
FIRST SCHEDULE

Rule 2

CODE OF ETHICS**Application**

- 1.—(1) This Code of Ethics applies to every registered foreign lawyer.
- (2) This Code of Ethics applies, with the necessary modifications, to —
- (a) every foreign lawyer who is granted restricted registration; and
 - (b) every registered law expert,
- as it applies to a registered foreign lawyer.

*[S 696/2018 wef 01/11/2018]***Definitions**

2. In this Code of Ethics, unless the context otherwise requires —

“client” means either of the following persons:

- (a) any person who, as a principal or on behalf of another person, retains or employs, or is about to retain or employ, a registered foreign lawyer, a foreign lawyer who is granted restricted registration, or a registered law expert;
- (b) any person who is or may be liable to pay the costs of any of the following persons:
 - (i) a registered foreign lawyer;
 - (ii) a foreign lawyer who is granted restricted registration;
 - (iii) a registered law expert;
 - (iv) the law practice of a registered foreign lawyer or a foreign lawyer who is granted restricted registration;
 - (v) the law practice, or any other institution or organisation, that employs or is affiliated with a registered law expert;

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“Court” means —

- (a) the Singapore International Commercial Court constituted as a division of the High Court under section 18A of the Supreme Court of Judicature Act (Cap. 322); or

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(b) the Court of Appeal, when constituted to hear any relevant appeal;

“registered foreign lawyer” means a foreign lawyer who is granted full registration;

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“witness” includes an expert witness.

Duties to Court and client

3. Every registered foreign lawyer —

- (a) has a duty of loyalty to each client whom the registered foreign lawyer represents; and
- (b) has an obligation to present the client’s case to the Court in a manner which is consistent with the interests of justice and the ethical responsibilities of the registered foreign lawyer.

Party representation

4. A registered foreign lawyer who represents a client in any relevant proceedings or relevant appeal —

- (a) must, at the earliest opportunity, inform the Court and every other party to the proceedings or appeal of the identity of the registered foreign lawyer and that the registered foreign lawyer represents the client; and
- (b) must promptly inform the Court and every other party to the proceedings or appeal of any change in such representation.

Acting when material witness

5.—(1) Where after a registered foreign lawyer acts for a client in a matter, it becomes known or apparent to the registered foreign lawyer that the registered foreign lawyer will be required to give evidence material to the determination of any contested issue before the Court in that matter —

- (a) the registered foreign lawyer must cease to act in that matter; but
- (b) the law practice of which the registered foreign lawyer is a member, or any other member of that law practice, may continue to represent the client, unless doing so would prejudice the administration of justice.

(2) Where before a registered foreign lawyer acts for a party in a matter, it becomes known or apparent to the registered foreign lawyer that the registered foreign lawyer will be required to give evidence material to the determination of any contested issue before the Court in that matter —

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- (a) the registered foreign lawyer must not act for any party in that matter; but
- (b) the law practice of which the registered foreign lawyer is a member, or any other member of that law practice, may represent a party in that matter, unless doing so would prejudice the administration of justice.

Relationship with Court or client

6.—(1) A registered foreign lawyer must not appear before the Court in a matter where —

- (a) by reason of the registered foreign lawyer's relationship with a judge of the Court or any individual sitting with the Court, the impartial administration of justice may appear to be prejudiced; or
- (b) by reason of the registered foreign lawyer's relationship with a client, it will be difficult for the registered foreign lawyer to maintain the professional independence of the registered foreign lawyer.

(2) Where sub-paragraph (a) or (b) of sub-paragraph (1) applies, the registered foreign lawyer must notify the Court of the relationship referred to in the applicable sub-paragraph, and cease to participate in the whole, or such part, of the matter as the Court may direct.

Communication with Court

7.—(1) Subject to sub-paragraph (2), a registered foreign lawyer must not have any ex parte communication with the Court, or with a judge of the Court, concerning any relevant proceedings or relevant appeal —

- (a) which are or is, or will be, before the Court; and
- (b) in respect of which the registered foreign lawyer represents any party or any other interested person.

(2) A registered foreign lawyer may have ex parte communications with the Court, in relation to any ex parte application for relief, in accordance with any practice directions issued in respect of ex parte applications.

(3) If, despite paragraph (1), a registered foreign lawyer has any ex parte communication with the Court, or with a judge of the Court, regarding any issue in any relevant proceedings or relevant appeal which are or is, or will be, before the Court, the registered foreign lawyer must inform every other party to the proceedings or appeal of the communication, and the circumstances of the communication, as soon as possible.

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Submissions to Court

8.—(1) A registered foreign lawyer must not knowingly make any false submission of fact or law to the Court.

(2) If a registered foreign lawyer learns that the registered foreign lawyer has made a false submission of fact or law to the Court, the registered foreign lawyer must promptly correct the submission, unless the registered foreign lawyer is precluded from doing so by any obligation to maintain confidentiality or any privilege as between the registered foreign lawyer and a client.

(3) A registered foreign lawyer must not in any way knowingly mislead or attempt to mislead —

- (a) the Court;
- (b) any solicitor, any other registered foreign lawyer or any witness in any relevant proceedings or relevant appeal; or
- (c) any officer of, or any other person or organisation involved in or associated with, the Court.

Evidence

9.—(1) A registered foreign lawyer must not present any evidence which the registered foreign lawyer knows to be false.

(2) Where a registered foreign lawyer is or becomes aware that a client will give, or has given, false evidence to the Court —

- (a) the registered foreign lawyer may cease to act for the client; or
- (b) if the registered foreign lawyer continues to act for the client, the registered foreign lawyer must conduct the case in a manner that does not perpetuate the falsehood.

(3) Where a registered foreign lawyer is or becomes aware that a witness for a client will give, or has given, false evidence to the Court —

- (a) the registered foreign lawyer must promptly advise the client of —
 - (i) the need to take such remedial measures as may be appropriate in the circumstances; and
 - (ii) the consequences of failing to take such measures;
- (b) unless the registered foreign lawyer is precluded from doing so by any obligation to maintain confidentiality or any privilege as between the registered foreign lawyer and the client, the registered foreign lawyer —

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- (i) must promptly take such remedial measures as may be appropriate in the circumstances; or
 - (ii) may cease to act for the client, if the circumstances so warrant.
- (4) For the purposes of sub-paragraph (3), the appropriate remedial measures may include one or more of the following measures:
- (a) advising the witness to testify truthfully;
 - (b) taking reasonable steps to deter the witness from giving false evidence;
 - (c) urging the witness to correct or withdraw the false evidence;
 - (d) correcting or withdrawing the false evidence.

Information exchange and disclosure

10.—(1) A registered foreign lawyer must, as soon as practicable, inform a client of the need to preserve, so far as reasonably possible, every document which is potentially relevant to any relevant proceedings or relevant appeal to which the client is a party.

(2) The registered foreign lawyer must not make any application or request for the discovery or production of any document, or raise any objection to any such application or request, for an improper purpose, such as to harass or to cause delay.

(3) The registered foreign lawyer must explain to the client the need to produce, and the potential consequences of failing to produce, any document which the client has undertaken, or has been ordered, to produce.

(4) The registered foreign lawyer must advise the client to take, and must assist the client in taking, reasonable steps to ensure —

- (a) that reasonable efforts have been made to search for each document that the client has undertaken, or has been ordered, to produce; and
- (b) that the client produces —
 - (i) every document which the client relies on;
 - (ii) every document which the client is requested to produce (not being a document which the client objects to producing, for instance, on the ground of privilege); and
 - (iii) every document which the client is ordered by the Court to produce.

(5) The registered foreign lawyer must not suppress or conceal, or advise a client to suppress or conceal, any document which has been requested for by any other

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party to the relevant proceedings or relevant appeal, or which the client has undertaken, or has been ordered, to produce.

(6) If, during the course of the relevant proceedings or relevant appeal, the registered foreign lawyer becomes aware of the existence of any document which should have been but was not produced, the registered foreign lawyer must advise the client of the need to produce the document and of the consequences of failing to do so.

(7) In this paragraph, “document” includes an electronic document that would, unless preserved under sub-paragraph (1), be deleted in accordance with a document retention policy or in the ordinary course of business.

Approaching of potential witness

11.—(1) Before seeking any information from a potential witness, a registered foreign lawyer must inform the potential witness of —

- (a) the identity of the registered foreign lawyer;
- (b) the identity of the party whom the registered foreign lawyer represents; and
- (c) the reason for which the information is sought.

(2) The registered foreign lawyer must inform the potential witness that the potential witness has the right —

- (a) to inform or instruct the potential witness’ own legal counsel about the communication between the registered foreign lawyer and the potential witness; and
- (b) to discontinue that communication.

Preparation of witness’ affidavit, etc.

12.—(1) A registered foreign lawyer may —

- (a) assist any witness in the preparation of the witness’ affidavit or witness statement; and
- (b) assist any expert witness in the preparation of the witness’ expert report.

(2) A registered foreign lawyer must ensure that —

- (a) any affidavit or witness statement prepared with the assistance of the registered foreign lawyer and submitted by a witness reflects the witness’ own account of the relevant facts, events and circumstances; and

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(b) any expert report prepared with the assistance of the registered foreign lawyer and submitted by an expert witness reflects the expert witness's own analysis and opinion.

(3) A registered foreign lawyer must not invite or encourage any witness (including an expert witness) to give false evidence.

Communication with witness

13.—(1) Subject to sub-paragraph (2), a registered foreign lawyer may meet or interact with any witness in order to discuss and prepare the witness' prospective testimony in any relevant proceedings.

(2) Except with the leave of the Court, a registered foreign lawyer must not interview a witness called on behalf of a client in any relevant proceedings before the Court (called in this sub-paragraph the relevant witness), or discuss with the relevant witness the evidence of the relevant witness or any other witness, while the relevant witness is under cross-examination in those proceedings.

Respect for Court and related responsibilities

14.—(1) A registered foreign lawyer must always be respectful to the Court.

(2) When participating in any relevant proceedings, a registered foreign lawyer must always be courteous to the Court and to every other person involved in those proceedings.

(3) When acting for a client in any relevant proceedings before the Court, a registered foreign lawyer —

(a) must not express the registered foreign lawyer's personal opinion of the client's conduct or allow the registered foreign lawyer's personal feelings to affect the registered foreign lawyer's duty to the Court;

(b) must not knowingly or recklessly advance any submission, opinion or proposition which the registered foreign lawyer knows, or ought reasonably to know, is contrary to the law;

(c) must disclose to the Court every relevant fact, item of evidence, item of information or other matter which the registered foreign lawyer is required by law to disclose to the Court in those proceedings; and

(d) must disclose to the Court every relevant legal authority (including every adverse legal authority), and every procedural irregularity, of which the registered foreign lawyer is aware.

(4) A registered foreign lawyer must honour the terms of any professional undertaking given to the Court, a solicitor, a person admitted under section 15 of the Act, any other registered foreign lawyer, a client or any other person.

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(5) A registered foreign lawyer must not give an undertaking to the Court, unless the registered foreign lawyer —

- (a) believes that the undertaking is necessary; and
- (b) is convinced (at the time the undertaking is given) that the registered foreign lawyer is able to honour the undertaking.

(6) A registered foreign lawyer must not publish, and must not take any step which may lead to the publication of, any material concerning any current relevant proceedings or relevant appeal, whether or not on behalf of a client, if such publication —

- (a) amounts to contempt of the Court; or
- (b) is calculated to interfere with the fair trial of the proceedings or the fair hearing of the appeal, or to prejudice the administration of justice.

Duty to rectify contravention of Code of Ethics

15. Where a registered foreign lawyer has unknowingly contravened any provision of this Code of Ethics, and the registered foreign lawyer subsequently becomes aware of the contravention, unless the registered foreign lawyer is precluded from doing so by any obligation to maintain confidentiality or any privilege as between the registered foreign lawyer and a client, the registered foreign lawyer must —

- (a) disclose the contravention to the Court; and
- (b) take reasonable steps to rectify the contravention.

Code of Ethics to prevail over foreign rules on ethics or professional conduct

16. Where a registered foreign lawyer acts in any relevant proceedings before the Court, the registered foreign lawyer must comply with the provisions of this Code of Ethics, despite any provision to the contrary in any rules of ethics or professional conduct to which the registered foreign lawyer is subject in any other state or territory in which the registered foreign lawyer is duly authorised or registered to practise law.