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The following Act was passed by Parliament on 4th November 2014 and assented to by the President on 10th December 2014:—

REPUBLIC OF SINGAPORE

No. 42 of 2014.

I assent.

TONY TAN KENG YAM,
President.
10th December 2014.



An Act to amend the Supreme Court of Judicature Act (Chapter 322 of the 2007 Revised Edition) to establish the Singapore International Commercial Court, and for other purposes, and to make consequential and related amendments to certain other written laws.

Be it enacted by the President with the advice and consent of the Parliament of Singapore, as follows:

Short title and commencement

1. This Act may be cited as the Supreme Court of Judicature (Amendment) Act 2014 and shall come into operation on such date as the Minister may, by notification in the *Gazette*, appoint.

Amendment of section 2

2. Section 2 of the Supreme Court of Judicature Act (referred to in this Act as the principal Act) is amended by deleting the definitions of “Judge”, “Judge of Appeal” and “Public Prosecutor” and substituting the following definitions:

“ “Judge” means a Judge of the High Court and includes the Chief Justice and any person sitting in the High Court in accordance with section 9;

“Judge of Appeal” includes the Chief Justice and any person sitting in the Court of Appeal in accordance with section 29;”.

Amendment of section 4

3. Section 4 of the principal Act is amended by deleting the word “vice-presidents” wherever it appears in paragraphs (b) and (c) and substituting in each case the word “Vice-Presidents”.

New section 5A

4. The principal Act is amended by inserting, immediately after section 5, the following section:

“International Judges

5A. An International Judge of the Supreme Court may only sit in the Singapore International Commercial Court and in appeals from that Court in accordance with sections 9(4)(b) and 29(4), respectively.”.

Repeal and re-enactment of section 9

5. Section 9 of the principal Act is repealed and the following section substituted therefor:

“Constitution of High Court

9.—(1) The High Court shall consist of —

- (a) the Chief Justice; and
- (b) the Judges of the High Court.

(2) A Judge of Appeal may, if the Chief Justice so requires, sit in the High Court.

(3) A Judicial Commissioner of the Supreme Court appointed for a specified period may sit in the High Court to hear and determine any case or such classes of cases as the Chief Justice may specify.

(4) The Chief Justice may, from time to time —

- (a) require a Senior Judge of the Supreme Court appointed for a specified period to sit in the High Court to hear and determine any case or such classes of cases as the Chief Justice may specify; and
- (b) require an International Judge of the Supreme Court appointed for a specified period to sit in the Singapore International Commercial Court to hear and determine any case in that Court or such classes of cases in that Court as the Chief Justice may specify.

(5) A person sitting in the High Court in accordance with subsection (2), (3) or (4), or to hear and determine a case that he was specifically appointed to hear and determine, shall have all the jurisdiction, powers and privileges of a Judge of the High Court sitting in the High Court or in the Singapore International Commercial Court, as the case may be.”.

Amendment of section 10

6. Section 10 of the principal Act is amended by deleting subsection (3).

New sub-heading to Part III and new sections 18A to 18M

7. Part III of the principal Act is amended by inserting, immediately after section 18, the following sub-heading and sections:

“Singapore International Commercial Court

Singapore International Commercial Court

18A. There shall be a division of the High Court known as the Singapore International Commercial Court.

President of Singapore International Commercial Court

18B.—(1) The Chief Justice may appoint a Judge of Appeal, a Judge of the High Court, a Senior Judge of the Supreme Court or an International Judge of the Supreme Court to be the President of the Singapore International Commercial Court for such period as the Chief Justice may specify.

(2) If no appointment is made under subsection (1), the Chief Justice shall be the President of the Singapore International Commercial Court.

Act to apply with modifications

18C. Subject to sections 18D to 18M and 80(2A), the provisions of this Act shall apply to proceedings in the Singapore International Commercial Court as they apply to proceedings in the High Court exercising its original civil jurisdiction.

Jurisdiction of Singapore International Commercial Court

18D. The Singapore International Commercial Court shall have jurisdiction to hear and try any action that satisfies all of the following conditions:

- (a) the action is international and commercial in nature;
- (b) the action is one that the High Court may hear and try in its original civil jurisdiction;
- (c) the action satisfies such other conditions as the Rules of Court may prescribe.

Pre-action certificate

18E.—(1) A party intending to bring an action in the Singapore International Commercial Court may apply for a certificate stating all or any of the following matters:

- (a) that the intended action is international and commercial in nature for the purposes of section 18D(a);
- (b) such other matters as the Rules of Court may prescribe.

(2) An application under subsection (1) —

- (a) shall be made by an originating process or such other process as the Rules of Court may prescribe;
- (b) shall be determined by a Judge or the Registrar; and
- (c) may be determined summarily or otherwise in accordance with such procedure as the Rules of Court may prescribe.

(3) A certificate issued under this section is conclusive as to the matters certified in such circumstances as the Rules of Court may prescribe.

Effect of jurisdiction agreement

18F.—(1) Subject to subsection (2), the parties to an agreement to submit to the jurisdiction of the Singapore International Commercial Court shall be considered to have agreed —

- (a) to submit to the exclusive jurisdiction of the Singapore International Commercial Court;
- (b) to carry out any judgment or order of the Singapore International Commercial Court without undue delay; and
- (c) to waive any recourse to any court or tribunal outside Singapore against any judgment or order of the Singapore International Commercial Court, and against the enforcement of such judgment or order, insofar as such recourse can be validly waived.

(2) Subsection (1)(a), (b) and (c) applies only if there is no express provision to the contrary in the agreement.

Composition of Singapore International Commercial Court

18G. Every proceeding in the Singapore International Commercial Court shall be heard and disposed of before a single Judge or 3 Judges.

Provisions where Singapore International Commercial Court comprises 3 Judges

18H.—(1) This section applies where a case in the Singapore International Commercial Court is heard before 3 Judges.

(2) The Chief Justice shall appoint one of the Judges to preside.

(3) The case shall be decided in accordance with the opinion of the majority of the Judges hearing the case.

(4) Subject to subsection (5), a case shall be reheard if one or more of the Judges are unable to continue hearing the case for any reason.

(5) Where one Judge is unable to continue hearing a case for any reason, the remaining 2 Judges may continue to hear and determine the case if the parties consent.

(6) Where a case is heard by 2 Judges under subsection (5) —

(a) if the 2 Judges have the same opinion, the case shall be determined according to their opinion; or

(b) if the 2 Judges have different opinions on any claim, counterclaim or application, the claim, counterclaim or application, as the case may be, shall be dismissed.

Powers of Singapore International Commercial Court, generally

18I.—(1) The Singapore International Commercial Court may exercise such powers as the High Court may exercise in its original civil jurisdiction, except —

- (a) the power under paragraph 1 of the First Schedule; and
- (b) any power that must be exercised through the Family Division of the High Court.

(2) The Singapore International Commercial Court shall exercise its powers in accordance with the Rules of Court, and any other written law, relating to that Court or those powers.

Transfer of cases

18J.—(1) The Singapore International Commercial Court may transfer a case commenced in that Court to the High Court in accordance with the Rules of Court.

(2) The High Court may transfer a case commenced in that Court to the Singapore International Commercial Court in accordance with the Rules of Court.

(3) Where a case is transferred under subsection (1) or (2) —

- (a) the court to which the case is transferred may permit any matter that has been adduced to remain in evidence, notwithstanding that different rules of evidence may apply in the court to which the case is transferred; and
- (b) the court transferring the case and the court to which the case is transferred may make any consequential order in accordance with the Rules of Court.

(4) In this section, “High Court” does not include the Singapore International Commercial Court.

Rules of evidence in certain cases

18K.—(1) The Singapore International Commercial Court —

- (a) shall not be bound to apply any rule of evidence under Singapore law in such cases and to such extent as the Rules of Court may provide; and
- (b) may, in those cases, apply other rules of evidence (whether such rules are found under any foreign law or otherwise) in accordance with the Rules of Court.

(2) In subsection (1), “rule of evidence” includes any rule of law relating to privilege, or to the taking of evidence.

Determination of foreign law on submissions

18L.—(1) The Singapore International Commercial Court may, in such cases as the Rules of Court may prescribe, order that any question of foreign law be determined on the basis of submissions instead of proof.

(2) In determining any question of foreign law on the basis of submissions, the Singapore International Commercial Court may have regard to such matters as the Rules of Court may prescribe.

Representation by foreign lawyers

18M. A party to a case in the Singapore International Commercial Court, or to an appeal from that Court, may in accordance with the Rules of Court be represented by a foreign lawyer who is registered in accordance with Part IVB of the Legal Profession Act (Cap. 161).”.

Amendment of section 29

8. Section 29 of the principal Act is amended —

- (a) by inserting, immediately after the words “The Chief Justice” in subsection (2), the words “shall be the President of the Court of Appeal, and”;
- (b) by deleting the word “vice-presidents” in subsection (2) and substituting the word “Vice-Presidents”; and
- (c) by deleting subsections (3) and (4) and substituting the following subsections:

“(3) A Judge of the High Court, a Judicial Commissioner of the Supreme Court or a Senior Judge of the Supreme Court may, if the Chief Justice so requires, sit in the Court of Appeal.

(4) An International Judge of the Supreme Court may, if the Chief Justice so requires, sit in the Court of Appeal

in an appeal from any judgment or order of the Singapore International Commercial Court.

(5) A person sitting in the Court of Appeal in accordance with subsection (3) or (4) shall have all the jurisdiction, powers and privileges of a Judge of Appeal sitting in the Court of Appeal.

(6) The person who presides over a sitting of the Court of Appeal shall be determined as follows:

- (a) where the Court of Appeal includes one or more Judges of the Supreme Court specified in section 4, the person shall be determined according to the order of precedence prescribed in that section;
- (b) where the Court of Appeal does not include any Judge of the Supreme Court specified in section 4, the Chief Justice shall appoint a person to preside.”.

Amendment of section 30

9. Section 30(2) of the principal Act is amended by inserting, immediately after paragraph (b), the following paragraph:

“(ba) an application for leave to appeal to the Court of Appeal, whether under this Act or any other written law;”.

Amendment of section 31

10. Section 31 of the principal Act is amended by deleting subsection (2) and substituting the following subsection:

“(2) Where an appeal or application has been heard by the Court of Appeal consisting of 2 Judges of Appeal and the members of that Court are divided, the decision appealed against shall stand or the application shall be dismissed, as the case may be.”.

Amendment of section 34

11. Section 34 of the principal Act is amended —

- (a) by deleting the words “a Judge” in subsection (2) and substituting the words “the High Court or the Court of Appeal”;
- (b) by deleting subsection (2B); and
- (c) by inserting, immediately after subsection (5), the following subsections:

“(6) Subsections (1) and (2) shall not apply to any decision, judgment or order of the High Court in —

- (a) any family proceedings (not being probate proceedings) commenced in the High Court before 1 October 2014;
- (b) any contentious probate proceedings commenced in the High Court before the date specified under section 47(11) of the Family Justice Act 2014 (Act 27 of 2014) for the purposes of section 47(2) of that Act; and
- (c) any appeal from any contentious probate proceedings commenced in a District Court, being an appeal commenced in the High Court before the date specified under section 47(11) of the Family Justice Act 2014 for the purposes of section 47(7) of that Act.

(7) Except with the leave of the High Court or the Court of Appeal, no appeal shall be brought to the Court of Appeal from any decision, judgment or order of the High Court involving the exercise of the appellate civil jurisdiction of the High Court in any of the following circumstances:

- (a) the hearing of any appeal from a District Court or Magistrate’s Court when exercising jurisdiction of a quasi-criminal or civil nature in any family proceedings (not being probate

proceedings), being an appeal commenced in the High Court before 1 October 2014;

(b) the hearing of any appeal or special case from the Tribunal for the Maintenance of Parents, being an appeal or a special case commenced in the High Court before 1 October 2014;

(c) the hearing of any appeal from any contentious probate proceedings commenced in a District Court, being an appeal commenced in the High Court before the date specified under section 47(11) of the Family Justice Act 2014 for the purposes of section 47(7) of that Act.

(8) In this section —

“family proceedings” has the same meaning as in section 2(1) of the Family Justice Act 2014;

“probate proceedings” has the same meaning as in section 47(13) of the Family Justice Act 2014.”.

New section 34A

12. The principal Act is amended by inserting, immediately after section 34, the following section:

“Court of Appeal may decide application for leave to appeal without hearing oral arguments

34A. The Court of Appeal may, without hearing oral arguments, decide any application for leave to appeal to that Court, whether under this Act or any other written law.”.

Amendment of section 80

13. Section 80 of the principal Act is amended by inserting, immediately after subsection (2), the following subsection:

“(2A) Without prejudice to the generality of subsection (1), Rules of Court may be made in relation to the Singapore International Commercial Court for the following purposes:

- (a) to provide for different procedures and practices to be followed in respect of proceedings in that Court and in appeals from that Court;
- (b) to prescribe, for the purposes of section 18D, what constitutes an action of an international and commercial nature, and any other conditions that an action must satisfy before that Court may hear and try the action;
- (c) to prescribe, for the purposes of section 18E, the matters which can be certified under that section, the conditions to be satisfied before an application can be made under that section, the procedure to be followed in such an application, and the circumstances in which the certified matters are conclusive;
- (d) to prescribe, for the purposes of section 18J, the conditions to be satisfied before an action can be transferred to or from that Court, and to provide for the making of, and other matters related to, any consequential order referred to in section 18J(3)(b);
- (e) to prescribe, for the purposes of section 18K, the cases in which and the extent to which that Court is not bound to apply any rule of evidence under Singapore law, and the rules of evidence (if any) to be applied in those cases;
- (f) to prescribe, for the purposes of section 18L, any conditions to be satisfied before an order can be made under section 18L(1), and the matters which that Court may have regard to in determining any question of foreign law on the basis of submissions;
- (g) to prescribe, for the purposes of section 18M, any conditions to be satisfied before a party can be represented by a foreign lawyer in that Court or in an appeal from that Court;
- (h) to prescribe the circumstances where that Court may make a judgment or an order without hearing oral arguments;

- (i) to declare to be final, for the purposes of section 34(1)(e), any judgment or order of that Court (not being a judgment or an order that finally disposes of an action on its merits);
- (j) to prescribe the fees and deposits payable for proceedings in that Court and in appeals from that Court;
- (k) to provide for the Registrar to decline to administer, or decline to continue administering, a case in that Court or an appeal from that Court if any fee or deposit referred to in paragraph (j) is not paid.”.

Amendment of Fifth Schedule

14. The Fifth Schedule to the principal Act is amended by deleting the words “leave of a Judge” and substituting the words “leave of the High Court or the Court of Appeal”.

Transitional provision

15. Section 11(a) and (b) shall not apply to any judgment or order of the High Court made before the date of commencement of section 11(a) and (b), and section 34 of the principal Act as in force immediately before that date shall continue to apply to such judgment or order as if section 11(a) and (b) had not been enacted.

Consequential and related amendments to other written laws

16. The provisions of the Acts specified in the first column of the Schedule are amended in the manner set out in the second column thereof.

 THE SCHEDULE

Section 16

 CONSEQUENTIAL AND RELATED AMENDMENTS
 TO OTHER WRITTEN LAWS
*First column**Second column*
 1. Interpretation Act
 (Chapter 1, 2002 Ed.)

(a) Section 2(1)

Delete the definitions of “Judge” and “Judge of the Supreme Court” and substitute the following definitions:

““Judge” means a Judge of the High Court and includes the Chief Justice and any person sitting in the High Court in accordance with section 9 of the Supreme Court of Judicature Act (Cap. 322);

“Judge of the Supreme Court” means the Chief Justice, a Judge of Appeal or a Judge of the High Court;”.

(b) Section 41A(6)

Delete the word “thereof” in paragraph (b).

 2. Criminal Procedure Code
 (Chapter 68, 2012 Ed.)

Section 2(1)

(i) Delete the definitions of “Judge” and “Judge of Appeal” and substitute the following definitions:

““Judge” means a Judge of the High Court and includes the Chief Justice and any person sitting in the High Court in accordance with section 9 of the

THE SCHEDULE — *continued*

First column

Second column

Supreme Court of
Judicature Act
(Cap. 322);

“Judge of Appeal”
includes the Chief
Justice and any
person sitting in the
Court of Appeal in
accordance with
section 29 of the
Supreme Court of
Judicature Act;”.

(ii) Delete the words “Judge of the
Supreme Court” in the definition
of “ “signed” or “signature” ”
and substitute the word “Judge”.

3. Singapore Academy of Law Act
(Chapter 294A, 1997 Ed.)

Section 2

Delete the definition of “Judge of the
Supreme Court” and substitute the
following definition:

““Judge of the Supreme Court”
includes a Judicial
Commissioner;”.
