

THE LAW SOCIETY OF SINGAPORE

PRACTICE DIRECTION 3.7.2

[Formerly PDR 1989, chap 7, para 25]

SOLE PRACTITIONERS – ARRANGEMENTS FOR CONTINUANCE OF PRACTICE

General considerations

1. All sole practitioners should make appropriate arrangements in advance to ensure that in case of accident, illness or death, their practice can continue to function without undue interruption in relation to their clients' affairs. Members are referred to the recommended steps below which sole practitioners should take.
2. There is a need for contingency plans to avoid difficulties that may arise in the day-to-day running of the practice, the administration of the client's files, court deadlines and hearings etc., as well as to avoid any inadvertent breach of any Law Society regulations.
3. The circumstances for which a sole proprietor or a sole director of a law corporation ('Principal Practitioner'), would be well-advised to make provisions in advance are:
 - (a) Incapacity;
 - (b) Absence from the office for other reasons; and
 - (c) Death.

Considerations relating to incapacity

4. The Principal Practitioner should have a standing arrangement with another legal practitioner ('Cover Practitioner') near at hand who should be prepared on receipt of a call for assistance, if necessary accompanied by a medical certificate, to administer the practice in the event of the Principal Practitioner's incapacity until the Principal Practitioner returns. It would be prudent for the Cover Practitioner to be a partner or director of another law practice.
5. The Principal Practitioner is to notify the practice's bank in advance for purposes of operating the client and office accounts on behalf of the Principal Practitioner and so avoid the interruption of clients' business. A special negligence policy should also be arranged to indemnify the Cover Practitioner during his/her administration of the practice and notification be given to the insurers of the Principal Practitioner.
6. In this regard, the Law Society has no power to appoint a Cover Practitioner. If no Cover Practitioner was arranged, the Law Society may only intervene in the Principal Practitioner's law practice if the Council is satisfied that the sole practitioner is "incapacitated by illness or accident, or by any physical or mental condition, to such an extent as to be unable to attend to his practice" (see paragraph 1(1)(g) of the First Schedule to the Legal Profession Act (Cap 161, 2009 Rev Ed) ('LPA')).

Considerations relating to absence from the office for other reasons

7. The Principal Practitioner would also be well advised to make suitable arrangements for a Cover Practitioner to administer his/her practice where he/she is likely to be away

from the office for any reason other than for short periods of time. Here again, the degree of supervision required will depend on the circumstances.

Considerations relating to death

8. It is good practice for the Principal Practitioner to make a will to facilitate the continuation and disposal of his/her practice. Whilst it is not necessary for him/her to nominate a solicitor as his/her executor or one of the executors, this would certainly facilitate the conduct of the practice upon his/her passing. Regardless of whether or not a Cover Practitioner is appointed as one of the executors, the testator (ie, the Principal Practitioner) should have clear instructions for the executor(s) to make arrangements immediately following his/her death for a practising solicitor to be appointed as a legal manager to carry on the practice pending its disposal.
9. Upon the death of the Principal Practitioner, it is for the executors (or the next-of-kin, if the Principal Practitioner dies intestate) to appoint a practising solicitor to be the legal manager to run the practice. The Law Society has no power to appoint one save when it warrants under situations in paragraphs 1(1)(a)(iii) and 1(1)(b) of the First Schedule to the LPA. Otherwise, arrangements for remuneration of the appointed legal manager is a matter between him/her and the estate.
10. It will also be necessary for the insurers to be advised of the death of the Principal Practitioner and of the arrangements made for the continuation of the practice.
11. Staff who are unauthorised persons, or anyone who does not hold a practising certificate, must not manage or control the practice in the absence of the Principal Practitioner. Every effort must be made by those responsible to find a legal manager, if necessary with the help of the Society.
12. Clients should be notified by the legal manager of the arrangements made for the continuance of the practice and whether they wish to continue with the law practice or arrange for alternative legal practitioners to take over their matter. The Society must also be notified of the legal manager appointed to run the practice and ultimately of the arrangements made for its disposal so as to enable it to direct queries from clients and other legal practitioners to the legal manager. As the legal manager, the same legal and ethical duties to clients apply to him/her.
13. Fresh books of account should be opened immediately following the Principal Practitioner's death and should be kept until the practice has been disposed of and clients' money received after the date of death and before grant of probate is obtained should be placed in a special client's suspense account. The legal manager and the executors are to note sections 114 and 159(11) of the LPA.
14. If the executors desire to sell the practice and the legal manager wishes to buy it, the legal manager should arrange for executors to be independently represented. In the case of a Principal Practitioner who dies intestate, a similar arrangement applies but it is for the next-of-kin to authorise the conduct of the practice by the appointed legal manager.

Date: 31 January 2019

THE COUNCIL OF THE LAW SOCIETY OF SINGAPORE