



Arrangements for the Continuance of a Sole Practice

Every sole proprietor should be aware that he ought to provide for the continuance of his practice when he is away, particularly in the case of accident, illness or death. Some time ago, an article highlighting this obligation was published under this column of *The Singapore Law Gazette*. This month's column is an update of that article.

For a sole proprietor in a group practice this is particularly important because of r 9 of the *Group Practice Rules*, which makes it mandatory for a sole proprietor to appoint in writing another firm in the group practice to act in his stead in the event of incapacity or death.

A sole proprietor must, from the commencement of his practice, make arrangements for the continuance of the practice in the event that he is unable to attend to it. This is important as it will ensure that there will not be any undue interruption of the practice. As at 1 March 1999, there were 362 lawyers practising as sole proprietors.

Covering for a Sole Proprietor during Illness or Incapacity

A sole proprietor should have a standing written arrangement with another lawyer (the covering lawyer) or law firm, who will be prepared, on the receipt of a call for assistance, to manage the practice until the sole proprietor returns from his incapacity or illness.¹ The covering lawyer should preferably be near at hand.

The sole proprietor should notify, in advance, both the Law Society and the bank with which the sole proprietor has

the clients' and office accounts of these arrangements so that the covering lawyer may operate these accounts on behalf of the sole proprietor. The sole proprietor may wish to take up a special negligence insurance policy to protect the covering lawyer during his management of the practice. The insurers should also be notified in advance of the covering arrangements.

If the incapacity or illness lasts beyond the period covered by the sole proprietor's practising certificate, the Law Society should be informed of this, either by the sole proprietor or the covering lawyer.

The covering lawyer is only permitted to administer the practice of the sole proprietor. He may mention cases on behalf of the sole proprietor or apply to adjourn cases fixed for hearing. However, proper arrangements must be made if the covering lawyer is to take over a case as counsel. It may be desirable to agree with the covering lawyer on a standard letter, to be sent to clients for use in an emergency. The letter would notify the clients that the covering lawyer will be temporarily in charge of the sole proprietor's practice during his illness or incapacity and obtain their consent to his acting in place of the proprietor.

The sole proprietor and the covering lawyer can subsequently discuss the apportionment of fees paid by clients.

Arrangements in the Event of Death

On the death of the sole proprietor, it is for the executors (or if the sole propri-

etor dies intestate, the next of kin) to appoint a practising lawyer to manage the practice.

It would be prudent for the sole proprietor to leave a will. It is not necessary for him to nominate a lawyer as his executor or one of the executors although, if he does, it would certainly facilitate the continuance of the practice after death.

Whether or not a solicitor is appointed as one of the executors, the testator should leave clear instructions for the executors to make arrangements immediately following his death for a nominated law firm to carry on the practice pending its disposal.

The clients of the late sole proprietor should be notified by the executors of the arrangements made for continuing the practice. They should also notify the Society as to whether it is another law firm or lawyer who have been appointed to run the practice or to make arrangements for its disposal. In the case of the appointment of a managing lawyer to run a practice prior to disposal of the firm, the Council of the Law Society usually requires the lawyer to be a practitioner of at least seven years' standing.

Books of Account

Fresh books of account should be opened immediately following the principal's death. These books of account should be kept as the managing lawyer's books, or those of the partnership firm which took over the practice, until the practice has been disposed of.

Clients' money received after the date of death and before the grant of representation should be placed in a special client's suspense account. However, it must be stressed that the practice of the Council has been to intervene in the clients' account of a sole practitioner after his death pursuant to para 2 of the First Schedule of the *Legal Profession Act*.² To date, the Council has intervened in the client's account of 14 sole practitioners upon their death.

Accountant's Reports

It will be necessary for the managing lawyer or law firm to supply the final accountant's report in respect of the sole proprietor's practice up to the date of death. The managing lawyer or partners of the law firm must also submit a separate report concerning his/their holding of clients' money in his/their capacity as

manager(s) of the firm. This report is separate and in addition to that required of their own practice.

Once the personal representatives have obtained a grant of representation, they are empowered to sell the practice for the benefit of the estate. If the managing lawyer/law firm purchases the practice from the personal representatives, they must not act for the personal representatives and must insist that they be independently advised in this transaction. The Law Society should be informed of any such purchase.

The personal representatives should also be advised that the Law Society Council may intervene in the practice of the sole proprietor where it considers that there has been undue delay on the part of the personal representatives in the disposal of the sole proprietor's practice.³

For further guidance and directions,

members' attention is drawn to clause 25 of the 1989 edition of the *Practice Directions and Rulings of the Law Society of Singapore*.

Endnotes

1. Please see the Law Society, Form LF 2 and part 2 volume 1 of the Professional Practice Guidebooks: Setting Up a Law Firm. LF 2 makes provision for the sole proprietor to give the Law Society the particulars of the covering lawyer continuing his/her practice in case of absence, illness or death.
2. See para 2 of the First Schedule, Legal Profession Act, Cap 161 (1997, Revised Edition).
3. See para 1(1)(b) of the First Schedule, Legal Profession Act, Cap 161 (1997 Revised Edition). ■

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