

Civil Law (Amendment) Bill

Bill No. 38/2008.

Read the first time on 17th November 2008.

A BILL

intituled

An Act to amend the Civil Law Act (Chapter 43 of the 1999 Revised Edition) to reform the law relating to damages for causing wrongful death, to provide for contracts entered into by minors who have attained the age of 18 years to have effect as if they were contracts made by persons of full age, to allow such minors to bring certain legal proceedings and actions in their own names as if they were of full age, and to make consequential and related amendments to certain other written laws so as to allow such minors to engage in certain commercial activities.

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 Civil 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 4**

2. Section 4(12) of the Civil Law Act (referred to in this Act as the principal Act) is amended by deleting the word “infants” wherever it appears (including the subsection heading) and substituting in each case the word “minors”.

10 **Amendment of section 20**

3. Section 20(8) of the principal Act is amended by inserting, immediately after the word “husband” in paragraph (a), the words “or former wife”.

Amendment of section 21

15 4. Section 21 of the principal Act is amended —

(a) by deleting “\$10,000” in subsection (4) and substituting “\$15,000”; and

(b) by deleting subsection (6) and substituting the following subsection:

20 “(6) The Minister may, by order published in the *Gazette*, substitute the sum specified in subsection (4) with such other sum as he thinks fit.”.

Amendment of section 22

5. Section 22 of the principal Act is amended —

25 (a) by inserting, immediately after subsection (1), the following subsection:

30 “(1A) In assessing the damages under subsection (1), the court shall take into account any moneys or other benefits which the deceased would be likely to have given to the dependants by way of maintenance, gift, bequest or devise or which the dependants would likely to have received by way of

succession from the deceased had the deceased lived beyond the date of the wrongful death.”; and

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

5 “(3A) In an action brought under section 20, the damages payable to a former wife of the deceased shall only be in respect of a subsisting maintenance order against the deceased at the time of his death.”.

New sections 35 and 36 and Schedule

10 **6.** The principal Act is amended by inserting, immediately after section 34, the following sections and Schedule:

“Contracts of minors who have attained 18 years of age

15 **35.**—(1) Except as otherwise provided by this section or by any other written law, as from the appointed day, a contract entered into by a minor who has attained the age of 18 years shall have effect as if he were of full age.

(2) Where a minor has, on the appointed day, already attained the age of 18 years, subsection (1) shall apply to him and to contracts entered into by him on and after that day.

20 (3) Subsection (1) shall not affect or alter —

(a) a minor’s lack of capacity to enter into contracts arising from reasons other than because of his age; or

25 (b) the application of any provision in any other written law stipulating a requirement as to the attainment of a particular age for the purposes of that written law.

(4) The following contracts, if entered into by a minor who has attained the age of 18 years, shall not, by virtue of subsection (1), have effect as if he were of full age:

30 (a) any contract for the sale, purchase, mortgage, assignment or settlement of any land, other than a contract for a lease of land not exceeding 3 years;

(b) any contract for a lease of land for more than 3 years;

(c) any contract whereby the minor's beneficial interest under a trust is sold or otherwise transferred to another person, or pledged as a collateral for any purpose; and

(d) any contract for the settlement of —

5 (i) any legal proceedings or action in respect of which the minor is, pursuant to any written law, considered to be a person under disability on account of his age; or

(ii) any claim from which any such legal proceedings or action may arise.

10 (5) Subsection (1) does not entitle —

(a) a trustee to pay money or deliver property to a minor who has attained the age of 18 years otherwise than in accordance with the terms of the trust; or

15 (b) a minor who has attained the age of 18 years to enter into a contract whereby a trust is extinguished or the terms of a trust are varied, and any such contract entered into by the minor shall not, by virtue of that subsection, have effect as if the minor were of full age.

20 (6) Nothing in this section shall apply to or affect any contract that was made before the appointed day, and the law in force immediately before that day shall continue to apply in relation to such a contract as if this section had not been enacted.

25 (7) Nothing in this section shall limit or affect the rule of law whereby a minor is not liable in tort for procuring a contract by means of fraudulent representations as to his own age or any other matter.

(8) In this section, "appointed day" means the date of commencement of section 6 of the Civil Law (Amendment) Act 2008.

30 **Legal proceedings and actions by minors who have attained 18 years of age**

36.—(1) Notwithstanding any other written law, a minor who has attained the age of 18 years and who is not otherwise under any legal disability —

(a) may, in his own name and without a litigation representative, bring, defend, conduct or intervene in any legal proceeding or action specified in the Schedule as if he were of full age; and

5 (b) shall not be considered to be a person under disability on account of his age for the purpose of any such legal proceeding or action or for the purpose of any written law regulating the limitation of actions.

10 (2) The Minister may, at any time, by order published in the *Gazette*, amend the Schedule.

THE SCHEDULE

Section 36

LEGAL PROCEEDINGS AND ACTIONS TO WHICH SECTION 36 APPLIES

15 1. Any legal proceeding or action arising from or in connection with a contract to which the minor is a party and which, by virtue of section 35, has effect as if the minor were of full age.

2. Any legal proceeding or action arising from or in connection with the minor acting as —

20 (a) a director of a company; or

(b) a manager of a limited liability partnership.

3. Any legal proceeding or action arising from or in connection with a bill of exchange that has been drawn or indorsed —

(a) by the minor; or

25 (b) by another person in favour of the minor.

4. Where the minor is registered under the Business Registration Act (Cap. 32) to carry on any business (whether as a sole proprietor or in partnership with one or more other persons) —

30 (a) any legal proceeding or action arising from or in connection with his carrying on of such business; or

(b) any legal proceeding or action arising from or in connection with his acting as a person responsible for the management of such business (as defined in section 2(1) of that Act).”.

Consequential and related amendments to other written laws

7. The provisions of the Acts specified in the first column of the Schedule are amended in the manner set out in the second column thereof.

Savings

5 **8.**—(1) Nothing in section 6 or the Schedule shall apply to or affect any contract that was made before the date of commencement of that section, and the law in force immediately before that date shall continue to apply in relation to such a contract as if that section and the Schedule had not been enacted.

10 (2) Nothing in section 7 or the Schedule shall —

(a) affect or limit any right, privilege, obligation or liability acquired, accrued or incurred under the law in force immediately before the date of commencement of that section; or

15 (b) be taken as prejudicing section 16 of the Interpretation Act (Cap. 1).

THE SCHEDULE

Sections 7 and 8

CONSEQUENTIAL AND RELATED AMENDMENTS TO OTHER WRITTEN LAWS

First column

Second column

(1) Bills of Exchange Act
(Chapter 23, 2004 Ed.)

Section 22(3)

Delete the words “a minor or corporation” and substitute the words “a person below the age of 18 years or a corporation”.

*First column**Second column*

- (2) Companies Act
(Chapter 50, 2006 Ed.)

Section 145

Delete subsection (2) and substitute the following subsection:

“(2) No person other than a natural person who has attained the age of 18 years and who is otherwise of full legal capacity shall be a director of a company.”.

- (3) Conveyancing and Law of
Property Act
(Chapter 61, 1994 Ed.)

(a) Part VIII

Delete the Part heading and substitute the following Part heading:

“MINORS”.

(b) Section 40

(i) Delete the words “an infant” and substitute the words “a minor”.

(ii) Delete the words “the Civil Law Act and”.

(iii) Renumber the section as subsection (1) and insert immediately thereafter the following subsection:

“(2) Subsection (1) does not apply in the case of a lease not exceeding 3 years which is executed by a minor who has attained the age of 18 years as a principal.”.

(iv) Delete the marginal note and insert the following section heading:

“**Sales and leases on behalf of minor owner**”.

(v) Delete the marginal reference “Cap. 43.”.

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|---|---|
| (c) Section 41 | <ul style="list-style-type: none"> (i) Delete the words “an infant” wherever they appear in subsections (1) (3rd line) and (5)(b) and (c) and substitute in each case the words “a minor”. (ii) Delete the words “the infant” wherever they appear in subsections (1) (11th line), (2) (19th and last lines), (5)(a), (b) and (c) and (7) and substitute in each case the words “the minor”. (iii) Delete the word “infant’s” wherever it appears in subsections (4), (5)(c) and (6) and substitute in each case the word “minor’s”. |
| (d) Section 42 | <ul style="list-style-type: none"> (i) Delete the words “an infant” in subsection (1) (2nd line) and substitute the words “a minor”. (ii) Delete the word “infant’s” in the 6th, 7th and last lines of subsection (1) and substitute in each case the word “minor’s”. (iii) Delete the word “infant” in subsections (1) (9th line) and (3) and substitute in each case the word “minor”. (iv) Delete the marginal note and insert the following section heading:
 <p style="text-align: center;">“Application by trustees of income of minor’s property for maintenance, etc.”.</p> |
| (4) Employment Act
(Chapter 91, 1996 Ed.)

Section 12 | <p>Delete the words “21 years” in subsections (1) and (2) and substitute in each case the words “18 years”.</p> |
| (5) Limitation Act
(Chapter 163, 1996 Ed.)

Section 2(2) | <ul style="list-style-type: none"> (i) Delete the word “For” and substitute the words “Subject to section 36(1)(b) of the Civil Law Act (Cap. 43), for”. |

*First column**Second column*

- (ii) Delete the words “an infant” and substitute the words “a minor”.
- (6) Limited Liability Partnerships Act
(Chapter 163A, 2006 Ed.)
Section 23
- Delete subsection (1) and substitute the following subsection:
- “(1) Every limited liability partnership shall ensure that it has at least one manager who —
- (a) is a natural person;
- (b) has attained the age of 18 years and is otherwise of full legal capacity; and
- (c) is ordinarily resident in Singapore.”.
- (7) Settled Estates Act
(Chapter 293, 1985 Ed.)
(a) Section 2
- Delete the definition of “settled estates” and substitute the following definition:
- “ “settled estates” —
- (a) means all immovable property and all estates or interests therein, which are the subject of a settlement; and
- (b) includes any immovable property of or to which a minor is seized or entitled in his own right other than a lease not exceeding 3 years which is executed by a minor who has attained the age of 18 years as a principal.”.
- (b) Section 16(2)
- Delete the word “infants” and substitute the word “minors”.
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EXPLANATORY STATEMENT

This Bill seeks to amend the Civil Law Act (Cap. 43) —

- (a) to give effect, with minor modifications, to the recommendations of the Law Reform Committee of the Singapore Academy of Law in its Report on “Loss of Inheritance or Savings: A Proposal for Law Reform” by expanding the scope of damages for causing death;
- (b) to increase the amount of damages to be awarded for bereavement in an action for a wrongful act which causes death and to transfer from the President of Singapore to the Minister for Law the power to vary the amount of such damages;
- (c) to give to contracts entered into by minors who have attained the age of 18 years the same effect as if they were contracts entered into by persons of full age; and
- (d) to allow such minors to bring, defend, conduct or intervene in certain legal proceedings or actions in their own names and without a litigation representative, as if they were of full age.

The Bill also makes consequential and related amendments to certain other written laws so as to allow minors who have attained the age of 18 years to engage in certain commercial activities.

Clause 1 relates to the short title and commencement.

Clause 2 amends section 4(12) to replace the word “infants” with “minors”, in line with the wording of the new sections 35 and 36 (see clause 6).

Clause 3 expands the definition of “dependant” in section 20(8) to include a former wife of the deceased person.

Clause 4 amends section 21 —

- (a) to increase the sum to be awarded as damages for bereavement in an action for a wrongful act which causes death from \$10,000 to \$15,000; and
- (b) to transfer from the President of Singapore to the Minister for Law the power to vary the sum to be awarded as such damages.

Clause 5 amends section 22 to expand the scope of damages to include what the deceased may have given by way of maintenance, gift, bequest or devise or which the dependant may have received by way of succession from the deceased had the deceased lived beyond the date of the wrongful death to restrict the damages payable to a former wife to loss of maintenance only.

Clause 6 inserts new sections 35 and 36 and a new Schedule.

The new section 35 provides that every contract entered into by a minor who has attained the age of 18 years will have effect as if he were a person of full age, unless otherwise provided by the section itself or by any other written law. A contract made

by such a minor will therefore be binding on and enforceable against him as if he were a person of full age.

The new section 35 will apply to all contracts made on or after the commencement of clause 6, but will not affect —

- (a) a minor's lack of capacity to make a valid and binding contract arising from reasons other than on account of his age; or
- (b) any provision in any other written law that stipulates an age requirement for the purposes of that written law.

There are certain types of contracts which, if entered into by a minor who has attained the age of 18 years, will not, by virtue of the new section 35(1), have effect as if the minor were of full age. These contracts are as follows:

- (a) contracts for the sale, purchase, mortgage, assignment or settlement of any land, other than a contract for a lease of land not exceeding 3 years;
- (b) contracts for a lease of land for more than 3 years;
- (c) contracts for the sale, transfer or pledge of a minor's beneficial interest under a trust; and
- (d) contracts for the settlement of any legal proceedings or action in respect of which the minor is, pursuant to any written law, considered to be a person under disability on account of his age, or of any claim from which any such legal proceedings or action may arise.

As such, if a minor who has attained the age of 18 years enters into such a contract, he will not be bound by it as if he were a person of full age.

The new section 35 does not entitle a minor who has attained the age of 18 years to enter into a contract for the extinguishment or variation of a trust or for the transfer of his beneficial interest under a trust to another person. Nor does the section entitle a trustee to pay money or deliver property to such a minor otherwise than in accordance with the terms of the trust.

The new section 36, which is to be read with the new Schedule, allows a minor who has attained the age of 18 years and who is not otherwise under any legal disability to personally bring, defend, conduct or intervene in any of the legal proceedings or actions specified in the new Schedule. Such a minor will not be considered to be a person under disability on account of his age for the purpose of any such legal proceeding or action or for the purpose of any written law regulating the limitation of actions.

The legal proceedings or actions specified in the Schedule are those that can arise from the contracts or other commercial activities that a minor who has attained the age of 18 years will be able to make or engage in by virtue of the Bill. The Schedule may be amended by the Minister for Law from time to time to expand the list of legal proceedings or actions to which the new section 36 applies.

Clause 7, which is to be read with the Schedule to the Bill, makes consequential and related amendments to certain other written laws. The majority of these amendments

are meant to facilitate minors who have attained the age of 18 years entering into valid and binding contracts and engaging in certain commercial activities.

The amendments are as follows:

- (a) section 22(3) of the Bills of Exchange Act (Cap. 23) is amended to allow for a bill of exchange that is drawn or indorsed by a minor who has attained the age of 18 years to be enforced against him;
- (b) section 145(2) of the Companies Act (Cap. 50) is amended to allow a minor who has attained the age of 18 years to be a director of a company;
- (c) section 40 of the Conveyancing and Law of Property Act (Cap. 61) is amended to provide that a lease not exceeding 3 years that is executed by a minor who has attained the age of 18 years as a principal will not be deemed to be a settled estate within the Settled Estates Act (Cap. 293);
- (d) sections 41 and 42 of the Conveyancing and Law of Property Act are amended to replace the word “infant” with “minor”, in line with the wording of the amended section 40;
- (e) section 12 of the Employment Act (Cap. 91) is amended —
 - (i) to clarify (in view of the new section 35 of the Civil Law Act (Cap. 43) — see clause 6) that a minor below the age of 18 years is competent to enter into a contract of service subject to the provisions of that Act; and
 - (ii) to enable a contract of service as an employee to be enforced against a minor who has attained the age of 18 years;
- (f) section 2(2) of the Limitation Act (Cap. 163) is amended to link it to the new section 36(1)(b) of the Civil Law Act (see clause 6) so that the extension of the limitation period for minors under section 24 of the Limitation Act will not apply to a minor who has attained the age of 18 years and who is not otherwise under any legal disability for the purposes of any action that he is entitled to bring in his own name by virtue of the new section 36 of the Civil Law Act;
- (g) section 23(1) of the Limited Liability Partnerships Act (Cap. 163A) is amended to enable a minor who has attained the age of 18 years to act as a manager of a limited liability partnership;
- (h) the definition of “settled estates” in section 2 of the Settled Estates Act is amended to provide an exception to the application of that Act such that if a minor who has attained the age of 18 years enters into a lease of land not exceeding 3 years as a principal, no settled estate will be created of that lease by virtue of section 40 of the Conveyancing and Law of Property Act; and
- (i) section 16(2) of the Settled Estates Act is amended to replace the word “infants” with “minors”, for consistency in expression with the amended definition of “settled estates”.

Clause 8 contains a savings provision which provides that —

- (a) the amendments made by clause 6 and the Schedule will not apply to or affect any contract made before the date of commencement of that clause; and
- (b) the amendments made by clause 7 and the Schedule will not —
 - (i) affect or limit any right, privilege, obligation or liability acquired, accrued or incurred under the law in force immediately before the date of commencement of that clause; or
 - (ii) prejudice the application of section 16 of the Interpretation Act (Cap. 1) (which deals with the effect of the repeal of any written law).

EXPENDITURE OF PUBLIC MONEY

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