

# Administration of Muslim Law (Amendment) Bill

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**Bill No. /2021.**

*Read the first time on .*

A BILL

*i n t i t u l e d*

An Act to amend the Administration of Muslim Law Act.

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 Administration of Muslim Law (Amendment) Act 2021 and comes into operation on a date that the Minister appoints by notification in the *Gazette*.

#### 5 **Amendment of section 2**

2. Section 2 of the Administration of Muslim Law Act (called in this Act the principal Act) is amended —

(a) by inserting, immediately after the definition of “Appeal Board”, the following definition:

10 “attend” includes the appearance by any person using any electronic means of communication permitted by the Court, an Appeal Board, a Kadi or a Naib Kadi (as the case may be);”;

15 (b) by inserting, immediately after the words “a certificate” in the definition of “halal certificate”, the words “or other form of signification”;

(c) by deleting the definition of “jawatankuasa daerah” and substituting the following definition:

20 “‘jawatankuasa masjid” means a committee of a daerah masjid appointed under rules made under section 86(1);”;

(d) by deleting the words “Syariah Court” in the definition of “Register of Divorces” and substituting the words “registrar of the Syariah Court”.

#### 25 **New section 35B**

3. The principal Act is amended by inserting, immediately after section 35A, the following section:

#### **“Oral hearing not needed generally**

30 **35B.**—(1) Subject to subsection (2), the Court or an Appeal Board may decide any matter in its jurisdiction without hearing

oral arguments, other than a matter prescribed by any rules made under section 145.

5 (2) Subsection (1) does not allow any part of a proceeding where oral evidence is given (including any part of a trial of an action) to be conducted without an oral hearing, unless all the parties consent.

10 (3) Subject to subsection (4), the Court or an Appeal Board may, in any matter that the Court or Appeal Board may decide without hearing oral arguments, direct that the matter be heard in an asynchronous manner by exchange of written correspondence with the party or parties using such means of communications as directed by the Court or Appeal Board (as the case may be).

15 (4) The Court or an Appeal Board must not hear a matter in an asynchronous manner if to do so would be inconsistent with the duty of the Court or an Appeal Board (as the case may be) to ensure that the proceedings are conducted fairly to all parties.

20 (5) To avoid doubt, this section does not affect the power of the Court or an Appeal Board to hear oral arguments before deciding any matter that may be decided without hearing oral arguments.”.

#### **New section 46AA**

4. The principal Act is amended by inserting, immediately after section 46A, the following section:

#### **“Court or Appeal Board may conduct hearing through electronic means of communication**

25 46AA.—(1) Without limiting section 46, the Court or an Appeal Board may conduct the hearing of any matter or proceeding (other than a matter or proceeding prescribed by any rules made under section 145) through a live video link, a live television link, a live audio link or any other electronic means of communication approved by the senior president of the Court or  
30 the person nominated to preside over the Appeal Board under section 55(4), as the case may be.

(2) The Court or an Appeal Board must not conduct any part of a hearing through a live audio link, without an accompanying live video link or live television link —

- 5           (a) where oral evidence is given during that part of the hearing (including in a trial of an action) unless all the parties consent; or
- (b) where the matter is prescribed by any rules made under section 145.

10           (3) For the purposes of subsection (2), the Court or an Appeal Board is not considered to have conducted a part of a hearing of a matter through a live audio link only and without an accompanying live video link or live television link, by reason only of a temporary disruption in the accompanying live video link or live television link that was insignificant and which did not affect the duty of the Court or an Appeal Board (as the case may be) to conduct proceedings fairly.

             (4) The Court or an Appeal Board must not conduct a hearing of a matter or proceeding in the manner provided under subsection (1), if to do so would be inconsistent with the duty of the Court or an Appeal Board (as the case may be) to ensure that the hearing is conducted fairly to all parties.

             (5) The Court is deemed to be sitting at the place mentioned in section 44(1) or (2) (as the case may be) when the Court conducts a hearing of a matter or proceeding in the manner provided under subsection (1) (whether any president of the Court, the registrar of the Court or a deputy registrar of the Court is situated in Singapore or outside Singapore).”.

#### **Amendment of section 46B**

30           **5.** Section 46B(3) of the principal Act is amended by deleting the words “, on payment of the prescribed fees,”.

#### **Amendment of section 47**

**6.** Section 47 of the principal Act is amended —

- (a) by deleting the words “on payment of the prescribed fees” in subsection (3); and
- (b) by deleting the words “and the prescribed fees” in subsection (4).

5 **Amendment of section 48**

7. Section 48(2) of the principal Act is amended by deleting the words “upon payment of the prescribed fees,” in paragraph (c).

**Amendment of section 50**

8. Section 50 of the principal Act is amended —

- 10 (a) by deleting the words “arbitrators, or hakam,” in subsection (1) and substituting the word “hakam”;
- (b) by deleting the words “shall where possible” in subsection (2) and substituting the words “may if it considers fit”;
- 15 (c) by deleting the word “arbitration” in subsection (3) and substituting the word “proceedings”;
- (d) by deleting subsection (4) and substituting the following subsection:
  - 20 “(4) If the Court is not satisfied with the conduct of the proceedings by the hakam, the Court may remove the hakam and appoint other hakam in their place.”;
- (e) by deleting the words “their arbitration” in subsection (5) and substituting the words “the proceedings”;
- 25 (f) by deleting the word “decree” in subsection (6) and substituting the word “pronounce”; and
- (g) by deleting subsection (7) and substituting the following subsections:
  - 30 “(6A) Despite subsection (6), the hakam may pronounce a divorce in the absence of full authority from their respective principals if —

(a) the hakam are of the joint opinion that the parties should be divorced; and

(b) the Court has conferred authority on the hakam to pronounce a divorce at the time of appointing the hakam.

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(7) If the hakam appointed under subsection (1) are unable to agree on whether the parties should be divorced and report this to the Court, the Court may appoint other hakam in their place or make such order or give such direction as it thinks fit.

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(8) If the hakam appointed under subsection (4) or (8) are unable to agree on whether the parties should be divorced, the hakam must report this to the Court and the Court may make such order or give such direction as it thinks fit.

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(9) To avoid doubt, this section applies to the hakam appointed under subsection (4) or (8) as it applies to the hakam appointed under subsection (1).

(10) Where a divorce is pronounced by the hakam under subsection (6) or (7), the Court is to make a decree of divorce and cause the decree to be registered.”.

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#### **Amendment of section 54A**

**9.** Section 54A of the principal Act is amended —

(a) by inserting, immediately after the words “The Court” in subsection (1), the words “or an Appeal Board (as the case may be)”;

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(b) by inserting, immediately after the words “use in” in subsection (1), the words “proceedings in the Court or an Appeal Board”;

(c) by inserting, immediately after the words “bring into the Court” in subsection (1), the words “or an Appeal Board (as the case may be)”;

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- (d) by inserting, immediately after the word “Court” wherever it appears in subsections (2), (4) and (6), the words “or an Appeal Board (as the case may be)”;
- 5 (e) by inserting, immediately after the words “The Court” in subsection (3), the words “or an Appeal Board (as the case may be)”;
- (f) by inserting, immediately after the words “the Court” in subsections (3) and (5), the words “or an Appeal Board (as the case may be)”;
- 10 (g) by inserting, immediately after the words “uses in” in subsection (4)(a), the words “proceedings in the Court or an Appeal Board”;
- (h) by deleting the definition of “audio or visual recording” in subsection (7) and substituting the following definitions:
- 15 ““audio or visual recording” means an audio recording, a visual recording, or a recording that comprises both an audio recording and a visual recording and includes —
- (a) any recording of a temporary nature, including (but not limited to) any such recording for the purposes of contemporaneous or instantaneous publication or transmission; and
- 20 (b) in relation to proceedings in the Court or an Appeal Board, an audio or visual recording of —
- 25 (i) a person participating in, viewing or listening to proceedings in the Court or an Appeal Board (as the case may be); or
- 30 (ii) a person viewing or listening to an audio or a visual recording of proceedings in the Court or an Appeal Board (as the case may be);

5 “proceedings in the Court or an Appeal Board” includes proceedings in the Court or an Appeal Board (as the case may be), or any part of proceedings in the Court or an Appeal Board (as the case may be), conducted through any electronic means of communication;” and

(i) by inserting, immediately after the word “Court” in the section heading, the words “or Appeal Board”.

#### **Amendment of section 54B**

10 **10.** Section 54B of the Act is amended —

(a) by inserting, immediately after the word “Court” wherever it appears in subsections (1) and (2), the words “or an Appeal Board (as the case may be)”; and

15 (b) by inserting, immediately after subsection (2), the following subsection:

20 “(3) In this section, “proceeding in the Court or an Appeal Board” includes proceedings in the Court or an Appeal Board (as the case may be), or any part of proceedings in the Court or an Appeal Board (as the case may be), conducted through any electronic means of communication.”.

#### **Amendment of section 56B**

**11.** Section 56B of the principal Act is amended —

25 (a) by inserting, immediately after the word “officer” in subsection (3), the words “of the Court”;

(b) by inserting, immediately after subsection (3), the following subsections:

30 “(3A) An authorised person is not liable to be sued for an act done by him or her for the purposes of any court proceedings, or any mediation or other alternative dispute resolution process conducted by him or her, in the Court or an Appeal Board, if the act —



- (a) was done in good faith; and
- (b) did not involve any fraud or wilful misconduct on his or her part.

(3B) An authorised person is not liable for any loss or damage, suffered by any person by reason of any error or omission resulting from —

- (a) any malfunction in any electronic means of communication provided for in the Act, if the malfunction occurred despite the authorised person having acted in good faith and with reasonable care to prevent the malfunction; or
  - (b) any fault or failure on the part of the person using the electronic means of communication.”; and
- (c) by inserting, immediately after subsection (5), the following subsection:

“(6) In this section, “authorised person” means —

- (a) a member or an officer of the Court or an Appeal Board;
- (b) the registrar or a deputy registrar of the Court;
- (c) a mediator appointed by the Court; or
- (d) any other person expressly authorised by the Court or an Appeal Board to conduct any proceedings, or any mediation or other alternative dispute resolution process in the Court or an Appeal Board.”.

### **Amendment of section 86**

**12.** Section 86 of the principal Act is amended —

- (a) by deleting the words “jawatankuasa daerah” wherever they appear and substituting in each case the words “jawatankuasa masjid”; and
- (b) by deleting the words “jawatankuasa daerah” in the section heading and substituting the words “jawatankuasa masjid”.

### **Amendment of section 88A**

**13.** Section 88A of the principal Act is amended by deleting subsection (3) and substituting the following subsections:

“(3) The Majlis may, in issuing a halal certificate —

- 5           (a) impose any condition or limitation that it thinks fit, which may be different for different halal certificates that relate to different products, services or activities; and
- 10           (b) vary, remove or add to any condition or limitation mentioned in paragraph (a) at any time.

(3A) The Majlis may, in issuing a halal certificate —

- (a) require an applicant to undergo either or both of the following services performed by or under the supervision of the Majlis:
- 15           (i) a service to verify that food provided or to be provided to Muslims complies with halal requirements or otherwise in relation to halal certification;
- 20           (ii) a service for the cleansing of food utensils and crockery in accordance with Islamic rituals; and
- (b) provide either or both of these services (as the case may be) to the applicant upon the payment of the prescribed fees.”.

### **Amendment of section 100**

25   **14.** Section 100 of the principal Act is amended by deleting subsections (3) and (4) and substituting the following subsection:

“(3) The registrar of the Syariah Court —

- 30           (a) must maintain a Register of Divorces containing the copies of the certificates of divorce issued by that Court; and
- (b) may keep the Register of Divorces in the form that the registrar of the Syariah Court may determine.”.

### **Amendment of section 102**

**15.** Section 102 of the principal Act is amended by deleting the words “in the prescribed form” in subsections (2)(c) and (5)(b).

### **New sections 109A and 109B**

5 **16.** The principal Act is amended by inserting, immediately after section 109 in Part 6, the following sections:

#### **“Marriages, divorces and revocation of divorces using electronic means of communication**

10 **109A.**—(1) Despite anything in section 95(2)(b) or (4), 101(6) or (8), 102(1)(a) or (2)(a) or 103(1), (3) or (5) requiring, or relating to, the presence or appearance of any person to perform any act, or to witness or attest the doing of anything under any of those provisions, such person is taken to be present or to appear for that purpose if —

- 15 (a) the person, with the permission of the Registrar, attends and performs that act, or witnesses or attests the doing of that thing, through the use of a live video or live television link that is created using any electronic means of communication approved by the Registrar;
- 20 (b) the person complies with such conditions that the Registrar considers necessary or expedient to impose relating to the use of the electronic means of communication;
- 25 (c) the Registrar is satisfied that there are sufficient administrative and technical facilities and arrangements made at the place where the person is located; and
- (d) the following persons are all in Singapore:
- 30 (i) in relation to a marriage to which Part 6 applies — both parties to the marriage, the witnesses (if required) and the wali (if any) of the woman to be wedded;

(ii) in relation to a revocation of divorce to which Part 6 applies — both parties to the revocation of divorce and the witnesses (if required).

5 (2) Despite section 49(6), the requirement for an entry in the Register of Divorces to be signed by the persons mentioned in that provision is deemed to be satisfied if the persons each sign on the document required by the registrar of the Syariah Court, when communicating with one another using any electronic means of communication in accordance with this section.

10 (3) Despite section 102(1)(b) requiring any registration, or solemnization and registration, of a marriage to be conducted at any place mentioned in that provision, that registration, or solemnization and registration, may be conducted using any electronic means of communication in accordance with this section.

15 (4) Despite section 102(5) requiring the presence of any person to perform any act, such person is taken to be present for that purpose if —

20 (a) the person, with the permission of the registrar of the Syariah Court, attends and performs that act through the use of a live video or live television link that is created using any electronic means of communication approved by the registrar of the Syariah Court;

25 (b) the person complies with such conditions that the registrar of the Syariah Court considers necessary or expedient to impose relating to the use of the electronic means of communication; and

30 (c) the registrar of the Syariah Court is satisfied that there are sufficient administrative and technical facilities and arrangements made at the place where the person is located.

35 (5) Despite section 103(3), the requirement for an entry in the Register of Marriages, certificate of marriage, Register of Revocation of Divorces or certificate of revocation of divorce (as the case may be) to be signed by the persons mentioned in that

provision is deemed to be satisfied if the persons each sign on the document required by the Registrar, when communicating with one another using any electronic means of communication in accordance with this section.

5       **Making of statutory declarations**

10       **109B.**—(1) Despite section 11(1)(b) of the Oaths and Declarations Act 2000, a statutory declaration required for any purpose in section 43(b) or 109A may be made by a person appearing before another person, who is empowered under any written law to take or receive the statutory declaration, using any electronic means of communication approved by the Registrar.”.

**Amendment of section 139**

15       **17.** Section 139(2) of the principal Act is amended by deleting the word “President” and substituting the word “Mufti”.

**Amendment of section 143**

**18.** Section 143 of the principal Act is amended —

20       (a) by deleting the words “Any person may, upon application to the Registrar and upon payment of the prescribed fee,” in subsection (1) and substituting the words “Any prescribed person may, upon payment of the prescribed fee, apply for approval from the Registrar to”; and

(b) by deleting subsections (2) and (3) and substituting the following subsection:

25               “(2) Any person may, upon payment of the prescribed fee, apply for approval from the registrar of the Syariah Court to obtain a copy of an entry in the Register of Divorces that is certified by the registrar of the Syariah Court to be a true copy.”.

30       **Amendment of section 145**

**19.** Section 145(2) of the principal Act is amended —

(a) by inserting, immediately after paragraph (a), the following paragraph:

5 “(aa) prescribing the manner in which, and the time within which, any application that is to be made to the Syariah Court or an Appeal Board under this Act or any other written law.”;

(b) by deleting the word “and” at the end of paragraph (bb);

(c) by deleting the words “and Naib Kadis” in paragraph (c) and substituting the words “, Naib Kadis and the Majlis”; and

10 (d) by deleting the full-stop at the end of paragraph (c) and substituting a semi-colon, and by inserting immediately thereafter the following paragraphs:

15 “(d) prescribing the form and manner of an application for, and the issuance of, an inheritance certificate under section 115; and

(e) prescribing anything that is required or permitted under this Act to be prescribed.”.

### **Validation**

20 **20.**—(1) This section applies to any sum collected, before the date of commencement of this section, purportedly as a fee or charge for —

(a) any of the following services provided by the Majlis pursuant to its functions under section 3(2) of the principal Act:

25 (i) a service to verify that food provided or to be provided to Muslims complies with halal requirements or otherwise in relation to halal certification;

(ii) a service for the cleansing of food utensils and crockery in accordance with Islamic rituals; and

30 (b) any application to the Majlis under regulation 16 of the Administration of Muslim Law (Muslim Religious Schools) Rules 2016 (G.N. No. S 730/2016) to be a recognised Islamic teacher or recognised Quranic teacher, as defined in regulation 2 of those Rules.

- (2) Every sum mentioned in subsection (1) is, and is taken always to have been, by force of this section, validly collected; and no legal proceedings may be instituted on or after the date of commencement of this section in any court on account of or in respect of any such collection.

### EXPLANATORY STATEMENT

This Bill seeks to amend the Administration of Muslim Law Act (the Act) for the following main purposes:

- (a) to enable the Syariah Court and an Appeal Board to decide on any matter without hearing oral arguments;
- (b) to enable Syariah Court, an Appeal Board and the Registry of Muslim Marriages to conduct the hearing of any matter or proceeding through electronic means of communication;
- (c) to remove the requirement that a divorce may only be registered upon the payment of prescribed fees;
- (d) to improve the process of proceedings conducted by hakam;
- (e) to extend sections 54A and 54B to offences committed via any electronic means of communication, and to proceedings in an Appeal Board;
- (f) to confer statutory immunity from liability on a member or an officer of the Syariah Court or an Appeal Board, the registrar or a deputy registrar of the Syariah Court or a mediator appointed by the Syariah Court, in relation to acts done in connection with proceedings in the Syariah Court, an Appeal Board and mediation or other alternative dispute resolution process, as well as in relation to loss or damage suffered by any person from any malfunction in any electronic means of communication provided for in the Act;
- (g) to substitute references to the archaic term of “jawatankuasa daerah” with the term “jawatankuasa masjid”;
- (h) to clarify that the Majlis may impose different conditions and limitations for halal certificates that relate to different products, services or activities;
- (i) to provide that the Majlis may require an applicant for a halal certificate to undergo food verification and ritual cleansing performed by or under the supervision of the Majlis, and provide these services to the applicant upon the payment of the prescribed fees;

- (j) to provide that the Mufti's evidence that any doctrine, ceremony or act is contrary to Muslim law is presumed to be contrary to Muslim law in any prosecution for an offence under section 139;
- (k) to restrict access to the Register of Muslim Marriages, the Register of Divorces and the Register of Revocation of Divorces;
- (l) to enable the making of rules to implement the Syariah Court's new electronic case management and filing system, prescribe the form and manner of an application for, and the issuance of, an inheritance certificate under section 115, and prescribe anything that is required or permitted under the Act to be prescribed;
- (m) to validate the past collection of fees by the Majlis for the provision of food verification and ritual cleansing services, and for an application to be a recognised Islamic teacher or recognised Quranic teacher.

#### EXPENDITURE OF PUBLIC MONEY

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

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