

Administration of Muslim Law (Amendment) Bill

Bill No. 24/2008.

Read the first time on 15th September 2008.

A BILL

intituled

An Act to amend the Administration of Muslim Law Act (Chapter 3 of the 1999 Revised Edition) and to make a related amendment to the Supreme Court of Judicature Act (Chapter 322 of the 2007 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 Administration of Muslim Law (Amendment) Act 2008 and shall come into operation on such date as the Minister may, by notification in the *Gazette*, appoint.

5 Amendment of section 5

2. Section 5(2) of the Administration of Muslim Law Act (referred to in this Act as the principal Act) is amended —

(a) by deleting the word “and” at the end of paragraph (c); and

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

15 “(e) whether by itself or in association with any other person or organisation, provide to any person or organisation in Singapore or elsewhere consultancy, technical, managerial or other services or products in any area in which the Majlis has skill or experience; and

(f) charge fees or commissions for any service or product provided by the Majlis.”.

20 Amendment of section 24

3. Section 24 of the principal Act is amended —

(a) by renumbering the section as subsection (1) of that section, and by inserting immediately thereafter the following subsection:

25 “(2) Notwithstanding any written law to the contrary, where the Mufti has been summoned to attend before any court to give an opinion or evidence relating to Muslim law, the Mufti may, if he considers that the circumstances of the case do not require him to appear in court in person, certify his opinion to the court or appoint any person to appear in the court on his behalf, unless the court subsequently directs otherwise.”; and

30 (b) by inserting, immediately after the word “Majlis” in the section heading, the word “, etc.”.

Amendment of section 31

4. Section 31(5) of the principal Act is amended by inserting, immediately after the word “Mufti”, the words “or if the Mufti is unable to act for any reason”.

5 **Amendment of section 34B**

5. Section 34B of the principal Act is amended —

(a) by inserting, immediately after the word “registrar” in subsection (1), the words “and a deputy registrar”;

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

“(3) Subject to this Act and the rules made thereunder, the powers and duties of the registrar of the Court may be exercised by the deputy registrar of the Court.”; and

15 (c) by inserting, immediately after the word “registrar” in the section heading, the words “and deputy registrar”.

Amendment of section 35

6. Section 35 of the principal Act is amended —

20 (a) by inserting, immediately after the words “emas kahwin,” in subsection (2)(e), the words “marriage expenses (hantaran belanja),”; and

(b) by inserting, immediately after the words “emas kahwin” in subsection (3), the words “, marriage expenses (hantaran belanja)”.

Amendment of section 35A

25 7. Section 35A of the principal Act is amended by inserting, immediately after subsection (7), the following subsection:

30 “(8) For the purposes of this section, any reference to the registration of a divorce, or to a divorce that is registered, under section 102 shall be construed as a reference to the registration of a divorce or to a divorce that is registered under that section before the date of commencement of section 24 of the Administration of Muslim Law (Amendment) Act 2008.”.

Amendment of section 47

8. Section 47(5) of the principal Act is amended by inserting, immediately after the word “Court”, the words “or the registrar of the Court”.

5 **Amendment of section 50**

9. Section 50 of the principal Act is amended —

- (a) by deleting the word “making” in subsection (1) and substituting the words “the making of”;
- 10 (b) by inserting, immediately after the word “Court” in subsections (1), (3) and (7) (2nd line), the words “or the registrar of the Court”;
- (c) by inserting, immediately after the word “Court” in subsection (2), the words “or the registrar of the Court, as the case may be,”; and
- 15 (d) by deleting subsection (4) and substituting the following subsection:

“(4) If the hakam are unable to agree, or if the Court or the registrar of the Court is not satisfied with the conduct of the arbitration, the Court or the registrar may remove the hakam and appoint other hakam in their place.”.
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Amendment of section 51

10. Section 51(4) of the principal Act is amended by inserting, immediately after the word “circumstances”, the words “, or for other good cause being shown to the satisfaction of the Court”.

25 **Amendment of section 52**

11. Section 52 of the principal Act is amended —

- (a) by inserting, immediately after the words “emas kahwin” in subsections (1) and (3)(a), the words “and marriage expenses (hantaran belanja)”;
- 30 (b) by deleting the words “any divorce has been registered whether before or after 1st August 1999 under section 102” in subsection (3) and substituting the words “any divorce has been registered under section 102 before the date of commencement

of section 24 of the Administration of Muslim Law (Amendment) Act 2008”; and

- (c) by inserting, immediately after the word “circumstances” in subsection (6), the words “, or for other good cause being shown to the satisfaction of the Court”.

Amendment of section 53

12. Section 53 of the principal Act is amended —

- (a) by deleting subsections (1), (2) and (3) and substituting the following subsections:

“(1) Where the Court has made any of the following orders, whether before, on or after the date of commencement of section 12 of the Administration of Muslim Law (Amendment) Act 2008, such order may be treated as a maintenance order made by a District Court under the Women’s Charter (Cap. 353), including a maintenance order for the purposes of Part IX of the Women’s Charter, solely for the purpose of the enforcement of that order by the District Court:

- (a) an order for the payment of maintenance under section 51(1), (2) or (3);
- (b) an order for the payment of a consolatory gift or mutaah under section 52(2) or (3)(b);
- (c) an order for the maintenance of a minor child under section 52(3)(c).

(2) Where the Court has made any of the following orders, whether before, on or after the date of commencement of section 12 of the Administration of Muslim Law (Amendment) Act 2008, such order may be treated as an order made by a District Court solely for the purpose of the enforcement of that order by the District Court:

- (a) an order for the payment of emas kahwin and marriage expenses (hantaran belanja) under section 52(1) or (3)(a);
- (b) an order for the custody of a minor child under section 52(3)(c);

(c) an order for the disposition or division of property under section 52(3)(d).

(3) For the purposes of subsection (1), the provisions of the Women’s Charter (Cap. 353) shall apply, with the necessary modifications, to the enforcement of any order of the Court referred to in that subsection by the District Court.”;

(b) by deleting the words “subsection (3)” in subsection (4) and substituting the words “this section”;

(c) by deleting the word “registered” in subsection (5); and

(d) by inserting, immediately after subsection (5), the following subsection:

“(6) Where, on or after the commencement of proceedings in a District Court for the enforcement of an order made by the Syariah Court pursuant to subsection (1) or (2), a party aggrieved by that order has made any application under section 55 or commenced any proceedings in any court affecting that order, the District Court may, on its own motion or on the application of any party, stay the proceedings for the enforcement of that order on such terms as it thinks fit.”.

Amendment of section 56B

13. Section 56B(1) of the principal Act is amended by inserting, immediately after the word “registrar”, the words “or deputy registrar”.

Amendment of section 76

14. Section 76(2) of the principal Act is amended by inserting, immediately after the words “this Act”, the words “and any rules made under section 81”.

Amendment of section 77

15. Section 77 of the principal Act is amended —

(a) by deleting paragraph (a) of subsection (1) and substituting the following paragraph:

“(a) for the purpose of building mosques in Singapore and for purposes connected therewith, including such extension, alteration, reconstruction or restoration of

any existing mosque or any part thereof and such other building works as the Majlis may approve;”;

(b) by deleting the word “and” at the end of paragraph (b) of subsection (1), and by inserting immediately thereafter the following paragraph:

“(c) for the funding of religious education in Singapore, subject to such directions as the Minister may specify from time to time; and”;

(c) by re-lettering the existing paragraph (c) of subsection (1) as paragraph (d); and

(d) by deleting the words “subsection (1)(c)” in subsection (2) and substituting the words “subsection (1)(d)”.

Amendment of section 81

16. Section 81(2) of the principal Act is amended by inserting, immediately after paragraph (i), the following paragraph:

“(ia) prescribe the manner in which the moneys in the Mosque Building and Mendaki Fund may be applied for or in respect of the purposes specified in section 77(1), and generally for the administration of such moneys;”.

New sections 88D and 88E

17. The principal Act is amended by inserting, immediately after section 88C, the following sections:

“Offences by bodies corporate, etc.

88D.—(1) Where an offence under this Part or the rules made thereunder committed by a body corporate is proved —

(a) to have been committed with the consent or connivance of an officer; or

(b) to be attributable to any neglect on his part,

the officer as well as the body corporate shall be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

(2) Where the affairs of a body corporate are managed by its members, subsection (1) shall apply in relation to the acts and

defaults of a member in connection with his functions of management as if he were a director of the body corporate.

(3) Where an offence under this Part or the rules made thereunder committed by a partnership is proved —

5 (a) to have been committed with the consent or connivance of a partner; or

 (b) to be attributable to any neglect on his part,

the partner as well as the partnership shall be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

10 (4) Where an offence under this Part or the rules made thereunder committed by an unincorporated association (other than a partnership) is proved —

 (a) to have been committed with the consent or connivance of an officer of the unincorporated association or a member of its governing body; or

15 (b) to be attributable to any neglect on the part of such officer or member,

the officer or member as well as the unincorporated association shall be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

20 (5) In this section —

 “body corporate” includes a limited liability partnership which has the same meaning as in section 2(1) of the Limited Liability Partnerships Act (Cap. 163A);

25 “officer” —

 (a) in relation to a body corporate, means any director, partner, member of the committee of management, chief executive, manager, secretary or other similar officer of the body corporate and includes any person purporting to act in any such capacity; or

30 (b) in relation to an unincorporated association (other than a partnership), means the president, the secretary, or any member of the committee of the unincorporated association, or any person holding a position analogous

to that of president, secretary or member of a committee and includes any person purporting to act in any such capacity;

“partner” includes any person purporting to act as a partner.

5 (6) The Majlis may, with the approval of the Minister, make rules to provide for the application of any provision of this section, with such modifications as may be appropriate, to any body corporate or unincorporated association formed or recognised under the law of a territory outside Singapore.

10 **Composition of offences**

88E.—(1) The Majlis may, in its discretion, compound any offence under this Part or the rules made thereunder which is prescribed as a compoundable offence by collecting from a person reasonably suspected of having committed the offence a sum not exceeding —

15 (a) one half of the amount of the maximum fine that is prescribed for the offence; or

(b) \$2,000,

whichever is the lower.

20 (2) On payment of such sum of money, no further proceedings shall be taken against that person in respect of the offence.

(3) The Majlis may, with the approval of the Minister, make rules to prescribe the offences which may be compounded.

(4) All sums collected under this section shall be paid to the Majlis.”.

25 **Amendment of section 89**

18. Section 89 of the principal Act is amended by deleting the words “one or”.

Amendment of section 96

30 **19.** Section 96 of the principal Act is amended by deleting the words “16 years” in subsections (4) and (5) and substituting in each case the words “18 years”.

Repeal of section 98

20. Section 98 of the principal Act is repealed.

Amendment of section 99

21. Section 99 of the principal Act is amended by deleting
5 subsections (2), (3) and (4).

Amendment of section 100

22. Section 100 of the principal Act is amended by deleting
subsection (3) and substituting the following subsection:

10 “(3) Any president of the Syariah Court shall cause the copies of
the certificates of divorce issued by that Court to be bound in a
Register of Divorces.”.

Amendment of section 101

23. Section 101 of the principal Act is amended —

15 (a) by inserting, immediately after subsection (3), the following
subsection:

“(3A) If it appears that any decree or order of the Syariah
Court under this Act has been made or issued in error or
contains any error that might be corrected, the Court may, on
its own motion or upon the application of any person affected
20 by such error, order the rectification of such error.”; and

(b) by inserting, immediately after the word “certificate” in the
section heading, the word “, etc.”.

Amendment of section 102

24. Section 102 of the principal Act is amended —

25 (a) by deleting the word “, divorce” wherever it appears in
subsection (2); and

(b) by deleting subsections (3) to (6) and substituting the following
subsections:

30 “(3) A Kadi shall not register any revocation of divorce
unless he is satisfied after inquiry that the parties have
consented to the registration thereof.

(4) Where, on an application for the registration of a revocation of divorce, the Kadi is not satisfied that both the parties have consented to the registration thereof, the Kadi shall refer the application to the Syariah Court and the Syariah Court may make such decree or order as is lawful under the Muslim law.

(5) In the case of every divorce effected in Singapore, the husband and wife shall attend personally at the Syariah Court within 7 days of the divorce, or such extended time as the Syariah Court thinks fit, and —

- (a) furnish such particulars as are required by the Syariah Court; and
- (b) apply in the prescribed form for a decree or an order for divorce.”.

Amendment of section 103

25. Section 103 of the principal Act is amended —

- (a) by deleting subsection (2) and substituting the following subsection:

“(2) Subject to section 102, a Kadi may, at any time within 7 days of a marriage which has not already been registered under subsection (1) or of a revocation of divorce, register the marriage or revocation of divorce by entering the particulars thereof in the appropriate register and also in the certificate of marriage or revocation of divorce (as the case may be) attached to the register.”; and

- (b) by deleting the word “, divorce” in subsection (4).

Amendment of section 107

26. Section 107 of the principal Act is amended —

- (a) by deleting the word “, divorce” wherever it appears (including the section heading); and
- (b) by deleting the words “section 102(3) to (5)” and substituting the words “section 102(3) and (4)”.

Amendment of section 130

27. Section 130 of the principal Act is amended —

(a) by deleting the word “, divorce”; and

(b) by renumbering the section as subsection (1) of that section, and
5 by inserting immediately thereafter the following subsection:

“(2) Any person who contravenes section 102(5) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$500.”.

Amendment of section 132

10 28. Section 132 of the principal Act is amended by inserting, immediately after the word “Registrar,”, the words “any president of the Syariah Court,”.

Amendment of First Schedule

15 29. Paragraph 4 of the First Schedule to the principal Act is amended by deleting the words “an approved company auditor under the Companies Act (Cap. 50)” and substituting the words “a public accountant who is registered or deemed to be registered under the Accountants Act (Cap. 2)”.

Amendment of Second Schedule

20 30. The Second Schedule to the principal Act is amended —

(a) by inserting, immediately after the words “financial statements” in paragraph 2, the words “in respect of a mosque”;

(b) by deleting paragraphs 3 and 4 and substituting the following paragraphs:

25 “3. The financial statements in respect of a trust, wakaf or nazar shall, as soon as possible after the close of each financial year but not later than 3 months after the close of the financial year, be submitted to a meeting of the Majlis.

30 4. Subject to paragraph 4A, the financial statements shall, before their submission to the Majlis under paragraph 2 or 3, be audited by an auditor to be appointed by the Majlis and approved by the Minister.

4A. The Minister may, in his discretion, exempt any trustee, mutawalli or management board of any trust, wakaf, nazar or mosque to which this Schedule applies, or any class thereof, from paragraph 4 by notice in

writing subject to such terms or conditions as the Minister may think fit to impose.

4B. An exemption under paragraph 4A need not be published in the *Gazette*, and may be withdrawn at any time by the Minister by notice in writing.

4C. A person shall not be qualified for appointment as an auditor under paragraph 4 unless he is a public accountant who is registered or deemed to be registered under the Accountants Act (Cap. 2).”; and

(c) by deleting the words “paragraph 2, submit a copy of the audited financial statements, together with a copy of the auditor’s report,” in paragraph 10 and substituting the words “paragraph 2 or 3, submit a copy of the financial statements, together with a copy of the auditor’s report (where applicable),”.

Miscellaneous amendments

31. The principal Act is amended —

(a) by deleting the word “, divorce” wherever it appears in the following provisions:

Sections 104 (section heading), 106(1) and (2) and 108; and

(b) by deleting the words “divorce or” in section 104(1).

Related amendment to Supreme Court of Judicature Act

32. Section 17A of the Supreme Court of Judicature Act (Cap. 322) is amended by inserting, immediately after subsection (3), the following subsection:

“(3A) For the purposes of subsection (3), any reference to the registration of any divorce, or to a divorce that is registered, under section 102 of the Administration of Muslim Law Act shall be construed as a reference to the registration of a divorce or to a divorce that is registered under that section before the date of commencement of section 24 of the Administration of Muslim Law (Amendment) Act 2008.”.

Savings

33. Nothing in section 19 shall affect the validity of any marriage solemnized under the principal Act before the date of commencement of section 19 of this Act.

EXPLANATORY STATEMENT

This Bill seeks to amend the Administration of Muslim Law Act (Cap. 3) and to make a related amendment to the Supreme Court of Judicature Act (Cap. 322).

Clause 1 relates to the short title and commencement.

Clause 2 amends section 5(2) to expand the powers of the Majlis Ugama Islam, Singapura (the Majlis) —

- (a) to provide, in any area in which the Majlis has skill or experience, services and products in Singapore or elsewhere; and
- (b) to charge fees or commissions for such services and products.

Clause 3 amends section 24 to provide that the Mufti of Singapore (the Mufti) may, when summoned to appear before any court to give an opinion or evidence relating to Muslim law, certify his opinion to the court or appoint a representative to appear in the court on his behalf if he considers that the circumstances of the case do not require him to appear in court in person, unless the court subsequently directs otherwise.

Clause 4 amends section 31(5) to empower the President of Singapore to appoint another person to be the chairman of the Legal Committee of the Majlis temporarily where the Mufti is unable to so act for any reason.

Clause 5 amends section 34B to provide for the appointment of a deputy registrar of the Syariah Court, who may exercise the powers and duties of the registrar of the Syariah Court subject to the provisions of the Act and the rules made thereunder.

Clause 6 amends section 35(2) and (3) to insert references to the payment of marriage expenses (hantaran belanja), arising from the amendment of section 52 (by clause 11).

Clause 7 amends section 35A by inserting a new subsection (8) to clarify that a reference to the registration of a divorce or to a divorce that is registered in that section is to be construed as a reference to such registration of divorce or divorce registered under section 102 before the date of commencement of section 24 of the Administration of Muslim Law (Amendment) Act 2008.

Clause 8 amends section 47(5) to provide for the registrar of the Syariah Court (or the deputy registrar of the Syariah Court, by virtue of clause 5(b)) to appoint a hakam (arbitrator) where a husband does not agree to divorce by redemption (khuluk).

Clause 9 amends section 50 to empower the appointment of hakam by the registrar of the Syariah Court (or the deputy registrar of the Syariah Court, by virtue of clause 5(b)).

Clause 10 amends section 51(4) to empower the Syariah Court to vary or rescind any order for maintenance made under the section where the Court is satisfied that there is good cause to do so.

Clause 11 amends section 52 to empower the Syariah Court to adjudicate upon claims by Muslim women for payment of marriage expenses (hantaran belanja). The clause also amends section 52(3) arising from the amendment of section 102

(by clause 24). The clause further amends section 52(6) to empower the Syariah Court to vary or rescind any order made under the section where the Court is satisfied that there is good cause to do so.

Clause 12 amends section 53 to provide that Syariah Court orders made under specified provisions of the Act may be treated as District Court orders for the purposes of their enforcement by the District Courts. There will no longer be a need for parties to register a Syariah Court order in a District Court before it may be enforced by the District Court.

Clause 13 amends section 56B(1) arising from the amendment of section 34B (by clause 5), to extend the protection from liability under section 56B to the deputy registrar of the Syariah Court.

Clause 14 makes a consequential amendment to section 76(2) arising from the amendment of section 81(2) (by clause 16).

Clause 15 amends section 77(1) to expand the purposes for which the moneys in the Mosque Building and Mendaki Fund may be used to include —

- (a) any extension, alteration, reconstruction or restoration of any existing mosque or any part thereof and other building works that the Majlis may approve; and
- (b) the funding of religious education in Singapore.

The clause also makes a technical amendment to section 77(2).

Clause 16 amends section 81(2) to provide for the making of rules in relation to the administration of the moneys in the Mosque Building and Mendaki Fund.

Clause 17 inserts new sections 88D and 88E.

The new section 88D provides for the liability of officers or members where an offence under Part VA (relating to halal and Haj matters) or the rules made thereunder is committed by a body corporate or an unincorporated association.

The new section 88E empowers the Majlis to compound offences under Part VA or the rules made thereunder which are prescribed as compoundable offences.

Clause 18 amends section 89 in order for Part VI (relating to marriage and divorce) to apply only to marriages both parties to which profess the Muslim religion and which are solemnized in accordance with the Muslim law.

Clause 19 amends section 96(4) and (5) to raise the minimum marriage age for Muslims from 16 years to 18 years.

Clause 20 repeals section 98 (relating to place of marriage) which is no longer necessary.

Clause 21 deletes subsections (2) and (3) of section 99 which are redundant. The clause also deletes section 99(4) as Kadis will no longer register divorces and all divorces will be dealt with by the Syariah Court.

Clause 22 makes a consequential amendment to section 100(3) arising from the deletion of section 99(4) (by clause 21).

Clause 23 amends section 101 to empower the Syariah Court to amend any of its decrees or orders made under the Act which has been made or issued in error or contains any error.

Clause 24 amends section 102 —

- (a) to delete the provisions relating to the registration of divorces by Kadis; and
- (b) to require the reporting of divorces effected in Singapore to the Syariah Court (in place of a Kadi) and the application for a decree or an order for divorce from the Court within the prescribed time.

Clause 25 amends section 103(2) and (4) to omit references to the registration of divorces by Kadis.

Clause 26 makes technical amendments to section 107 arising from the amendment of section 102 (by clause 24).

Clause 27 amends section 130 to make it an offence for any failure to report divorces effected in Singapore to the Syariah Court or to apply for a decree or an order for divorce from the Court within the prescribed time.

Clause 28 makes a technical amendment to section 132 arising from the amendment of section 100(3) (by clause 22).

Clause 29 amends paragraph 4 of the First Schedule to provide that a person will not be qualified for appointment as an auditor under that Schedule unless he is a public accountant who is registered or deemed to be registered under the Accountants Act (Cap. 2).

Clause 30 amends the Second Schedule for the following purposes:

- (a) to require the submission of financial statements of any trust, wakaf or nazar to which that Schedule applies to a meeting of the Majlis not later than 3 months (in substitution of 6 months) after the close of the financial year, that is, by 31st March of each year;
- (b) to empower the Minister to exempt, by notice in writing, the trustee, mutawalli or management board of any trust, wakaf, nazar or mosque to which that Schedule applies, or any class thereof, from the requirement that the financial statements be audited; and
- (c) to provide that a person will not be qualified for appointment as an auditor under that Schedule unless he is a public accountant who is registered or deemed to be registered under the Accountants Act.

Clause 31 makes miscellaneous amendments to certain other provisions of Part VI (namely, sections 104, 106 and 108) to omit references to the registration of divorces by Kadis.

Clause 32 makes a related amendment to the Supreme Court of Judicature Act (Cap. 322) to clarify that a reference to the registration of a divorce or to a registered

divorce in section 17A(3) of that Act is to be construed as a reference to such registration of divorce or divorce registered under section 102 of the Administration of Muslim Law Act (Cap. 3) before the date of commencement of section 24 of the Administration of Muslim Law (Amendment) Act 2008.

Clause 33 makes it clear that the amendment to raise the minimum age of marriage from 16 years to 18 years (by clause 19) does not affect the validity of any marriage solemnized under the Act before the date of commencement of section 19 of the Administration of Muslim Law (Amendment) Act 2008.

EXPENDITURE OF PUBLIC MONEY

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