

LEGAL SERVICES COUNTRY PROFILE

SINGAPORE

International Legal Services Advisory Council

Attorney-General's Department

Australia

August 1998

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Acknowledgments

The contribution and assistance of Mr Jeremiah Choy, Deputy Executive Director, The Law Society of Singapore; Ms Serene Wee, Director, The Singapore Academy of Law; Mr Douglas Franc, formerly of Freehill Hollingdale & Page; Mr Charles Woodworth, formerly of Allens Arthur Robinson; Professor Gillian Triggs, Consultant, Malleons Stephen Jaques; Mr Christopher Teo, formerly of Blake Dawson Waldron; Mr Vincent Dwyer, Allens Arthur Robinson; Mr Chris Roper, Centre for Legal Education, Sydney; Mr David Simpson, Allens Arthur Robinson; and the Australian High Commission, Singapore, are gratefully acknowledged.

Legal Services Country Profile: Singapore

International Legal Services Advisory Council (ILSAC)

August 1998

ISSN 1039-4648

<http://law.gov.au/ilsac>

Published by the International Legal Services Advisory Council (ILSAC)
Secretariat, Attorney-General's Department, Canberra. Printed in Australia.

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Introduction

The International Legal Services Advisory Council (ILSAC) was established in late 1990 by the Australian Government to assist in improving Australia's international performance in legal and related services. To help achieve this purpose profiles for seventeen countries and economies of the Asia Pacific region have been prepared. The Profiles, which are intended as a guide only, cover Australia, Cambodia, China, Fiji, Hong Kong, India, Indonesia, Japan, Laos, Malaysia, Papua New Guinea, The Philippines, Republic of Korea, Republic of Singapore, Taiwan, Thailand and Vietnam.

ILSAC is chaired by the Hon Sir Laurence Street AC KCMG and comprises representation from private legal practice, the Law Council of Australia, commercial dispute resolution centres, education institutions and relevant Government departments and agencies.

This edition of the Profiles is designed to provide an overview of the legal and related services sector in each country or economy. The information in the Profiles is organised under the following main headings:

1. General information:	key data, legal language, form of government and economic indicators.
2. Basic legal information:	system and sources of law, structure and regulation of the legal profession, law-making bodies and professional legal education.
3. Legal services market:	professional legal associations, local, Australian and foreign law firms, and commercial dispute resolution.
4. Market access requirements:	foreign lawyer admission requirements, regulation and restrictions on foreign lawyers/firms and recent regulatory change.
5. Australian legal services:	prospects for Australian legal services; Australian dispute resolution services and Australian legal education and training services.
6. References/sources:	list of source material and date of information contained in the profile.

Comments, additional information or corrections, and suggestions for improvement of this Profile would be welcome.

How to order

Copies of the ILSAC Profiles are available at a cost of \$20 each or \$240 for a complete set of the 17 published profiles (post paid in Australia) from the:

**ILSAC Secretariat
Commonwealth Attorney-General's Department
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National Circuit
Barton ACT 2600
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**Telephone +61-2-6250 6704; Facsimile +61-2-6250 5952
Email: ilsac.secretariat@ag.gov.au
<http://law.gov.au/ilsac>**

1 General information

Official name

Republic of Singapore.

Population

In July 1997, the estimated population of Singapore was 3.1 million, with an annual growth rate of 4.2 per cent. Singapore is composed of 78 per cent Chinese, 14 per cent Malays, seven per cent Indians and one per cent others.^{1/2}

Languages

English is the official language. It is widely spoken and is regarded as the language of commerce and administration. In recent years, there has been an increase on the emphasis of the use of Chinese (Mandarin).¹

Legal language

English is the official language of legal proceedings.¹

Form of government

Singapore, a former British colony, achieved internal self-government in 1959. It became a State of the Federation of Malaysia in 1963, but seceded in 1965. Singapore has a parliamentary system of government based on the Westminster model. The President is the Head of State. The Parliament is a unicameral body comprising elected and non-elected representatives. The Parliament is elected to a five-year term by universal and compulsory adult suffrage. Prior to the constitutional amendment in 1991, the Office of President was a political appointment for a period of four years. On 28 August 1993, the President was elected by registered voters for a period of six years. The Prime Minister and Cabinet are appointed by the President and are responsible to Parliament.^{2/3}

- Head of State: President Ong Teng Cheong. Mr Cheong, a People's Action Party (PAP) backed candidate, was elected in the first presidential election in August 1993.
- Head of Government: Prime Minister, Goh Chok Tong.
- Ruling party: PAP has been in power since Singapore gained independence in 1965. The last election was held in January 1997.
- Chief Justice: Justice Yong Pung How.⁴
- Minister of Law: Professor S. Jayakumar.⁵
- Attorney-General: Mr Chan Sek Keong.⁶

- Main opposition parties: Singapore Democratic Party (SDP), National Solidarity Party (NSP), Singapore Justice Party (SJP), and Worker's Party (WP).⁷

Economic information

Basic indicators	1993	1994	1995	1996	1997
Real GDP (US\$ million)	85, 473	94, 064	102, 299	110, 994	93,300
GDP growth %	10.4	10.1	8.8	8.2	7.8
CPI (% change)	2.3	3.1	1.7	1.4	2.0

Source: Singapore Government Internet Homepage

Located at the crossroads of the international trade routes, Singapore has been the most economically successful and prosperous country of South East Asia. Singapore's solid economic performance can be attributed, partly, to a competitive economy that is well integrated within the global economy. The Government has introduced policies backed by its substantial capital resources, that ensure that modern and advanced infrastructure is in place to meet not only the needs of its citizens, but local and international investors. Multinational Corporations represent a key pillar of the Singapore economy. Singapore is a major regional trade and services centre, as well as a growing telecommunications hub.

In 1997, it was forecast that Singapore's GDP would reach US\$96.3 billion. While the flow-on effects of the 1997 regional financial turmoil may continue to affect trade in the short to medium term, there do not appear to be serious long-term ramifications because of Singapore's strong economic position.⁸

Australia's trade with Singapore

Services continue to be an important component of Australia's trade with Singapore. Education and tourism are substantial export earners and many Australian firms offering professional services (in law, engineering and other areas) have established off-shore offices in Singapore.⁹

Singapore's economy is based on external trade, taking advantage of its central location in South-East Asia. Since its independence in 1965, Singapore has sustained a seven per cent annual average growth rate. In 1996-97, Singapore was Australia's eighth largest trading partner with two-way trade exceeding A\$6 billion. Singapore imported \$3.4 billion of Australian goods, while \$2.6 billion was exported to Australia.

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Australian companies have also begun to recognise opportunities for joint venture projects in the region. A Singapore-Australia Business Council was established in 1982 and has over 500 members. In August 1995, the Singapore-Australia Business Alliance Forum (SABAF) was launched in order to further promote and facilitate trade and investment flows between Singapore and Australia.¹⁰

Total two-way trade with Australia (1996–97 A\$ billion)	6.3
rank in total Australian trade	8
Value of Australian exports to Singapore (1996–97 A\$ billion)	3.4
market ranking in Australian exports	7
Value of imports from Singapore (1996–97 A\$ billion)	2.6
market ranking in Australian imports	7

Source: *Trade Outcomes and Objectives Statement*, Department of Foreign Affairs and Trade, March 1998

2 Basic legal information

Legal system

Singapore has a common law system based on a mixture of case law and statute law. Muslims are governed by Islamic law, which is administered by the Syariah Courts, in matters relating to marriage, divorce, division or disposition of matrimonial property.¹¹

Sources of law

The main sources of law in Singapore are:

- The Constitution of 1965, as modified from time to time;
- English statute law as applicable under the *Application of English Law Act 1993*;
- English common law and equity, as modified by local case law;
- Local enactments, many of which are based to a degree on English and Australian legislation and statutes, and
- Personal law, that of Islamic, Chinese and other communities in Singapore.

The *Application of English Law Act 1993* ended the automatic acceptance of English commercial statutes as law in Singapore. The Act provides for the continued application of the common law, including the principles and rules of equity. There are now three ways in which English Statute law can become Singapore Law:

- where it is expressly said to apply;
- by virtue of other written law, and
- where an English statute provision is inserted into a local act.¹²

Structure of the legal profession

The Singapore legal profession is fused, ie. once admitted a person may practise as both an advocate and a solicitor. An admitted advocate and solicitor can appear in any court in the country.¹³ No person may practise as an advocate and solicitor or do any act as an advocate and solicitor unless their name is on the roll and they have a valid practising certificate. Singapore's professional legal organisation and training does not appear to be modelled on any legal system in particular.¹⁴

Regulation of the legal profession

The Law Society of Singapore and the Singapore Academy of Law are responsible for maintaining and improving the standards of conduct and the continuing education of the legal profession. Professional standards are mainly contained within “the Rules regulating the practice and etiquette of the Singapore Bar”. It should be noted, however, that the Law Society does not have disciplinary jurisdiction.¹⁵

Law-making bodies

The Parliament is the principal law-making body in Singapore. Law-making powers may be delegated to the Executive by the Parliament under provisions in individual Acts. This allows the promulgation by the responsible Minister of subsidiary legislation necessary to implement the respective Acts.¹⁶

Law derived from Australia

Major legislative changes have taken place in Singapore over the past few years, several of which serve to strengthen the country’s international credentials. Much of Singapore’s recent legislation draws to a considerable extent on Australia’s statutory legislation. Additionally, Australian case law, particularly in the areas of taxation and company law, is frequently referred to in the judgments of Singapore’s Courts and other judicial bodies. The following legislation enacted in Singapore was developed with Australian assistance or is based on the corresponding Australian legislative provisions.

- Chapter 50 of the *Companies Act* of Singapore adopts, with modifications, many provisions of the equivalent Australian legislation.
- The *Land Titles Act* is modelled on the New South Wales *Real Property Act 1900* as amended.
- The Securities Industry Legislation in Singapore is modelled very closely on the corresponding Australian legislation.
- The *Copyright Act 1987* is based largely on the Australian *Copyright Act 1968*, and developed with Australian assistance. Australia has also concluded a bilateral copyright protection agreement with Singapore.
- The *Patent Act 1994*, advice and assistance with the development of the Act and associated rules and administrative procedures to operate the new patent system and the training of patent staff and agents have been provided by an Australian, under the auspices of the World Intellectual Property Organisation (WIPO).
- The *Income Tax Act* of Singapore is an amalgam from many sources, including a colonial income tax statute of a

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type common to many former British colonies, Australian influences and a number of local modifications.

- *Sale of Goods Act 1979* (except sec. 22 & 25 (2)).¹⁷

Court structure

The judicial system is composed of the Subordinate Courts and the Supreme Court. The Subordinate Courts consist of District Courts, Magistrates' Courts, Juvenile Courts, Coroners' Courts and the Small Claims Tribunal. The restructured Supreme Court, following amendments in the form of the *Court of Judicature (Amendment) Bill 1993*, is composed of the Court of Appeal and the High Court. The right to appeal to the Judicial Committee of the Privy Council was removed in April 1994.

Professional legal education

Primarily trained

Following the amendments to the *Legal Profession Act*, which took place in 1993, the majority of legal practitioners now being admitted to the Singapore Bar are trained locally at the National University of Singapore (NUS). The Faculty of Law provides students with a four year LLB (Hons) degree. In recent years there has been a progressive reduction in the annual intake of students into the law course, from 200 students at its peak in 1993, to an intake of 150 students in 1997.

Qualifications for practice

The legal profession in Singapore was subject to review in 1993 by the Committee for the Supply of Lawyers, chaired by the Attorney-General of Singapore, Mr Chan Sek Keong. The Government of Singapore accepted all the Committee's recommendations and arranged for the necessary amendments to the *Legal Profession Act*. The changes, reflected in the *Legal Profession (Amendment) Act 1993*, have resulted in a more restrictive approach to the recognition of qualifications for admission to the Singapore Bar.

Academic

The general academic requirement for admission to the Bar in Singapore is a full-time four-year law degree (LLB (Hons)) from the National University of Singapore (NUS). Law students graduating in or after 1997 from the NUS will need to obtain a second class lower LLB (Hons) degree or better for the purpose of admission to the Singapore Bar. The core of the curriculum of the law course offered by the NUS is the domestic law of Singapore, although there has been a move toward courses in international law and the legal systems of the region.

The provisions of the *Legal Profession (Amendment) Act 1993* mean those law students graduating from one of the scheduled universities in the United Kingdom in, or after, 1997 must

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satisfy the following conditions for the purpose of admission to the Singapore Bar. They must graduate with a law degree from one of the scheduled universities with a minimum grade of second class upper and that they then complete the Diploma in Singapore Law course at the NUS.

The fifteen Scheduled universities within the United Kingdom include Birmingham University, Bristol University, Cambridge University, Durham University, Exeter University, King's College London (London University), Leeds University, Leicester University, London School of Economics & Political Science (London University), Manchester University, Nottingham University, Oxford University, Queen Mary & Westfield College (London University), Southampton University and University College London (London University).

The academic requirements for admission which applied prior to the changes brought about under the *Legal Profession (Amendment) Act 1993* are discussed in greater detail under *Foreign Legal Training*.¹

Practical legal training

Following the award of an LLB(Hons) degree from an approved university, a candidate for admission to the Singapore Bar must complete the appropriate vocational course—the Practice Law Course (PLC) or the Diploma in Singapore Law, followed by the PLC.

The PLC is conducted by the Singapore Board of Legal Education. It is a five month course, commencing in July of each year, designed to equip students with practical legal skills. Entry to the course is restricted to 'qualified persons', as defined in the *Legal Profession (Qualified Person) Rules 1994*. It is designed for Singapore residents, with priority given to NUS graduates. The Board of Legal Education is a body corporate established by the *Legal Profession Act* for the purpose of training, education and examination of persons intending to practise law in Singapore. The Board consists of the Attorney-General, a judge of the Supreme Court nominated by the Chief Justice, two advocates and solicitors nominated by the Minister, three advocates and solicitors nominated by the Law Society, the Dean of the Law Faculty and two members of the Law Faculty nominated by the Faculty.¹⁸

The Diploma in Singapore Law course is conducted by the School of Law, NUS. The course, which runs for a full academic year (July to March) commenced in 1994. It is open to Singapore residents who have graduated in Law from a scheduled university. The annual intake is limited to fifty students, with admission to the course being based on merit. The course aims to familiarise overseas-trained graduates with specific areas of Singapore law prior to their undertaking the Practice Law Course.¹⁹

In-house training/articles of clerkship

Admission to the Singapore Bar could previously be obtained through the completion of articles of clerkship with a qualified practitioner. The period of pupillage was outlined in the *Legal Profession Act*, requiring that the qualified person attend, as a pupil, to a practising Singapore advocate and solicitor of five years standing for six months, or to a legal officer of seven years standing, for three years. Only a small number of Singaporeans have followed this route and an amendment to the *Legal Profession Act* in 1984 closed off this option.

Continuing legal education

Workshops, lectures and seminars are arranged by The Academy of Law, the Law Society or the Law Faculty. The Continuing Legal Education Committee of the Law Society of Singapore holds seminars and workshops on a range of legal topics, with the aim of providing practical instruction in day-to-day topics encountered in practice in addition to short-term refresher courses in specialised areas. In addition, there are a number of commercial providers of legal training in the context of Continuing Legal Education.

Other domestic training institutions

The Academy of Law, the Law Society and the Law Faculty of the NUS offer a range of short courses and seminars on various areas of law.

Undergraduate legal courses

The LLB degree offered by the NUS is the only undergraduate legal course offered within Singapore. The core of the curriculum of the NUS law course is Singapore domestic law, and traditional subjects such as Torts, Contract, Criminal Law and Property are compulsory in the first three years of the LLB course. In their final year, students are encouraged to undertake optional subjects of a comparative, international or multi-disciplinary nature. In recent years courses in International Law and the legal systems of the region have been introduced. The Advisory Board of the Law Faculty of the NUS includes Judges of the Supreme Court, members of the Legal Service as well as private practitioners.

Further details of the Law School and the law courses at the NUS can be found in the *Lawasia Directory of Law Courses* published by the Centre for Legal Education, Sydney. The contact details for the Centre are:

Centre for Legal Education
GPO Box 232
Sydney NSW 2001
Australia
Telephone: (02) 9221 3699
Facsimile: (02) 9221 6280

Foreign legal training

Sources

Prior to the enactment of the *Legal Profession (Amendment) Act* 1993, it was possible to satisfy the basic academic requirements for admission to the Singapore Bar by completing a law degree in the United Kingdom or a number of Commonwealth countries. The *Legal Profession Act* provided for the admission to the Singapore Bar of certain gazetted Commonwealth countries and Singaporeans have traditionally undertaken foreign legal training in England, Ireland, Malaysia, Australia, New Zealand and Canada.

It was possible to satisfy the basic admission requirements in Singapore through undertaking a three year law degree in the United Kingdom followed by a one year vocational course conducted by the Council of Legal Education (UK) for admission to the English Bar. It was also possible to undertake a degree in laws externally through The University of London. However, amendments to the *Legal Profession Act* mean that external degrees obtained from any overseas university after 1996 will no longer be recognised for the purpose of admission to the Singapore Bar.²⁰

The *Legal Profession Act* provided for the admission to the Singapore Bar of law graduates from certain gazetted universities in Commonwealth countries other than the United Kingdom, subject to the permission of the Board of Legal Education. The Commonwealth Universities Scheme (which includes recognition arrangements for Australia) was abolished for persons admitted to these universities from 1994 onwards. This means that a graduate with an upper level honours law degree from previously recognised Australian universities (University of Melbourne, University of Sydney and Monash University), will no longer be able to apply for admission under this scheme.

From 1994, students who are presently studying at the gazetted Commonwealth universities will have to obtain the Diploma in Singapore Law. Despite degrees from previously recognised Australian universities no longer being recognised for admission purposes by the Singapore Law Institute, in the 1997 academic year, there were 33 students from Singapore studying law in Australia.²¹

It is to be noted, however, that the new measures do not apply to students who were accepted into or embarked on a course of legal study at NUS or any overseas university prior to the date of the acceptance of the report by the Singapore Government, namely 19 April 1993.

3 Legal services market

Professional associations (law societies and bar associations)

The Law Society of Singapore

The Law Society of Singapore has approximately 2,900 members, all of who are lawyers involved in private practice within Singapore. The Law Society is a member of the International Bar Association (IBA) and the Law Association for Asia and the Western Pacific (LAWASIA). The Executive Director is Ms Yasho Dhoraingam and the President is Mr Peter Cuthbert.²² For further information concerning The Law Society, please contact:

Ms Yasho Dhoraingam
Executive Director
The Law Society of Singapore
1 Colombo Court
No 08–29/30
Singapore 0617
Telephone: 65–338–3165
Facsimile: 65–339–7358

The Singapore Academy of Law

The Singapore Academy of Law was established by the *Singapore Academy of Law Act 1993*, with the aim of promoting knowledge of the law within Singapore in addition to encouraging legal reform and facilitating legal education. All persons with legal qualifications who have been admitted to the Bar in Singapore are automatically members of the Academy. As at May 1996, it had approximately 4,500 members, including in-house legal counsel, government employees and academics, in addition to lawyers in private practice. The Academy is governed by a Senate, composed of thirty esteemed members. The President is The Honourable the Chief-Justice Yong Pung How.²³ For further information concerning the Academy, please contact:

Ms Serene Wee
Director
The Singapore Academy of Law
3rd Level City Hall Building
St Andrews Rd
Singapore 178957
Telephone: 65–332–4388
Facsimile: 65–334–4940

Local legal firms

As at July 1998, there were approximately 660 local law firms and 55 'off-shore' foreign firms registered with the Law Society of Singapore.²⁴

Local lawyers

The legal profession in Singapore has been growing over the last ten years, but has recently recorded a reduction of about ten per cent. As of May 1996, there were about 2,950 practising lawyers, holding membership of the Law Society of Singapore and approximately 4,500 legally trained persons, holding membership of the Academy of Law.*

- * This figure includes approximately 1,500 persons who are employed as in-house counsel, as government legal advisers, as academics who are not presently practising but who have the option to practise within Singapore. Singapore has a high practising lawyer-to-population ratio of approximately 80:100,000.

Per cent in international commerce

Types of legal practice characterised by the size of the legal firms provides some indication of the proportion involved in international commerce:

- the large (relative to Singapore) established law firms which number about six, characteristically having thirty* or more lawyers in each firm, provide commercial and civil legal services for corporate, banking and government clientele (institutional clients). The presence of international financial institutions and off-shore law firms has necessitated that the large law firms provide increasingly sophisticated legal services.²⁵
- * The largest law firms in Singapore now have more than a hundred lawyers and there are at least two other firms with more than sixty lawyers.²⁶
- Regulations, effective from 1 June 1998, prohibit local and offshore firms from sharing premises.

Practice mix

Given the structure of Singapore's economy, a large number of the local law firms are involved in international work and many firms cover virtually all areas of legal practice. Approximately 84 per cent of the law firms registered with the Law Society are sole practitioners, many of who are involved in the provision of general legal services for a walk-in clientele. It is difficult to specify specialty areas as local firms generally provide a broad range of legal services. However, the following law firms are reported as possessing expertise in the areas specified below:

- Alban Tay Mahtani & de Silva—corporate and commercial, corporate finance, employment, immigration, construction, intellectual property, real estate and conveyancing, litigation and arbitration, probate and estate administration;
- Allen & Gledhill—commercial law, banking law, public company work (prospectuses, takeovers,

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listings, etc), intellectual property, litigation, conveyancing and shipping practices;

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- Arthur Loke & Partners—investment law, corporate law, securities, taxation, employment law, banking law, real estate law, intellectual property law, construction law and leisure and entertainment law (also has a Hong Kong office);
- David Chong & Co—banking, corporate, commercial, securities, conveyancing, shipping, litigation, probate, tax, intellectual property and general practice;
- Donaldson & Burkinshaw—notaries public, commissioners for oaths, agents for trademarks and patents, property, mergers and acquisitions;
- Drew & Napier—banking and commercial law, international business transactions, taxation, shipping, litigation, intellectual property, conveyancing and trusts, insolvency;
- Haridass Ho & Partners—commercial and corporate work, shipping, admiralty, construction, intellectual property and litigation;
- Khattar Wong & Partners (the largest local law firm in Singapore)—conveyancing, banking, intellectual property, taxation, commercial and corporate work and international law;
- Rajah & Tann—corporate litigation, property, insurance, banking, finance, arbitration, building and construction, corporate insolvency and shipping;
- Ramdas & Wong—corporate matters, conveyancing property law, banking, intellectual property, bankruptcy and insolvency, probate and administration of estates, immigration matters, insurance, employment, construction, admiralty, shipping, and workers compensation claims;
- Shook Lin & Bok—corporate finance and securities, acquisitions, taxation, conveyancing and intellectual property;
- Wong Partnership—mergers and acquisitions, capital markets, corporate, banking, finance, project finance, privatisation derivatives, insurance, intellectual property, arbitration, commercial, investments, taxation, transport, constitutional, real estate, trusts, construction;
- Wong Yoong & Lim—banking, finance and securities, company and commercial, corporate, building and construction, civil and commercial litigation, arbitration, bankruptcy, property, intellectual property;
- Helen Yeo & Partners—corporate, commercial, real estate, banking and finance, intellectual property, China practice, Vietnam practice, Burma practice, Indonesia and Cambodia practices, and
- Yeo Wee Kiong & Partners - corporate, commercial, capital markets, public company

work, venture capital, litigation, intellectual property.²⁷

Australian and other foreign firms

Foreign lawyers (who are not admitted to the Singapore Bar) may offer only “off-shore” legal services. Australian and other foreign law firms are licensed to practise any law other than Singapore law (where their lawyers are properly qualified) and international law. All matters of Singapore law must be referred to local law firms.

Australian firms

In the 1980s, Australian law firms were particularly active in Singapore, utilising the city as a centre for the provision of legal services from a Singapore office to local clients and to the Asian region. However, over the last five to ten years, the Australian legal presence in Singapore has declined.

Allens Arthur Robinson, comprising three of Australia’s leading law firms, Allen Allen & Hemsley, Arthur Robinson & Hedderwicks and Finlaysons, have a branch office in Singapore. The office was established by Allen Allen & Hemsley in 1981. The resident partners are Mr David Simpson and Mr Barry Irwin. The Singapore office, working closely with the Group’s Hong Kong office and associated offices in Bangkok and Jakarta, undertakes work throughout South East Asia. The practice specialises in the areas of banking and finance, corporate and commercial, mining, and capital markets, regional investment transactions and investment into Australia.²⁸

Allens Arthur Robinson
77 Robinson Road #23-01
SIA Building
Singapore 068896
Telephone: 65-535-6622
Facsimile: 65-535-4855

Australian firms (in joint venture with their Hong Kong and United States network partners)

Deacons Graham & James opened its Singapore office in 1998. The Singapore office complements Australian offices in the capital cities as well as offices in the Asia-Pacific region, the United States, Europe and the Middle East. The office is run by Mr Eric Sedlak, formerly of the firm’s office in Vietnam and Japan. The practice will focus on infrastructure, finance, securitisation, cross-border investment, insolvency and general representation of multinational corporations. The firm has a formal association with Yeo Wee Kiong & Partners, a fourteen lawyer Singapore firm focusing on capital markets, corporate and commercial work.²⁴

Deacons Graham & James
The Globe # 15-02
100 Cecil St
Singapore 069532
Telephone: 65-224-7787
Facsimile: 65-224-7328

Australian firms having other forms of commercial presence or representation

- **Freehill Hollingdale & Page** presence in Singapore was established in 1986. Its full office closed in October 1995 and its representative office is staffed by Australian lawyers on a fly-in/fly-out basis.

Freehill Hollingdale & Page
9 Battery Road # 14-11
Singapore 049910
Telephone: 65-536-1163
Facsimile: 65-536-1152

- **Mallesons Stephen Jaques** services the Singapore market through their associate firm in Hong Kong.

Mallesons Stephen Jaques
Suite 801
Asia Pacific Finance Tower
Citibank Plaza
3 Garden Road
Central Hong Kong
Telephone: 852-2848-4600
Facsimile: 852-2868-0124

- **Minter Ellison** operates in association with Khattar Wong & Partners. The associate firm employs 96 local lawyers and no Australian lawyers.

Khattar Wong & Partners
80 Raffles Place #25-01
UOB Plaza 1
Singapore 048624
Telephone: 65-535-6844
Facsimile: 65-534-4892

- **Clayton Utz** is associated with the Singapore law firm of Rodyk & Davidson through the Pacific Rim Advisory Council (PRAC). This Singapore firm has forty lawyers and one consultant with a number of paralegal and support staff.

Rodyk & Davidson
9 Raffles Place #55-01
Republic Plaza
Singapore 048619
Telephone: 65-225-2626
Facsimile: 65-225-1838

- **Gadens Ridgeway** has a representative firm arrangement in Singapore with Robert W H Wang & Woo.

Robert W H Wang & Woo
50 Raffles Place
#12.05 Shell Tower
Singapore 0104
Telephone: 65-225-0123
Facsimile: 65-225-5065

Australian firms linked to international partnerships

The Singapore office of **Baker & McKenzie** presently employs 23 lawyers, including five Australian lawyers: Mr Robert Drake, Mr Matthew Sheridan, Mr Michael Velten, Ms Rachael Tan and Ms Adeline Wong. The office has a number of lawyers specialising in project finance, U.S. securities and the laws of Malaysia and Vietnam.²⁹

Baker & McKenzie
1 Temasek Avenue # 27 – 01
Millenia Tower
Singapore 039192
Telephone: 65-338-1888
Facsimile: 65-337-5100

Coudert Brothers has a branch office in Singapore. The managing partner is Mr David Boillot.

Coudert Brothers
20 Collyer Quay
#21-00 Tung Centre
Singapore 049319
Telephone: 65-222-9973
Facsimile: 65-224-1756

Australian lawyers

Please see the information listed below.

Local Lawyers

Please see the information listed in the preceding section.

Foreign firms

Singapore is one of the most crowded legal markets, with many foreign firms present even though they are not permitted to practise local law. Foreign firms use Singapore as a base for practice throughout the Asia-Pacific region, particularly for project finance and securities work.³⁰ There are at least 55 registered foreign law firms with offshore licences in Singapore.³¹

Status of lawyers employed

Local lawyers

Foreign law firms in Singapore are generally not known to employ local lawyers. This is because foreign firms are not

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permitted to practise Singapore law and their activities are directed at “off-shore” law. However, Singapore lawyers are not prohibited from providing “off-shore” legal services in Singapore and there are Singapore lawyers who practise “off-shore” law in American and English firms in Singapore. Some of these lawyers have been admitted to the State Bars of California, Michigan and New York.³²

Foreign lawyers

The foreign law firms with offices in Singapore vary in the number of foreign lawyers they employ. Some employ only a couple and others employ a large number of lawyers, that is, lawyers who have not been admitted to the Singapore Bar.³³

Principal home countries

Foreign lawyers are principally from the United States and England, with smaller numbers from Australia, Canada, Germany, Belgium, Sweden, Indonesia, Hong Kong and China.³⁴

Practice mix

Foreign law firms provide legal services mainly in international or regional banking and finance law, commercial/corporate law, the law governing construction and industrial projects, communications and transportation law and the law governing copyright and intellectual property rights.³⁵

Commercial arbitration

Legislation

The *International Arbitration Act 1994* acknowledges the rights of parties to agree to resolve their differences through arbitration. The Act supports and regulates the arbitration process in Singapore in relation to international commercial and non-commercial disputes. It achieves this by prescribing implied terms which parties have not dealt with in their arbitration agreement and provides the procedure for arbitration. The arbitration process in relation to domestic disputes is regulated by the *Arbitration Act*—Chapter 10.³⁶

Firms/centres

The Singapore International Arbitration Centre (SIAC) is a government funded, non-profit organisation. It commenced operation on 1 July 1991. Established under the Arbitration Rules, SIAC is an arbitral institution, its role being to administer arbitrations concerning international disputes. It is the statutory appointing authority for arbitrators within Singapore and, as at June 1996, there were approximately sixty arbitrators registered with SIAC.³⁷ For further information regarding the Centre, please contact:

Mr Ang Yong Tong
Executive Director
Singapore International Arbitration Centre
1 Coleman Street No 05-08
The Adelphi, Singapore 179803
Telephone: 65-334-1277
Facsimile: 65-334-2942
email: sinarb@singnet.com.sg

Principal coverage

The SIAC awards are enforceable internationally across 110 countries, including Australia, the United Kingdom and the United States. The SIAC rules are based largely on the UNCITRAL Arbitration Rules and the Rules of the London Court of International Arbitration with some modifications.³⁸

Foreign restrictions

Following the amendment of section 34A of the Singapore *Legal Profession Act*, which took effect from 27 March 1992, foreign lawyers are permitted to appear in arbitrations before SIAC. Where the applicable law is local law the foreign lawyer must appear with Singapore Counsel.

International instruments

Singapore has adopted the Convention on the Settlement of Investment Disputes between States and Nationals of Other States 1965 (ICSID). The *Arbitration (International Investment Disputes) Act*, enacted in 1968 pursuant to Article 69 of the ICSID Convention, had the effect of making the provisions of this Convention effective in the territory. On 21 August 1986, Singapore became a party to the New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards (1958). The *International Arbitration Act 1994*, which came into effect in Singapore on 27 January 1995, is based on the UNCITRAL Model Law on International Commercial Arbitration (1985).³⁹

Note: For information on Australian International Commercial Dispute Resolution Services, please refer to Section 5 *Dispute resolution services*.

4 Market access requirements

Foreign lawyer/ firm regulation

Body responsible

The Ministry of Law, in conjunction with the Law Society of Singapore regulates the practise of law by foreign legal practitioners within Singapore. Further information concerning the regulation of foreign lawyers and foreign law firms can be obtained from:

The Ministry of Law
250 North Bridge Road
Raffles City Tower
No 21-00
Singapore 0617
Telephone: 65-336-1177
Facsimile: 65-330-5891

Laws and regulations

The primary piece of legislation governing the legal profession in Singapore is the *Legal Profession Act 1984*. The most significant recent regulatory changes were enacted following the recommendations of the Committee for the Supply of Lawyers and are contained in the *Legal Profession (Amendment) Act 1993*. The provisions of this Act came into force on 1 January 1994, altering the criteria for the admission of solicitors and advocates in Singapore.

The aim of the amending provision was to prevent an oversupply of lawyers and to raise the calibre of legal practitioners within Singapore. The Act requires that local graduates attain at least a second class honours degree before being permitted to practise. Also, only graduates from a limited number of approved overseas universities will be eligible to be recognised for admission. The Law Society will not have disciplinary jurisdiction. Instead, cases will be referred to a Disciplinary Committee appointed by the Chief Justice. The Supreme Court will hear *prima facie* cases and is empowered to strike the person in question off the roll, prohibit them from practising for up to five years, or order the payment of a penalty of up to S\$5,000.⁴⁰

Foreign lawyer practice requirements

Citizenship

Most legal practitioners who have been admitted to the Bar in Singapore are permanent residents or citizens of Singapore. Approximately 25–30 per cent of admitted lawyers in Singapore are Malaysians holding permanent residency status within Singapore. In addition, there are approximately 10–15

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Malaysian practitioners registered to practise in Singapore. Under the new regulations that came into effect in 1994, Malaysian practitioners remain able to apply for admission in Singapore, assuming they satisfy the academic requirements applicable to Singapore citizens.⁴¹

Prior to 1 January 1995 Hong Kong practitioners could, on meeting certain conditions, be admitted to practise in Singapore. There are approximately 250 Hong Kong practitioners presently practising in Singapore who were admitted to the Singapore Bar under this scheme. With the revocation of this mode of admission, Hong Kong residents are now only able to gain admission to practise in Singapore if they satisfy the requirements applicable to foreign lawyers. However, the Minister has the discretion to exempt exceptional candidates from these requirements.⁴²

Foreign lawyers—off-shore legal services

There are no citizenship requirements for foreign lawyers practising international or “off-shore” law within Singapore. Persons interested in working in Singapore must obtain clearance from the Controller of Immigration and meet the criteria determined by the Attorney-General’s Chambers. Government policy requires that, before being able to practise in Singapore, foreign lawyers must obtain a professional employment pass, granting a right of temporary residency. Employment passes must be obtained from the Controller of Immigration, Immigration Department, Ministry of Home Affairs, Singapore. An employment pass is provided to a foreign lawyer subject to the following conditions:

- an undertaking from the firm that the applicant will only practise off-shore law and will not practise or give advice on the law of Singapore;
- the applicant will abide by the rules of professional conduct applicable to legal practitioners in Singapore, and
- the pass is subject to cancellation, at any time, if the applicant practises or gives advice on Singapore law or conducts themselves in a manner that would have subjected them to disciplinary action had they have been an advocate and solicitor of the Supreme Court of Singapore.

Once registered in Singapore, foreign lawyers are able to provide any form of legal services except the practice of local law. However, foreign lawyers are only able to be employed in local firms within Singapore as a para-legal.⁴³

Special admission

Foreign lawyers who have not been admitted to the Singapore Bar cannot appear before Singapore’s courts. However, there is provision in the *Legal Profession Act* for ad hoc admission of a Queen’s Counsel, for the purpose of a single case, who:

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- is not ordinarily resident in Singapore or Malaysia but who has come or intends to come to Singapore for the purpose of appearing in the case, and
- has special qualifications or experience for the specific legal matter.

Section 24 of the *Legal Profession Act* provides that the case must be of “sufficient difficulty and complexity” before admission is allowed. “Application is to be by way of originating motion served on the parties to the case, to whose views the court shall have regard before admitting the person”. A number of Australian Queen’s Counsel have been granted admission to appear in Singapore’s courts on the basis of this provision.

Additional requirements

Visa restrictions

Commonwealth citizens and nationals of certain other countries (Eire, Liechtenstein, Monaco, Netherlands, San Marino and Switzerland) do not require visas in advance. Visitor visas are stamped in passports at the point of entry. It is advisable to request at the time of entry for a stay permit of more than two weeks if that is the intention of the visitor. Passport holders of most other nations also do not require visas in advance for stays of up to fourteen days.⁴⁴

Work permits

Except for permanent residents, all foreigners taking up employment in Singapore must secure work permits if earning S\$2,000 or less per month, or employment passes if earning more than S\$2,000 per month. Work permits and employment passes are normally issued for one to three years, subject to renewal.

Pre-arranged employment is a prerequisite and the application to the immigration authorities must be accompanied by a letter of sponsorship from the employer. The local sponsor will normally be the employer. The particulars of the employer must be submitted to the Controller of Immigration. In issuing the employment pass the immigration authorities consider the qualifications of the applicant and the reputation of the employer. In issuing work permits, demand for the relevant services and the availability of suitably qualified Singaporeans or permanent residents are taken into account. Professional visit passes may be available to those in Singapore on specific short-term assignments.

Singapore immigration authorities will not issue work permits to foreign lawyers without the consent of the Attorney-General who has complete discretionary powers. In 1979 the Attorney-General adopted the current policy of granting approval to selected foreign law firms.

Licences are only granted to long established firms with an international practice. The Attorney-General exercises control through the immigration authorities to regulate matters such as staffing, qualifications and scope of practice.⁴⁵

Regulation of foreign law firms

Use of firm names

There do not appear to be any particular requirements established by the Law Society of Singapore as to the use of a firm's name.

Employment of local lawyers

Foreign law firms cannot employ Singapore lawyers to practise local law within their Singapore office. However, Singapore lawyers are not prohibited from providing "off-shore" legal services in Singapore and there are Singapore lawyers who practise "off-shore" or international law in American and English firms in Singapore.

Local firm association

Overseas lawyers not admitted to the Singapore Bar cannot form partnerships with local lawyers.⁴⁶

Government approvals

Not known.

Other

Not known.

Restrictions on practice

Foreign law firms are limited to advising on "off-shore" or international transactions only.

The practice of law in Singapore is reserved for advocates and solicitors who have been admitted to the Singapore Bar. If not admitted to the Singapore Bar, overseas practitioners must not:

- appear and plead in the Singapore courts;
- draw or prepare any court or other legal documents relating to any proceedings in the courts in Singapore, or
- act as advocates and solicitors on behalf of any party to proceedings.⁴⁷

Recent regulatory changes

The Government of Singapore is currently conducting a review of Singapore's Strategic Legal Needs in the Financial Sector. A submission, prepared by ILSAC, argued that there would be benefits for the users of international legal services from more liberal regulation of foreign law firms in Singapore. The benefits include: increased efficiencies in the delivery of legal services and the availability of a wider and deeper range of legal services relevant to financial services. These developments would enhance Singapore's attractiveness as a regional financial center.⁴⁸

Less recently, the *Legal Profession Act* was amended due to the Government's concern in 1992 at the projected over-supply of lawyers in Singapore. It was considered that the current rate of growth in the number of lawyers was unacceptably high. In September 1992, the Committee for the Supply of Lawyers, chaired by the Attorney-General of Singapore Mr Chan Sek Keong, was established.

The Committee was formed to determine an appropriate supply of lawyers within the short to medium term and recommend measures to achieve these targets. On 10 April 1993, the Committee on the Supply of Lawyers delivered its report to the Minister for Law. The Government subsequently accepted all the recommendations of the Committee and requested that the Attorney-General's Chambers prepare the necessary amendments to the *Legal Profession Act* to implement the recommendations of the Report.

While the amendments to the *Legal Profession Act* did not have a direct effect on the supply of "off-shore" legal services within Singapore, the implementation of the *Legal Profession (Amendment) Act 1993* had a number of direct and indirect implications for legal education and training in Singapore and overseas and on the practise of law by foreign law firms. Following is a summary of the recommendations and the date of effect of the subsequent changes to the regulations.⁴⁹

Legal Services Country Profile: Singapore

Recommendations	Effective dates
Reduction of National University of Singapore (NUS) intake progressively from 200 to 150 over five years.	From 1993
Requirement for second class LLB (Hons) degree or above for NUS law graduates to practise law in Singapore.	For persons graduating in or after 1997
Implementation of list of scheduled universities from the UK whose qualifications will be recognised.	For admission to universities from 1994 onwards
Requirement for second class upper LLB (Hons) degree or above for law graduates from scheduled universities to practise law in Singapore.	For persons graduating in or after 1997
Option of Diploma in Singapore Law in lieu of barrister or solicitor qualification for law graduates from UK universities.	From 1994, limited to 50 places and based on merit
Non-recognition of external LLB degrees.	For degrees obtained during or after 1996
Malaysian practitioners subject to same qualifications as Singapore nationals.	
Abolition of the gazetted Commonwealth Universities Scheme.	For persons admitted to universities from 1994 onwards
Abolition of the Hong Kong practitioners' scheme.	From 1 January 1995
Introduction of a general scheme for "exceptionally qualified law graduates".	From 1994
Requirement of Diploma in Singapore Law for law graduates from gazetted Commonwealth universities.	From 1994 ⁵⁰

Note: For more detailed information please see, Section 2—*Qualifications for practice*.

5 Australian legal services

Australian law firms

(Australian law firms and lawyers providing services in Singapore see, Section 3—*Legal Services Market*.)

Prospects for Australian legal services

Services are becoming an increasingly important component of Australia's trade with Singapore.

Prospects for Australian legal services

Opportunities for the Australian legal services sector may result from the review of Singapore's Strategic Legal Needs in the Financial Sector (See, Section 4—*Recent Regulatory Changes*).

Australian firms could provide assistance to Australians wishing to undertake business transactions in Singapore as well as considerable assistance to Singapore companies and individuals engaged in trade with Australia. The large Australian firms are in a position to offer expertise in specific areas of law such as international banking, finance and securities law or international conventions. More specifically, the main scope for Australian firms in Singapore includes:

- the law governing trade and business transactions between Singapore and Australia;
- regional transactions without Australian content, but in which a high degree of conceptual and technical sophistication is required;
- advisory work to regional governments (volume of work available is quite small). The scope for Australian law firms to provide direct legal advice and/or services to the Singapore government, eg. legislative drafting, arbitration facilities, etc. is minimal, and
- advice on the application of International Conventions and International Law, as Singapore has ratified the World Trade Organisation (WTO) Agreement, which encompasses all the agreements negotiated under the GATT Uruguay Round of multilateral negotiations.⁵¹

Legal assistance required by Australian businesses

The legal system in Singapore is well serviced by a large number of highly educated local lawyers. Perhaps the greatest potential for Australian legal service providers is in the support of Australian companies taking advantage of Singapore's significant role in the fields of international banking, regional trade and investment and business activity. There are three

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broad areas in which legal assistance may be required by Australian companies undertaking business with Singapore:

- the negotiation and documentation of joint ventures;
- the negotiation and documentation of technology transfer arrangements (eg. patent, trade mark and “know-how” licensing arrangements), and
- the establishment of taxation and trading structures that do not impact adversely on the Australian businesses’ Australian tax position.⁵²

Future prospects

There are some opportunities for Australian law firms wishing to provide “off-shore” legal services, in Singapore. Recent amendments to the *Legal Profession Act*, however, have restricted access by foreign firms to the legal services market and have reduced somewhat the potential for Australian firms to take advantage of Singapore’s economy.

It has been suggested, however, that under the relatively recent amendments to the Singapore Arbitration legislation there may be scope for Australian lawyers in the arbitration area, particularly in the area of international commercial dispute resolution. Similarly, with the ratification of the WTO Agreement there is potential for legal practitioners offering expertise in the area of international trade law.⁵³

Prospects also exist for the provision of legal education services by Australian university law schools. It is acknowledged that the regulatory changes may result in fewer students from Singapore undertaking an LLB course in Australia. However, with a greater emphasis being placed on continuing legal education, there is scope for Australian education providers to provide a range of continuing legal education and other post-graduate courses for legal practitioners based in Singapore.

Dispute resolution services

Centres/firms

The Australian Centre for International Commercial Arbitration (ACICA) provides services on the settlement of international commercial disputes of all kinds to the region. The Institute of Arbitrators and Mediators Australia which controls ACICA has as its main objectives the education and training of arbitrators and their grading, the nomination of arbitrators to arbitrate domestic disputes, and the promotion of arbitration as a means by which commercial disputes can be resolved. ACICA has entered into arrangements with the International Centre for Settlement of Investment Disputes in accordance with the provisions of the ICSID Convention. ACICA is in close contact with the Singapore International Arbitration Centre, although there is no formal cooperation agreement at present.⁵⁴

For further information on ACICA, please contact:

Mrs L K Cunningham
Secretary General of ACICA
Level 1
22 William Street
Melbourne VIC 3000
Telephone: (03) 9629 6799
Facsimile: (03) 9629 5250

The Australian Commercial Disputes Centre (ACDC) provides consulting, training and dispute resolution services both domestically and internationally. It concentrates on mediation, expert appraisal and determination. ACDC has entered into arrangements with the International Centre for Settlement of Investment Disputes in accordance with the provisions of the ICSID Convention. Also, it is the Asia Pacific Registry for the London Court of International Arbitration. It is also a member of the Council of Asia Pacific Commercial Disputes Centres.⁵⁵

For further information on the ACDC, please contact:

Ms Sally Browning
Acting Chief Executive Officer
Australian Commercial Disputes Centre
Level 6
50 Park Street
Sydney NSW 2000
Telephone: (02) 9267 1000
Facsimile: (02) 9267 3125

Legal education and training

Overseas students studying in Australia

Commonwealth-funded higher education institutions

Over the past decade, there has been a large increase in the number of students from Singapore studying in Australia. The rise has been attributed to both the increasing international reputation of Australian universities and to a favourable exchange rate. In 1997, Singapore was the fifth highest ranking source country for overseas students. Some 13,542 students from Singapore were studying at Australian institutions.

While the forecast is that demand for overseas education by students from Singapore will continue to grow, with the recent changes governing admission to the Singapore Bar the number of students from Singapore enrolled in undergraduate law courses at Australian universities is expected to decline.⁵⁶

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In 1997 there were 12,107 Singapore students recorded as studying at Australian Commonwealth-funded Higher Education institutions. It is noteworthy that, despite degrees from Monash University, the University of Melbourne and the University of Sydney no longer being recognised for admission purposes by the Law Society of Singapore there were, in the 1997 academic year, 33 students studying law at Australian universities.⁵⁷

Qualifications recognised

See, Section—2*Qualifications for practice.*

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