

## GUIDELINES ON APPLICATION FOR SIJIL ANNUAL 2009

### WHEN TO APPLY

Members may apply at any time after the month of June in the preceding year [see s32 of the Legal Profession Act 1976] (hereinafter referred to as “the Act”) for Sijil Annual for the year 2009

As the purpose of the Sijil Annual is to allow members to apply for a Practising Certificate, members should ensure that they obtain their Sijil Annual and apply for their Practising Certificate before 31<sup>st</sup> January each year [see s29 of the Act].

### HOW TO APPLY

Applications should be made in the form set out in the Schedule of the Advocates & Solicitors (Issue of Sijil Annual) Rules 1978 together with such supporting documents as may be required by the Bar Council from time to time.

Currently every such application should be accompanied by :

- (i) Cheques/Receipt for:
  - (a) **Bar Council Compensation Fund** (RM100.00)
  - (b) **Bar Council Discipline Fund** (RM60.00)
- (ii) Certificate/s from the relevant State Bar Committee/s (those partners/sole proprietors with branch offices at other States must include Certificate/s of the other States) certifying that there are no arrears in subscription/s for 2008.
- (iii) Receipt/cheque for RM760.00 made payable to the **Bar Council** for the following funds for the year 2008: Subscription Fund [RM450.00], Building Fund [RM100.00], Legal Aid Centre [RM100.00], Sports Fund [RM10.00], Law Care Fund [RM100.00]. (If the payment for the above Subscription Fund is made after 30.6.2008, kindly include an additional sum of RM450.00 being the penalty payment pursuant to Section 46(6) of the Legal Profession Act 1976.
- (iv) Statutory Declaration:
  - (a) by Legal Assistants stating their employment during the entire accounting year of 1.1.2007 – 31.12.2007 including the period from 1.1.2008 until the date of application (current status if there is a change in employment thereafter) ; or
  - (b) by Sole Proprietors/Partners – maintenance of Clients’ Account of main and branch offices pursuant to Rule 13 of the Solicitors’ Account Rules 1990 (by referring to the Accountant’s Report and annexing copy of Report. Listing of client’s account/s not required. Only listing of client’s account/s currently maintained in 2008 required);
- (v) Accountant’s Certificate (applicable to partners and sole proprietors) as provided under the Accountant’s Report Rules 1990 and the Advocates & Solicitors (Issue of Sijil Annual) Rules 1978;
- (vi) Professional Indemnity Insurance cover by the brokers appointed by the Bar Council for 2009.

### PAYMENT TO STATE BAR COMMITTEE/S

Where a firm has offices and/or branches in more than one State, all partners or sole proprietors of that firm must be a member of all relevant State Bar Committees where the offices and/or branches are located.

When a partner or sole proprietor of the firm applies for his Sijil Annual, he must have receipts or letters from all such relevant State Bar Committees to show that there are no arrears in subscriptions.

*E.g.: A, B and C are partners in Messrs X & Co with A and B practising in Johor Bharu and C in Kuala Lumpur. A, B and C must have receipts or letters from the Johor and Kuala Lumpur Bar Committees.*

### **ACCOUNTANT'S REPORT**

Unless exempted by the Bar Council under Rule 6 of the Accountant's Report Rules 1990, all members (who are/were Partners / Sole Proprietors) must deliver their Accountant's Report together with their application.

In accordance with the Rules and prescribed form, the Accountant's Report is issued under the name of individual members and not their firms.

Members who have more than one office (and are therefore required to keep separate books of accounts) must ensure that their Report covers all their offices and/or branches or they should have separate Reports for each office or branch.

*E.g.: A, B and C are partners in offices in towns X and Y. A manages the office in town X while B manages the other office in town Y. C spends equal time in both offices. A, B and C must have reports for both offices. It is not acceptable for A to say that he is a partner in the X office only and has nothing to do with Y office. To allow this would mean that there are two "partnerships" and B and C would be in breach of Rule 59(2) of the Legal Profession (Practice & Etiquette) Rules 1978.*

### **EXEMPTION FROM ACCOUNTANT'S REPORT**

Rule 6(2) of the Accountant's Report Rules 1990 exempts three (3) categories of members from delivering Accountant's Reports. The documents they have to supply in place of the Accountant's Report are provided in Rule 3 of the Advocates & Solicitors (Issue of Sijil Annual) Rules 1978.

Members who may be exempted from delivering an Accountant's Report are to comply with the following:

- (a) for those who were called to the Bar after the accounting period - in lieu thereof, two copies of **Certified True Copy** of the Court Order for Admission to the Bar;
- (b) for those not in practice during the accounting period - in lieu thereof, a Statutory Declaration that is acceptable to the Bar Council;
- (c) for those who were Legal Assistants or Consultants during the accounting period - in lieu thereof, a Statutory Declaration by a partner of the firm that he is a Legal Assistant or Consultant.

Applications for exemption should be made under Rule 6(1) of the Accountant's Report Rules 1990 and be supported by a Statutory Declaration or other documents as required by the Bar Council under Rule 6(3).

### **AMBIGUITY**

This Guideline is only a general guide to assist members in their application for Sijil Annual and as such does not cover all situations and ambiguities that may arise.

In case of doubt, members should check the relevant rules for themselves.

This Guideline should not in any way be construed to fetter, limit or restrict the discretion given to the Bar Council under the Act and the various Rules made thereunder.

# STATUTORY DECLARATION

## IMPORTANT

**Note:** PLEASE READ THE FOLLOWING GUIDELINES CAREFULLY BEFORE PREPARING YOUR STATUTORY DECLARATION.

### 1. SOLE PROPRIETORS & PARTNERS

- (a) If you practiced as a sole proprietor or partner under the same style and name for the entire accounting period from 1.1.2007 to 31.12.2007, pursuant to Rule 13 of the Solicitors' Account Rules 1990 you must affirm a Statutory Declaration declaring that during the accounting period you maintained the client's account(s) listed in your Accountant's Report and **exhibit a copy of the relevant Accountant's Report(s) (including branches).** You then go on to list any additional Clients Accounts(s) currently maintained.
- (b) In the event a Client's Account is only opened/closed in the current year or the number of accounts have changed, you must also state such facts in the Statutory Declaration as prescribed in the form appearing immediately hereafter.
- (c) If you practiced under more than one name and style [e.g. as a sole proprietor and then in partnership, or in more than one partnership] during the accounting period, you are required to provide in your Statutory Declaration a list clearly stating **ALL** clients' accounts maintained by **EACH** of the firms.
- (d) If you were a Legal Assistant during the entire accounting period but have since set up practice either as a sole proprietor or in partnership, you are required to state in your Statutory Declaration that you were employed as a legal assistant during the entire accounting period until current status [see the form of Statutory Declaration for Legal Assistant] **AND** also provide a list of all clients' accounts currently maintained by your practice.
- (e) If your firm had more than one (1) branch during the accounting period, you are required to **exhibit** the Accountant's Report(s) which lists the clients' accounts maintained by **ALL** branches of the firm.

### FORM OF STATUTORY DECLARATION [FOR SOLE PROPRIETORS AND PARTNERS]

I, ..... (NRIC No. ....) an Advocate and Solicitor of the High Court of Malaya, do solemnly affirm and declare as follows :-

I am practising as a *\*sole proprietor/partner* under the name of :-

Messrs .....and # hereby undertake not to commence practice in 2009 until I have obtained the valid Sijil Annual and Practising Certificate for 2009.

I was practising as a sole proprietor/partner under the name of Messrs \_\_\_\_\_ during the period between 01.01.07 to 31.12.07 and maintained the client's account/s as listed in my Accountant's Report exhibited hereto.

I was/am practising as a sole proprietor/partner under the name of Messrs \_\_\_\_\_ from 1.1.2008 until the date of this application and currently maintain *\*the same client's account(s) mentioned in paragraph 3 above/ and/ the additional clients' account(s)* as follows:

<u>NAME OF BANKS</u>	<u>ADDRESS</u>	<u>ACCOUNT NO</u>	<u>REMARKS</u>
XYZ Bank Berhad	10, Jalan Melaka, KL	56565-898988	opened on 1.7.2008
.....NIL.....	.....NIL.....	.....NIL.....	.....NIL.....
(if no additional clients account maintained)			

I undertake to notify the Bar Council in writing of any changes in my Clients' Accounts above as provided under the Rule 13, Solicitors' Accounts Rules 1990.

And I make this solemn declaration believing the same to be true and by virtue of the provisions of the Statutory Declaration Act 1960.

Affirmed by the said ..... )  
 at ..... )  
 .....day of..... 2008 )

Before me,  
 Commissioner for Oaths

**NOTE:**

**\*Delete where inapplicable [In the event of any changes in your practice during the current year, kindly provide details of such changes]**

**# The undertaking is required only if submission is after the deadline herein specified.**

**2 LEGAL ASSISTANTS / CONSULTANT**

- (a) If you were a Legal Assistant / Consultant during the entire accounting period and are still employed as a Legal Assistant, you are to state the same in your Statutory Declaration [see the form of Statutory Declaration for Legal Assistants appearing hereafter].
- (b) If you were a Legal Assistant during the entire accounting period of 1.1.2007 to 31.12.2007 but have since set up practice either as a Sole Proprietor or in Partnership, you are required to state in your Statutory Declaration that you were employed as a Legal Assistant during the above said accounting period **AND** you are also to declare the period during which you were a sole proprietor or in partnership until to date and provide a list of **ALL** clients' accounts currently maintained by your practice. [see specimen for Sole Proprietors and Partners].
- (c) If you practised as a **SOLE PROPRIETOR** or in **PARTNERSHIP** for any period of time during the accounting period, but are now employed as a Legal Assistant, you are to exhibit the relevant Accountant's Report in your Statutory Declaration listing **ALL** clients' accounts maintained by **EACH** of the firms in which you practised as sole proprietor or partner during the period of **1.1.2007 to 31.12.2007. USE THE FORM OF STATUTORY DECLARATION FOR SOLE PROPRIETORS AND PARTNERS**

with appropriate amendments to include the period during which you practised as a Legal Assistant until the current status. **DO NOT USE THE FORM OF STATUTORY DECLARATION FOR LEGAL ASSISTANTS.**

**FORM OF STATUTORY DECLARATION**  
[FOR LEGAL ASSISTANTS / CONSULTANT]

I, .....(NRIC No.....), an Advocate and Solicitor of the High Court of Malaya, do hereby solemnly affirm and declare as follows :

1. I am employed as a Legal Assistant / Consultant in Messrs *[state current employment]*
2. During the period 1.1.2007 to \_\_\_\_\_ 2007, I was employed as a Legal Assistant / Consultant in Messrs \_\_\_\_\_.
3. From \_\_\_\_\_ 2007 to \_\_\_\_\_ 2007, I was not employed (if unemployed at any time during 2007)
4. From \_\_\_\_\_ 2007 to 31.12.2007, I was employed as a Legal Assistant / Consultant in Messrs \_\_\_\_\_
5. From 1.1.2008 to the date of this application I was/am employed as a Legal Assistant/Consultant in Messrs \_\_\_\_\_ and # I hereby undertake that I shall not commence practice in 2009 until I have obtained my Sijil Annual and Practising Certificate for 2009.

[NB: Please list your employment/unemployment history for the entire year of 2007 and thereafter until the date of this application. If you practised in more than one firm during such period, please state all the firm names and the period during which you were practising thereat. If you were called to the Bar after the accounting period please state the date of admission and your period of unemployment until you joined a legal firm. Please note that there should be no gaps in the narration of your employment/unemployment history.]

And I make this solemn declaration believing the same to be true and by virtue of the provisions of the Statutory Declaration Act, 1960.

Affirmed by the said ..... )  
at ..... the )  
.....day of .....2008 )

Before me,  
Commissioner for Oaths

**NOTE: # The undertaking is required only if submission is after the deadline herein specified.**