

Specialist Accreditation Scheme

Building and Construction Law 2018

This guide is for legal practitioners who are applying for specialist accreditation in Building and Construction Law.

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1. Definitions

- 1.1. *Applicant.* A legal practitioner who has submitted his or her application to be an Accredited Specialist or a Senior Accredited Specialist to the Singapore Academy of Law (SAL) but whose candidature is unconfirmed.
- 1.2. *Building and construction legal practice.* This is the practice of law relating to all aspects of development, design and construction of public and private projects. It shall encompass, but is not limited to, all advisory and documentation work undertaken for related stakeholders including contractors, developers, consultants, insurers and financial institutions, prior to the commencement of and all dispute-related work arising from such projects.
- 1.3. *Candidate.* A legal practitioner who has applied to be an Accredited Specialist or a Senior Accredited Specialist and whose candidature has been confirmed by the SAL and is in the process of being assessed by the SAL.
- 1.4. *Legal practitioner.* Advocate and Solicitor of the Supreme Court of Singapore with a currently valid practising certificate.
- 1.5. *Selection Panel.* The committee that administers the Specialist Accreditation Scheme for the area of practice for which the applicant is seeking specialist accreditation. It assesses and recommends to the Specialist Accreditation Board legal practitioners for accreditation as either an Accredited Specialist or Senior Accredited Specialist for the said area of practice.
- 1.6. *Singapore Academy of Law (SAL).* The entity that oversees the Specialist Accreditation Scheme.
- 1.7. *Specialist.* A legal practitioner who is either an Accredited Specialist or a Senior Accredited Specialist.
- 1.8. *Specialist Accreditation Board (SAB).* The body that administers the Specialist Accreditation Scheme under the auspices of the SAL.

2. Applying for Accreditation

- 2.1 The SAL's Specialist Accreditation Scheme (the "Scheme") offers practitioners a channel to be recognised for their expertise in their chosen specialisation and thus are expected to be legal ambassadors of that specialisation locally and abroad. Specialist accreditation is also a means for the legal industry and consumers of legal services to identify legal practitioners with proven competency in their chosen area of practice.
- 2.2 Legal practitioners are invited to apply to be a specialist in **building and construction law**.
- 2.3 Legal practitioners may apply to be:
 - a. an Accredited Specialist

b. a Senior Accredited Specialist



2.4 **Closing date.** Interested applicants must submit their application, reference statements, supporting documents and the payment confirmation email by the following dates depending on the type of accreditation they apply for:

a. Accredited Specialist: **31 March 2018, 5pm**

b. Senior Accredited Specialist: **31 August 2018, 5pm**

2.5 If either date is a public holiday or falls over a weekend, the deadline for submission will be the next working day.

2.6 Applications are to be submitted by email to accreditation@sal.org.sg

2.7 The SAL will send an acknowledgment of receipt of application ONLY if the application form is fully completed and accompanied by all the required documentation, and the application fee paid.

2.8 The onus is on applicants to ensure that their application has been received by the SAL.

3. Eligibility Criteria

3.1 Applicants must satisfy the following eligibility criteria:

- a. Have been admitted to the Singapore Bar as an Advocate and Solicitor of the Supreme Court of Singapore
- b. Hold a currently valid practising certificate
- c. Have a minimum full-time post-qualification experience (PQE)
- d. Have not been subject to professional disciplinary proceedings or charged and convicted of a serious crime
- e. Have been substantially involved in the full-time practice of building and construction (B&C) law
- f. Have been engaged in continuing professional development (CPD) in this area of practice
- g. Provide favourable reference statements
- h. Successfully complete an assessment programme comprising an examination and/or a selection panel interview

Accredited Specialist

3.2 **Post-qualification experience.** Legal practitioners with at least **5 years** of full-time PQE as at **1 January** may apply to become an Accredited Specialist.

3.3 For 2018 applications, applicants would need to have commenced full-time practice on 1 January 2013 or earlier.

- 3.4 **Substantial involvement.** Applicants must show that, in the immediate 3 years prior to application, they have been engaged in full-time practice in B&C law by having dedicated a **minimum billable amount of S\$200,000 or 450 billable hours** a year to the said area of practice.
- 3.5 As part of their substantial involvement in B&C law, applicants must have been involved in a trial, arbitration or binding adjudication or statutory adjudication at least as second chair, and/or performed front-end work which can include but is not limited to detailed review, drafting and preparation of construction contracts and tenders.
- 3.6 If applicants have been involved only in front-end work, whether this criterion is met shall depend on the complexity of the work done.
- 3.7 **Continuing professional development.** In the immediate 3 years prior to application, applicants must have accumulated at least **6 public and/or private CPD points** a year in this specialisation.
- 3.8 **References.** Applicants shall be required to submit two favourable reference statements from B&C legal practitioners, in-house counsel, arbitrators or adjudicators who can attest to the applicants' involvement and competence in the specialisation, and character.
- 3.9 Legal practitioner referees must have more than 5 years' PQE and have known the applicants for at least 3 years prior to application.
- 3.10 In-house counsel referees must have been advised by the applicants in the immediate 3 years prior to application.
- 3.11 Arbitrators or adjudicators must have arbitrated or adjudicated a B&C matter, before whom the applicants have appeared.
- 3.12 **Examination.** Candidates must sit and pass an open-book examination which shall test their knowledge on all aspects of B&C law and processes.
- 3.13 **Selection panel interview.** Candidates, who achieve a satisfactory examination grade, are required to undergo a selection panel interview.

Senior Accredited Specialist

- 3.14 **Post-qualification experience (PQE).** Legal practitioners with at least **10 years** of full-time PQE as at **1 July** may apply to become a Senior Accredited Specialist.
- 3.15 For 2018 applications, applicants would need to have commenced full-time practice on 1 July 2008 or earlier.
- 3.16 **Substantial involvement.** Applicants must show that, in the immediate 5 years prior to application, they have been engaged in full-time practice in B&C law by having dedicated a **minimum billable amount of S\$500,000 or 600 billable hours** a year to the said area of practice.

- 3.17 Applicants must have, in the immediate 5 years prior to application, been involved in a trial, arbitration or binding adjudication or statutory adjudication as lead counsel, arbitrator or adjudicator, and/or performed front-end work which can include but is not limited to detailed review, drafting and preparation of construction contracts and tenders.
- 3.18 If applicants have presided over an arbitration or adjudication, they must include a list of their written awards with their applications.
- 3.19 Applicants are expected to have undertaken work that deals with more complex issues.
- 3.20 **Continuing professional development (CPD).** In the immediate 5 years prior to application, applicants must have accumulated at least **6 public and/or private CPD points** a year in this specialisation.
- 3.21 **References.** Applicants shall be required to submit two favourable reference statements from B&C legal practitioners, in-house counsel or adjudicators who can attest to the applicants' involvement and competence in the specialisation, and character.
- 3.22 Legal practitioner referees must have more than 10 years' PQE and have known the applicants for at least 5 years immediately prior to application.
- 3.23 In-house counsel referees must have been advised by the applicants in the immediate 5 years prior to application.
- 3.24 Arbitrators or adjudicators must have arbitrated or adjudicated a B&C matter, before whom the applicants have appeared.
- 3.25 **Selection panel interview.** Candidates are required to undergo a selection panel interview.

4. Post-qualification Experience

- 4.1. Applicants who, in the 3 or 5 years prior to application, supervised a team of practitioners in handling matters or files may fall short of the benchmark set by the criteria. In deciding if the applicant meets the criteria, the following will be considered, besides the nature and complexity of the matters handled:
 - a. The number of legal practitioners in the team that worked directly under the applicant on each matter or file.
 - b. The post-qualification experience (PQE) of the members of that team.
 - c. The overall billable amount/hours for each matter or file and the proportion of the amount/hours that can be attributed to the applicant.
- 4.2. The following work may also be included when calculating the billable amount/hours:
 - a. Work done in relation to originating summons applications
 - b. Pro bono work
 - c. Work done in the applicant's capacity as an adjudicator

5. Continuing Professional Development

- 5.1 Applicants must show that they have kept abreast of legal developments in B&C law by accumulating public and/or private CPD points.
- 5.2 Other than participating in Singapore Institute of Legal Education (SILE)-accredited programmes, the CPD criteria can be met by participating in other activities including, but not limited to, teaching, guest lecturing or being on a discussion panel in a course, seminar or conference, conducting in-house seminars, authoring, contributing and/or editing publications and post-graduate degree studies at a reputable institution in the said area of practice.
- 5.3 The following activities will be considered by the panel on a case-by-case basis. They must include a B&C component:
- a. Overseas courses, workshops, seminars and conferences in B&C law
 - b. Seminars and conferences on arbitration and ADR
 - c. Presentations to clients
- 5.4 Applicants are advised to provide as much information as possible with their applications:
- a. Programme details including topics covered and the course tutors and presenters
 - b. For presentations to clients, presentation slides and materials prepared by the applicant
- 5.5 To assist them in calculating the required 6 public and/or private CPD points, the following table provides an inexhaustive list of activities and their respective points.

Activity	Points
Attending a conference, lecture, seminar, course or workshop relating to B&C law	1 point per hour
Lecturing or participated as a panellist at a conference, lecture, seminar, course or workshop including in-house relating to B&C law	3 points per hour
Teaching or contributing in various roles in the preparatory course in B&C law for the Singapore Bar examinations	<ul style="list-style-type: none"> • Subject Coordinator or Deputy Subject Coordinator – 8 points per session • Tutor – 2 points per practice session, workshop or class conducted • Instructional Designer – 2 points for developing teaching materials for each practice session, workshop or class • FMS Mentor – 6 points per session • Lecturer – 1 point per 0.5 hour
Attending an in-house seminar on B&C law	1 point per hour
Reviewing a multimedia, Internet-based, audio-visual, audio or video programme or material relating to B&C law	1 point per hour (minimum programme length of 20 minutes)
Writing an article relating to B&C law that is published in an approved publication (as defined by Guidelines on the Continuing Professional Development Scheme 2017)	1 point for the first 1,000 words; 0.5 point for every subsequent block of 500 words
Serving as a member of any committee, subcommittee, working party or advisory panel of Law Society of Singapore, SAL or legal professional body related to B&C law for at least four months	Maximum 2 points per year for all committees served

6. Professional Conduct

- 6.1 Applicants must declare if, throughout their professional legal career, they have been:
- a. subject to proceedings, due process or sanctions for professional misconduct by Law Society, the Disciplinary or any authorised disciplinary authority such as a court of law, pursuant to the Legal Profession Act (Cap 161), Legal Profession (Disciplinary Tribunal) Rules (Cap 161, R 2) or Legal Profession (Inadequate Professional Services Complaint Inquiry) Rules, or any proceedings, due process or sanctions for any professional misconduct that may bring the profession and the Scheme into disrepute, or
 - b. charged and convicted for committing or abetting to commit a criminal offence, implying a defect of character which makes them unfit for their profession.
- 6.2 Applicants must also inform the SAL if, at any time during the application process or thereafter, proceedings have been instituted against them for professional misconduct or commission or abetment to commit a criminal offence.
- 6.3 The SAL may make enquires of the Disciplinary Tribunal as to any findings of misconduct or unsatisfactory conduct concerning the applicants.
- 6.4 The SAL may decline to accept an application on the grounds stated in **paragraphs 6.1 and 6.2.**

7. References – Considerations

- 7.1. Applicants must provide reference statements attesting to their competency in the practice of B&C law.
- 7.2. Referees may be legal practitioners involved in the practice of B&C law, who can attest to the applicants' involvement and competence in the said area of practice.
- 7.3. Referees may also be in-house counsel whose scope of work revolves around B&C law and have been advised by the applicants.
- 7.4. At least one referee must be a legal practitioner.
- 7.5. Referees may also be arbitrators or adjudicators, before whom the applicants have appeared in arbitration or adjudication proceedings.
- 7.6. Referees cannot be relatives of the applicants, judges of the Supreme and State Courts of Singapore, personnel of the same law practice as the applicants, and selection panel.
- 7.7. Applicants applying for the same specialist accreditation in the same year cannot serve as referees. For the 2018 specialist accreditation programme, this exclusion is waived. However, applicants cannot provide cross-references for each other.
- 7.8. Applicants must inform their referees that they have the option of submitting **confidential reference statements** directly to the SAL by email before the closing date.

8. Examinations

- 8.1. Candidates who have applied to be Accredited Specialists must sit for an examination. The examination is usually conducted on the last Saturday of August.
- 8.2. They will be tested on the following topics:

Module 1. Introduction

- a. Structure of the industry – owners, consultants, contractors and subcontractors
- b. The development and construction process and the regulatory regime
- c. Characteristics of construction contracts
- d. Procurement models: traditional build only, design and build, construction fee
- e. Overview of the major Standard Forms: SIA Form, PSSCOC, REDAS
- f. Contract formation modes: bidding and negotiation
- g. Award or placement of contract
- h. Financing of projects and development

Module 2. Contract Documents and Risk Management

- a. Risks register and mitigation – legal and contractual
- b. Role of the designer, contract administrator and certifier
- c. Components of contract documents: the role and issues relating to each component and interpretation
- d. Risks relating to contractor's design, site and ground conditions
- e. Security deposits and insurances

Module 3. Time for Completion

- a. Concept of act of prevention and legal principles
- b. General terms for expediting progress of works and management of acceleration claim
- c. Problems relating to site possession and work commencement
- d. Accounting for timely delivery: Liquidated damages and loss and expense
- e. Managing extensions of time and related risks

Module 4. Managing Variations

- a. Concept of variations
- b. Extent of the power to vary
- c. Variation situations – ground conditions, regulatory changes, changes in quality and quantity, construction sequence
- d. Operation of variation provisions in the major standard forms
- e. Hierarchy of valuation rules
- f. Measurement and records

Module 5. Payment Regime

- a. Principles relating to the progress payment process
- b. Certification of payments
- c. Final payments
- d. Risks relating to delay in certification
- e. Case studies in late progress payment and late responses

Module 6. Security of Payment Act

- a. Objectives of the legislation
- b. Structure of the regime and the timelines
- c. Payment claim and payment response
- d. Operation of section 15(3) and the Adjudication Notice
- e. Adjudication application and adjudication response
- f. Adjudication conference
- g. Enforcing the adjudication determination

Module 7. Subcontracting Model

- a. Sub-contracting model: Contractor's and employer's rights and obligations with respect to nominated and direct subcontractors/suppliers
- b. General principles of "back-to-back" and "pass-down" risk allocations and exceptions
- c. Nominated subcontractors and nominated suppliers

Module 8. Termination

- a. Termination for breach and termination under the contract
- b. Common grounds of termination
- c. Termination on insolvency of a party
- d. Repossession of site
- e. The completion contract
- f. Final accounts

Module 9. Handover and Post-Completion Issues

- a. Concept of substantial completion and final completion
- b. Final accounts
- c. Maintenance period (or defects liability period)
- d. Liability for defects under contract and tort
- e. Statutory obligations of professionals

Module 10. Dispute Resolution

- a. Characteristics of construction disputes
- b. Arbitration

- c. Statutory adjudication
 - d. Mediation
 - e. Neutral evaluation
- 8.3. The examination comprises Parts A and B. Part A covers Modules 1, 2, 3, 4, 7, 8, 9 and 10 (3 hours), while Part B focuses on Modules 5 and 6 (2.5 hours).
- 8.4. The examination comprises scenario-based problems with questions for each problem.
- 8.5. The overall pass mark is 60%. Candidates must pass both parts and attain the overall pass mark before they are considered to have passed the examination.

9. Examination Preparatory Course

- 9.1. The SAL offers a preparatory course for candidates required to sit for the examination.
- 9.2. Course attendance is not compulsory.
- 9.3. The course comprises 27 contact hours of classroom instruction, conducted over three weekends: Friday (full day) and Saturday (morning) half-day.
- 9.4. It is assumed that candidates who undertake this course have knowledge in B&C law expected of a 5-year PQE legal practitioner.
- 9.5. Due to limited resources, the SAL cannot guarantee that all candidates will secure a place on the course.
- 9.6. Candidates are advised to register for the course once their candidature is confirmed to avoid disappointment. Reservations are on a first-come-first-served basis.
- 9.7. Reservations are confirmed only when candidates have registered and made payment for the course.
- 9.8. Candidates are free to self-study or attend other relevant courses to prepare for the examination.

10. Selection Panel Interviews

- 10.1 Candidates who have applied to be Accredited Specialists and Senior Accredited Specialists must attend a Selection Panel interview.
- 10.2 The interview will be conducted by a panel of three assessors with expertise in the area of practice.
- 10.3 It will last between 20 to 30 minutes.
- 10.4 The interview will revolve around the following:

- a. the candidates' legal practice as detailed in the application form
- b. the candidates' knowledge of the law and practice including, but not limited to, theoretical principles and concepts, and procedures and methodology
- c. the candidates' examination scripts (for Accredited Specialist candidates)

10.5 The Selection Panel will assess the candidates' ability to:

- a. engage the panel in a constructive dialogue through clarity of thought and expression
- b. use their knowledge of the law and practice in this dialogue to demonstrate their understanding of the legal developments and issues surrounding the area of practice

10.6 The interview will be voice recorded.

11. Exemptions

11.1 **Substantial involvement.** Applicants who cannot meet this criterion due to a leave of absence may apply for an exemption so long as they can demonstrate:

- a. for the Accredited Specialist tier, not less than 3 years of substantial involvement in the practice of B&C law within the immediate 5 years prior to application
- b. for the Senior Accredited Specialist tier, not less than 5 years of substantial involvement in the practice of B&C law within the immediate 7 years prior to application.

11.2 **Continuing professional development (CPD).** Applicants must fulfil the CPD requirement even if they have been on a leave of absence within the relevant years prior to application, unless they were physically unable to do so due to illness or accident, in which case CPD activities in the immediate 5 (Accredited Specialist tier) or 7 (Senior Accredited Specialist tier) years prior to application shall be assessed.

11.3 **Examinations.** Candidates may be exempted from sitting the examination if in the immediate 3 years prior to application, they successfully completed full-time post-graduate studies, for example, an LLM, in B&C law.

11.4 The SAL shall consider the educational institution from which the post-graduate qualification was conferred, the syllabus if the post-graduate studies was a taught course, theses or dissertations written in conjunction with the post-graduate studies and academic transcripts.

11.5 The SAL will have the discretion to approve or reject applications for exemptions. All decisions will be final.

12. Assessment and Accreditation of Candidates

12.1 The Selection Panel will review all applications received.

12.2 Applicants that the Selection Panel considers as having met criteria a. to g. set out in paragraph 3.1 may be considered for candidature.

- 12.3 Candidates who have applied to be an Accredited Specialist will be required to sit for an open-book examination.
- 12.4 Candidates who pass the examination will undergo a Selection Panel interview. Candidates who have applied to be a Senior Accredited Specialist will also be interviewed.
- 12.5 Candidates who do not perform satisfactorily in either the examination or the panel interview will not be accredited.
- 12.6 Candidates should not discuss the examination and the interviews with other candidates and colleagues or contemporaries who have not applied for accreditation.
- 12.7 The SAB, on the advice of the selection panel, will determine if a candidate should be accredited.
- 12.8 Successful candidates will be accredited the following designations:
Acc. Spec. (Building & Construction), Singapore Academy of Law
or
Snr. Acc. Spec. (Building & Construction), Singapore Academy of Law
- 12.9 The SAL's decision to confirm or deny candidature, or award or deny specialist accreditation, is final and is not required to provide any reasons for the said decision.
- 12.10 There is no right of appeal against a decision not to confirm candidature or accredit a candidate.

13. Fees

13.1 All fees are to be paid via SAL-e.



13.2 **Application fee.** Applications should be accompanied by the payment of a one-time application fee of:

- a. Accredited Specialist: S\$428 including GST
- b. Senior Accredited Specialist: S\$1,070 including GST

13.3 All applications must be accompanied by the payment confirmation email.

13.4 **Examination preparatory course fee.** The course fee is S\$2,568 including GST.

13.5 Registration is open after confirmation of candidature.

13.6 **Examination fee.** The examination fee is S\$428 including GST.

13.7 Registration for the examination is open after confirmation of candidature.

13.8 The examination fee must be paid at least 28 days prior to the examination date.

13.9 Non-payment of the examination fee by the deadline assumes candidates do not wish to sit for the examination and thus withdraw their candidature.

13.10 The **fee schedule** is as follows (fees are in Singapore dollars and inclusive of GST):

Service	Accredited Specialist	Senior Accredited Specialist
Application	S\$428	S\$1,070
Exam preparatory course (optional)	S\$2,568	-
Examination	S\$428	-

13.11 The SAL will consider late payments at its discretion.

14. Refunds

14.1 **Application fee.** Applications may be withdrawn at any stage during the assessment process. Refunds are available only if the application is withdrawn before candidature is confirmed or if candidature is denied. No refunds are available thereafter.

14.2 **Examination preparatory course fee.** Candidates may cancel their registration at any stage prior to the start of the course. Refunds are available depending on the stage at which registration is cancelled.

14.3 However, the course fee will remain payable in full if:

- a. notice of cancellation is received 7 days or less prior to the start of the course
- b. candidates fail to attend the course for any reason whatsoever; or
- c. candidates arrive late or fail to attend any part of the course.

14.4 **Examination fee.** If candidates wish to withdraw from sitting for the examination before the closing date, they may seek a partial refund of the examination fee. There will be no refund after the closing date.

14.5 The current refund schedule is as follows (refunds are in Singapore dollars and inclusive of GST):

Service	Accredited Specialist	Senior Accredited Specialist
Application	S\$321	S\$749
Exam preparatory course (optional)	30-45 days prior to start of course: 75% of course fee	-

	8–29 days: 50% of course fee	
	7 days or less: No refund	
Examination	S\$321	-

15. Timelines



15.1 Applicants should be aware of the **tentative** timelines for 2018:

Date	Event
8 January	Accredited Specialist applications open
15 February	Information evening (tentative)
31 March	Accredited Specialist applications close 5pm
30 April	Accredited Specialist candidature confirmed
1 May	Exam preparatory course registration opens Exam registration opens
1 July	Senior Accredited Specialist applications open
7 July	Exam preparatory course registration closes
13, 14 July	Exam preparatory course
20, 21 July	Exam preparatory course
27, 28 July	Exam preparatory course
28 July	Exam registration closes
25 August	Examination
31 August	Senior Accredited Specialist applications close 5pm
30 September	Senior Accredited Specialist candidature confirmed
October	Selection panel interviews for all candidates
January 2019	Results released to all candidates