

# STATUTES (MISCELLANEOUS AMENDMENTS) BILL 2016

## SECOND READING

PARLIAMENT, 9 MAY 2016

SENIOR MINISTER OF STATE FOR LAW, MS INDRANEE RAJAH SC

Madam Speaker,

1 I beg to move, “That the Bill be now read a Second Time”.

### **I. Introduction**

2 Madam Speaker, this Bill contains various amendments to several Acts. The amendments are mainly technical in nature. I will highlight the key amendments.

### **II. Amendments to Evidence Act**

3 Presently, the Evidence Act requires the Courts to presume the genuineness of laws and reports of judicial decisions contained in books, where such evidence is tendered in Court. However, as the presumption only applies to those contained in books, it does not apply to laws or reports published online, even if they are published on official websites authorised by the Government of a country.

4 Clause 6 of the Bill extends this presumption by requiring the Court to presume the genuineness of:

- a. any legislation that is published on an official legislation website;  
and
- b. any law report published on a website that publishes official or authoritative reports of decisions of the courts of a country.

The amendment will also make clear that the presumption is applicable only to official or authoritative reports of decisions of the courts of a country.

### **III. Amendments to Family Justice Act and Supreme Court of Judicature Act**

5 Clause 7 and Clause 43 of the Bill contain three main sets of amendments to the Family Justice Act and the Supreme Court of Judicature Act respectively. These amendments seek:

- a. to align the right of appeal between family cases and non-family cases;
- b. to clarify that all family proceedings must be commenced at the Family Court; and
- c. to introduce immunity provisions for certain groups of individuals.

*A. Alignment of the Right of Appeal*

6 Let me touch first on aligning the right of appeal. Presently, under the Family Justice Act, family proceedings can be heard at first instance by:

- a. the Family Division of the High Court, in which case appeals are heard by the Court of Appeal; or
- b. the Family Courts, in which case appeals are heard by the High Court.

7 The Bill amends the Family Justice Act to restrict the right of appeal from the Family Court to the High Court, where any order specified in the new Second Schedule is made by the Family Court. This ensures that the right of appeal is consistent across the lower courts, namely, the Family Court, the District Court and the Magistrate's Court.

8 The Bill also amends the Supreme Court of Judicature Act to restrict the right of appeal from the Family Division of the High Court to the Court of Appeal, such that certain interlocutory orders made by the Family Division of the High Court are either not appealable, or appealable only with leave of that court or the Court of Appeal. This aligns the appeal regime in the Family Division of the High Court, with that applicable to non-family proceedings in the High Court.

***B. Requiring all Family Proceedings to be commenced in the Family Court***

9 I will now touch on the amendments requiring family proceedings to be commenced in the Family Courts. Currently, the practice is for applications for all family proceedings to be filed in the Family Court, except those proceedings which the Chief Justice has directed to be heard and determined by the Family Division of the High Court.

10 The Bill makes this current practice law by providing that all family proceedings must be commenced in the Family Court at first instance, except those classes of family proceedings which the Chief Justice has directed to be heard and determined by the Family Division of the High Court. Presently, this exception applies to probate cases involving estates which exceed \$5 million in value.

11 For family proceedings commenced in the Family Court, the current practice has been to transfer contested matters where the assets are above \$5 million, or where the case is complex, to the Family Division of the High Court. This practice will continue, subject to any adjustments that may be made by the Chief Justice from time to time.

*C. Protection from Personal Liability*

12 Lastly, the Bill amends the Family Justice Act and the Supreme Court of Judicature Act to confer certain individuals with protection from personal liability, where the acts are done in good faith and do not involve any fraud or wilful misconduct.

13 Child representatives, appointed to represent the interests of a child, will be protected from personal liability under the Family Justice Act.

14 Registered medical practitioners, psychologists, counsellors, social workers or mental health professionals appointed by a Family Court or the High Court to examine or assess a child or person, will be protected from personal liability under the Family Justice Act and Supreme Court of Judicature Act.

15 The immunity provisions ensure that these professionals, who do not represent any of the parties before the Court and lend their expertise to assist the Court in arriving at a fair and just decision, will be able to perform their duties without fear of legal liability, so long as they act in good faith and without fraud or wilful misconduct.

**IV. Amendments to enable Family Justice Rules Committee to make Family Justice Rules under certain Acts**

16 The Bill also introduces amendments to the Maintenance Orders (Reciprocal Enforcement) Act, the Reciprocal Enforcement of Commonwealth Judgments Act and the Reciprocal Enforcement of Foreign Judgments Act. As the Family Justice Courts hear proceedings under these three Acts, these Acts will be amended to allow the Family Justice Rules Committee to make Family Justice Rules to prescribe the relevant procedure for proceedings under these Acts.

**V. Amendments arising from Mental Capacity Act**

17 I will now turn to the amendments arising from the Mental Capacity Act. The Mental Capacity Act was passed in 2008 and it introduced two frameworks to deal with the issues arising from the lack of mental capacity. First, it conferred powers for the court to appoint deputies to make decisions on behalf of persons who lacked mental capacity. Second, it introduced the Lasting Power of Attorney, a legal instrument which allows individuals to appoint a “donee” to make decisions on their behalf should they lose mental capacity.

18 The Bill amends 9 Acts to include the reference to a donee of a Lasting Power of Attorney under the Mental Capacity Act, where there is already

a reference to a deputy. This ensures that donees will have the same standing as deputies under those Acts, where the donor loses mental capacity.

**VI. Amendments relating to the designation of other political office holders to hear appeals**

19 I will next turn to the amendments which allow the designation of other political office holders to hear appeals. Clauses 10, 19, 25, 30 and 32 amend the Immigration Act, Massage Establishments Act, Passports Act, Private Security Industry Act, and Public Entertainments and Meetings Act respectively, to empower the Minister for Home Affairs to designate other political office holders of the Ministry of Home Affairs to hear appeals under these Acts in his place. This is consistent with other newly introduced and recently amended laws, and facilitates administration by allowing political office holders to focus on various responsibilities and portfolios within the Ministry.

**VII. Amendments to International Organisations (Immunities and Privileges) Act**

20 Let me touch on the amendments to the International Organisations (Immunities and Privileges) Act. In 2015, Singapore signed a Joint Declaration with the International Tribunal for the Law of the Sea, or

ITLOS, to allow ITLOS proceedings to be hosted in Singapore in future. ITLOS is an independent judicial body established by the 1982 United Nations Convention on the Law of the Sea (UNCLOS) to hear disputes concerning the interpretation or application of UNCLOS.

- 21 Clause 12 of the Bill amends the International Organisations (Immunity and Privileges) Act to empower the Government to apply the Act to relevant international organisations and bring ITLOS within the scope of the Act. This ensures that the Government has the power to grant the legal capacities and to confer the privileges and immunities necessary for ITLOS to carry out its functions in Singapore.

### **VIII. Amendments to Legal Profession Act and Singapore Academy of Law Act**

22 Turning now to the amendments to the Legal Profession Act and the Singapore Academy of Law Act, clauses 16 and 38 of the Bill contain three main sets of amendments to both Acts, namely:

- a. to allow the Singapore Institute of Legal Education (SILE) to enact rules for the administration of the Part A course and examinations;
- b. to deal with the establishment of the new Law School of the SIM University (UniSIM Law School); and



- c. to allow the Presiding Judge of the Family Courts and the Presiding Judge of the State Courts to refer matters to the Law Society or the Disciplinary Tribunal.

Clause 16 of the Bill also contains a number of amendments which were proposed by the Law Society of Singapore.

23 Let me explain these amendments in turn.

***A. Allowing SILE to enact rules for the administration of the Part A Course and Examinations***

24 Since 2015, SILE has taken over the administration of Part A of the Bar Examinations, which is one of the requirements for overseas trained law graduates from overseas scheduled universities to become a qualified person. The amendments to the Legal Profession Act will enable SILE to enact rules to administer and provide for the conditions for entry to the courses, tests and examinations for Part A.

***B. Amendments pursuant to recent establishment of UniSIM Law School***

25 The UniSIM Law School was recently established and its law degrees will be recognised for the purposes of admission to the Singapore Bar, similar to those from the National University of Singapore (NUS) and the

Singapore Management University (SMU). The Legal Profession Act and the Singapore Academy of Law Act will be amended to ensure that UniSIM Law School and the members of its faculty will have the same standing or restrictions as those which are correspondingly applicable to NUS, SMU or their faculty members.

***C. Allowing the Presiding Judge of the Family Justice Courts and the Presiding Judge of the State Courts to refer matters to the Law Society or the Disciplinary Tribunal***

26 Presently, any Judge, Judicial Commissioner, Senior Judge or International Judge of the Supreme Court may refer matters touching on the conduct of any regulated legal practitioner to the Law Society or the Disciplinary Tribunal. The Bill amends the Legal Profession Act to confer the same powers on the Presiding Judge of the Family Justice Courts and the Presiding Judge of the State Courts.

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***D. Amendments pursuant to requests from the Law Society***

27 Lastly, there are a number of amendments arising from requests made by the Law Society, which I will summarise:

- a. First, the composition of the Council of the Law Society will be amended in order to better reflect the composition of the members

of the Law Society who are entitled to vote for the election of the members of the Council;

- b. Second, it will no longer be compulsory for the voting of Council members to be conducted in the physical space via ballot;
- c. Third, the Council will also be allowed to transfer certain amounts from the Compensation Fund to a fund established by the Law Society to purchase or maintain a library, where no grant is made from the Compensation Fund in any year and there is no application for a grant from the Compensation Fund that is pending at the end of that year.

**IX. Amendments to Legal Aid and Advice Act**

- 28 Clause 15 amends the Legal Aid and Advice Act to enable the Legal Aid Bureau not to charge any registration fees for an application for legal aid or advice. This takes out one step in the registration process and makes it administratively more convenient for applicants when they apply for legal aid.

**X. Amendments to Remote Gambling Act 2014**

- 29 Clause 35 amends the Remote Gambling Act 2014 to enlarge the jurisdiction of the District Court or a Magistrate's Court to try cases and sentence offenders under that Act. This allows the District Court or a

Magistrate's Court to hear cases and impose the maximum fine or imprisonment term set out under the Remote Gambling Act 2014, notwithstanding the limits prescribed under the Criminal Procedure Code.

## **XI. Amendments to the Trade Marks Act**

30 Currently, in contentious proceedings before the Registrar of Trade Marks, there is no avenue for appealing against interlocutory decisions. There can be potentially severe consequences where interlocutory decisions have the effect of bringing proceedings to an end. An example would be when an interlocutory decision leads to a trade mark application being treated as withdrawn. Clause 45 amends section 75 of the Trade Marks Act to allow for appeals in such situations.

## **XII. Amendments to Wills Act**

31 Clause 50 of the Bill amends the Wills Act to expressly confer our Courts with the power to order rectification of a will upon application of any interested person. The Court may exercise this power where it is satisfied that the will fails to carry out the testator's intentions due to a clerical error or a failure to understand the testator's instructions.

32 This amendment will allow the Courts to better give effect to the testator's testamentary intention. It arises from a recent decision of the

Court of Appeal, which strongly suggested that the power to rectify wills is not available to our Courts.

### **XIII. Conclusion**

33 In conclusion, Madam Speaker, I beg to move.

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