution of fault between directors and auditors based on respective culpability

JSI Shipping (S) Pte Ltd v Teofoongwonglclloong (a firm) [2007] SGCA 40

Negligence — Duty of care — Auditors — Standard required under contract, statutes or regulations — Weight to be attributed to expert evidence relating to conduct of the audit — Applicability of relevant auditing standards of the governing professional body — Whether auditors obtained independent verification and reasonable assurance — Sections 205 and 207 Companies Act (Cap 50, 1994 Rev Ed)

JSI Shipping (S) Pte Ltd v Teofoongwonglclloong (a firm) [2007] SGCA 40

Negligence — Duty of care — Breach of duty — Causation — Contributory negligence — Damages — Whether auditor owes duty to detect fraud — Whether auditor breached duty in performance of audit — Whether auditor's breach, if any, caused plaintiff's loss — Appropriate quantum of damages which plaintiff is entitled to — Whether plaintiff contributorily negligent

PlanAssure PAC (formerly known as Patrick Lee PAC) v Gaelic Inns Pte Ltd [2007] SGCA 41



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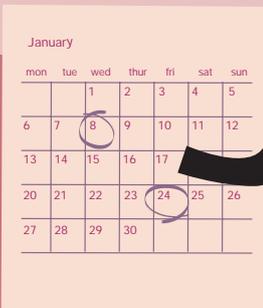
TRAININGS AND WORKSHOPS CALENDAR FROM NOVEMBER 2007

DATE	TOPIC	SPEAKER(S)/TRAINER(S)	ORGANISER(S)
5 Nov (Mon) 1.30pm–5.30pm	Adobe 8.0	NTUC Learning Hub	LTC
5 Nov (Mon) 2.30pm–5.00pm	Virtual World, Virtual Land but Real Property	Professor Yee Fen Lim, Galexia and Visiting Professor at the Faculty of Law, National University of Singapore	Faculty of Law, NUS and LES
7 Nov (Wed) 12.30pm–2.00pm	SAL Expert Series Talks: Indonesia-Singapore Relations Talk (Venue: Mediation Chamber 1)	Associate Professor Leonard C Sebastian	PAC
12–14 Nov (Mon–Wed) 9.00am–5.00pm	EFS FE Full Course	Clifford Leslie Nonis, Crimson Logic	LTC
15 Nov (Thu) 12.30pm–2.00pm	SAL Expert Series Talks: The Advocate and Solicitor and His Client (Venue: Level 8 Viewing Gallery)	Professor Jeffrey D Pinsler, Faculty of Law, National University of Singapore	PAC
19 Nov (Mon) 1.30pm–5.30pm	STARS e-Lodgement	Serena Lim, BiziBody	LTC



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DATE	TOPIC	SPEAKER(S)/TRAINER(S)	ORGANISER(S)
20 Nov (Tue) 9.00am–12.00pm	EFS Phase 4B	Clifford Leslie Nonis, Crimson Logic	LTC
21 Nov (Wed) 9.30pm–5.30pm	LawNet Services at a Glance	Clifford Leslie Nonis, Crimson Logic	LTC
22 Nov (Thu) 9.00am–5.00pm	EFS ROC Phase 1 and 2	Clifford Leslie Nonis, Crimson Logic	LTC
27 Nov (Tue) 9.00am–5.00pm	LawNet Conveyancing: Intereq and STARS e-Lodgement	Clifford Leslie Nonis, Crimson Logic	LTC
28 Nov (Wed) 2.30pm–5.00pm	An Examination of the Recent Penal Code Amendments and Its Impact on the Practice of Criminal Law	Professor Michael Hor, Faculty of Law, National University of Singapore	LES
28, 30 Nov (Wed, Thu) 9.30am–12.30pm	LawNet Portal Administrator	Clifford Leslie Nonis, Crimson Logic	LTC
28, 30 Nov (Wed, Thu) 2.30pm–5.30pm	LawNet2 Portal User	Clifford Leslie Nonis, Crimson Logic	LTC



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DATE	TOPIC	SPEAKER(S)/TRAINER(S)	ORGANISER(S)
29 Nov (Thu) 12.30pm–2.00pm	SAL Expert Series Talks: Talk on the US Presidential Elections (Venue: Level 8 Viewing Gallery)	Patricia L Herbold, US Ambassador to the Republic of Singapore	PAC
18 Jan (Fri) 1.40pm–5.30pm	Protection of Creditors' Interests in Insolvency	Andrew Chan, Allen & Gledhill; Lee Eng Beng, Rajah & Tann; Associate Professor Tey Tsun Hang and Assistant Professor Wee Meng Seng, both of Faculty of Law, National University of Singapore	Faculty of Law, NUS and LES
12 Feb (Tue) 12.00noon–2.00pm	SAL Expert Series: Life as a Corporate Counsel	Singapore Corporate Counsel Association (SCCA)	LES

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 www.sal.org.sg.

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

Professional Affairs (PAC):

Rebecca Sit at tel: (65) 6332 0078 or pac_events@sal.org.sg

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

