

Subordinate Courts (Amendment) Bill

Bill No. 16/2005.

Read the first time on 18th July 2005.

A BILL

intituled

An Act to amend the Subordinate Courts Act (Chapter 321 of the 1999 Revised Edition) and to make a consequential amendment to the Government Proceedings Act (Chapter 121 of the 1985 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 Subordinate Courts (Amendment) Act 2005 and shall come into operation on such date as the Minister may, by notification in the *Gazette*, appoint.

5 **New sections 54A to 54G**

2. Part IV of the Subordinate Courts Act is amended by inserting, immediately after section 54, the following sections:

“Transfers of Civil Proceedings

10 **General power to transfer from Magistrate’s Court to District Court**

15 **54A.**—(1) Where it appears to a District Court, on the application of a party to any civil proceedings pending in a Magistrate’s Court, that the proceedings, by reason of its involving some important question of law, or being a test case, or for any other sufficient reason, should be tried in the District Court, it may order the proceedings to be transferred to the District Court.

(2) An order under subsection (1) may be made on such terms as the court sees fit.

General power to transfer from subordinate courts to High Court

20 **54B.**—(1) Where it appears to the High Court, on the application of a party to any civil proceedings pending in a subordinate court, that the proceedings, by reason of its involving some important question of law, or being a test case, or for any other sufficient reason, should be tried in the High Court, it may order the proceedings to be transferred to the High Court.

25 (2) An order under subsection (1) may be made on such terms as the court sees fit.

Explanation.—The intended enforcement overseas of any judgment obtained in the High Court, under any enforcement arrangements currently in force, would ordinarily be sufficient reason for transferring the proceedings to the High Court.

General power to transfer from High Court to subordinate courts

5 **54C.**—(1) A party to any civil proceedings pending in the High Court may for any sufficient reason at any time apply to the High Court for an order that the proceedings be transferred to a subordinate court.

10 (2) Subject to subsection (3), the High Court may, if it thinks fit, and on such terms as it sees fit, and either on its own motion or on application, order that the proceedings be transferred accordingly notwithstanding any other provision of this Act.

15 (3) An order under subsection (2) may only be made in respect of such proceedings as could have been commenced in the subordinate court to which the application relates, if the value of the claim had been within the District Court limit or the Magistrate’s Court limit, as the case may be.

20 *Explanation.*—The fact that the proceedings fall within the civil jurisdiction of the subordinate courts would not, by itself, ordinarily constitute sufficient reason for transferring the proceedings to the subordinate courts, if enforcement overseas is intended of any judgment obtained in the High Court under any enforcement arrangements currently in force.

General power to transfer from District Court to Magistrate’s Court

25 **54D.**—(1) A party to any civil proceedings pending in the District Court may for any sufficient reason at any time apply to the District Court for an order that the proceedings be transferred to a Magistrate’s Court.

30 (2) Subject to subsection (3), the District Court may, if it thinks fit, and on such terms as it sees fit, and either on its own motion or on application, order that the proceedings be transferred accordingly notwithstanding any other provision of this Act.

35 (3) An order under subsection (2) may only be made in respect of such proceedings as could have been commenced in the Magistrate’s Court if the value of the claim had been within the Magistrate’s Court limit.

Transfer of counterclaim from subordinate courts to High Court

5 **54E.**—(1) Where, in any civil proceedings pending in a subordinate court, any counterclaim or set-off and counterclaim of any defendant involves a matter beyond the District Court limit, any party to the proceedings may apply to the High Court, within such time as may be prescribed by Rules of Court, for an order that the whole proceedings, or the proceedings on the counterclaim or set-off and counterclaim, be transferred to the High Court.

10 (2) On any such application or on its own motion, the High Court may, as it thinks fit, and on such terms as it sees fit, order —

(a) that the whole proceedings be transferred to the High Court;

(b) that the whole proceedings be tried in the subordinate courts; or

15 (c) that the proceedings on the counterclaim or set-off and counterclaim be transferred to the High Court and that the proceedings on the plaintiff's claim and the defence thereto other than the set-off (if any) be tried in the subordinate courts.

20 (3) Where an order is made under subsection (2)(c), and judgment on the claim is given for the plaintiff, execution thereon shall, unless the High Court at any time otherwise orders, be stayed until the proceedings transferred to the High Court have been concluded.

25 (4) Where no application is made under subsection (1) or where it is ordered that the whole proceedings be tried in the subordinate courts, such subordinate court shall have jurisdiction to try the proceedings, notwithstanding any other provision of this Act.

Transfer of counterclaim from Magistrate's Court to District Court

30 **54F.**—(1) Where, in any civil proceedings pending in a Magistrate's Court, any counterclaim or set-off and counterclaim of any defendant involves a matter beyond the Magistrate's Court limit, any party to the proceedings may apply to the District Court, within such time as may be prescribed by Rules of Court, for an order that the whole proceedings, or the proceedings on the counterclaim or set-off and counterclaim, be transferred to the District Court.

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(2) On any such application or on its own motion, the District Court may, as it thinks fit, and on such terms as it sees fit, order —

(a) that the whole proceedings be transferred to a District Court;

(b) that the whole proceedings be tried in a Magistrate's Court;
or

(c) that the proceedings on the counterclaim or set-off and counterclaim be transferred to a District Court and that the proceedings on the plaintiff's claim and the defence thereto other than the set-off (if any) be tried in a Magistrate's Court.

(3) Where an order is made under subsection (2)(c), and judgment on the claim is given for the plaintiff, execution thereon shall, unless the District Court at any time otherwise orders, be stayed until the proceedings transferred to the District Court have been concluded.

(4) Where no application is made under subsection (1) or where it is ordered that the whole proceedings be tried in a Magistrate's Court, the Magistrate's Court shall have jurisdiction to try the proceedings, notwithstanding any other provision of this Act.

Costs in cases transferred from one court to another

54G.—(1) Where proceedings are ordered to be transferred —

(a) from the High Court to a subordinate court;

(b) from a subordinate court to the High Court; or

(c) from one subordinate court to another,

the costs of the whole proceedings both before and after the transfer shall, subject to any order made by the court which ordered the transfer, be in the discretion of the court to which the proceedings are transferred, and that court shall have power to make orders with respect thereto and as to the scales on which the costs of the several parts of the proceedings are to be paid.

(2) As regards so much of the proceedings in any action transferred from the High Court to a subordinate court as takes place in the High Court before the transfer —

(a) the costs thereof shall be subject to section 39; and

- (b) the powers of the High Court under section 39 (4) to make an order allowing costs on the High Court scale or on the subordinate courts scale, shall, subject to any order of the High Court, be exercisable by the subordinate court.”.

5 **Repeal of sections 24, 37, 38, 40 and 53**

3. Sections 24, 37, 38, 40 and 53 of the Subordinate Courts Act are repealed.

Consequential amendment to Government Proceedings Act

- 10 4. Section 26 of the Government Proceedings Act (Cap. 121) is amended by deleting the words “or the transfer of proceedings from the High Court to a subordinate court” in the 4th and 5th lines and substituting the words “, from the High Court to a subordinate court, or from one subordinate court to another”.

EXPLANATORY STATEMENT

This Bill seeks to amend the Subordinate Courts Act (Cap. 321) to reform the law relating to transfers in civil proceedings. The Bill implements the recommendations of the *Law Reform Committee of the Singapore Academy of Law*. Their principal recommendations are:

- 15 (a) to provide a new mechanism to transfer civil proceedings —
- (i) from the Magistrate’s Court to the High Court;
 - (ii) from the High Court to the Magistrate’s Court; and
 - (iii) from the District Court to the Magistrate’s Court;
- (b) to widen the existing ground for transferring civil proceedings from the Magistrate’s Court to the District Court (including a new provision in relation to the transfer of a counterclaim from the Magistrate’s Court to the District Court);
- (c) to clarify that a party intending to avail himself of reciprocal enforcement arrangements (should such be available under overseas legislation) may proceed with his claim in the High Court (unless for some other reason it would be inappropriate for him to do so), notwithstanding that the claim falls within the ordinary jurisdiction of the subordinate courts; and
- (d) to amend the provisions on costs in transferred cases, consequent to the above amendments.

The basic objective is to provide for greater flexibility to the courts to transfer proceedings between themselves so that cases may be dealt with as efficiently as possible. This Bill also seeks to remove anomalies and resolve certain shortcomings highlighted in recent decisions of the Singapore Supreme Court, so that transfers of civil proceedings between courts will be less complex and more flexible.

The following are some features of the new regime:

- (a) transfers will be triggered by the application of a party to the proceedings, (except that the court will be empowered to transfer a case to a lower court on its own motion; this is a necessary safeguard to ensure that the jurisdictional demarcation between the various courts, set out by the legislature to ensure the efficient use of court resources, is respected);
- (b) applications for transfer, whether to or from a superior court, will be made to the superior court;
- (c) except as provided for in new sections 54E(2)(c) and 54F(2)(c), the court will have no power to transfer only part of the pending proceedings;
- (d) the court will have no power to transfer proceedings to a lower court which lacks the subject-matter jurisdiction to deal with those proceedings.

Clause 1 relates to the short title and commencement.

Clause 2 inserts new sections 54A to 54G under a new sub-heading “*Transfers of Civil Proceedings*” in Part IV of the Act.

The new section 54A gives the District Court power to transfer proceedings from the Magistrate’s Court to the District Court, on the application of a party.

The new section 54B gives the High Court power to transfer proceedings from the subordinate courts to the High Court, on the application of a party. The *Explanation* clarifies that the intended enforcement overseas of any judgment obtained in the High Court, under any enforcement arrangements currently in force, would ordinarily be sufficient reason for transferring the proceedings to the High Court.

The new section 54C gives the High Court power to transfer proceedings from the High Court to the subordinate courts, on the application of a party or on its own motion. Only proceedings which could have been commenced in the lower court if the value of the claim had been within the relevant court limit, may be transferred. The *Explanation* clarifies that where enforcement overseas is intended of any judgment obtained in the High Court under any enforcement arrangements currently in force, the fact that proceedings fall within the civil jurisdiction of the subordinate courts, does not by itself ordinarily constitute sufficient reason for transferring the proceedings to the subordinate courts.

The new section 54D gives the District Court power to transfer proceedings from the District Court to the Magistrate’s Court. Section 54D mirrors section 54C.

The new section 54E deals with transfers relating to counterclaims and gives the High Court wide powers to order a transfer and make such orders as it thinks fit in relation to such proceedings.

The new section 54F mirrors section 54E and empowers the District Court to order a transfer and make such orders as it thinks fit in relation to counterclaims.

The new section 54G addresses the issue of costs in transferred proceedings. Costs will generally be in the discretion of the court to which the proceedings are transferred. This is however subject to any order that may be made by the court ordering the transfer. It is also subject to the application of section 39.

Clause 3 repeals sections 24, 37, 38, 40 and 53 which are no longer required.

Clause 4 makes an amendment to the Government Proceedings Act (Cap. 121), consequential to the introduction of general powers to transfer civil proceedings within the subordinate courts at new sections 54A and 54D.

EXPENDITURE OF PUBLIC MONEY

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