



REPUBLIC OF SINGAPORE

GOVERNMENT GAZETTE

BILLS SUPPLEMENT

Published by Authority

NO. 30]

MONDAY, OCTOBER 7

[2019

First published in the *Government Gazette*, Electronic Edition, on 7 October 2019 at 5 pm.

Notification No. B 30 — The Constitution of the Republic of Singapore (Amendment) Bill is published for general information. It was introduced in Parliament on 7 October 2019.

Constitution of the Republic of Singapore (Amendment) Bill

Bill No. 30/2019.

Read the first time on 7 October 2019.

A BILL

i n t i t u l e d

An Act to amend the Constitution of the Republic of Singapore
(1999 Reprint).

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 is the Constitution of the Republic of Singapore (Amendment) Act 2019 and comes into operation on a date that the President appoints by notification in the *Gazette*.

Amendment of Article 2

2. Article 2(1) of the Constitution of the Republic of Singapore (called in this Act the Constitution) is amended —

(a) by deleting the definition of “Judge of the Supreme Court” and substituting the following definition:

““high judicial office” means the office of the Chief Justice, a Justice of the Court of Appeal, a Judge of the Appellate Division, a Judge of the High Court, a Judicial Commissioner, a Senior Judge or an International Judge, and “person holding high judicial office” has a corresponding meaning;” and

(b) by inserting, immediately after the definitions of “Speaker” and “Deputy Speaker”, the following definition:

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

Amendment of Article 9

3. Article 9(2) of the Constitution is amended —

(a) by deleting the words “High Court” and substituting the words “General Division of the High Court”;

(b) by deleting the word “thereof” and substituting the words “sitting in the General Division of the High Court”; and

(c) by deleting the words “the Court” wherever they appear and substituting in each case the words “the General Division of the High Court”.

Amendment of Article 22

4. Article 22(1) of the Constitution is amended by deleting paragraph (a) and substituting the following paragraph:

“(a) the Chief Justice, Justices of the Court of Appeal, Judges of the Appellate Division, Judges of the High Court, Judicial Commissioners, Senior Judges and International Judges;”.

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Amendment of Article 50

5. Article 50(2) of the Constitution is amended by deleting the words “High Court” and substituting the words “General Division of the High Court”.

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Repeal and re-enactment of Article 94

6. Article 94 of the Constitution is repealed and the following Article substituted therefor:

“Constitution of Supreme Court

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94.—(1) The Supreme Court consists of —

(a) the Court of Appeal; and

(b) the High Court, which in turn consists of —

(i) the Appellate Division; and

(ii) the General Division.

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(2) The Court of Appeal and the Divisions of the High Court have the jurisdiction and powers conferred on each of them by this Constitution and any other written law.

(3) The Court of Appeal consists of the Chief Justice and the Justices of the Court of Appeal.

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(4) The Appellate Division of the High Court consists of the Chief Justice and the Judges of the Appellate Division.

(5) The General Division of the High Court consists of the Chief Justice and the Judges of the High Court.

(6) A Justice of the Court of Appeal, a Judge of the Appellate Division or a Judge of the High Court may, if required by the Chief Justice, sit in the Court of Appeal or a Division of the High Court established by clause (1) even if the Justice of the Court of Appeal, the Judge of the Appellate Division or the Judge of the High Court is not a member of the Court of Appeal or that Division of the High Court, as the case may be.

(7) A Judicial Commissioner, a Senior Judge or an International Judge may, subject to Article 95(7), (8), (9) and (10) and the terms of his appointment —

(a) sit in the General Division of the High Court; and

(b) if required by the Chief Justice, sit in the Appellate Division of the High Court or the Court of Appeal.”.

Amendment of Article 95

7. Article 95 of the Constitution is amended —

(a) by deleting the words “the Judges of Appeal” in clause (1) and substituting the words “the Justices of the Court of Appeal, the Judges of the Appellate Division”;

(b) by deleting the words “Judge of the Supreme Court” wherever they appear in clause (2) and substituting in each case the words “Supreme Court Judge”;

(c) by deleting the words “a Judge of Appeal” in clause (2) and substituting the words “a Justice of the Court of Appeal, a Judge of the Appellate Division”;

(d) by deleting clause (3);

(e) by deleting paragraphs (a) and (b) of clause (4) and substituting the following paragraphs:

“(a) appoint a person who is qualified for appointment as a Supreme Court Judge to be a Judicial Commissioner;

(b) appoint a person who has ceased to be a Supreme Court Judge to be a Senior Judge; or”;

- (f) by deleting the words “of the Supreme Court” in clauses (4)(c), (5), (7), (8), (9)(a) and (b), (10) and (11);
- (g) by deleting the word “Parliament” in clause (10) and substituting the words “The Legislature”; and
- (h) by deleting the words “Judges of Supreme Court” in the Article heading and substituting the words “Supreme Court Judges”. 5

Amendment of Article 97

8. Article 97 of the Constitution is amended —

- (a) by deleting the words “Every person appointed as a Judge of the Supreme Court or a Judicial Commissioner or a Senior Judge of the Supreme Court” in clause (1) and substituting the words “A person appointed to a high judicial office”; 10
- (b) by deleting clause (1A); 15
- (c) by deleting the words “clauses (1) and (1A)” in clause (2) and substituting the words “clause (1)”;
- (d) by deleting the words “of the Supreme Court” in clause (2); and
- (e) by deleting the words “Judges of Supreme Court” in the Article heading and substituting the words “Supreme Court Judges”. 20

Amendment of Article 98

9. Article 98 of the Constitution is amended —

- (a) by deleting clause (1) and substituting the following clauses: 25
 - “(1) The office of a Supreme Court Judge must not be abolished during the continuance in office of the Judge.
 - (1A) Unless he resigns or is removed in accordance with this Article, a Supreme Court Judge appointed under Article 95(1) holds office until he attains the 30

age of 65 years or such later time not being later than 6 months after he attains that age, as the President may approve.”;

- 5 (b) by deleting the words “A Judge of the Supreme Court or a Judicial Commissioner, a Senior Judge or an International Judge of the Supreme Court” in clause (2) and substituting the words “A person holding high judicial office”;
- 10 (c) by deleting the words “office as a Judge of the Supreme Court or a Judicial Commissioner, a Senior Judge or an International Judge of the Supreme Court” in clause (3) and substituting the words “high judicial office”;
- (d) by deleting the words “Judge of the Supreme Court” in clauses (4), (7), (8), (9) and (10) and substituting in each case the words “Supreme Court Judge”;
- 15 (e) by deleting the words “any other Judge of the Supreme Court or a Judicial Commissioner, a Senior Judge or an International Judge of the Supreme Court” in clause (5) and substituting the words “any other person holding high judicial office”;
- 20 (f) by deleting the words “a Judge of the Supreme Court, or a Judicial Commissioner, a Senior Judge or an International Judge of the Supreme Court (as the case may be)” in clause (5) and substituting the words “a person holding high judicial office”;
- 25 (g) by deleting the word “Parliament” in clause (6) and substituting the words “The Legislature”;
- (h) by deleting the words “Judges of the Supreme Court” in clauses (6) and (7) and substituting in each case the words “Supreme Court Judges”;
- 30 (i) by deleting the word “Parliament” in clause (7) and substituting the words “the Legislature”;
- (j) by deleting the words “clause (1)” in clause (9) and substituting the words “clause (1A)”; and

- (k) by deleting the words “Judges of Supreme Court” in the Article heading and substituting the words “Supreme Court Judges”.

Amendment of Article 99

10. Article 99 of the Constitution is amended —

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- (a) by deleting the words “a Judge of the Supreme Court or a Judicial Commissioner, a Senior Judge or an International Judge of the Supreme Court” and substituting the words “a person holding high judicial office”; and
- (b) by deleting the words “a Judge of Supreme Court” in the Article heading and substituting the words “person holding high judicial office”.

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Repeal of Article 101

11. Article 101 of the Constitution is repealed.

New Article 166

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12. The Constitution is amended by inserting, immediately after Article 165, the following Article:

“Transitional provision for persons who hold or have held office as Judge of Appeal immediately before date of commencement of Constitution of the Republic of Singapore (Amendment) Act 2019

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166.—(1) A person who holds office as a Judge of Appeal immediately before the date of commencement of the Constitution of the Republic of Singapore (Amendment) Act 2019 is, from that date —

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- (a) if the person was appointed as a Judge of Appeal under Article 95(1), to hold office as a Justice of the Court of Appeal in accordance with Article 98; and
- (b) if the person was appointed as a Judge of Appeal for a specified period under Article 95(2), to hold office as a Justice of the Court of Appeal in accordance with Article 98 for the remainder of that period.

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(2) A person who ceased to be a Judge of Appeal before the date of commencement of the Constitution of the Republic of Singapore (Amendment) Act 2019 is, on or after that date, to be treated —

- 5 (a) for the purposes of Article 95(2) and (4)(b), as a person who has ceased to be a Supreme Court Judge; and
- (b) for the purposes of Article 98(4), as a person who has held office as a Supreme Court Judge.”.

10 **Amendment of First Schedule**

13. The First Schedule to the Constitution is amended —

- (a) by deleting the words “*a Judge of the Supreme Court and a Judicial Commissioner and a Senior Judge of the Supreme Court*” in the heading of item 6 and substituting the words
- 15 “*Supreme Court Judge, Judicial Commissioner or Senior Judge*”; and
- (b) by deleting the words “*of the Supreme Court*” in the heading of item 6A.

Miscellaneous amendments

20 **14.** The Constitution is amended —

- (a) by deleting the words “Judge of the Supreme Court” in the following provisions and substituting in each case the words “Supreme Court Judge”:

Article 18(2)(e)

25 Article 20(3)

Article 22N(5)

Article 35(1)

Article 37G(1)

Article 37H(1)

30 Article 74(1)

Article 75

Article 93A(1)

Article 96

Article 103(b)(iii)

Article 105(8)

Article 111(2E)(a)

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Article 133(2)

Article 151(2);

- (b) by deleting the words “Judges of the Supreme Court” in the following provisions and substituting in each case the words “Supreme Court Judges”:

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Article 22L(5)

Article 35(6)(a)

Article 35A(10)

Article 100(1)

Article 107(2)

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Article 111(2D)(a)

Article 148F(8); and

- (c) by deleting the words “Judges of Supreme Court” in the following provision and substituting the words “Supreme Court Judges”:

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Article 96 (Article heading).

EXPLANATORY STATEMENT

This Bill seeks to amend the Constitution of the Republic of Singapore (1999 Reprint) —

- (a) to create an Appellate Division of the High Court, which has the jurisdiction and powers conferred on it by the Constitution and any other written law;
- (b) to rename the existing High Court as the General Division of the High Court, which has the jurisdiction and powers conferred on it by the Constitution and any other written law;

- (c) to provide that the term “High Court” refers to the High Court consisting of the Appellate Division and the General Division;
- (d) to provide that the Appellate Division of the High Court will consist of a new class of permanent judges to be called the Judges of the Appellate Division;
- (e) to reflect the new nomenclature of the permanent judges of the Court of Appeal (who are now called the Judges of Appeal) as the Justices of the Court of Appeal;
- (f) to reflect the new nomenclature of the Judges of the Supreme Court (which is the existing collective term for the Chief Justice, Judges of Appeal and Judges of the High Court) as Supreme Court Judges, and to include under that new collective term the new Judges of the Appellate Division and the new Justices of the Court of Appeal (in addition to the Chief Justice and the Judges of the High Court); and
- (g) to make drafting improvements to the provisions on the Judiciary.

Clause 1 relates to the short title and commencement.

Clause 2 introduces a new definition of “high judicial office” in Article 2(1). The term means the office of the Chief Justice, a Justice of the Court of Appeal, a Judge of the Appellate Division, a Judge of the High Court, a Judicial Commissioner, a Senior Judge or an International Judge.

Clause 2 also sets out the definition of the term “Supreme Court Judge”, which replaces the term “Judge of the Supreme Court”.

Clause 3 replaces certain references to the High Court in Article 9 with references to the General Division of the High Court, and a reference to a Judge of the High Court with a reference to a Judge sitting in the General Division of the High Court.

Clause 4 replaces the reference to “Judges of the Supreme Court, and the Judicial Commissioners, Senior Judges and International Judges of the Supreme Court” in Article 22(1)(a) with a reference to “Justices of the Court of Appeal, Judges of the Appellate Division, Judges of the High Court, Judicial Commissioners, Senior Judges and International Judges”.

Clause 5 replaces a reference to the High Court in Article 50 with a reference to the General Division of the High Court.

Clause 6 repeals and re-enacts Article 94 relating to the constitution of the Supreme Court.

Clauses 7, 8, 9 and 10 amend Articles 95, 97, 98 and 99, respectively. References to “Judge of the Supreme Court”, a term which is no longer used, are replaced with references to “Supreme Court Judge”. References to “Judge of

Appeal” are replaced with references to “Justice of the Court of Appeal”. The titles “Judicial Commissioner of the Supreme Court”, “International Judge of the Supreme Court” and “Senior Judge of the Supreme Court” are simplified to “Judicial Commissioner”, “International Judge” and “Senior Judge”, respectively. The collective term “high judicial office” replaces certain lists of judicial offices.

Clause 7(*d*) deletes Article 95(3). The matter dealt with by the existing Article 95(3) is re-enacted in the new Article 98(1), inserted by clause 9(*a*).

Clause 11 repeals Article 101. An express definition of “office” is unnecessary.

Clause 12 inserts a new Article 166, a transitional provision. Existing Judges of Appeal continue to hold office on the same terms as Justices of the Court of Appeal. A person who ceased to be a Judge of Appeal before the commencement date of the amendments sought to be made by the Bill is qualified for certain appointments under Article 95, and for appointment to the tribunal mentioned in Article 98, as if he or she had ceased to be a Supreme Court Judge.

Clauses 13 and 14 make miscellaneous amendments to the First Schedule and throughout the Constitution relating to the new collective term “Supreme Court Judge” and the shortening of the titles of “Judicial Commissioner”, “International Judge” and “Senior Judge”.

EXPENDITURE OF PUBLIC MONEY

This Bill will involve the Government in extra financial expenditure, the exact amount of which cannot at present be ascertained.
