

THE LAW SOCIETY OF SINGAPORE

PRACTICE DIRECTION 1.9.1

[Formerly PDR 2013, para 105; Council's Practice Direction 2 of 2004]

APPOINTMENT OF A SOLICITOR OR A PERSON EMPLOYED BY A SOLICITOR TO ACT AS BAILIFF UNDER SECTION 15A OF THE STATE COURTS ACT

Where authorised by the Registrar to carry out the function as bailiff pursuant to section 15A of the State Courts Act (Cap 321, 2007 Rev Ed) ('SCA'), members' attention is drawn to Practice Direction 99 of the State Courts Practice Directions and the information provided below.

A. Professional Indemnity

Members are advised that the Law Society's Compulsory Professional Insurance Indemnity Scheme does not cover a member or any person employed by a law practice in their exercise of the powers and performance of their duties as a bailiff. Members are urged to obtain their own professional insurance cover for their practices.

B. Conflict of Interests

Members should be mindful of their ethical duty not to act as a bailiff under the SCA when there is a conflict of interest. Members' attention is drawn to the Legal Profession (Professional Conduct) Rules 2015 (S 706/2015) ('PCR 2015'), in particular rules 5 and 22 therein. To preserve independence of the legal practitioner, Council has decided that a member cannot act as a bailiff under section 15A of the SCA to execute the judgment of a client of his/her practice. Accordingly, any member or staff of the law practice acting for a judgment creditor cannot be appointed as a bailiff under section 15A of the SCA to execute the judgment obtained by that judgment creditor.

C. Confidentiality

Members authorised to act as a bailiff under section 15A of the SCA to execute the judgment of a judgment creditor, should be mindful of their duty to maintain in confidence any information relating to that judgment and the execution thereof. Members' attention is drawn to rule 6 of the PCR 2015.

D. Costs

Notwithstanding the application of section 15A of the SCA and the Rules of Court (Cap 322, R 5, 2014 Rev Ed), members are reminded that contingency fees are expressly prohibited by section 107 of the Legal Profession Act (Cap 161, 2009 Rev Ed) and rule 18 of the PCR 2015. Members should not render any bill, in relation to any work done as a bailiff, which amounts to gross overcharging that will affect the integrity of the profession.

E. Proceeds of Sale

Members are reminded that the proceeds of sale are not to be paid into their clients' accounts as these are not clients' moneys or the practice's office account. All proceeds of sale are to be paid to the State Court's bailiff's account.

Date: 31 January 2019

THE COUNCIL OF THE LAW SOCIETY OF SINGAPORE