

Topics

01 Introduction

02 Legislations and Regulations

03 Forms of Practice

04 Business Model

05 People, Policies & Procedures

06 Project Planning

07 Marketing and Fees

08 Architect' s Appointment

01 Introduction

- Ever changing
- New project delivery methods
- New industry players
- Architects no longer the centre of decision making process
- Very Competitive
- Other paraprofessionals

02 Legislations and Regulations

02 Legislations and Regulations

- Mandatory requirements
 - System of Government
 - 3 tiers
 - Architect and the Law
 - Architect's Act
 - Architects Rules
 - Others
 - Passing Part III Exams
 - Registration with LAM

02 Legislations and Regulations

- Professional Legislation and Professional Bodies

a) Professional Legislations

b) Professional Bodies

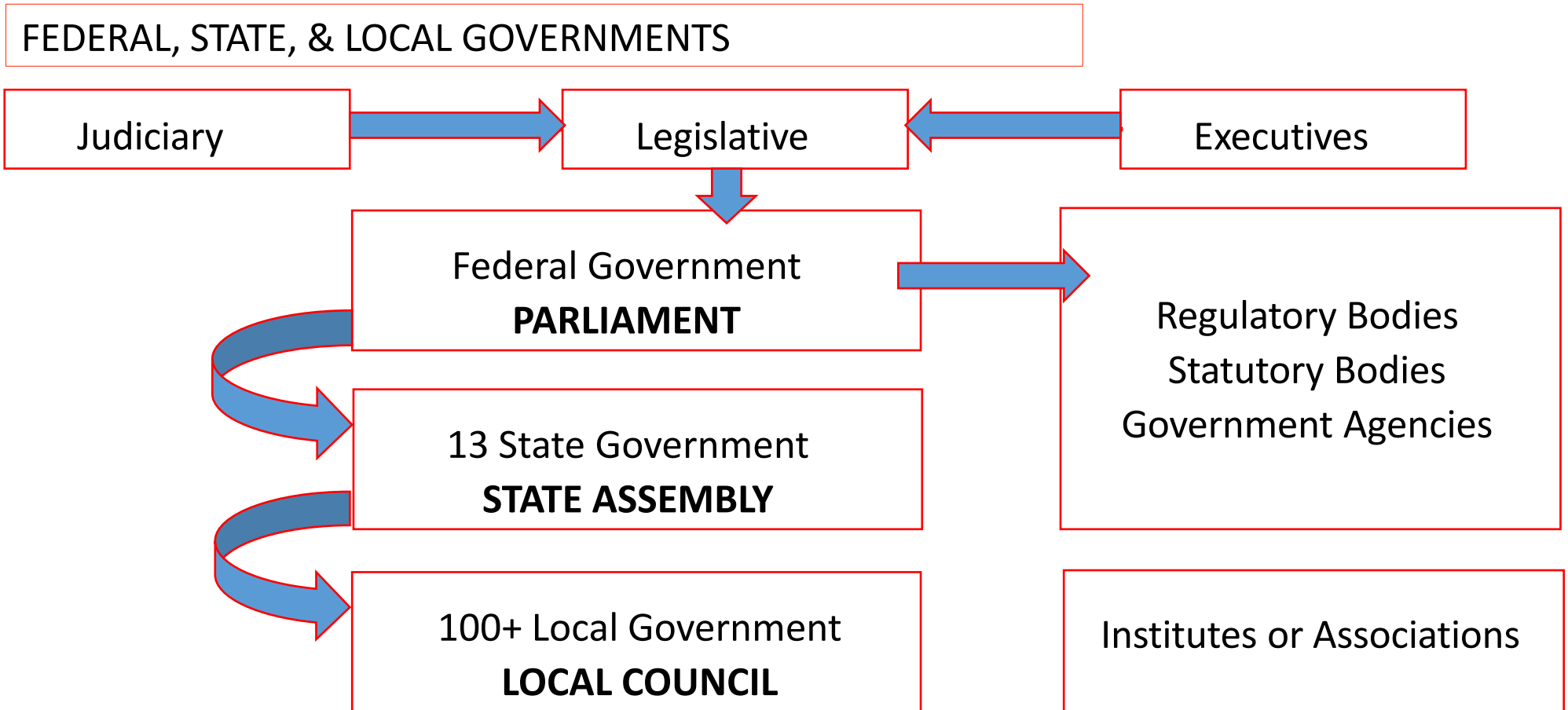
c) Allied Professional Institutions and their basic functions.

- Architects Act 1967
- Architects Rules 1996:

Second Schedule	: Code of Professional Conduct for Architects
Third Schedule	: Conditions of Engagement of an Architect
Fourth Schedule	: Memorandum of Agreement between the Client and the Architect for Architectural Consultancy Services

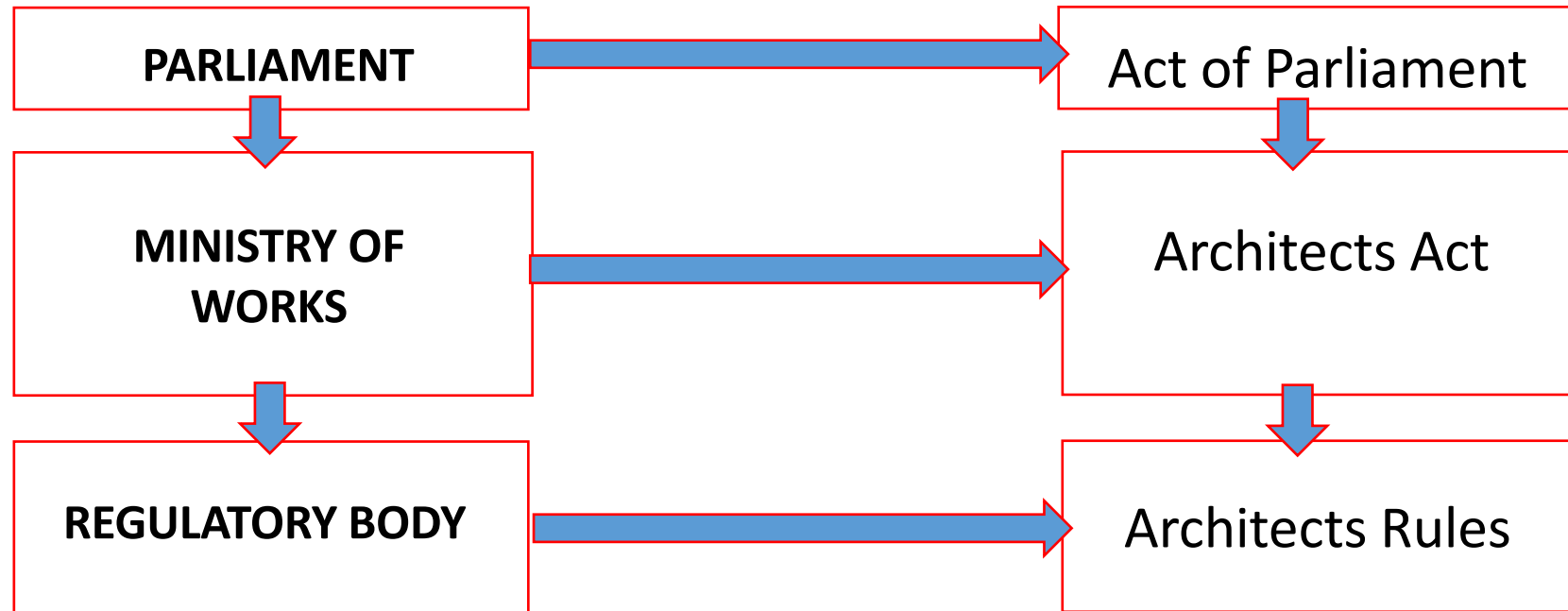
02 Legislations and Regulations

System of Government – 3 tiers



02 Legislations and Regulations

Architect and the Law



The Board of Architects Malaysia [LAM] is the statutory authority responsible for the enforcement of the Architects Act

Architects (Scale of Minimum Fees) Rules 2010

•02 Legislations and Regulations

Architects and his liabilities

Architect and others

To whom	
Client / Other Consultants	Duties defined in MoA
	Duties defined in Building Contract
Contractor	Duties defined in Building Contract
Society via the laws	By Law
	Street & Drainage Act
	Architects Act
	Law of Tort
	S&P Agreement
	Contractual, etc.

•02 Legislations and Regulations

Architects and his liabilities

Architect and his client

- Before architect commence works, he would have entered into an agreement with his client
- Client maybe a layman who does not understand the technicalities and legalities of his obligations.
- It is a duty of the architect to ensure that both parties have understood each other's obligation.
- Architect also act as his client's agent when dealing with 3rd parties on his client's behalf.
- These 3rd parties could be statutory bodies, authorities, building contractors, consultants, and the public.

03 Forms of Practice

03 Forms of Practice

- Forms of practice
 - 4 forms
 - Combinations of 1+1 and 1+2
- functions, features, benefits and drawbacks

03 Forms of Practice

Under
Section
7A(1) of
Architects
Act 1967

a) Sole proprietor ship

b) Partnership

c) Body Corporate

Companies Act 1967

d) Multi Disciplinary Practice

Companies Act 1967

03 Forms of Practice

a) Sole Proprietorship

Lembaga Arkitek
Malaysia
(LAM)

- registration of practices at any single time by one architect with LAM

No. of separate practices

2 (Two) practices;

- i) Sole proprietorship and Partnership; **OR**
- ii) Sole proprietorship and Body Corporate

3 (Three) practices

- i) Sole proprietorship and Body corporate with MDP

03 Forms of Practice

a) Sole Proprietorship

- only 1 architect is needed to register



Name of practice

Follow the name or initials of the architect

No need to register with Register of Business/Companies

Liability wholly with the architect

Advantage – the architect is in full control of the practice

03 Forms of Practice

b) Partnership

- at least 2 architects is needed to register



Partners must be architects

Similar to SP; but sharing of resources between partners

Not necessary to register with Registrar of Company (ROC)

Liability lies with the partner, submitting to the local authorities

Liabilities are shared among partners or as per agreement

03 Forms of Practice

c) Body Corporate

- Board of Directors (minimum 2 persons) who are Architects (with latest amendments to Architects Act, 30% equity can be owned by non-architects)

Minimum paid up capital is RM100,000.00

Besides registration with LAM, must also register with Registrar of Companies (ROC)

Required to submit yearly audited accounts to ROC

Need a Board of Directors meeting annually and must submit minutes to ROC

03 Forms of Practice

c) Body Corporate

□ The body corporate practice is liable up to the paid up capital. The professional liability still falls with the submitting Director.

When the amount of damages is higher than the body corporate practice's limit, the liable director will have to make up the difference.



03 Forms of Practice

d) Multi Disciplinary Practice

- A multi-disciplinary practice can register part of the practice to provide architectural



Board of Directors comprising of Architects and Engineers and/or registered Quantity Surveyors.

Architect, Engineers, and/or registered Quantity surveyor hold minimum combined share of 70% equity of the body corporate

03 Forms of Practice

d) Multi Disciplinary Practice

□ Architect and/or architecture bodies can be formed within the MDP, and must own minimum of 10% of the MDP body corporate

The remaining 30% can be owned by any other persons, or persons belonging to allied professions to architecture, engineering, or quantity surveying (i.e. interior designer, planner, land surveyor, etc.)

03 Forms of Practice

e) Pros and Cons

1	type	sole proprietor	partnership	body corporate	multi disciplinary practice
2	structure	individual	2 or more persons	legal entity separated from its members	legal entity separated from its members
3	formation	no need to form in writing	can be formed orally or in writing	must be formed in writing via M&AoA	must be formed in writing via M&AoA
4	registration	registered with LAM / ROB Act 1956	registered with LAM / ROB Act 1956	registered with LAM / ROB Act 1956	registered with LAM / ROB Act 1956
5	membership	not more than 1 person	maximum 20 persons unless a professional firm	no maximum unless private max 50 persons	no maximum unless private max 50 persons
6	management	individual owns and manage	partners entitled to manage	members may manage	members may manage
7	borrowing	unrestricted borrowing	unrestricted borrowing	limited borrowing for business	limited borrowing for business
8	liability	unlimited for its business debts	unlimited for its business debts	members not liable for its business debts	members not liable for its business debts
9	dissolution	can be dissolved informally	can be dissolved informally	formal procedure in the company dissolution	formal procedure in the company dissolution

04 Business Model

04 Business Model

- What is a business model
 - Why is it essential
 - Developing a business model
 - Differences between Business model and Branding
 - Budgeting

04 Business Model

- Design ability not enough
- Practice focus and character
- Which markets, delivering services, methods, means and effective resources
- Shape what you do
- A client values your services
- At same rewarding

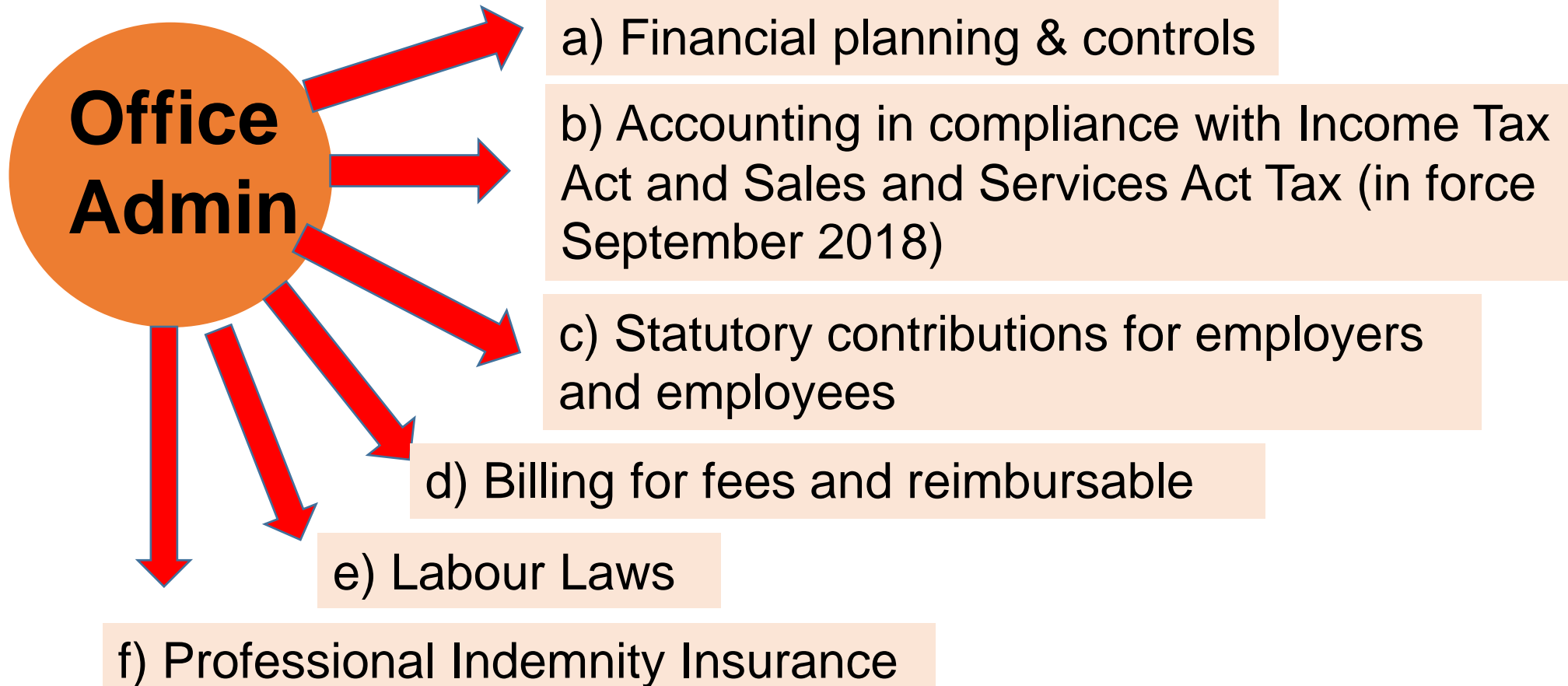
05 People, Policies & Procedures

05 People, Policies and Process

- Getting the right staff
- Implementing the right policies
- Placing the right procedures or systems
- Systems based on project life cycle
 - project planning, project execution, project control and project closer
 - financial systems

05 People, Policies & Procedures

iii) Office Administration



05 People, Policies & Procedures

iii) Office Administration

a) Financial Planning & Controls

- Set clear procedure of financial control in office.
- Keep track of all office monthly detailed expenses.

Based on the monthly expenses, project financial planning for 1 year, 3 years, and 5 years.

Prudent to have at least 3 month's expenses funds deposited in company account as emergency fund.

Prioritize expenses – salary, statutory requirements, staff benefits

05 People, Policies & Procedures

iii) Office Administration

a) Financial Planning & Controls

Broaden clientele base
– spread non payment /
payment delay risk

Plan projects stages completion and
submit fees claims, so that there's
adequate funds for every quarter.

Prudent to have at least 3 month's
expenses funds deposited in company
account as emergency fund.



05 People, Policies & Procedures

iii) Office Administration

b) Accounting, Income Tax, and SST

Keep all receipts related to cost to doing the business for income tax purposes

Keep accounts books up to date at all times. Hire company accountant.

Hire a tax consultant to give advise and to prepare the income tax forms

Never try to hide, or not declare your income, unless you're willing to suffer the consequences

05 People, Policies & Procedures

iii) Office Administration

b) Accounting, Income Tax, and SST

- Register with Customs Department as a GST/SST collection agent

Never try to hide, or not declare your income, unless you're willing to suffer the consequences

Personal income tax, sole prop, company tax

05 People, Policies & Procedures

iii) Office Administration

c) Statutory contributions for employees/employers

Employers

Provident Fund (EPF):

13% contributions from employer, 11% contributions from employee to be paid monthly for salary below RM5k, 12 + 11 for salary above RM5k, contribution due 15th of following month



Allowances not subject to EPF contributions – refer EPF guidelines SOCSO:

05 People, Policies & Procedures

iii) Office Administration

c) Statutory contributions for employees/employers

- Refer SOCSO table for monthly contribution from employee



Protection for employees in case of accidents at work, during office hours, including during travelling while on job

Journey to and from work included in coverage. Once SOCSO compensate employee for injury period, employer need not pay salary.

05 People, Policies & Procedures

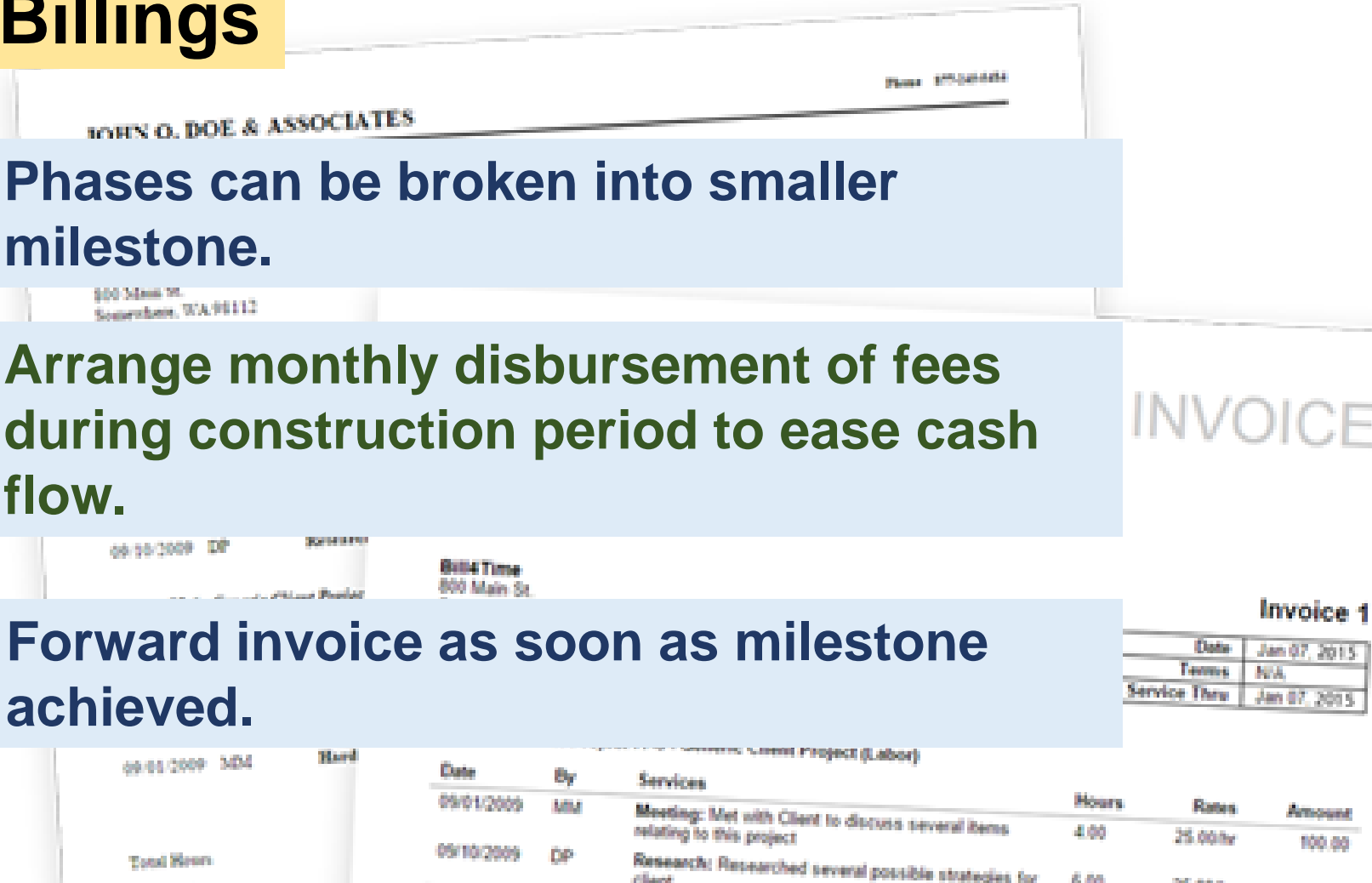
d) Invoicing and Billings

- Tied up to phases of work in Basic Services description.

Phases can be broken into smaller milestone.

Arrange monthly disbursement of fees during construction period to ease cash flow.

Forward invoice as soon as milestone achieved.



05 People, Policies & Procedures

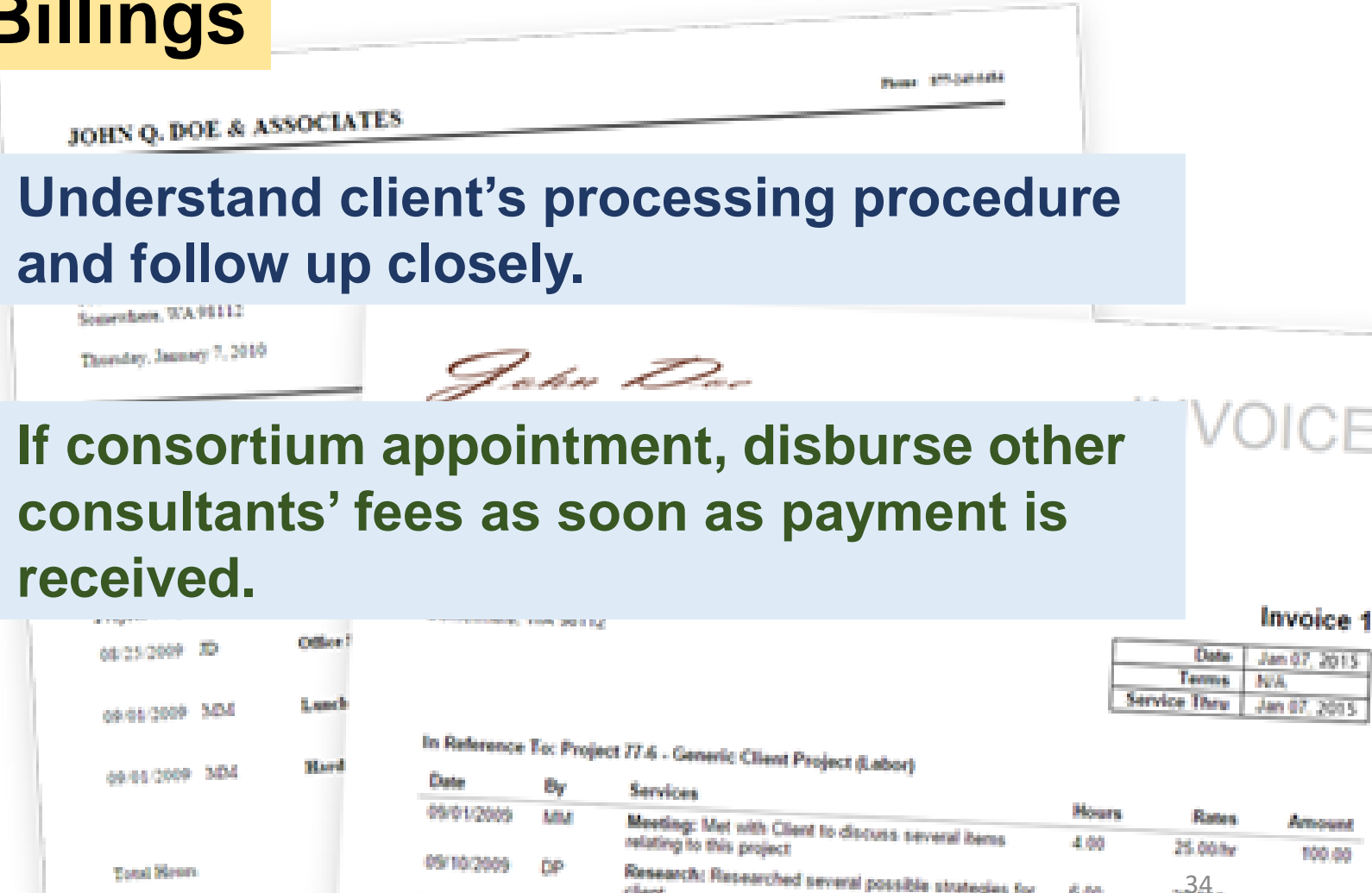
iii) Office Administration

d) Invoicing and Billings

Keep track of reimbursable expenses and claim at appropriate intervals.

Understand client's processing procedure and follow up closely.

If consortium appointment, disburse other consultants' fees as soon as payment is received.



05 People, Policies & Procedures

iii) Office Administration

e) Labour Law

- Be conversant on Labor Law, especially for matters regarding:



i. Working overtime, and public holidays

ii. Procedures on termination of service

iii. Weekly working hours

05 People, Policies & Procedures

iii) Office Administration

f) Professional Indemnity Insurance (PII)

- More Clients put as a condition that consultants must have PII

As recourse for Client should any untoward incident due to design, or negligent actions of architect or his representatives

Can be on project basis or for whole office

PAM not in favor if PII, because of its high cost and arguably give rise to claims from Clients against architects

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06 Project Planning



06 Project Planning

- Starting the project RIGHT
 - Do not rush to get deliverables produced
 - Spend more time on contracts, planning and other activities that do not, on the surface, generate billable hours.
 - Identify the scope, schedule and cost management plan
 - Develop processes of Quality Assurance and Quality Control in architectural practice design and production operations

07 Marketing and Fees



07 Marketing and Fees

- Marketing
 - project planning, project execution, project control and project closer
 - financial systems
- Project related marketing
 - RFPs
 - estimating project resources and
 - analysing market forces to develop an appropriate and competitive fee
- Minimum Scale of Fees

vi) Marketing Professional Services

LAM Circular 3/1997

encourages

advertising

NO - hard

public
ridicule

selling

e.g. publications of works

discredit

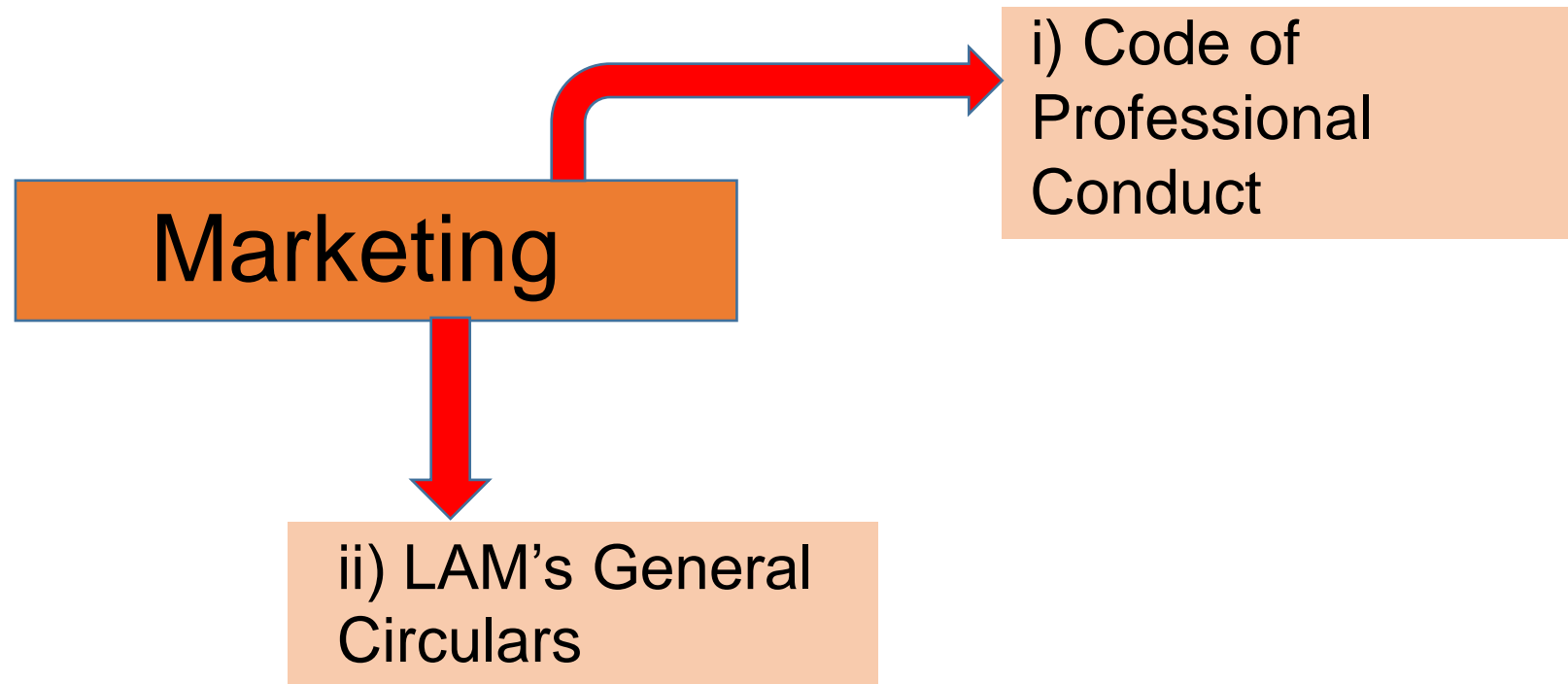
soft advertising

profession

integrity of profession

▶ in doubt – consult LAM

vi) Marketing Professional Services



vi) Marketing Professional Services

- LAM General Circular No.3/1997 “Guidelines on Advertising by Architects”
 - i. To enable the Architect to inform the public of the Architects professional services; marketing and promotion
 - ii. Advertising in the public interest: should be informative and factual: qualifications, affiliations, organization, and experience.
 - iii. Advertisements for tender invitations, professional appointments, and change of address can include full particulars of the practice and can incorporate the practice logo.

vi) Marketing Professional Services

iii. Architects can advertise in directories and other publications of LAM, PAM, ARCASIA, UIA and CAA. Need to apply from LAM to advertise in other directory, newsletter, magazine, trade, or professional journal.

▶ LAM General Circular No.3/1997 “Guidelines on Advertising by Architects”

▶ As not to fallen behind of the other professions, architects are encouraged to advertise their services.

vi) Marketing Professional Services

- ▶ The advertising should maintain the integrity of the profession and not bring the public's ridicule to the profession, and discredit the profession in any way.
- ▶ Advertising can be soft advertising i.e publication of works, and not necessarily "hard selling"
- ▶ LAM can be consulted for guidance or clearance of the advertising.

vi) Marketing Professional Services

- LAM General Circular No.3/1997 “Guidelines on Advertising by Architects”
- Forms of Advertising Allowed:
 - i. Provide permanent signage on buildings designed and completed by the Architect, with registration number and buildings date of completion
 - ii. Office signage in an “appropriate” size with logo
 - iii. Project signboard as per Local Authority guidelines

vi) Marketing Professional Services

- i. Announcement advertisements in the press with the name, status and logo of the Architect
- v. Publication of name and particulars of Architects in sales and promotional brochures, and advertisements.
- vi. Advertising in electronic media

Scale of Minimum Fee

- introduction

The Architects [Scale of Minimum Fees] was introduced in 1986 together with Conditions of Engagement.

It was legislated after much campaign & persuasion by professional members and LAM.

Note :

A survey was done by PAM in 1993 indicated that none of the respondents follow the SoMF as the respondents did not think that any practitioner followed. However, all respondents agreed that SoMF should **remain legislated**.

This matter is still ongoing and perhaps will continue being debated.

Scale of Minimum Fee

- introduction

Scale of Minimum Fees is one of architects rules, made by Board of Architects Malaysia as empowered under Architects Act 1967

Section 35 of the Architects Act empowers the Board of Architects Malaysia to make rules, with the approval of the Minister of Works

ARCHITECTS (SCALE OF MINIMUM FEES) RULES 2010

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LEMBAGA ARKITEK MALAYSIA
(BOARD OF ARCHITECTS MALAYSIA)

ARCHITECTS ACT 1967

ARCHITECTS (SCALE OF MINIMUM FEES) RULES 2010

ARRANGEMENT OF SECTIONS

- Part I : Preliminary
- Part II : Architectural Consultancy Services
[type of services provided by architects]
- Part III : Scale of Minimum Fees
- Part IV : Other Payments
- Part V : General Schedule

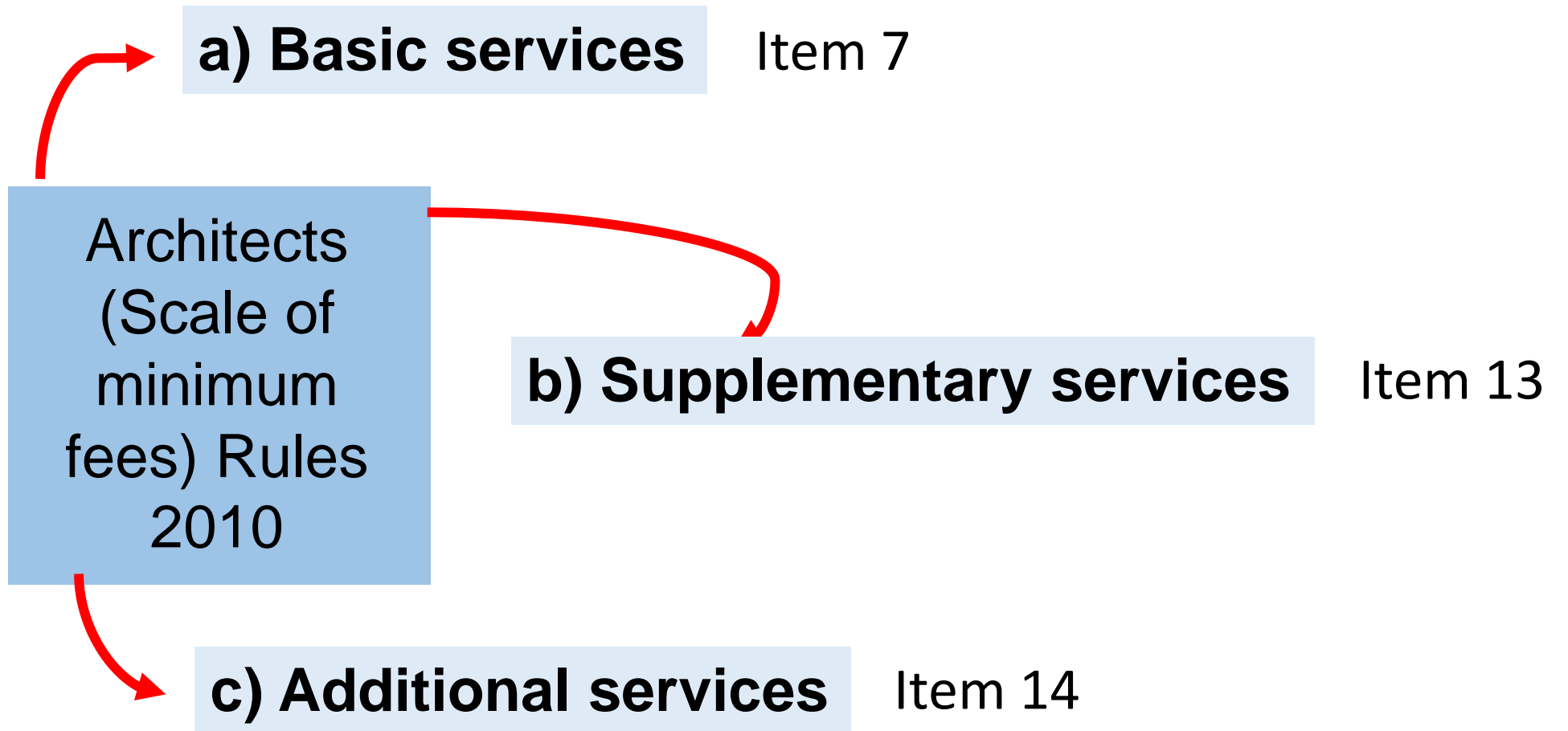
i) As a service industry

Provide services to Clients

as outlined in Part II, of the Architects (Scale of Minimum Fees) Rules 2010,

in exchange for professional fees:

i) As a service industry



i) As a service industry

a) Basic services

Item 7; Basic services

- The above ensures compliance to the that minimum services provided to the public, at the fixed chargeable fee
- Protection of the public's health and safety

Phases of Services

1) Schematic Design

2) Design Development

3) Contract Documentation

4) Contract Implementation & Management

5) Final Completion

i) As a service industry

b) Supplementary services

Item 13; Supplementary services

- Services which can be provided to supplement the Basic Services.

Types of services

1) Client's objectives, project brief, identify constraints for project

2) Inspecting and advising client on site selection and suitability

3) Prepare, refine and finalize project brief with client

i) As a service industry

b) Supplementary services

Item 13; Supplementary services

Services which can be provided to supplement the Basic Services.

Types of services

4) Prepare outline project plan; preliminary estimate, implementation schedule, preliminary cash flow, resource plan

5) Prepare master plans, and preliminary layout plans, and KM

i) As a service industry

b) Supplementary services

Item 13; Supplementary services

- Services which can be provided to supplement the Basic Services.

Types of services

6) Prepare sales and purchase drawings

7) Certifying and issuing stage completion certificates

8) Interior design services

9) Graphics and Singage design

i) As a service industry

c) Additional services

Item 14; Additional services

- Can be provided under a separate agreement

Types of services

1) Advisory services

2) Survey and Investigation

3) Planning and Development

4) Financial advisory

5) Exceptional negotiations and protracted involvement services

08 Architect's Appointment

08 Architect' s Appointment

- Architect's appointment
 - Understand the functions, features, benefits and drawbacks
 - standpoint of practice and project risk management
 - system for quickly developing agreements and planning projects

Architect's Appointment

- salient points

- Is the **1st pre--requisite** to provide professional architectural services to the client as stated in Code of Professional Conduct 3(6)

(6)A Professional Architect shall prior to commencing architectural consultancy services, notify the client in writing of the conditions of engagement and the scale of professional fees and charges, including the method of calculating the fees, in respect of the following :

- (a)scope of work;
- (b)allocation of responsibilities;
- (c)limitation of responsibilities, if any; and
- (d)termination of architectural consultancy services,

and shall, within sixty days from the date the notification is duly served on the client, obtain the client's agreement in writing regarding the conditions of engagement and the scale of professional fees and charges.

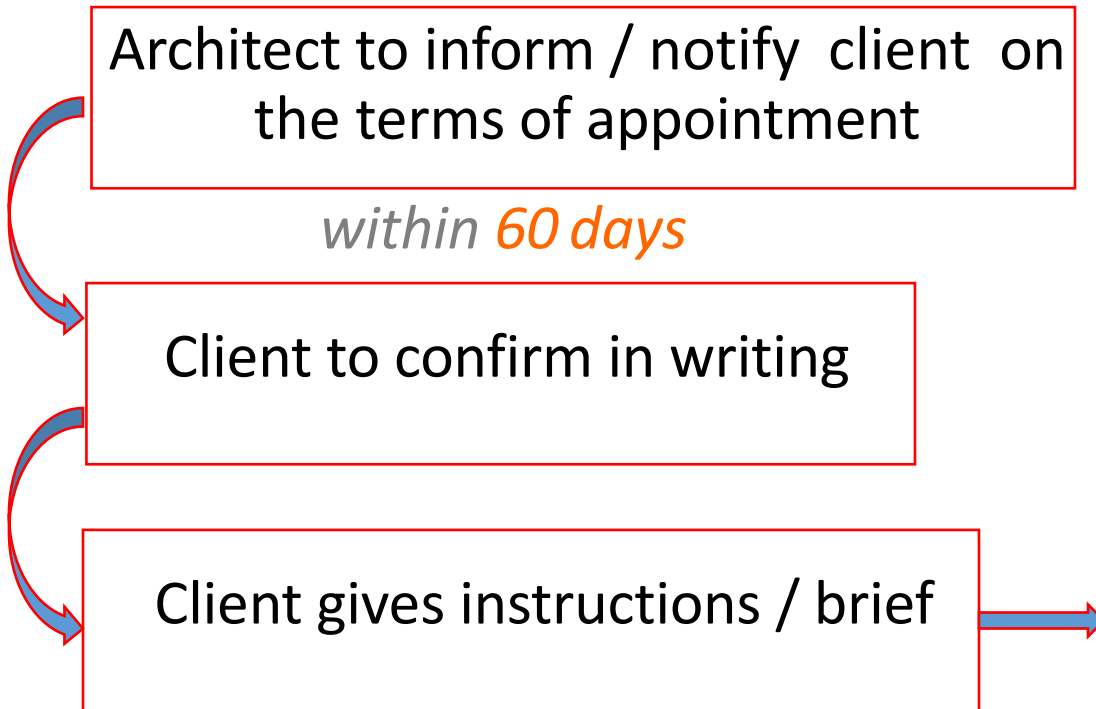
Architect's Appointment

- salient points

- The term 'client' is used instead of 'employer'
- in Client – Contractor 's agreement, the client is referred as 'employer'
- Even if Code of Professional Conduct (CoPC) did not state this requirement, by logic & business sense, architect should establish the terms before accepting any commission

Architect's Appointment

- salient points



(7) Notwithstanding subparagraph (6), where the client's agreement in writing is not obtained within the period as stipulated in subparagraph (6) but the client agrees by conduct to the conditions of engagement, fees and charges, the client shall for the purposes of subparagraph (6) be considered to have agreed to such conditions of engagement, fees and charges.

CoPC

Terms of appointment are considered agreed by client even if client's has not given written confirmation

Architect's Appointment

- salient points

Client - Architect's contract contain;

- Letter of Appointment
- Memorandum of Agreement [MoA]
- Architects [Scale of Minimum Fees] Rules 2010
- Conditions of Engagement

The documents above state;

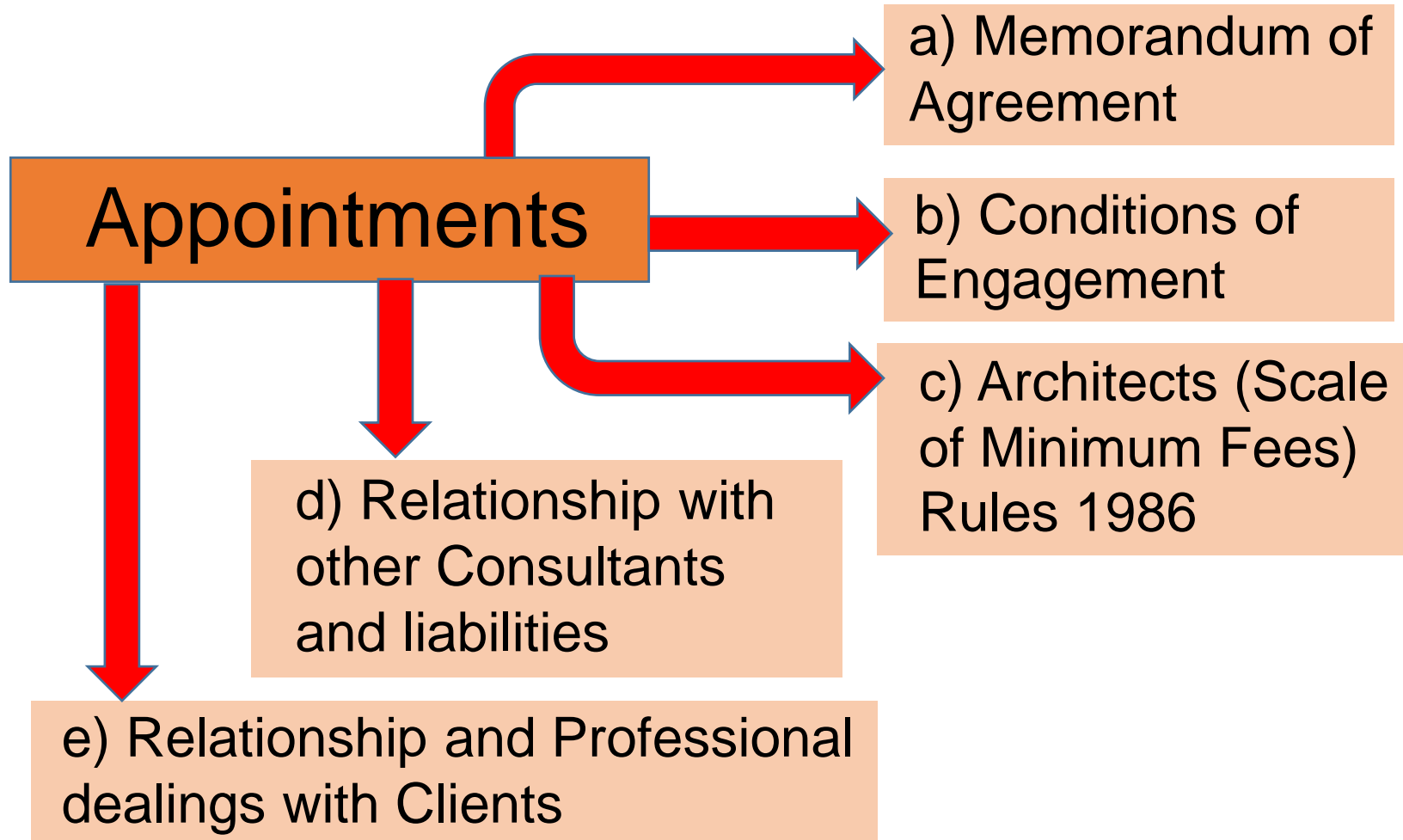
- The contractual parties [in LoA & MoA]
- The scope of works [in LoA & MoA]
- The professional fees - including method of calculation [in LoA & MoA & SMF]
- Allocation of responsibilities [CoE]
- Limitations of responsibilities [CoE]
- Termination provision [CoE]

Architect's Appointment

- salient points

Client – Architect 's contract should be clear and conclusive, not subject to further interpretations nor negotiations

v) Appointments other professionals



THANK YOU