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Notification No. B 28 — The International Arbitration (Amendment) Bill is hereby published for general information. It was introduced in Parliament on the 27th day of August 2002.

International Arbitration (Amendment) Bill

Bill No. 28/2002.

Read the first time on 27th August 2002.

A BILL

i n t i t u l e d

An Act to amend the International Arbitration Act (Chapter 143A of the
5 1995 Revised Edition).

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 International Arbitration (Amendment) Act 2002 and shall come into operation on such date as the Minister may, by notification in the *Gazette*, appoint.

Amendment of section 15

2. Section 15(2) of the International Arbitration Act is amended by deleting the words “rules of an arbitral institution” in the 2nd and 3rd lines and substituting the words “rules of arbitration”.

New section 15A

3. The International Arbitration Act is amended by inserting, immediately after section 15, the following section:

“Application of rules of arbitration

15A.—(1) It is hereby declared for the avoidance of doubt that a provision of rules of arbitration agreed to or adopted by the parties, whether before or after the commencement of the arbitration, shall apply and be given effect to the extent that such provision is not inconsistent with a provision of the Model Law or this Part from which the parties cannot derogate.

(2) Without prejudice to subsection (1), subsections (3) to (6) shall apply for the purposes of determining whether a provision of rules of arbitration is inconsistent with the Model Law or this Part.

(3) A provision of rules of arbitration is not inconsistent with the Model Law or this Part merely because it provides for a matter on which the Model Law and this Part is silent.

(4) Rules of arbitration are not inconsistent with the Model Law or this Part merely because the rules are silent on a matter covered by any provision of the Model Law or this Part.

(5) A provision of rules of arbitration is not inconsistent with the Model Law or this Part merely because it provides for a matter which is covered by a provision of the Model Law or this Part which allows the parties to make their own arrangements by agreement but which applies in the absence of such agreement.

(6) The parties may make the arrangements referred to in subsection (5) by agreeing to the application or adoption of rules of arbitration or by providing any other means by which a matter may be decided.

5 (7) In this section and section 15, “rules of arbitration” means the rules of arbitration agreed to or adopted by the parties including the rules of arbitration of an institution or organisation.”.

EXPLANATORY STATEMENT

This Bill seeks to amend the International Arbitration Act (Cap.143A).

Clause 1 relates to the short title and commencement.

Clause 2 amends section 15(2) to replace the term “rules of an arbitral institution” with the expression “rules of arbitration” for consistency with the new definition of “rules of arbitration” introduced in the new section 15A(7).

Clause 3 introduces a new section 15A which clarifies, for the avoidance of doubt, the application and effect of rules of arbitration agreed to or adopted by the parties.

Section 15A(1) restate for the avoidance of doubt that a provision of rules of arbitration agreed to or adopted by the parties shall apply and be given effect to the extent that such provision is not inconsistent with a provision of the UNCITRAL Model Law on International Commercial Arbitration and Part II of the Act (“Part II”) from which the parties cannot derogate. It does not matter if the rules are adopted before or after the commencement of the arbitration.

Section 15A(2) provides that the new subsections (3) to (6) provide non-exhaustive guidance on whether a provision of rules of arbitration is inconsistent with the Model Law or Part II.

Section 15A(3) provides that a provision of rules of arbitration is not inconsistent with the Model Law or Part II merely because it provides for a matter on which the Model Law and Part II is silent.

Conversely, section 15A(4) provides that rules of arbitration are not inconsistent with the Model Law or Part II merely because the rules are silent on a matter covered by any provision of the Model Law or Part II.

Section 15A(5) also provides that a provision of rules of arbitration is not considered inconsistent merely because it provides for a matter which is covered by a provision of the Model Law or Part II which allows the parties to make their own arrangements by agreement but which applies in the absence of such agreement.

Section 15A(6) provides that the parties may make arrangements by agreeing to the application or adoption of rules of arbitration or by providing any other means by which a matter may be decided.

EXPENDITURE OF PUBLIC MONEY

This Bill will not involve the Government in any extra financial expenditure.